

World Regulatory Briefing at ICE Totally Gaming **Tuesday 2 February 2016**

Sarah Harrison, Chief Executive

Good morning.

Thank you for inviting me and giving me the opportunity to speak to you all this morning.

I'm still settling into my new role (around 120 days into the job) and this event is an excellent opportunity for me to continue to learn about the industry and about the style and approach to regulation internationally. It is also a good opportunity to appreciate the role played by the EU Commission (DG GROW - Directorate - General for Internal Market, Industry, Entrepreneurship and SMEs) in fostering knowledge and expertise across markets.

I have been at the Gambling Commission, and in gambling regulation, for around four months, but today I consider myself to be in very good company, with, by our calculation, over 100 years of regulatory experience among you in the room! I thoroughly look forward to learning from you, and working closely with you over the next few years, as well as drawing on your collective knowledge and expertise.

Some of you will be aware that, prior to starting at the Commission last October, I had spent a number of years at GB energy regulator, Ofgem.

I think it's fair to say that, whilst the other regulated sectors I have worked in have brought their own unique set of challenges, you don't have to look too closely to see some important themes that cut across regulation in general, and indeed the world of gambling.

For example, the importance of:

- delivering effective regulation in the public interest
- building public and consumer trust - necessary for long term stability and growth in markets
- keeping apace with new technologies and business models
- ensuring fairness and openness to consumers
- working to keep out crime and maintain market integrity - conditions critical to building business and consumer confidence.

In previous roles, I have also appreciated the importance of effective working with the EU Commission (for example in energy, contributing towards common policy goals on competitiveness, security and climate change), as well as the value in working with fellow regulators across borders.

The gambling industry constantly evolves and develops. In the GB market at the moment, we're witnessing a phase of significant consolidation with a number of mergers and acquisitions underway.

Political and public concerns continue to swirl around fixed odds betting terminals (FOBTs - high stake and high prize machines in betting shops), as well as the presence of betting shops on the British high street, and the prevalence of advertising (TV and online). The UK Government has just published its evaluation of the impact of regulations introduced in April 2015 to control the use of FOBTs, and we may well see a further, so-called, triennial review soon. Elections in Scotland and in London in the first half of this year will create opportunities for those concerned with gambling and gambling-related harm to ensure these issues remain in the public eye.

In terms of customer participation, the Gambling Commission's regular surveys continue to provide useful insights into key trends.

The latest results, published in October 2015, show that whilst over half the GB population had gambled in the past month, participation rates have, overall, declined - driven primarily by the continued drop in National Lottery draw participation.

We are also continuing to see changes in how people gamble, notably through the continued growth of mobile and tablet (ubiquitous platforms which broaden the reach of gambling including across socio-economic groups). The October 2015 results indicated that online penetration has increased beyond the early adoption of 18-34 year olds and, as our research shows, it is now as prevalent amongst 35-54 year olds. And the patterns of play are changing. Recent analysis by Barclays Equity, in partnership with polling agency YouGov, reports one third of online betters have never placed a bet in a betting shop. For these consumers, free bets and favourable odds are among the key drivers for customer acquisition. Further, the growth in social media has also facilitated the take up of gambling styled games, with its appeal to younger audiences. According to the Ipsos Young Persons Omnibus Survey 2015, 11% of children had played gambling style games at some point, the majority of which were via mobile apps.

No doubt the landscape will continue to change and it is therefore more important than ever to identify the key issues on which to focus our resources, as well as to maintain our relationships and joint working with our fellow regulators.

Today I'll be speaking about three main areas:

- I would first like to provide an update on the point of consumption regime one year on
- I will then run through some emerging issues and key areas of future focus for the Gambling Commission
- and finish with a few comments about our co-operation with other regulators.

Point of consumption update

So, starting with point of consumption. It has now been 15 months since the point of consumption legislation in Great Britain came into force for online gambling. The Commission received 176 licence applications in total prior to the 1 November 2014, as well as a further 152 applications for gambling software licences prior to 31 March 2015.

As you will all know, point of consumption has significantly changed the landscape - we went from regulating less than 15% of online activity by consumers in Great Britain, to regulating the whole market.

Our November 2015 industry statistics begin to point to the impact of online growth. While we don't yet have a full year's worth of data, taking current data and annualising it, this indicates the size of the online gambling market in Britain generates £3.48bn (€4.57bn) of GGY per annum – accounting for 28% of the British gambling market, or 37.5% when the National Lottery is excluded. This makes it the biggest sector in the GB market - ahead of land-based betting, in terms of GGY for the first time. The online market appears to be continuing to grow rapidly and we expect that trend to continue, albeit not at current rates.

