

Strengthening social responsibility:

Amendments to the social responsibility provisions in the licence conditions and codes of practice (LCCP) for all operators

February 2015

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Foreword

Last summer, when we launched our review, led by Rachel Lampard, one of our Commissioners, on improving the social responsibility provisions in our regulatory regime, we pointed to the key concepts underlying any serious discussion of gambling policy and regulation:

- First, while most people who gamble do so safely most of the time, gambling can cause harm, sometimes devastatingly so and not just to those pathologically addicted. Gamblers can be harmed by excessive play due to inexperience, ‘binge gambling’, or short-term or episodic loss of control as well as from more serious gambling addiction. And gambling harm is not confined to the gambler; families, friends, communities and employers can all suffer as a result.
- But, conversely, people usually gamble because they enjoy it. They gamble for entertainment. For the most part they are aware – if sometimes grudgingly – that usually they will end up paying for that pleasure. And, in an open society like ours, adults expect to be able to choose how they spend their leisure time. They also expect to have the freedom to ‘over-indulge’ provided they do not impose unacceptable costs on society by harming themselves or placing unacceptable and unwanted burdens on those connected to them. This is a freedom that is widely supported by society – reflected in the tendency in our society towards disapproval of gambling but strong (although not unqualified) backing for individual freedom of choice.

This fundamental tension at the heart of gambling policy – that gambling benefits a lot of people a little and harms a few people a lot – runs right through the statutory framework for the regulation of gambling. It is reflected in the Gambling Commission’s (the Commission) legal obligation to permit gambling insofar as it is reasonably consistent with the licensing objectives – preventing crime, ensuring gambling is fair and open and protecting children and vulnerable people.

It also finds expression in the legal obligation on regulators to have regard to the desirability of economic growth which, for a consumer protection body like the Commission, means minimising the regulatory burden associated with protecting the public instead of promoting the industry’s growth. Such promotion would only exacerbate public concern and sap its confidence in how well regulated and compliant the industry is.

The tension also leads to a dilemma we have highlighted before: that the anonymity currently inherent in cash-based gambling makes identifying and reducing harm much more challenging than it otherwise might be. It hampers research into the causes of harm and cost effective ways of mitigating it. And it makes more advanced player protection measures, such as feedback from patterns of play over time and associated operator action, virtually impossible to introduce effectively.

It is also important to recognise that for some customers – those engaged in the disposal of criminal assets or fruits of the black economy – anonymity is highly attractive. Added to this, we are now in a world where new forms of harm reduction, based on data analytics, are becoming possible. The package of research commissioned by the Responsible Gambling Trust, published in December 2014, confirmed that account-based or registered play – with the ability to link play to identified players over time – offers opportunities to identify those who potentially might be at risk of harm.

This, in turn, provides a basis for evaluating ways of reducing that harm. It must be said, however, that while the RGT research triangulated with the findings of work done previously in other jurisdictions, steps taken to exploit the harm minimisation opportunities on offer remain embryonic and, as a result, their ultimate benefits unquantified.

On the other hand, imposing account-based play (or other ways of linking patterns of play over time to the individual gambler) which would help provide the data needed to develop and evaluate better player protection measures, comes at a cost and not just to the gambling industry. In the age of Amazon, Netflix and mobile apps, society is becoming increasingly used to having an account-based relationship with the providers of goods and services, including leisure and entertainment. However, the public's general disapproval of gambling means that for many normal recreational gamblers anonymity is an important part of the experience. Its erosion or restriction raises questions about privacy and of personal freedom, if used to limit or prevent selected adults gambling with funds acquired legitimately. Such questions are for government, not the regulator, to determine.

Some sections of the industry are beginning to show real interest in exploring how they might use the data they do hold on customers and their play for social responsibility purposes and for identifying and preventing money laundering, including criminal spend.

However, with the exception of online gambling, that capability is currently limited and even in online gambling its potential is far from fulfilled. So far, in the land-based environment, the closest we have come to real progress is the implementation of loyalty card systems, albeit with very limited take-up, by a few larger operators and the very recent – and very early – steps taken to explore the use of that data for harm prevention purposes.

Although the low take-up and relative lack of robustness of some systems in the market have skewed the data to some extent, it does provide an indicator of potential future voluntary solutions if take-up and data quality can be improved. However, there is little sign currently of real effort to make this happen beyond a handful of larger operators. As a result, the trade-offs involved are currently enormously difficult to assess.

Many might ask why the industry could reasonably be expected to move willingly towards removing anonymity. We think there are two reasons.

The first is that there are common interests in finding better ways to prevent and reduce gambling-related harm than relying entirely on the blunt controls on product and environment currently in place for land-based gambling.

Those controls are currently the only tools we have. However, not only are they relatively ineffective in identifying and preventing harm, but they get squarely in the way of the industry's ability to innovate and compete and – arguably more importantly – represent serious interference in the experience of customers who are gambling safely and responsibly.

Relying exclusively on product and environment controls looks increasingly unsustainable with the equivalent of the category A, unlimited stake gaming machine in many people's pockets in the form of a smartphone or tablet and ways of combining social media and gambling opportunities into improved consumer experience developing all the time.

The second reason may simply be that it is the right thing to do. The gambling industry quite rightly says that it does not want its players to spend excessive amounts of time or money and would not wish to profit from those experiencing harm or to base its success in any part on criminal proceeds.

That is one reason why our proposals include an Annual Assurance Statement for larger operators, with its focus on those operators assessing how they are assuring themselves they are pursuing the licensing objectives effectively and demonstrating that to us. A key part of that is an account of how they are minimising the extent to which revenues are derived from problem or at-risk gamblers. But so long as anonymity remains a central feature of land-based gambling, the industry will find it just as difficult to translate its own intentions into action as will regulators and policy makers.

So while our LCCP revisions tighten up player protection significantly, we leave unanswered, for the time being, the question of whether we should now advise active moves to account-based play, at least for harder gambling. However, understanding of the trade-offs involved and our capacity to advise government on them has been advanced by the RGT and associated work.

The issue will remain in sharp focus in the coming year and beyond as we go into the next phases of RGT and other data analytic work, and as we look more closely at regulatory arrangements around the first licensing objective, the prevention of crime being associated with gambling.

This will be particularly relevant as there may well come a tipping point at which concerns, whether or not evidence backed, in relation to player protection and crime (in particular money laundering) become so pressing that enforced limitation of anonymous cash play becomes inevitable.

If the industry is unable to demonstrate that measures taken in the existing cash-based environment combined with improved use of data available online are giving us the increased understanding and scope for effective harm prevention and mitigation, then restriction of access to anonymous cash-based serious gambling, with or without cuts in stakes or speed of play, may become necessary.

This is precisely why all stakeholders need to engage in a serious debate and analysis on this issue with a minimum of preconceptions. We also intend this document to be an important and helpful stimulus to the debate.



A handwritten signature in black ink, appearing to read 'Philip Graf', written over a horizontal line.

Philip Graf – Chair, Gambling Commission

Introduction

- 1.1** In August 2014, the Gambling Commission published for consultation a range of proposals for strengthening the social responsibility provisions in its licence conditions and codes of practice (LCCP). This followed the passage of the Act bringing overseas provision of remote gambling to those in Britain within the GC regulatory regime, the conclusion of the Prime Ministers review, *Gambling Protections and Controls*¹, and the launch of the Government's four strand review of gambling advertising and marketing,
- 1.2** The starting point for the review was to affirm the central thesis on which our system of gambling regulation is based: the principle that responsibility for delivering the licensing objectives rests first and foremost with gambling operators. Provided that there is a genuine commitment in the business to keeping crime out, fairness and openness and protecting children and the vulnerable, operators are much better placed to understand the practical trade-offs between minimising harm cost effectively, innovation and customer experience – or, in short, fun.
- 1.3** The Gambling Commission works to ensure that such a commitment lies at the heart of every gambling business. Beyond that we try to minimise prescription by stating clearly what outcome is expected and leaving it to the operator to decide how best to achieve that outcome. However, some prescription is needed to stop the less responsible undercutting the responsible and to help raise overall standards; and our ordinary codes help spread and encourage good practice to help the industry minimise, as far as possible, the harm that can and does arise from gambling.
- 1.4** Following consultation we can confirm changes in a number of areas including:
- new requirements on under-age access that will make it demonstrably much harder for children to access gambling
 - measures on customer interaction that will help remove some of the existing barriers to identifying those experiencing harm and intervening effectively
 - setting a clear deadline for implementing a land based multi-operator self-exclusion scheme, which has already begun to drive progress in this area
 - introducing a new annual assurance statement for the most significant operators. We expect this measure to help stimulate a greater focus on, and accountability for, reducing gambling related harm at the most senior levels of leadership in gambling businesses
 - local risk assessments, designed to provide opportunities for much greater collaboration and partnership working with licensing authorities
 - tightening up rules on marketing and advertising, which has been a source of public concern, to make it clearer what is fair and open and make it harder for the less responsible to undercut by dubious claims or over-aggressive marketing.
- 1.5** Some proposals will take effect through other means than the LCCP – for example, by inclusion in the Commission's statutory advice to licensing authorities – and for

¹ [Gambling Protections and Controls - DCMS April 2014](#)

others, like 'return to player' information for gaming machine customers, we will need to consult on specific proposals, having established the principle in this review.

1.6 A consistent theme throughout the consultation, reflected in the present document, is the need to evaluate the impact of new measures. Robust evaluation is essential to help operators develop the most effective ways to achieve the licensing objectives, and to help the Commission develop and maintain a relevant and proportionate regulatory framework.

1.7 This review of social responsibility measures in the LCCP is itself part of a wider package of measures to strengthen consumer protection in gambling. It complements initiatives such as the Government's review of advertising, the introduction by the Department for Culture, Media and Sport of new measures to restrict the use of cash on high stake machines in betting shops. And it takes place in the context of a programme of work by the Commission designed to raise standards and forge better partnerships. Key elements of that programme include:

- consultation on our statutory guidance to licensing authorities, published in tandem with this response
- follow-up consultations on specific topics arising from this review of social responsibility provisions in the LCCP – for example, on alternatives to Return to Player and on the form and content of the Annual Assurance Statement, expected in the spring
- consultation on measures to ensure that gaming machines are only made available in appropriated licensed environments, also in the spring
- consultation on the on-line multi-operator self-exclusion scheme
- our planned consultation on the crime provisions² of the LCCP, scheduled for the summer, which will build on experience gained through our growing body of casework on money laundering, including criminal spend. That consultation comes against the backdrop of imminent agreement on the 4th EU Anti-Money Laundering Directive and an expectation that a broader range of the gambling industry, for example retail betting, will become part of the regulated sector over the next 12-18 months
- towards the end of the year, consultation on the Commission's Remote Technical Standards
- Over the next year to eighteen months, consultation first on the principles underpinning our fee structure and later on fee levels.

1.8 We will continue to mould and develop the provisions in the LCCP to drive and support the industry in its pursuit of the licensing objectives and ensure that the less responsible and outright illegal are deterred and cannot prosper.

1.9 Alongside this response document, we publish the revised LCCP itself. Most of the changes we are making will come into effect in three months on 8 May 2015. Some individual provisions come into effect on a later date, and this has been highlighted within the relevant provisions. We will also shortly publish the revised Remote

² The first licensing objective of preventing gambling being associated with crime or disorder.

Technical Standards which have been amended as a result of this review. These changes come into force on 31 October 2015.

1.10 And finally a note of thanks. The consultation was accompanied by extensive engagement with a range of regulatory partners, notably local authorities, and stakeholders from all interested communities – the gambling industry, faith and community groups and campaigners on gambling harm. We held workshops both before and during the consultation and received many written responses. Our proposals were informed and improved by advice from the Responsible Gambling Strategy Board.

1.11 The Commission is very grateful for the level of engagement with the consultation, which provided us with many important insights and constructive challenge from a whole range of partners and stakeholders. Those contributions have helped us improve consumer protection in a way that imposes the minimum burden for maximum impact. We have now examined every contribution, formal and informal, in detail and are able to set out the Commission's position in this response document.

2 Background

The consultation

- 2.1** The consultation document *Proposed amendments to licence conditions and codes of practice for all operators* was published on 7 August 2014 and the consultation period lasted for 12 weeks, closing on 31 October 2014. A total of 141 formal written responses were received during the consultation period. The respondents are listed in the annex to this document and the full responses are available on the Commission's website.
- 2.2** Responses were received from 32 operators, 14 trade associations, 6 problem gambling help organisations, 3 regulatory bodies (including police services and providers of dispute resolution), 7 who provide consultancy and support to the gambling industry (including legal services and suppliers of SR technology), 9 faith groups, 2 campaign groups, 4 academics, 2 members of parliament, 22 licensing authorities and 40 individuals.
- 2.3** As well as the written responses, the Commission has taken account of comments made during a series of stakeholder meetings and workshops held between March and 31 October 2014.

The Commission's overall regulatory approach

- 2.4** LCCP was first published in 2007 and significant revisions were last made in May 2014.
- 2.5** LCCP is a significant part of the framework by which the Commission upholds the licensing objectives. These licensing objectives are set out in the Gambling Act 2005 and operators are required to ensure they meet and manage a range of the following overall 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
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.6** However, LCCP must be seen within the overall architecture of gambling regulation. LCCP is not a standalone checklist which the industry should follow, nor should it be seen as the maximum standard to be achieved. There is of course a range of detailed statutory requirements set out in the Act and associated regulations. And ultimately, the key test of a socially responsible operator is the extent to which it pursues the licensing objectives

Implementation of amendments to LCCP

- 2.7** As outlined in the introduction, the majority of the amendments set out in this response document and in the accompanying publication of LCCP February 2015 come into effect on 8 May 2015. Where there are exceptions, the applicable

implementation date is set out within the relevant provisions. In summary, the exceptions to the 8 May 2015 implementation date are:

- the amendments to Remote Technical Standards (and the new provision relating to time-outs on remote gambling platforms), which come into force on 31 October 2015
- remote national self-exclusion, where the Commission has committed to giving one month's notice ahead of implementation of the scheme
- sector-specific multi-operator self-exclusion, where the relevant provision will come into force on 6 April 2016
- the requirement to assess local risks, which will also come into force on 6 April 2016
- amendments relating to the Consumer Rights Bill, which will come into force at the point that the Bill is enacted.

2.8 We will shortly publish further relevant LCCP documents:

- The sector-specific extracts of LCCP will be updated and published on our website
- A short document summarising the changes to LCCP (and RTS) will be made available
- An updated version of the Remote Technical Standards will be published to take account of the amendments set out in this response document.

3 Access to gambling by children and young people

- 3.1 In the consultation document, we set out the Commission's strategic goal of ensuring that it becomes a rare event for children and young people to be able to gamble on age-restricted products. We outlined our concerns that there are major weaknesses among some parts of the gambling industry in the policies and procedures required to prevent access to gambling by children and young people; and that those concerns have been borne out by test purchasing data which provides evidence that there are structural and systemic weaknesses in the way some gambling premises are operated. It is these weaknesses that can lead to staff failing to challenge those who appear to be, or are actually, under age.
- 3.2 We explained that the vulnerabilities contributing to poor results included: staff being positioned away from the entrances of gambling premises, or being otherwise unaware of the presence of new customers on the premises due to their engagement in other activities; staff being entirely absent from the gambling area during a test purchase; and the siting of gaming machines on some premises obstructing the line of sight between staff and machine players.
- 3.3 In order to help deliver better performance in this area, we consulted on a range of measures to strengthen operators' underage gambling policies and procedures. We also stressed the importance of building understanding on the part of local licensing authorities about the range of effective and proportionate measures available to help prevent underage gambling, and therefore sought views on how our statutory Guidance to Licensing Authorities (GLA) might be strengthened by showcasing measures already taken by some local authorities.

Visibility and supervision of customers on gambling premises

Consultation proposal

- 3.4 The Commission proposed an addition to the social responsibility code provision, to supplement the existing requirement that 'Licensees must have and put into effect policies and procedures designed to prevent underage gambling' with a requirement that this must include procedures for '**ensuring that the layout of licensed premises facilitates the effectiveness of** (those policies and procedures)'. We made this proposal because the results of test purchasing work appear to indicate that where the line of sight to gambling facilities or entrances to premises was restricted, it was harder for operators to perform successfully.

Consultation question

- Q1. What are your views on the proposed changes to social responsibility code provisions 3.2.1, 3.2.3, 3.2.5 and 3.2.7 which make explicit the requirement that the layout of premises must support and facilitate the effectiveness of policies and procedures to prevent underage gambling?

Respondents' views

- 3.5 We received a variety of responses to this question from stakeholders including licensees, trade bodies, faith groups, local authorities, academics and voluntary-sector and pressure groups.

- 3.6** Respondents from the gambling industry did not, in the main, disagree with the proposal although some had particular concerns about its implications. However, a number of respondents appear to have misinterpreted the proposed code as requiring significant structural alterations to be made to existing gambling premises to ensure that customers could be supervised. Respondents from the industry also questioned why the Commission was intervening in what they considered to be premises-only issues, and which therefore should be the preserve of local authorities (and there was a corresponding concern as to whether local authorities might have differing interpretations on how the provision should be given effect at individual premises). One licensee requested clarification as to how this would apply to premises that were not age-restricted (bingo premises and Family Entertainment Centres (FECs)).
- 3.7** Faith groups agreed with the principle underpinning this provision ie that staff members on gambling premises must be afforded clear lines of sight to customers entering the premises, and while local authorities were very supportive of the proposal, some requested guidance in the GLA on its practicalities. Other respondents agreed that supervision of premises was an important factor and were broadly supportive of the proposals (in so far as they thought the proposal went far enough).
- 3.8** Some stakeholders raised an important point that the supervision of gambling premises is necessary for other social responsibility requirements, not just that of preventing underage gambling. They argued that staff must be able to adequately supervise customers for the purposes of having effective customer interaction policies, and they must be able to see self-excluded customers entering the premises and attempting to gamble.

The Commission's position

Visibility and supervision of customers

We note the concern, albeit misplaced, on the part of some industry stakeholders that this proposal appeared to be intended to necessitate structural changes being made to their premises eg a requirement to demolish walls or pillars. We should clarify here that our intention is to ensure that staff members are afforded adequate supervision of all customers on the premises, as this is essential for policies and procedures for preventing underage gambling to be effective. Where a licensee considers that the layout of their premises might impede supervision, they will need to consider whether this can be remedied by amending their policies and procedures eg the positioning of staff or CCTV, the use of floor-walkers; or whether changes to the physical layout are more appropriate.

