



department for
**culture, media
and sport**

Summary of responses to Proposals for Gambling Commission Fees from 1 August 2009

20 August 2009

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Chapter 1: Introduction

1. This document is the post-consultation report for the DCMS and Gambling Commission consultation document, *Proposals for Gambling Commission fees for August 2009*. It covers:
 - The background to the consultation exercise;
 - A summary of the responses to the consultation exercise;
 - A detailed response to the specific questions raised in the consultation document; and
 - The next steps following this consultation.

This report has been published electronically at www.culture.gov.uk if you require a hard copy please contact:

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Chapter 2: Background

- 2.1 The consultation paper *Proposals for Gambling Commission Fees for August 2009* was published in April 2009 and the consultation ended on 23 June 2009. The consultation paper invited comments on proposals to modify the operating and personal licence fee structure with effect from 1 August 2009.

Gambling Act 2005 and policy on fees

- 2.2 The 2005 Act put in place new arrangements for regulating gambling in Great Britain and repealed previous legislation, such as the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976. The Act also established the Gambling Commission as the body responsible for regulating all gambling in Great Britain, except the National Lottery and spread betting which are regulated by the National Lottery Commission and the Financial Services Authority respectively.
- 2.3 The Commission issues two types of gambling licence, operating and personal (both of which can be subject to applications for change or variation). Government policy on fees, charges and levies charged by public bodies is set out in *Managing Public Money*, published by HM Treasury in July 2007. This states the general principle that fees should be set to recover the full cost of the service provided. This principle applies to gambling licences even though the function of the Commission is to regulate the gambling industry in the public interest, rather than to provide a service to the industry.
- 2.4 Any person providing commercial gambling opportunities to the public from fixed premises, rather than remotely, is also required to obtain a premises licence from the relevant local licensing authority. Premises licences are subject to fee maxima set by the Department for Culture, Media and Sport, with the actual annual fee being set by the local licensing authority. As they are not administered by the Commission, premises licences were not included in the review of licence fees and were not considered in the Impact Assessment.

Impact

- 2.5 The Department for Culture, Media and Sport and the Gambling Commission's initial Impact Assessment considered the impacts, risks and benefits of the policy behind the *Proposals for Gambling Commission fees from 1 August 2009*. The final Impact Assessment can be found on the Department's website (www.culture.gov.uk) and paragraphs 28-37 explain the changes to the existing fee structure.

Chapter 3: Summary of responses

- 3.1 A total of 69 responses were received from a wide range of stakeholders, including the main trade associations and other interested parties. In addition, the Department and the Commission held pre-consultation telephone discussions with the key trade associations and the Department hosted an all day workshop for stakeholders, including the main trade associations on 29 May 2009. A list of respondents is at Appendix 1.
- 3.2 Each of the issues considered in the consultation document was addressed by specific questions. Overall, the responses indicated that, while the role of the Commission is recognised, there was concern at the increase in cost to the industry given the overall state of the economy. A number of common concerns did emerge around the following issues:
- The Commission's level of expenditure given the current recession and its impact on operators.
 - The Commission's approach to risk-based regulation and its response to the issues set out in the Hampton Implementation Review.
 - That a reduction in fees should be considered rather than an increase.
 - The costs incurred by the Commission on 'perimeter' activities, for example enforcement against illegal operators and providing advice to Ministers.
 - The impact of inflation on those fee bands set by reference to financial limits.
 - The proposed changes in respect of those operating, 'in the course of business'.

The Commission's level of expenditure

- 3.3 While it is important to recognise the economic conditions, ultimately, the Secretary of State has to set fees at a level that allows the proper regulation of the gambling industry.

The Department and the Commission are, however, mindful of the economic situation and have looked to maximise efficiency savings and keep costs to the minimum required to effectively regulate gambling.

As a result, the Commission has reduced its original expenditure and resource requirements and will hold its budget at £15.7m for the next three years. This

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represents a £2.4m reduction across the three year period against original plans and is within the range of cost set out in the Impact Assessment for the 2005 Act.

In 2006 the Government gave a commitment not to review aggregate fee levels until this year when better information would be available to test the assumptions on which the fees were originally set. The evidence suggests that some fee income levels are insufficient to properly fund the Commission, even taking into account the costs savings referred to earlier. The proposed increases are therefore not to fund increased Gambling Commission activity, but simply to ensure the fees are sufficient to recover the costs of its statutory functions.

