

# The GB Gambling Commission's review of complaint processes and the introduction of host licences

Melanie Ellis and Tom Edmonds of Harris Hagan discuss two recent developments in the online gambling market. First, Melanie looks at a recent report from the British Gambling Commission ('GC') on its review of complaint processes in the gambling industry, in which it discussed, for example, new requirements for alternative dispute resolution entities. Following that, Tom analyses the GC's introduction of host licences, aimed at B2B operators that do not contract with end users but which technically provide 'facilities for gambling' and therefore require a licence to offer certain types of gambling products.

## Putting the consumer first: even when there is a dispute?

The GC's call on gambling operators to "put the consumer first" has already raised some eyebrows in the industry due to the potential conflict with operators' business obligation to put shareholder profits first. Now, the GC wishes to extend this idea to encompass situations where there is a dispute with a customer. GC CEO Sarah Harrison states that:

"Our findings present a strong case for the gambling industry to take swift action to ensure the way in which customer disputes are dealt with is fit for purpose, and importantly, places consumers first."

Whilst this may cause some unease, when we drill down into what the GC is actually proposing in its recently published review of complaints processes in the gambling industry, there are actually a number of potential benefits for operators. Crucially, the GC does not appear to be saying that operators must put the consumer first in relation to the outcome of the dispute itself. That would clearly be nonsense. Rather it is saying that the process itself must be clear and fair to the customer.

## Clarity on what is expected

The GC is considering adding new

Licence Conditions and Codes of Practice so that operators must ensure their complaints procedures are visible and more effective, possibly including some basic standards for complaints handling. This is based on figures revealed in the GC's research that only 39% of operators' terms and conditions include information about how long a complaint would take to process and only 17% state explicitly that the alternative dispute resolution ('ADR') service is free to use.

The GC does note, however, that every single operator policy it examined appeared to be "complying with the letter of the requirements of their gambling licences." The fact of the matter is that it is not currently a requirement to set out how long it will take to resolve a complaint, or that the ADR process is free. If the GC expects this information to be provided to customers, then it is far better to make additions to the Licence Conditions and Codes of Practice ('LCCP') so that operators can be clear about what is expected of them.

By setting out more detailed requirements, the GC will not only enable operators to have a clearer understanding of what they need to do, but also level the playing field, so that those operators who are going above and beyond to provide a

fair, open and efficient complaints process are not disadvantaged in the market.

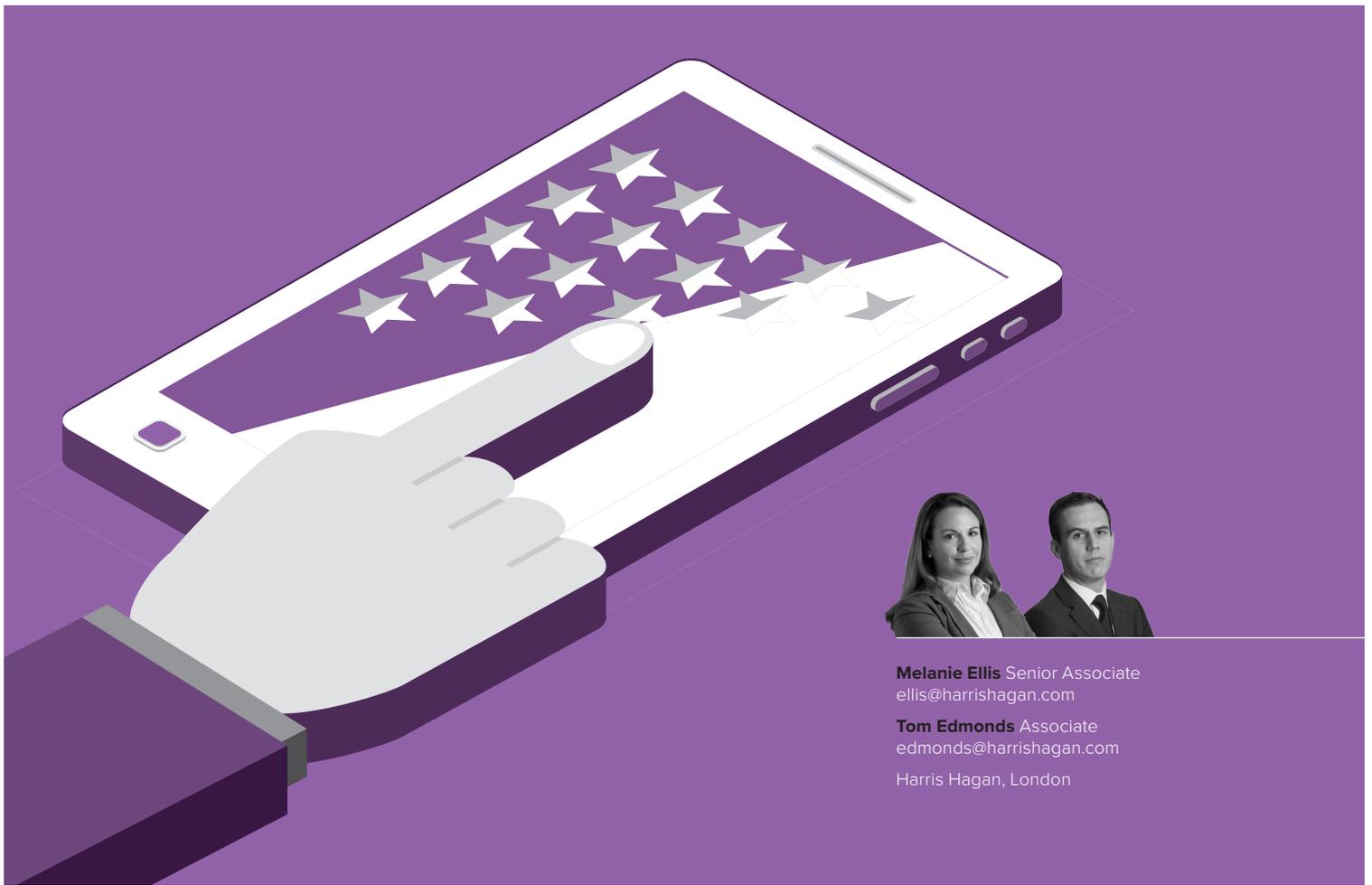
## Commission to reconsider approved ADR entities