The licensing authority's role

Some respondents expressed concern that supervision matters were specific to premises and should therefore be the preserve of licensing authorities. We consider, however, that the ability to supervise customers on all gambling premises is essential for the pursuit of the licensing objectives, in particular that of protecting children and other vulnerable people from being harmed by gambling. It is a principle that applies across all gambling premises that are age-restricted or have age-restricted products or areas; it is therefore appropriate to enshrine this principle within our codes of practice.

Licensing authorities will of course have regard to this requirement in respect of licensed gambling premises and in exercising their duties under section 153 of the Act. When a licensee is applying for a new premises licence or a variation of existing premises, we would expect the licensee and the authority to work together to consider how any impediments in the supervision of premises might be most appropriately remedied. If an authority has concerns that there are such issues at any existing premises, we would again expect that the authority and licensee work co-operatively to remedy the issue, or that authority would need to have recourse to premises licence review. We will be expanding the GLA to make clear that when considering a licence application or variation, the licensing authority should assure itself that the licensee will achieve adequate supervision in those particular premises.

Premises that are not age-restricted

Casino, betting, and adult gaming centre premises are all age-restricted and the requirement to supervise the entrances of these premises is therefore key. While bingo and FEC premises are not themselves age-restricted, certain gambling products and facilities available on those premises are (such as bingo and category B3 and C gaming machines). The principle of this code provision therefore applies to licensees at bingo and FEC premises; staff must be able to supervise and challenge those who appear underage to prevent them participating in age-restricted gambling.

However, in view of the consultation responses that the supervision of customers applies to other areas of social responsibility such as customer interaction and self-exclusion, beyond underage gambling (and indeed, in respect of the licensing objective to prevent gambling being a source of crime or disorder, staff will need to be able to supervise customers whom they suspect eg may be involved in suspicious activities), we intend to adapt the scope of the draft code provision so that it encompasses these important areas.

In view of the concerns from industry stakeholders regarding the perceived implications of the code (ie restructuring premises, as outlined above) we also intend to re-phrase the code provision to emphasise that policies and procedures should be appropriate in the context of the structure and layout of the premises, to ensure adequate visibility and supervision.

We will therefore introduce this provision through additions to the existing social responsibility code provisions for:

- Access to gambling by children and young persons
- Customer interaction
- Self-exclusion

The additions to the 'Access to gambling by children and young persons' codes are outlined below in bold text. Please see chapters 5 and 7 of this document respectively for the additions to the customer interaction and self-exclusion codes. In short, we are introducing a new paragraph within the social responsibility code provision for customer interaction (3.4.1) that 'Licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises', and a new paragraph within the self-exclusion social responsibility code provision 3.5.1 that 'Licensees must ensure that their procedures for preventing access to gambling by self-excluded individuals take account of the structure and layout of their gambling premises'.

We will also remove an anomaly in the existing social responsibility code provisions for casinos, adult gaming centres and for non-remote betting and remote betting intermediary (trading rooms only) licensees. Those codes require that there must be procedures for 'removing (from adult-only licensed premises) anyone who appears to be underage **who**

tries to access the gambling facilities and cannot produce an acceptable form of identification'. The text in italics will be removed from each of these codes as it incorrectly implies that children and young persons should only be removed from casino, AGC or betting premises **if** they are trying to access the gambling facilities on those premises. This is of course an anomaly as section 47 of the Gambling Act is clear in its provision that children and young people should not be permitted to enter such premises.

Addition to social responsibility code provision 3.2.1

Access to gambling by children and young persons – casinos SR code

All non-remote casino licences

1 Licensees must have and put into effect policies and procedures designed to prevent underage gambling and monitor the effectiveness of these.

2 Licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises.

Addition to social responsibility code provision 3.2.3

Access to gambling by children and young persons – AGC SR code

All adult gaming centre licences

1 Licensees must have and put into effect policies and procedures designed to prevent underage gambling and monitor the effectiveness of these.

2 This must include procedures for:

- a** checking the age of apparently underage customers
- b** removing anyone who appears to be under age ~~who tries to access the gambling facilities~~ and cannot produce an acceptable form of identification
- c** taking action when there are attempts by under-18s to enter the premises

3 Licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises.

Addition to social responsibility code provision 3.2.5

Access to gambling by children and young persons – bingo and FEC SR code

All non-remote bingo and family entertainment centre licences

1 Licensees must have and put into effect policies and procedures designed to prevent underage gambling and monitor the effectiveness of these.

2 This must include procedures for:

- a** checking the age of apparently underage customers
- b** refusing entry to any adult-only areas to anyone unable to produce an acceptable form of identification
- c** taking action when there are unlawful attempts to enter the adult-only areas

3 Licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises.

Addition to social responsibility code provision 3.2.7

Paragraphs 1, 2 and 4-7 (*existing provisions*): all non-remote betting and remote betting intermediary (trading rooms only) licences

Paragraph 3 (*new provision*): all non-remote betting licences (except general betting (limited) licences) and remote betting intermediary (trading rooms only) licences

Paragraph 8 (*existing provision*): non-remote pool betting licences

Paragraph 9 (*new provision*): non-remote general betting (standard) licences in fee category C or above

1 Licensees must have and put into effect policies and procedures designed to prevent underage gambling and monitor the effectiveness of these.

2 This must include procedures for:

a checking the age of apparently underage customers

b removing from adult-only licensed premises anyone who appears to be underage who tries to access the gambling facilities and cannot produce an acceptable form of identification

c taking action when there are attempts by under-18s to enter adult-only premises

d refusing entry to any adult-only area of a track to anyone unable to produce an acceptable form of identification

e taking action when there are unlawful attempts to enter the adult-only areas

3 Licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises¹.

¹The addition to social responsibility code provision 3.2.7 at Paragraph 3 does not apply to holders of the non-remote general betting (limited) operating licence ie bookmakers who work on tracks. Such bookmakers do not hold premises licences.

Underage test purchasing

Consultation proposal

- 3.9** We proposed to introduce a social responsibility code provision that would require non-remote operators with a national or regional presence (those operators in fee category C or higher) to conduct test purchasing and share their results with the Commission. Most non-remote operators of this scale already conduct regular test purchasing and provide us with their results. But we considered that, given the weaknesses in underage controls that had been exposed by test purchasing results, it was no longer tenable to have a situation whereby most such operators are monitoring the effectiveness of their underage gambling procedures, and demonstrating this to the Commission, whereas other operators of a similar size continue not to do so.
- 3.10** We stated our expectation that smaller licensees (ie those in fee categories A and B) must continue to monitor the effectiveness of their underage controls, for example through a test purchasing programme administered through a trade association. However, recognising the costs and additional financial burden that test purchasing might present for smaller businesses, we had proposed that category A and B operators would be excluded from the new requirement to conduct test purchasing.
- 3.11** The proposed social responsibility code provision was 'Licensees must conduct test purchasing or take part in collective test purchasing programmes as a means of monitoring the effectiveness of their policies and procedures designed to prevent

underage gambling, and must provide their test purchase results to the Commission. Licensees must be able to demonstrate how they have satisfied themselves that their underage gambling controls are effective across their estate of licensed premises’.

Consultation question

Q2. What are your views on introducing a requirement via social responsibility code provision for licensees to conduct underage test purchasing or to take part in a programme of test purchasing?

Respondents’ views

- 3.12** Most of the major trade associations supported the proposal to require test purchasing for medium-sized and large operators through a social responsibility code provision; although others suggested that this should instead be an ordinary code provision, or that the Commission should simply encourage test purchasing as a means of monitoring the effectiveness of underage gambling policies and procedures, rather than formalising the requirement in LCCP. Many of the major betting and arcades operators also supported the proposal as published in the consultation document, although one suggested that the Commission should seek to devolve this area of compliance to primary authorities³ where appropriate. Some motorway service operators suggested that alternative means of monitoring controls – such as review of CCTV – should be encouraged instead of test purchasing.
- 3.13** A number of industry respondents expressed concern around the wording of the second part of the proposed new code provision ie ‘Licensees must be able to demonstrate how they have satisfied themselves that their underage gambling controls are effective across their estate of licensed premises’. They considered this addition to be either ambiguous, or superfluous if the first part of the proposed code had been adhered to.
- 3.14** While the Commission’s proposal was not aimed at remote gambling operators, some stakeholders from this sector responded to this question. They argued that while licensees cannot use under-18s to conduct test purchasing, Think 21 test purchasing is also a meaningless concept in the remote environment. That is, if for example a 19 year old was able to access remote gambling facilities and withdraw winnings etc, this would not indicate anything about the strengths or weaknesses of that operator’s age verification processes.
- 3.15** Faith groups supported the proposed social responsibility code provision, and local authorities were generally supportive, although some suggested that the Commission and licensing authorities should retain test purchasing as a compliance tool to assure themselves as to the integrity of licensees’ own testing. Other local authorities said that licensees must commission test purchasing to independent third-parties rather than conduct anything ‘in-house’. Many authorities who responded were particularly keen that licensees’ test purchase results should be shared with them as well as the Commission.

³ A statutory partnership between a business and a single authority (eg local authority).

The Commission's position

The Commission proposes to implement the requirement that all larger non-remote operators - those in fee categories C or higher – should conduct test purchasing and share their results with the Commission.

We have also considered the potential impact on casino licensees in fee categories A and B, and we intend to include such operators within the requirement to conduct test purchasing (meaning that all non-remote casino licensees will be subject to a social responsibility code provision to conduct test purchasing). We consider the inclusion of all casino licensees to be appropriate, given that a single casino premises can have a significant local impact, and it is important to ensure that the door supervision procedures at each individual casino are performing effectively.

While we recognise that there may be other means of monitoring the effectiveness of policies and procedures for preventing non-remote underage gambling, test purchasing is now the most frequently used method, and is used already by most of the larger operators. It has proved to be a very useful indicator of strengths and weaknesses in policies and procedures; and importantly, while the Commission will of course remain open to receiving data about other methods of monitoring controls for example use of CCTV (and indeed we encourage licensees to provide such information above and beyond their test purchase data to enhance the picture of underage gambling risks), no licensee has so far provided us with alternative data in any systematic or meaningful fashion.

It is also worth reiterating that while the consistent and frequent use of test purchasing can help to raise standards within an organisation and help to generate the 'culture of challenging' that many operators have referred to during the consultation, test purchasing is primarily a risk indicator – that is, of the risks of underage gambling occurring, and an indicator of strengths and weaknesses in procedures – rather than a control measure in itself. So, where any weaknesses are identified through test purchasing processes, licensees must consider what control measures might need to be introduced or adapted to reduce the risks of underage gambling.

A number of respondents were concerned about the wording of the second part of the proposed code ie 'Licensees must be able to demonstrate how they have satisfied themselves that their underage gambling controls are effective across their estate of licensed premises'. The aim of this addition was to ensure that operators use test purchasing to give themselves assurance that their policies and procedures are effective across their business; and for example, this might at times include a focus on premises whose underage gambling controls are shown to be weaker than at other premises.

The Commission has reviewed the draft code and considers that it is not necessary to include this element within the code itself. We now think that it would be more appropriate to discuss the matters of test purchase frequency and density with individual operators on a case-by-case basis, in response to each operator's own risk-based strategies for test purchasing, rather than to make a provision in the social responsibility code. We will however re-word the code to emphasise that licensee's test purchasing strategies must be sufficient so as to provide themselves, and the Commission, with reasonable assurance that they have effective underage gambling policies and procedures.

The Primary Authority scheme, administered by the Better Regulation Delivery Office, provides for a statutory partnership to be formed between a business and a single authority (eg a local authority). That single authority (the primary authority, 'PA') can provide a national

inspection strategy within which other local regulators can operate ie to improve the effectiveness of visits by local regulators and enable better sharing of information between them. The PA scheme therefore aims to ensure that local regulation is consistent at the national level. PA agreements can cover matters such as environmental health, trading standards legislation and of course age-restricted products and services; a number of major betting operators have therefore entered into PA agreements in respect of their test purchasing arrangements.

The Commission fully supports the development of PA schemes between gambling operators and local authorities, and has already worked closely with PAs in the development of their national inspection strategies for the major bookmakers with whom they have entered into partnerships. The inspection plans are designed to be largely uniform, and to bring consistency to proactive test purchasing in those betting shops.

But the PA scheme does not, of course, transfer responsibility for the regulation of gambling to PAs. The PA inspection plans have the potential to help gambling businesses achieve high standards while also provide for more efficient and consistent regulation; these arrangements underpin the primary objectives of the Gambling Act in relation to protecting children from gambling-related harm and preventing them from accessing gambling facilities. The regulatory frameworks for gambling and for PA are therefore complementary.

Consultation question

Q3. Do you agree that small operators (category A and B) should be excluded from this requirement to conduct underage test purchasing?

Respondents' views

3.16 The majority of respondents disagreed that small operators in categories A and B should be excluded, including most of the trade associations and major operators in the betting and arcades sectors. Some of those stakeholders stated that all licensees, regardless of size, have an equal duty to prevent children and young people from gambling, and that their exemption from the provision might only serve to encourage weaker controls amongst those operators. Other industry respondents pointed out that the Commission's own test purchase work with local authorities clearly evidences the weaknesses present among some of the smaller sub-sectors, and that such licensees should use their trade bodies for test purchasing.

3.17 A handful of industry stakeholders agreed with our exclusion of smaller operators, pointing out the financial burden that would impact upon the smallest businesses. Trade bodies representing on-course bookmakers stated that track bookmakers would not be able to manage the financial burden of test purchasing, and nor could they realistically administer a test purchasing programme at tracks without those trade associations acting as umbrella bodies.

3.18 Faith groups disagreed that smaller operators should be excluded from the provision, also emphasising the test purchase results from the Commission's work with local authorities; one faith group raised concern that seaside arcades run by smaller operators should also be tested, given the risk of underage footfall during holiday periods. Local authorities had mixed responses to this question; while some emphasised the financial costs that test purchasing would place on smaller operators, other authorities noted that a licensee defined as 'small' by the

Commission's licence fee categories can have a very high impact locally, and such operators should not be allowed to drop their standards.

The Commission's position

The Commission of course recognises that all licensees, regardless of their size, have duties to prevent underage gambling and to monitor the effectiveness of their policies and procedures in this regard. Further, we are clear that the test purchasing data from the Commission's partnership work with local authorities continues to demonstrate that there are some severe weaknesses among some of the smaller sub-sectors of the terrestrial gambling industry. It is therefore important that smaller licensees ie those in fee categories A and B ensure that their controls for preventing underage gambling are robust – and strengthened where weaknesses are found.

However, we must continue to have regard to the financial burden that conducting test purchasing might place on many smaller operators, were they to be subject to the new social responsibility code provision. We also note that, while many smaller licensees may be able to rely on their trade association for administering test purchasing, there are also licensees who are not members of a trade body. We therefore intend to introduce an ordinary code provision to formalise our expectation that smaller operators should consider exactly *how* they are monitoring the effectiveness of their policies and procedures – that is, how they are adhering to the existing social responsibility code to which they are subject – and should be able to explain to the Commission or their local licensing authority what approach they have adopted in meeting this requirement.

As outlined above, however, we intend to include casino licensees in fee categories A and B within the social responsibility code provision to conduct test purchasing.

For many small operators we would expect that this ordinary code provision will indeed be fulfilled by their participating in a test purchasing programme administered by their trade association. In consideration of the operators that will not be members of a trade body, the Commission is currently exploring options in relation to the monitoring of smaller operators' controls. For example, there may be possibilities for encouraging partnerships between small businesses and their local authorities; or for encouraging smaller operators to work with third-party providers to develop and deliver test purchasing, so that those smaller operators can benefit from the economies of scale of a collective programme.

While such possibilities are explored, the Commission will continue to monitor the progress of smaller operators across the sectors of the non-remote industry; and if it is shown that underage controls continue to be weak among any of those sub-sectors then we will strengthen the related code provisions; for example, the Commission might need to consider mandating a collective third-party test purchasing programme for smaller operators where economies of scale would ensure that excessive costs are not imposed. Individual operators will also put themselves at risk of direct regulatory intervention where procedures are shown to be weak.

Exclusions from the social responsibility code provisions to conduct test purchasing

The Commission proposes to apply the new social responsibility code provision to adult gaming centre, bingo, family entertainment centre and general betting (standard) licensees (ie those who operate from betting premises) in fee category C or higher. All casino licensees will be included within that code. However, in recognition of consultation responses, we intend to exclude the following licence types from the social responsibility code provision requirement to conduct test purchasing.

Remote operators: we agree that using over-18s for the test purchasing of online environments is a meaningless concept, as the result of such testing would indicate nothing about an operator's controls; and of course only authorised bodies can use under-18s in gambling test purchasing. More importantly, there are better ways of monitoring the effectiveness of remote gambling age-verification controls than test purchasing, eg through auditing operators' internal controls and systems. We expect all remote operators to monitor the effectiveness of such controls and we will, in particular, expect those remote operators completing the annual assurance statement to demonstrate through that statement that their control systems and governance arrangements for preventing underage gambling are effective.

On-course bookmakers: we also propose to exclude from the social responsibility code provision bookmakers that operate from track premises (that is, those who hold the general betting (limited) licence). We do not consider it appropriate to apply a test purchasing code provision to these operators given that they work transiently across various licensed track premises; it would not be logistically feasible for each operator to arrange his or her own test purchasing. However, on the back of the disappointing test purchasing results at Ascot in 2014, we expect the Federation of Racecourse Bookmakers, its affiliates and related bodies to continue to work together to improve the underage gambling controls of track bookmakers, and therefore intend to include all General Betting (Limited) licence holders within the new ordinary code provision.

Trading room operators: while trading room licensees require a betting premises licence, those premises do not have betting counters or gaming machine permission ie the only gambling facilities available are through remote platforms. Customers would need to verify their age with those online providers in any case (ie they need to hold an account), and so it is not considered that trading rooms pose significant underage gambling risks beyond those remote platforms themselves. Such operators will not be included within the social responsibility code provision to conduct test purchasing but will be included in the ordinary code provision.

Pool betting from tracks: we do not at this stage intend to apply the social responsibility code provision to non-remote pool betting licensees who operate from tracks. There are only a very small number of such premises licences issued in Britain (eg betting premises licences at greyhound stadia licensed for pool betting on dogs) although we will explore the scope for test purchasing of such premises with relevant racecourse trade associations. Such operators will be included within the new ordinary code provision.

The ordinary code provision will therefore apply to non-remote adult gaming centre, bingo, family entertainment centre, and general betting (standard) licensees in fee categories A and B; and to other terrestrial gambling operators including non-remote general betting (limited), remote betting intermediary (trading rooms only) and non-remote pool betting licensees.