The application period and first year of regulation were certainly challenging for us, for operators, their advisors and other parties.

There were potential challenges and concerns raised during the passage of legislation in 2014, not least the risk of unlicensed operators being able to transact with consumers in GB and taking market share from those properly licensed. We were always confident that this would not occur at a significant level, not least because:

- we have an open market in which operators can offer a full range of products without restrictions, provided that they meet our licensing requirements and uphold the licensing objectives
- the British gambling market is relatively mature with operators that are used to regulation and recognise the benefits of being licensed
- we have appropriate and effective enforcement measures supplemented by arrangements with major payment providers and advertisers, which have proved highly effective in limiting the ability of unlicensed operators to use mainstream payment methods or advertising channels. The Commission is now able to rely on key payment service providers to refuse prospective clients that have not been granted a licence by the Commission. The initiative has been hugely successful and is something which is now being explored by other jurisdictions.

All operators have been brought into the scope of the GB market, and all licensees must adhere to our *Licence conditions and codes of practice* for their activities. This allows us to apply our requirements consistently and ensure that gambling consumers have consistent rights and protections.

There have been some operators who have flouted the arrangements but those have only been operating at a very small scale. That's not to say we are complacent, and we will continue to disrupt and prevent unlicensed operators from accepting customers from GB.

Future work

I'd now like to look ahead at some emerging areas of work for the Gambling Commission in the course of this year, starting with marketing and advertising.

Marketing and advertising

As many operators in the room may know, the Commission has been conducting a significant amount of work on the marketing and advertising of online gambling.

Unfortunately, we found many failings within the industry by both large and small operators. These failings included:

- advertisements of gambling products on copyright infringing websites
- unsolicited marketing of gambling products, such as text messages sent to consumers who had not opted in to receive them
- failures to comply with the advertising codes supervised by the UK Advertising Standards Authority.

We have, and will continue, to work closely with our partners. Such as the City of London Police, the Federation Against Copyright Theft (FACT) on copyright infringements, as well as with the Information Commissioner's Office (the ICO) on unsolicited marketing.

The Commission has an established and powerful framework for working with, and delivering through others, and we will continue to use this to full effect.

We remain concerned at the level of breaches in relation to ensuring significant terms, associated with free bets and bonus offers, are prominent within gambling adverts. Although we have seen some improvements in this area, there is much more to be done. This is clearly unacceptable for consumers and failings here harm the reputation of the industry if it is seen to be disregarding the need to be transparent, and to not mislead customers. I've written generally to licensee CEOs, and the Commission has pursued further direct action in respect of some. We will maintain our focus in this area throughout the year.

More broadly, we will also be carrying out work later this year to explore attitudes towards gambling advertising.

Our October 2015 participation survey showed that half the population claim to have seen gambling advertising on a daily basis and that 60% of 18-24 year olds see gambling advertising online on a daily basis. It is estimated that £900m (€1183m) a year is spent on online gambling advertising.

The Gambling Commission does not govern, or have powers over, the volume or nature of advertising but, as I signalled earlier, this can contribute to public attitudes toward gambling and, as such, can influence the debate around its control and regulation.

Terms and conditions

Linked to marketing, a further focus for the Commission over the coming year, will be on ensuring that the terms and conditions on which gambling is offered to consumers are fair and open.

The Commission has specific requirements relating to the fairness and openness of terms, including that:

- an accurate and intelligible summary of terms is made available to customers
- all licensees satisfy themselves that their terms are not unfair within the meaning of the Consumer Rights Act 2015
- operators must comply with their published terms.

We recognise, of course, that terms must cover a range of eventualities and must protect the operator from risks of fraudulent behaviour. We are also aware that encouraging consumers to read terms and conditions is a real challenge. According to the Consumer Engagement and Detriment Survey 2014, commissioned by the UK Business Department (BIS), 62% of people did not read or glance at the terms and conditions the last time they bought something on the internet.

Further, with the drive to online and access via mobile apps, it's an increasing challenge for operators to meet effectively the requirements in relation to T&Cs.

However, we are not convinced that the gambling sector has implemented terms that are both comprehensive but equally concise.

