

# **GRAF WORKING GROUP ON TECHNICAL ISSUES DISCUSSION PAPER**

*The attached paper was drafted in March 2007 and explains the author's perspective on the National Lottery Commission's duties and approach at that date. Whilst there have been no substantive changes to the legal regime in the United Kingdom as it affects the duties of the National Lottery Commission, the licence to which the document refers has been replaced by a new operator's licence with effect from 1 February 2009. The new licence is structured differently from that referred to in the paper, and in some aspects contains different provisions. The paper has not been updated to reflect these changes.*

*The paper has been discussed and accepted in the 7th meeting of the GRAF Working Group on Technical Issues on 2 March 2007 in The Hague, The Netherlands, and has been endorsed at the annual meeting of GRAF on 12 June 2009 in Tallinn, Estonia.*

## **APPROACH TO PROBLEM GAMBLING – UK NATIONAL LOTTERY**

### **A BACKGROUND**

1. The National Lottery in the United Kingdom is a commercially operated monopoly run for the national benefit. It contributes around 28% of sales to good causes, and a further 12% in duty to the Exchequer. The right to operate the National Lottery is regulated by licence. The licence is granted and enforced by the National Lottery Commission, a regulator set up solely for this purpose. In addition to the grant of the operator's licence, each game that forms part of the National Lottery must also be licensed by the National Lottery Commission.

2. This paper sets out the broad approach taken by the National Lottery Commission, when granting licences, in respect of problem gambling. The paper has not been approved by the Commission itself, and does not constitute a formal policy statement.

### **B THE COMMISSION'S RESPONSIBILITIES**

3. The legislation which created the National Lottery Commission places three overriding duties on it. The Commission must exercise its functions in the manner it considers most likely to secure that:

- (a) the National Lottery, and every game that forms part of it, is run with all due propriety;
- (b) the interests of every participant in a lottery that forms part of the National Lottery are protected;
- (c) subject to these two duties, the returns to good causes are as great as possible.

4. In addition, the Commission must comply with Directions issued to it by the Secretary of State. The Secretary of State has issued the following Direction:

“The Commission shall exercise its [licensing] functions ... in such a manner as to ensure that no licence is granted which authorises the promotion of any lottery .... which in the opinion of the Commission:

- a) encourages persons to participate excessively in such lotteries; or
- b) does not allow for sufficient controls to prevent persons who have not attained the age of 16 years from participating in such lotteries.

5. It is important to note that the Commission does not have a duty to identify and exclude problem gamblers. Rather, it has to ensure that any lottery it is asked to licence does not encourage excessive participation. The Commission is not required to take action to address the behaviour of an individual or small number of players.

6. The Commission has, in the past, taken the view that it would be counter-productive to try to define excessive participation. In part, this is because it considers that it is unlikely to be able to construct a meaningful definition which would capture all such lotteries, whilst excluding any lotteries which are unlikely to encourage excessive play. In addition, the wording of the Secretary of State’s Direction requires the Commission to exercise its judgement for each and every proposed lottery. The approach is, therefore, to assess each proposal on its merits, on a case-by case basis.

## **C OVERALL APPROACH**

### ***C1 General requirement of the operator***

7. In order to become the operator of the National Lottery, the bidder must demonstrate that it will establish arrangements that meet the Commission’s requirements for the prevention of excessive play.

8. The operator’s licence contains a requirement to adopt, maintain and implement a strategy to prevent excessive play of the Lottery<sup>1</sup> which shall in particular deal with game research and design, marketing, public information and education, accessibility, staff and distributor training, monitoring and support for the treatment of problem gamblers.

9. This strategy is subject to approval by the Commission. The Commission has the right to require changes to be made to the strategy.

### ***C2 In deciding whether to grant a licence for a particular lottery***

10. The Commission’s starting point is that it requires the operator to provide evidence, as part of its licence application, that the proposed lottery is not likely to encourage persons to participate excessively. The Commission will then scrutinise the evidence provided, having full regard to appropriate research literature within the UK and from overseas. This might include, for example, evidence on levels of play of particular types of game – such as the UK study into the prevalence of gambling, and annual research carried out by Gamcare<sup>2</sup>.

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<sup>1</sup> For the current strategy, please refer to [http://www.camelotgroup.co.uk/crreport2006/docs/excessive\\_play.doc](http://www.camelotgroup.co.uk/crreport2006/docs/excessive_play.doc)

<sup>2</sup> Gamcare is a UK charity which supports those who have problems with their gambling behaviours.