Addition to social responsibility code provisions 3.2.1

**Access to gambling by children and young persons – casinos SR code
All non-remote casino licences**

- 9 Licensees must conduct test purchasing or take part in collective test purchasing programmes as a means of providing reasonable assurance that they have effective policies and procedures to prevent underage gambling, and must provide their test purchase results to the Commission.

Addition to social responsibility code provisions 3.2.3

**Access to gambling by children and young persons – AGC SR Code
All adult gaming centre licences**

- 8 Licensees in fee category C or higher must conduct test purchasing or take part in collective test purchasing programmes, as a means of providing reasonable assurance that they have effective policies and procedures to prevent underage gambling, and must provide their test purchase results to the Commission.

Addition to social responsibility code provisions 3.2.5

**Access to gambling by children and young persons – bingo and FEC SR Code
All bingo and family entertainment centre licences**

- 7 Licensees in fee category C or higher must conduct test purchasing or take part in collective test purchasing programmes, as a means of providing reasonable assurance that they have effective policies and procedures to prevent underage gambling, and must provide their test purchase results to the Commission.

Addition to social responsibility code provisions 3.2.7

**Access to gambling by children and young persons – betting SR Code
Paragraphs 1, 2 and 4-7 (*existing provisions*): all non-remote betting and remote betting intermediary (trading rooms only) licences**

Paragraph 3 (*new provision*): all non-remote betting licences (except general betting (limited) licences) and remote betting intermediary (trading rooms only) licences

Paragraph 8 (*existing provision*): non-remote pool betting licences

Paragraph 9 (*new provision*): non-remote general betting (standard) licences in fee category C or above

- 9 Licensees must conduct test purchasing or take part in collective test purchasing programmes, as a means of providing reasonable assurance that they have effective policies and procedures to prevent underage gambling, and must provide their test purchase results to the Commission.

Addition to ordinary code provision 3.2.4

**Access to gambling by children and young persons – AGC ordinary code
All adult gaming centre licences**

- 5 Licensees in fee categories A or B should consider how they monitor the effectiveness of their policies and procedures for preventing underage gambling (for example by taking part in a collective test purchasing programme) and should be able to explain to the Commission or licensing authority what approach they have adopted.

Addition to ordinary code provision 3.2.6

**Access to gambling by children and young persons – bingo and FEC ordinary code
All non-remote bingo and family entertainment centre licences**

- 6 Licensees in fee categories A or B should consider how they monitor the effectiveness of their policies and procedures for preventing underage gambling (for example by taking part in a collective test purchasing programme) and should be able to explain to the Commission or licensing authority what approach they have adopted.

Addition to ordinary code provision 3.2.8

**Paragraphs 1 to 5 inclusive: all non-remote betting and remote betting intermediary
(trading rooms only) licences**

**Paragraph 6: all non-remote betting licences (except non-remote general betting
(standard) licences in fee category C or above) and remote betting intermediary
(trading rooms only) licences**

- 6 Licensees should consider how they monitor the effectiveness of their policies and procedures for preventing underage gambling (for example by taking part in a collective test purchasing programme) and should be able to explain to the Commission or licensing authority what approach they have adopted.

Staff training and awareness

- 3.19** Many stakeholders in the pre-consultation phase had expressed the view that the key to preventing underage gambling is for operators to engender a culture of compliance among their staff, with those staff members being the gatekeepers for challenging those who appear to be underage. The Commission's test purchasing work with local authorities also identified situations where staff members appeared to have identified that there were children or young people on the gambling premises, but had decided not to make a challenge. This suggests that there are issues with the vigilance of staff that may relate to training requirements. The Commission therefore asked an open question in the consultation document as to how the existing social responsibility code for staff training might be improved and strengthened.
- 3.20** The code for casino, AGC and betting licensees requires that 'Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling. This should include appropriate training which must cover the legal requirements on returning stakes and not paying prizes to underage customers'. The existing social responsibility code for bingo and FEC licensees is similar but provides an additional requirement to challenge adults who might facilitate underage gambling, given that such premises are not age-restricted but can offer age-restricted gambling products: 'Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling, returning stakes and not paying prizes to underage customers and particularly for challenging any adult who may be complicit in allowing a child or young person to gamble'.

Consultation question

Q4. How can the Commission's existing social responsibility code provision (3.2.5) in relation to training staff in underage gambling responsibilities be improved and strengthened, using good practice in an ordinary code provision, to ensure that operators and staff maintain a constant vigilance and are better able to prevent underage gambling?

Respondents' views

- 3.21** A number of respondents from the industry provided their thoughts on what they considered to be the key elements of a strong staff training policy. Some of the themes emerging were: the provision of induction training on the key legal requirements relating to underage gambling before a person's role on the shop-floor commences; a risk-based approach to refresher training or *ad hoc* testing of employees' knowledge to ensure they remain vigilant; monitoring and reviewing training policies and materials; and encouraging, supporting or incentivising staff in executing their responsibilities. These ideas were also suggested and supported by faith groups.
- 3.22** Many industry stakeholders disagreed, however, that the Commission should seek to develop its social responsibility code provision on staff training beyond the existing requirement. Those respondents emphasised that licensee's internal compliance and training cultures were key in delivering effective controls rather than the code provisions themselves.
- 3.23** Local authorities supported the need for operators to have in place strong staff training policies and practices, also emphasising the need for staff to be confident in making challenges, and for records and audit trails of training to be maintained. Some local authorities suggested that the provision of external qualifications for staff on the prevention of underage gambling would be beneficial, although concerns were also raised about the effectiveness of this in light of, for example, high levels of staff turnover and that training should also include conflict management to ensure that staff are capable of dealing with aggressive circumstances.

The Commission's position

Staff training

The Commission does not seek to make provision for exactly how a culture of performance, for example, should be generated or embedded among a licensee's staff members. The delivery and management of any compliance system must ultimately be the responsibility of the licensee. However, the Commission must ensure that there are appropriate standards that licensees should be expected to adhere to.

The existing social responsibility code provision for staff training in relation to underage gambling only covers the legal requirements on the return of stakes and non-payment of prizes. We consider that it would be a basic minimum standard that training should also cover the range of legal requirements in the Act and LCCP relating to the prevention of underage

access to premises and underage gambling. For example, we would expect that training provided by a casino or betting licensee would cover the requirements on preventing entry to those gambling premises as required by section 47 of the Act; or that staff at bingo or FEC premises understand their responsibilities in relation to preventing children from participating in gambling other than on eg category D gaming machines or equal chance gaming etc. We therefore intend to strengthen the existing social responsibility code provision in this regard.

In view of the suggestions made by a range of industry stakeholders, the Commission also considers it appropriate to introduce an ordinary code provision that licensees should, as a minimum, provide induction training and refresher training for all of their staff. This ordinary code would represent a reasonable minimum expectation of good practice principles, without prescribing *how* such requirements should be delivered. This must remain the preserve of individual licensees to administer.

The expectation that induction and refresher training should be delivered for all staff applies to other areas of social responsibility outside of preventing access to gambling by children and young persons. The customer interaction social responsibility code provision requires 'training for all staff on their respective responsibilities' and the self-exclusion code requires 'staff training to ensure that staff are able to enforce (self-exclusion) systems'. The principle of the addition to the ordinary code provision for underage gambling (below) will therefore also be applied to the new ordinary code provision for customer interaction and the existing code provision 3.5.2 for self-exclusion.

Amendment to social responsibility code provisions 3.2.1, 3.2.3 and 3.2.7

Access to gambling by children and young persons

All non-remote casino, adult gaming centre, and non-remote betting and remote betting intermediary (trading room only) licences

Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling. This must include appropriate training which must cover **all relevant prohibitions against inviting children or young persons to gamble or to enter gambling premises, and** the legal requirements on returning stakes and not paying prizes to underage customers.

Amendment to social responsibility code provision 3.2.5

Access to gambling by children and young persons

All non-remote bingo and family entertainment centre licences

Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling. **This must include appropriate training which must cover:**

- a **all relevant prohibitions against inviting children or young persons to gamble on age-restricted products or to enter age-restricted areas;**
- b **the legal requirements on** returning stakes and not paying prizes to underage customers; and
- c procedures for challenging any adult who may be complicit in allowing a child or young person to gamble.

Addition to ordinary code provisions 3.2.2, 3.2.4, 3.2.6 and 3.2.8

All non-remote casino, adult gaming centre, bingo and family entertainment centre, non-remote betting and remote betting intermediary (trading room only) licences

In providing training to staff on their responsibilities for preventing underage gambling, licensees should have, as a minimum, policies for induction training and refresher training.

The potential effectiveness of Think 25

- 3.24** The Commission asked for views on the potential effectiveness of a Think 25 policy, relative to the existing ordinary code provision to Think 21 (requiring staff to check the age of customers who appear to be under 21), and whether Think 25 should replace the latter. To be clear, these were exploratory questions seeking views from stakeholders rather than a distinct proposal to replace Think 21 with Think 25.

Consultation question

- Q5. What are your views on the potential effectiveness of a Think 25 policy for the prevention of underage gambling at premises (relative to the existing Think 21 ordinary code provision in the LCCP)? Should Think 25 replace Think 21 as a standard within ordinary code provision?

Respondents' views

- 3.25** Responses to this question were broadly split, with most industry stakeholders being strongly against the introduction of a Think 25 policy. Conversely, faith groups and most local authority respondents were generally in favour of it.
- 3.26** Some of the larger betting operators used their Think 21 test purchase results to show that they are performing better than the alcohol retail sector (where Think 25 is now almost universal). The Think 21 test purchase results they presented in making this comparison were those for challenging test purchasers at any point while they were on their betting premises. Betting sector stakeholders stated that they had invested considerable effort into making Think 21 an effective policy and embedding it within their staff culture, with the improvements in results bearing out the benefits of that policy; and that changing that policy now would risk undermining the good practice generated. It was also suggested that staff confidence may be undermined if, as a result of Think 25, they were required to challenge a much larger number of betting shop customers. Such extreme emphasis on challenging would, in the view of those putting the argument forward, risk detracting from other regulatory and commercial work.
- 3.27** Some trade bodies and casino-sector stakeholders noted that failing to challenge eg a 24-year old would not be particularly indicative of underage gambling risks. Other trade bodies and arcade-sector stakeholders were concerned about the costs involved in changing existing training and display materials from Think 21 to 25, with insufficient evidence that the latter is more effective than the former. Some industry respondents did suggest that Think 25 could be employed on a discretionary basis by individual licensees where they consider Think 21 to be insufficient or ineffective at their particular premises; or that it could be useful on an *ad hoc* basis where particular staff struggle to assess accurately the age of young adults.

3.28 Faith groups were broadly in favour of Think 25, although one group sought assurance that Think 25 would not be overambitious or undermine the achievements of Think 21. Local authorities were, in the main, supportive of Think 25 largely on the principle that it has delivered strong results in the alcohol sector. Some authorities noted that staff training and staffing levels were far more important for successful underage gambling prevention than the ‘think’ age, and that Think 25 should only replace Think 21 at premises where that existing policy is demonstrably failing.

The Commission’s position

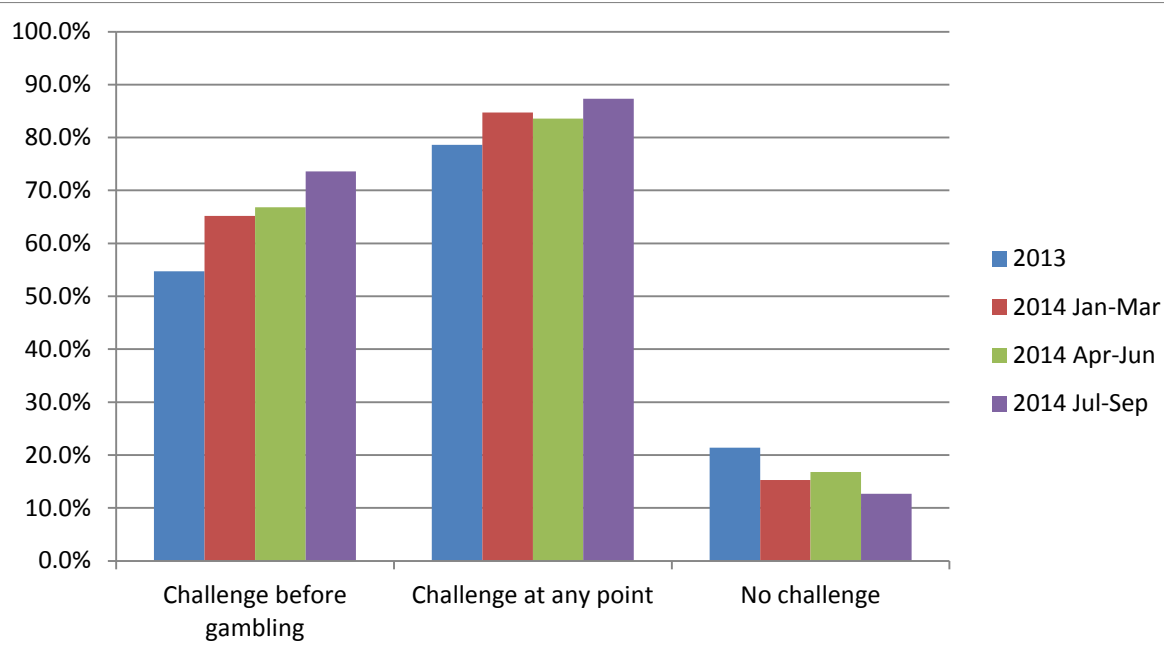
Think 21 and Think 25

The Commission acknowledges the breadth of responses it received on the question of replacing Think 21 with Think 25. There is a high degree of public concern about the ability of gambling operators to meet the critical objective of preventing children from gaining access to age-restricted gambling products. This concern underpins the Commission’s strategic goal of ensuring that it becomes a rare event for such access to be achieved, and the responsibility for this imperative rests with licensees that provide facilities for gambling. On this point we should note that comparisons between test purchase results from eg the betting sector and the alcohol-retail sector are not particularly appropriate as indicators of relative success. Supermarkets and off-licences are not age-restricted premises – betting, adult gaming centre and casino licensees have an additional legal duty to prevent access by children to their premises, not just the products available within them.

We are not, however, currently convinced that changing the ordinary code provision from requiring licensees and their staff to ‘Think 21’ to a different ‘challenge age’ will necessarily drive the continuous improvements that are required in the prevention of underage gambling. While an alternative such as ‘Think 25’ may be appropriate for certain gambling premises and their staff members in particular circumstances, we note that many operators across the gambling sectors are delivering improved test purchase results under existing Think 21 policies. We must also note in this context that the small number of gambling operators that voluntarily use a Think 25 policy have not delivered better test purchase results than their counterparts who use Think 21.

In the absence of compelling evidence as to the benefits of changing the ‘Think 21’ guidance, we propose to retain the existing ordinary code provision that licensees’ procedures should ‘require their staff to check the age of any customer who appears to them to be under 21’ (noting that ordinary codes have the status of good practice rather than a licence condition; and so we do not intend to discourage licensees from implementing any other age policy that proves, within their own estate, to be as effective, or more effective, than ‘Think 21’).

However, we must emphasise that the retention of the ‘Think 21’ code at this juncture is dependent on the gambling industry continuing to deliver improvements in their ability to prevent access to gambling by children and young persons, in line with the Commission’s strategic goal. The data below, by way of example, demonstrates the improvements in the ‘Think 21’ independent test purchase results that have been made so far by the largest betting operators in Britain.



Source: Third party test purchasing data from major bookmakers: 2013-2014

The graph depicts the Think 21 test purchase results of the five largest betting operators, over four quarters between 2013 and 2014. The data relates to almost 25,000 test purchases at those operators' premises. The columns on the left-hand side of the graph show the percentage of test purchases where the tester (aged between 18 and 20 years old) was challenged before he or she was able to access a gaming machine on the betting premises. As the graph shows, these overall results for 'challenging before gambling' rose from around 55% to nearly 74% over the four quarters.

The middle columns show the percentage of test purchases where the tester was challenged at any point during the test – these therefore include the figures for 'challenges before gambling', but also figures for when the tester was challenged while playing a gaming machine or placing a bet at the counter. The third set of columns show the percentage of tests where the tester was not challenged at any point.

The Commission notes the increases in 'challenge before gambling' results and the overall decrease in the number of tests where no challenge was made at all, and we expect those trends to continue. We would remind all operators that 'challenging at any point' is a very limited performance indicator, however, for gambling premises that are age-restricted.

Many other operators outside of the betting sector continue to test their controls and seek to improve their results; and we also note the emphasis that has been placed on underage gambling by the main trade associations over the previous couple of years, and the robust systems that some of those associations have delivered in testing their members. It is, however, essential that challenge results across the gambling sectors continue to improve; the quality of test purchase results will remain a key risk indicator of how licensees are performing in this area. In view of the social responsibility code provision that will require large and medium-sized operators to conduct test purchasing and provide their results to the Commission, we will need to consider publishing anonymous test purchasing results from across the sectors to demonstrate to the public how gambling operators are performing.

If there appear to be limitations in the effectiveness of existing controls, either across the industry or within particular sectors, then we will of course consider where further regulatory intervention might be necessary. We will review the code provision relating to 'Think 21' in the future, ensuring that its appropriateness is assessed against the ongoing performance of the industry.

Specific measures for strengthening underage gambling controls

Consultation proposal

- 3.29** The Commission sought views on the potential effectiveness of specific control measures that might be deployed at gambling premises to improve underage gambling and supervision controls. We had proposed to include reference to suitable measures within our Guidance to Local Authorities, which we will be consulting upon in February 2015, and the LCCP consultation therefore only sought initial views on an indicative list of measures, along with inviting suggestions for other measures.

Consultation question

- Q6. What are your views, in terms of costs, benefits and feasibility, for introducing each of the following measures at gambling premises?
- a. permanent door supervision
 - b. maglocks
 - c. audio alerts or 'door chimes'
 - d. CCTV
 - e. additional staffing levels?

