

GAMBLING COMMISSION

Licence Conditions and Codes of Practice

Consultation document, March 2006

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Consultation document

This document sets out the Gambling Commission's proposals for conditions attaching to operating and personal licences and codes of practice to which operators will be subject. It is issued in accordance with sections 24 and 76 of the Gambling Act 2005.

A partial Regulatory Impact Assessment (RIA) on the draft conditions and codes has been published separately and is available on the Commission's website at www.gamblingcommission.gov.uk

The Commission is committed to full and open consultation and would welcome comments on the draft conditions and codes and partial RIA.

Please send your comments to:

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The consultation period will close on 2 June 2006.

Please see page 121 for further information on the consultation process.

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Introduction and layout of document

Introduction

The Gambling Commission formally assumed the role and responsibilities of its predecessor, the Gaming Board for Great Britain, on 1 October 2005. The Commission will take on its new roles and responsibilities as the provisions of the Gambling Act 2005 are brought into force between now and autumn 2007.

As part of this transition process we published for consultation our draft *Statement of Principles on Licensing and Regulation* in October 2005 and our draft *Guidance to Licensing Authorities* in December 2005.¹ The draft Statement sets out the high-level principles and values that will guide our approach to our work. This consultation document contains our detailed proposals for regulating the commercial gambling industry through licence conditions and codes of practice. This, together with premises licences that licensing authorities will issue, will form the core of the new regulatory system set up by the Act. As background to each topic, we explain how the Act changes the current position. The document does not deal with the way in which the Commission will monitor and ensure compliance with conditions and codes, nor with its approach to regulatory sanctions or prosecution. These will be dealt with in full in subsequent consultation documents. In this document, we propose licence conditions necessary for our activities in monitoring and ensuring compliance, including those dealing with our access to gambling premises and our requirements for information from operators.

The Commission is consulting key stakeholders, including industry associations, major operators, regulatory bodies, faith groups, local authorities and organisations and academics with an interest in problem gambling, and would welcome comments by 2 June 2006. Further details of how to respond are at page 121. The Commission plans to issue a revised and definitive version of the conditions and codes by early autumn 2006, taking into account the responses to this and other related consultation documents.

Layout of this document

In constructing our licence conditions and code of practice provisions we have been conscious that different readers will have different interests in the contents. Some will have a general interest in our approach to regulating the gambling industry. Others will be interested primarily in the provisions specific to their particular operations or concerns.

In this document we address issues cross-sectorally, starting with our general approach to the particular issue and then discussing any sector specific variants or additions.

In Chapter 1 we set out the regulatory framework and explain the difference between licence conditions and codes of practice, and between 'social responsibility' provisions and ordinary provisions of codes of practice. We then outline the broad policy approach we have taken in drawing up the conditions and codes that follow. All readers are recommended to read this chapter first.

¹PDF versions of both the *Statement* and the *Guidance* are available on the Commission's website (www.gamblingcommission.gov.uk)

In Chapters 2–12, we set out all the proposed licence conditions and codes of practice dealing first with requirements at the licensing stage; then with how gambling should be conducted, including requirements for keeping crime out of gambling, open and fair gambling and the protection of children and the vulnerable. We go on to deal with issues affecting gambling employees; special cases; requirements that underpin the Commission's own regulatory activities; and finally the Act's requirements on public registers of licence holders.

In order to explain the context of and reasoning behind our proposals we have generally followed a pattern of first describing the current regulatory position (ie that prevailing under the pre-Gambling Act 2005 statutes); outlining the impact of the Gambling Act 2005; and then explaining the Commission's approach; before stating the proposed codes and conditions and asking particular questions about them to which we would welcome responses.

In addition to this thematic approach we have also set out our proposed codes and conditions sectorally, by type of licence and then by type of gambling activity. These sector-specific conditions and codes are available to download from our website. This will allow those interested only in the provisions proposed for a particular sector to see all the relevant proposals in one place. The code of practice provisions that will apply to permit holders about the location and operation of gaming machines are also available as a separate document. All of these sector-specific licence conditions and codes are available to download from our website.

In this document, we present licence conditions and code of practice provisions in boxes. Consultation questions are at the end of each section and are listed in full at the end of the document. Please note that throughout, references to 'the Act' are to the Gambling Act 2005 except where specified otherwise. References to betting operators include general betting, pool betting and betting intermediary operating licence holders. In general, a reference to remote gambling includes all forms of remote gaming and betting, unless otherwise specified.

Background and context

Chapter 1: The regulatory framework

This chapter explains the Commission's approach to formulating licence conditions and codes and sets it in context.

1.1 Background

1.1.1 The Gambling Act 2005 implements the Government's proposals for reform of the law on gambling. The Act establishes a new regulatory system covering the provision of all gambling in Great Britain, other than the National Lottery and spread betting (which are regulated by the National Lottery Commission and the Financial Services Authority respectively).

1.1.2 The Act followed the publication of the Government White Paper 'A Safe Bet for Success'² in March 2002. The White Paper was the Government's response to the report³ of the Gambling Review Body, published in July 2001.

The licensing objectives

1.1.3 The regulatory framework introduced by the Act is based on three licensing objectives:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.1.4 The Commission is required to pursue the licensing objectives, to have regard to them wherever appropriate, and to permit gambling in so far as it thinks it reasonably compatible with the pursuit of these objectives.

Operating licences and licence conditions

1.1.5 Two primary offences are established by the 2005 Act: providing facilities for gambling without appropriate permission or in breach of the conditions of the appropriate permission; and using premises for gambling without appropriate permission or in breach of the conditions of the appropriate permission.⁴ Such permission may come from a licence, permit or registration granted in accordance with the Act or from an exemption given by the Act.

1.1.6 Under the Act, operating licences are the main form of authorisation for providing facilities for commercial gambling. Where authority to provide facilities for gambling is granted, it will be subject to varying degrees of regulation depending on:

- the type of gambling;
- the means by which it is conducted; and
- the people by whom, and to whom, it is offered.

² Cmd 5397.

³ Cmd 5206.

⁴ Section 33 of the Act, 'Provision of facilities for gambling' and section 37 of the Act, 'Use of premises'.

In addition, the Act provides for premises to be licensed by licensing authorities⁵ for the provision of gambling facilities. It also provides for personal licences for certain gambling personnel.

1.1.7 This consultation document focuses on the conditions that the Commission proposes attaching to operating and personal licences, and on the proposed codes of practice to which operators will be subject. It does not deal with the way in which the Commission will monitor and ensure compliance with conditions and codes – except where licence conditions are proposed to ensure effective monitoring and compliance – nor with its approach to regulatory sanctions or prosecution. These will be dealt with in subsequent consultation documents, as will the Commission's approach to the use of its powers to void bets and to deal with the new offence of cheating.

1.1.8 There are different kinds of operating licences for the various forms of gambling (for example, casino, bingo, betting, etc). An operating licence for each form of gambling authorises either the provision of facilities for gambling in physical premises or the provision of facilities for gambling by means of information communication technologies ('remote gambling'). An operating licence cannot cover both remote and non-remote gambling, but a remote or non-remote licence can cover more than one type of gambling and a person may hold both remote and non-remote licences.

1.1.9 In addition, there are also operating licences that authorise the production, installation and repair of gaming machines and of gambling computer software.

1.1.10 The Act provides for three types of condition to be attached to operating licences:

- mandatory conditions (those required by the Act);
- conditions imposed by the Secretary of State, which must be general (ie for a class of operators); and
- conditions attached by the Commission, which may be general or individual (ie for a particular operator). Individual licence conditions may be appropriate for example where the licensee has limited resources and can only be authorised to conduct gambling activities on a restricted scale or where tailored conditions are needed to address specific risks to the licensing objectives. This document discusses only general licence conditions.

1.1.11 Gambling operators must comply with the conditions of their licences, and the Commission can impose penalties on them if they fail to do so. Breaches of licence condition will also give rise to a criminal offence and the Commission has the power to prosecute offenders.

1.1.12 Personal licences authorise individuals to perform specified management offices or specified operational functions. The Act provides for the Secretary of State and the Commission to attach conditions to personal licences and again a breach of a condition would make the personal licensee liable to penalties including criminal sanctions. Unless exempt as a small-scale operator,⁶ all licensed operators will be required to have at least one personal management licence holder; it will be for the Commission to decide what further personal licences are required for different operating licences and to make that requirement an operating licence condition.

⁵ Licensing authorities are defined in section 2 of the Act. They are the local authorities in England and Wales with Licensing Act 2003 responsibilities, and licensing boards in Scotland, as constituted by the Licensing (Scotland) Act 1976.

⁶ Section 129, which provides for the scope of small-scale operator exemption to be set by the Secretary of State.

Codes of practice

1.1.13 The Act requires the Commission to publish codes of practice about the manner in which facilities for gambling should be provided. These codes apply to licence holders and to other people. In particular one or more of the codes must cover social responsibility – that is, the arrangements:

- to ensure that gambling is conducted in a fair and open way;
- to protect children and other vulnerable persons from being harmed or exploited by gambling; and
- to make available assistance to persons who are or may be affected by problems related to gambling.

Section 82 of the Act provides that parts of codes which cover social responsibility in pursuance of section 24(2)⁷ shall have the force of a condition (ie a breach would mean that the licensee was providing facilities for gambling illegally and was liable to regulatory or criminal sanction). It is also open to the Commission to attach a licence condition making other code provisions binding. Non-compliance with such code provisions would be a breach of that licence condition and again make the licensee liable to regulatory or criminal sanction.

1.1.14 With the exception of specified code provisions on social responsibility, non-compliance with codes of practice does not give rise to a criminal offence. However, non-compliance can be taken into account when considering whether to apply administrative sanctions or to prosecute, and they can be taken into account by a court or tribunal in any case where it appears relevant.

⁷Section 24(2) provides that 'in particular a code shall describe arrangements that should be made by a person providing facilities for gambling for the purposes of:

a) ensuring that gambling is conducted in a fair and open way,
b) protecting children and other vulnerable persons from being harmed or exploited by gambling, and
c) making assistance available to persons who are or may be affected by problems related to gambling.

1.2 The Commission's broad approach

1.2.1 In deciding what conditions to attach to licences and which code provisions to make binding as part of our social responsibility code, our starting point has been the need to achieve the licensing objectives. We expect licensed operators to conduct their gambling operations in a way that does not put those objectives at risk and our licence conditions and codes are designed to ensure this. We also expect those suitable⁸ to hold licences, including, as appropriate, personal licences, to:

- conduct their business with integrity;
- act with due care, skill and diligence;
- take care to organise and control their affairs responsibly and effectively, with adequate risk management systems to combat crime and disorder;
- maintain adequate financial resources;
- have due regard to the interests of customers and treat them fairly;
- have due regard to the information needs of customers, and communicate with them in a way which is clear, not misleading, and allows them to make a properly informed judgment about whether to gamble;
- manage conflicts of interest fairly; and
- deal with the Commission in an open and cooperative way, and disclose to the Commission anything relating to the operator of which the Commission would reasonably expect notice.

We will reflect these points in our *Statement of Principles* and will bear them in mind when considering the continuing suitability of a licensee to hold a licence.⁹

1.2.2 With these expectations in mind, we have proposed conditions where requirements on licensees' behaviour can minimise risks to the licensing objectives. The conditions are deliberately framed in terms of the results we want to secure – for example, effective procedures for self-exclusions; properly informed customers – rather than prescribing how those results should be achieved. The codes give advice on best practice for achieving those results. Where we think that the risk to the licensing objectives is sufficiently great or we consider particular operating policies or practices essential to secure those results we have made the provision binding as part of the social responsibility code or by means of a licence condition. Breach of a condition or a binding code provision makes the licence holder liable to regulatory penalty or criminal prosecution but, as our consultation document on compliance will make clear, our primary concern is to achieve compliance. We will work with operators to make sure that they understand our requirements and make good any deficiencies. Where operators have made every effort to comply that could be expected in the circumstances, we would not seek to impose penalties or prosecute but, again depending on the circumstances, might need to consider a change to the terms of their licence to reduce any risk to the licensing objectives.

Social responsibility code provisions

1.2.3 We see the identification of code provisions that support social responsibility in gambling and which therefore carry the force of licence conditions as critical to securing fair and open gambling for those who enjoy gambling and do so within their means, while protecting children and other vulnerable people from being harmed or exploited by gambling. Such provisions are a key element in our strategy for minimising problem gambling. We have published separately a paper outlining that strategy, available from our website. Although problem gambling affects a small percentage of the population,

⁸ Section 70(1)b.

⁹ See footnote 1.

its effects can be devastating on the individuals concerned, and the growth in gambling – in particular as a result of new technologies such as the internet – carries with it a risk of the growth of problem gambling. For the first time we have power to do something about it. We intend to use our powers to maximum effect and to work with others to protect the vulnerable. We will be holding a problem gambling round-table discussion in April 2006 to bring together experts in the problem gambling field to debate our proposed strategy and contribute to our thinking and knowledge in this area.

Premises licence conditions

1.2.4 Premises licences will be granted by licensing authorities and may authorise the provision of gambling facilities in:

- casino premises;
- bingo premises;
- betting premises, including tracks;
- adult gaming centres (AGCs); and
- family entertainment centres (FECs).

1.2.5 Except in the case of tracks¹⁰ (where the occupier of the track who gets the premises licence may not be the person who offers the gambling there) premises licences may only be issued to people with a relevant gambling operating licence: for example, to obtain a bingo premises licence the applicant must hold a bingo operating licence. Premises licences are transferable to someone else holding a valid operating licence.

1.2.6 The Act provides that conditions may be attached to premises licences, in addition to operating and personal licences. As with these other types of licence, conditions may be attached in a number of ways:

- they may attach automatically, having been set out on the face of the Act;
- they may attach through regulations made by the Secretary of State or Scottish Ministers;
- they may be attached to premises licences by licensing authorities. Whilst these may be general in nature (for example by requiring premises licensees generally to have appropriate signage on restrictions on access by children), they must nonetheless be imposed by the licensing authority on each individual licence.

1.2.7 Licensing authorities will have the lead responsibility for ensuring compliance with premises licences and will have a range of actions which they can take if breaches occur.¹¹ The Commission has published the first of three consultation documents containing guidance to licensing authorities.

1.2.8 The Commission, for its part, will have powers to prosecute operators for breach of premises licence conditions. As set out elsewhere in this document, the Commission will also have powers to act on breaches of the licences it issues, and to impose penalties. There may be circumstances, for instance where an operator is guilty of breaches of the same condition in a number of different premises in different areas and where those breaches are fundamental to some aspect of the operator's licence conditions (such as the social responsibility provisions), which result in the Commission reviewing the operator's licence and imposing penalties.

¹⁰ Section 353(1) of the Act defines a 'track' as meaning 'a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place', and may include venues where sporting activities take place including cricket grounds and athletic arenas.

¹¹See section 202 of the Act.

Better regulation

1.2.9 In developing the proposals set out in this document we have followed the approach we set out in our draft *Statement of Principles*¹² and have sought to reflect good regulatory practice as promulgated by the Better Regulation Task Force and the Hampton Review of regulatory inspections and enforcement.

1.2.10 As we explained in the draft *Statement of Principles*, our assessment of risk will be led by the evidence, relevant information and research, and best national and international regulatory practice. We are drawing on such sources to start assessing the risks to the licensing objectives posed by different gambling activities and by different types of operators. For example, casinos dealing with large volumes of cash pose more of a risk to the objective of keeping crime out than a local authority lottery. Operators with a track record of compliance with regulation, an established staff training programme and strong financial backing pose less of a risk than those new to the particular sector, with limited financial backing and few experienced managers. In drawing up our proposed conditions and codes we have reflected our current view of the risks posed by different types of gambling activities and operators.

1.2.11 Our risk assessment process will be developed and refined over time as we learn from our and other regulators' experience. In the meantime, we may wish to take or retain measures to restrict a practice even if there is no clear evidence that it is damaging – for example where common sense suggests that what is being proposed or being done could be a risk to children or the vulnerable.

1.2.12 We have tried to be consistent in our approach to regulation across all the sectors within our jurisdiction. We have also tried to be proportionate in the regulatory burden we impose. These two objectives have sometimes been in conflict and it is unlikely that our proposals will be seen as wholly satisfactory by all sectors alike, some of which are in competition with others.

1.2.13 Among the circumstances militating against complete consistency are the lack of hard evidence about what exactly constitutes risks to the statutory licensing objectives in the different sectors; and the fact that some sectors are facing regulation for the first time, while others have been accustomed to regulation for many years. We are therefore not starting with a clean sheet.

1.2.14 We also face the fact that in the world of remote gambling, in particular web-based gambling, both players and operators can choose to opt in or out of our regulation. If we are to ensure that those living in Great Britain have access to Commission-regulated remote gambling sites, which promote responsible gambling with safeguards to protect the vulnerable, we will have to accept some practices that we can resist in the non-remote arena – use of credit cards is an example. But we will be vigilant in monitoring the impact of such practices and taking any necessary corrective action available to us.

1.2.15 There is little available research on measures which are proven to be effective in promoting responsible gambling and tackling problem gambling – particularly in the sectors new to the Commission. What we have tried to do is to adopt a consistent approach but to proceed cautiously. We have taken the opportunity of the new legislation to make the requirements on those sectors already regulated better focused on the achievement of the licensing objectives but have not otherwise introduced any relaxation in regulation. In the sectors new to us, our conditions and codes reflect international best practice where available and our judgement as to what is both necessary and feasible at this stage. For the greater part they underpin the existing best practice that responsible operators already follow.

¹² See footnote 1

1.2.16 We have indicated the direction in which we expect our regulatory policies to move as we gain experience and the new regime introduced by the Gambling Act beds in, but will be monitoring the impact of the new regime carefully and will not hesitate to move decisively to introduce new requirements or amend existing ones should the need arise.

Chapter 1: The regulatory framework

Q.1 What comment do you have on the Commission's broad approach to regulation?

Q.2 Do you have any comment on the list of high-level principles (for example, the need for integrity) that we expect to be followed by holders of operating or personal licences?

Q.3 How should we further develop our approach to risk?

Q.4 How should we strike the right balance between proper regulation of the remote sector and the danger of driving operators and customers away to sites outside Great Britain?

Q.5 Do you have any other comment or suggestion on this section?

Licence conditions and codes of practice

Chapter 2: Licensing process

This chapter considers our general approach to those applying for operating and personal licences and how far we need to concern ourselves with the internal organisation and staffing of operators.

2.1 Operating licences

Current position

2.1.1 Different levels of controls are applied across the various sectors of gambling currently regulated by the Commission. Casinos have the tightest and most detailed system of regulatory control. There are recommended standards for internal controls and accounting procedures for casinos, including a formal plan of organisation which defines roles and allocates responsibilities and authorisation levels and identifies lines of reporting. The Commission also provides guidance about the maintenance of records, management of cash and about how operators should report these arrangements. Staff occupying a range of specific roles require Commission certificates of their suitability ('white', 'grey' or 'red' depending on level).

2.1.2 The Commission requires managers of bingo clubs to have a ('pink') certificate of approval demonstrating that they are capable of taking responsibility for the general administration and organisation of the club. External lottery managers must also hold a certificate issued by the Commission. There are no requirements on the internal structures of bookmakers, lottery promoters, adult gaming centres and family entertainment centres.

The Gambling Act 2005

2.1.3 The Act provides that the Commission shall have regard to the applicant's suitability to carry on the licensed activities and, in assessing suitability, may in particular have regard to the applicant's integrity, competence and financial and other circumstances. In awarding licences the Commission can (and in some cases must) attach conditions. The Commission's powers to attach conditions to licences (sections 75 and 77) are very wide, essentially allowing any condition that comes within the scope of the Commission's responsibilities under the Act. In addition, the Commission must issue at least one code of practice about 'the manner in which facilities for gambling are provided', again with wide scope. The Commission therefore has considerable scope to influence or determine the way in which licensed operators conduct their affairs.

The Commission's approach

2.1.4 We see the application process for operating and personal licences as a key stage in the process of keeping crime out of gambling and making sure that gambling operations are in the hands of those suitable and competent to conduct them. We do not comment further in this document on the operating licence application process. It was discussed briefly in the draft *Statement of Principles on Licensing and Regulation* published in October 2005 (see paragraphs 2.2–2.12 of the *Statement of Principles*) and we will publish further guidance on the details of the application process later in the year. That further guidance will also cover the need to apply to the Commission when there are changes of corporate control.¹³

¹³ Section 102.

2.1.5 We do not intend to be prescriptive about the internal organisation of those applying for licences, provided they can satisfy us of their suitability. While we may use the application process to attach individual conditions to licences, for example limiting the scale of operations we consider appropriate for a particular operator, we do not see it as appropriate or effective regulation for us to prescribe how operators should manage their businesses, except in a limited number of cases, where the legislation or risk to the licensing objectives require a degree of prescription.

2.1.6 Generally we will set out what needs to be achieved and leave it to operators to decide on the most appropriate means although, where appropriate, we indicate best practice in relation to the management of gambling activities. It is for businesses to decide how to organise and control their activities, subject to other legal requirements.

2.2 Personal licences

Current position

2.2.1 Personal 'certificates of approval' are required for: bingo managers, casino executives and managers, and casino gaming staff below manager level (dealers, cashiers, inspectors, supervisors and security staff). Casino executives and bingo and casino managers are required to have appropriate knowledge. Their knowledge is tested at interview for their certificate of approval. Where applicants for certificates are known to have sufficient knowledge and experience then the interview may be waived. There are no similar provisions for certificates of approval for bookmakers or other gambling businesses.

The Gambling Act 2005

2.2.2 The Act provides a new framework. There are two types of personal licences: licences which authorise an individual to perform the functions of a specified management office (referred to here as personal management licences – PMLs); and licences which authorise an individual to perform a specified operational function (referred to here as personal functional licences – PFLs). Sections 80(5) and (6)¹⁴ set out the meaning of 'management office' and 'operational function'. The Act requires each operator to have at least one personal management licence holder occupying a specified management office, with an exemption for 'small-scale operators', to be defined by the Secretary of State. (DCMS plans to consult on this shortly.) The Commission may also require, as a condition of operating licences, that additional specified management offices should be occupied, and/or operational functions performed, by personal licence holders.

¹⁴ (5) In this section, 'management office' in relation to a licensee means:

- a) if the licensee is a company, the office of director,
- b) if the licensee is a partnership (including a limited liability partnership), the office of a partner,
- c) if the licensee is an unincorporated association, any office in the association, and
- d) in any case, any position the occupier of which is required, by the terms of his appointment, to take or share responsibility for–
 - (i) the conduct of a person who performs an operational function in connection with a licensed activity, or
 - (ii) facilitating or ensuring compliance with terms or conditions of the operating licence.

(6) In this section, 'operational function' means:

- a) any function which enables the person exercising it to influence the outcome of gambling,
- b) receiving or paying money in connection with gambling, and
- c) manufacturing, supplying, installing, maintaining or repairing a gaming machine

2.2.3 As part of its handling of operating licence applications, the Commission will need to assess the 'suitability' of the applicant (section 70). This will also include an assessment of the integrity, competence, and financial and other circumstances of 'persons relevant to the application'. Some of these relevant persons are likely to need personal licences too as they will fill key managerial and operational posts.

The Commission's approach

Personal licences for management functions (PMLs)

2.2.4 Personal licences do not remove the overall responsibility from the operator but reinforce individual responsibility by giving individuals a personal stake in helping to secure the licensing objectives. In failing to meet the licensing objectives, PML holders would risk not only their futures with that particular operator but also their reputations and future employment in the industry. In deciding who should be required to have personal licences in respect of management functions we have two main objectives: firstly to identify the senior individuals who take overall responsibility for the proper management of the business and for compliance with the regulatory regime as a whole; and secondly to reinforce the sense of accountability of those with sufficient knowledge of what is happening on the ground to manage the risk to the licensing objectives.

2.2.5 In a relatively small or one-site operation, various management offices, for example those of chief executive and compliance director, may be held by one individual; in a large PLC, accountability for what happens on the ground must be delegated. We want to strike a balance between the two objectives above. We expect operators normally to fall into one of five categories:

- very large or complex;
- large (ie with a regional, area or sectoral management structure);
- standard;
- small; or
- exempt: those small-scale operators exempt under section 129 from the section 80 requirements on personal licences.

We will make it clear to applicants which management offices we propose to require to be filled by licence holders, and applicants will need to tell us which posts in their organisation fit those descriptions.

2.2.6 We propose to require PMLs for those holding the posts of managing director/chief executive, finance director, compliance director and marketing director in the licensed entity – regardless of the actual titles used. We have chosen these offices because they seem to us to be the ones which most directly affect the way that the licensed activities are run and the extent to which they are run in a manner consistent with the licensing objectives. In some smaller operators, it may be that the four roles are filled by one or two people, usually the proprietor(s), in which case the operator will have only one or two PML holders.

2.2.7 Where there are distinct intermediate management layers between head office and site operators, we will require PMLs for those regional, area or sector managers who are accountable to head office for on-site operations or compliance with the licensing objectives at a number of individual sites – for example, area managers of betting premises; group managers for casinos; technical compliance director where there is a technical director supplementing the compliance director. In the case of very large or complex operations there might be more than one intermediate layer.

2.2.8 For casinos and bingo, our presumption is that each site duty manager will require a PML, subject to how the responsibilities are allocated in the particular business. In betting and arcades businesses this seems unlikely to be necessary, given the limited functions for which individual shop managers are typically responsible.

2.2.9 We plan to implement the proposed approach flexibly to ensure that in each case the PML holder is the key individual who can be held responsible for the relevant management functions. For example, in the case of lotteries promoted by large charities, the person effectively responsible for the running of the lottery may well not be a member of the top management. Top management may not be closely involved. In those cases, in addition to at least one top-level PML post, we may wish to require that a PML holder should fill the post of lottery promoter, ie the post filled by the person identified as responsible for the promotion of the lottery in line with section 99(5)(b) of the Act.

Personal licences for operational functions (PFLs)

2.2.10 The Act provides for, but does not require, personal licences for the following 'operational functions':

- functions that enable the person exercising them to influence the outcome of gambling;
- receiving or paying money in connection with gambling; and
- manufacturing, supplying, installing, maintaining or repairing gaming machines.

2.2.11 These are functions where a post-holder, for example with criminal intent, could potentially manipulate the outcome to their own advantage or that of associates. However, not every post falling into these categories gives the holder a particular opportunity for gambling-related fraud or other crime. Staff taking stakes and paying winnings at betting premises have no greater opportunity than employees who handle cash elsewhere in retailing.

2.2.12 PFLs also provide a degree of assurance to the public and to potential employers that those conducting various aspects of gambling operations have the necessary level of technical competence; they strengthen the licence holder's incentive to comply with regulations, as non-compliance risks loss both of the job and of the licence necessary to get another.

2.2.13 We will be working towards the time when the gambling industry has a properly structured training system, backed up by third-party accreditation and by 'best-practice' compliance arrangements (see section 9.1 on training). Such arrangements should provide some assurance about the competence of people in functional jobs in the industry and, in time, may largely remove the need for PFLs. Unless there is a powerful case for it, therefore, we would not propose to require PFLs any more widely than we currently require certificates for operational staff and would expect, over time, as independently validated qualifications become more widespread, to reduce our requirements for PFLs.

2.2.14 At this stage, however, we think there is merit in retaining the present tried and tested system of personal licences (certificates) in the casino and bingo industries for bingo managers, casino executives and managers, and casino gaming staff below manager level (dealers, cashiers, inspectors, security staff and supervisors). These are the people who are or may be able to influence the outcome of games or could use their positions for criminal intent. Once the Act has come fully into force and a useful and effective framework for training has been established we can review their continued need.

2.2.15 Conversely we think that, in the absence of any clear requirement in terms of risk to the licensing objectives, it would not be right to impose PFLs in the betting, lottery and arcade gaming machine fields at the outset. This is because we do not think that operational staff in the betting and other industries have the same opportunity to influence the outcome of a bet or to use their position for criminal purposes. However, we will keep this under review in case evidence emerges of risks which PFLs might usefully have a role in controlling.

2.2.16 We have considered whether those with the operational responsibility for tackling underage and problem gambling (for example, the ‘supervisor’ as described in section 176 of the Act) should have personal licences, not least to ensure minimum levels of training in these aspects, but we have concluded that the same result can be achieved by making such training and functional responsibilities mandatory as part of the operating licence conditions and codes.

2.2.17 Similarly we do not intend to place any additional requirements in relation to door supervision as described in section 178 of the Act. We see this as being within the remit of local authorities which will have in place policies to deal with issues of disorder locally. For more information please refer to Part 30 in our *Guidance to Licensing Authorities*.

2.2.18 We have also considered whether those repairing machines should have PFLs as in some cases they are dealing with machines on premises not managed by a holder of an operating licence holder – in other words on premises which have a gaming machine permit issued by a local licensing authority. We have however decided this would be disproportionate to the risks involved and propose to rely instead on the operating licence conditions attached to those providing and maintaining the machines, ie those manufacturing, supplying, installing, maintaining or repairing gaming machines.

Experience and training

2.2.19 We will wish to satisfy ourselves that the holders of personal licences have appropriate training, skills and experience to enable them to do the job and to meet all the relevant regulatory requirements. We do not propose at this stage to prescribe programmes of training or demand third party certification as there are, as yet, no generally accepted standards of training or accreditation. We will expect applicants for personal licences (and their employers where they have them) to demonstrate to us that the applicants are fit for the post and are properly trained. Please see section 9.1 for more information about what we will expect in terms of training.

2.2.21 We shall expect high standards of behaviour from personal licence holders. We shall in particular expect personal licence holders, like operators, to adhere to the set of high-level principles in paragraph 1.2.1. We shall bear these principles in mind in considering the continued suitability of a personal licence holder to hold a licence.

2.2.22 As for the conditions to be attached to personal licences, we have two main concerns: that personal licence holders should have an explicit responsibility to avoid putting the operator in breach of its operating licence conditions; and that they should keep themselves up to date about the development of gambling regulation relevant to their jobs, and in the case of PFL holders, their technical expertise.

Option of personal management licences (PMLs)

2.2.23 The owner/director/manager in operations that qualify for the small-scale operator’s exemption from the requirement to hold a PML will still be required to undergo investigations into their integrity and competence as part of the process of obtaining an operating licence – the same investigations that would be required if they were seeking a personal management licence. But if the business expanded so that it no longer qualified for the small-operator exemption, not only would any additional managers then require licences but so too would the individuals holding specified management offices whom had previously been exempt from the need for PMLs.