The Hampton Implementation Review

- 3.4 The Gambling Commission was the subject of a Hampton Implementation Review (HIR) and the review report was published after the fee consultation document was issued. The overall conclusion of the review was that: "We believe that if current plans are successfully implemented (particularly proposals in relation to the more effective use of risk assessment as presented to us throughout the Review), it [the Commission] should be in a strong position to demonstrate the Hampton and Macrory principles throughout its work".
- 3.5 The Commission currently has in place risk arrangements to support its activities and fees. It already has in place a risk-based approach to the different sectors and scales of operation (reflected in the differential fee levels). This has been, and will continue to be, developed and refined.
- 3.6 In the Commission's view, the current arrangements are effective, in line with the levels of information currently available and support a proportionate response to the risks to the Act
- 3.7 Nevertheless, the Commission recognises that it needs to continue to develop this area and agrees with the HIR recommendation that: "The Gambling Commission needs to continue to work to ensure that activities across the Commission are prioritised according to risk, and on communicating the practical effects of this – particularly what it will mean in practice for individual operators – to the regulated community".

The evidence to support a more finely tuned, effective and demonstrably fair risk assessment will not be available for a number of years, but the Commission will develop and improve its approach as soon as possible, consulting stakeholders appropriately.

- 3.8 In addition, the Commission and the Department's officials will continue to identify and deliver simplification measures and decide how these might be communicated to stakeholders e.g. through publishing action taken or proposed alongside the Department's simplification plan.

- 3.9 The Commission, through its experience of operating the regime and contact with other regulators, and from suggestions made by stakeholders, has already made progress. For example:
- Simplification of the application process following feedback from operators, allowing the proposed reduction of 5% in application fees.
 - Revised enquiries and support systems to help small operators with the application and licensing process, commended by the Hampton Review.
 - Planned review of regulatory returns processes and data collection in light of practical experience planned for late 2010.
 - Working with the Department to consider use of regulatory reform legislation to allow payments by instalments in response to industry feedback
 - Development of improved concordat and working relationships with licensing authorities to avoid overlap and role confusion in the work undertaken.
- 3.10 The Commission is also considering how to complement its existing mechanisms for consulting industry to allow operators and other stakeholders to put forward areas for consideration/review for simplification and improvement.

Consideration of fee reductions

- 3.11 The option of a reduction in fees was considered as a part of the Department and Commission preparation for the consultation exercise. However, as the draft Impact Assessment identified, the Department's view was that a zero change to fees would have had a serious adverse impact on the Commission's ability to deliver its statutory responsibilities. A reduction in fee income would only have made this position worse and proposing an overall reduction in fees would not have been a realistic option. This is reflected in the final Impact Assessment published on 9 July 2009.
- 3.12 The final fee changes do reflect reductions to all operator application fees and most fees charged to existing operators for licence variations and changes in control. In addition, over 800 operators (around 20%) will have their fees frozen. For most small operators, even after this year's increase, annual fees are still less than the levels originally set in 2006.

The cost of 'perimeter' activities

- 3.13 A number of respondents suggested that the Commission's systems were not yet properly established and that the Commission should not have returned £1m of Government start up funding. This is not the case. The moneys returned related to savings on the forecast costs of the Commission's start up arrangements, for example on systems for re-licensing the industry and its office move, which could not therefore be applied to the ongoing costs of regulating the industry. The Commission's completion of its set up phase, which was fully funded by the Government, was assessed by the OGC and their conclusion was that the Commission, "has successfully completed its start up phase"
- 3.14 Funding the Commission's work, particularly enforcement activity in the illegal sector, has been considered in detail in previous years. It remains the Government's position

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that the legitimate industry benefits from operating within a well-regulated sector and that the full costs of regulating the industry should be carried by the licensed industry and not by the taxpayer.

Fee bandings

- 3.15 A number of respondents pointed out that fee bands set by reference to financial measures had not been reviewed since they were introduced in 2006 although the consultation document acknowledged the impact of inflation since that time.

We agree with this representation and, as a result, the bands that are defined by reference to gross gaming yield, gross gambling yield, value of gross sales and, for External Lottery Managers, proceeds have been increased. To avoid unnecessary complexity, band limits have been increased by 10%.

- 3.16 No changes have been made to other bands at this time, but the basis for non financial bandings and appropriate band limits will be considered as a part of the review of gross gambling yield based fees suggested in the consultation document.

Activity in the course of business

- 3.17 The consultation document addressed the possibility of introducing a new fee category for those using betting exchanges "in the course of business". We recognise that some elements of the original proposal are incorrectly specified. For example, some respondents raised concerns that the new licence should apply to all remote betting platforms rather than being confined to betting exchanges. We also recognised that it was incorrect to suggest that a remote betting intermediary licence was the licence type required to cover this activity.
- 3.18 In the light of the consultation responses received, we intend to give further consideration to this issue and discuss with stakeholders before reaching a final view.