Respondents' views

- 3.30** Some respondents from the betting industry noted that the measures outlined in the consultation question had all been deployed by betting operators in certain circumstances, where they had been needed and where appropriate to do so. The measures might all have their uses to control particular risks. Further, that it is important for all available options to be carefully considered, and applied on a risk-based, evidential and proportionate basis; both licensees and local authorities would need to be flexible in their approach to finding solutions to problems. Other betting sector respondents advised that it is the operators themselves who should drive such things by risk assessments, rather than regulatory bodies, and that the GLA would have to be very clear about the use and justification of any such measures.
- 3.31** Respondents from other parts of the industry were also keen to ensure that any specific measures at gambling premises should only be introduced with a sound risk-based justification; that authorities should not see such measures as 'default' requirements to be introduced as conditions across the piece. They were also keen to ensure that there is a consistent interpretation, across licensing authorities, of any guidance in the GLA.
- 3.32** Faith groups favoured the use of any of these measures on an appropriate basis, and were particularly keen that double staffing be pursued more widely for improving staff safety.
- 3.33** Local authorities agreed with the thrust of some of the responses from the gambling industry, in that the use of any such specific measure would need to be introduced on an evidential and proportionate basis, and any measures or related licence condition must be appropriate to the circumstances. Other local authorities noted that risk assessment was a critical factor in agreeing which measures might be appropriate, and that the local risk assessment (also addressed in the consultation at Chapter 8 of the consultation document) was key, and that the measures could be effective not

just for reducing the risk of underage gambling, but also for reducing the risk of crime and improving staff safety.

Responses to each specific measure

3.34 Most consultation responses to question 6 were in relation to the concept of specific control measures generally, as summarised above. A number of respondents also commented on individual measures.

- a. Permanent door supervision:** a handful of comments were received from the industry, local authorities and other interest groups, all noting that this would be an extremely costly measure.
- b. Maglocks:** very few responses directly addressed this; some suggested that Maglocks would not be effective in improving compliance and can be impractical; others suggested that they can be useful for supervision and safety purposes.
- c. Audio alerts/door chimes:** a handful of stakeholders responded. Some from the industry suggested that they can be very useful in circumstances where entrances are not directly supervised. Other responses from the industry, local authorities and other interest groups noted that they can be ineffective, particularly in a busy and noisy shop, and can irritate customers.
- d. CCTV:** responses suggested that this is not effective as a preventative measure (staff may become over-reliant on the presence of CCTV and less attentive as a result), and it can only be used to assess whether policies and procedures were followed *after* a particular incident has occurred (eg an incident of underage gambling on the premises, with the CCTV used to monitor the performance of staff).
- e. Additional staffing levels:** this received a greater number of specific comments. Responses from the industry suggested that double staffing would not improve compliance controls at premises (that staffing levels make little appreciable difference to compliance performance) and that the additional costs are therefore unjustified. There was concern from other respondents that compulsory double staffing could be fatal to smaller arcades businesses. Other responses from the industry noted that it was important to have sufficient and appropriate staffing levels rather than simply 'additional' staffing levels as the question had suggested.

Local authorities and faith groups emphasised staffing levels as the most important of the measures, and some were particularly concerned about depleting staffing levels at gambling premises. Other authorities noted that increased staffing levels will inevitably be costly for businesses.

Consultation question

- Q7. Are there any other measures that the Commission could introduce into the Guidance to Licensing Authorities (or which licensing authorities could use as conditions on premises licences) that might be effective in preventing underage gambling?

Respondents' views

- 3.35** Industry stakeholders generally responded to this question by re-emphasising what for them are the essential factors in preventing underage gambling; in the main, these were robust staff training and assessing the specific risks at individual premises. It was also noted that staff need to be confident and professionally able to handle ID verification situations without confrontation. The Gambling Business Group offered to develop and trial certain prevention measures in conjunction with the Commission.
- 3.36** Responses from faith groups, local authorities and other interest groups and individuals provided a variety of suggestions for reducing the risk of underage gambling, including: ensuring shop front displays do not appeal to children, and having 50% of the window space clear so that staff can see who is entering from the street or is outside the premises; the use of facial recognition technology, having digital gaming machines locked-down and made available from behind the counter only upon request by a customer who can then be verified for age; making registered or card-based play compulsory where possible; developing the use of biometrics; and having accredited qualifications for staff. A number of local authorities stated, in response to this question, that operators should share their test purchase results with them, just as they do with the Commission.

The Commission's position

Responses from a number of industry stakeholders appeared to suggest that the intentions underlying the proposals were not set out as clearly in the consultation document as they should have been. Many industry stakeholders, appearing to misunderstand, thought that we had sought to mandate such measures across gambling premises as a rule. We had explained at the consultation workshop that these were exploratory questions, essentially seeking views on how the new code provision on supervision might be delivered in practical terms.

To clarify, we did not consult on the basis of introducing these measures into the LCCP, rather that we were aiming to ensure that local authorities could be provided with guidance as to measures that might be suitable for preventing underage gambling (and indeed that such measures might be effective for delivering other aspects of social responsibility, crime prevention and staff safety). It is important for local authorities to have clear guidance on the proportionate and evidence-based application of any such measure. The local authority risk assessment, discussed further in chapter 8, can be a key part of the process for ensuring that risks and appropriate remedies have been considered.

We should also be clear, though, that the application of such measures would normally only be necessary where licensees are failing to provide effective controls or to manage risks: that is, the measures may be unnecessary in most circumstances, but consideration of these measures would be necessitated where weaknesses prevail at certain premises.

The Commission will consult further on these measures as part of the GLA consultation, and it will be important for stakeholders to engage thoroughly on the costs, benefits and feasibility of each specific measure.

Acceptable forms of identification for age verification

Consultation proposal

- 3.37** The Commission's ordinary code provisions (3.2.2, 3.2.4, 3.2.6 and 3.2.8) set out good practice on the forms of identification that the Commission considers acceptable as means for non-remote operators to verify the age of their customers. The Government's document *The Home Office Guidance on False ID* (July 2012)⁴ reflects that military identification cards can be used as proof of age, and we therefore proposed to change the ordinary code provisions to clarify that military identification cards can also be used as proof of age. We also proposed to indicate in the ordinary code that the list of acceptable ID documents was not exhaustive.

Consultation question

- Q8. Do you have any comment on the changes proposed for the ordinary code provisions relating to acceptable forms of identification (3.2.2, 3.2.4, 3.2.6 and 3.2.8) to include military identification cards and to make clear that other forms of identification may also be considered appropriate?

Respondents' views

- 3.38** There was almost unanimous agreement with this proposal, although there was some concern raised by a small number of respondents that one needs only to be 16 years old to hold a military ID card. In respect of our proposal to ensure that the list of ID documents was not exhaustive, a small number of responses suggested that the introduction of the words 'but not be limited to' was ambiguous and might imply that any form of ID would be acceptable.

The Commission's position

We note the concern from some respondents that a 16 year old can hold a military ID card, but would of course point out that a 17 year old can hold a driving licence and of course one can be of any age to hold a passport. It is therefore essential that staff at gambling premises are aware that they must check the date of birth on whatever form of ID is presented to them, rather than just checking the nature of the ID. To remove any ambiguity over the implications of the code, we will remove the originally-proposed wording of 'but not be limited to'.

Amended ordinary code provisions 3.2.2, 3.2.4, 3.2.6 and 3.2.8

Access to gambling by children and young people

All non-remote casino licences, AGC, FEC, non-remote betting and remote betting intermediary (trading rooms only) licences

- 1 The Commission considers acceptable forms of identification to include any identification carrying the PASS logo (for example Citizencard or Validate); **a military identification card**, a driving licence (including a provisional licence) with photocard, or a passport.

⁴ [Home Office Guidance on False ID \(July 2012\)](#).

4 Information to players on responsible gambling

- 4.1 As the Commission noted in the consultation document, providing consumers with the information they need to manage their own gambling effectively is an important component of the approach to regulation in Great Britain, with the expectation that operators seek to satisfy themselves that the gambling products they offer are fair and open, and accompanied by sufficient information to help all customers understand how they operate.
- 4.2 In developing its thinking in this area, the Commission was guided by the Responsible Gambling Trust's harm minimisation review⁵ and discussions with a range of regulators, academics and other stakeholders. The Commission considers that operators should utilise and make available a range of technologies and tools, to be able to assure themselves that:
- players are provided with sufficient information to understand the potential consequences of their gambling
 - players do not suffer from misconceptions about the nature of the gambling product
 - players understand how a particular gambling product is likely to behave and the risks they are exposed to by gambling on that product
 - players have sufficient information about their own gambling behaviour to help them avoid harm and keep their gambling fun.
- 4.3 The Commission considers that responsible gambling information can be divided into three broad categories:
- **General social responsibility messaging** (information made available to players about how to gamble responsibly and how to seek help with gambling problems)
 - **Play information** (quantitative information provided to players about their actual play)
 - **Product information** (information provided to players about how certain types of gambling products might be expected to behave).
- 4.4 Given the relatively limited nature of the existing evidence base, the Commission asked a series of open questions designed to elicit views and opinions from stakeholders. The only exception was in relation to general social responsibility messaging, where the Commission considered that the existing social responsibility provision was somewhat dated, and proposed updating the existing code to take account of new technology and consumer preferences. The Commission also asked whether operators should do more to actively promote these messages to customers.
- 4.5 A summary of the Commission's questions and respondents' views on each of those are set out in the following sections. The responses document also takes account of the recently published RGT/NatCen research⁶ on cognitive understanding of the

⁵ [Blaszczynski, Parke, Parke and Rigbye \(2014\) Operator-based approaches to harm minimisation in gambling: summary review and future directions \(Report prepared for the Responsible Gambling Trust\).](#)

⁶ [Understanding of Return to Player messages: Findings from user testing \(2014\), National Centre for Social Research](#)

current Return to Player statements on gaming machines, where the research supports the Commission's view that this measurement (an indicator of machine behaviour that is required by the Commission's remote technical standards) has little meaning to players and is often misinterpreted.

General social responsibility messaging

Consultation proposal

- 4.6** Given the range of methods now available to communicate social responsibility messaging, the Commission sought views on proposals to update the social responsibility code provision 3.3.1 to ensure that information is displayed prominently using methods appropriate to the size and layout of the premises. This proposal extended the scope of the existing code from a reliance solely on posters and leaflets and took account of advances in technology and changes in consumer preference for receiving such messaging.
- 4.7** In addition, the Commission also invited responses to the question of whether operators should be required to **actively promote** social responsibility information, and if they should, how they should do that.

Consultation questions

- Q9.** Do you have any comments on the proposal to update social responsibility code provision 3.3.1 to ensure information is displayed prominently using methods appropriate to the size and layout of the premises, eg screens, links and smart technology?
- Q10.** Should operators be required to actively promote social responsibility information? And if so, how?

Respondents' views

- 4.8** There was widespread support for the Commission's proposal to Q9 to update the existing social responsibility code. A very small number of respondents voiced concern that the code requirement for leaflets to be made available should not be negated by the availability of online information or links.
- 4.9** A small number of respondents disagreed with the Commission's proposal to update the social responsibility code regarding the provision of social responsibility information, suggesting that the deleted line in relation to Auto Teller Machines (ATMs) should be reinstated.
- 4.10** There was a mixed response to Question 10. There was an industry view expressed that making the information available is sufficient, and that there should be no requirement to draw customer attention to the availability of the information. The main concern from such stakeholders related to the Commission's suggestion that one way to actively promote social responsibility information would be to be open about the types of behaviour that might elicit a customer interaction. This suggestion needs to be considered in the context of wider customer interaction and the consultation was clear that no immediate changes to LCCP in this area were under consideration. Conversely, other stakeholders considered that the industry could and

should go much further – with some respondents suggesting that all players should undertake a tutorial before engaging in any form of gambling.

The Commission's position

The Commission has updated the LCCP social responsibility code to reflect the availability of new forms of technology through which to deliver and provide social responsibility messaging. As we explained in the consultation document, the reference only to posters and leaflets did not reflect the range of methods now available for delivering responsible gambling information, given changes in technology and consumer preferences. It is therefore appropriate that this aspect of the code is updated.

It was not our intention that the requirement to provide information that can be taken away from a gambling venue (eg leaflets) should be *replaced* by a requirement to provide information through other digital means. It is important that customers who do not have a smart phone, or other means of accessing information electronically, are able to take information away from gambling venues. Our expectation is therefore that licensees should provide information to players that can be taken away from a venue, but that new technology should be considered alongside these leaflets. We have therefore amended the code from that originally provided in the consultation document to ensure that information 'must also be available in a form that may be taken away, **and may also be** made available through the use of links'.

As proposed, we are proceeding with the removal from the code provision of the reference to ATMs 'where these are not located in the gambling area' and require simply that responsible gambling information is available 'adjacent to ATMs' in gambling premises. The mandatory conditions attaching to premises licences require that 'any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling'. Licensees are required to provide customers the opportunity to take a break from gambling so that they can reflect on their gambling behaviour before accessing more cash. Where a customer does access cash on premises, they must be presented with socially responsible gambling information at the ATM itself.

We sought initial views from stakeholders as to whether licensees should be required to actively promote social responsibility information, rather than simply making it available. We stated in the consultation document that this would need to be done in a manner that was sensitive to customers, but might for example include being open about the types of behaviour that might elicit a customer interaction (eg informing customers that if they exhibit certain behaviours then the licensee may discuss this with them).

We have set out towards the end of this chapter a programme of work relating to social responsibility messaging that we intend to progress with stakeholders, and the active promotion of social responsibility messaging forms part of this.

We expect the Industry Group for Responsible Gambling (IGRG – a group formed by the main gambling trade associations) to better promote socially responsible gambling in the British market and the Senet Group (an independent body set up to promote responsible gambling standards, such as those around the marketing of gambling), to be the key stakeholders for developing work in the area of socially responsible information.

The Commission welcomes the efforts made so far by these groups, and by their constituent members, in seeking to deliver measures for improved player protection, and we look forward to working with them on the discrete areas of work outlined at the end of this chapter.

Amendments to social responsibility code provision 3.3.1

Responsible gambling information

All licences, except gaming machine technical, gambling software, ancillary remote bingo, ancillary remote casino and remote betting (standard) (remote platform) licences

- 1 Licensees must make information readily available to their customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling.
- 2 The information must cover:
 - a. any measures provided by the licensee to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend
 - b. timers or other forms of reminders or ‘reality checks’ where available
 - c. self-exclusion options
 - d. information about the availability of further help or advice.
- 3 The information must be directed to all customers whether or not licensees also make available material which is directed specifically at customers who may be ‘problem gamblers’.
- 4 For gambling premises, information must be available in all areas where gambling facilities are provided and adjacent to ATMs ~~where these are not located in the gambling area~~. Information must be displayed prominently **using methods** appropriate to the size and layout of the premises. **These methods may include the use of posters, the provision of information on gambling products, or the use of screens or other facilities in the gambling premises. Information must also be contained available in leaflets a form that may be taken away and may also be made available through the use of links to be accessed online or using smart technology.** Licensees must take all reasonable steps to ensure that this information is also readily accessible in locations which enable the customer to obtain it discreetly.

Play information and statements

Consultation proposal

- 4.11 The consultation set out the expectation that, as part of ensuring that individuals are able to make fully informed choices about their gambling, operators will want to provide them with sufficient information about their own gambling behaviour in order to assist them to stay in control and to monitor their own gambling. We noted that play information has the potential to help individuals in this regard by providing, for example, a message relating to the length of time an individual has been gambling, their spend, or quantitative information relating to gambling behaviour to increase self-awareness and allow players to evaluate their own behaviour.
- 4.12 We also noted that, whilst the Remote Technical Standards (RTS) require this type of information to be easily accessible to users of remote gambling facilities, historically operators of gaming machines have been unable to provide similar levels of information – although the landscape is now changing, with developments in machine technology and capability, the increasing number of loyalty card holders, and the

findings of the recently published Responsible Gambling Trust machines research⁷ which has the potential to inform the development of systems and techniques to identify those potentially at risk of harm from gambling.

- 4.13** As part of the consultation, we sought input from stakeholders on the practicalities of providing play information and the likely benefits (or disbenefits) of doing so. The areas included in the consultation are summarised in the consultation question below.

Consultation question

- Q11. What are your views on how play information could be provided to individuals? Please consider this in reference to:
- a. the merits of providing customers with information about their play
 - b. the information that should be provided to players
 - c. the form in which player information should be provided
 - d. the accessibility and delivery of information
 - e. the range of products it might be connected to.

Respondents' views

- 4.14** A majority of respondents were in favour of the provision of information to players and agreed that it is important to keep players informed as to their gambling behaviour. There was less consensus on what that information should be or how it should be provided, and whether the Commission should be looking to make any firm decisions on this at the present time. A small number of industry respondents noted the forthcoming (at that time) RGT machines research, and suggested that it would be prudent to wait for the outcome of that research, and any added understanding generated as a result. Some doubt was raised as to whether the existing evidence supported a view that providing information to players was of value or interest to players themselves.
- 4.15** Although views expressed were wide ranging, there were a number of general themes across the responses. Industry respondents thought that any measures should be limited to Category B1 and B2 machines in the first instance (where such measures are already largely in place), whereas non-industry respondents would like to see any requirements rolled out across all parts of the gambling industry. A small number of respondents suggested that providing information might lead, in some cases, to loss chasing behaviour on the part of players. A number of respondents suggested that the effectiveness of the information currently on B2 machines should be properly evaluated before extending any similar provision to other categories of machines.
- 4.16** One general theme across responses was the unlikelihood of a 'one size fits all' approach being feasible or desirable in this area – whether across remote and non-remote gambling, or across different sectors of the industry. A number of respondents noted that encouraging account based play would be important in facilitating information flow to players about their play sessions.

⁷ [Gambling machines research programme Report 2: Identifying problem gambling – findings from a survey of loyalty card customers \(2014\)](#), National Centre for Social Research, and [Patterns of Play: analysis of data from machines in bookmakers \(2014\)](#), National Centre for Social Research

The Commission's position

The Commission set out to gather a range of industry and other stakeholder views as part of this consultation with open questions. There was no intention to make any changes to LCCP at this point and the Commission's position on this remains unchanged.

This mixed response was unsurprising, as the evidence base is relatively sparse in terms of what works in respect of information and messaging. We note that industry trade bodies - through the IGRG - have expressed an interest in taking forward industry-wide work on responsible gambling messaging and we would encourage IGRG to take forward work in this area, with support from the Commission. We also note the recent initiatives from the Senet group to promote responsible gambling standards, and it is therefore important that the Senet group is also involved in this dialogue.

The use that the industry makes of the RGT machines research, how the lessons from that are embedded, how the existing measures are monitored and evaluated, and how the industry seeks to develop thinking and understanding in this area will be key to the future direction of this debate. This must also encompass the wider debate regarding the provision of account-based play on gaming machines as a potential means of providing more targeted player protection and improved money laundering controls, through the reduction in the proportion of anonymous gambling.

The initial review of the Association of British Bookmakers (ABB) code measures (and indeed the results of the RGT research) show that very few people are currently either using voluntary information reminders (on time and spend) or reaching the mandatory reminders set by the industry on machines. Rather than indicating that this means the current levels and requirements are set at the correct level, the Commission considers that it is more likely that the current levels are set at too high a level and would welcome trialling and evaluation of different levels to ascertain which are found to be of most use to customers. The ABB has stated that all players will be required to set time and spend thresholds (players will receive messages and pauses in play when time and spend thresholds are reached) from January 2015. This proposal is discussed in more detail under Chapter 6 (Gambling Management Tools) but again, monitoring and evaluation of take up and effectiveness will be key.