2.2.24 To avoid unnecessary duplication of effort or fees we propose, therefore, to offer those exempt operators’ personnel, who undergo an investigation as part of the operating licence application or change of control process, the option of applying for a personal management licence at the same time. These optional PMLs would have no link to operating licences but would otherwise be valid on the same terms as required for PMLs. They would give individuals the benefit of enabling them to move to or merge with another operator without the need first to obtain a personal management licence.

Licence conditions

All except those exempt as small-scale operators under section 129

- The operator must ensure that for each of the following management offices:
 - managing director/chief executive;
 - finance director/head of finance;
 - compliance director/head of compliance; and
 - marketing director/head of marketing

the person who occupies that management office in or in respect of the licensee or in connection with the licensed activities holds a personal management licence authorising the performance of the functions of that office.
- Any individual who takes or shares the responsibility for the performance of the functions of a specified management office, held in or in respect of the licensee or in connection with a licensed activity at a group of sites or for parts of the business, must hold a personal management licence authorising the performance of the functions of that office.
- The person(s) holding the management office(s) of casino manager or bingo hall manager in or in respect of the licensee or in connection with a licensed activity must hold a personal management licence authorising the performance of the functions of the office.
- The operator must ensure that anything done in the performance of the functions of the office is done in accordance with the terms and conditions of the personal management licence.
- Where an individual is authorised by a personal licence and the licence comes under review under Section 116(2) of the Act, the operator must comply with any conditions set by the Commission about redeployment, supervision, monitoring or other details of the individual's work.

A single individual may occupy more than one of the specified management offices in the small operator category.

Lottery only

- The operator must ensure that for at least one of the following management offices:
 - managing director/chief executive;
 - finance director/head of finance;
 - compliance director/head of compliance; and
 - marketing director/head of marketing

the person who occupies that management office in or in respect of the licensee or in connection with the licensed activities holds a personal management licence authorising the performance of the functions of that office.
- Any individual designated by the licensee as having responsibility within the licensee for the promotion of the lottery must hold a personal management licence authorising the performance of that function.

Casino only

- The operator must ensure that if any of the following operational functions:
 - dealer;
 - cashier;
 - inspector;
 - security staff employed to watch gaming; and

- supervisor of gaming activities

are performed in connection with the licensed activities, they are performed by an individual who holds a personal functional licence authorising performance of the function.

- ➔ Anything done in the performance of those functions must be done in accordance with the terms and conditions of the personal functional licence.

Personal management and functional licences

- ➔ Personal licence holders must ensure that the way in which they discharge their responsibilities in relation to licensed activities does not place the holder of the operating and any relevant premises licences in breach of its licence conditions including the requirement to provide the Commission with the information set out in [the relevant licence condition, see section 11.2].
- ➔ Personal licence holders must keep themselves informed of developments in gambling legislation, codes of practice and any Commission guidance (whether on the Commission website or communicated direct) relevant to their role; and (for personal functional licences only) keep their technical competence up to date.

Chapter 2: Licensing process

Q.6 Do you agree that those holding the roles of chief executive, finance director, chief compliance officer and marketing director should be required to hold personal management licences (PMLs)? What other roles, if any, should be restricted to personal management licence holders?

Q.7 Do you agree that in larger operators, where responsibility for issues of regulatory interest is delegated, managers responsible for regions or areas or individual sites should be required to hold PMLs?

Q.8 Personal functional licences (PFLs) provide some assurance of the post-holder's competence and against the post-holder exploiting his position for crime. With this in mind, the Commission proposes to continue to require personal licences in casinos for: dealers, cashiers, inspectors and supervisors of gaming activities. Do you agree? If not, what posts would you add or remove, and why?

Q.9 Do you have any other comment or suggestion on this section?

Chapter 3: Technical standards

This chapter deals with technical standards the Commission requires for machines and equipment used to provide gambling facilities.

3.1 Gaming machines and remote gambling

Current position

3.1.1 The Commission currently agrees guidelines for gaming machines with the main trade association, British Amusement Catering Trade Association (BACTA).¹⁵ The guidelines contain details about the functionality of gaming machines including for example the use of features such as holds and nudges, but are not legally enforceable. There are no technical standards for remote gambling as remote gaming operations may not currently be sited in Britain, and betting (including remote betting) is not currently regulated by the Commission.

The Gambling Act 2005

3.1.2 The Gambling Act 2005 gives the Commission a statutory responsibility for licensing operators that manufacture, supply, install, adapt, maintain or repair gaming machines, and the power to set standards and testing for gaming machines by way of licence conditions. This applies equally to software used in a gaming machine. In other words, where a machine manufacturer is not itself responsible for the software to be used in a machine or where the companies involved in the supply of the software and the machine do not qualify for a joint licence, then the software manufacturer must itself apply for an operating licence and ensure that it complies with any relevant technical standards that we set.

3.1.3 Other gambling operators, who have gaming machines on their premises, will also have an interest in the standards set by the Commission because they may have an impact on the machines that are available to be sited on their premises. They will also have an interest in any testing processes that may affect the cost or the availability of machines.

3.1.4 The Commission can require holders of, or applicants for, gaming machine technical operating licences to submit to tests or produce evidence of test results in order to establish whether to grant an application and to test compliance with standards. The Act specifically empowers the Commission to make arrangements with any person for the administration of tests, and this will allow the Commission to accredit third parties, such as test laboratories, to test machines, games and systems to the standards we set, before they are made available to the public.

¹⁵ BACTA represents the pay-to-play machine leisure industry in Great Britain. Its members largely comprise: the owners of family entertainment centres; machine suppliers; adult gaming centre operators; and machine manufacturers and distributors.

3.1.5 The stakes and prizes of the various categories of machines are not set out on the face of the Act; they will instead be set by the Secretary of State by way of regulations under Section 236 of the Act. DCMS will be preparing and consulting on the necessary regulations, and they have stated that the proposed categories will broadly be as set out in the table below.¹⁶

Machine category	Maximum stake	Maximum prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	Maximum single stake £15, maximum multiple stake £100 per game.	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p 30p when prize non-monetary	£5 cash £8 non-monetary prize

3.1.6 It is important to note that the Commission's gaming machine technical standards will work in conjunction with regulations which the Secretary of State may make under section 240 of the Act. Therefore, the detail of the standards may be amended once a draft of these regulations has been made available by DCMS.

3.1.7 As well as gaming machines, the Act gives the Commission responsibility for setting standards for, and carrying out tests on, remote gambling systems. These standards will apply to operators who are licensed to provide facilities for gambling using a form of remote communication (such as the internet or using a mobile phone). As with gaming machine technical operating licences, the Commission may require holders of, or applicants for, a remote operating licence to submit to tests or produce evidence of test results in order to establish whether to grant an application and to test compliance with standards. Software to be used in a British-licensed remote system must be provided by a licensed operator – in other words, where a company purely supplies software, the company must be licensed and the software must meet the Commission's technical standards and tests where appropriate.

The Commission's approach

3.1.8 We have reviewed the standards in place both here and in other jurisdictions bearing in mind not only the licensing objectives but also, subject to those objectives, the need to avoid unnecessary restrictions on the development of games or in the way in which they are provided.

3.1.9 As a result of our review we intend to produce machine standards which are similar in approach to USA and Australian requirements. We are consulting separately on the detailed draft technical standards, but broadly speaking the proposed standards seek to secure the licensing objectives by setting standards relating to four main issues: machine/game features, social responsibility features, technical features and compliance features and testing. The standards will be based on the possible risks associated with each category of machine. For example, category D machines may be played by children, and the standards will set out specific rules about game features which are not appropriate for children, and rules concerning the artwork to be displayed on such machines.

¹⁶ It is also worth noting that the Secretary of State has a reserve power under section 59 of the Act to make it an offence to allow children to play all or certain types of category D machines. The Act specifically requires the Secretary of State to consult before using this power.

3.1.10 Machines can be manufactured in Great Britain or be imported to Great Britain from any jurisdiction so long as the supplier is licensed in Great Britain, and so long as the machines meet our technical standards. We have tried to ensure that the standards allow machines to be imported from other jurisdictions with similar regulatory requirements, with only a limited amount of modification – for example to ensure that social responsibility standards are met and cater for currency differences. The standards for category D machines will also vary across the different types of machines that are commonly available. For example, category D machines which are similar to traditional fruit machines will not be permitted to have all of the features of the higher category machines.

3.1.11 For remote gambling we have adopted a similar approach, ie considering what standards are necessary for each sector in pursuit of the licensing objectives. Our standards will address all forms of remote gambling, including issues relating to player-to-player games such as poker; the standards which will be required when offering betting on a live game, for example using interactive television to provide betting on a studio or overseas-based poker game or roulette wheel; and standards for the software necessary to run betting exchanges.

3.1.12 Particularly in the case of internet-based operations, both players and operators can choose whether to operate or play in Great Britain or to stay outside the Commission's regulatory remit. If the technical standards we impose are too intrusive, for example in terms of pauses between games or speed of play or the need for Great Britain-specific technical modifications, players may prefer to play on a non-Commission regulated site and operators may decide it is commercially preferable to locate off-shore. This would leave gamblers in Britain without a Great Britain-regulated option for internet-based gambling. However we will insist on standards that are sufficiently rigorous to promote the licensing objectives.

3.1.13 We will be consulting separately during mid-2006 on our proposed technical standards. In developing our proposals, we are considering the standards set by international jurisdictions and working with the Remote Gambling Association. For example, we are able to learn from and build on the work done by jurisdictions such as Alderney and the Isle of Man, when developing standards that are appropriate for Great Britain.

3.1.14 We propose to attach a condition to both remote and gaming machine technical operating licences requiring operators to adhere to those technical standards.

Licence condition

Gaming machine technical, gambling software and remote gambling

- ➔ Operators must comply with the Commission's technical standards and with any testing procedures set out by the Commission.

3.2 Bingo and casino gambling equipment

Current position

3.2.1 Bingo clubs and casinos use a wide range of equipment that is integral to the games being played but not classified as gaming machines. In bingo this equipment includes electronic bingo terminals, random number generators (RNGs), mechanised cash bingo terminals and the National Game software. In casinos it includes roulette wheels, card shufflers, automated roulette terminals and touch bet machines.

3.2.2 The Commission has issued a code of practice about electronic bingo terminals. This and other guidance on bingo equipment is in the Bingo Manager's Handbook, which is issued by the Bingo Association after consultation with the Commission. The Bingo Manager's Handbook sets out guidelines for mechanised cash bingo and RNGs. For casinos, there are some broad principles set out in the guidance issued by the Commission on procedures with regard to casino equipment, but they do not go into technical detail.

The Gambling Act 2005

3.2.3 The Commission's power to regulate gambling equipment not covered by the statutory definition of a gaming machine (for example electronic bingo terminals or roulette wheels) is through the licence conditions attached to operating licences rather than through the licensing of manufacturers and suppliers (many of whom may be outside our jurisdiction).

3.2.4 In addition, when issuing an operating licence under the new Act, the Commission may attach conditions about the technical specification of certain types of equipment in casino and bingo operations, compliance with which is essential if the equipment is to be properly excluded from the definition of a gaming machine in section 235(1) and to escape the Act's strict controls on gaming machine numbers, stakes and prizes. This applies to automated equipment used for the playing of real games of chance such as roulette in casinos (where there is no human involvement in operating the game) (section 235(2)(i)) and equipment used for playing bingo (eg electronic bingo terminals and 'mechanised cash bingo equipment') including the playing of bingo by way of prize gaming, whether in a regional or large casino, bingo premises, adult gaming centre (AGC) or licensed family entertainment centre (FEC) (section 235(2)(e) and (f)). Equipment of this sort must comply with Commission conditions to be certain that it will not be classified as a gaming machine. We might also consider setting technical standards for other types of equipment such as bet receipt terminals or RNGs used for lotteries with a particularly large turnover if we perceive that it is necessary.

The Commission's approach

3.2.5 We recognise that the quality and technical standard of any equipment used by bingo and casino operators and how well it is maintained can have an impact on the openness and fairness of the gaming that is offered to customers.

3.2.6 We propose to carry out a review of the standards already applied by licensed operators and those that are applied internationally to such equipment, and assess where new or amended technical standards may be needed. We will aim, where we are able, to draft standards which focus on the outcomes we would like operators to achieve and to give them flexibility on how they achieve them. However, there are likely to be some more prescriptive standards which will focus on issues such as money laundering, prevention of dual use (eg game software on handheld bingo ticket minders) and speed of play. We will also be considering and consulting on the viability and necessity of a regime for testing such equipment.

3.2.7 The aim is to give operators a clear framework within which to work while, so far as possible, allowing them freedom to innovate. We will be consulting separately with the industry on the draft technical standards for casino and bingo equipment in summer 2006.

Licence condition*Bingo and casino*

- Operators must comply with the Commission's technical standards for bingo and casino equipment and with any testing procedures set out by the Commission.

Chapter 3: Technical standards

Q.10 Do you have any comment on the way the Commission proposes to require compliance with our technical standards on gaming machines, remote gambling systems and bingo and casino equipment other than machines? (We will consult separately, in summer 2006, on the technical content of the standards.)

Chapter 4: Financial and related requirements

This chapter deals with the Commission's requirements for operators' financial robustness and related requirements.

4.1 Financial robustness: general requirements

Current position

4.1.1 Currently, an applicant for a certificate of consent for a casino or bingo business is asked to give the Commission details of its current financial position as confirmed by the last three years of financial statements, together with estimates of capital expenditure and working capital and a summary of how the proposal is to be funded. Similar questions are asked of applicants for gaming machine certificates. The Licensing Justices also require applicants for betting permits to supply a limited amount of financial detail.

4.1.2 How far the Commission investigates the detail behind the summary statements depends on the circumstances of the case. The Commission is concerned to ensure that it understands who owns and controls the business; that the owners are financially stable; and that the financial plans for the proposed business are realistic. The Commission has not formalised its approach, for example, by establishing benchmark financial ratios against which to assess individual cases.

4.1.3 Under the Gaming Act 1968, the Gambling Commission requires that each casino or casino group holds a separate 'gaming reserve'. The Commission does not require bingo or lottery operators to hold reserves, but an external lottery manager responsible for running society lotteries is required to 'ring-fence' any money held in respect of future draws. Off-course betting businesses are not required to hold reserves, nor are on-course bookmakers, although the National Joint Pitch Council holds a deposit from new on-course bookmakers for six months, during which they demonstrate their reliability for operating within the National Pitch Rules.

4.1.4 The formula for calculating the size of casino reserves, specified by the Commission, has not been changed since its inception in 1968. The purpose of the gaming reserve is to ensure that winnings can still be paid even when significantly higher payout levels are due which are well beyond the normal course of business. In addition, frequent or heavy use of the gaming reserve may serve to indicate deteriorating management or finances of the business and potentially other underlying problems.

4.1.5 Lottery promoters are required to provide returns to the Commission which serve as confirmation that they have complied with the current requirements on the distribution of lottery proceeds. Pools promoters are currently regulated by local authorities which appoint a 'statutory accountant' to audit the conduct of the pool. Apart from these requirements, and a requirement to furnish information on any use made of casinos reserves, established operators are not required to provide financial information as a matter of routine. The Commission does, however, request information from time to time when it identifies specific concerns, for example as a result of routine inspections, analysis of published accounts or press reports. Although the Commission's existing powers are not such that it can demand a response to such requests, operators normally provide the information sought by the Commission.

The Gambling Act 2005

4.1.6 Section 70(2)(c) enables the Commission to have regard to the financial circumstances of an applicant for an operating licence and, in particular, the resources likely to be available for the purpose of carrying on licensed activities. By virtue of sections 75 and 79(5) the Commission can also include financial requirements in licence conditions and codes of practice. This power is not restricted to casinos, bingo and lotteries but includes the areas not currently licensed by the Commission ie betting and remote gambling. In addition section 79(5) gives the Commission the power to require, by means of a licence condition, the maintenance of reserves in respect of potential liabilities.

4.1.7 The Act replicates certain provisions relating to requirements on lotteries to make returns, including financial data, to the Commission. It also replicates restrictions on who is permitted to accept pools bets under the pool betting operating licence and the circumstances under which operators may authorise agents to accept bets on their behalf. The Act permits football and dog and horse racing pools operators to accept bets via agents. However, these agents will be agents of the operators and not the customer.

The Commission's approach

4.1.8 We consider that we should concern ourselves with the financial circumstances of gambling operators (and related persons and entities) not only at the time of application for a licence but also thereafter. We need assurance that the operators have and continue to have adequate financial resources to provide gambling facilities in a manner consistent with the licensing objectives. Shortage of finance can create pressure to cut corners in areas of regulatory concern such as social responsibility obligations; operators may be tempted to take financial risks to undercut competitors, to the detriment of compliance with regulation. In addition, customers of licensed gambling businesses will expect some degree of oversight of operators' finances. We cannot however, in any sense, underwrite the businesses which we license nor prevent gambling operators from going out of business.

4.1.9 In short our aim is to require sufficient financial information to:

- provide a degree of assurance (while not providing any guarantee) about financial robustness on behalf of those using regulated businesses; and
- provide us with early warning of financial weakness.

4.1.10 We have commissioned a study from KPMG LLP into how to apply best practice in relation to these matters to the gambling industry and to advise on the appropriate assurances that might be obtained and their form.

4.1.11 That study will cover the merits of requiring a gaming reserve. We had considered whether we need concern ourselves with the issue of reserves once gambling contracts become enforceable, so that in principle gambling customers can recover their debts through the courts. The Commission will not underwrite operators' obligations to pay out winnings and would expect customers to assert their legal rights. But we will want to take account of any potential liabilities of operators for paying out sizeable winnings in determining our requirements for financial robustness. The current gaming reserve system provides no early warning of financial difficulties and would not prevent the gaming reserve from being raided if the business came under pressure. It may also, depending on the circumstances, be a more expensive and less effective way of meeting unexpectedly large liabilities than other financial instruments.

4.1.12 We expect to look to the applicant, and subsequently to the licensee, for on-going assurance that it will be able to conduct its business properly in accordance with the licensing objectives, including any likely call for immediate payout of winnings. This

assurance may come, for example, from an assessment of the adequacy of working capital. We will also look for assurance – again typically from third party accountants – that early warning systems are in place to alert us should those arrangements cease to be effective. For example, if an operator was relying on lines of credit to cover unexpectedly high winnings, we would want an undertaking from the bank or creditor to notify us of any reduction in these.

4.1.13 Subject to the results of the study we have commissioned, and to comments we receive in response to this document, it is likely that we will require regular financial information from operators. Our approach will need to reflect the different types and sizes of risk that different types and sizes of gambling operators have to manage. The risks faced by a well-established casino and by a small betting business are different both in kind and size and the financial strength needed to cope with the risks will also be different. The extent to which operators extend credit (where this is permitted) will also affect the operator's financial robustness and may require specific conditions. In particular we recognise the different nature of the lottery sector, which is run mainly by charities or special interest groups trying to raise money for good causes. The special financial requirements on lottery operators under the present regime reflect this.

4.1.14 Our requirements should not place undue burdens on operators in terms of data collection and data reporting requirements. Although we hope to rely largely on data that well-run operators already collect for their own purposes, we will also need to ensure a degree of consistency and standardisation in the information collected so that we can interpret it properly and build up our understanding of the industry. These are all matters which the study will consider.

4.1.15 We will therefore impose licence conditions relating to financial robustness and to the provision of monitoring information which are tailored to the category and size of the licensed operator. In addition we propose to include a specific requirement to provide continuing assurance of the operator's ability to meet any likely call for the immediate payment of winnings in the case of remote and terrestrial casinos and a further condition requiring the immediate settlement of winnings and notification to the Commission of any failure to comply. This is intended to reduce any temptation on an operator to delay payment and reinforce the player's legal entitlement. Subject to the result of the study and this consultation, we do not consider there is the same need in the case of other operators.

4.1.16 We will require licensed pool operators to continue to submit financial information to verify that their operations conform to regulatory requirements, eg on the calculation of winnings. We need to be satisfied about the integrity of the operator's management and conduct of the pool and propose to do this through independent verification – see paragraph 10.3.11.

4.1.17 Similarly, as noted above, lotteries will continue to be subject to specific statutory requirements expressed in financial terms, including maximum proceeds limits and the requirement that at least 20 per cent of total proceeds go to the good cause and we will need to satisfy ourselves that the requirements are being met, if necessary by independent confirmation of the relevant records.

4.1.18 However, in the case of unregistered charities or promoters of good causes below a certain size of lottery or other small-scale operators (eg singleton betting premises), we think it would be disproportionate to the risk to require audited or third party assurance. In such cases we will simply seek direct assurance from the licence holder that, in the case of lotteries, stakes collected are held separately and in the case of small operators that there is adequate cover for unexpectedly high payouts. We will provide good practice guidance as to how best to do this.

4.1.19 We have not yet reached a view on the level of cumulative prize or winnings liability below which we would be prepared to rely on self-certification and would welcome views. We are also exploring with the Charity Commission ways of sharing information where registered charities are lottery promoters or proposed beneficiaries, to reinforce the Charity Commission's ability to safeguard charitable funds.

4.1.20 We will consult further on the details of the application process and financial monitoring regime later in the year once we have considered the recommendations of the KPMG study and any responses to this document.

Licence conditions

All except gaming machine technical and gambling software (in addition to general conditions relating to financial robustness and provision of financial information still to be determined)

- Operators must notify the Commission of any change in the arrangements for ensuring sufficient liquidity.
- Winnings must be settled on demand and if there is any failure to do so, the operator must notify the Commission immediately (ie within 24 hours). Any special arrangement for payment of exceptional winnings or prizes must be clearly specified in advance.
- In cases where the licence is granted on the basis of self-certification, the operator must notify the Commission when it foresees exceeding the cumulative limit for self-certification and agree with the Commission future arrangements for third party assurance before breaching that limit.

Section 4.1: Financial robustness: general requirements

Q.11 What indicators should the Commission use in assessing financial robustness of applicants for operating licenses and for subsequent monitoring?

Q.12 What other methods of financial assurance should we require from different types of operators?

Q.13 What specific financial underpinning should be required, if any, to secure the payout of sizeable winnings? Do you have any comment on our proposal to require the payout of winnings on demand and for notification of any failure to comply?

Q.14 What would be an appropriate level for the cumulative prize liability below which we should rely on self-certification by small operators?

Q.15 Do you have any other comment or suggestion on this section?

4.2 Protection of customer funds

Current position

4.2.1 The current regulatory regime does not contain much to protect customers' money. Casino operators are not currently required to have formal arrangements in place with regard to the protection of customer money held on deposit. In the case of bingo, a few operators employ smartcard systems which hold customers' money, generally for limited amounts and periods, but normally bingo operators do not hold customers' funds. External Lottery Managers are required as part of their licence conditions to 'ring-fence' any money held in respect of future draws.

The Gambling Act 2005

4.2.2 Under the Act the Commission will add to its responsibilities by becoming the regulator for betting and remote gaming. Unlike bingo, casinos and lotteries, these two sectors depend heavily on the system of customer accounts. Many betting and remote gaming operators' customers hold money in their online accounts for the purposes of future betting or gaming. The customer relies on the operator's assurance that the money will be available to them when required.

The Commission's approach

4.2.3 When the customer's money is held by an operator in respect of future gambling transactions or winnings paid out but not collected, the regulatory system should help to ensure that the money is available to the customer. We also need to ensure that money held by lottery operators is made available to the good cause for which it has been collected. In particular, there should be arrangements to protect customer or lottery money from the claims of creditors in the event of an operator's insolvency and to prevent operators using customers' funds or money for good causes to finance their commercial business.

4.2.4 We have considered the argument that gambling customers should not enjoy any greater assurance than customers of non-gambling operators, and that there is little evidence of problems arising from the lack of such safeguards either in the sectors that we currently regulate or from those we do not as yet. On the other hand consumers not unreasonably have certain expectations of regulated bodies and it is cost-effective for the Commission to place requirements on operators, given that the regulatory infrastructure will be in place anyway, saving individual customers from having to make their own enquiries or lay off their risk in some other way.

4.2.5 We propose that any operator holding customers' funds, in respect of future gambling transactions or winnings paid out but not collected or payments due to good causes, must put in place provisions that segregate or 'ringfence' that money from the operator's own funds. That must be done in such a way as to ensure that the funds will be available for customers or good causes at all times, even if the operator becomes insolvent.

4.2.6 We do not wish to prescribe how this should be achieved and will encourage operators to choose a method most appropriate for them – using a designated customer account (pooling all customer money), individual customer accounts (separate accounts for individual customers) or establishing trust accounts operated by independent trustees. However, before granting a licence we will ask operators to demonstrate that their method of segregating customers' funds from their own is robust and, where the sums involved are over a specified level, to provide independent assurance (eg an auditor's opinion) of the effectiveness of those systems. We are attracted by the Financial Services Authority (FSA) client money rules, which, in addition to requiring that

client funds are held in separate accounts, require auditors to give an opinion on the application of client money rules and effective operation of associated controls, rather than just on the accounts of the company. We recognise that this could be too onerous for small-scale lotteries and possibly for 'small-scale exempt operators' but we have not yet determined the cut-off level for independent assurance and would welcome views.

4.2.7 We accept that ring-fencing may be a particular problem in relation to smart cards on which customers can deposit funds or retain winnings but which are not integrated into the operator's accounting system, ie where the operator has no means of knowing how much remains on the card. If there are any such cards, it may be that customers should be warned that funds held on them are not protected in event of an operator going into liquidation and/or that there should be a maximum value that can be stored on such cards. Smart cards that are integrated into the operator's accounting system should present no such difficulties.

4.2.8 We do not propose at this stage to write a code of practice on protection of customer accounts/funds other than in the guidance for small operators noted above at paragraph 4.1.18, as there is ample guidance on accounting practices and financial systems to protect clients' funds in analogous situations.

Licence condition

All except gaming machine technical and gambling software

- Operators who hold customers' funds in respect of future gambling transactions or winnings not yet paid out or collected must ensure that the money is legally ring-fenced from any money accrued by/belonging to the business and is available for immediate withdrawal at all times.

Section 4.2: Protection of customer funds

Q.16 What comment do you have on the proposal that customers' funds held by operators must be ring-fenced from operators' own funds? Do you have views on how best to make this proposal effective?

Q.17 Does this approach to the protection of customer funds pose any particular problem for operators? If so, do you have any suggestions for solving them?

Q.18 What would be an appropriate threshold below which the Commission should not require independent assurance of the effectiveness of the ring-fence?

Q.19 Do you have any other comment or suggestion on this section?

4.3 Interrupted play

4.3.1 Both gaming machines and remote gambling systems can be affected by interrupted play – where for example a power cut ends a game before the results are displayed or before winnings are allocated to a customer account.

4.3.2 We are considering whether the requirements we will set within technical standards will be sufficient to ensure that customers are treated fairly especially where the interruption is caused by the operator's systems. This could include for example requirements relating to the robustness of the gambling system, back-up data, and last game recall facilities.

4.3.3 If the technical standards requirements are not sufficient, we will instead consider whether a licence condition requiring stakes to be returned when play is interrupted should be imposed.

4.3.4 As already mentioned, we will be consulting on the technical standards during summer 2006.

4.4 Cash handling

Current position

4.4.1 The Commission's current guidelines for how operators should handle cash vary from sector to sector. The recommended standards for internal controls and accounting procedures in casinos, including the movement and handling of cash, are detailed and prescriptive: a combination of legal requirements (as set out in the Gaming Act 1968) and appropriate procedures based on existing systems in Great Britain and abroad. The guidelines issued for bingo do not go into so much detail with regards to cash; however there are guidelines about removing money from gaming machines and detailed information in the Bingo Manager's Handbook about cashing of cheques. No specific requirements are set out for lotteries, arcade operators or machine suppliers.

The Gambling Act 2005

4.4.2 Under the Act, the Commission has the power to set licence conditions concerning the way in which licence holders operate their businesses and for which management or functional posts require personal licences. Before awarding either an operational or personal licence the Commission may make enquiries as to the suitability of those with financial responsibilities.

The Commission's approach

4.4.3 As part of the licensing regime we will be examining the corporate control structures of operators to enable us to identify and satisfy ourselves of the integrity of all those relevant to the operation of the business. We will also be requiring personal management licences (PMLs – see paragraphs 2.2.4–2.2.9) for those with top-level responsibility for the finance function. The application process is one of our key mechanisms for keeping crime out of gambling businesses, and we will be consulting on this later in 2006.

4.4.4 Once operators are licensed, our primary focus is on the flow of cash through gambling businesses and in being satisfied that procedures are in place to identify and minimise money laundering; and that customers are not given illicit credit. We want to move away from the detailed prescriptive nature of the current guidelines for casinos and generally place the responsibility on all operators, and on PML(s) responsible for the

finance function, to ensure that the procedures they put in place are effective in keeping crime out; providing the financial information necessary for compliance; and for ensuring the safety of cashiers and other staff employed to handle cash.

4.4.5 We also propose to set a licence condition for those operators not allowed to give credit (see section 81 of the Act) to ensure that customers' cheque and debit card transactions remain cash equivalent. A delay in banking these transactions could give the customer, who wrote the cheque or used the card, credit for the period of time that the cheque remains un-cashed.

4.4.6 We see effective control procedures surrounding the movement of, and the subsequent accounting for, cash takings (or cash equivalent, such as bankers' drafts, cheques and debit card transactions) as integral to the proper daily running of casinos, bingo clubs, betting premises, lotteries, adult gaming centres and family entertainment centres. In particular, procedures are needed to provide for the separation of functions (ie the involvement of employees from different departments), as well as physical control over access to games machines, cash boxes, count rooms and safes in order to ensure the integrity of this process and keep gambling businesses free from crime. As noted above, we see these procedures as the responsibility of management and the PML(s) for the finance function to put in place and maintain.

4.4.7 Crimes such as theft and fraud against the operator are a potential danger in any cash business and are not peculiar to the gambling industry. However, we do have a particular interest in preventing gambling-related crime such as money laundering or the illegal provision of credit. We will also be particularly concerned that the gambling provided should be fair and open; auditable cash handling procedures provide a means of monitoring this.

4.4.8 Similarly, we do not see a case for Commission guidance concerning the safety of staff involved in cash handling. There is a duty placed on all employers to ensure the safety of their staff through for example, the Health and Safety at Work Act and we see no need to impose a further layer of regulation on operators.