Chapter 4: Conclusions and next steps

- 4.1 Following public consultation, the *Gambling (Operating Licences and Single Machine Permit Fees)(Amendment) Regulations 2009* were submitted to the Minister to be made under powers conferred by sections 69,100,101,102,104,107, 128 and 132 of the Gambling Act 2005. The Regulations are subject to the negative resolution procedure in Parliament and, subject to this, will come into force on 31 July 2009.
- 4.2 As indicated in the consultation document, we plan to hold the aggregate level of fees at the revised level until 2011. In addition, there will be a review of the basis of fees to see whether gross gambling yield can be used as a broader base for setting all gambling fees.
- 4.3 The Department and the Gambling Commission would like to thank all respondents for the time taken to provide comments and feedback on the proposals set out in the fees consultation document. These responses have been invaluable in determining the final regulations.

Appendix A: List of respondents

1. Stephen Joel, L&S Sporting
2. Mr L Wainwright, L & S Racing
3. Tony Killingbeck, Sittingbourne Greyhounds
4. Gala Coral Group
5. Rank Group
6. The Salvation Army
7. Andy Sutch, Business In Sport & Leisure
8. Mike Dodsworth, The Ultimate Poker Tour
9. Hospice Lotteries Association
10. Casino Operators Association
11. National Casino Industry Forum (NCiF)
12. The Lotteries Council
13. The Bingo Association
14. Association of British Bookmakers
15. The Tote
16. British Horseracing Authority
17. Federation of Racecourse Bookmakers
18. Betfair
19. BACTA
20. Remote Gambling Association
21. Scott Turner, Cain's Amusments Ltd
22. Julie Rogerson, H B Leisure Limited
23. David Moss, Oulton Broad Leisure Ltd
24. David Ellwood, Money Controls Ltd
25. Craig Truelove, 247 Amusements Ltd
26. Steve Overs, Treatview Ltd
27. Peter Davies, Gamestec Leisure Ltd
28. Brandon Hayhurst, BACTA Member
29. Marcus Stevens, Eliteplayer Ltd
30. Edward Kinder, Kinder Leisure Ltd

31. Steve Ambrose and Adam Hughes, Beacon Entertainments Ltd
32. Kevin Scott, Cuerden Leisure
33. Steve Dorkings, FML Sales
34. Martin Hopson, Stade Developments (Hastings) Ltd
35. Mark Noble, Noble Leisure Co Ltd
36. Quentin Stott, Reflex Gaming Limited
37. Terry Baldock, United Leisure Ltd - Crystal Rooms
38. Brian Gauci, Funomatics Ltd
39. Paul Taylor Winchester Automatics Ltd
40. Denis Stewart, D & D Amusements Ltd
41. Stuart Hart, BACTA Member
42. Graham Gonzalez, Fair Games UK Ltd
43. Warwick Tunncliffe, Warwicks Amusements
44. David J Fisher, Henacre Limited
45. David King, Petron Amusements
46. Wayne Peak, Wight City Leisure plc and Sandown Pier Leisure Ltd
47. Karen Wood, Wharton Amusements Ltd
48. Lesley Jones, Sovereign Games Ltd
49. Mr R. Rudd, Bob Rudd Leisure Ltd
50. Andrew Henson, gameswarehouse
51. Sean Kelly, Pat Kelly machine rentals Ltd
52. Maureen Hatton, The Storey Group Ltd
53. Mr S C White, White Leisure
54. Lin Wilson, Harbour Park Ltd
55. Ann Osborne, BACTA Member
56. C N Othen, Pontypool Automatics Ltd
57. Paul Meagher, Parkdean Holidays Ltd
58. William Clark, Teddy Clark Ltd
59. Michelle R Thomas, Thomas's Entertainments Ltd
60. Michelle Michael, Grand Pier Limited
61. R John Edwards, Valmatics (Swansea) Ltd
62. The Confederation of Gambling Associations (COGA)
63. Mark Miller, Millers Amusements Ltd
64. Kelly Seldon Fletcher, Fletchers
65. Terry Jones, TJ Leisure
66. John A W Thurston, Thurston UK Limited

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67. Andy Harker, Leisure Ltd.
68. Dominic Ricci, Riccis Leisure Ltd
69. David Wilkie, Wilkie Leisure Group Ltd

Appendix B: Responses to specific questions

Consultation question 1: Do you have any comments generally on the approach to setting fees?