Product information: gaming machines

Consultation proposal

- 4.17** In the consultation document, we noted the wide range of discussions held with stakeholders in the pre-consultation period around improving the transparency of game characteristics, with particular reference to gaming machines and online casino and slot games. We suggested three areas for initial discussion within the consultation: Return to Player percentage (RTP), game volatility and odds of winning the maximum prize.
- 4.18** Concepts such as RTP and game volatility are complicated, and while some consumers of these products will have greater levels of understanding, it is important that all consumers are provided with information that helps them to understand these concepts and to make informed decisions about their gambling. Indeed, many such consumers may have misunderstandings or false perceptions about the meaning or implications of such gaming characteristics, and this is borne out by NatCen's

qualitative study⁸ for the RGT research on RTP. Other gambling regulators have sought for ways to explain these complexities, particularly RTP, and finding simple messages remains a challenge across jurisdictions. However, in seeking to provide simple explanations about their meaning and how they may relate to the individual player's gaming experience, any such explanations or statements must remain accurate. There is a balance to reach between over-simplicity and detailed accuracy.

- 4.19** The Commission asked the following open consultation questions to elicit views from respondents.

Consultation questions

- Q12. What simple, educational messages could be provided to players to allow them a better understanding of the gaming characteristics (RTP, volatility, odds of winning a jackpot) and how those characteristics may affect their experience of their own gaming sessions?
- Q13. Do you have any comments on whether advertisements for gaming machine jackpots should be accompanied by a clear statement as to the odds of a player winning that maximum prize amount (and how this might be best communicated given that the odds of winning that prize might differ by the amount staked and amount of time spent gaming)?

Respondents' views

- 4.20** The vast majority of respondents to Q12 noted the challenges inherent in developing simple, educational messages around fairly complex concepts. There was a view that the Commission should take the lead in this area in advancing the agenda and a number of industry respondents noted their willingness to work with the Commission as a separate and further consultation.
- 4.21** Respondents were keen that there be some consistency and uniformity across both product and sector to avoid a proliferation of 'simple messages' that might serve instead to confuse. A number of respondents made sensible suggestions about other areas that could be used to inform the debate (including food labelling, energy efficiency ratings and so on). Another key theme across responses was the need to emphasise clearly the machine characteristics (that the purpose of the machine is for entertainment, and that there is a payment cost attached to the purchase of that entertainment).
- 4.22** A few respondents suggested that the provision of this information might detract from the overall gaming experience by removing the mystery/thrill of the game-play, or that those who might benefit most from the information could be the least likely to use it. However, the overwhelming response was that further work to increase transparency and accessibility of messaging is needed and the Commission should be the body to lead that work.
- 4.23** A similar number of respondents replied to Question 13. Of the non-industry responses, the majority were in favour of this being made a requirement. The majority of industry respondents, however, strongly opposed this concept, arguing that:

⁸ [Understanding of Return to Player messages: Findings from user testing \(2014\), National Centre for Social Research](#)

- there is no current evidence base to support such a move
- it is extremely challenging to convey clear messages to the customer in this area without causing confusion
- there is no evidence it would make any difference to customer decision making
- this requirement does not apply to the National Lottery, and it would be unfair to apply it to other forms of gambling.

4.24 Industry respondents suggested that some further work was required in this area and expressed willingness to work with the Commission to develop thinking further.

The Commission's position

The Commission will continue to place high importance on the provision of information to players as a key part of the licensing objectives and, in view of the wide-ranging offer of support from industry and other stakeholders to further develop thinking (particularly in the area of RTP messaging transparency), we intend to take this discussion forward with a range of stakeholders. Such stakeholders will need to include the industry, overseas regulators that have already sought to develop work around RTP transparency, academics and research providers.

Given that the consultation generated few concrete proposals or suggestions for RTP transparency, the Commission will first develop some suggestions and alternatives for exploration which build on the existing international evidence base, upon which we can consult with stakeholders formally at a later date.

As mentioned previously, this will form part of a number of pieces of specific work that the Commission will explore with stakeholders to improve the quality of information provided to players. The complexity of many of these concepts means that development of further ideas for consultation is likely to require work throughout 2015 and beyond. However, these areas will include:

- **Improving general social responsibility messaging** – The Commission expects the IGRG and the Senet group to be the key stakeholders for developing work in this area: for example, we will look to these groups to generate ideas for messages that might have a positive impact on customer's behaviour; to trial those different forms of social responsibility messaging, and to evaluate the effectiveness of those messages ie provide an assessment of whether the messages can positively impact players in controlling their gambling. The timing of this is particularly appropriate in light of the Senet group's recent release of responsible play messages for betting shops and the use of messages on B2 gaming machines. We will also encourage these groups to take forward work to develop **play information** ie information that is bespoke to an individual's own gambling behaviour.

- **Return to player transparency** – the Commission proposes to take the lead in developing this piece of work at the outset in order to generate ideas for further consultation with stakeholders.
- **Game volatility** – we are aware that some stakeholders in the casino industry have developed ideas for expressing game volatility information to players, and we will engage with NCF in the first instance regarding the evaluation of the effectiveness of such measures.
- We will continue to explore work around making the **odds of winning jackpots** (eg on slot machines) more transparent to players. The Commission will lead this work, with machine manufacturers and operators initially, to generate ideas for how players could be provided with more information in this area, with a view to further consultation at a later date.

As mentioned previously, we will also explore work through the IGRG and Senet on how information might be actively promoted, in particular making players aware that if they exhibit certain behaviours then they might be contacted by members of staff.

5 Customer Interaction

5.1 In the consultation document we explained our approach to customer interaction, and the reasons why the Commission considers that this is a key area for development. When the LCCP was first drafted in 2007, it was anticipated that good practice would develop over time. Good practice has been relatively slow to develop, and evidence from a range of compliance cases over recent years has made it clear that this is an area where the industry continues to experience significant challenges in terms of implementation of their existing policies and procedures.

5.2 That evidence also leads the Commission to the view that operators' ability to deliver effective customer interaction would be enhanced by ensuring that the policies and procedures outlined in the LCCP contain specific requirements covering a range of key points (identified through the Commission's compliance work). These points are as follows:

- Behavioural and other triggers for customer interaction
- The use of data to guide customer interaction
- Dealing with difficult customers
- Recording and reporting customer interactions.

The Commission set out its thinking in each of these areas. A number of respondents requested further clarification from the Commission with regard to the customer interaction proposals, in particular on the meaning of the terms 'all relevant sources of information', and on the definition of an 'effective' interaction.

Behavioural and other triggers for customer interaction; and

Using data to guide customer interaction with 'high value' customers

5.3 A key theme emerging from the Commission's growing body of casework is that the information available to operators for commercial purposes (for example, for the purposes of a loyalty scheme, or to make decisions about commercial risk) has the potential to help guide decisions about customer interaction, but has not been routinely deployed for that purpose. That is, while individual player information has been analysed and utilised for commercial purposes (for example, to progress a customer through a VIP loyalty scheme or to apply tailored trading principles), the potential social responsibility application of that data is often – perhaps usually – overlooked. Furthermore, we have found across a range of operators that staff involved in managing customers that have been assigned 'VIP' or 'high value' status have tended to be insulated from the social responsibility obligations and practices applying elsewhere in the business. This has led in some circumstances to regulatory failings where operators have been reluctant to interact with commercially valuable customers on social responsibility grounds, or for the prevention of crime (for fear of losing their custom to competitors).

5.4 In considering all relevant sources of information, operators will be best placed to consider the range of customer information collected and collated on individuals for commercial and other reasons, and how this could be harnessed for social responsibility purposes; eg to monitor changes in customer behaviour where these

changes might potentially indicate that the customer is experiencing gambling-related harm.

Consultation proposal

5.5 The Commission proposed to strengthen the social responsibility provision in the following ways:

- To require specific provision for making use of all information, whatever the source, to guide customer interaction and
- To require specific provision for managing potential conflicts of interest when managing customers of particular commercial value.

Consultation question

Q16. What are your views on the proposal for a specific provision to be added to social responsibility code provision 3.4.1 (customer interaction) about making use of all relevant sources of information to ensure effective decision-making and to guide and deliver effective customer interactions?

Respondents' views

5.6 Respondents' views were split, with the majority of non-industry respondents in favour of this proposal. However, views were more mixed amongst industry respondents. More than half of the industry respondents disagreed with the proposal, although the responses suggest that there is a need for the Commission to clarify its position in this regard. Over half of the industry respondents who opposed the proposal suggested that introducing this provision to the social responsibility code would be too prescriptive or disproportionate.

5.7 Other industry respondents expressed general agreement with the principle, but suggested that it was too soon to enshrine this approach within a social responsibility code provision, that there was little evidence that this approach would be effective, that the Responsible Gambling Trust's⁹ work was likely to shed more light in this area. However, some operators noted that they were already undertaking work 'in house' to use customer data to identify and intervene with those customers who may be at risk of harm.

5.8 The non-industry responses were almost unanimously in favour of the proposal. Those who were not unequivocally in favour offered concerns about other related issues such as the effectiveness of staff training and how low-wage, young or temporary staff can be expected to make an interaction.

⁹ [Blaszczynski, Parke, Parke and Rigbye \(2014\) Operator-based approaches to harm minimisation in gambling: summary review and future directions \(Report prepared for the Responsible Gambling Trust\).](#)

The Commission's position

Following consultation, we propose to proceed with the implementation of the updated social responsibility code, but to remove the wording at 3.4.1 (e) 'specific provision for making use of all relevant sources of information to ensure effective decision making, and to guide and deliver effective customer interactions', as this wording appeared to have caused some confusion. Instead, the code will require that licensees must make specific provision for making use of all sources of information (the specific examples where this is required remain).

The effectiveness of decision making and customer interactions can only be assessed on a case by case basis. However, by ensuring these additional requirements are consistently applied through policies and procedures, operators should be better placed to minimise potential harm. The new revised wording of the code will require operators who are not already making use of all relevant sources of information to ensure these form part of their policies and procedures for customer interaction.

As acknowledged above, we consider that operators are best placed to consider the range of information available to them to guide and deliver customer interactions. These might include, but not be limited to; changes to an individual's monetary deposit or financial loss thresholds; triggering hospitality thresholds (or other criteria for designating a customer as a high value customer or a VIP); a significant increase or decrease in customer communication; changes in spend levels, time spent gambling, betting on a wider range of products. The information may be available at the shop level (outliers/exception reporting), from loyalty card or account data, from previous known interactions with an individual, external alerts, hospitality limits reached, or general transactional data. Previous social responsibility concerns around self excluded customers might also warrant a higher level of monitoring on the part of operators.

The recent RGT research¹⁰, published in December, showed that it is possible to use data to identify problem gambling and problematic play, and both the Commission and government are looking to the industry to set out how it plans to operationalise the findings by developing, trialling and evaluating new approaches to reducing gambling related harm in the light of the research.

As the consultation set out, behaviour that is normal for one individual (eg behaviour that might reflect a well-controlled leisure experience) might, in another individual, be indicative of gambling related harm. What is key to the successful implementation of customer interaction policies is that there are well-trained staff with an effective escalation system, aligned to effective monitoring and evaluation. For these reasons, the Commission considers that it is important to include a code provision that requires operators to put in place provisions to identify those customers potentially at risk of gambling-related harm, whether or not they are displaying obvious signs of, or overt, behaviour associated with problem gambling.

¹⁰ [Gambling machines research programme Report 2: Identifying problem gambling – findings from a survey of loyalty card customers \(2014\)](#), National Centre for Social Research, and [Report 3: Predicting Problem Gamblers: Analysis of Industry Data \(2014\)](#), Featurespace

Dealing with difficult customers

Consultation proposal

- 5.9** In the consultation document, we proposed to update the social responsibility code to make clear the expectation that licensees' customer interaction policies and procedures include 'specific provision for interacting with customers demonstrating signs of agitation, distress, intimidation, aggression or other behaviours that may inhibit customer interaction'.

Consultation question

- Q17. What are your views on the proposal for a specific provision to be added to social responsibility code provision 3.4.1 (customer interaction) about interacting with customers demonstrating signs of agitation, distress, intimidation, aggression or other behaviours that may inhibit customer interaction?

Respondents' views

- 5.10** The responses were evenly split between industry and non-industry respondents. A slight majority of respondents were in favour of updating the social responsibility code at this stage but some industry respondents were particularly concerned about this proposal. A number of industry respondents raised health and safety concerns regarding the introduction of a provision that may require colleagues to interact with someone who might cause them harm, and questioned the need for further research and evidence before this measure should be introduced.
- 5.11** A number of industry respondents noted that they already have policies and procedures in place to deal with difficult customers.
- 5.12** A small number of respondents noted that this proposal, with behavioural identifiers defined, was easier to work towards than the proposal in Q16 – where there was some uncertainty regarding the meaning of the phrase 'relevant sources of information'.

The Commission's position

We are proceeding with the implementation of this social responsibility code provision. Whilst some respondents indicated that their business already has policies and procedures in place, this is not the case across the board. The industry has frequently drawn attention to the challenge of undertaking interactions with agitated customers. As noted in the consultation document, we are aware that some operators do have well-established procedures in this area, but other operators currently have no specific provision for these circumstances (or treat such matters exclusively as security issues). It is for individual businesses to consider how to interact with those customers, whilst keeping their front line staff safe; but having clear strategies on how to deal with such customers is likely to contribute to the safety of front line staff.

The amended provision does not specify that front line staff need to make the interaction with the customer themselves; the intention is to require operators to put in place policies and procedures to deal with the circumstances, and to facilitate interaction with these customers (which might well be at a later date).

As these customers may be experiencing gambling-related harm (of which agitation, distress, and damage to property can be external signs), we consider it important that operators interact with these customers from a social responsibility perspective, rather than treat such matters exclusively as a security issue.

Recording customer interactions

Consultation proposal

- 5.13** The Commission proposed the introduction of a new ordinary code provision to promote the sharing of experience and good practice across operators.
- 5.14** In the consultation document, we also invited views on the recording of customer interactions where a decision had been taken not to interact at a particular point in time (for example where a customer was agitated), but where a flag for future interaction (for example when the customer was calmer) may contribute to more effective customer interaction.

Consultation Question

Q18. What are your views on the proposal for a new ordinary code provision inviting operators to:

- a. work together to share experience and deliver good practice across the full range of social responsibility requirements
- b. keep a record of customer interactions, and where the intervention has been ruled out, the reasons for this.
- c. keep a record of where an interaction has taken place at a later date?

Respondents' views

- 5.15** There was strong industry resistance to the proposal for a new ordinary code provision inviting operators to work together – with the view being expressed that this work should be driven through the trade associations and the Industry Group Responsible for Gambling (IGRG). One respondent suggested that it would be *ultra vires* for the Commission 'to mandate cross-industry co-operation on a condition that bites on individual operators'.
- 5.16** Amongst non-industry respondents, almost all respondents were in favour of the introduction of the ordinary code provision to share good practice.
- 5.17** In relation to point (b) at Question 18, a number of industry respondents noted that they already record non-interactions. Amongst other respondents, there was concern that this requirement would be disproportionate.

The Commission's position

This is not a social responsibility code provision, but an ordinary code provision. We have taken the view that it is reasonable to express, via an ordinary code, that operators should

co-operate and share best practice in this way, and we have therefore introduced the amendment to the ordinary code into LCCP. There are currently a number of industry initiatives that seek to develop good practice around social responsibility (IGRG, Senet and a number of other bodies). There are sound reasons for such information and experience-sharing to take place – and the provision of an ordinary code allows the Commission to take account of the extent to which good practice is being shared, and in considering the need for any specific code provisions in the future.

In relation to the recording of decisions not to interact, this ordinary code provision applies only to customers whose play or other behaviour has given rise to a question of whether or not an interaction should take place, but where a decision is taken not to do so. It is not intended to apply to the majority of customers about whom the operator has no concern.

Amended social responsibility code provision 3.4.1

Customer interaction

All licences, except non-remote lottery, gaming machine technical and gambling software licences

- 1 Licensees must put into effect policies and procedures for customer interaction where they have concerns that a customer's behaviour may indicate harm (or risk of harm) as a result of their gambling behaviour. The policies must include:
 - a. identification of the appropriate level of management who may initiate customer interaction and the procedures for doing so
 - b. the types of behaviour that will be logged/reported to the appropriate level of staff and which may trigger customer interaction at an appropriate moment
 - c. the circumstances in which consideration should be given to refusing service to customers and/or barring them from the operator's gambling premises
 - d. training for all staff on their respective responsibilities, in particular so that they know who is designated to deal with problem gambling issues
 - e. **specific provision for making use of all relevant sources of information to ensure effective decision making, and to guide and deliver effective customer interactions, including in particular**
 - i. **provision to identify at risk customers who may not be displaying obvious signs of, or overt behaviour associated with, problem gambling: this should be by reference to indicators such as time or money spent**
 - ii. **specific provision in relation to customers designated by the licensee as 'high value', 'VIP' or equivalent**
 - f. **specific provision for interacting with customers demonstrating signs of agitation, distress, intimidation, aggression or other behaviours that may inhibit customer interaction**
- 2 **For gambling premises, licensees must ensure that their policies and procedures take account of the structure and layout of the gambling premises.**
- 3 But such policies and procedures must be consistent with, and implemented with due regard to, licensees' duties in respect of the health and safety of their staff.

New ordinary code provision 3.4.2

Customer interaction – ordinary code

All licences except non-remote lottery, gaming machine technical and gambling software licences

- 1 Operators should work together to share experience and deliver good practice across the full range of social responsibility requirements for customer interaction.**
- 2 Operators should keep a record of customer interactions, and where an interaction has been ruled out, the reasons for this. Where an interaction has taken place at a later date, this should also be recorded.**
- 3 In providing training to staff on their responsibilities for customer interaction, licensees should have, as a minimum, policies for induction training and refresher training¹¹.**

Society lotteries

Consultation proposal

- 5.18** Society lotteries are subject to statutory limits designed to prevent the offer of ‘life changing’ prizes. Society lotteries are, however, bound by the same requirements for customer interaction as much harder forms of gambling.
- 5.19** The Commission considers these requirements to be disproportionate for operators selling low frequency lotteries and occasional monthly or annual lotteries in a retail environment. We therefore propose to reduce the burdens on most society lotteries by refocusing our requirements for customer interaction on ticket volumes. We consider that the operators of such lotteries need only have arrangements in place for interaction when a customer purchases a significant volume of tickets in a single transaction.
- 5.20** The consultation document therefore proposed to implement this proposal by removing non-remote lottery operating licences from the scope of the customer interaction code provisions through the introduction of a new social responsibility code provision, which would require lottery operators to make arrangements for customer interaction based on significant ticket sales in a single transaction.
- 5.21** The consultation document also sought views on whether the changes we proposed should be limited to all society lottery products, with different requirements for scratchcards.