Licence conditions

All except remote and gaming machine technical and gambling software

- Operators, as part of their internal controls and financial accounting systems, must have in place and follow documented policies and procedures concerning the handling of cash (and cash equivalents – bankers' drafts, cheques and debit cards), designed to minimise the risk of gambling-related crime such as money laundering or the giving of illicit credit and to provide assurance that gambling activities are being conducted fairly.
- Operators must deliver all cheques and debit card payments which are taken as part of a gambling transaction for each day or session of gambling to the bank within two banking days, except where the giving of credit is allowed and a specific arrangement has been made with the customer.

Code of practice provision

All except remote and gaming machine technical and gambling software

- Procedures concerning the handling of cash should include:
 - the reconciliation of cash or equivalents held at daily opening and closing and profits and losses arising from the operator's gambling activities. However, the results should be recorded in a way that ensures cash from gaming machines and cash generated by other gambling activities is separately identified; and
 - clear records of gambling debit card and cheque transactions kept, in line with the accounting system in operation. Records should include information on gambling cheques redeemed, consolidated or dishonoured as well as gambling cheques accepted.

Section 4.4: Cash handling

Q.20 The Commission proposes that operators must draw up and implement documented procedures on cash handling to minimise the risk of theft, money laundering and illicit credit and to monitor compliance with the 'fair and open' licensing objective. Is our proposal sufficiently specific to be effective? If not, what do you suggest?

Q.21 What comment do you have on the proposal that operators must (subject to specific exceptions) bank customer cheques promptly, within two banking days, in order to prevent any delay which could give the customer illicit credit?

Q.22 Do you have any other comment or suggestion on this section?

4.5 Money laundering

Current position

4.5.1 All gambling businesses are required by law to comply with the provisions in respect of the prevention and detection of money laundering and terrorist financing in the Proceeds of Crime Act 2002 and the Terrorism Act 2000. As explained below, casino operators are also subject to the Money Laundering Regulations 2003 (MLR 2003).

4.5.2 Under the Proceeds of Crime Act (POCA) 2002, a person commits an offence of money laundering if:

- he acquires, uses or possesses criminal property;
- he conceals, disguises, converts, transfers or removes criminal property from England and Wales, or from Scotland, or from Northern Ireland;
- he enters into or becomes concerned in an arrangement which he knows or suspects will facilitate the acquisition, retention, use or control of criminal property by or on behalf of another person.

In the Terrorism Act (TA) 2000, there are similar money laundering offences in respect of terrorist property.

4.5.3 There are various defences to the offences in both Acts, the main one relevant to this document being that the person discloses the facts to another appropriate person (such as a police officer or the employer's Money Laundering Reporting Officer (MLRO)) and seeks and obtains appropriate consent from the Serious Organised Crime Agency¹⁷ to undertake what would otherwise be a prohibited act. The POCA, MLR and TA also make provisions for Supervisory Authorities to issue guidance which has been formally approved by the Treasury and which courts must then take into account in deciding whether an offence has been committed. The Gambling Commission has yet to finalise such guidance in respect of the casino industry but has been in discussion with both the Treasury and the casino trade associations on a draft.

4.5.4 In brief, money laundering now covers the use or disposal of the proceeds of crime (for example by spending them on gambling) as well as the attempt by criminals to conceal the true origin of their criminal activities by making their proceeds appear legitimate. It also extends to terrorist property.

¹⁷ The Serious Organised Crime Agency begins operations on 1 April 2006. It brings together in a single body the National Crime Squad, the National Criminal Intelligence Service and the investigative branches of Revenue and Customs and the Home Office Immigration Service.

4.5.5 The MLR 2003 brought casinos into the regulated sector. The Commission, as successor to the Gaming Board, is the relevant Supervisory Authority under the MLR 2003 charged with ensuring that casino operators comply with the MLR and any guidance issued in respect of them.

4.5.6 The POCA and MLR place a range of requirements on businesses in the regulated sector. For example, operators are required to appoint a Money Laundering Reporting Officer (MLRO) whose duty it is to take overall responsibility for the anti money laundering procedures within their operations, in particular with respect to customer identification and suspicious activity reporting. Other requirements include provisions in respect of the identification of customers, the retention of records and employee training.

4.5.7 The MLR derive from the second European Union Money Laundering Directive. The Third Directive has recently been agreed by EU Governments and needs to be implemented under British law by end-2007. That will require the promulgation of revised MLR. Discussions on these are at an early stage and thus it is difficult to know their precise effect on the casino sector given certain options for implementation that exist. However, one of the main impacts of the Third Directive is that it introduces more specific obligations to apply enhanced due diligence procedures to higher risk situations (including dealings with prominent public figures).

The Gambling Act 2005

4.5.8 The Act enables internet and other remotely operated casinos to be established and licensed in Great Britain for the first time. The current MLR apply to all those 'operating a casino by way of business' (MLR paragraph 2(2)(g)). Thus such remotely operated casinos will come within the scope of the money laundering legislation and will become part of the regulated sector under the MLR 2003.

The Commission's approach

4.5.9 We take very seriously the duty of the gambling industry and ourselves to support the fight against money laundering. The British gambling industry has a strong reputation for probity built up over the last 40 years or so. We wish to see this continue and our regulatory approach is designed to achieve this.

Casinos

4.5.10 Our proposed draft code provisions reflect the current law and may need to change when the revised MLR are promulgated. For instance, the requirement to identify all customers may alter to a requirement to identify only those who gamble above certain limits. The Treasury will shortly begin the consultation process on implementation of the Directive which will include the customer identification requirements.

4.5.11 Remote gaming operators offer a whole range of products, some of which are readily identifiable as 'casino style' games and some of which are not. And new games are constantly being added. It is thus not practicable to make a meaningful distinction between 'remote casinos' on the one hand and other remote gaming sites on the others.

4.5.12 Thus, given the structure of the Gambling Act 2005 and the requirements of the MLR 2003, we consider that the only practical approach is to apply codes of practice similar to those for non-remote casino operators to all operators granted a remote gaming operating licence, regardless of what games they decide to offer.

General betting, pool betting and betting intermediaries

4.5.13 General betting operators, pool betting operators and betting intermediaries are not part of the regulated sector under the MLR and are thus not bound by its requirements. Nonetheless, the betting sector has some features in common with the casino sector with regard to money flows and, like other businesses, is subject to relevant provisions of POCA and the Terrorism Act. General betting operators, pool betting operators and betting intermediaries, like all businesses, have an obligation in certain circumstances to report suspicious activity. While there is no statutory requirement to appoint a nominated officer in respect of money laundering, doing so brings benefits and protections to sectors vulnerable to being used for money laundering in terms of reporting and access to the Serious Organised Crime Agency.

4.5.14 In the light of all this we propose to introduce code of practice provisions for all those granted an operator's licence for general betting, pool betting (other than football) or a betting intermediary, whether for a non-remote or remote business. We do not at this stage plan to issue separate guidance, as is intended for casinos, about the way in which the code should be complied with. The guidance in respect of casinos has a statutory base which is absent in respect of businesses not regulated under the MLR. We may however resurrect with government, law enforcement and the industry some initial discussions which took place last year between the Association of British Bookmakers and the Home Office on voluntary draft guidelines for the sector.

Other gambling operators

4.5.15 We will also be issuing operator licences in respect of bingo, football pools, adult gaming (machine) centres and licensed family entertainment centres. Like all commercial businesses, these gambling operators have certain obligations to report suspicious transactions of which they become aware. However we consider these gambling activities to be less risky than other methods of gambling as far as money laundering is concerned. We do not intend applying to them any specific licence conditions or codes in respect of money laundering.

Code of practice provision

Non-remote casino and remote gaming

- ➔ As part of their procedures for compliance with the requirements of the Proceeds of Crime Act 2002, MLR 2003 and the Terrorism Act 2000, casino operators should have procedures in place which:
 - establish procedures of internal control and communication to prevent money laundering;
 - establish, verify and record the identity of all customers who enter the gambling facilities in order to satisfy the requirements of the 2003 Money Laundering Regulations;
 - record all transactions above those levels set out in Gambling Commission guidance;
 - keep those records in a form and for the period required by the 2003 Money Laundering Regulations;
 - ensure that, as required by law, reports of any apparent suspicious activity are passed in a timely manner to the MLRO, whose job it is to consider such reports and to forward them where appropriate to the Serious Organised Crime Agency; and
 - provide appropriate training to relevant employees to make them aware of the requirements of the laws on money laundering in respect of the operator's business and to enable them to recognise and deal with transactions which may be related to money laundering.

All betting including remote but excluding football pools

- As part of their procedures for compliance with the requirements in respect of the prevention and detection of money laundering in the Proceeds of Crime Act 2002 (POCA) and the Terrorism Act 2000, operators should:
 - unless there is a specific reason not to do so, appoint one or more nominated officers whose duty it is to take overall responsibility for the anti money laundering procedures within the operation, in particular with respect to Suspicious Activity Reporting; and
 - ensure, through appropriate training and guidance, that all staff who handle money or accounts or accept bets are aware of their duties under anti money laundering legislation to report all suspicious activity to the nominated officer in a timely manner or, where there is no such nominated officer, directly and promptly to the police. It is the nominated officer's duty to consider such reports and to forward them where appropriate to the Serious Organised Crime Agency.

Section 4.5: Money laundering

Q.23 What comment do you have on the Commission's proposal for code of practice provisions to reflect the duties on operators under money laundering laws?

Q.24 Do you agree that code provisions similar to those applying to non-remote casino operators should apply to all remote gaming? If not, what alternative approach do you propose?

Q.25 We propose code provisions for betting operators on arrangements for Suspicious Activity Reporting. Do you have any comment on this proposal? If you disagree, what alternative approach do you propose?

Q.26 Do you agree that, for other gambling operators, who are subject to the same general requirements as any other commercial or retail businesses in respect of anti-money laundering legislation, there is no need to apply any specific further requirement? If not, what requirements do you propose?

Q.27 Do you have any other comment or suggestion on this section?

Chapter 5: Protection of children and the vulnerable

This chapter deals with the conditions and code provisions the Commission is considering in relation to the protection of children and the vulnerable.

5.1 Combating problem gambling

Current position

5.1.1 Support for people who have gambling problems is available through a number of charitable organisations, of which the principal ones are GamCare, Gordon House and Gamblers Anonymous. GamCare provides advice and counselling via such means as help lines and face-to-face counselling. Gordon House provides residential care and support for a relatively limited number of people with severe problems. Both organisations rely heavily on voluntary financial contributions from the gambling industry, through the charitable Responsibility in Gambling Trust (RIGT), to meet their commitments. Gamblers Anonymous is a self-help body.

5.1.2 Unlike in some other jurisdictions, for example in Canada, South Africa or Australia, there have not been any significant public education programmes aimed at promoting 'safe' or 'responsible' gambling and only limited, but recently growing, moves by the gambling industry to educate customers how to gamble within their means. It was not part of the Gaming Board's remit to concern itself with 'responsible' gambling. Its focus was on keeping crime out of gambling, keeping gambling fair and open and ensuring that children could not access gambling where that was prohibited.

5.1.3 In response to the recommendations of the Gambling Review Body, the gambling industry has established and is funding RIGT work on research into and education on problem gambling and for the treatment of those with problems. RIGT makes substantial grants to both GamCare and Gordon House, is funding (with the Economic and Social Research Council) a major research programme and is commissioning wider education work, in particular directed at schools and young people.

The Gambling Act 2005

5.1.4 The Gambling Act places an additional licensing objective on the Commission: that of protecting children and the vulnerable. The Commission has a duty to advise the Secretary of State on the effects of gambling and its regulation and the Act contains a reserve power which would permit the introduction of a compulsory industry levy to fund work on research into and education on problem gambling and for the treatment of those with problems. The Government has said that it will use the power if voluntary arrangements fail.

The Commission's approach

5.1.5 As we say in our paper on problem gambling (available from the Gambling Commission website) we take the issue of problem gambling very seriously. Although it affects a small percentage of the population its effects can be devastating on the individuals concerned and the growth in gambling – in particular as a result of new technologies such as the internet – carries with it a risk of the growth of problem

gambling. The achievement of the licensing objectives requires operators to adopt socially responsible gambling policies and procedures designed both to ensure that gambling is open and fair and that children and other vulnerable people are not harmed or exploited by gambling. This in turn requires operators to contribute to work on the prevention, identification and treatment of problem gambling both through their own operating policies and practices and through their support for other bodies working on research, education and treatment.

5.1.6 In the following sections we outline various specific requirements and recommendations relating to operating policies and procedures we consider necessary as part of the provision of socially responsible gambling. We expect however that these specific policies and practices will be part of the operator's wider social responsibility programme which would include support for research, education and treatment. We propose that operators should be required to publish their policies and procedures for promoting socially responsible gambling including how they plan to support research and prevention through education and treatment.

5.1.7 It would not be appropriate for us to require operators to make contributions, or contributions on any particular scale, to the RIGT. But we are clear that all licensed operators have a duty to contribute in some way to encourage research into responsible gambling, to help educate the public, particularly young people, on the risks of gambling and to the treatment of those harmed by gambling. We therefore propose a licence condition to this effect.

Licence condition

All

- ➔ Operators must put into effect policies and procedures which promote socially responsible gambling.

Code of practice provision: social responsibility

All

- ➔ Operators' policies and procedures for socially responsible gambling must include but not be confined to:
 - the specific operating policies and procedures required by the Commission's conditions and codes pursuant to section 24;
 - how they will contribute to research into the prevention and treatment of problem gambling;
 - how they will contribute to public education on the risks of gambling and how to gamble safely; and
 - how they will contribute to the identification of and treatment of problem gamblers.

5.2 Access to gambling by children and young people

Current position

5.2.1 The existing regulatory regime contains a number of provisions to protect children and young people from harm, for example preventing access to casinos and other adult premises, but it otherwise places no statutory obligations on either the regulator or on operators to minimise the harm caused by gambling. The current restrictions on access to gambling by children and young people are shown in the table below which also sets out the changes introduced by the Gambling Act 2005.

The Gambling Act 2005

5.2.2 The Act gives the Commission, as part of its duty in promoting the statutory licensing objectives, the objective of ‘protecting children and other vulnerable persons from being harmed or exploited by gambling’. Children (defined in the Act as under-16s) and young persons (16–17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place.¹⁸ Those restrictions and permissions are broadly summarised in table below. An adult is defined as 18 and over.

Premises or sector	Restrictions required by:	
	Current legislation	Gambling Act 2005
Off-course betting	Access restricted to adults only.	Access restricted to adults only.
On-course betting	No restriction on access on days when horse and dog racing is taking place. Participation in gambling by adults only.	Access to areas where gaming machines, other than category D machines, are situated restricted to adults only at all times. No restriction on access to areas where facilities for betting are provided on days when horse or dog racing is taking place. Participation in gambling restricted to adults (other than for category D machines in areas containing only such machines which are open to all).
Adult gaming centres	The equivalent arcades at the moment have access restricted to adults only.	Access restricted to adults only.
Casinos (large, small and existing)	Access to a gaming room whilst gaming is taking place restricted to adults only.	Access restricted to adults only.
Casinos (regional)	N/A	No restriction on access to non-gambling areas of the premises. Access to gambling areas and participation restricted to adults only.
Bingo	No restriction on access. Participation in gambling by adults only.	No restriction on access. Participation restricted to adults only (except for category D machines which are open to all).
Licensed family entertainment centres	The equivalent arcades at the moment have no restriction on access and no restriction on use of the equivalent of category D machines and certain other amusements with prizes. Access to age-restricted areas, and use of the machines in those areas, restricted to adults.	Access to areas where category C machines are available restricted to adults, and unequal chance gaming restricted to adult participation. No restriction on use of category D machines (which must be in a separate part of the premises) or on participation in equal chance prize gaming.

¹⁸ The age restrictions under the Gambling Act 2005 are set out mainly in sections 45-50.

Premises or sector	Restrictions required by:	
	Current legislation	Gambling Act 2005
Unlicensed family entertainment centres	The equivalent arcades have unrestricted access to premises, and participation in gambling (both use of machines and certain other amusements with prizes).	Access to premises, and participation (both use of category D machines and in prize gaming), unrestricted.
Remote	N/A	Participation restricted to adults only (except remote lottery where participation is restricted to young persons and adults only).
Lottery and football pools	Participation open to young persons and adults.	Participation open to young persons and adults.
Alcohol licensed premises	<p>Access to premises dependent on the alcohol licence held by the operator.</p> <p>There is no legal age restriction on machines sited on alcohol licensed premises, but there is an industry code of practice to restrict access to 18s and over.</p>	<p>Access to premises dependent on the alcohol licence held by the operator.</p> <p>Participation in limited equal chance gaming and category C gaming machines restricted to adults; children and young persons, if otherwise entitled to be on the premises, may play category D machines.</p>
Club gaming	<p>Access unrestricted (depending on the club's own membership rules).</p> <p>In practice, children and young people are not permitted to play the gaming machines though there is no legal restriction.</p>	<p>Access is unrestricted in relation to age (depending on the club's own membership rules).</p> <p>Participation in gambling is limited to members and their bona fide guests, which may include children and young persons. This gambling includes:</p> <ul style="list-style-type: none"> – equal chance exempt gaming which meets the conditions in section 269 of the Act; – gaming machines of categories B,C and D; and – in cases where a club gaming permit is in place – other games of chance prescribed by regulation. <p>But children and young persons are not permitted to play category B or C machines. They are permitted to take part in (non-commercial) prize or equal chance gaming and to play category D machines. Access to other areas where gaming takes place is limited in certain cases.</p>

Premises or sector	Restrictions required by:	
	Current legislation	Gambling Act 2005
Fast food restaurants and other unlicensed premises	Access to premises unrestricted.	Access to premises unrestricted, but gaming machines will no longer be permitted in these locations.
Travelling fairs	Access to gambling permitted to all.	Access to category D machines and participation in equal chance prize gaming which complies with the conditions in s293 unrestricted.

5.2.3 Operators will be committing an offence if they invite or permit a child or young person to enter adult-only premises or to participate in activities which are not permitted for that age group. In addition, young persons will commit an offence if they enter premises restricted to adults or participate in forms of gambling restricted to adults. An operator charged with such an offence must prove as a defence that he reasonably believed that the person was the legal age and that he took all reasonable steps to determine the individual's age.

5.2.4 In addition, section 83 imposes the condition that operators who become aware that a child or young person is using or has used their facilities for gambling:

- a) must return any money paid in respect of the use of those facilities (whether by way of fee, stake or otherwise) by the child or young person as soon as is reasonably practicable;
- b) must not give a prize to the child or young person;
- c) must not require the return of any prize paid to a child or young person before the licensee became aware that the prize winner was a child or young person.

5.2.5 As indicated above, the Act also contains provisions unique to casinos. Section 176 requires the Commission to issue one or more codes of practice setting out the arrangements that holders of casino premises licences must make to ensure that children and young people do not enter casinos (or, in the case of a regional casino, the gambling area). It stipulates that each entrance to casino premises must be supervised by at least one person, and that that person must be responsible for compliance with the code of practice on 'access to casino premises for children and young people'. The supervisor must take a view on the age of every person who wishes to enter the casino or gambling area, and ask them for identification if unsure whether they are of legal age.

The Commission's approach

All sectors

5.2.6 We propose to put in place minimum standards on how these restrictions are to be enforced. These standards apply to all types of gambling premises, in situations where proof of identification should be required, and procedures for barring or removing children and young people from the premises. The relevant licensing authority will be responsible for ensuring compliance with related premises licence conditions concerning signage on all exterior doorways indicating the minimum age for entry and making it clear to the public that it is an offence for them to gamble if they are underage.¹⁹

¹⁹ It is likely that DCMS will introduce regulations under section 167 which will make it a mandatory condition on all premises licences that such signage must be displayed.

5.2.7 Verifying the age of individual customers will depend on the skill, training and commitment of operators' employees, and will require training by the operators. We will expect operators' employees to check identification whenever they are unsure of a customer's age.

5.2.8 Even though customers are required only to prove that they are 18 or over, we believe that employees should be required to check the age of any individual who is gambling and who appears to be under 21. This is similar to the 'Think 21' scheme (promoted mainly by the Trading Standards Authority), where employees of premises licensed to serve alcohol are encouraged to verify the age of customers who appear to be under 21. This gives employees the ability to check when they are unsure and allows for a margin of error. We believe that customers will become familiar with this requirement over time.

5.2.9 We propose to include within codes of practice, guidance which will explain (for example) that suitable identification must:

- contain a photograph from which the individual can be identified;
- be valid (ie not expired); and
- be legible and have no visible signs of tampering or reproduction.

The guidance will also give *examples* of common forms of ID which will be acceptable. This will include any ID which carries the PASS logo. PASS stands for Proof of Age Standards Scheme, a scheme that validates genuine ID cards. Cards such as Citizencard and Validate will have been accredited by PASS and will carry the logo. The Government's own Connexions Card – which is given to all 16-year-olds – also carries the logo.

Additional requirements for casinos

5.2.10 Our proposed code on access for casinos, required by section 176, deals with the role and responsibilities of the 'supervisor' designated to ensure no-one underage gains access to casinos or, in the case of a regional casino, to the gambling area. Monitoring compliance of this code will be the responsibility of the relevant licensing authority but any non-compliance with this code could, as with other forms of non-compliance, lead to us to consider the continuing suitability of an operator to hold an operating licence.

5.2.11 Although the Act does not stipulate what amounts to supervision, the practical task being given to the supervisor is to take a view on the age of every potential customer, and in our view, the nature of this task means that it could not be properly be accomplished by only using CCTV; it will require a physical presence. Heavily used entrances may require more than one designated supervisor as there must be sufficient designated supervisors to make a considered judgment about the age of everyone attempting to enter the casino or, in the case of regional casinos, the gambling area and to take the appropriate action (eg checking identification) while not allowing others to enter unsupervised.

Non-remote operators

5.2.12 As the operators in premises to which children and young people are admitted face slightly different issues from operators of premises restricted to adults only, we are proposing separate conditions and codes of practice for the two categories.

5.2.13 Premises to which children and young people are allowed access, but at which they are not permitted to gamble, may present particular problems for gambling operators. Once a child or young person is on the premises it may be more difficult for operators to ensure that they do not take part in gambling. For example, parents who

do not understand the law may allow or encourage their child to play bingo or use an adult gaming machine alongside them.

5.2.14 We are aware that this is one reason why a number of bingo clubs have chosen to bar under-18s from their premises, and developed membership schemes to help them enforce this rule. We would encourage each operator to consider the approach that is most appropriate to their individual company or situation.

5.2.15 Regional casinos will be able to admit children to all areas of the casino except the gambling area and therefore are subject to the same provisions as other operators which allow children entry. However, an operator holding a regional casino premises licence will also need to comply with the separate code provisions on access to casinos by children discussed above in paragraphs 5.2.10–5.2.11. In addition, by virtue of section 176 of the Act,²⁰ the designated ‘supervisor’ must also ensure compliance with the code.

5.2.16 We propose to impose the following licence condition and codes of practice on the two categories of operators ie those permitted to allow children access and those not: the premises licences will include conditions requiring operators to display clear signage indicating where all or part of the facilities for gambling are restricted to adults only and making it clear to the public that it is an offence for them to gamble if they are underage.

Licence condition

Adults-only premises (large, small and existing casinos, all non-remote betting, adult gaming centres)

- ➔ The operator must:
 - have and put into effect documented policies and procedures to prevent underage gambling; and
 - monitor the effectiveness of these.

Code of practice provisions: social responsibility

Adults-only premises (large, small and existing casinos, all non-remote betting, adult gaming centres)

- ➔ Operators must not make their products specifically attractive to children and young people.
- ➔ Operators must establish procedures for:
 - verifying the age of potentially underage customers;
 - removing anyone who tries to access the gambling and cannot produce an acceptable form of identification; and
 - taking action when there are attempts by under-18s to enter the premises.
- ➔ Service should be refused in any circumstances where any adult is accompanied by a child or young person to premises restricted to adults.
- ➔ Operators must implement age verification procedures that require their employees to verify the age of any customer who appears to be under 21.
- ➔ All employees must understand their responsibilities for preventing underage gambling. Training must also encompass the law on returning stakes to underage gamblers.
- ➔ Operators must only accept identification which:
 - contains a photograph from which the individual can be identified;
 - is valid (ie not expired); and
 - is legible and has no visible signs of tampering or reproduction.

²⁰Section 176: Casino premises licence: access by children.

The Commission considers acceptable forms of identification to include any identification carrying the PASS logo (eg Citizencard, Validate and the Government's own Connexions card); driving licence with photocard; and passport.

Code of practice provisions

- ➔ Operators should consider permanent exclusion from premises for any adult accompanied by a child or young person on more than one occasion to premises restricted to adults, or if there is reason to believe the offence was committed knowingly or recklessly.
- ➔ Procedures should be in place for dealing with cases where a child or young person repeatedly attempts to gamble on premises restricted to adults, including oral warnings, reporting the offence to the Gambling Commission and the police, and making available information on problem gambling.
- ➔ Operators should consider making contact with a child's or young person's parents and working with them to overcome the problem.

Licence condition

Premises open to children and young persons (bingo, licensed family entertainment centres, on-course betting, regional casino), lottery

- ➔ The operator must
 - have and put into effect documented policies and procedures to prevent underage gambling; and
 - monitor the effectiveness of these.

Code of practice provisions: social responsibility

Premises open to children and young persons (bingo, licensed family entertainment centres, on-course betting, regional casino)

- ➔ Operators must require a person who appears to be under the age of 21 to be asked to produce proof of identity and age, either at the point of entry to the gambling area or as soon as it comes to the attention of employees that they wish to access gambling facilities.
- ➔ Procedures must be established for:
 - verifying the age of potentially underage customers;
 - refusing entry to adult-only areas to anyone unable to produce an acceptable form of identification; and
 - taking action when there are unlawful attempts to enter the adult-only areas.
- ➔ Operators must not permit children or young people to gamble in the adults-only areas of premises to which they have access. Where an operator believes that it is too difficult to ensure that children or young people do not gamble on their premises (for example, because of their layout), the operator should develop and implement procedures for excluding children and young people from their premises entirely.
- ➔ If there is a 'no under 18s' premises policy, operators must pay particular attention to the age verification procedures they use at the entrance to the premises; in particular their age verification procedures should require their employees to verify the age of any customer who appears to be under 21.
- ➔ Operators must ensure that all employees understand their responsibilities for preventing underage gambling, returning stakes to underage gamblers and particularly for challenging any adult who may be complicit in allowing a child or young person to gamble. For casinos, this must include specific training for the 'supervisor' (as described in section 176 of the Act) about his or her responsibilities.

- ➔ Operators must only accept identification which:
 - contains a photograph from which the individual can be identified;
 - is valid (ie not expired); and
 - is legible and has no visible signs of tampering or reproduction.

The Commission considers acceptable forms of identification to include: any identification carrying the PASS logo (eg Citizencard, Validate and the Government's own Connexions card); driving licence with photocard; and passport.

Code of practice provisions

- ➔ Operators should have in place procedures for dealing with cases where an adult knowingly or recklessly allows a child or young person to gamble. These procedures might include refusing to allow the adult to continue to gamble, removing them from the premises, and reporting the incident to the police or local authorities, or taking action where forged identification is produced.
- ➔ Procedures should be in place for dealing with cases where a child or young person repeatedly attempts to gamble on their premises, including oral warnings, reporting the offence to the Gambling Commission and police, and making available information on problem gambling to the young person concerned.
- ➔ Operators should consider reminding patrons of their parental responsibilities and assess whether there is a need to develop procedures for dealing with young or otherwise vulnerable children left unattended on their premises.

Code on access to casino premises for children and young people

To be attached by mandatory condition (section 176) to all casino premises licences

- ➔ Operators are responsible for ensuring compliance with this code of practice on access to casino premises for children and young people and must designate sufficient 'supervisors' for each casino entrance to ensure compliance with the code.
- ➔ Heavily used entrances may require more than one designated supervisor as there must be sufficient designated supervisors to make a considered judgment about the age of everyone attempting to enter the casino, or in the case of regional casinos, the gambling area, and to take the appropriate action (eg checking identification) while not allowing others to enter unsupervised. The nature of this task means that it cannot be properly accomplished only using CCTV; it will require a physical presence.
- ➔ Supervisors may be assisted by other doorkeepers provided the supervisor retains the responsibility for compliance with this code and deals personally with any case where there is any doubt or dispute as to someone's eligibility to enter.
- ➔ A supervisor must be able to implement the procedures for:
 - verifying the age of potentially underage customers, in particular asking individuals for proof of age if there is any doubt as to whether the individual is over 21 years of age;
 - refusing entry to anyone unable to produce an acceptable form of identification ie:
 - photographic
 - valid ie not expired
 - legible and no signs of tampering or reproduction;
 - taking action when there are unlawful attempts to enter the premises;
 - dealing with cases where a child or young person repeatedly attempts to gamble on premises restricted to adults, including oral warnings, reporting the offence to the police, and making available information on problem gambling.

Remote gambling operators

5.2.17 Age verification presents a particular problem for remote gambling operators who cannot identify potentially underage customers by sight, nor immediately confirm their age using conventional forms of identification. This means that alternative procedures must be put in place to verify that customers are over the legal age to play.

5.2.18 We are not aware of any current procedure that is foolproof. If an adult colludes with a child or young person to allow them to use their internet player account and password, it is highly unlikely that any age verification system in place would be able automatically to identify that the person playing is not the account holder.

5.2.19 Remote gambling operators commonly use credit or debit cards to accept deposits. There have been calls for the introduction of a system whereby an operator could send a query for confirmation of date of birth along with the card number to the relevant bank, and receive a response to indicate if these two pieces of information match. At the moment we understand that the information held by banks does not permit this. So, while in the future a simple system of cross checking age with the card provider may be feasible, this is not available now.

5.2.20 Operators already carry out checks for their own commercial purposes to ensure that their players are paying with a valid payment card, held by the name registered on their systems. In addition, the process often verifies at a minimum that an individual with the name and address supplied during the registration process exists. These checks can be carried out relatively quickly; the costs of systems can be relatively low; and, once a player has undergone the process, it does not normally have to be repeated. The account can be extended over more than one platform – for example betting over the phone, internet etc. We will require operators to continue to verify at a minimum that an individual, with the name and address supplied during the registration process, exists. In addition, we will require further checks for all at-risk forms of payment (including debit cards) unless further checks have already been carried out on the customer. Finally, we will also require these further checks to be carried out on a random basis on other forms of cards (such as credit cards) as these are used for the first time.