11. This approach is evolving into a risk based assessment. Typically, the evidence suggests that traditional, draw-based lotteries present a low risk of encouraging excessive participation. Scratchcards present a higher risk, although evidence to date suggests the risks generally remain relatively low when compared against other UK gambling products. Lotteries such as fast-draw keno and video lottery terminals contain features that suggest the risks of encouraging excessive participation may be relatively high, and the Commission has indicated in the past that it would require strong evidence before licensing such lotteries.

12. The present operator has responded to this challenge by developing a diagnostic tool, referred to as the Game Design Protocol (see Annex A). The Commission had an independent expert validate this tool before placing any reliance on it. The Commission's stance is that, whilst it accepts the outputs of the tool as valid evidence on the likelihood that a lottery will encourage excessive participation, it does not treat the outputs of the tool as conclusive.

13. Where the evidence provided is inconclusive, the Commission reserves the right to require the operator to provide further evidence or to gather evidence itself. It is likely that, in future, the Commission will consider wider consultation (either general or with the 'expert community') to assist it in its decision-making for higher-risk proposals.

14. It is important to note that the design features of any proposed lottery are highly material. It is not sufficient to say that the game is draw-based and is therefore of low risk. Equally, a proposed lottery that is of a type that is generally higher-risk might include design features that reduce that risk.

### **C3 Post-launch**

15. Whilst the Commission will have taken the view that a proposed lottery is unlikely to encourage excessive participation before it licenses it, there may in some cases be a degree of uncertainty. This is typically the case where a lottery contains novel features. In such cases, the Commission will typically attach conditions to the licence. These will require further information on patterns of participation to be collected – normally by the operator – so that the game can be assessed in a 'real' environment. The Commission will also retain the right to require the operator to withdraw the lottery from sale if it becomes convinced that the lottery is encouraging persons to participate excessively.

## **D Case study – interactive instant win lotteries**

16. A good example of the importance of the 'post-launch' element in the Commission's approach to excessive participation is highlighted by its approach to the introduction of interactive instant win lotteries (IIWLs). These are, in effect, scratchcards offered over the internet and played interactively. Whilst the Commission is satisfied that scratchcards to date have generally presented a relatively low risk of encouraging excessive participation, IIWLs operate in a different environment and so may well pose different risks.

17. One advantage of IIWLs is that they can only be played by registered players and each transaction is logged. This has presented a new opportunity for evidence based analysis of player behaviours, such as:

- Levels of spend;
- Transactional patterns: eg

- spend per session,
  - timing of sessions,
  - duration of sessions,
  - frequency of sessions.
- Relative performance of different IIWLs.

18. There are limitations to the value of such data, especially in individual cases – for example, one player may be able comfortably to afford levels of spend which would be excessive for another. The main value of such data is that it can look at patterns and so provide evidence, for example, on:

- what proportion of the player population plays above a certain level;
- whether there are particular transactional patterns associated with heavy participation;
- which IIWLs generate heavier individual participation.

19. With this evidence, the operator and Commission are able to take views on how to take corrective action, for example by setting limits on levels of spend, length and frequency of sessions. In addition, it is possible, over time, to identify the features of IIWLs which appear to generate heavier individual participation and to amend the design of future games accordingly.

20. Finally, so long as the IIWG platform is designed appropriately, it is possible to implement such changes very quickly.

## E Looking forward

21. As indicated above, the Commission's approach is likely to evolve over time. Key features are likely to include:

- **Better diagnostic tools.** As more research and data on player behaviour becomes available, it should be possible to develop better and more sophisticated tools to assess the likelihood of a proposed lottery encouraging excessive participation.
- **Generation of evidence on actual player behaviour.** With the likely addition of player registration through player cards, greater information on player behaviour in the retail environment is likely to become available;
- **Ability to take rapid corrective action where the case for this becomes clear.** Modern IT systems will be a requirement for the third licence and these are likely to enable quicker and more straightforward changes to game design and access should this be necessary.

### GAME DESIGN PROTOCOL

The Game Design Protocol is a risk matrix tool, which Camelot uses to identify the potential impact of new National Lottery games on vulnerable groups. It was not designed to apply to other gambling products. The tool was designed in partnership with universities and charities with an interest in problem gambling. The tool looks at likely spend and participation in games among vulnerable groups: those who are aged under 16, those on low incomes and those who are likely to play excessively. Depending on the outcome of the risk assessment, Camelot may take steps to limit the risk, or alternatively decide not to apply for a licence for a game. The Commission will take account of this information in deciding whether or not to licence games.

Following its development, the Commission carried out an independent review of the GDP in 2003 and welcomed its introduction. However, in recognition of changes that have since occurred in the gaming market, Camelot is currently conducting a review to ensure that the GDP adequately reflects the current mix of National Lottery products.

Further information on the operator's approach to responsible play can be found on the National Lottery website at: <http://www.national-lottery.co.uk/player/p/about/responsible.do>