¹¹ Please refer to the chapter on Access to Gambling by Children and Young People which explains the transfer of this principle to other areas of social responsibility, namely customer interaction and self-exclusion.

Consultation questions

- Q14. Do you agree with our proposals to change customer interaction requirements for non-remote society lotteries so that they focus on significant individual transactions?
- Q15. Do you agree that these changes should apply to all society lottery products or should different arrangements apply to scratch cards?

Respondents' views

- 5.22** The majority of respondents agreed with the Commission's proposals to Q14 to change customer interaction requirements for non-remote society lotteries so that they focus on significant individual transactions.
- 5.23** While all society lottery respondents agreed that the changes proposed in Q15 should apply to all society lottery products, the majority of respondents expressed concern that scratchcards should be treated the same as other gambling products in respect of the requirements around customer interaction.
- 5.24** It is possible that in responding to this question, many of the respondents equated our reference to scratchcards with National lottery scratchcards rather than Society Lottery scratchcards as was intended. This may have influenced their view.

The Commission's position

We expect all lottery operators to continue to demonstrate a clear commitment to social responsibility, but consider the current requirements for customer interaction in non-remote lotteries to be disproportionate to the risk they present to the licensing objectives. We therefore intend to reduce the burden on some society lotteries by refocusing our requirements for customer interaction in non-remote lotteries to the volume of ticket sales as set out on the consultation proposals.

However, having taken account of respondents' views regarding 'rapid play lotteries', such as scratchcards, we have also added a requirement that operators must interact with a customer where repetitive play over a limited period equates to the individual sales limit set by the operator.

Therefore, the full range of customer interaction requirements will no longer apply to non-remote lottery operators. Instead, they will need to set a monetary limit on ticket sales in a single transaction or in separate transactions in a limited period that will trigger customer interaction. They will need to keep a record of those interactions and make details of them available to the Commission on request. This requirement is set out in the new Customer interaction code (3.4.3).

The new code will apply to all lottery licensees, including remote licensees on the basis that including them would not require anything beyond current practice. The existing Customer Interaction social responsibility code provisions will also continue to apply to all remote lottery licensees, as will new ordinary code 3.4.2.

New social responsibility code provision 3.4.3
Customer Interaction – lotteries SR code
All lottery licences

- 1 Licensees who are non-commercial societies or external lottery managers must:**
 - a set an upper limit on the value of lottery tickets which may be sold to a person, whether as part of a single transaction or over a given period of time, without customer interaction;**
 - b maintain records of all instances of customer interaction pursuant to (a) above and, in each case, whether purchase of tickets beyond the limits set was then permitted; and**
 - c ensure such records are made available to the Commission for inspection on request and retained for at least three years from the date of any lottery to which they relate.**

6 Gambling management tools

- 6.1** We said in the consultation that we think effective tools to help customers manage their gambling should be a key component of any strategy to minimise gambling-related harm. We focused on tools which enable customers to make decisions before or during gambling to help them manage the amount of time and/or money they spend.

Time and monetary limits – category B gaming machines

Consultation proposal

- 6.2** We proposed to require customers to set time and/or monetary limits before playing B2 machines in betting shops (including when using the machines to play on B3 content). We invited views on whether to extend this to category B machines in other gambling environments (eg B1 or B2 machines in casinos or B3 machines in arcades or bingo halls). By ‘limits’ we had in mind thresholds that would trigger an action, although we asked an open question (Q22) about what that action should be.
- 6.3** We invited views on whether we should set a mandatory cap on the thresholds that customers set for themselves. The purpose of a mandatory cap would be to provide a safety net to protect customers who choose to set excessively high thresholds.
- 6.4** We also sought views on what should happen once a player reaches a pre-commitment threshold.

Consultation questions

- Q19. What are your views on the introduction of a social responsibility code provision which would require customers to set time and/or monetary limits [thresholds] before playing B2 machines in betting shops, including when used to play B3 content?
- Q20. What are your views on extending such a requirement to category B machines in other gambling environments (eg B1 or B2 machines in casinos or B3 machines in arcades or bingo halls)?
- Q21. Do you consider that the Commission should amend its gaming machine technical standards to impose mandatory caps on time and/or monetary limits [thresholds]? If so, what should the cap be for a) time and b) money?
- Q22. What should happen once a pre-commitment level [threshold] has been reached?

Respondents’ views – mandatory thresholds (questions 19 and 21)

- 6.5** Respondents had mixed views on the proposal to require customers to set time and/or monetary thresholds before playing B2 machines in betting shops (including when used to play B3 content)¹². In general, industry respondents strongly opposed such a move, while non-industry respondents were in favour. Some industry respondents from outside the betting shop sector favoured reductions in stakes and prizes as an approach to minimize the risk of harm from B2 machine play.

¹² Category B2 machines typically allow players to access both B2 and B3 content. B2 games allow stakes up to £100, while B3 machines allow stakes up to £2.

- 6.6** Industry respondents opposed requiring customers to set pre-commitment thresholds and argued against the Commission setting caps on those thresholds. They argued, for example, that this would go against the principle of informed player choice. Those from the betting industry favoured the existing Association of British Bookmakers (ABB) approach of providing players with the option to set voluntary thresholds, while having mandatory alerts for every £250 loaded and 30 minutes of continuous play. Several respondents argued that a prescriptive regulatory approach would be disproportionate when most players already play responsibly.
- 6.7** Some industry and non-industry respondents suggested that it would be premature to introduce any changes before stakeholders had fully considered the findings of the Responsible Gambling Trusts (The Trust's review) research and properly evaluated the impact of the latest ABB code and the £50 staking regulation that will come into effect in April¹³.

Respondents' views – category Bs in other environments (question 20)

- 6.8** Most non-industry respondents suggested that any such mandate should apply equally to B2 and B3 machines, citing reasons including similar prize levels and potential for addictive play. Industry respondents from outside the betting shop sector thought that concerns related particularly to B2 machines, so it would be disproportionate to extend any measures beyond machines with B2 content. Respondents from the casino, bingo and Adult Gaming Centres (AGC) sectors also suggested that the Commission should take into account the protections that different gambling environments provide to players. Some also cited the considerable cost of converting old machines across their estate. By contrast, while betting shop respondents opposed mandatory pre-commitment, they thought that, if implemented, any such requirements should apply to all category B machines regardless of environment.

Respondents' views – cap levels (question 21)

- 6.9** We noted above the widespread industry opposition to capping thresholds at which alerts or other actions are triggered. Consequently, only non-industry respondents offered suggestions as to what levels would be appropriate for caps on time and monetary thresholds. The responses varied, with suggestions ranging from 10 minutes to 3 hours, and from £30 to £100. Other, less specific suggestions included:
- relating caps to average UK household incomes
 - setting lower caps in deprived areas
 - tailoring caps to individual's ability-to-pay
 - setting weekly or monthly caps (although this would only be possible for account-based play).

Respondents' views – action at threshold trigger (question 22)

- 6.10** Many industry respondents argued that the ABB code arrangements provided for an appropriate response. Under the code, reaching the threshold triggers an alert to premises staff and an enforced break in play accompanied by a message requiring

¹³ The new regulation will require customers to provide identification before operator staff can permit them to play on B2 machines at stakes of £50 or more.

the customer to confirm if they would like to continue playing or if they would like to stop. Some industry respondents thought that the message should ask the customer if they wish to stop gambling rather than ask if they want to continue playing.

- 6.11** Some industry responses expressed concern that prescribing too finely when a customer interaction should take place may weaken the effectiveness of the interaction. Others flagged the absence of detailed evidence of what is most effective and suggested the consultation on this point be postponed until the findings from the RGT research are made available.
- 6.12** Some non-industry respondents thought that a player should be prevented from gambling in the premises for a period of time, but the suggested length of break varied across respondents. Some thought that 30 seconds to a minute would be sufficient while others favoured a break of 2-3 hours. Others went further and suggested 24 hours as is commonly available with pre-commitment limits on line. A number of responses spoke of requiring the customer to interact with staff if they wanted to return to play.
- 6.13** Other suggestions from non-industry respondents included shutting down the machine, mandatory printed receipts enabling the customer to reflect on time and money spent, and strong on-screen social responsibility messaging with an overview of the player's gaming activity in that session. Many respondents recognised that extreme measures (those that stopped play) could push the player onto neighbouring machines or into neighbouring venues, making it very difficult to track player activity across sessions and intervene when appropriate.

The Commission's position

We maintain the view that pre-commitment tools can help customers to manage their gambling responsibly, and that more widespread use of these tools would help reduce gambling-related harm.

In general, we support measures that allow customer choice. We think that customer alerts and interactions are likely to be more effective when triggered by thresholds that customers set for themselves. We also recognise the need to minimise the impact on customers who are not experiencing difficulty in managing their gambling responsibly. For these reasons, we think it is appropriate to require customers to make an active choice about whether to set time and/or monetary thresholds for a customer and staff alert. The ABB introduced such an approach when it updated its code for responsible gambling in January 2015¹⁴. We intend to set a similar formal requirement on all betting shops, but do not intend to extend it to other environments at this stage.

We expect this approach to increase customer uptake of pre-commitment tools. But we also think that those tools could be more effective. For example, we think that there are ways to help customers set more meaningful thresholds to manage their play. One way would be to offer some default options when machines prompt customers to make an active choice about setting their own thresholds. So, for example, customers might be prompted to choose between monetary thresholds of:

- £X
- £Y
- 'Other, including no threshold.'

¹⁴ [ABB code for responsible gambling](#), updated January 2015.

In this example, the third option would take the customer to another screen in which they would specify their own value or choose not to set a threshold.

This leaves open the risk that customers who have problems with their gambling could avoid triggering any reminders or staff alerts. The ABB code seeks to address this risk by having mandatory alerts as a safety net. These alerts are triggered each time £250 is loaded during a session and/or after 30 minutes of continuous play. We see some value in this kind of protection, although we think that the ABB's alerts are triggered at thresholds that are too high to help address most problem and at-risk gambling. The recent RGT-commissioned research¹⁵ into machine play strongly supports this view. For example, by looking at the average session cash-in value, the ABB's threshold of £250 would have identified only 1.3% of problem gamblers. For these reasons, we favour a lower value for mandatory alerts. However, we do not want such alerts to encroach disproportionately on non-problematic play. Consequently, we think that mandatory alerts could be for staff only – with no corresponding customer message. Staff would then decide whether to interact with the customer.

While we favour steps to make pre-commitment and player protection tools more effective, we also recognise the importance of evaluating existing measures and the forthcoming £50 staking regulation before implementing more changes. Consequently, subject to those evaluations and any other relevant evidence, we expect to consult in due course on incorporating into the machine technical standards the additional measures described here. We plan to use the same consultation to consider whether operators should be required through the LCCP to take any action at the threshold levels in addition to customer and staff alerts.

To conclude, we will follow a two-stage approach to pre-commitment. As a first step, we intend to introduce a new social responsibility code provision under which licensees would have to require customers to make an active choice about whether to set time and monetary thresholds on B2 machines. Reaching the thresholds would trigger a reminder message and staff alert. This part of the provision reflects the updated ABB code, but makes it mandatory for all operators. In addition, however, the provision will require operators to align the threshold-setting process with any relevant Gambling Commission technical standards introduced following consultation. The second step will then be to revise the technical standards in the light of evaluations of the updated ABB code and the Government's £50 staking regulation, which will come into effect in April 2015. Subject to those evaluations, we expect to consult on technical standards to support players in setting meaningful thresholds and on new requirements to alert staff where players set excessively high thresholds or no thresholds at all.

We think that this approach will:

- encourage more customers to use pre-commitment tools
- help customers to use those tools more effectively
- provide a better safety net for customers who do not use the tools
- allow time to evaluate recent changes before introducing more new measures.

¹⁵[Report 3: Predicting Problem Gamblers: Analysis of Industry Data \(2014\). Featurespace.](#)

New social responsibility code provision 3.3.3

Betting B2 time and monetary thresholds

All non-remote betting licences

- 1 Licensees must ensure that any B2 machines that they make available for use require customers to make an active choice whether to set time and monetary thresholds for customer and staff alerts. Such thresholds must comply with any relevant requirements set out in the Commission's machine technical standards.**

'Time-outs'

Consultation proposal

- 6.14** A 'time-out' is used by someone that wishes to continue to gamble but manage their gambling by removing themselves from it for a short period of time. It therefore differs from self-exclusion (discussed in Chapter 7) which is a more significant step where an individual recognises that they have a problem with their gambling and wishes to remove themselves from it for a considerable period of time.
- 6.15** Time-outs may also benefit individuals that may be deterred from taking up self-exclusion because of the stigma that may represent to them. The Responsible Gambling Trust's *Operator-based harm minimisation review*¹⁶ (the Trust's review) tends to support this view, suggesting that 'flexibility in duration of agreement may also promote self-control rather than enforcing abstinence and abdication of personal responsibility. Such flexibility may also increase uptake and the range of gamblers willing to consider it as an option for staying in control and avoiding harm'.
- 6.16** The Responsible Gambling Strategy Board (RGSB) advice also suggested the Commission consider allowing shorter duration for self-exclusion arguing that it is possible that a long minimum duration may deter people from entering agreements altogether. We consulted therefore upon the introduction of a social responsibility code provision, applying to remote operators, requiring that time-out periods of 24 hours, one week and one month must be offered.
- 6.17** We acknowledged in the consultation document that operational issues in the non-remote environment (for example, the volume of records, including photos, which would need to be kept) would not currently allow for this requirement to be extended to individual operators let alone consistently between operators or across sectors. However, recognising the direction of travel, we suggested that if individual operators considered that they could successfully administer such an arrangement, we would encourage them to do so.

Consultation questions

- Q23. What are your views on the introduction of a social responsibility code provision which would require remote operators to offer their customers a 'time out' facility?
- Q24. What are your views on the suggested durations of the 'time out' periods to be offered?

¹⁶ [Blaszczynski, Parke, Parke and Rigbye \(2014\) Operator-based approaches to harm minimisation in gambling: summary review and future directions \(Report prepared for the Responsible Gambling Trust\).](#)

Respondents' views

- 6.18** Most respondents indicated their support for a social responsibility code provision for remote operators to offer their customers a time out facility. Many of those in support of the proposal suggested that time outs were a useful tool for people who want to control their gambling but believe self-exclusion is not appropriate for them.
- 6.19** A large number of respondents were concerned about terminology and language around 'time outs' and were keen to ensure that it is defined and expressed clearly so that it is distinct from self-exclusion. They questioned if the use of the word 'exclude' in the proposed social responsibility code provision drafting was helpful. There was also concern that the wording of the code, particularly around the duration of the time outs, is too prescriptive. A number of industry respondents suggested that they have time out arrangements in place that are working well and offer far more flexibility for the customer on the duration of the time out than is currently proposed.
- 6.20** Other industry comments centred on how there would be much to learn on this topic from operators newly licensed by the Commission as a result of the Gambling (Licensing and Advertising Act) 2014. A point also raised by more than one industry respondent was that consideration would need to be given to 'whether the number of time-outs in a given period would or should then indicate that a person is 'at risk' or a 'problem gambler?'
- 6.21** A small number of respondents did not support the proposal. Those responding on behalf of society lotteries were against the proposal citing it as not applicable and a 'burdensome additional requirement'.
- 6.22** The vast majority of respondents offered a view on the appropriate duration of a time out. Just under half of these responses supported the time out durations put forward in the proposal. The majority, however, were in favour of providing more choice to customers than the three suggested durations.
- 6.23** Those responding on behalf of society lotteries again suggested this proposal was not appropriate to their sector.

The Commission's position

We consider that it is appropriate to introduce the new social responsibility code creating a consistent requirement for online gambling licensees to offer time-out facilities. We think that such a requirement will provide some customers with a useful additional tool to help them manage their gambling.

This provision will apply to licensees offering online gambling, including those society lotteries offering 'Instant Win'-type games but excluding all other society lotteries. We have made this differentiation in a number of provisions: i) firstly in this provision relating to time-outs, ii) in RTS 12 (financial limits) and 13B (autoplay) below and iii) in relation to participation in the national online self-exclusion scheme. Instant Win Games most closely resemble products offered by the wider gambling industry, whereas we accept that it would not be proportionate to apply these provisions to society lotteries who only offer more traditional draw based products.

We have amended the wording of the code from the consultation draft to remove references to exclusion in an attempt to avoid confusion between time-outs and self-exclusion, and to

add in a catch all that would allow operators to offer their customer any reasonable time out duration up to 6 weeks. The six week upper limit differentiates time outs from self-exclusion (which must be at least 6 months), although someone could renew a time-out period.

As part of 'knowing your customers', the take up of time-outs might be one indicator of a potential problem, or the individual might just find it a helpful tool to appropriately manage their gambling. A licensee would not be able to determine this from the take-up of time-outs in isolation but, together with other relevant information, it would help inform staff whether there was a need to interact.

New social responsibility code provision 3.3.4

Remote time-out facility

All remote licences except: any remote lottery licence the holder of which does not provide facilities for participation in instant win lotteries, ancillary remote betting licences, remote betting standard (remote platform), gaming machine technical, gambling software, ancillary remote bingo, ancillary remote casino and remote betting intermediary (trading room only) licences.

This provision comes into force on 31 October 2015

1 Licensees must offer a 'time out' facility for customers for the following durations:

- a 24 hours**
- b one week**
- c one month or**
- d such other period as the customer may reasonably request, up to a maximum of 6 weeks.**

Exclusion by product

Consultation proposal

6.24 The RGSB's advice note¹⁷ on self-exclusion which was informed by the Trust's review advised that 'with the exception of some remote gambling sites, individuals are currently unable to self-exclude just from particular activities (for example, only from gaming machines). It is possible that the current inflexible 'all or nothing' approach may dissuade individuals from taking steps to control their gambling by self-excluding. The practicality of allowing individuals to exclude from particular products/activities could be further explored'.

6.25 In the light of RGSB's advice we sought views on how valuable exclusion by product might be for people who may be at risk of harm from particular gambling products. We wanted to explore this by setting out a possible ordinary code provision that could encourage remote operators to offer exclusion by product. Operators should use the take up of partial self-exclusion as a relevant piece of 'know your customer' information when considering whether a customer interaction is necessary.