5.2.21 We have taken this approach to payments by credit card because in our view there is a relatively low risk of underage access by this means. Although it is possible for an individual under 18 years old to hold secondary cards linked to a primary card held by an adult, there are relatively few such cards. The only way to prevent these cards being used for underage gambling would be to require that any attempt at credit card payment should trigger active age verification checks in addition to the minimum check on the existence of an individual with the name and address supplied during registration. Checking the age of the individuals who hold cards in this way would be particularly difficult because the card holder usually has the same family name and address as the primary card holder and the credit checks may not distinguish between the primary card holder and the secondary card holder.

5.2.22 There is no evidence to suggest that the secondary card issue is a significant problem under current systems and the additional cost of checking all credit cards would be very high for operators and irksome for adult customers. We are not persuaded therefore that there are sufficient numbers of cards held in this way to justify the significant additional burden such checking would place on operators and their legitimate customers.

5.2.23 In addition, in our view, the primary card holder should also bear some responsibility for how the secondary card is used – parents and guardians have a significant role here in preventing these cards from being used for gambling. Payments and sometimes wins are recorded to the credit card, and appear on the adult's statement and any parent who permits their child to continue gambling would be committing an offence. Operators should ensure that the information they provide to remote gambling

account holders, eg interactive television account holders, includes information to parents about this issue.

5.2.24 We do not therefore propose to require operators licensed in Great Britain to carry out further age verification checks of each individual using a credit card as a form of payment, because it would not seem to be a proportionate response to the level of risk. We will however require operators to institute a programme of random checks on those who have registered and are using credit cards to enable them and the Commission to monitor the effectiveness of current arrangements.

5.2.25 On the other hand we regard debit cards that are commonly issued to children (such as Visa Debit, Solo Electron, Maestro) as potentially 'at risk' payments. We are therefore proposing that additional age verification must be carried out on potential customers who register such 'at risk' forms of payment before they are allowed to gamble, unless age has been verified at an earlier stage. We do not propose to require checks to be conducted at the point of registration. Registration does not give the user privileged access to the site and is not necessary in order to play free games, so there would be no advantage in requiring checks at registration. Many potential customers register with online gambling sites and never gamble on them. We have considered whether it would be right to prohibit any access to free games²¹ and advertising material on gambling sites without prior age verification. We take the view that this would be excessive, bearing in mind that no gambling takes place and that games of the type seen for free on gambling sites are also widely available to children and young people in retail games outlets.

5.2.26 Age verification systems will be different depending on the platform which the operator uses and its business model. We will allow flexibility in the approach which an operator uses to meet the minimum standards set out above; accordingly we propose to attach the conditions set out below to the licences of remote gambling operators, and to include the provisions set out below in the relevant codes of practice.

5.2.27 Systems for age verification are improving all the time. We will encourage their development and, as cost-effective solutions emerge, require their take-up.

Licence condition

Remote gambling

➔ Operators must:

- have and put into effect documented policies and procedures to prevent underage gambling; and
- monitor the effectiveness of these.

Code of practice provisions: social responsibility

Remote gambling

➔ Operators' procedures to prevent underage gambling must include:

- warning potential customers that underage gambling is an offence;
- requiring customers to affirm that they are of legal age;
- using the best publicly available information for age verification purposes from whichever country the potential customer is resident in;
- further age verification procedures to be carried out on all potential customers who register an 'at risk' form of payment, including any form of debit card or electronic payment methods such as Neteller. These procedures should include:

²¹ Please see section 6.4 on proposed rules for free games.

- verifying additional information about the customer, such as carrying out credit checks and searching databases which list names and addresses of individuals over the age of 18
- where electronic means of verification have not been sufficient, the customer should not be allowed to participate in gambling until secondary checks (such as paper-based verification using photographic identification) have been completed
- carrying out secondary age verification checks in any circumstances which give the operator reason to suspect that the person may be underage;
- making available filtering software such as the ICRA rating systems (and any other similar system that is available in Great Britain) to enable access to their gambling sites to be restricted by adults (such as parents or within schools) as far as is technically possible;
- conducting a programme of random checks of credit card users for compliance with age restrictions;
- regularly reviewing their age verification systems and implementing all reasonable improvements that may be made as technology advances and as information improves;
- ensuring directly or with their contracted partners that attention is drawn to parental responsibility as part of the purchasing process of facilities such as mobile phones, interactive television, etc;
- ensuring that staff are properly trained in the use of their age verification procedures. In particular customer services staff must be appropriately trained in the use of secondary forms of identification when an initial verification procedure for holders of ‘at risk’ cards or those checked randomly fails to prove that an individual is of legal age.
- ➔ For **internet** gambling, identity must be verified before any amount is staked or wagered. (This means that although the customer may register with the operator, and open an account, he or she should not be permitted to gamble until it is confirmed that, at a minimum, a valid payment card, which is not considered ‘at-risk’, is held by an individual matching the name and address supplied during the registration process.)
- ➔ For **telephone** gambling, a customer who has previously opened an account and undergone age verification may be permitted to participate in gambling over the telephone. A new customer must undergo checks before being allowed to stake or wager.
- ➔ For **mobile phone** gambling (including SMS and MMS), at a minimum the handset must not be able to access gambling (as adult content) until age verification has been completed. The operator, not the telephone service provider, retains the responsibility to carry out age verification checks.
- ➔ For **interactive television** gambling, access to participate in gambling must require the entry of a security code that is allocated only to customers over the age of 18.

Section 5.2: Access to gambling by children and young people

Q.28 The Commission proposes licence conditions and code provisions on controlling access to premises subject to age restrictions. What comment do you have on the general approach and with the specific requirements proposed? If you disagree, what specific alternatives would you propose?

Q.29 What comment do you have on our proposals for licence conditions and code provisions to prevent underage gambling in premises open to children and young people?

Q.30 The Act requires a code of practice on access to casino premises, with a special role for supervisors at each entrance or in the case of the regional casino, the gambling area. Do you have any comment on our proposed code?

Q.31 We propose licence conditions and code provisions on preventing gambling using remote gambling facilities in breach of the statutory age restrictions. What comment do you have on the general approach and the specific requirements proposed? What alternatives do you advocate specifically?

Q.32 Should there be any further controls on underage gambling, additional to those we propose?

Q.33 Do you have any other comment or suggestion on this section?

5.3 Continuous and repetitive play

Current position

5.3.1 Whilst neither the exact causes of problem gambling nor the role of certain types of gambling in exacerbating it are fully understood, *speed of play* may be a risk factor. It is argued by some that forms of gambling that allow for rapid re-staking are potentially addictive because they play upon basic psychology of reward/reinforcement; individuals run the risk of becoming addicted in the behavioural sense of doing the same thing over and over again. Some psychologists believe that *repetitive play* can have a hypnotic effect and can cause certain individuals to lose control of their gambling and the amounts that they spend. Some organisations have expressed a concern that the speed of play on terrestrial gaming machines and on remote gambling facilities may pose a particular risk, because of the possibility that an individual may not interact with other customers or may no longer treat the gambling as entertainment. This view is reflected in the current regulatory regime under which we agree guidelines with the main trade association, BACTA. Elements of these guidelines are aimed at reducing the speed of play of machines and introducing elements of conscious decision-making to interrupt continuous play. It is also reflected in the voluntary 'Code of Good Practice for Fixed Odds Betting Terminals (FOBTs)', implemented by the Association of British Bookmakers. That code specifies, among other things, that 30 seconds must elapse between inputting money and settling a bet, and that betting from the original stake or accumulated winnings must take at least 20 seconds.

5.3.2 Otherwise, there are no restrictions relating to repetitive play in betting shops, though the need to fill in betting slips, give instructions and the time between events provides natural breaks. Similarly there are no restrictions on speed of play in casinos, bingo halls, AGCs and FECs. Live bingo games are limited by the opening hours of the bingo hall and the pattern of games provides frequent breaks in play. There are no restrictions on remote gaming because remote gaming sites based in Great Britain are not yet permitted.

The Gambling Act 2005

5.3.3 The Act contains a number of provisions relevant to continuous and repetitive play. Section 96 of the Act states that the Commission's technical standards relating to machines may include provisions intended to discourage repetitive play or to protect children or other vulnerable persons from harm. Section 235 of the Act requires the Secretary of State by order to set the speed of play of lotteries available on a machine and Section 240 gives her wide powers to make regulations controlling the circumstances in which a gaming machine is made available for use. In addition, the Commission will have wide powers to set licence conditions and provisions within codes of practice putting in place additional restrictions or requirements relating to speed of play and other possible contributors to problem gambling.

The Commission's approach

5.3.4 Whilst discussions continue with DCMS about the precise use of the Secretary of State's powers, for the purposes of this consultation we are assuming that the Secretary of State will look to the Commission to use its powers relating to gaming machines and speed of play, keeping hers in reserve; we will be advising her on the speed of play that should be applied to playing lotteries by machine. We are hampered by a lack of conclusive evidence about problem gambling and the effectiveness of measures intended to tackle it. But, based on the knowledge that does exist, we consider it appropriate to put in place requirements aimed at controlling continuous play. These requirements concern:

- the speed of the game;
- reality checks; and
- voluntary measures to restrict time or money spent on gambling.

5.3.5 The measures we propose are intended to help a customer stay in control of their gambling by enabling them to keep track of the time they spend gambling; control their own speed of play; and make conscious choices about whether to stop or continue to play. Customers should have the ability to monitor their expenditure and the amount of time they have played, so that they can make a conscious decision about continuing or ceasing to play. The measures we intend to apply are mainly a matter for gaming machine and remote technical standards. In addition we set out some provisions relating to design of premises and other practical measures which together have a cumulative effect on preventing continuous play.

5.3.6 It will be a licence condition of all remote gambling, gambling software and gaming machine technical operators that they comply with the Commission's technical standards. We intend to include the following requirements in those technical standards where relevant:²²

- that only one game cycle (which we will define) may be played at a time;
- that each game cycle must last a minimum time period, which we will set;
- other measures designed to ensure that customers are taking conscious decisions to continue to play/stake new money – such as maintaining the current requirement for bank and credit meters in certain categories of machines;
- where the technology is available, facilities for customer-led deposit/loss limits and customer-led session time limits;
- that both machines and remote systems should make clear to the customer the value of their wagers – either by requiring the wager to be displayed in currency or by making information about the value of 'credits' easily available;
- for remote systems: the time to be visible on the screen at all times eg by ensuring that the customer's own computer clock, which displays the time within the customer's time zone, should be visible on the screen at all times (ie it should not be obscured by the operator, nor should the customer be able to adjust their display to 'full screen' to obscure the clock); alternatively, the screen should display at all times the time elapsed while playing.

5.3.7 We see continuous and repetitive play as primarily a risk in remote and machines gaming as other forms of gambling tend to have breaks in play built in. However all operators can manage the provision of gambling in such a way as to minimise the risk from continuous or repetitive play. Therefore, in addition to our requirements in technical standards, we intend to require operators to put in place policies and procedures aimed at preventing continuous and repetitive play but will allow flexibility in the measures that operators take to meet this objective. In addition to requiring the

²² As mentioned in Chapter 3, it is important to note that the Commission's gaming machine technical standards will work in conjunction with regulations which the Secretary of State may make under section 240 of the Act. Therefore the detail of the standards will be amended once a draft of these regulations has been made available by DCMS.

operators to have such policies and procedures, our guidance to licensing authorities recommends that facilities should be designed to facilitate breaks in play, for example by siting ATMs and bars away from the gambling areas. In addition to the general condition requiring operators to comply with the Commission's technical standards (see Chapter 3), which will include provisions related to continuous and repetitive play, we propose the following code provision for casino and bingo operators.

Code of practice provision: social responsibility

Bingo and casino

- ➔ Operators must have policies and procedures in place to control continuous and repetitive play. Such policies and procedures may include:
 - design guidance on siting facilities in such a way as to encourage breaks in gambling;
 - constraints on the use of handheld gambling devices in dining or bar areas, for example switching off machines during live bingo games;
 - reminders of time of day;
 - aids such as timers on time played; and
 - intervention policies.

Section 5.3: Continuous and repetitive play

Q.34 The Commission proposes licence conditions requiring operators to put in place policies and procedures aimed at preventing continuous and repetitive play. In addition, technical standards will contribute to the same objective. Is there more we should do in this area?

Q.35 Do you have any other comment or suggestion on this section?

5.4 Information on how to gamble responsibly and on help for problem gamblers²³

This section should be read in conjunction with Chapter 6, "Fair and open' provisions: rules and information display". Together they explain what gambling operators will be required to tell their customers and the rationale for this.

Current position

5.4.1 There are no current formal requirements on operators to provide information on how to gamble responsibly or on where to find help for problem gambling. A number of the main trade associations²⁴ have agreed codes of practice which recommend this as good practice and many operators not only provide self-help material but train their staff in how to recognise and provide advice on tackling problem gambling.

²³ This section should be read in conjunction with the later section (6.1) titled 'General 'fair and open' provisions'. Together they explain what gambling operators will be required to tell their customers and the rationale for this.

²⁴ For example the Remote Gambling Association, the Association of British Bookmakers, the British Casino Association, the British Amusement Catering Trade Association, the Responsibility in Gambling Trust and others.

The Gambling Act 2005

5.4.2 The Act gives the Commission, as part of its duty in promoting the statutory licensing objectives, the objective of ‘protecting children and other vulnerable persons from being harmed or exploited by gambling’, and gives the Commission the power to set licence conditions and codes to achieve this objective. In particular, section 79(8) of the Act gives both the Commission and the Secretary of State the power to attach conditions relating to the provision of assistance to persons who are or may be affected by problems related to gambling.

The Commission’s approach

5.4.3 Our strategy for the promotion of social responsibility in gambling has a number of elements including the provision of information on how to play responsibly and where to seek help. This section concentrates on those provisions of the Commission’s licence conditions and codes of practice which will require operators to make information available to their customers in order to support this element of the strategy. There is a separate and complementary need for information to be promulgated to the wider public, as well as to gamblers, about such matters as the risk of harm associated with gambling; probabilities of winning; what encourages responsible gambling behaviour; how to recognise problem gambling; and where help can be obtained. The education of the wider public is important both because they are potential gamblers and because they may have an influence on those who do gamble. We will work with others²⁵ to identify what is required in terms of promulgating such information to the wider public, including information about how those affected by problem gambling can get help. A full discussion of the Commission’s approach to problem gambling, including the provision of information, can be found on the Commission’s website.

5.4.4 We see ourselves as sharing with the industry the duty to make sure information is available to gambling customers on how to gamble responsibly and where to find further information – both from the operator (as required by our proposed licence conditions) and through information available from the Commission itself. There is evidence to suggest that information is a key element in educating new gamblers and preventing problem gambling from developing; it is also one element of the treatment of problem gamblers to help them understand behaviour such as chasing losses. To support this last objective, we propose to include on our website:

- responsible gambling advice;
- further information notes and Frequently Asked Questions (FAQs) – for example on what the odds on machines relate to; and
- information about where to get further help and advice including links to campaigns being run by other organisations (such as the Responsibility in Gambling Trust).

We will also work with the Secretary of State and the advertising regulatory bodies to ensure that any advertising supports this approach. See section 7.1 below.

5.4.5 We propose to require operators to take a preventative approach, encouraging customers to gamble responsibly and providing information to gamblers to help them remain in control of their gambling. We will also require operators to ensure that they are able to direct those who may have a gambling problem to additional support or help. This includes both additional control measures that the operator has available (such as self-exclusion and self-limit arrangements) and contact details for outside help.

5.4.6 We recognise that it will be difficult for the providers of some forms of remote gambling to provide information to customers to the same extent as those offering gambling on premises or gambling online. Mobile phone technology, for example, does not allow the same amount of information to be displayed on the screen of a phone as on the computer screen.

²⁵ See section 5.1 for information on gambling research and support bodies.

5.4.7 We propose to require remote operators who are constrained by the nature of the platform to provide as much information as is practical, and to ensure that customers may easily find further information if desired, for example, by accessing a customer support website or by asking for a leaflet.

Licence condition

Bingo, casino, betting, licensed family entertainment centre, adult gaming centre, lottery and remote gambling

- ➔ Operators must provide information to their customers on how to gamble responsibly and how to access information about problem gambling.

Code of practice provisions: social responsibility

Bingo, casino, betting, licensed family entertainment centre, adult gaming centre, lottery and remote gambling

- ➔ Operators must ensure that the information about responsible gambling is readily accessible including in locations which enable the customer to obtain it discreetly. For gambling premises this should include:
 - information in the gambling area, and near to where ATMs are located;
 - leaflets in other areas (eg toilets) that may be collected discreetly and taken away.
- ➔ The information must cover where relevant:
 - the availability of measures that are accessible to help an individual monitor or control their gambling, such as to restrict the duration of a gambling session or the amount of money they can spend;
 - the availability of timers or any other forms of reminders or 'reality checks' that may be available;
 - self-exclusion options; and
 - information about the availability of further help or advice.
- ➔ The information must be directed to all customers who wish to enjoy gambling as entertainment and not be targeted just at 'problem gamblers'.

Remote gambling

- ➔ Operators must:
 - ensure, where technically feasible, that information on the tools that are available to help people monitor or control their gambling is readily accessible on their home and log-in pages;
 - where it is not technically possible, send customers information on the tools that are available to help people monitor or control their gambling at the point at which an account is opened;
 - where the operator provides gambling that does not require customers to open an account, eg gambling by text message where the charge to participate is deducted from the mobile phone account, include a notice on the mobile platform on where to access the safe gambling information and problem gambling advice – for example, a customer service telephone number or a website address.

Section 5.4: Information on how to gamble responsibly and on help for problem gamblers

Q.36 The Commission proposes requirements on most sectors of the industry to ensure that operators provide appropriate information to customers about safe gambling and about sources of help in dealing with problem gambling. Are the general approach and the specific proposals right? Are there specific additional topics the information should cover?

Q.37 Do you have any other comment or suggestion on this section?

5.5 Intervention

Current position

5.5.1 'Intervention' in this consultation document includes the volunteering of information on problem gambling to a person using an operator's facilities or taking action to exclude them from those facilities. The term is not intended to convey the same meaning as when used in a medical or treatment sense, which often implies a wider and more long-term form of intervention and treatment. Currently there is no legal requirement for intervention of this kind; planned and active intervention is rare, and carried out by operators on an entirely voluntary basis.

5.5.2 Although some jurisdictions do not have any requirements relating to intervention, others give guidance or have statutory requirements in relation to intervention procedures. Statutory requirements are most common in jurisdictions where there is some involvement from government or state bodies in the management of gambling. In Switzerland, for example, casino operators are required to train their employees in techniques for detecting and approaching problem gamblers, and for providing them with information on available assistance. Swiss casino operators can also require customers to prove that they are gambling within their means, and bar those who are gambling beyond them. In the Netherlands customers' casino visits and gambling are monitored and those gambling more than predetermined amounts in terms of number of visits or money are offered 'hospitality' interviews to see if they need any help managing their gambling. Voluntary or compulsory exclusion may follow.

The Commission's approach

5.5.3 Intervention is a sensitive issue. There is general agreement that individuals who demonstrate signs of problem gambling should be offered, sometimes even encouraged or required to seek, help. But there are also concerns about invading people's privacy and about the practical difficulties of knowing when, where and how to intervene. Employees are not trained as therapists or psychologists. We consider, however, that there are circumstances in which operators should intervene when they suspect an individual has a gambling problem.

5.5.4 We propose to require holders of bingo, casino, general betting, adult gaming centre, and remote gambling operating licences to develop intervention policies and procedures. This would require all licensed operators who are permitted to site category B and above machines on their premises to develop such procedures. We also propose to set out similar requirements in the code of practice with which a holder of a club gaming machine permit is required to comply because category B machines may also be sited in clubs. We have debated whether to set out similar requirements on operators who site category C machines or who operate lotteries. However lotteries are generally regarded as relatively low-risk. In the cases of machines in alcohol-licensed premises and clubs the gambling is ancillary to the premises' primary function; more generally, while there are clearly risks involved in any machine gambling, the low stakes and prizes and significant practical difficulties involved suggest requiring intervention policies and procedures from such operators should not be a priority.

5.5.5 'Best practice' in intervention will develop over time. We will implement changes to the licence conditions only after consultation with the operators who will be required to implement them. At this stage we will not be prescriptive about the kinds of customer actions and behaviours that should trigger intervention by an operator. We accept that operators and their employees cannot be expected accurately to identify every symptom of problem gambling. However we will expect operators to develop policies on the types of behaviour that its employees should treat:

- as requiring immediate intervention; and

- as 'at risk' behaviour to be noted/recorded by staff, which may require intervention when combined with other aspects of the customer's behaviour.

5.5.6 Where the operator has face-to-face interaction with the customer, as in at betting premises or at the tables in casinos, identifying problem gambling signals may be easier. The situation is more difficult when the form of gambling involves little face-to-face contact (for example, gambling on gaming machines). Technology may have a role to play here. For example, the use of smart card technology or other forms of loyalty cards may give the operator the opportunity to identify worrying patterns of activity by a particular individual.

5.5.7 Identifying the physical signs of problem gambling is more difficult for remote gambling operators. However, remote operators have access to customer account information which allows them to identify patterns of behaviour that may indicate problem gambling (for example, the length of time and the amount of money spent gambling, continuous replaying of winnings, or a high number of disputes where a customer attempts to blame the operator for their losses). Some operators already have processes in place for identifying potential problem gamblers.

Information from third parties

5.5.8 As part of the October 2005 consultation on the draft *Statement of Principles*, we sought views on who should be considered as vulnerable and be offered extra protection by the Commission. In that context we had suggested that we would assume 'vulnerable persons' includes people who gamble more than they want to, people who gamble beyond their means and/or people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol, or drugs. We are currently analysing the outcome of that consultation. In the specific context of intervention, and taking into account the individual's rights to privacy and self-determination, we think that operators should be obliged to consider information from third parties (such as family members and carers) where there is a clear possibility that the individual is someone without the mental capacity to take adult decisions.

5.5.9 Operators may have reservations about taking into account information received from third parties in case that information is wrong or deliberately misleading or simply breaching the individual's privacy. However, even though operators may have reservations, we think operators should use information received in this way to supplement and substantiate other warning signs that they have identified, which – by themselves – would not have been sufficient to trigger intervention or enforced exclusion.

Form of intervention

5.5.10 We do not propose to specify the form that any intervention should take. However, we will expect operators to have clear procedures governing the seniority of individuals who should carry out intervention and the process that they should follow. We accept that this is more difficult for remote gambling operators who do not have the same opportunities for informal enquires. On the other hand they have better access to data on individual playing patterns which can indicate cause for concern. We will explore with remote operators and others the best ways of making an intervention and would welcome suggestions.

5.5.11 We do not consider it appropriate to require operators to obtain proof of customers' financial means before they are permitted to continue gambling as some have suggested. Nor do we believe it would be appropriate or reasonable to require that operators' employees offer professional help to problem gamblers. Nevertheless, we believe that operators have a role in:

- encouraging individuals to reassess their gambling behaviour;

- providing information about the help that may be available, and facilitating access to that help (as discussed above);
- providing opportunities to access self-exclusion facilities and any other systems that may be available; and
- excluding an individual where the operator believes that clear signs of problem gambling are being displayed, and which are not being mitigated by the individual taking advantage of some of the options available to him (such as self exclusion).

5.5.12 It is not necessary for all of these actions to take place at the first intervention. The operator may decide initially to encourage the customer to reassess their gambling, and give them time to do so.

5.5.13 We propose to address intervention through the following conditions and provisions in the relevant codes of practice:

Licence conditions

Bingo, casino, general betting, adult gaming centre and remote gambling

- ➔ Operators must develop policies on the types of behaviour that their employees should recognise as potentially indicating problem gambling including:
 - 'at risk' behaviour which should be noted/recorded by staff, and which – when combined with other actions by the customer – may require intervention; and
 - behaviour requiring immediate intervention.
- ➔ Operators must put in place procedures for intervention identifying the action to be taken by staff such as reporting behaviour to management, providing information to the customer or excluding the customer.
- ➔ The necessary training must be put in place to enable staff to implement the policies.

Code of practice provisions: social responsibility

Bingo, casino, general betting, adult gaming centre and remote gambling

- ➔ Operators must ensure that where action is being taken to warn or exclude a customer for inappropriate behaviour, the procedures should ensure that employees consider whether the underlying cause of that behaviour is problem gambling and consider active intervention.
- ➔ Policies and procedures for active intervention must be aimed at:
 - encouraging an individual to reassess their gambling behaviour;
 - providing information to customers about the help that may be available (eg on self-exclusion and other options for controlling their gambling, including community/ voluntary sector support services), and facilitating access to that help;
 - excluding an individual where the operator believes that clear signs of problem gambling are being displayed, and these are not being mitigated by the individual taking advantage of some of the options available to him or her (such as self exclusion). Where an exclusion is imposed, the procedures to enforce exclusion should be the same as those in place for self-exclusion.
- ➔ Employees, particularly those dealing directly with customers in relation to gambling – such as managers and customer services staff – must receive appropriate and ongoing training in socially responsible and problem gambling. That training should enable employees to understand the operator's policies on problem gambling and to whom they should refer issues/ customers for help.

- ➔ Managers and others holding senior positions must receive additional training to enable them to support both employees providing assistance to customers and employees with gambling problems and to be able to discuss problem gambling with customers who approach them for help.
- ➔ Those staff dealing directly with customers must know which staff are designated to deal with problem gambling issues.
- ➔ Customers must be given the opportunity to discuss their gambling in private and should be assured that all information will be kept in confidence.
- ➔ Procedures must be in place for:
 - recording and monitoring signs of problem gambling that do not require immediate intervention but may justify intervention at some later date; and
 - recording the number and result of any interventions and providing summarised data to the Commission.

Section 5.5: Intervention

Q.38 The Commission proposes requirements to ensure appropriate intervention by certain operators in cases where problem gambling is suspected. Do you have any comments on our approach?

Q.39 Should other types of gambling operator such as pool betting operators, licensed family entertainment centres and lottery operators be required to intervene in cases where they suspect problem gambling?

Q.40 How far is it feasible to use technology such as smart cards and loyalty systems to track, and intervene in, problem gambling behaviour? What behaviour would suggest problem gambling? To what extent is it possible to identify problem gambling in the remote gambling sector based on patterns of play?

Q.41 Is it acceptable for the information gained from such systems to be used to identify cases of problem gambling, provided that this is made clear to customers when they first join the system?

Q.42 We argue that operators should take into account information from third parties such as family members in cases where a possible problem gambler lacks the capacity to make adult decisions. However, we do not propose a formal requirement in this area. What is your view?

Q.43 Do you have any other comment or suggestion on this section?

5.6 Self-exclusion

Current position

5.6.1 Self-exclusion systems enable individuals to bar themselves from gambling at particular venues or websites. Self-exclusion is based on voluntary participation by the individuals themselves, whereas in the previous section we discussed the circumstances in which an individual should be restricted from gambling by the operator. The principle of implementing self-exclusion policies has found general support around the world from operators and bodies with an interest in problem gambling, and many operators in Britain already have their own systems in place.

The Gambling Act 2005

5.6.2 The Act specifically gives the Commission or the Secretary of State the power (at section 79(8)) to attach conditions to licences relating to the provision of assistance to those who are or may be affected by problem gambling.

The Commission's approach

5.6.3 We propose to require all operators who are permitted to site category A or B machines on their premises, as well as remote operators, to implement effective self-exclusion systems – in other words, holders of bingo, casino, general betting, pool betting (other than football pools betting), adult gaming centre, and remote gambling (including betting exchanges) operating licences. We also propose to set out similar requirements in the code of practice with which a holder of a club gaming machine permit is required to comply because category B machines may also be sited in clubs.

5.6.4 We do not propose to require self-exclusion policies in relation to gambling in alcohol-licensed premises, such as pubs, licensed and unlicensed family entertainment centres or the purchase of lottery tickets. There are risks in these types of gambling. However, we are keen to focus at present on getting self-exclusion schemes working well in the prime gambling sites. The relatively low value of stakes and prizes permitted in pubs and in licensed and unlicensed family entertainment centres, combined with the practical difficulties of making self-exclusion effective for example where there are a number of pubs in close proximity, suggests that extending the requirement for self-exclusion schemes to such operators should not be priority at this stage.

5.6.5 We believe that individuals will be more likely to use self-exclusion systems if they are easily available and simple to use, and the terms of the self-exclusion are not overly burdensome. It is important that an individual should feel able to self-exclude easily and in confidence (if desired). Operators will be required to ensure that customers have understood the consequences of a decision to self-exclude, and have taken a positive action in order to enter into a self-exclusion agreement.

5.6.6 We have decided not to develop a central database of self-excluded individuals. A database of this kind would be expensive and raises difficult issues such as storage, use of personal information and liability. However, we will discuss with the operators how they can set up arrangements for notifying each other of individuals who wish also to be excluded from other operators.

5.6.7 We recognise that in some cases it will be difficult to enforce self-exclusions. We also recognise some operators fear that they may be sued if self-exclusion agreements fail, and we have no objection to operators including a disclaimer of liability within any agreement on self-exclusion. We believe individuals must take responsibility for any self-exclusion agreements they have entered into and we will not pursue operators where they have taken all reasonable steps to enforce self-exclusion.

Licence condition

Bingo, casino, betting, adult gaming centre, and remote gambling

- ➔ Operators must put in place effective procedures for self-exclusion.

Code of practice provisions: social responsibility

Bingo, casino, betting, adult gaming centre, and remote gambling operating licence holders

- ➔ Operators must not permit any individual who has entered a self-exclusion agreement to participate in gambling.
- ➔ Operators must take steps to remove the name and details of a self-excluded individual from any marketing databases used by the company or group, within 48 hours of receiving the completed self-exclusion notification.
- ➔ Operators must ensure that within 14 days of receiving the completed self-exclusion notification, no marketing material is sent to a self-excluded individual from any marketing databases used by the company or group. (This covers any marketing relating to gambling, or other activities that take place on the premises where gambling may take place. It also covers marketing for any 'free play' option which is made available by a remote

operator. However, it does not extend to blanket marketing which is issued for example to a particular geographical area and where the excluded individual would not knowingly be included.)

- ➔ Operators must close any customer accounts of an individual who has entered a self-exclusion agreement and return any funds held in the customer account. It is not sufficient merely to prevent an individual from withdrawing funds from their customer account whilst still accepting wages from them.
- ➔ Operators must implement procedures to ensure that an individual who has self-excluded cannot gain access to gambling on their premises/within their facilities; and which include:
 - a register of those excluded with appropriate records (name, address, other details, and any membership or account details that may be held by the operator);
 - [for **non-remote operators**]: photo identification (where available and in particular where enforcement of the system may depend on photographic ID), and a signature.
 - [for **remote operators**]: a record of the card numbers to be excluded;
 - staff training to ensure that staff are able to enforce the systems;
 - the removal of those persons found in the gambling area or attempting to gamble from the premises or barred on a remote platform.