We have seen some example cases where the terms and conditions are clearly not fair and open. For example, online operators' terms and conditions which are so lengthy and complex that most of my colleagues scratch their heads trying to make sense of them, never mind consumers. Such excessively long and complex terms and conditions cannot be effective – particularly when we bear in mind results for the Business Innovation and Skills survey published in December 2014, which showed that 34% of UK adults score below 'level 2' in literacy, where literacy levels range from 1-5 .

We will be working with the industry, and also with partners such as the Competition and Markets Authority, which has a leadership role for unfair terms legislation in the UK consumer landscape. We want to see a general improvement in the industry's overall approach to terms and conditions.

The wider context here is worth noting as well. Last November, Her Majesty's Treasury announced - as part of a package of work designed to drive competitive markets - that it had asked the UK consumer group Which? to work with leading, consumer-facing, businesses to review the way they present their terms and conditions, in particular online. The campaign will complement the ongoing work of the government's Consumer Protection Partnership in ensuring consumers understand their rights.

Consumer clarity and understanding on terms is key to confident engagement in competitive markets, and in gambling this is crucial to ensuring consumers are fully protected and that licence objectives to ensure fairness and openness are met.

Responsible gambling

The Commission's overall position is that consumers should be provided with information with which to make informed choices about their gambling. We want consumers to:

- easily understand the product they are gambling on
- understand the risk associated with gambling
- know their rights in respect of being treated fairly and being able to make complaints
- have access to gambling management tools in order to ensure gambling remains a safe activity and does not lead to harm and
- know where to seek help and support.

Many of these requirements are in line with the European Commission's principles, which seek to ensure effective protection for consumers of online gambling.

Gambling-related harm is gambling that disrupts or damages personal, family or recreational pursuits. It is associated with a range of health and social problems that potentially have an impact on wider public services such as public health, debt counselling and court services.

The Commission's approach has been to create a framework, via the Licences and Codes, which puts responsibility with the operators to play their part in minimising gambling related harm. It is, importantly, an outcomes focused approach - not tick box, not aiming to be prescriptive, but focused on holding leadership in gambling businesses to account. In 2015, the Commission strengthened further the LCCP in this area, and 2016 will see the first set of Annual Assurance Statements presented by around 40 of the largest operators, covering 80% of the market. Consistent with an outcomes-based approach, our aim here is to improve further the Board-level focus on, and accountability for, the licence objectives, including those governing responsible gambling.

A related theme for the coming year, and beyond, will be to build further on the role of data analytics to identify specific users and user groups, patterns of play, and player behaviour associated with problem gambling. Put simply - at a high level - the Commission has a very clear ambition to see the industry applying the same intellectual and commercial expertise, tools, technologies and innovations, to social responsibility that it brings to efforts to compete in the market.

There are a wide range of initiatives and schemes underway, across retail and online products, which are drawing on data analytics.

These have benefitted from the input and expertise of the Responsible Gambling Trust which will be working this year to a new strategy set by the Responsible Gambling Strategy Board - the independent adviser to the Commission. Individual operators will also be taking this work forward delivering their own initiatives and sharing learning. I have heard, from some of my early conversations with operators, that there is a strong level of commitment to these projects, driven on the back of what has been described to me as a 'sea change' in the GB industry's recognition of the need to own, and act on, problem gambling.

We see a key role for data analytics to both help understand player behaviour, and shape ways for operators, and regulators, to develop player protections, as well as to meet other licence objectives, such as those related to the detection and deterrence of crime.

This is also an area where improved sharing of information, and strategies across borders could pay further dividends and an area where DG GROW has a key role to play.

Innovation

This leads me naturally on to wider market innovation. Great Britain is home to the largest (regulated) online gambling market in the world and our legislative and regulatory approach – wherever possible an outcomes-based approach - are designed to ensure burdens are kept to a minimum and to enable innovation and growth.

The British market in general is very accommodating to new and innovative industries. To take a non-gambling example, UKTI data, published in 2014, points to the emerging Fintech market already generating approximately £20bn (26bn Euros) in revenue within the UK. Indeed I choose this example, as some online operators see themselves as part of the Fintech sector, as much as they do part of the gambling business sector.

Consistent with this UK policy approach, the regulatory framework in gambling does not impose caps on the number of operators, nor does it restrict gambling products that can be offered, and licence fees for the remote market are set at such a level as to make it possible for new operators to enter without significant entry costs.

However, with these freedoms, and within this permissive regime, comes clear responsibility to minimise the consumer and criminal risks associated with the provision of gambling services – this represents gambling businesses 'social' licence to operate.