Consultation question

¹⁷ [RGSB Advice note on self-exclusion.](#)

Q25. What are your views on the introduction of an ordinary code provision suggesting that remote operators should offer the facility to players to exclude themselves from particular product types?

Respondents' views

- 6.26** Question 25 produced a split of opinion in both industry and non-industry responses. Those in favour considered that some gamblers may find they have less control on a particular product and would therefore benefit from being able to exclude themselves from that product.
- 6.27** Many of those against the proposal were concerned that self-exclusion should be about the total cessation from all forms of gambling and might be diluted by such a proposal. A good number questioned whether allowing a player to exclude from one particular product would address the root cause of the harm (acknowledging that prevalence survey information is clear that the most problematic gambling is associated with the number of different forms of gambling). Others were concerned about the practical implications of such an arrangement.

The Commission's position

In light of the consultation responses, which we have considered alongside the lack of evidence to indicate action in this area, we have decided not to introduce an ordinary code on exclusion by product at this point.

The fact that facilities for exclusion by product is offered by some operators would allow for work to be undertaken (where there is sufficient take-up) to understand how useful people find this facility in controlling their gambling. We will continue to monitor the emergence of any such research both in Britain and internationally.

Financial limits (remote technical standard 12)

Consultation proposal

- 6.28** The Commission's remote technical standard 12 currently requires operators to offer customers the opportunity to set a financial limit but do not require the customer to actually set a limit. Typically these limits are available over periods of 24 hours, 7 days and one month. The purpose of this provision is to provide the customer with facilities that may assist them in sticking to their personal budgets for gambling with the operator. When a customer reaches the financial limit he or she must wait for the end of the time period that they set the limit for to expire before being able to continue gambling. Alternatively the player may request the operator to increase the limit, but any increase may only be implemented after a 24 hour cooling-off period.
- 6.29** The current provision (at RTS 12B)¹⁸ requires that, 'Where it is practicable to do so, the customer should be required to confirm that they still wish to increase the limit at

¹⁸[Remote gambling and software technical standards - August 2009.](#)

the end of the cooling-off period.’ Experience in other jurisdictions suggests that many players apply to increase their limits in heat of the moment and, if required to confirm the increased limit after time to reflect, very often leave their original limits in place.

- 6.30** In the consultation we sought views (Q26) on our proposal to strengthen the current provision to make it a requirement (where previously it had been implementation guidance) that before a customer’s financial limit is increased the customer must confirm at the end of the cooling-off period that they still wish to increase the limit.
- 6.31** We also sought views on our proposal (Q27) to amend implementation guidance (RTS12A) to make clear that in addition to offering customers the ability to set a financial limit for a period of 24 hours, operators should also enable customers to set limits over 7 days or one month periods.

Consultation questions

- Q26. Do you agree with the Commission’s proposal to ensure that remote gambling customers who have reached their financial limit and wish to raise it are given a further reality check by being required to reconfirm at the end of the 24 hour cooling-off period that they still wish to increase their limit, rather than allowing the limit to be increased automatically at the end of the 24 hour cooling-off period? (proposal to amend RTS requirement 12B)
- Q27. Do you agree with the Commission’s proposal to amend RTS 12A implementation guidance to specify that customers should be able to choose a financial limit over a 24 hour, 7 day and one month period?

Respondents’ views

- 6.32** The majority of respondents to Q27 agreed with the Commission’s proposal to strengthen the current provision to make it a requirement that customers reconfirm increases to financial limits at the end of the 24 hour cooling-off period.
- 6.33** There were mixed views from the industry about this proposal. Some industry respondents either already implemented this proposal or could see merit in it. Some suggested that a current cooling-off period without reconfirmation is sufficient to enable customers to reconsider and reflect on their request to increase their limit and that in any case customers can immediately lower their financial limit if they change their mind. One operator suggested that reconfirmation should not be necessary where a cooling-off period of substantially longer than 24 hours is implemented. It was also suggested that requiring reconfirmation would be disproportionate and would negatively impact on the customer experience.
- 6.34** One External Lottery Manager (ELM), a lottery trade association and society lottery highlighted that this proposal should not apply where customer spend is controlled through the purchase of lottery tickets online.
- 6.35** A small number of respondents made the general comment that financial limits must be mandatory not optional as is currently the case. Some stakeholders attending the Commission’s consultation workshop also suggested that financial limits should be mandatory so that it is consistent with developments on B2 gaming machines.

- 6.36** The majority of respondents to Q28 agreed with the Commission's proposal that customers should be able to set financial limits over periods of 24 hours, 7 days or one month. A number of respondents agreed with the principle but felt that operators should not be restricted to only offering limits for those defined time frames and should have flexibility to offer greater choice to consumers.

The Commission's position

The Commission considers that elevating the requirement that customers reconfirm increases in financial limits at the end of the 24 hour cooling-off period from a 'should' to a 'must' is necessary within a package of proposals in this consultation that provide customers with tools which enable them to manage their gambling. This provision currently exists in RTS implementation guidance and therefore already represents good practice.

Experience of the requirement to confirm a request to raise limits suggests that players benefit from being 'nudged' to consider if they really do want to raise their limits. The player is still able to confirm the limit should be raised if, after 24 hours and no longer in the heat of the moment, they wish to persist.

We can also confirm that the provision set out below already makes clear that for lotteries, where spend is controlled through subscriptions then further arrangements for limit setting are not necessary. However, we also acknowledge that innovation within the lotteries sector has resulted in the some offering instant win games and other gambling opportunity. The requirement to implement financial limits as set out in the provision does apply to other forms of gambling where customer spend is not controlled through subscriptions.

The Commission has also amended the text of RTS12A implementation guidance to make clear that the duration of financial limits should include 24 hours, 7 days and one month but should not be restricted to those timeframes alone. Such licensees have flexibility to offer limits of other timeframes over and above those set out in the provision.

Amended remote technical standard 12

RTS 12 Financial limits

All gambling

This standard comes into force on 31 October 2015

RTS aim 12

To provide customers with facilities that may assist them in sticking to their personal budgets for gambling with the operator.

RTS requirement 12A

The gambling system must provide easily accessible facilities that make it possible for customers to impose their own financial limits. Customers must be given the opportunity to set a limit as part of the registration process (or at the point at which the customer makes the first deposit or payment).

For lotteries, where the customer's spend is controlled through subscriptions, additional facilities do not have to be provided.

RTS implementation guidance 12A

- a. For telephone gambling (except lotteries), customers should be asked if they would like to set a deposit or spend limit when they register. Customers should be able to request a

limit at any point after registration. The limit should be implemented as soon as practicable after the customer's request. The customer should be informed when the limit will come into force.

- b. For other access media (including internet, interactive TV and mobile), customers should be offered the opportunity to select a deposit/spend limit from a list which may contain a 'no limit' option or to enter a limit of their choice as part of the registration or first deposit process. The 'no limit' option should not be the default option.
- c. Limits could be in the form of:
 - i. deposit limits: where the amount a customer deposits into their account is limited over a particular duration
 - ii. spend limits: where the amount a customer spends on gambling (or specific gambling products) is restricted for a given period – this type of limit may be appropriate where the customer does not hold a deposit account with the operator
 - iii. loss limits: where the amount lost (ie winnings subtracted from the amount spent) is restricted (for instance when a customer makes a £10 bet and wins £8, the loss is £2).
- d. The period/duration of the limits **on offer** should include:
 - i. **24 hours**
 - ii. **7 days and**
 - iii. **one month.**
- e. In addition:
 - i. limits may be implemented per customer, per account, or other means
 - ii. limits could also be implemented across all products or channels or for individual products or channels
 - iii. financial limit facilities should be provided via a link on the home page
 - iv. facilities should be available on deposit pages/screens or via a link on these pages/screens.

RTS requirement 12B

All reasonable steps must be taken to ensure that customer-led limits are only increased at the customer's request, ~~and~~ only after a cooling-off period of 24 hours has elapsed **and only once the customer has taken positive action at the end of the cooling off period to confirm their request.**

RTS implementation guidance 12B

- a. ~~Increases should not be implemented until a cooling-off period of at least 24 hours from the point at which the request to increase the limit was received. Where it is practicable the customer should be required to confirm that they still wish to increase the limit at the end of the cooling-off period.~~
- a. Where possible (for instance, unless systems/technical failures prevent it) limit reductions are to be implemented within 24 hours of the request being received. **In addition, at the point at which the customer requests a decrease in their limit, they should be informed when the limit reduction will take effect.**

Time requirements and reality checks (RTS 13)

Consultation proposal

- 6.37** The current provision (RTS 13A) requires that where a full screen client application obscures the clock on screen, that the client application must display the time of day or the elapsed time since the application was started, wherever practicable.
- 6.38** We proposed to extend this provision to require operators to use the more enhanced tools that now exist that can assist players to keep track of the time they spend gambling. We proposed to introduce a requirement that operators must provide facilities that enable customers to set reality checks, where a 'reality check' is an on-screen display that informs the customer that they have been gambling for a period of time.
- 6.39** In common with the approach taken to financial limits, we proposed that facilities to set a reality check should be offered to customers and the customers can choose whether or not to set a reality check.
- 6.40** We acknowledged that reality checks are not appropriate in all forms of online gambling: for example where an interruption during a game of poker may disrupt the players' game play to such an extent that they lose the hand. We set out our intentions, therefore, to apply this reality check requirement to remote gaming, including bingo and lottery instant win games but excluding peer-to-peer gaming.

Consultation questions

- Q28. Do you agree with the Commission's proposal to extend RTS 13 to include the requirement that customers be offered the facility to set reality checks such as displaying time elapsed since the start of the gambling session?
- Q29. Should the reality check also include information relating to their gambling activity such as balance, win or loss during the session?
- Q30. Do you agree that new requirement (RTS 13B) relating to reality checks should only apply to casino and machine style games (including bingo but excluding peer to peer gaming)?

Respondents' views

- 6.41** The majority of respondents supported the proposal that customers be offered the facility to set reality checks with some highlighting that it is important for customers to have feedback on their gambling in order to take control of it. Views were more mixed amongst responses from industry stakeholders. Some cited concern about the cost of implementation and suggested that the existing protection measures offered by operators meant requiring reality checks would be disproportionate.
- 6.42** One respondent sought clarification on what we meant by a 'gaming session' and whether the requirement that customers be 'offered the facility to set reality checks' will require an operator to provide a pop-up asking customers whether they want to set a reality check.

- 6.43** One respondent suggested that general online reality checks are already available via the internet and the Commission could require operators to provide links to customers to those tools.
- 6.44** The majority of respondents suggested that the reality check should also include information relating to their gambling activity, for example, win, loss or balance. However, some respondents suggested that displaying information relating to a loss during a session might encourage problematic behaviour with some pointing to evidence that, while not directly relevant, might support that proposition. Others pointed out that the Commission's current technical standards already require information such as balance to be displayed on screen and account history be made available that help the player review their gambling.
- 6.45** Views were broadly split in relation to the Commission's proposals to only require reality checks to be offered in relation to remote gaming including bingo and remote instant win lotteries, but excluding peer to peer gaming.
- 6.46** Those in support of the Commission's position cited that the reality check controls should only apply to repetitive casino or slot machine style products and noted that implementing in peer-to-peer gaming (eg poker) and betting can have a detrimental impact on the player.
- 6.47** Whereas some respondents were of the view that the protections offered by reality checks should apply to all gambling suggesting that where reality checks are not practicable that other solutions should be found to help gamblers keep track of their gambling.
- 6.48** A small number of respondents pointed out that reality checks are not relevant for society lotteries.

The Commission's position

We are committed to requiring operators to provide a reality check to customers and, although such tools require systems and software development, we consider it important that they are made available to consumers.

In terms of the content of the reality check, we set out in the final RTS13 below that the reality check should include the time elapsed since the start of the gaming session, a link to the customers' account history and offer the facility to exit the gaming session. We have decided not to require the reality check to include the win, loss and balance of the customer as operators are already required to display the customers' current balance and provide the account history. As such, the reality check should provide a link to their account history which we consider to be a proportionate means to enable customers to review their activity.

Further, the Commission's review of remote gambling and software technical standards later this year will include a review of the current requirement in relation to account history to ensure that appropriate information is made available to customers.

We do not consider generic online reality checks to be appropriate in this context because it is important that the customer acknowledges the reality check before continuing and, as set out above, is also offered the opportunity to review their account history or exit the gaming session.

In terms of what we mean by a gaming session, we have amended the implementation guidance to make clear that the customer should be 'offered the opportunity to set a reality check...prior to commencing game play' so that simply browsing a catalogue of gaming products does not trigger the need to be offered a reality check. Also, the provision makes clear that the customer must acknowledge the reality check before it is removed from the screen meaning that a customer moving between gaming and other products would be faced with the reality check on returning to gaming. The drafting of the provision does not specify precisely how a reality check should be made available. For example, it does not say that the reality check can only be achieved through a pop-up. However, a licensee may choose to implement the requirement in that way.

Finally, we remain of the view that reality checks should only apply to remote gaming (including bingo and lottery instant win games) but not peer to peer gaming. In spite of some suggestions in the responses that we should include peer-to-peer gaming (eg poker) in this provision, we are not persuaded that reality checks can be implemented without causing an adverse and potentially a financial impact on the customer.

Amended remote technical standard 13

RTS 13 – Time requirements and reality checks

**In respect of requirement RTS 13A – All remote gambling except telephone gambling
In respect of RTS 13B – Remote gaming (including bingo but excluding peer to peer gaming) and remote instant win lotteries**

This standard comes into force on 31 October 2015

RTS aim 13

To provide customers with facilities to assist them to keep track of the time they spend gambling.

RTS requirement 13A

Where the gambling system uses full screen client applications that obscure the clock on the customer's device the client application itself must display the time of day or the elapsed time since the application was started, wherever practicable.

RTS implementation guidance 13A

- a. Time of day should either be taken from the customer's own device or 'server time' and should be displayed in hours and minutes.
- b. Operators will not be expected to detect whether or not customers have hidden their clocks.
- c. Elapsed time should be displayed in minutes and hours.
- d. For restricted display devices, time of day or elapsed time should be displayed where the device supports it.
- e. In addition, customers may be offered the ability to set a session or game-play duration reminder.

RTS requirement 13B

The gambling system must provide easily accessible facilities that make it possible for customers to set a frequency at which they will receive and see on the screen a reality check within a gaming session. A 'reality check' means a display of the time elapsed

since the session began. The customer must acknowledge the reality check for it to be removed from the screen.

RTS implementation guidance 13B

- a. The customer should be offered the opportunity to set a reality check and select a frequency at which the reality check will appear on the screen prior to commencing game play. The customer should be offered a range of time periods from which to select.**
- b. The reality check should continue to appear at the selected time intervals until the customer's gaming session ends.**
- c. The reality check should offer the facility to exit the gambling session.**
- d. The reality check should provide a link to the customer's account history.**

Controls on auto-play functionality (RTS 8)

Consultation proposal

- 6.49** The purpose of RTS8 is to ensure that the customer is still in control of their gambling where auto-play is used. During preparation for the implementation of the Gambling (Licensing & Advertising) Act 2014, we agreed, in the light of representations about the difficulties of immediate compliance, to suspend the requirement to meet the limit of 25 auto-plays pending the outcome of this consultation. This was to reflect that operators in other jurisdictions that could operate legally in the British market prior to implementation had significantly different technical standards in relation to auto-play with some jurisdictions allowing higher limits or no limits. By enabling such operators to continue to offer these products, it also met our aim to ensure a smooth transition for British facing operators.
- 6.50** In the consultation document, we proposed to amend the current auto-play provision to require that players set an auto-play management control measure – at a minimum, the control on maximum loss limit – when using auto-play functionality. This was in addition to the current requirement to select a stake and number of auto-play gambles. These controls will automatically stop the auto-play if triggered and enable the player to assess their gambling.
- 6.51** Alongside these auto-play management controls, we also proposed increasing the cap on the number of auto-plays permissible within a single batch from 25 to a maximum of 100. We also proposed to elevate the existing implementation guidance, which stated that customers must be able to stop auto-play at any time, to a requirement.

Consultation questions

- Q31.** Do you agree with the Commission's proposal to amend its auto-play requirement to require at least the setting of a loss limit if the player is offered the auto-play option and to increase the number of auto-plays allowed?
- Q32.** Are you aware of any other potentially helpful gambling management tools that are not covered in this chapter?

Respondents' view

- 6.52** The majority of respondents agreed with the proposal to require players to set a loss limit when using auto-play and also to increase the maximum number of auto-plays from 25 to 100.
- 6.53** Some industry respondents did not agree that auto-play controls should be mandated, arguing that the existence of other gambling management controls meant that an auto-play loss limit is unnecessary and disproportionate. It was also suggested that such a change would add an extra level of complexity in the game and wallet interactions. Some industry respondents, who were both for and against the proposals, suggested that if implemented the provision needs to be clearer about what a loss limit is and suggested the loss should relate to 'money in' and not also include lost winnings.
- 6.54** Some respondents, while supporting the introduction of loss limit, opposed the increase in the number of auto-plays permitted from 25 to 100 and a small number of respondents said that auto-play should not be permitted.

The Commission's position

We consider that, rather than prohibiting auto-play, it is important to have effective auto-play controls in place to ensure players are able to stay in control of their gambling.

We consider this amended provision to provide greater flexibility for licensees and protection for consumers compared to only relying on a maximum number of auto-plays. We were not persuaded that other gambling management tools – of the sort discussed in this chapter/section – are sufficient. As a result, the Commission's position is that controls on auto-play are necessary. By using auto-play functionality the customer is giving up an element of control and so to counteract this, the provision will automatically stop auto-play when a customer's preselected loss limit is reached. It also enables that customer to select other triggers for stopping auto-play.

We have increased the total number of auto-plays permitted from 25 to 100 as proposed in the consultation, which we consider to be proportionate given the improved auto-play control measures introduced. We have also strengthened the provision (as proposed in the consultation document) to ensure that customers must be able to stop auto-play at any time, regardless of how many auto-play gambles they initially chose or how many remain.

We have redrafted the provision to make it clearer and also to clarify that a 'loss' in this context relates to money taken to a gaming session and lost but not winnings that have been won and are then lost within the same gaming session.

**Amended technical standard
RTS 8 – Auto-play functionality
Remote Gaming**

This standard comes into force on 31 October 2015

RTS aim 8

To ensure that the customer is still in control of the gambling where auto-play functionality is provided.