Code of practice provisions

- ➔ Self-exclusion procedures should require individuals to take positive action in order to self-exclude:
 - on premises such as **betting, bingo and casino premises**, this can be a signature on a self-exclusion form;
 - over the **internet** this can be a box that must be ticked in order to indicate that they understand the system;
 - by **telephone**, this can be a direct question asking whether they understand the system.
- ➔ Individuals should be able to self-exclude without having to enter gambling premises or the facilities for gambling.
- ➔ Before an individual self-excludes, operators should provide or make available sufficient information about what the consequences of self-exclusion are.
- ➔ An operator should ask whether the individual wishes to extend the self-exclusion to all forms of gambling offered by the company or group, including gambling offered on a remote platform, and act on the individual's chosen preferences.
- ➔ For **non-remote operators**, customers should be given the opportunity to discuss self-exclusion in private.
- ➔ For **remote operators**, customers should be given the opportunity to self-exclude by contacting customer services, and in addition, where technically possible by entering an automated process using the remote communication. The operator should ensure that all employees who are involved in direct customer service are aware of the self-exclusion system in place, and are able to direct that individual to an immediate point of contact with whom/ which to complete that process.
- ➔ Within the operator's information about self-exclusion policies, the operator should provide a statement to explain that software is available to prevent an individual computer from accessing gambling internet sites. The operator should provide a link to a site where further information is available.

➔ Operators should ensure that:

- the self-exclusion period is a minimum of six months and give customers the option of extending this to a total of at least five years;
- once a self-exclusion is agreed/accepted, the exclusion should have immediate effect, and there should be no cooling-off period;
- at the end of the period chosen by the customer (and at least six months later), they maintain the self-exclusion in place, unless the customer takes positive action in order to gamble again;
- where a customer chooses not to renew, and makes a positive request to begin gambling again, they give the customer 24 hours to cool off before being allowed access to the gambling facilities. The contact must be made via telephone or in person; reregistering online is not sufficient;

(Please note that the Commission does not require the operator to carry out an assessment or make any judgements of whether the individual should have access to gambling. The requirement to take positive action in person or over the phone is purely to check that the customer has considered the decision to access gambling again and allow them to consider the implications; and to implement the 24-hour cooling-off period and explain why this has been put in place.)

Where the giving of credit is permitted, the operator may retain details of the amount owed to them by the individual, although the account must not be active.

Section 5.6: Self-exclusion

Q.44 The Commission proposes requirements on certain operators to operate self-exclusion schemes. Do you have any comment on our general approach? Is our proposed coverage (ie not including pubs, licensed or unlicensed family entertainment centres and lotteries) right?

Q.45 Do you consider that the proposed minimum period of six months for self-exclusion is reasonable? If not, what alternative do you propose and why?

Q.46 We propose a time limit of 14 days within which restrictions on marketing must be implemented after an individual has chosen self-exclusion. Is this reasonable and practical?

Q.47 Do you have any other comment or suggestion on this section?

5.7 Employment of children and young persons

Current position

5.7.1 We do not believe that the employment of children is widespread across the gambling industry as a whole. However we are aware that a significant number of young persons do work in some sub-sectors, mainly independent bingo clubs and family entertainment centres, and as collectors of football pool coupons.

The Gambling Act 2005

5.7.2 The Act restricts the opportunities for children (those under 16 years old) and young people (those 16 and 17 years old) to gamble and prohibits access to adults-only premises. The Act details when and where children and young people may and may not be employed by gambling operators. Employing children and young people in contravention of the Act is an offence.

5.7.3 Children may not work in bingo premises at any time when bingo is being played. Young people may work when bingo is being played, but are restricted in the work they may undertake. In particular, the Act does not allow young people to carry out tasks such as selling bingo books or tickets, handing out TED machines, identifying winning players or paying out winnings/prizes. Similarly, though children and young people may work in premises where gaming machines are situated, they must not be required to perform any function associated with those machines.

5.7.4 Children and young people may work in existing, small and large casinos, at betting premises, and in adult gaming centres only when gambling is not taking place. Lottery and football pools operators may employ young people, but not children, to provide facilities for gambling. In the case of a regional casino, children and young people may work in the areas not connected with gambling. They may not work in the betting areas of race tracks and the adult-only areas of family entertainment centres. We have considered how the Act would apply to the employment of children and young people by remote operators. We cannot interpret the law – only the courts can do that – but our expectation is that generally speaking, the work on which they would be employed would not be sufficiently closely linked to the actual provision of gambling either to pose a risk to the third licensing objective or to be unlawful. However, we think it would not be right or lawful to employ children or young people in the provision of, for example, televised poker or telephone betting. The employment of young people to write games software is an interesting borderline case legally, but one which we would not see as a risk to the third licensing objective.

The Commission's approach

5.7.5 Operators are obliged to comply with the Act's requirements on the employment of children and young persons. Our proposed code of practice provisions indicate how these should be implemented and make sure that children and young people are not exposed to gambling as they carry out non-gambling tasks. We would welcome views on whether additional guidance or codes of practice are required for the remote sector. We are not aware that children or young people currently perform functions that would constitute providing facilities for gambling as defined by section 5 of the Act.

Code of practice provisions

Lottery and football pools

- ➔ Operators who employ young people to sell tickets, collect payments or pay out winnings should have policies and procedures to ensure that:
 - the young people understand that tickets/chances may only be sold to persons aged 16 or over;
 - all employees understand the laws prohibiting underage gambling; and
 - employees who are young people themselves understand the law.

Bingo

- ➔ Operators who employ young people should have policies and procedures to ensure that:
 - they are not required to perform tasks that constitute 'providing facilities for gambling';
 - if there are gaming machines on the premises young people are not working in the area where those machines are situated;
 - all employees, including those who are young people themselves, understand the laws relating to access to gambling by children and young people in the gambling area; and
 - young people are not asked to perform any functions in connection with a gaming machine.

Casino, betting, pool betting (other than football pools), licensed family entertainment centre, adult gaming centre and remote gambling where applicable

- Operators who employ children and young people should have policies and procedures to ensure that:
 - they are not required to perform tasks that constitute ‘providing facilities for gambling’;
 - they do not carry out their work on the premises (or in the case of the regional casino, the gambling area and in the case of a licensed FEC, the adult-only area) when gambling is taking place;
 - gaming machines are turned off if children and young people are working in the gambling areas (or in the adult area of a licensed FEC);
 - all employees, including those who are young people themselves, understand the laws relating to access to gambling by children and young people in the gambling area; and
 - young people are not asked to perform any functions in connection with a gaming machine.

Section 5.7: Employment of children and young persons

Q.48 Operators must comply with the Act’s restrictions on the employment of children and young people on gambling premises. The Commission proposes code provisions indicating how operators must implement these restrictions. Are they sufficient?

Q.49 We consider that children and young people employed in remote gambling operations are not likely to be directly involved in providing facilities for gambling. Our tentative conclusion is that no additional guidance or code provisions are needed. We would particularly welcome views on this.

Q.50 Do you have any other comment or suggestion on this section?

5.8 Provision of credit by operators and the use of credit cards

Current position

5.8.1 The current rules on the provision of credit funds (ie funds provided to a customer in the form of a credit account by an operator to customer), and on the use of credit cards for gambling, are complicated and vary depending on the type of gambling involved. Bingo, casino, lottery and gaming machine operators are not permitted to provide funds on credit to their customers, but there is no such restriction on betting and remote gambling operators. Similarly credit cards cannot be used to pay directly for casino or bingo gaming or in gaming machines,²⁶ but can be used to pay for lottery tickets and for all types of betting and remote gambling. Indeed, in remote gambling customer accounts are financed routinely from credit cards.

²⁶ However, credit cards may be used to withdraw cash (from conventional cash machines), which can then be used for gambling.

The Gambling Act 2005

5.8.2 The Act maintains the current ban on both the provision of credit funds by gaming operators and the acceptance of payment by credit card for gambling by non-remote casino and bingo operators. Beyond this it is left to the Commission to determine whether credit funds and credit cards should be regulated for other classes of operators such as operators of family and adult gaming centres.

The Commission's approach

5.8.3 Our starting point is the risk that the introduction of a legal avenue for enforcing and recovering gambling debts may lead to an expansion in the provision of credit funds. Operators may be willing to provide more credit to more customers. Equally, credit card issuers may become more willing to allow their cards to be used at betting premises and with on-course bookmakers.

5.8.4 We do not want the provision of credit funds and the use of credit cards to pay for gambling to increase the incidence of or harm caused by problem gambling. We believe that appropriate restrictions will provide consumers with chances to reflect.

5.8.5 Accordingly we propose to maintain the existing prohibitions on the provision of credit funds and use of credit cards, though we expect to review this at a later date. (We also intend to prevent the provision of credit funds and use of credit cards in adult gaming centres and family entertainment centres.) This would mean that only the holders of general betting operating licences would be allowed to offer credit funds and only the holders of betting, lottery and remote operating licences would be allowed to accept credit cards. This will not restrict the right of operators to provide cash machines for the use of customers that will accept credit cards, subject to the restrictions described in the Act.

5.8.6 Some operators offer both gaming and betting facilities from a single account – where this is the case, operators will be required to ensure that gaming is not permitted when the account is in debit.

5.8.7 Although we have not seen sufficient evidence of problems to justify a prohibition on credit betting, we consider the present lack of a standard approach reduces the safeguards against problem gambling. We are concerned that problems may increase when debts become legally enforceable, and we propose conditions and code of practice provisions to reduce the potential for excessive credit betting.

5.8.8 We want to ensure that those operators permitted to provide credit and/or accept credit cards do not allow their use to contribute to problem gambling. We are concerned that customers who establish an account will be able to register multiple cards and use them to gamble to the limit on each, building up unsustainable debt. To guard against this we propose a code of practice provision restricting the number of credit cards that a customer may register with an operator.

5.8.9 We are also concerned that offers of credit could be targeted intentionally or unintentionally on those potentially vulnerable to problem gambling, such as those who are bankrupt or who have self-excluded. We would like operators to consider carefully to whom they send promotional literature about credit betting and to whom they grant credit, and propose, to that end, the following licence conditions and code of practice provisions.

Licence condition*Remote gaming, adult gaming centre, licensed family entertainment centre, lottery*

- Operators must ensure that they do not:
 - provide credit funds in connection with gaming; or
 - participate in, arrange, permit or knowingly facilitate the giving of credit in connection with gaming, except, in the case of remote gaming and lotteries, by acceptance of payment by credit card.

Code of practice provision: social responsibility*General betting, pool betting, betting intermediary, lottery, and remote gambling*

- Operators who choose to accept credit cards must:
 - accept payment by credit card for gambling only where that payment is made to an established customer account;
 - make available for gambling, funds deposited via credit card only after the card issuer has approved the transaction;
 - restrict customers to the registration and use of up to 2 debit/credit cards or other means of payment per person, regardless of the number of accounts that are held by that person; and
 - prevent a customer account that may access both betting and gaming facilities to access gaming when the account is in debit.

Code of practice provision*All betting including remote*

- Operators who choose to offer credit funds should also:
 - have procedures for checking and scoring applications for credit, and for the extension of credit;
 - *explain these procedures to customers;*
 - set a maximum credit limit for each customer and not permit customers to exceed that limit;
 - apply a 24-hour delay between receiving a request for an extension of credit and granting it;
 - not require a minimum spend within a set time period;
 - take reasonable steps to ensure that offers of credit are not sent to vulnerable persons, including those who have self-excluded from gambling; and
 - ensure that information about an offer of credit includes a risk warning of what may happen in the event of default.

Section 5.8: Provision of credit by operators and the use of credit cards

Q.51 What comment do you have on the Commission's proposal to permit payment by credit card for certain types of operator, subject to a number of provisos? Do you support the proposed list of provisos?

Q.52 To what extent do remote gambling operators currently offer credit to their customers? Is there a sufficient justification for allowing remote operators licensed by us to do so?

Q.53 Do you have any other comment or suggestion on this section?

5.9 Money lending between customers

5.9.1 In the previous section we set out the controls and prohibitions on the extent to which operators will be permitted to offer credit to their customers. A customer may also obtain credit by borrowing money from another customer.

5.9.2 Although there are no provisions specifically covering this in the Act, we believe that transactions of this kind (other than for transient and for trivial amounts) are highly undesirable as they may lead to individuals gambling more than they can afford and to the potential for unacceptable methods being used to recover debts.

5.9.3 We therefore propose a code of practice provision to address money lending for all operators who offer gambling in licensed premises.

Code of practice provisions

Bingo, casino, general betting, adult gaming centre and licensed family entertainment centre

- ➔ Operators should take steps to prevent systematic or organised money lending between customers on their premises.
- ➔ While the nature of those arrangements will depend to some extent on the layout and size of the premises, they should cover matters such as:
 - systems for monitoring for such activity;
 - instructions to staff concerning what they should do if they spot what they believe to be significant money lending and to managers about the ways in which they should handle and act on any such lending; and
 - excluding from the premises, either temporarily or permanently as appropriate, any person whom the evidence suggests has become involved in organised or systematic money lending.
- ➔ Particular care should be taken to ensure that there are appropriate arrangements in place to cover any cases where it appears that the lending may be commercial in nature or may involve money laundering. In the latter case, the requirements in respect of reporting suspicious transactions must be followed. In all cases where the operator encounters systematic or organised money lending, a report should be made to the Gambling Commission.

Section 5.9: Money lending between customers

Q.54 What comment do you have on the proposal that operators should take steps to prevent systematic or organised money lending between customers on their premises, including the exclusion from the premises of customers suspected of involvement?

Q.55 Do you have any other comment or suggestion on this section?

Chapter 6: ‘Fair and open’ provisions: rules and information display

This chapter deals with the conditions and codes the Commission proposes in order to ensure gambling activities are fair and open, in line with the licensing objectives.

6.1 General ‘fair and open’ provisions

Current position

6.1.1 The current requirements on gambling operators to organise gambling according to specified rules and to display information for customers vary from sector to sector.

6.1.2 The Commission has agreed guidelines with BACTA on the information that should be displayed on gaming machines. These guidelines require that machines display, among other things, their payout percentage and information about the charity GamCare,²⁷ but they are not legally binding. The Gaming Act 1968 also stipulates the games that may be played in casinos, and requires that the odds, stakes and prizes be clearly set out to customers. In addition, most casinos provide some guidance on matters such as how to play the games. The information that lotteries must provide to customers on the face of tickets is set out in statute. Among other things, tickets must include the name of the promoter and the date on which the draw is to take place.

6.1.3 In the case of betting, both off- and on-course bookmakers dealing with horse racing generally abide by the Tattersalls²⁸ ‘Rules on Betting’. In addition, the Licensed Betting Offices Regulations require bookmakers with betting shops to display a notice setting out the terms on which they are inviting customers to bet. Bookmakers set their own contractual terms for business.

6.1.4 Pool betting is governed by the Betting, Gaming and Lotteries Act 1963, which sets out the principles for the conduct of totalisator betting, including pools for football and dog racing (for example, that each bet shall be an entry in a particular competition). The Act also sets out the circumstances for which an operator’s rules may provide, such as where a pool is not won and the stakes are carried over and requires operators to publish the percentage deduction from the pool for expenses.

6.1.5 Pool operators at dog racing tracks are bound by the requirements of the 1963 Act and the Dog Racecourse Totalisator Regulations 1995 which require operators to display certain specified information on the conduct of the pool such as the procedure for the resolution of disputed bets.

²⁷ GamCare receives funds from the industry funded Responsibility in Gambling Trust (RIGT) and provides counselling, advice, education and training for those whose lives have been affected by problem gambling. For more information, please see www.gamcare.org.uk.

²⁸ Tattersalls Committee sets out the rules for the settlement of horse-racing bets in various circumstances. Tattersalls will also adjudicate on betting disputes between bookmaker and customer on-course.

6.1.6 In other jurisdictions the requirements vary from specific messages that must be displayed or made available by all operators through to no requirements at all.

The Gambling Act 2005

6.1.7 The Act requires the Commission to ensure that gambling is fair and open. In the case of lotteries and pool operators the Act replicates²⁹ the existing requirements in respect of authorisations of third parties and the display of information on lottery tickets about the promoter and date of draw. Otherwise it leaves the Commission to decide how best to secure the objective of fair and open gambling.

6.1.8 The Act also makes gambling contracts legally enforceable, which in turn means that they are subject to the Unfair Contract Terms Act 1977 and Unfair Terms in Consumer Contract Regulations 1999. These require all written terms to be expressed in plain intelligible language, and specify that any terms deemed unfair will not be binding.

The Commission's approach

6.1.9 Customers gambling with licensed operators, whether terrestrially or remotely, are entitled to expect the gambling to be 'fair and open'. We take 'fair and open' in this context to mean that the customer is given full information about the way in which the game is played (ie the rules of the game) or bet taken; about the odds of winning or losing in different scenarios; and that any changes to the rules or odds are fully flagged up so that gamblers are not caught out. We also take 'fair and open' to mean that games or bets are delivered consistently in line with the published rules and stated odds. We propose common licence conditions requiring operators to set out the terms on which they offer gambling and to provide sufficient clear, intelligible and accessible information for people to make an informed decision as to whether to gamble and in what way. The terms will need to cover both rules of the game and the contractual terms of trade, eg how mistakes will be dealt with and how quickly winnings must be claimed.

6.1.10 Operators may need to provide information in other languages depending on their customer base. Operators are already subject to the Disability Discrimination Act and we will be applying the criteria in the Act in assessing if an operator is providing information in an accessible form.

6.1.11 Once gambling debts are legally enforceable, the terms on which the operators deal with customers become contractual. Operators will need to consider exactly what they are committing themselves to and what conditions they want to place on customers – for example, banning electronic aids in casinos or paying winnings over a certain amount by cheque or electronic transfer. We consider that, provided the terms on which the gambling is offered are clearly and fully stated and comply with the law relating to unfair contract terms, it is for the customer to decide whether or not to participate and not for the Commission to interfere. To this end we will include a licence condition requiring operators to satisfy themselves (and to be prepared to demonstrate this to the Commission) that their terms of trade with their customers do not breach the Unfair Contract Terms Act or Regulations.

6.1.12 As set out below in the discussion of the proposed sector codes and conditions, what sufficient information for informed decision making entails will vary by sector but will cover the contractual terms of trade on which gambling is offered, such as the operators' procedures for the acceptance of stakes and payments of winnings, and the rules covering how the particular gambling activity is conducted, including as appropriate:

²⁹ Section 99(5) for lotteries and section 93(2),(3) for pools operators.

- the odds or the house edge;
- minimum or maximum stakes;
- average return to player;
- applicable rules of the game;
- other relevant characteristics, such as whether a gaming machine is compensated or random; and
- dispute and complaints procedures.

Licence conditions

Bingo, casino, betting, adult gaming centre, licensed family entertainment centre, lottery, remote gambling

- Operators must satisfy themselves that the terms on which gambling is offered are not unfair under the Unfair Terms in Consumer Contracts Regulations 1999 and, where applicable, meet the reasonableness test under the Unfair Contract Terms Act 1977.
- The key contractual and other terms on which gambling is offered must be set out in plain and intelligible language. The aim of such information must be to provide potential customers with sufficient information in a clear and accessible form on which to make an informed decision whether or not to gamble or to continue to gamble.
- Customers must be notified of changes before they come into effect.

Code of practice provisions: social responsibility

Bingo, casino, betting, adult gaming centre, licensed family entertainment centre, lottery, remote gambling

- Operators must ensure that in addition to the key contractual terms, the information includes (where applicable):
 - the odds or the house edge;
 - average return to player;
 - applicable rules of the game (there are additional requirements relating to rules of the game which apply to the casino sector and the betting sector – please see sections 6.3, 6.7 and 6.8 for more detail);
 - other relevant characteristics, such as whether a gaming machine is compensated or random; and
 - dispute and complaints procedures.
- Operators must be able to provide evidence to the Commission, if required, showing how they satisfied themselves that their terms are not unfair (eg by producing their legal advice).
- Gambling rules and any contract terms must be easily accessible and available in printed form or by a direct online link from the home page as appropriate.
- Where applicable, account holders must be notified of the rules when opening an account and of changes in rules in writing or online.

Section 6.1: Fair and open provisions: rules and information display

Q.56 The Commission proposes to require all gambling operators to make available their terms of business to customers, to satisfy themselves that their terms do not breach the Unfair Contract Terms Act and the relevant regulations under the Act, and to be ready to give evidence that they have done so. Do you agree?

Q.57 Is our proposed list of issues to be covered in the information operators must make available to customers, together with the proposed requirements for making the information accessible, sufficient to secure the necessary openness?

Q.58 Do you have any other comment or suggestion on this section?

6.2 Display of licensed status

Current position

6.2.1 Casino and bingo operators are required to display their formal consent under the existing legislation permitting them to operate at the premises concerned. There are no equivalent requirements on any other class of operator. Lottery tickets must specify the name of the registration authority or that the society is registered with the Gambling Commission.

The Gambling Act 2005

6.2.2 The Act, while giving the Commission broad powers to attach licence conditions and codes, makes no specific reference to the issue of operators displaying to customers the fact that they are licensed by the Commission.

The Commission's approach

6.2.3 We have considered whether to require all operators with premises, lottery operators and remote operators to display the fact that they are licensed by the Commission.

6.2.4 A case can be made against requiring operators with premises to display the fact that they are regulated by the Commission. Operating without a Commission licence as well as a premises licence is a criminal offence, which means that potential customers can assume that any premises where gambling is offered openly is run by a licensed gambling operator; and they can check with the Commission whether an operator holds a valid operating licence. We believe however, that a requirement to display the fact that the operator is licensed by the Commission has two benefits: it helps to educate the public in the new framework for regulating gambling and it ensures that they know where to go to for advice. We propose to advise licensing authorities to require that operators display the fact that they are licensed by the Gambling Commission with the website and general enquiries number.

6.2.5 There is also a case for requiring lottery promoters to note 'licensed by the Gambling Commission' on their lottery tickets, which will enable potential customers to check their status with us or to provide us with feedback on problems. We would welcome views on whether this would be too onerous.

6.2.6 There are strong arguments for requiring those remote gambling operators who offer internet-based gambling to indicate on their websites that they are licensed by the Gambling Commission. Customers based in Britain should know whether or not a site they are considering using is run by an operator licensed by the Commission, and therefore subject to a robust regulatory regime that provides effective protection for users. We propose to achieve this by means of a licence condition.

6.2.7 It is likely that some operators will wish to include on their British websites links to other gambling websites based on equipment in other jurisdictions. We see no reason why they should not be able to do this, but we believe that customers using a licensed website should not be able ‘click through’ to, and gamble on, an unlicensed one without being made aware of this fact. We propose to address this issue initially through the relevant code of practice. However, if evidence emerges that operators are not abiding by the code and that this is harming consumers, we will consider making it a condition of remote gambling operating licences.

6.2.8 We recognise that there are forms of remote gambling where the full statement that the operator is licensed by the Gambling Commission cannot physically be displayed, for example, betting by phone. In such cases we will impose a case-specific condition – eg requiring operators to inform customers when first becoming eligible for the service – to ensure the same result.

6.2.9 It is likely that operators will have a condition on their premises licence requiring them to display their licence and the fact that they are licensed by the Gambling Commission with specified contact details.

Licence conditions

- ➔ Lottery promoters must display ‘licensed by the Gambling Commission’ with website details on lottery tickets.
- ➔ Remote gambling operators offering gambling on websites must display the following information on their gambling websites:
 - a statement that they are licensed and regulated by the British Gambling Commission;
 - their licence number; and
 - the Gambling Commission web link.
- ➔ Remote gambling operators operating through other visual media (interactive TV, mobile telephone) must display the same information unless it is manifestly impractical to do so. In the latter case a tailored condition will be imposed.

Code of practice provisions

Remote operators, other than remote gambling software operators

- ➔ Operators should make customers aware when they take any action that will cause them to be redirected to a gambling website that is not provided by an operator licensed by the Gambling Commission. This should take the form of a prominent on-screen warning that they are about to leave a web site run by an operator licensed by the Gambling Commission and enter either one run by an unlicensed operator or one run by an operator licensed in another jurisdiction.
- ➔ Customers should be required to confirm that they have read and understood the warning, and confirm that they still wish to proceed, before gaining access to the facilities which are not licensed by the Gambling Commission.

6.2.10 In addition to the common conditions and code provisions proposed above, the Commission has also considered what additional provisions are needed to make gambling fair and open in the different gambling sectors; the following paragraphs deal first casino and bingo games; then with card playing; and finally with betting.

Section 6.2: Display of licensed status

Q.59 Do you agree that non-remote operators should be required to indicate at their premises that they are regulated by the Gambling Commission?

Q.60 Would it be too burdensome to require that Commission-licensed lottery tickets should bear the note 'Licensed by the Gambling Commission'?

Q.61 Should display of licensed status be required for website operators licensed by us? If so, is it important that customers should be notified when they are leaving a Commission-licensed site?

Q.62 Do you have any other comment or suggestion on this section?

6.3 Types and rules of casino games

Current position

6.3.1 The types of casino games that can be played in a casino licensed under the 1968 Act are set out in secondary legislation under the Bankers' Games Regulations and in the casino industry's 'Practices and Rules of the Games', agreed with the Commission. The Bankers' Games Regulations currently permit nine casino games to be played in casinos in Great Britain: roulette; punto banco; blackjack; casino stud poker; craps; super pan 9; sic bo; three card poker; and the big six. The games are subject to provisions on the forms of the games, which are also set out in the Regulations.

6.3.2 In addition the Commission sets out in its guidance to licensing justices advice on what licensing authorities should consider in terms of numbers of gaming tables in a casino.

The Gambling Act 2005

6.3.3 The Act repeals the Bankers' Games Regulations, and instead gives both the Secretary of State and the Gambling Commission specific powers, under section 90 of the Act, to impose conditions on any casino operating licence (remote or terrestrial) which restricts the type of casino game that can be made available. It also allows the Commission to specify rules for casinos or any game of chance played in a casino.

The Commission's approach

6.3.4 We are not required to impose restrictions on either types of casino games or rules of casino games (or any other game of chance). However, having a restricted number of well-established games reduces the risk of inconsistent delivery of the games or of players not understanding the games on offer and is in line with established international practice. In the light of this we consider it prudent to continue to limit the number of games played and place some limitations on the way they are played in land-based casinos for the present. It would be premature to remove or relax the prescribed list before the new Act has bedded in and before we have experience of the new categories of casinos.

6.3.5 We propose, however, to allow the industry to respond more flexibly than at present to customer requests and to be able to test a wider range of games before deciding whether to offer them on a more permanent basis. Our intention is to publish a list of approved games (and any prescribed rules) from which terrestrial casino operators can select the games they would like to offer. All the casino games listed in current regulations would be included in the new list.

6.3.6 We do not consider that there is a need for a list of approved games for remote gaming. Detailed rules are provided and there is usually scope for players to learn about the rules on 'free' games. It has been suggested that customers used to playing in terrestrial casinos based in Great Britain may be confused if a game with a name similar to one they are used to playing has different rules on a remote system. This risk could be met by a code provision asking operators to identify such sources of possible confusion but we would welcome views as to how real a problem this might be.

6.3.7 Remote gaming covers much more than casino games such as roulette (akin to automated roulette in a terrestrial casino). It includes slot or video type games analogous to machines in terrestrial operations, and games such as poker played against other customers. It could also cover player-to-player betting on the outcome of a 'live game' eg a poker game played in a television studio. In general, our concern that the gambling offered should be fair and open can be met by technical standards, full on-screen guidance on how to play and by rigorous testing and monitoring. For remote gaming systems generally we will therefore set technical standards about system and game functionality. As noted in the previous section, we will require sufficient information on the different games, their rules and how to play to be provided so that customers can make an informed choice about whether to play or not. The Commission will also put in place procedures to ensure that new game software is tested and approved before being made available to the public (see Chapter 3).

6.3.8 In the case of player-to-player games such as poker, we see potential concerns relating to collusion between players but not in relation to the type of games played or the understanding of the rules. We would welcome views on whether there are serious issues to be addressed.

6.3.9 Each terrestrial casino will be expected to maintain, and display prominently, a list of the games that it makes available for play and as part of the compliance process we would expect to see evidence that staff are properly trained to run the games that are on the list. We will be consulting separately on the procedures for approving new games in May. However, we are likely to want to establish the following factors before adding any game to the list:

- clearly identified, and comprehensible rules;
- identified odds and house edge;
- any special equipment properly specified;
- clear procedures for determining and paying out winners; and
- the associated training requirements.

We will look unfavourably on games:

- that have complicated and confusing rules;
- that encourage the player to chase losses; or
- where the speed of play is too fast to allow the player to make a conscious decision to either continue or cease gambling.

6.3.10 We have debated whether there is a need to replicate some of the advice set out in our guidance to licensing justices on numbers of casino gaming tables but while we see the perceived risks – overcrowding at tables, jostling of players, the greater potential for cheating – we think these issues can be dealt with in code provisions without having to be prescriptive about how a gaming floor is laid out.

6.3.11 We will also be considering the value of trial periods for new games, which we are aware take place in other jurisdictions. The trial period would be an opportunity for both the Commission and the industry to establish whether there are any problems encountered with the playing of the game (which might be reflected through customer complaints recorded during a trial period or any research by the Commission) or gaming equipment.

Licence condition*Non-remote casino*

➔ Operators must:

- only offer games that appear on the Gambling Commission's list of approved games;
- only offer games approved for trial for a set period of time; and
- follow any rules of approved games prescribed by the Commission.

Code of practice provisions: social responsibility*Non-remote casino*

➔ Operators must have effective policies and procedures in place to:

- ensure that supervisors/pit bosses/croupiers are not prevented by the layout of the gambling area from discharging their duties; and
- prevent the jostling of players caused by overcrowding or limited space between tables.

Remote gaming

- ➔ Where the operator is providing games with the same or similar names to those on the Commission's prescribed list for approved games, the operator must identify if the version offered differs materially and explain within the game rules what these differences are.

Section 6.3: Types and rules of casino games

Q.63 Should terrestrial casinos be limited to offering games on a list approved by the Commission, including some test games, played on Commission-approved rules?