The gambling industry has been an early adopter of new technology, particularly remote technology; we could take peer to peer betting exchanges and peer to peer poker networks as examples of new business models unique to online gambling.

In the last few years we have also seen a blurring of the lines between two worlds: social gaming and gambling. To many of us mention of social gaming conjures up images of a certain fruit-based game, or one of the many cartoonish strategy games in which players can join forces to overcome a range of military obstacles.

Both associations would be correct and it is for this reason that we are at pains to be very careful when we talk about social gaming in the context of gambling.

Let me be clear, social gaming in the traditional sense is not the Commission's concern. What we are paying close attention to is the growing popularity of virtual or 'in-game' items, which can be won, traded, sold or used as virtual currency to gamble. Where these items can be considered money or money's worth, and where gambling related services are offered, we will be looking closely at operators to ensure gambling regulations and consumer protections apply.

Something else we will be closely monitoring is the emergence of decentralised peer-to-peer betting, in which bets can be placed without the assistance of an operator acting as an intermediary. The challenges here will be the need to establish where, in the absence of a centralised operator, overall accountability lies and who assumes responsibility for key areas such as customer verification, anti-money laundering controls and gambling integrity.

The last year has also seen a growing popularity in eSports, the term used to describe the playing of computer games in professional competitions. We are now seeing established operators offering betting on eSports though in terms of overall market share, it still only accounts for a very small proportion of the British gambling marketing. We will continue to monitor developments in this area, and it should come as no surprise that our approach to eSports will be similar to that regarding other sports betting market products.

On the face of it, these developments are very different. However they do share common themes in that they are new; may attract new entrants to the market who are unfamiliar with principles of gambling legislation and regulation; and have the potential to appeal to people that haven't previously gambled, including young people for whom we have the highest concern.

Once again, we as regulators working collectively have an important opportunity to pool our experience and expertise, and learn from each other's approaches that enable product innovation and growth, in a way that is socially responsible. In the final section of my address this morning, I want to highlight the opportunities and fora which are making it significantly easier to follow this path.

Co-operation

To conclude, I would like to focus on our partnership working with other jurisdictions. I will keep it brief as Harrie has already covered this very well in his own presentation.

The Gambling Commission has always been, and will remain, keen to work with fellow regulators to raise standards, share learning and help make sense of new developments in the gambling industry. After all, when we take a step back and consider what we are most interested in we will almost certainly find that we share the key objectives of keeping crime out of gambling; ensuring fairness and openness, and minimising harm.

No jurisdiction will succeed in getting their regime perfect. The value of co-operation is being able to share experience – both good and bad.

With this in mind, we are particularly pleased that the EC Expert Group has been renewed for a further three years and look forward to continuing to work here with our colleagues.

In addition to our involvement with the Expert Group, we have, and will continue to work closely with the Gaming Regulators European Forum (GREF) and the International Association of Gaming Regulators (IAGR).

Each jurisdiction has their own day jobs and domestic priorities, and it can be difficult to devote the time and expertise needed to make real progress. Nevertheless, this collaborative working has delivered some important progress.

Good examples include:

IAGR & GREF's good practice guidelines on online technical standards; approaches to licensing and compliance; and a multi-jurisdictional business application form for operators licences (although I know take up here has been disappointing). There has been growing and productive cooperation on tackling sports betting corruption – an issue which has a particularly high profile at present in the UK and will feature as part of an international summit on anti-corruption being hosted by the Prime Minister this May.

Finally, late last year saw the publication by IAGR of the first stage in development of a Multi-Jurisdictional Testing Framework (MJTF), which began with a small working group of members consisting of Britain, Denmark, Alderney and Isle of Man.

As regulators we share many licensees with other jurisdictions.

Being able to share information efficiently on operators and discuss concerns will allow us to deliver more effective investigations and enforcement activities. This collaborative model will also act as a deterrent to non-compliance as operators will know that their activities in one jurisdiction may raise questions about their suitability in another.

These arrangements improve our collective, and individual effectiveness, as well as helping to keep down the costs of regulation borne by licensees, and ultimately by consumers.

Summary

I have aimed over the last 30 minutes to share our experience of the first 15 months of point of consumption; highlight some of the areas of future focus for the Commission and reinforce, under my new leadership, what will be a continuing commitment to working closely with our fellow regulators, with the support of the EU Commission.

Over the next 48 hours I will be immersing myself in the experience that is ICE (!) and meeting with many of you for the first time. I look forward to both, and to our future partnership.