The GC plans to set out a framework of requirements for its approved ADR entities, and remove from its list any who fail to measure up. Raising standards amongst ADR providers should help consumers to have confidence in the decisions that are reached, with the potential benefit of minimising the risk of litigation against operators in circumstances where the consumer is dissatisfied with the resolution.

The GC also plans to review its definition of disputes, with a view to ensuring that ADR providers are able to consider a wider range of issues. Again, this may serve to reduce litigation in circumstances where an ADR provider is currently unable to assist.

## Resolver

The GC proposes to introduce the use of the Resolver tool from early in the 2017/18 financial year. Resolver is an online tool which consumers can use to raise complaints with a number of organisations that have agreed to be included. It provides contact details, template letters and collates correspondence, working



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with an organisation's own complaints process. This actually presents several benefits for operators. The use of template letters makes it easier for organisations to understand the nature of the complaint. As operators will be aware, complaint emails from customers can be lengthy and include all sorts of accusations, making it difficult to understand what the actual issue is and what the customer is looking for by way of resolution. Resolver also ensures that complaints are taken through the process set by the organisation in an orderly fashion and that the process is properly followed and exhausted before it is escalated to a dispute with the ADR provider.

The GC's main reasoning behind the use of Resolver appears to relate to its role in data collection, although it admits that use of Resolver for data collection is something for the longer-term. Data intelligence is how Resolver makes its profits. It captures data on companies which receive complaints via its service on "how they handle and resolve issues," positioning itself as a 'mystery shopper' and 'customer feedback' service. This data intelligence is made available for companies to purchase.

The GC wants to use Resolver's data to collect more accurate information

(than the GC believes is being provided directly by operators) on its behalf. What is not clear in the review document is whether operators will be expected to pay Resolver for that data or whether that cost will be met by the GC through licence fees. As the review states that "gambling operators will not need to do anything for it to be introduced" the implication is the latter.

#### *The GC's concerns*

Whilst there are a number of positives to take from the GC's review document, it cannot be ignored that this is published on its website under the tagline 'Gambling Commission urges industry to take consumer complaints more seriously.' The implication to readers is that operators are not taking complaints seriously at the moment. However, the substance of the report itself is that operators are doing all that is required of them by the GC at present but that the GC needs to clarify and raise standards to be met by ADR providers and, in relation to operators, clarify what information they should be providing to customers about the complaints process.

The GC also sets out concerns that figures reported by operators in relation to the number of complaints and the percentage that go unresolved at the first stage are "unrealistically low." Lower

than expected numbers of complaints and unresolved complaints could be taken to be indicative of general customer satisfaction with the gambling industry, however the GC intends to "look more closely at the returns submitted by operators and take action where these appear to be inaccurate."

The overall message from this review is a familiar one - the GC expects operators to go above and beyond the requirements of the LCCP in terms of the customer relationship. With the best will in the world, there is only so much an organisation can do in response to the appeal to "put customers first" without specific guidance as to what that might entail in practice. What is encouraging is that, in this document, the GC recognises the need to amend the LCCP where there are particular additional steps it thinks operators should be taking. The GC was right to identify this as an area where improvements can be made and, indeed, we think it provides an opportunity for operators to build even better relationships with their customers, but we cannot help but feel that on this occasion the message might have been delivered in a less critical fashion given existing broad compliance.