Q.64 Are there any games that you would like to be proscribed on Commission-licensed sites, terrestrial or remote? If so, why?

Q.65 Would it be sensible to relax the current controls on the rules of games in terrestrial casinos or would this risk unfairness?

Q.66 Should remote operators retain the freedom to offer any games, subject to providing sufficient information about how to play, and subject to meeting technical standards and testing requirements for games software? Would this pose any threat to the licensing objectives?

Q.67 We tentatively propose a code provision that if remote operators offer similarly-named but different casino games they should identify any differences that may confuse players. Do you think that there is a real problem? Do you support our proposal?

Q.68 Do you have any other comment or suggestion on this section?

6.4 Free play games

6.4.1 Many remote operators offer free play games which allow a customer to become familiar with the rules and features of a game, without staking or winning any money. Where this is the case, we wish to ensure that the customer's experience gives them an accurate reflection of how the game would operate if they choose to play 'for real': for example, the free play game should not give the impression that prizes will be won more frequently than the case for the real game, by having a higher return to player. Therefore in our technical standards for remote systems we intend to require free play games to follow the same rules as real games – in other words the percentage return to player and the manner in which prizes are allocated must be the same for free play games and their 'real' experience.

6.5 Types and rules of games played in bingo clubs

Current position

6.5.1 Bingo operators are currently allowed to offer cash bingo and, through section 21 of the 1968 Act, also prize bingo.

6.5.2 There is no definition of bingo under the current Act; bingo as it is played in commercial clubs is a game in which players mark off randomly called numbers on printed or electronic cards, the winner being the first to mark off all the required numbers. It does not involve playing or staking against a bank and the chances are equal to all participants. However, some people play a number of bingo cards at a time and do thereby exercise some greater degree of skill.

The Gambling Act 2005

6.5.3 There is no clear definition under the Act, although bingo is described as ‘any version of that game, irrespective of by what name it is described’. A bingo operating licence entitles the holder to offer any form of bingo. This means that prize bingo and cash bingo, as developed under the 1968 Act, are both permitted by the bingo operating licence.

6.5.4 In addition, section 291 of the Act permits holders of bingo premises licences to offer prize gaming providing the game complies with any conditions (set by either or both of the Secretary of State and the Commission) attached to the relevant bingo operating licence. This includes the Commission’s power to list games that cannot be played. This section of the Act also contains a wider power for condition-making, by which games generally or specific types of games can be subject to specified conditions, or games generally or specific types of games can only be played in specified circumstances, or subject to specified conditions including limits on stakes and prizes imposed by the Secretary of State.

The Commission’s approach

6.5.5 Those playing bingo provided by licensed operators rightly expect the games to be ‘fair and open’. In sections 5.3 and 6.1 of this document we have set out licence conditions to ensure that customers are properly informed and can rely on the integrity of the bingo provided. We do not believe it necessary at this point to lay down any guidance on the rules of bingo; there is a clear industry standard at present and clear guidelines are already set out in the Bingo Association’s Manager’s Handbook.

6.5.6 However, we do see the need for regulation of prize gaming (section 291) in bingo clubs. Bingo is recognised as one of the softer forms of gambling and we are keen to keep it that way. We are concerned that, regardless of the levels of stakes and prizes, casino games such as roulette, blackjack, poker, etc might alter the character of bingo operations, introducing bingo players to a ‘harder’ form of gambling. We are therefore considering whether to proscribe in bingo halls the nine games currently permitted in casinos. We also have concerns about bingo clubs offering certain other games (such as keno) without limits on stakes and prizes. An alternative approach therefore is to allow bingo operators to offer any games subject to low stake and prize limits. A third option would be to ban some or all of the nine games but to permit others subject to low limits on stakes and prizes. It is for the Secretary of State to set any such limits on stakes and prizes and we will therefore be discussing the merits of the alternative approaches with DCMS. We would be interested in the views of others. Whichever route we choose, we will not rule out using our power to add games to a proscribed list if we come to the view that they pose a risk to the licensing objectives.

6.5.7 We would welcome views as to what type of games should be available in bingo halls in future and the related restrictions on stakes and prizes.

Licence condition

Bingo

- ➔ Operators must not offer games that appear on any proscribed list of prize gaming games issued by the Commission.

Section 6.5: Types and rules of games played in bingo clubs

Q.69 The Commission proposes to make a list of proscribed games that bingo operators will not be allowed to offer. Do you agree?

Q.70 We expect that bingo operators will want to introduce new games. We would particularly welcome views on what type of games should be available in bingo halls in future and what related restrictions on stakes and prizes should apply.

Q.71 Do you have any other comment or suggestion on this section?

6.6 Card clubs, card room gaming and card competitions – games of equal chance

Current position

6.6.1 'Card room gaming' is a term used to describe such games as bridge, whist, poker, rummy, kalooki, backgammon and mahjong etc played for equal chance. Such games played for winnings or money's worth constitute gaming as defined in the Gaming Act 1968.

6.6.2 If an operator wants to run a dedicated card club he must first apply for a casino operating licence. Such a club can only be set up in one of the permitted areas allocated to gaming. In addition, some casino operators have card rooms as part of their casino, ancillary to the other casino games like roulette. The operator of a licensed casino can make charges for the use of the facilities for card room games, but cannot take any percentage of money staked or won by players. Similarly, casino licence holders are entitled to run card competitions but cannot make a levy on stakes or winnings. There is currently only one dedicated card club licensed by the Commission (although we are currently considering a small number of applications for new licences).

6.6.3 Members clubs, commercial clubs and miners' welfare institutes are also permitted to offer equal chance card gaming, but are subject to restrictions on charging and the gaming cannot be the principal purpose of the club unless it consists exclusively of the playing of bridge or whist or both bridge and whist.

The Gambling Act 2005

6.6.4 Under the Act, casinos are granted permission to offer any form of gaming (subject to conditions which may be imposed on a casino operating licence). The Act defines a casino as an arrangement (whether a premises or via remote communication such as the internet) where people can participate in casino games. A 'casino game' is defined as any game which involves playing or staking against the bank or where the chances are not equally favourable to all the players.

6.6.5 This means that in future no *new* casino licences can be issued to operators only wanting to offer equal chance gaming, ie dedicated card clubs will not be given new licences. But casino operators will be able to offer card gaming in addition to any casino games offered. In addition private members' clubs are eligible to run certain card room gaming as set out in section 269 of the Act.

6.6.6 As in the current legislation, there are alternative ways for card clubs to be established, even where the equal chance card gaming is the sole purpose of the club. They play subject to limits on charges. A list of prescribed games for clubs will be set out by the Secretary of State in Regulations and is expected to include bridge and whist.³⁰

The Commission's approach

6.6.7 We do not consider that the same regulatory concerns regarding fair and open gaming apply in relation to card room gaming, where customers play against each other and not against a bank, as with casino games. We do not propose to limit the amounts that casino operators can charge for use of the card room or for registration fees as we consider this an issue for business, provided the charges or fees are transparent.

6.6.8 We recognise our current guidelines for casino operators on the running or hosting of card competitions are detailed and prescriptive. We propose to replace them with the general licence condition requirement that customers must be given the information on which to make informed decisions. We will expect operators to ensure that the rules of card competitions and games run by them are clear to all players and that customers are aware of the stakes and prizes involved.

Section 6.6: Card clubs, card room gaming and card competitions - games of equal chance

Q.72 Do you agree with the Commission's proposal to continue the present rule that there should be no levy on stakes or winnings in card room gaming, but casinos may continue to charge for the use of the card room?

Q.73 Do you agree that we should scrap the current detailed guidelines on the running or hosting of card competitions and rely instead on the general licence condition (section 6.1) that customers must have the information necessary for informed decision-making?

Q.74 Do you have any other comment or suggestion on this section?

6.7 General betting

6.7.1 This section applies to all licensed betting operators that trade off-course, whether remotely or non-remotely, and on-course from the licensed betting premises.³¹

Current position

6.7.2 Holders of bookmakers' permits, whether they trade from betting shops, online or as betting exchanges, are responsible for the composing of their own rules for accepting bets. Permit holders operating in betting premises are required by the Licensed Betting Offices Regulations 1986 to display in a conspicuous place within their betting shops a notice setting out the terms on which they are inviting customers to bet, including:

- the amount of any deduction that may be made from a winning bet;
- any maximum limit on the amount of winnings; and
- the procedure for resolving disputed bets.

³⁰ Section 267(2) A club is a commercial club for the purposes of this Act despite subsection (1)(a) if:
a) it is established or conducted wholly or mainly for the purpose of the provision of facilities for gaming of a prescribed kind, and
b) facilities are not provided for any kind of gaming in the course of the club's activities.

³¹ See section 10.3 for proposed treatment of pool operators.

There are no regulatory requirements specific to remote betting operators, including betting exchanges.

6.7.3 Compliance with these requirements appears to be patchy. Additionally, some operators' rules are less comprehensive than others, which may lead to uncertainty about the settlement of bets. The Gambling Review Body recommended that 'bookmakers' rules' and specifically the rules relating to the completion of betting slips should be clearly displayed.³²

6.7.4 There are no requirements that particular information be included on betting slips. Customers are responsible for writing their own bets and for ensuring that the instructions on them reflect their intentions. It is also an industry convention to record any special rules governing a bet on the slip or coupon itself. Customers are treated as entitled to settlement in accordance with the rules on the slip provided by the operator regardless of any changes to rules introduced by the operator, or contradiction that may emerge with any other of the operator's rules.

The Gambling Act 2005

6.7.5 The Act requires the Commission to ensure that gambling is fair and open. In the case of betting operators the Act replicates the existing rules in respect of who may accept a bet. Otherwise it leaves the Commission to decide how best to secure the objective of fair and open gambling.

The Commission's approach

6.7.6 We have looked at disputes about the settlement of bets that have been caused by the content of betting operators' rules or lack of rules. We agree that greater transparency and certainty is required from betting operators' rules to minimise disputes. We propose to require both remote and non-remote betting operators to incorporate specified core elements within their standard rules for all of the normal events on which they are prepared to accept bets, together with any deviation from those rules. We do not propose to prescribe the wording nor the exact nature of the rules, only the issue to be covered. We also propose to reflect the present convention on treating any special rules recorded on a betting slip or any other medium as determinative within our code of practice to ensure customers can be certain about the settlement of their bet. Betting operators would not have to set out rules governing events where their rules were derived from the governing body for the event on which the bet accepted. However, where there are no rules set by a governing body, the rules should be set by the betting operator, such as for speciality and novelty bets.

6.7.7 Where a betting operator offers concessions or bonuses, the rules that govern these should be included within the operator's main body of rules as well as within any promotional material. We will expect operators to notify customers of any changes in their rules. In the case of account-holding customers, they should be notified in writing.

6.7.8 We have considered whether the Commission should propose regulations concerning betting operators' maximum payout rules. Generally, in the case of 'single' bets we would expect operators to tell customers that they risk partial payment before they accept a bet. The situation is more complicated with 'accumulator' bets where, if selections are to be settled at the starting price or the operator imposes overall daily limits, it may not be possible to know in advance that a bet will exceed the maximum payout. An accumulator bet might reach that maximum payout limit with remaining legs of the bet still to be determined. As this risk is inherent in accumulator bets, we do not propose requiring any specific warning to be given to customers in these circumstances.

³² Gambling Review Report, paragraph 16.55.

6.7.9 Disputes sometimes arise from customer confusion about the odds available on foreign events, particularly where ‘pari-mutuel’ prices may apply (ie where all bets of a particular type are placed in a pool, and following deductions the payoff odds are calculated by sharing the pool between all winning bets) and on ‘coupled’ horses (where more than one horse in a race has a connection to the same owner or trainer and only one combined price is available). We propose to address this in the betting code of practice by a provision for betting operators to include information within their rules where appropriate.

6.7.10 On occasion, betting operators both off-and on-course will agree special terms for a bet (eg for non-sporting or novelty bets). The customer may not be aware of general rules that conflict with those special terms, such as the circumstances whereby the bet might be treated as void, or even the maximum payout. Our view is that in such circumstances the terms agreed with the customer should prevail and our proposed code makes this clear.

6.7.11 We propose that betting operators with licensed betting premises display rules concerning voiding, late bets and maximum payouts in an easily accessible place. Our proposed code of practice provisions for the display of rules by remote gambling operators and online betting operators are described generally, including in section 6.1.

6.7.12 We have considered whether to require betting slips or any other medium for recording a bet to include certain information identifying selections, stakes and odds in order to reduce the incidences of uncertain selections that operators tell us they regularly face. However, we have decided that it would be better to rely on the operation of betting operators’ rules for resolving errors and mistaken selections including the convention of treating any special rules recorded on the slip as determinative.

6.7.13 We propose to require only that betting slips and acknowledgements of bets issued by remote and non-remote betting operators include contact details for the operator, and a statement that bets are subject to the rules displayed at the betting premises or online. We believe this will be sufficient to point customers towards the rules that govern their bets.

6.7.14 Our proposals are not intended to remove responsibility from customers to ensure that they are familiar with an operator’s rules, the terms of a particular bet, and that their intentions are properly reflected in any betting slip or betting instruction that they give. But our proposals should increase customers’ understanding of the terms of bets and enable them to make informed decisions.

6.7.15 The proposals on betting set out in this consultation document do not affect sports governing bodies such as the Jockey Club, the Football Association or the National Greyhound Racing Club in the administration of their sports. For example, the Tattersalls’ Committee will still be able to apply their ‘Rules on Betting’ to settle questions relating to bets on horse racing, where bets have been struck in accordance with these rules, and to adjudicate in cases of default in the payment of bets, where invited by both parties to do so.

Code of practice provisions: social responsibility

General betting and betting intermediary

- Operators’ licensed premises must display in an easily visible place their rules concerning voiding, late bets and maximum payouts. They may also display their full rules or refer to the availability of full rules on request.

General betting and betting intermediary (whether remote or non-remote)

- ➔ Operators must set out within the full rules that they publish the core elements for the acceptance and settlement of bets. These rules must cover:
 - the circumstances under which the operator will void a bet;
 - treatment of errors, late bets and related contingencies;
 - calculation and availability of odds for any ante-post, early, show or starting price betting, and treatment of place, forecast bets etc;
 - treatment of withdrawals, non-runners, and reformed markets;
 - maximum payout limiting liability for a specific betting product or generally;
 - any charges made to customers for the use of betting services or products, and how these are calculated (including deductions from winnings for commission, or in respect of withdrawn horses etc);
 - means or medium by which the outcome of an event will be determined;
 - the rules for the event itself to be specified (eg horserace bets only to be accepted where the racing is subject to Jockey Club rules);
 - where bets are accepted on 'pari-mutuel' terms; and
 - where restrictions on 'coupled' horses are applied.
- ➔ Where special rules have been agreed in relation to a particular bet these must not be overridden by any conflicting rules or subsequent rule changes.
- ➔ Operators must issue betting slips or an electronic acknowledgement for each transaction which include the following information:
 - operator's name and contact details; and words equivalent to 'Bets are accepted in accordance with the operator's rules'.

Section 6.7: Off-course betting

Q.75 The Commission makes detailed proposals on the information betting operators should be required to make available to customers. Do you agree with our proposals for what operators should display at their premises; include in their full rules; and show on betting slips? Would you add or remove anything from our proposed list?

Q.76 Do you have any other comment or suggestion on this section?

6.8 On-course betting within the ring

Current position

6.8.1 This section deals with betting that takes place at 'tracks'. The Tattersalls' Committee provides the 'Rules on Betting' which apply to horse racing and are often used by bookmakers for other events. Bookmakers operating at horserace tracks are required by the National Pitch Rules³³ to display information about the bets they will accept and any unorthodox rules that they apply. At dog racing tracks the Greyhound Racing Association's (GRA) Regulations for the conduct of on-course bookmaking³⁴ apply, though they make no requirements concerning the display of information by betting operators.

³³ The National Pitch Rules are issued by the National Joint Pitch Council to regulate the operation and conduct of bookmakers and their staff working within the betting rings at horse race courses.

6.8.2 Unlike within licensed betting premises, customers betting within the ring do not write their own betting slips, but rely on oral instructions. The National Pitch Rules currently require betting operators at Horserace Betting Levy Board approved horse racing tracks to issue customers a betting ticket or slip which must include specific information, including the race day code, date and race number; the name or number of the horse; the stake; the potential return including stake; the odds, and type of bet, relating to the operator and the bet. Betting operators that work at dog race tracks and non-Levy Board approved horse racing tracks such as point-to-points are not currently subject to the National Pitch Rules and do not generally issue detailed betting slips.

The Gambling Act 2005

6.8.3 The Gambling Act 2005 defines ‘tracks’ as a horse racecourse, dog track or other premises where a race or sporting event takes place. As noted above, the Act requires the Commission to ensure that gambling is fair and open. In respect of betting operators, the Act replicates the existing rules in respect of who may accept or negotiate a bet. Otherwise it leaves the Commission to decide how best to secure the objective of fair and open gambling.

The Commission’s approach

6.8.4 We have reviewed the current regulations and types of operation for on- and off-course betting shop operators and have found few relevant differences. We propose to apply the same provisions covering the core elements and display of the rules for on-course betting shop operators as for off-course and remote betting operators. See section 6.7 above.

6.8.5 On-course customers need information about the bets a bookmakers will accept and the odds to decide whether to bet within the ring, with an on-course betting shop or with a pool operator. The Pitch Rules require bookmakers operating within betting rings at Levy Board horse racing tracks to display this information and bookmakers and others have acknowledged that this has helped maintain high standards of service. We consider it an important aspect of providing open betting to the public to preserve the key aspects of the Pitch Rules.

6.8.6 We accept that it is impractical for betting operators to display the full Tattersalls’ rules or GRA rules on their joints,³⁴ but in order to improve information about betting available to the public we believe that it would be appropriate for them to be displayed by track operators. We have included this in our guidance to local authorities.

6.8.7 The requirement for betting operators at Levy Board approved horserace tracks to provide detailed betting slips appears to have increased transparency in betting and reduced disputes that arose from the previous pre-printed ticket system. We propose to include similar requirements as a provision of the code of practice. In the case of dog race and non-Levy Board approved horserace tracks however, the absence of detailed betting slips does not appear to have led to problems, perhaps because the on-course market for betting on dog races is limited and there is relatively little scope for dispute or misunderstanding. We therefore do not propose to extend the code provision on betting slips to cover on-course bets at these tracks.

6.8.8 A few operators at Levy Board approved horserace tracks and most of those at non-approved/point-to-point tracks do not have the equipment to provide detailed slips. Those operating at Levy Board approved tracks without equipment meet the requirement to issue detailed betting slips by filling in pre-printed slips with the details of the bet. We would welcome views on whether it would be proportionate to require all betting operators, including those operating solely at point-to-points etc, to comply with the requirement for detailed betting slips set out below.

³⁴ ‘Joint’ means the stand and equipment used by a bookmaker to carry out business in the betting ring.

6.8.9 We propose the following requirements for display on the joints that betting operators set up within betting rings.

Code of practice provisions: social responsibility

- On-course betting operators must display on their 'joints' in an intelligible format:
 - any rules that differ from Tattersalls' 'Rules on Betting' or the Greyhound Racing Association's 'Regulations for the conduct of on-course bookmaking' as applicable;
 - any types of unorthodox bets accepted (such as forecast betting, betting without the favourite, distance betting etc);
 - if win-only or each way bets are accepted;
 - any concessions or bonuses offered;
 - all of the runners and the odds available to the public;
 - the operator's trading name and contact address;
 - the minimum bet accepted; and
 - the maximum payout to any individual customer, or per bet.
- On-course betting operators within the ring at Levy Board Approved horserace tracks must issue customers with a betting slip for each transaction accepted. Betting slips must include the following information:
 - operator's name and contact details;
 - race day name or code, date and race number;
 - name and/or number of the selection;
 - the stake and potential return;
 - the odds, or starting price; and
 - the type of bet.
- Any special rules which have been agreed in relation to a particular bet must not be overridden by any conflicting rules or subsequent rule changes.

Section 6.8: On-course betting within the ring

Q.77 The Commission makes detailed proposals on the information on-course betting operators should be required to make available to customers. Do you agree with our proposals for what operators should display at their premises; include in their full rules; and show on betting slips? Would you add or remove anything from our proposed list?

Q.78 We consider it is not necessary to apply our requirements for operators at approved horserace tracks to betting operators at dog racing tracks and non-approved horserace tracks. Do you agree?

Q.79 Do you have any other comment or suggestion on these sections?

Chapter 7: Marketing

This chapter deals with the provisions the Commission is proposing in relation to how gambling is advertised and promoted to customers.

7.1 Advertising

Current position

7.1.1 Advertising by gambling operators currently is subject to a range of statutory provisions and to the broadcast and non-broadcasts codes of practice issued by the Broadcast Committee of Advertising Practice (BCAP), under delegation from Ofcom, and the Committee of Advertising Practice (CAP). This has resulted in various sub-sectors of the industry being subject to different degrees of regulation. At one end of the scale are casinos, which are very tightly regulated. Both the locations and contents of casino advertisements are strictly circumscribed by law and guidelines. At the other end of the scale are bingo clubs and lotteries (other than the National Lottery), which are subject only to the CAP and BCAP codes.

The Gambling Act 2005

7.1.2 The Gambling Act 2005 removes virtually all of the existing statutory restrictions on the advertising of lawful gambling conducted in Great Britain. Responsibility for the regulation of advertising by gambling operators will be shared by the Secretary of State, the Commission, and the advertising regulatory bodies. The Secretary of State can make regulations controlling all non-broadcast forms of advertising. The Commission can include provisions about advertising in its codes of practice. Finally Ofcom is responsible for setting, reviewing and revising standards for broadcast advertisements for gambling. (This role will be exercised by BCAP under Ofcom's delegation of broadcast advertising.)

The Commission's approach

7.1.3 We see no rationale for continuing to apply such different degrees of regulation to different sub-sectors. We therefore propose to make all gambling operators subject to the same rules. We do not consider it right to prevent even the 'hard' forms of gambling from being marketed but are concerned to minimise any impact on problem gambling and to ensure that advertising is not targeted at children, young people or other vulnerable groups. We are considering whether advertisements in Great Britain should be required to include warning or educational messages such as those used in some other jurisdictions to promote responsible gambling and discourage loss-chasing or unrealistic expectations. Examples from other jurisdictions include 'please play responsibly', 'know your limit, play within it' and 'don't let the game play you'. We would welcome views both on the principle and the practicalities of such messages.

7.1.4 We will work closely with BCAP, CAP, the ASA, Ofcom and DCMS in the development of consistent codes of practice on advertising content covering broadcast and non-broadcast advertising to be issued by BCAP and CAP. Consultation on the detail of these codes will be launched by BCAP and CAP around the middle of 2006, but at present we envisage for instance that they should require advertisers:

- not to encourage irresponsible or excessive gambling;
- not to seek to harm or exploit children, the young, or other vulnerable persons;

- not to direct advertisements at those under 18; and
- only to feature in their advertisements people who are, and seem to be, over 25.

7.1.5 We consider that the requirement to comply with the new codes should be included as a social responsibility code provision, which will be binding on gambling operators (but not on other parties to the BCAP and CAP codes).

7.1.6 In the meantime we are working with DCMS and the ASA to prevent the growing number of unregulated online operators breaking the present law against advertisements which promote remote gambling.

Code of practice provision: social responsibility

All operators

- ➔ Operators must comply with the advertising code of practice.

Section 7.1: Advertising

Q.80 Do you agree with the principles of the advertising code that the Commission envisages? Is there anything you would add or remove?

Q.81 Do you agree that adherence to the code by licensed operators should be required by a licence condition, to make it mandatory?

Q.82 What do you think of the suggestion that gambling advertising should be required to include educational messages on responsible gambling?

Q.83 Do you have any other comment or suggestion on this section?

7.2 Inducements/incentives

Current position

7.2.1 At present there are few restrictions on the inducements that gambling operators may offer to customers. Those restrictions (imposed through the Commission's and the British Casino Association's Guidelines) that do exist apply to casinos, and reflect a principle underpinning the 1968 Act that demand for gambling should not be stimulated. Over time those restrictions on what casinos may and may not do to reward customers have become increasingly complicated and now contain a number of anomalies.

7.2.2 For example, casinos may pay for customers' travel and accommodation on excursions, but may not pay for travel and accommodation to visit the casino. But at the same time casinos may pay the cost of transporting customers to and from the casino by car. Similarly casinos are able to offer their customers small gifts (or more expensive ones if they are 'valued members') and hospitality on and off the premises, but only if any expenditure is reasonable and is proportionate to the business brought to the casino by the customer.

7.2.3 In the rest of the industry the offering of inducements is commonplace. Some offshore remote operators, for example, offer matching initial stakes or add money to accounts when customers' spending reaches certain levels. And a number of bookmakers (including the Tote) offer free on- and off-course bets.

The Gambling Act 2005

7.2.4 The Act (section 81 (1)) provides that a licence condition may in particular deal with inducements to gamble.

The Commission's approach

7.2.5 In determining our approach we need to balance operators' legitimate use of inducements and other marketing incentives to differentiate themselves from competitors and to attract customers against the risk that inducements may contribute to problem gambling. To prevent 'normal' marketing in the remote sphere would put operations regulated in this jurisdiction at a commercial disadvantage to those regulated elsewhere, and might discourage location here and encourage the use of off-shore sites. No research has yet demonstrated that inducements contribute to problem gambling. On the other hand, common sense suggests there is at least a potential connection.

7.2.6 Our current thinking is that we should in principle allow operators the ordinary commercial freedom to offer customers incentives to gamble, provided that there appears to be no serious risk that those inducements are frustrating the licensing objectives (for example, by encouraging loss-chasing). So, for example, a player reward scheme that is advertised only within the gambling premises in which the player earns rewards (other than winnings) simply by playing the game or gaming machines would not seem objectionable. But a promotion that encourages people to gamble by requiring them to spend a minimum amount within a relatively short period of time to qualify for rewards would be of concern. We have not yet found a satisfactory formulation to distinguish the innocuous form of inducement from the potentially harmful. We would be particularly interested in views on this.

7.2.7 Alcoholic drinks may be sold and served in casinos, bingo clubs and at racecourses but not in other gambling licensed premises. This raises the question of whether it is acceptable to offer alcohol as an inducement. Research into problem gambling indicates that people may gamble more than they intended and take more risks when they mix alcohol and gambling. For this reason the Commission's current advice in respect of casinos emphasises that it is the operator's responsibility to ensure that staff are properly briefed and trained not to offer or encourage the consumption of alcohol. Our inclination is to proceed cautiously and prohibit the use of alcohol as an incentive to gamble. The freedom to pay for and to drink alcohol is different from being given free alcohol as an incentive to gamble more. On the other hand, we consider that customers in casinos, bingo clubs and at race courses should continue to be free to drink alcohol if they pay for it.

Code of practice provision: social responsibility

Bingo and casino

- ➔ Operators must ensure that alcohol is not supplied to promote or encourage increased spend on, or speed of, gambling.

Section 7.2: Inducements

Q.84 Is there evidence that particular inducements increase problem gambling?

Q.85 Should operators be required to put in place systems enabling them and the Commission to track the impact of inducements?

Q.86 Should we seek to distinguish between 'ordinary marketing' and potentially harmful inducements? How can such a distinction best be drawn in a licence condition or in a code?

Q.87 We propose prohibiting the use of alcohol as an incentive. What is your view?

Q.88 Do you have any other comment or suggestion on this section?

7.3 Live entertainment

Current position

7.3.1 Currently the provision of entertainment in casino and bingo clubs must be incidental to gaming and in determining whether to permit casinos to provide entertainment of a type that constitutes regulated entertainment under the Licensing Act 2003, licensing authorities are asked to take into account guidance issued by DCMS. All other gambling operators are free to provide any live entertainment they wish (subject, of course, to the approval of their local licensing authority).

The Gambling Act 2005

7.3.2 The 2005 Act, while giving the Commission wide powers to set conditions, does not specifically refer to live entertainment.

The Commission's approach

7.3.3 We have been considering whether this is something we need to address using our regulatory powers. As far as we are aware no other gambling regulators restrict the ability of their operators to offer live entertainment, and we can see no public policy reasons for us to do so. In itself live entertainment poses little or no threat to licensing objectives.

7.3.4 Other areas of potential concern are the potential for live entertainment to lead to disorder, and the possibility that customers who do not wish to gamble might unwittingly find themselves on gambling premises. We propose to deal with the former through the guidance that we will issue to local authorities. We propose to deal with the latter through the advertising code of practice by requiring advertisements for live entertainment to indicate that it will be taking place in gambling premises.

Section 7.3: Live entertainment

Q.89 The Commission proposes that the relevant advertising codes should require any advertisement for live entertainment on gambling premises to make clear that it will take place on gambling premises. Do you agree?

Q.90 Do you have any other comment or suggestion on this section?

7.4 Mailing lottery tickets to non-society members

Current position

7.4.1 Some societies and external lottery managers use mailing lists to send unsolicited lottery tickets to persons other than members or those known to the society. Although most societies and external lottery managers keep a record of where and to whom tickets are sent, unsold tickets are generally not returned and there is a potential risk of underage play and also of fraud. Arguably the risk of opportunistic fraud (ie selling the tickets and pocketing the proceeds) is greater from non-member recipients of unsolicited tickets.

The Gambling Act 2005

7.4.2 The 2005 Act, while giving the Commission wide powers to set conditions, does not specifically refer to this issue.

The Commission's approach

7.4.3 We have considered whether to prohibit unsolicited mailing of lottery tickets to non-members. However, promoters have found the use of mailing lists of this kind effective as a money-raiser and would find such a prohibition a costly restriction. Were fraud to occur, they could argue that any fraud is at their expense (when money spent on tickets is not sent to them) and that it is nevertheless well worth their while to expose themselves to this risk. Others may argue that the victims of fraud are those who buy tickets and do not have their tickets entered into the draw.

7.4.4 If any action is needed to address this issue, the options appear to be:

- to require record-keeping of tickets sent out and returned but not to impose limits;
- to limit the value of tickets that can be sent to any one non-member address; and
- to prohibit any mailing of unsolicited tickets to non-members.

7.4.5 In any event, we want to prevent tickets being sent to children and to prevent underage play. We therefore favour limiting the value of tickets mailed out.

Code of practice provision: social responsibility

Lottery

- Arrangements must be put in place to prevent tickets being sent to children and to prevent underage play.

Code of practice provision

- Where tickets in a lottery are sent to people who are not members or known to the promoting society or external lottery manager, no more than £20 worth of tickets may be sent to any one non-member address.

