

# Gambling Commission: new Licence Conditions

Gambling operators will be required to implement changes to the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) from 1 January 2009. The principle changes surround the 'key event' reporting requirements, the requirements for providing information to customers about licensed status, and the social responsibility measures. John Hagan and Melanie Ellis, of Harris Hagan, consider the main revisions to the LCCP.

The Gambling Commission has published and sent to all licence holders a revised set of Licence Conditions and Codes of Practice (LCCP). The new LCCP will come into effect on 1 January 2009, giving operators time to review and implement the changes. With the benefit of experience of the new regime, the Commission realised that some new licence conditions and codes of practice were required and others needed amending and clarifying. A consultation on the proposed amendments was held earlier this year, to which the Commission received 32 responses and workshops were also held with the industry to consider the proposals. The principal changes centre around the 'key event' reporting requirements, the requirements for providing information to customers about licensed status, and the social responsibility measures.

It is worth noting at the outset the difference between licence conditions and codes of practice. The applicable licence conditions will attach automatically to an operating licence, and breach of any of these conditions could potentially result in the review of the operator's licence with a view to its suspension or revocation, the

imposition of a financial penalty and/or the risk of prosecution. The codes of practice are broken down into social responsibility code provisions and ordinary code provisions. Compliance with the social responsibility code provisions is also a condition of the licence, so they effectively have the same status as licence conditions. Ordinary code provisions do not have this status, but any breach may be taken into account by the Commission on a licence review, although cannot itself lead to a financial penalty.

Our advice to operators is, obviously, that they should ensure that they comply with all applicable sections of the LCCP, be they conditions, social responsibility codes or ordinary codes.

## Display of Licensed Status

A new licence condition has been added for online operators who offer pages on their website, or by means of a link from their website, for gambling which is not provided in reliance on their operating licence. Such an operator may offer some games in reliance on an operating licence issued by the Gambling Commission, and other games under a gaming licence issued by, for example, the Alderney Gambling Control Commission. These operators will be required to clearly distinguish those products which are regulated by the Commission from those which are not. The purpose of this new licence condition is to address what the Commission sees as a lack of clarity on some websites as to which products are licensed by it and which are not.

Gaming machine and gambling software manufacturers do not currently have to display information on their websites about their licensed status, but will be required to do so from 1

January 2009. These operators provide 'business to business' services rather than offering gambling to members of the public, but the Commission felt that this new condition would allow gambling operators in the UK to more easily ascertain whether a supplier was licensed to supply machines or software to the UK market. The Commission states, in the consultation document, that this will mean operators can be confident that machines conform to the required standards. This will provide operators with a degree of reassurance but, of course, there is no guarantee that all machines manufactured by a licensed operator will be compliant.

## Reporting requirements

All personal licences currently have a condition attached setting out the requirements applicable to operating licences in relation to reporting key events to the Gambling Commission. The inclusion of this condition on personal licences has caused confusion, with some taking this to imply that the personal licence holder has responsibility for reporting the listed events. This is not the case - so the condition will be removed from personal licences and, instead, personal licensees will be required to report events such as a change in their name or address, a court order against them, bankruptcy or their resignation from the company.

The reporting requirements for holders of operating licences have also been amended. The Commission considered attaching a general condition requiring operators to report any 'key events', with key events being defined as those the Commission 'would reasonably need to be aware of in monitoring the likelihood of the licensee continuing to comply with

the LCCP'. It was pointed out by various respondents to the consultation that operators would either be left open to sanctions for failing to report an event which the Commission considered to be key, or they would err on the side of caution and deluge the Commission with reports on insignificant matters.

The Commission therefore dropped the proposal to include this general licence condition, but instead included the general reporting requirement as an ordinary code provision. Some 'key events' are also moving from the list of those which must be reported as a licence condition, to the ordinary code provision. As discussed above, the sanctions for breaching an ordinary code provision are less than those for breaching a licence condition. The events that have been moved include a reduction in staff numbers, the acquisition and disposal of premises, the acquisition and disposal of group companies, the disposal of 10% or more of the licensee's net assets, and instances of internal or external fraud. An additional reporting requirement has been added to the list under the licence conditions, in relation to the commencement or cessation of trading on website domains or broadcast media by remote operators. This will ensure that the Commission will have up to date information on live websites for its compliance activity.

#### Multiple accounts

Remote licensees will be required to implement procedures to identify separate accounts held by the same individual, to enable them to effectively monitor a person's gambling activity. This will include accounts held with other group companies, however the inclusion of accounts held with

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other group companies was made an ordinary code provision, rather than a social responsibility code provision, following consultation responses pointing out the difficulty of this, particularly where management of customer databases is separate. The theory is that if an individual holds multiple accounts, the combined activity across all accounts may display evidence of problem gambling, although each individual account may not. Further, if a customer decides to self-exclude, operators should be able to ensure the customer does not open a further account and continue gambling. Money laundering considerations also apply here, and operators will be required to ensure that maximum credit and financial limits can be applied on an aggregate basis across all accounts.

#### Self exclusion

Family entertainment centres and lotteries are now included in the self-exclusion provisions. The Commission intended to introduce more sweeping changes to the self-exclusion provisions, but decided to omit some of the proposals following the consultation exercise. For example, it was proposed to include an ordinary code provision that licensees should not suggest partial self-exclusion (from particular products only) or permit it unless they were satisfied that the request was reasonable and it was practical to enforce. One consultation respondent felt that allowing partial self-exclusion was actually beneficial, because it increased take up and served as a step to full self-exclusion. The Commission agreed that the benefit of including this additional code did not justify the further complication it would add.

#### Conclusion

The changes are not dramatic or

sweeping, rather the emphasis is on clarifying the existing provisions. The majority of amendments are expected, by the Commission, to have either no cost or only a small cost to operators. For the Gambling Commission, the changes mean that every operating and personal licence holder must be issued with a new licence with amended conditions by 1 January 2009. For operators, it is likely that the most burdensome changes will involve making sure staff members understand and implement the changes to the reporting requirements and, particularly for remote operators, putting additional procedures in place to monitor the activities of customers with multiple accounts.

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