The majority of respondents expressed concern about the introduction of fee increases given the current economic climate and a number raised issues about the Commission's approach to risk in the light of the HIR recommendations. The main points of concern are set out in the summary of responses (p.5) but the following additional issues were also raised:

- The link between premises fees and operating licence fees
- The introduction of staged payments
- The level of gambling suggested in the consultation document given the impact of the recession
- Impact on costs of delays in the tender process for 2005 Act casinos
- Strongly supportive of current basis for setting fees
- Oppose Gambling Commission strategy based on growth
- Fees for lotteries in remote bands F and G should also be frozen as workload accepted as same as for those in non-remote A and B
- Personal licences fees are moderate and happy to endorse them
- Question higher fees for small and medium casino operators
- Encouraged that fee levels for smaller society lotteries are being held
- Concerned by scale of fees for External Lottery Managers
- Concerned that Grant In Aid to fund continuing start up costs is not available
- Would support a greater focus on illegal remote operators, with corresponding lessening of compliance allocation to UK licensed operators
- The Gambling Commission has yet to demonstrate value for money from regulatory improvements
- DCMS should confirm that Gambling Commission administrative staff costs are in line with DCMS similar costs

Responses

We note these issues and make the following additional responses:

- This consultation concerns only the operating and personal licences issued by the Commission and not the premises licence fees, but the point is noted.
- We agree the impact of the recession on the industry has affected different sectors and areas in different ways, but indications are that the overall level of gambling activity has not fallen significantly.
- The Gambling Commission budget does not include a growth strategy. The consultation document explains the level of activity has been reduced significantly from original estimates to reflect the actual size of the industry and has been capped until 2011. The scale of the Commission is within the original Impact Assessment's range forecast for a smaller, less complex industry. After allowing for government grant and capital funding, the actual burden on the industry for 2009/10 is estimated to be £14.1m.
- We agree that lottery fees in categories F and G should also be frozen and this has been done in the new fee regulations.
- The issue of start up costs has been addressed in the main response. We do not agree that further start up cost funding is required.
- The Department holds regular meetings to consider the Commission's performance. In addition, its work is subject to independent assessment as set out in the consultation document. DCMS will continue to work with the Commission to improve demonstrated value for money and to deliver simplified arrangements. This is also included in the main report.
- Gambling Commission salaries are benchmarked against the local salary market and are in line with current market rates for the Midlands.

Consultation question 2: What are your views on the proposed reduction of 5% on all operator licence application fees and change and variation fees based on application fees?

- The reduction should be larger than 5%
- The reductions should not be subsidised by existing operators
- The reductions are opposed because they favour the industry rather than reduction of problem gambling
- Not clear what the social benefits of supporting the gambling industry during economic recession are
- Welcome but note no benefit to current operators
- There should not be cross subsidy from the existing industry or a weakening in controls
- Support this proposal

Consultation question 3: Do you agree with the approach that differentiates between bookmakers who do not make available gaming machines and those who do?

- Lower fees for those providing betting via a remote operator as there is no requirement to regulate the book
- Opposed to distinction
- Agree with distinction
- Agree with distinction, but why not increase other fees rather than reduce these?
- Agree with distinction, but can see no practical benefit as number of operators in this category is given as zero
- Do not accept that the presence of machines significantly increases risk or workload
- Welcomes the proposal, which should be extended to cover categories B and C as well [DCMS: it now has been]

Consultation question 4: What are your views on the proposed arrangements for reducing the number of days counted by the Commission for annual fees for bookmakers attending greyhound events primarily for the benefit of off-course betting?

- Accepted, should be extended to seasonal operators
- Believe this is an entirely sensible position

Consultation question 5: What are your views on the proposed new licence category for those using exchanges “in the course of business”?

- Principle of free licence should be extended to other linked licences in the machines sector
- Should actively pursue exercise to identify business users other than licensed bookmakers

Consultation question 5: What are your views on the estimated workloads set out in Appendix 4?

- What is meant by proactive contact with operators and how does the licensing team connect with information gathered by compliance team?
- The estimates for licence management seem to be realistic
- Question whether personal functional licences are relevant in any sector
- Suggest 0.25 days per operator for regulatory return collection and proactive telephone contact, otherwise estimates appear reasonable

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- Accept that this reflects experience to date but would expect further reductions as Commission staff gain experience

Consultation question 6: Do you have any comments on the other fees and charges set out in Appendix 1?

- Welcome the commitment to review the issue of payment by instalments
- Find it anomalous that some fees have not increased at all

Consultation question 7: Do you have any comments on the approach for setting fees for GGY operators, set out in paragraphs 2.93 - 2.101 and in Appendix 5?

- Look forward to contributing to debate.
- Hospice Lottery Association would oppose this approach
- GGY should not be used as the sole proxy when measuring impact on the licensing objectives
- We believe this principle is worth exploring further



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