Section 7.4: Mailing lottery tickets to non-society members

Q.91 Do you agree with the proposed restrictions on mailing lottery tickets to non-society members, in particular that no more than £20 worth of tickets should be sent to any one non-member address?

Q.92 Do you have any other comment or suggestion on this section?

Chapter 8: Dispute resolution

This chapter deals with the Commission's requirements for dispute resolution procedures for handling customers' complaints.

8.1 Dispute resolution

Current position

8.1.1 There is no uniform industry approach to the handling of complaints and disputes. The various sectors of the industry have developed their own approaches over time.

8.1.2 In the sub-sectors regulated under the Gaming Act 1968 (casinos, bingo, lotteries, and gambling machines) it has become the practice of some operators to refer to the Commission complaints and disputes that they are unable to resolve themselves.³⁵ In other sub-sectors this 'backstop' role is played by different organisations. For example, most bookmakers, and some remote gambling operators, use the Independent Betting Arbitration Service (IBAS). Complaints and disputes about football pools betting are very infrequent and are handled by the accountants appointed by the relevant licensing authority.

The Gambling Act 2005

8.1.3 The 2005 Act, while giving the Commission wide powers to set conditions, does not specifically refer to this issue.

The Commission's approach

8.1.4 We propose to cease to perform this function ourselves but will expect operators to make adequate provision for dispute resolution. Our interest in complaints and disputes is an indirect one; complaints may indicate underlying regulatory problems, such as a lack of fairness in the gambling provided by a particular operator. In order to make use of this potentially valuable source of intelligence we propose to attach to all operating licences a condition requiring operators to keep a record of complaints and disputes, and to provide them to us quarterly and on request.

8.1.5 We are however concerned that, left unaddressed, the lack of a consistent approach to handing complaints and disputes will confuse or disadvantage some customers. We are keen for the industry to develop a common approach to this issue based on best practice. That approach should combine fair and effective internal procedures with an independent external element. We will encourage the industry to work towards this, and we propose to include in all of the codes of practice a provision requiring operators to develop and implement complaints procedures accordingly.

Licence condition

All except gambling software and gaming machine technical

- ➔ Operators must keep records of complaints and disputes, and provide them to the Commission quarterly and on request.

³⁵ In 2004/5 we investigated 82 complaints that were directed to us in this way. 20 of these cases concerned casinos, 20 bingo and the remainder, lotteries and gaming machines. The issue in the majority of those cases was alleged non-payment of winnings. Once gambling debts become legally enforceable some disputes will be dealt with by the courts.

Code of practice provision: social responsibility

All except gambling software and gaming machine technical

- Operators must put in place complaints procedures which combine well publicised, fair and effective internal procedures with an independent external element.

Chapter 8: Dispute resolution

Q.93 The Commission proposes to require operators to keep records of complaints and disputes and to put in place best practice procedures including an independent element. Do you have any comments?

Q.94 Do you have any other comment or suggestion on this section?

Chapter 9: Gambling operators' employees

This chapter deals with the provisions the Commission proposes which relate to requirements on the way employees are trained and behave.

9.1 Training

Current position

9.1.1 The Commission expects adequate training for all those involved in the operation of gambling activities, but has no formal standards. Casino executives and bingo and casino managers are required to have appropriate knowledge and experience. Their knowledge can be tested at interview for their certificate of approval, but the interview can be waived, for instance where the person has undergone appropriate training or is otherwise known to have the relevant knowledge and competence. The Commission relies on operators' own training programmes to ensure that 'red' certificate holders (eg croupiers and cashiers) are properly trained. The Commission satisfies itself on the scope of the training and monitors its effectiveness via its normal compliance programme of visits and other checks – for example investigation of complaints.

The Gambling Act 2005

9.1.2 The Commission has responsibilities under section 70 of the 2005 Act, which requires it to *'form and have regard to an opinion on the applicant's suitability to carry on the licensed activities'* and, in doing so, the Commission may have regard among other things to *'the competence of the applicant to carry on the licensed activities in a manner consistent with the pursuit of the licensing objectives'*. This applies to both operating and personal licences.

The Commission's approach

9.1.3 In satisfying ourselves about the suitability of operators, both on application and thereafter, we will take into account the way in which they ensure their staff are properly trained and kept up to date, as inadequately trained staff pose an immediate threat to the licensing objectives.

9.1.4 There are two strands to the training that we will expect operators to provide or procure for their staff. The first is the specific training concerning the skills and competencies that individual members of staff need in order to maintain the integrity of the gambling provided, eg training of croupiers on the consistent delivery of games or training customer service staff to deal with complaints and disputes. The second is the training of staff on issues of social responsibility, including age identification requirements and the provision of information on problem gambling.

9.1.5 On the first, for casinos and bingo, we will continue to require senior-level licence holders ('grey' and 'white' certificate holders) to satisfy us about their competence both when applying for a certificate and subsequently. We will continue to look to the employing organisation to ensure that the more junior certificated staff are properly trained and their training is kept up to date. Again we will monitor this as part of our compliance process.

9.1.6 For the industry as a whole there are calls, for example in response to our draft *Statement of Principles*, for licence holders to be required to hold accredited training qualifications as are holders of liquor licences. This would be impractical and arguably unnecessary certainly at this stage. The gambling industry is working with its Sector Skills Council, People 1st, towards a set of National Occupational Standards and we welcome this work. We see great value in agreed occupational standards across the whole industry. Those operators already providing first class training would gain third party recognition for their courses and others, including training providers, would see clearly what was required. Such standards would also reduce the monitoring required from the Commission. We look to the industry to drive this work forward.

9.1.7 On the second strand, we recognise that if our social responsibility requirements are to be met, the industry and other organisations will need to work together to establish a useful and effective framework for social responsibility training and to procure the supply of such training, especially in the case of smaller operators who will not have the resources in-house.

9.1.8 The social responsibility code provisions in this document include the requirements on operators to provide their employees with specific training to enable them to protect children and the vulnerable and to provide open and fair gambling. These provisions provide the starting point for a responsible gambling training programme. Many operators already provide training in some if not all aspects of what we propose to require, but action needs to be taken now if all of the industry is to be ready to comply with the proposed new licence requirements.

9.1.9 Over the coming months we will be talking to the industry and other organisations with an interest in this field about how best practice benchmarks and industry-wide standards for social responsibility training can be established. To kick start this process we are convening a round-table discussion, with those who have particular expertise in the area, to map out the way forward. We will also be consulting about how we intend to carry out our compliance function and as part of that consultation we will provide more information about how our audit of training more widely might work. We would welcome views on how progress can best be made in this area.

Section 9.1: Training

Q.95 Do you agree that it would be impractical and unnecessary to require accredited training qualifications for staff holding Commission licences? If not what do you propose should be required and why?

Q.96 What responsibility do you see us having in ensuring that staff we license are properly trained and kept up to date? And how should we discharge that responsibility?

Q.97 What should we do to encourage the development of nationally accredited standards both for technical and for social responsibility related training in the gambling field?

Q.98 Do you have any other comment or suggestion on this section?

9.2 Fraternisation between casino employees and customers

Current position

9.2.1 At present the Commission places a number of restrictions on the holders of certificates of approval. One of these restrictions concerns relationships between casino employees and casino customers.

9.2.2 Social contact outside the casino by casino employees with casino members is not permitted where the relationship is likely to prejudice the judgement of or place pressure upon the employee when in the gaming environment. Whilst it is fundamental to the industry that good relations are maintained with club members, for instance through permitted levels of hospitality and social activity, it is nonetheless the responsibility of senior management to ensure that the high standards of integrity expected in the industry are not compromised by relationships which develop between employees and casino members.

The Gambling Act 2005

9.2.3 While the Act gives the Commission wide powers to set licence conditions and codes, it makes no specific reference to this issue.

The Commission's approach

9.2.4 Personal relationships between casino employees and customers are currently prohibited. Between 2002 and 2005 the Gaming Board for Great Britain revoked only 14 certificates, and issued formal warnings to the holders of 25 others, on the grounds of fraternisation. Casino operators themselves take the view that relationships between their employees and their customers rarely lead to collusion.

9.2.5 We do not want to intrude into people's private lives more than is absolutely necessary and can see that depending on circumstances, relationships between employees and customers may present no regulatory issues. We take the view therefore that fraternisation as such is less a regulatory issue than an employment one, and that it should be dealt with as such. What matters from a regulatory viewpoint is that operators ensure that any relationship between a customer and an employee does not affect the fairness and openness of the gambling operation or lead to crime. Most casino operators already have policies and procedures that prevent fraternisation from adversely affecting the licensing objectives. Some ban all contact with customers outside of work; others permit such contacts, but require their employees to report them so that management can ensure that those relationships do not compromise the employee when at work. We believe it is right that operators should police contacts between employees and customers and that the focus should be on the threat to the licensing objectives. We therefore propose to remove the restriction on casino employees socialising with casino customers.

9.2.6 We propose instead to include in the relevant code of practice a provision advising casino operators to put in place robust arrangements to deal with inappropriate relationships between employees and customers.

Code of practice provision: social responsibility

Casino

- ➔ Operators must put in place appropriate policies and procedures to manage relationships between employees and customers, based on the principle that employees should not engage in any conduct which is, or could be, likely to prejudice the licensing objectives in the discharge of their duties.

Section 9.2: Fraternisation between casino employees and customers

Q.99 The Commission proposes that operators be required to put in place policies and procedures to manage any such relationships and to avoid prejudice to the licensing objectives. Do you agree that this is sufficient?

Q.100 Do you have any other comment or suggestion on this section?

9.3 Tipping of casino employees

Current position

9.3.1 Currently regulations do not permit the tipping of certificated casino employees (executives, managers, dealers, cashiers, inspectors, supervisors and security staff) mainly on the grounds that it risks collusion. Tipping of other non-gaming casino staff is permitted and no similar restrictions are applied to other sectors of the industry.

The Gambling Act 2005

9.3.2 While the Act gives the Commission wide powers to set licence conditions and codes, it makes no specific reference to this issue.

The Commission's approach

9.3.3 We regard this issue as finely balanced. The current prohibition only applies to casino certificated staff, ie those involved with gambling activities. The rationale has been that the gaming staff might be tempted to favour or might appear to favour generous tippers. Cash payments, ostensibly as tips, could also mask payments for premeditated collusion. However non-certificated staff are allowed to receive tips and such tips can be sizeable. Arguably there is some exposure to the risk of collusive behaviour with their certificated colleagues.

9.3.4 However, as was pointed out in the Budd Report, tipping is common in other jurisdictions and there appears to be little or no evidence of difficulties arising as a result. It is debatable whether maintenance of the current prohibition is necessary to achieve the licensing objectives. Any risk of collusion could be mitigated by a system of pooling tips. On the other hand, the 'no tipping' rule is well understood and accepted by British casinos and their customers, and in the absence of a cogent argument for its removal, we currently favour leaving it in place. This is a matter on which we would particularly welcome views.

Licence condition

Casino

- ➔ Operators must prohibit customers from tipping staff who hold personal management and functional licences, and prohibit licensed staff from accepting such tips.

Section 9.3: Tipping of gambling employees

Q.101 The Commission proposes that tipping of staff who hold personal licences should be banned. This will broadly continue the present position. However, the arguments are finely balanced. What is your view?

Q.102 Do you have any other comment or suggestion on this section?

9.4 Gambling by casino operators' employees

Current position

9.4.1 Another restriction on certificated casino employees, arising from an agreement between the Commission and the British industry, is that they are not permitted to visit another British casino without the consent of both their employer and the manager of the other casino. In addition, certificated casino employees are not permitted to gamble in any casino and all casino employees are prohibited from gambling on the premises where they work. The Commission does not place any other restrictions on gambling operators' employees gambling or visiting gambling premises. Many operators prohibit their employees from gambling on their own premises; remote operators sometimes require that, if employees gamble, they should do so on their employer's site so that their activities can be audited if required. Some operators specifically prohibit employees from taking advantage of their privileged access to information on how knowledgeable customers are placing their bets.

The Gambling Act 2005

9.4.2 While the Act gives the Commission wide powers to set licence conditions and codes, it makes no specific reference to this issue.

The Commission's approach

9.4.3 We do not consider that there are adequate regulatory reasons for maintaining the restrictions on casino employees' visits to other casinos or on their gambling at another casino or at their place of employment in their own time. In the latter case there may be some actual or perceived risk of fraud or collusion but, given casino operators' internal security procedures, this risk is not significant and is for management to handle. Similarly, there are risks of collusion between betting staff and customers and some operators have rules to prevent this. We consider this is a matter for the operators to manage.

9.4.4 We have rather different concerns about the risk of staff becoming problem gamblers. Many employees have a personal interest in gambling as a leisure activity and all are exposed to gambling over extended periods. We consider it part of the operators' role to ensure that staff have access to advice on responsible gambling, and are encouraged to seek help if they find their gambling difficult to control.

9.4.5 Accordingly, we propose to remove the restrictions on licensed casino employees visiting other casinos and on licensed casino employees gambling in casinos, but to include code provisions recommending that operators take steps to ensure that staff are aware of advice on responsible gambling, and of where to get confidential help should they start to lose control of their gambling.

Code of practice provision: social responsibility

Casino, bingo, adult gaming centre, licensed family entertainment centre, betting

- Operators must ensure that staff are aware of advice on socially responsible gambling and of where to get confidential advice should their gambling become hard to control.

Section 9.4: Gambling by operators' employees

Q.103 The Commission proposes to remove the current restrictions but to require operators to ensure employees have access to advice on responsible gambling. Do you agree?

Q.104 Do you have any other comment or suggestion on this section?

Chapter 10: Special cases

This chapter deals with the Commission's proposals for licence conditions and codes in relation to special cases: the regulation of society and local authority lotteries and external lottery managers licensed by the Commission; tic-tacs; pool betting; and licensed betting exchange users. Draft guidance to licensing authorities on the regulation of small society lotteries will be given in a separate consultation document and draft guidance for exempt lotteries is on the Commission website.

10.1 Lotteries

Current position

10.1.1 Lotteries are currently regulated under the Lotteries and Amusements Act 1976. The key features for society lotteries are the need to be licensed or registered, financial compliance requirements and proceed limits – 20 per cent of the proceeds of the lottery must go directly to the purposes of the society or local authority that promotes the lottery, no more than 35 per cent of the proceeds may be used for expenses and no more than 55 per cent may be spent on prizes. The proceeds of any one lottery must not exceed £2 million, total cumulative proceeds in any one calendar year must not exceed £10 million, and the maximum prize in a single lottery must not exceed £25,000 or 10 per cent of the proceeds of the lottery up to a maximum of £200,000. The maximum price that may be charged for a ticket or chance in a lottery is £2.

10.1.2 There are 650 society lotteries registered with the Commission. Of these societies, 340 are registered charities whose annual audited accounts are submitted to the Charity Commission and a further 70 are limited companies who submit their annual audited accounts to Companies House. Annual accounts must be submitted to the Commission for all lotteries with ticket sales of more than £100,000 in any one calendar year.³⁶

10.1.3 After the completion of each lottery a society, local authority or the external lottery manager acting on their behalf, is required to submit to the Commission a lottery return. This gives key details about the lottery (numbers of tickets sold, the gross proceeds, expenses and prizes etc). This is the means by which the Commission monitors whether the basic regulatory requirements have been met. Lottery returns are examined and, where statutory limits are breached or other enquiries arise, the Commission investigates as necessary. In cases where breaches continue, the Commission has the power to revoke the registration of a society lottery.

10.1.4 The Commission sets out the requirements of the Lotteries and Amusements Act 1976, and the associated principles and procedures it considers that society and local authority lotteries should adhere to in the Commission's guidance ('Lotteries and the Law' – see Commission website). These cover for example what must be printed on tickets; prescribed registration procedures; records that need to be kept and for how long; and definition of expenses.

10.1.5 External lottery managers (ELMs) manage lotteries on behalf of licensed and registered societies and local authorities. Currently they must hold an operator's certificate of consent issued by the Commission. Societies and local authorities are advised to ensure that any arrangement they enter into with an external lottery manager provides adequate safeguards against the financial failure of the lottery manager. The ringfencing of the funds of the lottery is made a condition of registration for most external lottery managers under current rules.

³⁶ Lotteries and Amusements Act 1976, Sch. 1A, Pt. 11, Paras 13 (1) & (2) for societies and Sch. 2, Paras 6D (1) & (2) for local authorities.

The Gambling Act 2005

10.1.6 There are a number of different types of lottery permitted under the Act:

- society and local authority lotteries where if the total value of tickets a society sells in any one lottery is to exceed £20,000 or £250,000 in separate lotteries in one calendar year, they must hold a lottery operator's licence issued by the Gambling Commission;
- society lotteries with ticket sales below £20,000 in a single lottery and £250,000 in separate lotteries in one calendar year must register with their local authority;
- exempt lotteries which do not require a licence from the Gambling Commission or registration with their local authority (but which are nevertheless required to comply with the conditions specified in the Act) include:
 - incidental non-commercial lotteries – must be held at non-commercial events (commonly these are charity fund raising events);
 - private society lotteries – only members of the society or persons on the society premises can participate in the lottery;
 - work lotteries – only people who work together on the same premises may participate;
 - residents' lotteries – only people on the same set of premises may participate (eg blocks of flats); and
 - customer lotteries – only customers at the business premises may participate.

10.1.7 The Act allows for a general relaxation of lottery law in relation to licensed lotteries licensed by the Commission. In particular it:

- removes the limits on the percentage of proceeds that may be applied to expenses or prizes;
- allows rollovers of the prize fund from one lottery to another; and
- allows the sale of tickets by an automated process.

It does not replicate the requirement for annual accounts for lotteries with ticket sales of more than £100,000 in any one calendar year to be submitted to the Commission. Nevertheless it sets out a number of requirements to be achieved by mandatory conditions to be attached to lottery operating licences, including restrictions on the amounts raised and prizes; minimum contribution to good causes; and on the information to be provided.

The Commission's approach

10.1.8 We take the view that society and local authority lotteries present a relatively low risk to the licensing objectives and the aims of the Commission. We therefore propose a relaxation of the current burden of regulation, retaining only selected aspects of the current regulatory framework to be carried over to the new regime in the form of licence conditions, such as the need for lottery returns and for proper financial records and other information to be maintained.

10.1.9 We will require written advice from the auditor of large lotteries confirming that the proceeds of all lotteries conducted over the past year have been accounted for in the annual audited accounts. We are thinking of defining those with cumulative proceeds of over £1 million in a calendar year as large but would welcome views.

10.1.10 We propose that the current requirement for annual accounts should be retained together with any specific requirements as to financial or other data identified as a result of the study commissioned from KPMG (see paragraph 4.1.10). The requirement to retain annual accounts is to ensure that we cover any lottery promoters who do not already have this requirement under other legislation. But societies, local authorities and external lottery managers will no longer be required to submit these to

the Commission unless they are requested to do so. Other specified information including the number of unsold tickets in an individual lottery must be recorded and made available to the Commission for inspection on request.

10.1.11 We propose that lottery returns continue to be submitted to the Commission within three months of the date of the draw or, in the case of an 'instant lottery', within three months of the last date of sale of tickets. The return will show details sufficient to confirm that the lottery was conducted in accordance with the Gambling Act, licence conditions and codes of practice including:

- the overall proceeds;
- the amount of proceeds allocated to prizes;
- the amount of proceeds allocated to expenses; and
- the amount of the proceeds applied directly for the purposes of the society or local authority.

Retention of tickets

10.1.12 Currently the Commission recommends that unsold tickets should be retained until the submission of a lottery return. The destruction of unsold tickets is then allowed, subject to the condition that precise records of destroyed tickets are kept and that such records include evidence that the destruction was witnessed by two responsible officers of the society or local authority.

10.1.13 We do not consider that unsold tickets need be retained at all provided comprehensive records are kept. We therefore propose that there should be a licence condition requiring the maintenance of records.

10.1.14 The prohibition against the sale of society and local authority lottery tickets in the street will continue. This does not prohibit the sale of tickets from a kiosk or shop or by a person visiting the buyer at his home.

Licence condition: mandatory (section 99 of the Act)

Lottery including remote

- ➔ There will be a condition attached to all lottery operating licences to fulfil the Commission's duty under section 99(1) of the Gambling Act 2005.

In addition we propose to impose the following licence conditions:

- ➔ A lottery return must be submitted to the Commission within three months of the date of the determination of the lottery or, in the case of an 'instant lottery', within three months of the last date of the sale of tickets. It must show the overall proceeds and how they have been distributed between prizes and expenses and the amount applied directly to the society's or local authority's purpose.
- ➔ The return must be submitted to the Commission with confirmation by the lottery manager that the information given in it is correct to the best of his knowledge and belief.
- ➔ Specified³⁷ financial information must be kept and must be made available to the Commission on request.
- ➔ Society or local authority lotteries with cumulative proceeds over £1 million in a calendar year must provide the Commission with written confirmation from their auditors confirming that the proceeds of those lotteries have been fully accounted for in the annual audited accounts of the society or local authority.

³⁷ The exact requirements will be determined after recommendations of the accountancy study referred to in paragraph 4.1.10 have been considered.

- Accurate records for each lottery must be kept by the operator to support the data in the lottery returns and must be made available to the Commission when required.
- These records must include:
 - total proceeds in each lottery;
 - the percentage of proceeds allocated to prizes in each lottery;
 - the amount of proceeds allocated to expenses and details of those expenses for each lottery; and
 - the numbers of sold and unsold tickets in each lottery.
- Records must be made available to the Commission upon request.
- Society and local authority lottery tickets must not be sold in the street.

Section 10.1: Lotteries

Q.105 Should it be a requirement for larger lotteries that the promoter's auditor confirm the accuracy of the lottery returns?

Q.106 What should be the threshold above which the auditor's confirmation is required?

Q.107 Should the Commission do more to reduce the record-keeping burdens of the old regime?

Q.108 Do you have any other comment or suggestion on this section?

10.2 Tic-tacs

Current position

10.2.1 Tic-tacs are self-employed on-course bet brokers who communicate the availability of unmatched bets using hand signals and charge a percentage of each bet successfully matched. According to HM Revenue and Customs, only a handful of tic-tac operators remain. Under the new licensing regime we will be requiring them to hold betting intermediary operating licences.

10.2.2 Tic-tacs are bound by the National Pitch Rules which require them to:

- relay bets only between authorised bookmakers or their representatives; and
- maintain a full record of all transactions they have conducted in the betting ring.

10.2.3 Tic-tacs are currently prohibited from laying any bets on their own account (ie from acting as an unauthorised bookmaker).

The Gambling Act 2005

10.2.4 The Act does not refer to tic-tacs as such but in effect requires tic-tacs to act as an agent for a licensed betting operator or to be licensed as a betting intermediary.

The Commission's approach

10.2.5 We propose to reinforce the distinction between bookmakers and betting intermediaries through a licence condition prohibiting unlicensed tic-tacs from laying bets.

Licence conditions

Betting intermediary

- ➔ Unless they are holders of a general betting licence, tic-tacs must not lay bets on their own behalf.
- ➔ Tic-tacs must act only in relation to bets between holders of general betting operating licences or their authorised representatives.

Section 10.2: Tic-tacs

Q.109 Do you agree that, unless they hold a general betting licence, tic-tacs should not be permitted to lay bets on their own behalf?

Q.110 Do you have any other comment or suggestion on this section?

10.3 Conduct of pool betting

Current position

10.3.1 Pool betting may be divided into 'on-course' and 'off-course'. Off-course pool betting is dominated by football pools and fantasy competitions. On-course pool betting may only be offered at horse racecourses by the Tote (the Horse race Totalisator Board) and at dog tracks by arrangement with the track occupier. In both cases, equipment known as a totalisator must be used. Registered off-course pools promoters can offer betting on any activity. However, pool betting cannot be offered from licensed betting shops unless provided by the Tote for horserace pool betting, or certain football pool activities.

10.3.2 Pool betting is defined as a bet other than at fixed odds, where winnings shall be a share of the stake money paid whether bets are made by way of a totalisator or by coupon or other means. All pool betting is regulated by the Betting, Gaming and Lotteries Act 1963 which sets out the system of registration and control, and the circumstances for which pool operators' rules should provide, such as where a pool is not won and the stakes are carried over, the handling of disputes and rounding of winning dividends.

10.3.3 The regulatory system from the 1963 Act encompasses:

- licensing – local authorities register pools promoters;
- auditing – local authorities are responsible for auditing all pool operators other than the Tote, by appointing a 'statutory accountant'; and
- conduct of the pool – the means by which entries and stakes are received and winnings and prizes are calculated.

10.3.4 The 1963 Act requires all pool betting operators, other than the Tote, to submit to the licensing authority's 'statutory accountant' a regular statement of the percentage of the pool that they will deduct for their expenses and details of the stakes, winnings and void bets. The statutory accountant then audits:

- the total amount of stakes received;
- the total amount payable by way of winnings;

- the total amount of stakes in respect of winning bets; and
- the amount payable for each winning bet.

All pool operators are further required to lodge annual returns for pools with the local authority, following which the statutory accountant may issue a letter assuring compliance with the 1963 Act.

10.3.5 Traditionally football pools operators have used agents to return coupons and payments to them. The other popular method is by post, directly from the customer. Operators currently authorise agents both here and abroad, but state in their rules that the agent or collector is the agent of the customer not the pools operator.

The Gambling Act 2005

10.3.6 The Gambling Act 2005 defines a bet as pool betting if made on terms that the winnings shall be determined by reference to the aggregate of stakes paid and divided amongst the winners, and may be something other than money. The Act transfers responsibility for licensing and regulating pool betting from local authorities to the Commission and provides for a pool betting operating licence which will be required by anyone wishing to offer pool betting on- or off-course, except for horserace pool betting where there is a separate licence provided under section 94 of the Act. Pool betting operating licences will set the type of pool betting that is authorised and will carry a mandatory licence condition provided under section 93 of the Act concerning who is authorised to provide pool betting facilities.

10.3.7 The 2005 Act continues to allow all types of pool operator to use face-to-face methods, where relevant premises-based permission is held (dog tracks or horses at point-to-point tracks under an occasional use notice), and remote methods of communication to accept bets. Operators wishing to offer pool betting on-course may only do so under authority of a betting premises licence issued by the local licensing authority. Occupiers of tracks which host any sporting events can issue an occasional use notice to authorise betting at the track for no more than eight days per year, and will not require a full premises licence. Football pool operators can continue to use door-to-door collection agents and the Act permits premises not covered by a premises licence to be used for the collection of football pools coupons and payment, and for the payment of winnings. Football pool operators are allowed to employ young persons, and to authorise them to act as agents.³⁸ These operators will no longer be able to make their agents or collectors agents of the customers – they will have to be agents of the operator.

10.3.8 The Gambling Act 2005 maintains the requirement from the Betting, Gaming and Lotteries Act 1963 that pool betting on dog races may only be provided within licensed betting premises with the agreement of the dog track occupier. The 1963 Act makes provisions for pool betting from a host track to any other by a scheme of licensing of inter-track betting schemes. The 2005 Act withdraws the scheme and replaces it with the remote pool betting licence which will provide authority to conduct inter-track pool betting.

10.3.9 The 2005 Act does not make specific requirements regarding the accounting and administrative systems that pool betting operators must use. The Commission is required to satisfy itself that operators are competent, and is empowered to attach conditions to operating licences and to make provisions within codes of practice to facilitate this.

³⁸ See section 93 of the Act.

The Commission's approach

All licensed pool operators

10.3.10 Registered pool operators have reported that the current system of authorising third parties to accept pool bets is used infrequently and has not led to any problems. The 2005 Act continues the restrictions on authorisation and imposes a mandatory condition on all pool betting operators concerning who may accept bets. We will need to know who holds the licence holder's authority in case any question about the proper operation of the pool should arise and we propose a licence condition dealing with this.

10.3.11 The current system of controls operated by the local authority statutory accountant has provided effective assurance of the integrity of both the pool and pool operators. However, we consider that the introduction by operators of computer technology to operate pool betting makes the level of information submission stipulated by the 1963 Act excessive in terms of securing the licensing objectives. It should be sufficient for pool operators to retain a record of each pool that they provide for a minimum specified period and make this information available to the Commission upon request. Pool operators' records should be capable of disclosing an audit trail from an individual bet through to payment of winning dividend, to facilitate detailed checking if required. We may require audit checks by accountants. We consider that the current requirement on all pools operators to submit an annual statement to the statutory accountant provides valuable information about the size and conduct of the business. We propose to require all pools operators to submit an annual statement of the total stakes received for all pool competitions and deductions they have made from the pools to the Commission. We will consult further on the details of a financial monitoring regime later in the year once we have considered the recommendations from KPMG's study and any responses to this document.

10.3.12 We have considered the extent to which current requirements about information that operators must include within their rules contributes towards fair and open betting for the public. Information about how stakes and prizes will be treated makes an important contribution to public understanding of how pools work and to assessing the value of the pool in comparison with the value offered by other betting operators. We propose that operators should publish information about the percentage of each pool that they will deduct to meet their costs and profits, their procedure for handling disputes, their procedure for rounding up or down winning dividends to a whole unit, and how they will deal with 'carry overs' where there is no winner of a pool.

Dog race pool betting

10.3.13 There are also issues peculiar to on-course pool betting at dog tracks that we consider require further regulation. These concern equipment to operate the pool and the display of information.

10.3.14 Pool operators at dog racing tracks are required by the 1963 Act and the Dog Racecourse Totalisator Regulations 1995 to operate a public display system showing the total number of betting units staked in each pool. They are also required to display the minimum acceptable stake. The 1963 Act and Regulations also place detailed requirements on pool operators concerning the equipment used to operate pools (the totalisator) and the details to be included on pool betting slips.

10.3.15 We believe that the integrity and efficiency of pool operations at dog racing tracks depend on the capability of the equipment to process and retain information about bets that are made, and we propose to require pool betting operators to provide pool betting via totalisator equipment under their control which incorporates a central recording system. We also propose that pool betting equipment should be capable of recording bets, issuing detailed betting tickets to customers and centrally recording the

make-up of the pool. We understand that this reflects the current set-up of pool betting at licensed dog tracks.

10.3.16 We propose to require the display of the total number of betting units staked in each pool and the minimum stake as this enables the public to see the potential return from a pool bet and to decide whether they should place a bet into the pool or elsewhere.