#### **Host licences** *Background*

## continued

One aspect of the British licensing regime that new entrants have often found confusing is that a B2B operator may need to apply for the same licence as a B2C operator, even though they conduct completely different businesses.

For example, both a B2C operator - which has a website enabling players from Great Britain to play casino games - and a B2B casino games provider - which supplies games to a B2C operator and operates the random number generator ('RNG') for such games - would require a remote licence from the GC authorising the operation of a casino.

The reason for this slightly confusing situation is the requirement under the Gambling Act 2005 for any operator which 'provides facilities for gambling' to hold a remote operating licence authorising the operator to provide the relevant activity: casino, bingo, betting on real events and/or betting on virtual events. This definition is wide enough to capture the activities of a B2B and B2C operator (as above), most notably where the B2C has the relationship with the customer but the outcome of the game is determined upon the B2B's servers.

Thankfully, the GC has sought to clarify the situation by introducing a new type of licence that is just for B2B operators.

#### *New host licences*

With effect from April 2017, the GC introduced new 'host' licences, which are aimed at B2B operators that do not contract with end users but which technically provide 'facilities for gambling' and therefore require a licence authorising the operator to provide one or more of the following: casino, bingo, betting on real events or betting on virtual events.

In order for an operator to qualify for a host licence, it must satisfy the following:

1. As mentioned above, the operator must not contract with end users. Given this is the key distinction between a B2B operator and a B2C

operator, this should not prove to be a hurdle for any B2B operator wishing to apply for a host licence.

2. An applicant for a host licence must also hold a remote gambling software licence. This is unlikely to prevent many B2B operators from obtaining a host licence, given that most existing B2B operators will already hold a gambling software licence and any new B2B operators will likely require such a licence.
3. The final condition, that will preclude some B2B operators from qualifying for a host licence, is that the operator must not provide facilities for peer-to-peer gaming networks, for example a poker network.

#### *Applications for host licences*

There will be no automatic conversion of existing licences to host licences. B2B operators who already hold a GC licence will need to consider whether they qualify for a host licence and, if they do, then apply to vary their existing licence. The process to vary a licence should be relatively straightforward, simply requiring the submission of an application to vary, together with the relevant fee (25% of the applicable application fee).

New applicants will need to submit a standard application for a licence, but will enjoy the benefit of a lower application fee and annual fee (see below).

#### *Benefits of host licences*

**Fees:** As the GC expects the regulatory effort to be lower in respect of host licences, the application and annual fees will be lower. By way of example, the annual fee for a remote casino licence with GGY of between £550k - £2 million would be £6,488. The annual fee for a remote games host (casino) licence with the same GGY would be £4,855, representing an annual saving of £1,633.

**Compliance:** The licence conditions for a host licence reflect the B2B nature of the business that would be conducted under such a licence. For example, a holder of a host casino

1. <http://www.gamblingcommission.gov.uk/PDF/consultations/Proposals-for-Gambling-Commission-fees-from-April-2017-consultation-response-2016.pdf>
2. <http://live-gamblecom.cloud.contensis.com/PDF/Host-licences-your-questions-answered.pdf>

licence will not need to comply with the following provisions regarding self-exclusion: social responsibility code provisions 3.5.3 and ordinary code provision 3.5.4 of the LCCP. Any existing licensees wanting to check which licence conditions would no longer be applicable if they were to vary their licence to a host licence, can refer to the guide at Appendix G in the GC's fees consultation responses document<sup>1</sup>.

Although the compliance requirements will be more tailored to B2B operators, this will not exempt the holder of a host licence from having to provide an annual security audit or completing an annual games testing audit (if applicable).

#### *Group companies*

Some B2B operators may have a number of companies in their group that are licensed by the GC. For example:

- one group company might hold a remote gambling software licence, because it is responsible for software development of casino games; and
- one group company might hold a remote casino licence, because it is responsible for operation of the RNG of the casino games.

The GC has confirmed that a company must hold its own gambling software licence in order to qualify for a host licence. Therefore, in the above example, the group company holding a remote casino licence would not be able to vary its licence to a host casino licence, as it does not also hold a remote gambling software licence. As such, in order to take advantage of the new host licences, some operators may need to re-structure their group licensing arrangements to ensure that any applicant for a host licence also holds a gambling software licence.

#### *Further questions*

The GC has published a set of answers to common questions regarding the new host licences, which can be accessed online<sup>2</sup>.