

UNDER NEW MANAGEMENT: THE MULTI-OPERATOR SELF-EXCLUSION SCHEME

The Gambling Commission recently passed the baton for leading and managing the industry-wide self-exclusion scheme to the Remote Gambling Association. **Bahar Alaedini** from Harris Hagan maps out the background to this transition and next steps for iGaming Business.

Online licensees recently received a letter from Sarah Harrison, CEO of the Gambling Commission (“Commission”), updating them on the online multi-operator self-exclusion scheme (the “Scheme”). The most significant update is that the Remote Gambling Association (“RGA”) has taken over responsibility for the Scheme. This article is intended to provide online licensees with an outline of the Scheme and the current position, particularly given that the RGA, not the Commission, is now responsible for working with the online industry to develop and implement the Scheme.

Background to the Scheme

Self-exclusion is an important harm-minimisation tool for individuals who have recognised that they have a problem with their gambling and have made a commitment to dealing with it by using formal measures to better manage their gambling activities. Whilst a self-exclusion confers responsibility on both the self-excluding individual and the licensed operator, the Commission acknowledges that the onus remains on the individual not to breach their self-exclusion agreement. The Commission believes, rightly, that the “fundamental limitation” of the current LCCP requirements is that a self-exclusion can be easily circumvented by visiting another operator. It is, therefore, no surprise that connecting self-exclusion across operators is a key priority for strengthening self-exclusion and harm minimisation more generally.

Nearly two years ago, the Government expressed support for the Scheme in the final parliamentary debates on the point-of-consumption licensing draft legislation. In its document, *Gambling Protections and Controls*, the Department for Culture, Media and Support (“DCMS”) did the same in April 2014. The latter was created by the working group (consisting of the Commission, DCMS and RGA) with a view to creating a specification to be put to competitive

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tender. Subsequently, in February 2015, Licence Conditions and Codes of Practice (“LCCP”) provisions were introduced by the Commission in its consultation response document, *Strengthening Social Responsibility*, and a briefing note on the Scheme was published in May 2015.

Social responsibility code 3.5.5 of the LCCP, which is not in force, provides that all operators offering online gambling must participate in the Scheme once it is developed. There are specific exclusions, which will not apply to most operators, meaning that most online operators will be required to sign-up to the Scheme.

What has been said so far?

The Commission’s May 2015 briefing note

sets out the background and the draft architecture of the Scheme. The key points of the briefing note, which remains the latest publication on the issue, are summarised below. It is important to note that the RGA’s recent designation of responsibility throws up wholly different policy, governance and funding issues, which will inevitably trigger different features of a Scheme managed by the RGA.

- The Scheme is **an addition** to the current LCCP requirements. Therefore, operators will need to continue to administer their own schemes for those not wishing to join the national Scheme.
- Operators will need to take all “reasonable

steps” to prevent marketing material being sent to a self-excluded customer, mirroring the existing LCCP requirement for operators’ own arrangements.

- There will be a facility within the Scheme to allow operators to prevent marketing material being sent to an individual self-excluded via the Scheme.
- The Scheme is likely to apply to all customers participating in gambling offered in reliance on a Commission licence. Therefore, it may extend to customers located outside of Great Britain if the Commission licence is being used to operate in other jurisdictions.
- In the briefing note, the Commission stated that should an individual choose to return to online gambling after their

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self-exclusion period has expired they will need to contact each operator on an individual basis. This may be subject to change under the supervision of the RGA.

- Under the supervision of the Commission, the working group concluded that having a two solution approach would be advantageous in terms of cost and performance. One group of operators would be able to access the data and integrate it into their own systems (Solution 1). These operators would be larger operators with a significant customer base and an established track record. Given the large volume of transactions they would generate, this would avoid the need for these operators to interrogate the database at every login and registration because the operators would have a local copy of the data. The remaining operators would interrogate the database at each login and registration in real time (Solution 2). At this stage, it is unclear whether the RGA will operate a two solution approach due to the practical challenges of the RGA determining which operators fall within each solution, given that it does not have access to the same information as the Commission.

Handing over the baton

Naturally many would prefer the Commission to manage the Scheme; however, the Commission and DCMS believe that the industry is best placed to lead and manage the Scheme via the RGA. In her recent letter to licensees,

Sarah Harrison noted that: “[c]reating and managing an effective scheme will allow the industry to further demonstrate its commitment to improving player protection...an industry-led and managed solution would be best placed to deliver an effective and efficient scheme by building, in particular, on the core experience and expertise in the industry sector of developing and overseeing large IT solutions...”

The Commission is keen to ensure the success of the Scheme and will continue to work closely with the RGA to ensure the Scheme is fit for purpose and consumer-focused. Whilst the RGA is the largest online gambling trade association in the world, it only represents a handful of Commission licensees, and not the approximately 100 other online licensees. This is likely to be the first hurdle of the project.

The RGA finds itself in a tricky position having taken over responsibility for the Scheme, which had progressed significantly under the Commission's tenure, including the design of content and the customer journey.

Putting aside the reasons why the baton has been passed to the RGA, the change in ownership of the task throws up lots of new issues. Clive Hawkswood, CEO of the RGA, recently said: “We cannot pick up where we left off with the Commission because the RGA is not a public sector organisation and an RGA-managed scheme raises a whole different set of governance issues, including data protection and commercial issues. The RGA is raising funds for the set-up costs and a fee will be charged to take part in the service. The intention is to introduce

a fee structure that is proportionate and transparent. We clearly see the Commission as a partner in this process and the RGA is committed to engaging with the whole of the industry, including non-members.”

What is next?

The RGA is in the process of commissioning a report on technical and financial issues, which it hopes to award in April 2016.

There is no implementation date for the Scheme, but the Commission hopes it will be in place by the end of 2017. Further updates are likely to be provided through trade publications and the Commission's eBulletins.

The RGA is happy to take questions from the operators, but for now it is very much a case of sit tight and watch this space.



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