Licence conditions

Pool betting

- ➔ Operators must inform the Commission within 14 days, in writing, of any person they authorise to offer pool betting. In doing so, they must include the terms and conditions under which this has been agreed, and provide contact details of the management and key staff of those that are authorised.
- ➔ Operators and any person they authorise to offer pool betting on their behalf under authority of section 93 of the Gambling Act 2005 must produce and retain a record of the transactions relevant to each pool that they offer. The record must be capable of identifying individual bets into the pool and relating these to subsequent payment of winnings where applicable. Operators must make this information available to the Commission on request.

Code of practice provisions: social responsibility

Pool betting operators and any person they authorise to offer pool betting on their behalf

- ➔ Operators or any person they authorise to offer pool betting on their behalf under authority of section 93 of the Gambling Act 2005, must publish their rules relevant to the following:
 - the deduction levels for overheads, taxes, profits etc, expressed as a percentage, from each available pool;
 - rounding of winning dividends to a whole unit;
 - procedure for the resolution of disputed bets;
 - procedure for when there is no winner of the pool, and the circumstances in which the pool is carried over; and
 - the period of time in which a winning bet may be claimed from the pool operator.

Dog race pool betting

- ➔ Operators or any person they authorise to offer pool betting on their behalf under authority of section 93 of the Gambling Act 2005, must only accept bets through equipment capable of communicating bets to a central recording system.
- ➔ The equipment must supply the person placing the bet with a betting slip or ticket containing the following information:
 - the date on which the bet is made;
 - the amount of the stake;
 - the identity of the track, the number or time of the race and the pool in respect of which the bet is made;
 - the selection or selections or combination of selections as indicated; and
 - means of identifying the equipment recording the bet.
- ➔ The central recording system must collect all bets made to each of the operator's pools and all information required to calculate the winnings of each pool and be capable of storing this information for subsequent retrieval if required by the Commission.

- Operators and any person they authorise to offer pool betting on their behalf under authority of section 93 of the Gambling Act 2005 must:
 - provide a public display system within sight of all of the operator's terminals capable of accepting pool bets situated on-course. The system should display the potential dividend returns in respect of win and place outcomes from each pool operated, and in at least one place the units staked on all types of combination bets offered. This information is to be updated whilst the pool market is open. Following conclusion of the event to which the pool relates, the total amount payable as winning dividends should be displayed as soon as possible; and
 - prominently display the minimum stake that will be accepted as a bet.

Horserace pool betting

10.3.17 The Gambling Act provides for the Commission to regulate horserace pool betting. At present the Tote operates under the 1963 Act, and is the sole authorised operator of on- and off-course horserace pool betting in Great Britain. Arrangements will be published by DCMS in due course to facilitate bringing the Tote under the scheme of Commission regulation from 1 September 2007. As a consequence, the scheme of regulation proposed in this consultation document has not yet taken account of the Tote's non-pool betting operations.

Section 10.3: Conduct of pool betting

Q.111 The Commission proposes to require a range of information and rules to be displayed by pools betting operating licence holders and any person we authorise to offer pool betting on their behalf. Have we identified the right information?

Q.112 Do you think that the acceptance of bets by authorised persons raises concerns about fair and open betting that differ from those of licensed pool betting licence holders? If so what are they?

Q.113 Do you have any other comment or suggestion on this section?

10.4 In the course of a business – licensed betting exchange users

10.4.1 Under the Gambling Act, a person commits an offence if he provides facilities for gambling without an operating licence. Under section 5 of the Act, a person provides facilities for gambling if he:

- a) invites others to gamble in accordance with arrangements made by him;
- b) provides, operates or administers arrangements for gambling by others; or
- c) participates in the operation or administration of gambling by others.

10.4.2 This provision applies to commercial betting operators and their customers. The effect is that a customer may commit an offence of providing facilities for gambling without an operating licence if he or she makes or accepts a bet, or offers to make or accept a bet, unless he or she acts 'otherwise than in the course of a business'.³⁹ The offending individual may be the customer of a betting exchange or of a fixed odds bookmaker. However, the majority of bookmakers' customers bet through shops and their betting activity is unrecorded.

10.4.3 The concept of 'in the course of a business' is well understood in relation to tax law. Clearly anyone regarded by the tax authorities as trading 'in the course of a

³⁹ Section 296 of the 2005 Act.

business' would need to be licensed as otherwise they would be providing facilities for gambling illegally. We will take enforcement action against those brought to our attention, eg by the tax authorities, as betting 'in the course of a business' without a licence. We have also considered whether the concept needs to be developed in the context of the Gambling Act and the associated requirement for an operating licence. We have looked at the potential threat to the licensing objectives posed by someone offering and taking bets on an exchange in a manner analogous to the conventional bookmaker. We do not see that there is any threat in terms of protection of funds staked or ability to pay out winnings, nor in terms of protection for children and the vulnerable. These risks are managed by the licensed exchange.

10.4.4 There is a risk in terms of those who use inside information, typically to lay bets against an outcome or who collude to rig results, but it does not seem appropriate or proportionate to address that risk by seeking to licence individuals. The more targeted response seems to us to build on the commercial need for exchanges to hold records of their customers' identities and participation in gambling and develop and use their audit trail capacity and agreements with sporting bodies to identify and combat the use of inside information or event-rigging. We have not decided whether there need to be any additional requirements on exchanges to ensure that they have the necessary audit trails and that they work closely with the various sporting authorities. We would particularly welcome views.

Chapter 11: Gambling Commission activities

This chapter deals with the Commission's requirements for access to premises and information.

11.1 Access to premises for inspection and enforcement

Current position

11.1.1 Under the current regulatory regime the Commission conducts regular compliance visits to casino and bingo premises, and those of gaming machine suppliers. Major inspections (covering all aspects of a casino's operations) and thematic inspections (covering a specific issue and involving a number of casinos) are also conducted from time to time. Most visits and inspections are unannounced.

The Gambling Act 2005

11.1.2 The Gambling Act 2005 gives the Commission's enforcement officers extensive powers to enter both licensed and unlicensed premises, and premises used in connection with gambling (for example, an operator's head office), for inspection and enforcement purposes.

The Commission's approach

11.1.3 We expect for the most part to be able to continue to follow our existing approach, conducting inspections when our risk assessment model or other relevant information indicates that they are necessary. The large number of operators and premises demands a selective approach. However, we will use our powers of entry when necessary, as well as conducting random unannounced inspections.

11.1.4 We will expect operators to cooperate fully with us in this and we propose a licence condition accordingly.

Licence condition

All

- ➔ Operators must have arrangements in place to ensure that the Commission is given full and unrestricted access to any premises that are used for purposes connected with the licensed activities.

Section 11.1: Access to premises for inspection and enforcement

Q.114 The Commission proposes a straightforward licence condition that operators should give us full access. Do you agree?

Q.115 Do you have any other comment or suggestion on this section?

11.2 Requests for information from the Commission

Current position

11.2.1 Under existing legislation applicants are asked to provide a range of information to enable the Commission to carry out its statutory duties to assess whether applicants are suitable to provide facilities for gambling. Some further information is routinely requested from casino and lottery operators as part of our monitoring arrangements.

The Gambling Act 2005

11.2.2 The 2005 Act empowers the Commission to require information from applicants and licensees both in relation to compliance and the suitability of licensees (section 122) and in relation to suspected offences or breaches of sporting rules or about use of gambling facilities (section 88). The Commission is also able to collect information which enables it to fulfil its duty under section 26 (1) to advise the Secretary of State on the incidence of gambling, the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling.

The Commission's approach

11.2.3 We are committed to observing the better regulation principles which state that information requirements placed on businesses for compliance and suitability purposes should be risk based. However, we must be able to obtain any necessary information in order to make a decision about whether the licence holder has breached licence conditions or is unsuitable to carry on gambling activities. We will thus take a balanced and proportionate approach to requesting such information to meet our statutory obligations including provision of advice to the Secretary of State on gambling matters.

11.2.4 In requesting information we will specify

- the information required;
- the timescale in which the information is to be provided; and
- the reasons for the request (eg to enable the Commission to determine an applicant's suitability or fill a gap in information provided previously).

11.2.5 Where possible we will also require licensees to maintain appropriate records for inspection rather than providing data to the Commission (eg – maintenance of internal audit plans, procedures and reports). However, both during the application for a licence and from time to time after the grant of a licence further detailed returns may be required for us to meet the licensing objectives.

Licence conditions

All

- ➔ Operators must provide the Gambling Commission with any information that the operator suspects may:
 - relate to the commission of an offence under the Gambling Act 2005, including an offence resulting from a breach of a licence condition or a code provision having the effect of a licence condition;
 - relate to a breach of a rule applied by a sporting or other body; or
 - lead the Commission to consider making an order to void a bet.

- ➔ On request, operators must provide the Commission with any such information as the Commission may require about the use made of facilities provided in accordance with this licence, and the manner in which gambling authorised by this licence is carried on, including in particular information about:
- the numbers of people making use of the facilities and the frequency of such use;
 - the range of gambling activities provided by the licensee and the numbers of staff employed in connection with them; and
 - the licensee's policies in relation to, and experiences of, problem gambling.

Section 11.2: Requests for information from the Commission

Q.116 The Commission proposes a licence condition for all operators enabling us to require operators to provide information necessary for us to carry out our duties. Do you agree?

Q.117 Do you have any other comment or suggestion on this section?

11.3 Agreements to share betting operator data with sporting bodies

11.3.1 Currently some sports governing bodies have voluntary agreements to obtain betting data with a number of betting businesses. This is primarily to facilitate investigation in cases where there is a suspicion of event-rigging for cheating purposes.

The position under the Gambling Act and the Commission's approach

11.3.2 The Commission has a close interest, particularly because of its power to prosecute cases of cheating and to void bets. We do not deal with the substance of the Commission's role on cheating and voiding in this document, as explained in paragraph 1.1.7.

11.3.3 Although agreements are in place, they are non-binding and there is a concern that they provide an insecure basis for pursuing individual cases, particularly where the betting operator's customers may refuse to give permission for disclosure of data relating to them. The question therefore arises whether it would be appropriate for us to make it a licence condition for all types of betting operators that they should make it a term of business that customers agree to details about their betting being shared with the Commission and the relevant sports bodies where there was justification for its use.

11.3.4 We have not yet taken a clear view on this suggestion and there may be obstacles in terms of privacy rights. We would clearly need to do more work to define the information in question and the exact terms on which it was shared.

11.3.5 We would particularly welcome views on whether the idea of legally required information sharing about individuals' betting is a reasonable one; and if so how such an arrangement would best be framed in a licence condition.

Chapter 12: Public registers of licence holders and premises

12.1 Operating, personal and premises licences

The Gambling Act 2005

12.1.1 The Gambling Act 2005 requires that the Commission maintain registers of operating and personal licences, and make them available to the public for inspection.

The Commission's approach

12.1.2 We propose to comply with this requirement by making available on our website a searchable database of operating and personal licences and of gambling premises. We believe that this is likely to be the best way of meeting the information needs of most enquirers.

Operating licences

12.1.3 We propose to make available on the register any information about an operator that is not commercially sensitive, such as:

- name of the company, partnership or individual to whom the license has been issued;
- the operator's business or head office address;
- type of licence (including whether or not remote licence held as well or instead);
- licence number;
- date when the licence was issued;
- any restrictions or conditions attached to the licence; and
- any sanctions that have been imposed following a review of the licence.

12.1.4 We think it would be appropriate for operators' business names, business addresses, licence numbers, penalties imposed and type of licence to be search criteria.

Personal licences (management and functional)

12.1.5 As personal licences will be held by individuals and will not be linked to particular operators, we expect that employers will wish to use the register to confirm whether or not an individual holds a valid licence. Members of the public too may have reasons for wishing to know whether an individual holds a personal licence.

12.1.6 Under the Data Protection Act, we will have to notify the Information Commissioner annually that we will be processing the personal information obtained from applications for personal licences. Including some of that data on a register gives rise to no additional data protection issues. However, we will need to inform applicants, on the application form, that their details will be held on a public register if their application is successful. Applicants will also have the right to have any inaccuracies in the published information corrected.

12.1.7 We must avoid compromising licence-holders' personal privacy and safety and avoid providing opportunities for identity fraud. Accordingly we propose to place the following information on the register of personal licences:

- first name;
- middle initials (if any);
- family name;
- category of licence held;
- licence number;
- date when the licence was issued; and
- any sanctions that have been imposed on the licence-holder,

but not other information such as their private addresses or birth dates.

12.1.8 As searches of this register should be for individual licence holders only (as opposed to lists of names within a particular licence category), we think it would be appropriate to permit searches by licence number or by name.

Premises licences

12.1.9 As far as premises are concerned, we will need to know the location of all licensed premises so that we can carry out compliance visits. It would be most efficient to receive this information directly from licensing authorities who are anyway required under section 156 to maintain their own registers. Our intention is to provide for the electronic transfer of this information between licensing authorities and the Commission. For those not able to submit information electronically initially, we will be able to receive information from them by email and by post, and to enter it onto our database manually. In developing a solution we will work to ensure that we do not place an unreasonable burden on licensing authorities.

Chapter 12: Public registers of licence holders and premises

Q.118 The Commission proposes public registers of operating, personal and premises licences. Could specific identifiers such as date of birth be added to the personal licence register without increasing the risk of fraud?

Q.119 Do you have any other comment or suggestion on this section?

Consultation questions

You are invited to comment freely on any aspect of this consultation document. However, you may find it helpful to have the checklist of questions below, which cover the main points on which we would particularly welcome views.

Please:

- be as specific as possible in your responses;
- where you disagree with what the Commission propose, explain why; and
- say what alternative you would suggest in place of the Commission's proposal.

Chapter 1: The regulatory framework

- Q.1 What comment do you have on the Commission's broad approach to regulation?
- Q.2 Do you have any comment on the list of high-level principles (for example, the need for integrity) that we expect to be followed by holders of operating or personal licences?
- Q.3 How should we further develop our approach to risk?
- Q.4 How should we strike the right balance between proper regulation of the remote sector and the danger of driving operators and customers away to sites outside Great Britain?
- Q.5 Do you have any other comment or suggestion on this section?

Chapter 2: Licensing process

- Q.6 Do you agree that those holding the roles of chief executive, finance director, chief compliance officer and marketing director should be required to hold personal management licences (PMLs)? What other roles, if any, should be restricted to personal management licence holders?
- Q.7 Do you agree that in larger operators, where responsibility for issues of regulatory interest is delegated, managers responsible for regions or areas or individual sites should be required to hold PMLs?
- Q.8 Personal functional licences (PFLs) provide some assurance of the post-holder's competence and against the post-holder exploiting his position for crime. With this in mind, the Commission proposes to continue to require personal licences in casinos for: dealers, cashiers, inspectors and supervisors of gaming activities. Do you agree? If not, what posts would you add or remove, and why?
- Q.9 Do you have any other comment or suggestion on this section?

Chapter 3: Technical standards

- Q.10 Do you have any comment on the way the Commission proposes to require compliance with our technical standards on gaming machines, remote gambling systems and bingo and casino equipment other than machines? (We will consult separately, in summer 2006, on the technical content of the standards.)

Section 4.1: Financial robustness: general requirements

- Q.11 What indicators should the Commission use in assessing financial robustness of applicants for operating licenses and for subsequent monitoring?
- Q.12 What other methods of financial assurance should we require from different types of operators?
- Q.13 What specific financial underpinning should be required, if any, to secure the payout of sizeable winnings? Do you have any comment on our proposal to require the payout of winnings on demand and for notification of any failure to comply?
- Q.14 What would be an appropriate level for the cumulative prize liability below which we should rely on self-certification by small operators?
- Q.15 Do you have any other comment or suggestion on this section?

Section 4.2: Protection of customer funds

- Q.16 What comment do you have on the proposal that customers' funds held by operators must be ring-fenced from operators' own funds? Do you have views on how best to make this proposal effective?
- Q.17 Does this approach to the protection of customer funds pose any particular problem for operators? If so, do you have any suggestions for solving them?
- Q.18 What would be an appropriate threshold below which the Commission should not require independent assurance of the effectiveness of the ringfence?
- Q.19 Do you have any other comment or suggestion on this section?

Section 4.4: Cash handling

- Q.20 The Commission proposes that operators must draw up and implement documented procedures on cash handling to minimise the risk of theft, money laundering and illicit credit and to monitor compliance with the 'fair and open' licensing objective. Is our proposal sufficiently specific to be effective? If not, what do you suggest?
- Q.21 What comment do you have on the proposal that operators must (subject to specific exceptions) bank customer cheques promptly, within two banking days, in order to prevent any delay which could give the customer illicit credit?
- Q.22 Do you have any other comment or suggestion on this section?

Section 4.5: Money laundering

- Q.23 What comment do you have on the Commission's proposal for code of practice provisions to reflect the duties on operators under money laundering laws?
- Q.24 Do you agree that code provisions similar to those applying to non-remote casino operators should apply to all remote gaming? If not, what alternative approach do you propose?

- Q.25 We propose code provisions for betting operators on arrangements for Suspicious Activity Reporting. Do you have any comment on this proposal? If you disagree, what alternative approach do you propose?
- Q.26 Do you agree that, for other gambling operators, who are subject to the same general requirements as any other commercial or retail businesses in respect of anti-money laundering legislation, there is no need to apply any specific further requirement? If not, what requirements do you propose?
- Q.27 Do you have any other comment or suggestion on this section?

Section 5.2: Access to gambling by children and young people

- Q.28 The Commission proposes licence conditions and code provisions on controlling access to premises subject to age restrictions. What comment do you have on the general approach and with the specific requirements proposed? If you disagree, what specific alternatives would you propose?
- Q.29 What comment do you have on our proposals for licence conditions and code provisions to prevent underage gambling in premises open to children and young people?
- Q.30 The Act requires a code of practice on access to casino premises, with a special role for supervisors at each entrance or in the case of the regional casino, the gambling area. Do you have any comment on our proposed code?
- Q.31 We propose licence conditions and code provisions on preventing gambling using remote gambling facilities in breach of the statutory age restrictions. What comment do you have on the general approach and the specific requirements proposed? What alternatives do you advocate specifically?
- Q.32 Should there be any further controls on underage gambling, additional to those we propose?
- Q.33 Do you have any other comment or suggestion on this section?

Section 5.3: Continuous and repetitive play

- Q.34 The Commission proposes licence conditions requiring operators to put in place policies and procedures aimed at preventing continuous and repetitive play. In addition, technical standards will contribute to the same objective. Is there more we should do in this area?
- Q.35 Do you have any other comment or suggestion on this section?

Section 5.4: Information on how to gamble responsibly and on help for problem gamblers

- Q.36 The Commission proposes requirements on most sectors of the industry to ensure that operators provide appropriate information to customers about safe gambling and about sources of help in dealing with problem gambling. Are the general approach and the specific proposals right? Are there specific additional topics the information should cover?
- Q.37 Do you have any other comment or suggestion on this section?

Section 5.5: Intervention

- Q.38 The Commission proposes requirements to ensure appropriate intervention by certain operators in cases where problem gambling is suspected. Do you have any comments on our approach?
- Q.39 Should other types of gambling operator such as pool betting operators, licensed family entertainment centres and lottery operators be required to intervene in cases where they suspect problem gambling?
- Q.40 How far is it feasible to use technology such as smart cards and loyalty systems to track, and intervene in, problem gambling behaviour? What behaviour would suggest problem gambling? To what extent is it possible to identify problem gambling in the remote gambling sector based on patterns of play?
- Q.41 Is it acceptable for the information gained from such systems to be used to identify cases of problem gambling, provided that this is made clear to customers when they first join the system?
- Q.42 We argue that operators should take into account information from third parties such as family members in cases where a possible problem gambler lacks the capacity to make adult decisions. However, we do not propose a formal requirement in this area. What is your view?
- Q.43 Do you have any other comment or suggestion on this section?

Section 5.6: Self-exclusion

- Q.44 The Commission proposes requirements on certain operators to operate self-exclusion schemes. Do you have any comment on our general approach? Is our proposed coverage (ie not including pubs, licensed or unlicensed family entertainment centres and lotteries) right?
- Q.45 Do you consider that the proposed minimum period of six months for self-exclusion is reasonable? If not, what alternative do you propose and why?
- Q.46 We propose a time limit of 14 days within which restrictions on marketing must be implemented after an individual has chosen self-exclusion. Is this reasonable and practical?
- Q.47 Do you have any other comment or suggestion on this section?

Section 5.7: Employment of children and young persons

- Q.48 Operators must comply with the Act's restrictions on the employment of children and young people on gambling premises. The Commission proposes code provisions indicating how operators must implement these restrictions. Are they sufficient?
- Q.48 We consider that children and young people employed in remote gambling operations are not likely to be directly involved in providing facilities for gambling. Our tentative conclusion is that no additional guidance or code provisions are needed. We would particularly welcome views on this.
- Q.50 Do you have any other comment or suggestion on this section?

Section 5.8: Provision of credit by operators and the use of credit cards

- Q.51 What comment do you have on the Commission's proposal to permit payment by credit card for certain types of operator, subject to a number of provisos? Do you support the proposed list of provisos?
- Q.52 To what extent do remote gambling operators currently offer credit to their customers? Is there a sufficient justification for allowing remote operators licensed by us to do so?
- Q.53 Do you have any other comment or suggestion on this section?

Section 5.9: Money lending between customers

- Q.54 What comment do you have on the proposal that operators should take steps to prevent systematic or organised money-lending between customers on their premises, including the exclusion from the premises of customers suspected of involvement?
- Q.55 Do you have any other comment or suggestion on this section?

Section 6.1: Fair and open provisions – rules and information display

- Q.56 The Commission proposes to require all gambling operators to make available their terms of business to customers, to satisfy themselves that their terms do not breach the Unfair Contract Terms Act and the relevant regulations under the Act, and to be ready to give evidence that they have done so. Do you agree?
- Q.57 Is our proposed list of issues to be covered in the information operators must make available to customers, together with the proposed requirements for making the information accessible, sufficient to secure the necessary openness?
- Q.58 Do you have any other comment or suggestion on this section?

Section 6.2: Display of licensed status

- Q.59 Do you agree that non-remote operators should be required to indicate at their premises that they are regulated by the Gambling Commission?
- Q.60 Would it be too burdensome to require that Commission-licensed lottery tickets should bear the note 'Licensed by the Gambling Commission'?
- Q.61 Should display of licensed status be required for internet website operators licensed by us? If so, is it important that customers should be notified when they are leaving a Commission-licensed site?
- Q.62 Do you have any other comment or suggestion on this section?

Section 6.3: Types and rules of casino games

- Q.63 Should terrestrial casinos be limited to offering games on a list approved by the Commission, including some test games, played on Commission-approved rules?

- Q.64 Are there any games that you would like to be proscribed on Commission-licensed sites, terrestrial or remote? If so, why?
- Q.65 Would it be sensible to relax the current controls on the rules of games in terrestrial casinos or would this risk unfairness?
- Q.66 Should remote operators retain the freedom to offer any games, subject to providing sufficient information about how to play, and subject to meeting technical standards and testing requirements for games software? Would this pose any threat to the licensing objectives?
- Q.67 We tentatively propose a code provision that if remote operators offer similarly-named but different casino games they should identify any differences that may confuse players. Do you think that there is a real problem? Do you support our proposal?
- Q.68 Do you have any other comment or suggestion on this section?

Section 6.5: Types and rules of games played in bingo clubs

- Q.69 The Commission proposes to make a list of proscribed games that bingo operators will not be allowed to offer. Do you agree?
- Q.70 We expect that bingo operators will want to introduce new games. We would particularly welcome views on what type of games should be available in bingo halls in future and what related restrictions on stakes and prizes should apply.
- Q.71 Do you have any other comment or suggestion on this section?

Section 6.6: Card clubs, card room gaming and card competitions – games of equal chance

- Q.72 Do you agree with the Commission's proposal to continue the present rule that there should be no levy on stakes or winnings in card room gaming, but casinos may continue to charge for the use of the card room?
- Q.73 Do you agree that we should scrap the current detailed guidelines on the running or hosting of card competitions and rely instead on the general licence condition (section 6.1) that customers must have the information necessary for informed decision-making?
- Q.74 Do you have any other comment or suggestion on this section?

Section 6.7: Off-course betting

- Q.75 The Commission makes detailed proposals on the information off-course betting operators should be required to make available to customers. Do you agree with our proposals for what operators should display at their premises; include in their full rules; and show on betting slips? Would you add or remove anything from our proposed list?
- Q.76 Do you have any other comment or suggestion on this section?

Section 5.8: On-course betting

- Q.77 The Commission makes detailed proposals on the information on-course betting operators should be required to make available to customers. Do you agree with our proposals for what operators should display at their premises; include in their full rules; and show on betting slips? Would you add or remove anything from our proposed list?
- Q.78 We consider it is not necessary to apply our requirements for operators at approved horserace tracks to betting operators at dog racing tracks and non-approved horse racing tracks. Do you agree?
- Q.79 Do you have any other comment or suggestion on these sections?

Section 7.1: Advertising

- Q.80 Do you agree with the principles of the advertising code that the Commission envisages? Is there anything you would add or remove?
- Q.81 Do you agree that adherence to the code by licensed operators should be required by a licence condition, to make it mandatory?
- Q.82 What do you think of the suggestion that gambling advertising should be required to include educational messages on responsible gambling?
- Q.83 Do you have any other comment or suggestion on this section?

Section 7.2: Inducements

- Q.84 Is there evidence that particular inducements increase problem gambling?
- Q.85 Should operators be required to put in place systems enabling them and the Commission to track the impact of inducements?
- Q.86 Should we seek to distinguish between 'ordinary marketing' and potentially harmful inducements? How can such a distinction best be drawn in a licence condition or in a code?
- Q.87 We propose prohibiting the use of alcohol as an incentive. What is your view?
- Q.88 Do you have any other comment or suggestion on this section?

Section 7.3: Live entertainment

- Q.89 The Commission proposes that the relevant advertising codes should require any advertisement for live entertainment on gambling premises to make clear that it will take place on gambling premises. Do you agree?
- Q.90 Do you have any other comment or suggestion on this section?

Section 7.4: Mailing lottery tickets to non-society members

- Q.91 Do you agree with the proposed restrictions on mailing lottery tickets to non-society members, in particular that no more than £20 worth of tickets should be sent to any one non-member address?

Q.92 Do you have any other comment or suggestion on this section?

Chapter 8: Dispute resolution

Q.93 The Commission proposes to require operators to keep records of complaints and disputes and to put in place best practice procedures including an independent element. Do you have any comments?

Q.94 Do you have any other comment or suggestion on this section?

Section 9.1: Training

Q.95 Do you agree that it would be impractical and unnecessary to require accredited training qualifications for staff holding Commission licences? If not what do you propose should be required and why?

Q.96 What responsibility do you see us having in ensuring that staff we license are properly trained and kept up to date? And how should we discharge that responsibility?

Q.97 What should we do to encourage the development of nationally accredited standards both for technical and for social responsibility related training in the gambling field?

Q.98 Do you have any other comment or suggestion on this section?

Section 9.2: Fraternisation between gambling employees and customers

Q.99 The Commission proposes that operators be required to put in place policies and procedures to manage any such relationships and to avoid prejudice to the licensing objectives. Do you agree that this is sufficient?

Q.100 Do you have any other comment or suggestion on this section?

Section 9.3: Tipping of gambling employees

Q.101 The Commission proposes that tipping of staff who hold personal licences should be banned. This will broadly continue the present position. However, the arguments are finely balanced. What is your view?

Q.102 Do you have any other comment or suggestion on this section?

Section 9.4: Gambling by operators' employees

Q.103 The Commission proposes to remove the current restrictions but to require operators to ensure employees have access to advice on responsible gambling. Do you agree?

Q.104 Do you have any other comment or suggestion on this section?

Section 10.1: Lotteries

- Q.105 Should it be a requirement for larger lotteries that the promoter's auditor confirm the accuracy of the lottery returns?
- Q.106 What should be the threshold above which the auditor's confirmation is required?
- Q.107 Should the Commission do more to reduce the record-keeping burdens of the old regime?
- Q.108 Do you have any other comment or suggestion on this section?

Section 10.2: Tic-tacs

- Q.109 Do you agree that, unless they hold a general betting licence, tic-tacs should not be permitted to lay bets on their own behalf?
- Q.110 Do you have any other comment or suggestion on this section?

Section 10.3: Conduct of pool betting

- Q.111 The Commission proposes to require a range of information and rules to be displayed by pools betting operating licence holders and any person we authorise to offer pool betting on their behalf. Have we identified the right information?
- Q.112 Do you think that the acceptance of bets by authorised persons raises concerns about fair and open betting that differ from those of licensed pool betting licence holders? If so what are they?
- Q.113 Do you have any other comment or suggestion on this section?

Section 11.1: Access to premises for inspection and enforcement

- Q.114 The Commission proposes a straight forward licence condition that operators should give us full access. Do you agree?
- Q.115 Do you have any other comment or suggestion on this section?

Section 11.2: Requests for information from the Commission

- Q.116 The Commission proposes a licence condition for all operators enabling us to require operators to provide information necessary for us to carry out our duties. Do you agree?
- Q.117 Do you have any other comment or suggestion on this section?

Chapter 12: Public registers of licence holders and premises

- Q.118 The Commission proposes public registers of operating, personal and premises licences. Could specific identifiers such as date of birth be added to the personal licence register without increasing the risk of fraud?
- Q.119 Do you have any other comment or suggestion on this section?

How to contribute to this consultation

Responses to the questions raised in this consultation document should reach the Gambling Commission by 2 June 2006.

Please indicate clearly the questions or issues your responses refer to. A numbered response form in MS Word format is available from the Consultation section of the Gambling Commission website at:
www.gamblingcommission.gov.uk

We would prefer to receive responses by email. Please send them to:
consultationmailbox@gamblingcommission.gov.uk

If you would prefer to post your comments, please send them to:
Consultation Coordinator
Gambling Commission
Berkshire House
168/173 High Holborn
London WC1V 7AA

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who that organisation represents. If responding as an individual, please mention your own interest.

Please note responses may be made public or published in a summary of responses to the consultation unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission to us, we will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.

Further information and copies of the consultation document are available from:
Consultation Coordinator
Phone: 0207 306 6200
Email: Consultation@gamblingcommission.gov.uk

Following the end of the consultation we will prepare a summary of responses. We expect to publish this on the Gambling Commission website in the Autumn.

This consultation is being carried out in accordance with the Cabinet Office Code of Practice on Consultation. The criteria are listed on the Commission's website, together with details of who to contact with any comments on the consultation procedure or complaints about the way it is being conducted. The complete code is available on the Cabinet Office website:
www.cabinetoffice.gov.uk/regulation/consultation