RTS requirement 8A

The gambling system must provide easily accessible facilities that:

- (a) make available the following three controls, each of which stops auto-play functionality when it is triggered-**
 - (i) 'loss limit', ie where the player selects an option to not lose more than X where X is an amount that can be selected by the player. A 'loss' in this context relates to money committed to the auto-play and does not include winnings obtained and lost (ie recycled winnings) during the auto-play**
 - (ii) 'single win limit' ie single win greater than Y where Y is an amount that can be selected by the player and**
 - (iii) 'jackpot win' (where applicable).**

- (b) require auto-play to be implemented in such a way that each time a customer chooses to use auto-play they must select the stake, the number of auto-play gambles and at least the first of the above three controls.**

The number of auto-play gambles must not exceed 100 in one batch. During auto-play the customer must be able to stop the auto-play regardless of how many auto-play gambles they initially chose or how many remain.

RTS implementation guidance 8A

- a. Auto-play should not override any of the display requirements (for example, the result of each gamble must be displayed for a reasonable length of time before the next gamble commences, as set out in RTS 7E).**

7 Self-exclusion

7.1 Self-exclusion is widely accepted as an important harm minimisation tool for customers who have recognised that they have a problem with their gambling. In the consultation document, the Commission set out its expectations for the enhancement of existing self-exclusion practices. The consultation document emphasised three priorities:

- to improve the promotion of self-exclusion as a tool
- to make self-exclusion a straightforward process to allow the customer to exclude with maximum ease
- to ensure that reasonable precautions are in place to identify and prevent self-excluders who may attempt to breach their agreement from doing so.

7.2 The consultation document put forward a number of proposals on how to improve the current self-exclusion arrangements more generally, with particular focus on these three priorities.

Multi-operator self-exclusion

7.3 Currently, if an individual wishes to self-exclude entirely from all forms of gambling they need to do so separately with each operator they gamble or might gamble with. In the consultation document, the Commission highlighted concerns, made in the Responsible Gambling Trust's harm minimisation¹⁹ and self-exclusion reports²⁰, concerning the ease with which self-excluders can continue to gamble at 'other venues, sites, operators, sectors and jurisdictions' undermining, in their view, the effectiveness of self-exclusion as a tool.

7.4 We consulted upon the introduction of both remote and non-remote multi-operator self-exclusion schemes drawing on the evidence in these reports, advice it had received from the RGSB, together with the Government's interest in enhanced self-exclusion schemes as set out in *Gambling Protections and Controls*²¹. The Commission also took account of the experience it has gained over the last seven years.

7.5 When looking at multi-operator self-exclusion, we also considered the issue of marketing. The existing requirement that applies to both remote and non-remote operators is that they should remove someone who self-excludes from any marketing databases used by the company or take other steps to flag that this is an individual to whom marketing material should not be sent. However, this also means that under the current arrangements, individuals that are self-excluded with one operator can continue to receive marketing from other operators with whom they are not excluded. The development of multi-operator self-exclusion should allow for the removal from marketing to be managed across operators too. Both the Commission and the industry will continue to consider this factor as multi-operator schemes are developed.

¹⁹ [Blaszczynski, Parke, Parke and Rigbye \(2014\) Operator-based approaches to harm minimisation in gambling: summary review and future directions \(Report prepared for the Responsible Gambling Trust\).](#)

²⁰ [RGT report on self-exclusion.](#)

²¹ [Gambling Protections and Controls - DCMS April 2014](#)

Multi-operator self-exclusion – remote

Consultation proposal

- 7.6** The Commission had proposed introducing a new social responsibility code provision requiring all remote licensees offering online gambling to participate in a national online self-exclusion scheme once developed. This would allow all self-excluding customers to opt in to a multi-operator scheme, excluding them from all online gambling in one place.
- 7.7** The Commission will be consulting over the coming months on the draft architecture of the scheme which has been developed by a working group established by the Commission and the Remote Gambling Association, to determine how such a scheme will work in practice. This consultation will additionally seek views upon the estimated cost, and how the scheme should be managed and funded.

Consultation question

- Q33. What are your views on the Commission's proposal to introduce a new social responsibility code provision requiring remote gambling operators to participate in a national online self-exclusion scheme?

Respondents' views

- 7.8** The Commission received a mixed response to this question, with the vast majority of respondents in support of the proposal. In general, industry respondents were supportive of the proposal and saw the benefits of it. Some, however, thought that the scheme and provision should also be applicable to the National Lottery and society lottery sector. The society lottery sector held the opposite view, as they considered that requiring their participation in the scheme would be disproportionate due to the low risk nature of the gambling products they offered and the low numbers of self-exclusion requests they received.
- 7.9** Some operators voiced the concern that as the national scheme would effectively remove the ability for an individual to gamble with any Commission licensed operator it may increase the risk of self-excluders seeking to gamble on international unlicensed sites. One operator considered the scheme ought to be trialled before implementation whilst another stated that card blocking was a more effective alternative to the scheme. This was further supported by a non-industry respondent.
- 7.10** The overwhelming majority of non-industry respondents were in support of the scheme. Many suggested that the Commission, or a third party on its behalf, ought to own and manage the database that the scheme would rely on. One respondent considered that to more effectively remove the opportunity to gamble, the scheme ought to have a mechanism by which those who opted into longer self-exclusion periods are able to reduce or end their self-exclusion period, should their circumstances and their risk of problematic gambling have changed significantly. They suggested that such a request would have to be risk assessed by the operator before taking the individual off the database. They also suggested that a facility ought to be available to upload a photograph onto the system, to enable a single self-exclusion database for both remote and non-remote.

- 7.11** One respondent considered that the individual ought to be able to opt into this scheme and self-exclude via a non-gambling website, in order to mitigate the risk of the customer gambling whilst trying to exclude from an operator's website.

The Commission's position

We maintain the view that an online multi-operator self-exclusion scheme will significantly enhance the existing self-exclusion arrangements for online gambling. Therefore we will introduce the code provision 3.5.5 as drafted in the consultation document. The implementation date will be determined once the outcome of the forthcoming consultation is known, a third party contractor has been appointed and the testing of the system is underway.

The basic concept is that a central database would be created to hold details of self-excluded individuals. At each registration and login by remote gambling customers, operators would be able to interrogate the data to identify whether an individual is on the self-exclusion list. If they do appear on the list, they would be denied access to gambling (in line with their wishes when they signed up to the scheme) and signposted to counselling and support services. Individuals will continue to have the option of solely self-excluding from individual operators as now. The database will be developed and managed by a third party contractor on behalf of the Commission and the scheme will need to offer administrative and technical support to both individuals and operators.

The scheme will apply to all licensees offering online gambling, except society lotteries that do not offer Instant Win Games. Although not subject to LCCP, the National Lottery provider has also volunteered to be involved. It is appropriate to include lotteries offering Instant Win Games as such products share some features with others available in the wider gambling market, which are likely to make them riskier than more traditional, draw-based products. Were they to be out of the scope of the arrangements, they might become an attractive alternative for those that have self-excluded. We accept that it would be disproportionate to include society lotteries that only offer traditional draw based games.

Multi-operator self-exclusion – non-remote

Consultation proposal

- 7.12** As highlighted in the consultation document, the Government's review *Gambling Protection and Controls*²² set out the Commission's intention to work with the industry to oversee the introduction of an advanced system of self-exclusion.
- 7.13** The Commission consulted upon the introduction of two social responsibility code provisions in relation to non-remote multi-operator self-exclusion at a local level. Firstly the introduction of sector wide scheme by October 2015 and then cross-sector schemes by October 2016. These schemes would allow a customer to make a single request to exclude from gambling facilities within their local area (such as where they live and work), either by sector or from all gambling premises.
- 7.14** Further to this, we also sought views on the introduction of an ordinary code provision stating that operators should participate in the development of an effective multi-operator scheme.

²² [Gambling Protections and Controls - DCMS April 2014](#)

Consultation question

Q34. Do you agree that all non-remote gambling operators should be encouraged to participate in the development of a multi-operator self-exclusion scheme by the introduction of a new ordinary code provision?

Respondents' views

- 7.15** We received a mixed response from industry and non-industry respondents. However, a large portion of those who did respond did not answer the question directly but used it as an opportunity to reinforce their response to Q35, on the notion of such a scheme itself.
- 7.16** There was a mixed response from industry respondents that directly answered the question. Some agreed that non-remote operators should participate in the development of multi-operator self-exclusion, and suggested that such operators ought to start thinking about who would manage the costs of the cross sector scheme and how such a scheme would work. Some of those who favoured this provision considered that the development of such a scheme ought to be managed by trade bodies rather than individual operators.
- 7.17** Nevertheless, there were some industry respondents that were opposed to the introduction of the code provision 3.5.7. A small number of operators considered that non-remote multi-operator schemes were not feasible, and the introduction of such a code would therefore be unworkable. A few respondents considered that the Commission ought to encourage the development of sector schemes first, as they considered that such schemes were more achievable than cross sector schemes. A trade body suggested that the code provision should not be in force until the cross-sector scheme had been found to be practical, effective and proportionate. Both the lottery and on-course sectors considered that the nature of their facilities did not lend themselves to the inclusion of such a scheme. One operator argued that the introduction of such a code provision would be *ultra vires*, ie not within the Commission's powers to impose.
- 7.18** An overwhelming majority of non-industry respondents were in favour of introducing such a code provision, with some stating that in encouraging the industry to work together in developing such a scheme, the final product would be much more effective.

The Commission's position

We consider it important for every type of non-remote operator subject to the related social responsibility code provision to engage with the development of multi-operator self-exclusion arrangements, to ensure that they are effective in practice.

We are therefore proceeding with ordinary code provision 3.5.7 stating that operators should participate in the development of multi-operator self-exclusion schemes (both the sector specific and cross-sector arrangements described below) as proposed in the consultation.

However, we have amended the provision to provide clarity that we would wish to see licensees facilitate both the development and effective implementation of such schemes, which will provide a longer term requirement upon licensees to make sure the schemes work in practice

Consultation question

Q35. Do you have any comment on the Commission's proposals to require all non-remote business to customer operators to offer customers the ability to self-exclude from operators, within their sector, in the customers' local area by October 2015 and cross-sector by October 2016?

Respondents' views

- 7.19** Responses to this question from industry and non-industry respondents were evenly balanced. There was a great deal of opposition and concern from many industry respondents around the timescales the Commission had proposed. Many considered that the introduction of code provision 3.5.6 would be premature, particularly when taking account of the cross-sector time frame. Some suggested that the timelines were unrealistic and disproportionate to the amount of work that would be required to set up effective schemes, and could result in incomplete and patchy schemes. A few respondents flagged that different sectors were at different stages of developing sector specific arrangements which should be reflected in the timelines, given that the scheme as a whole could not come into force until each sector specific scheme was established and running effectively. A few respondents also raised concerns around the legal implications of non-compliance, should they not be able to meet the timeframes required by the code provision. Some casino, bingo and amusements industry bodies considered that they could achieve the timelines for the sector specific schemes, but two of them considered that such a scheme was neither viable nor achievable. This was echoed in responses from some individual operators.
- 7.20** There were many industry respondents who supported the broad concept of sector specific non-remote multi-operator schemes, but there was not the same support for cross sector schemes. A large number considered it was not viable, or even desirable, because it might make self-exclusion less effective in practice on the basis that a cross sector scheme reliant on photographs would be impractical and burdensome. They considered this was particularly so for sectors that had fewer self-exclusions, who would have a vast portfolio of photographs from other sectors that have a much greater number of self-excluders. Many operators who agreed that non-remote self-exclusion schemes would have to be locally based, raised queries around the definition of 'local' and considered that any non-remote multi-operator schemes would be difficult to administer until such a definition is agreed. The majority of industry respondents from the on-course and lotteries sectors considered that neither cross sector nor sector specific schemes were viable for them given issues of compatibility with such schemes and the low numbers of self-excluders within their sectors. As a result, they requested an exemption from participation.
- 7.21** The vast majority of non-industry respondents were in favour of the proposals and time frames set out in the consultation document, although one respondent considered that the timeframes outlined in the consultation only ought to be enforced if effective schemes had been created.
- 7.22** One local authority considered it would be important to consider compatibility when developing sector specific schemes, in order to ensure an effective cross sector scheme in the long term. They also expressed concern around the feasibility and cost for smaller/independent operators to participate in such schemes, who may then feel pressured to join trade bodies in order to join the scheme and be compliant.

The Commission's position

We continue to think the industry should develop multi-operator self-exclusion arrangements, and to take all reasonable steps to enforce self-exclusion. We recognise that non-remote self-exclusion arrangements in premises with anonymous cash based gambling will always have limitations; it would be unrealistic to expect staff to identify individuals from previously supplied photos every time they attempt to breach their self-exclusion agreement. There will inevitably be a trade-off between number of premises covered and effectiveness of any scheme covering premises with anonymous ie not account based gambling; and recognition of this should be factored in when developing multi-operator exclusion schemes.

We will, as proposed, introduce social responsibility code provision 3.5.6 which requires non-remote licensed operators to participate in sector specific self-exclusion schemes. We consulted on an implementation date for this code provision of October 2015 but taking account of responses from the industry, particularly the betting sector, and further discussion we have had with them, we are moving the implementation date to April 2016. This is in recognition of the particular challenges faced in the creation of effective multi-operator self-exclusion arrangements by those sectors where anonymous play is prevalent. Further, in the case of betting, the relatively large volume of both premises and self-exclusions pose significant logistical challenges.

We welcome the creation of industry groups to take forward the development of enhanced self-exclusion arrangements and we will continue to engage with them to ensure that they are on track to deliver effective non-remote, sector specific, multi-operator self-exclusion arrangements by April 2016. We particularly welcome the work that the casino sector have undertaken in developing their sector specific scheme which is expected to be fully operational over the next few months.

In relation to non-remote cross-sector multi-operator schemes, we accept that it may take longer than originally proposed to develop and implement schemes in which an individual operator would administer a self-exclusion request on behalf of a customer with potentially a large number of other operators cross-sector. We recognise that our original proposed cross-sector social responsibility code wording, which would require operators themselves to administer the self-exclusion on behalf of other operators, would be too big a step and counterproductive as an immediate goal.

We consider, however, that potentially significant progress towards this longer term goal can be made in the meantime through, for example, development of the industry's suggestion of a website facility which provides individuals access to the self-exclusion arrangements offered by operators in their local area (typically where they live or work).

Pending development of the more integrated sector and cross-sector schemes this approach may prove the most expedient route to enhancing multi-operator exclusion systems in the short term. To develop this idea in a coherent manner the industry will need to consider what degree of standardisation of self-exclusion processes; policies and procedures is necessary and also importantly the geographical extent or number of premises which would make up a local area. We are therefore introducing as described above – new ordinary code 3.5.7 to ensure that all operators understand that they should cooperate for example by providing contact points and collaborating to make such initiatives operate effectively.

New Social responsibility code provision 3.5.5
Self-exclusion – remote multi-operator SR code
All remote licences except: any remote lottery licence the holder of which does not

provide facilities for participation in instant win lotteries, ancillary remote betting licences, remote betting (standard) (remote platform), gaming machine technical, gambling software, ancillary remote bingo, ancillary remote casino and remote betting intermediary (trading room only) licences.

This provision will come into force one month after notification by the Commission of the establishment of a national online multi-operator self-exclusion scheme

- 1 Licensees must participate in the national multi-operator self-exclusion scheme.

New Social responsibility code provision 3.5.6

Self-exclusion – multi-operator non-remote SR code

All non-remote casino, bingo and betting licences (except in respect of the provision of facilities for betting in reliance on a track premises licence) and holders of gaming machine general operating licences for adult gaming centres

This provision comes into force on 6 April 2016

- 1 Licensees must offer customers with whom they enter into a self-exclusion agreement in respect of facilities for any kind of gambling offered by them the ability to self-exclude from facilities for the same kind of gambling offered in their locality by any other holder of an operating licence to whom this provision applies, by participating in one or more available multi-operator self-exclusion schemes.

New Ordinary code provision 3.5.7

Self-exclusion – multi-operator non-remote ordinary code

All non-remote casino, bingo and betting licences (except in respect of the provision of facilities for betting in reliance on a track premises licence) and holders of gaming machine general operating licences for adult gaming centres

- 1 Licensees should contribute to and participate in the development and effective implementation of multi-operator self-exclusion schemes with the aim of making available to customers the ability to self-exclude from facilities for gambling provided by other licensed operators within their local area(s).

Dealing with circumstances where self-excluders use proxies to breach self-exclusion agreement

Consultation proposal

- 7.23** We are aware of instances where an individual has attempted to breach their self-exclusion agreement by persuading others to gamble on their behalf. We are also aware of occasions where an operator's response to such activity has made it relatively easy for them to do so – eg where an operator interpreted self-exclusion as exclusion from the premises rather than from gambling. We also discovered that an operator had continued to collect information for commercial purposes about a high

value customer who had self-excluded, suggesting that the operator had reason to think that the self-excluder was still gambling through proxies.

- 7.24** We therefore sought views upon a specific amendment to social responsibility code provision 3.5.1, which would require operators' policies and procedures on self-exclusion to make specific provisions for circumstances in which a self-excluded individual tries to breach their self-exclusion agreement by use of proxies. The proposed amendment also provided clarity that a self-exclusion agreement is designed to exclude an individual from gambling activity rather than just the gambling premises.

Consultation question

- Q36. Do you agree that the Commission should introduce as a social responsibility code provision a requirement that operators have policies and procedures in place that effectively address the risk of proxies being used to breach a self-exclusion agreement and to clarify that a self-exclusion should cover exclusion both from gambling and from entering premises?

Respondents' views

- 7.25** We received a variety of industry and non-industry stakeholder responses to this question. Most were content with the proposed clarification that self-exclusion meant exclusion from gambling as opposed to exclusion from premises.
- 7.26** There was significant resistance from industry to the broader issue although, in some instances, based on a misunderstanding of the proposal with many respondents assuming the Commission wanted operators to identify proxies and those excluders who gambled via proxies. As a result, a significant number considered that introducing a social responsibility code provision was inappropriate; identifying proxies was too difficult and it would take the responsibility of self-exclusion away from the individual. Many operators stated that the issue outlined by the proposal was not a common or prevalent problem and thus the proposal was neither necessary nor proportionate.
- 7.27** The overwhelming response from non-industry respondents to this question was that of support for this proposal.

The Commission's position

We have proceeded with the introduction of a code provision which makes it explicit that the Commission expects operators to recognise, in their policies and procedures, that some individuals who have self-excluded may try to breach their agreement by getting someone else to gamble on their behalf. However, we have decided to introduce this as an ordinary code provision and not a social responsibility code provision. We also wish to emphasise that self-exclusion means exclusion from gambling, not just from premises. We would expect that, for the vast majority of operators, this will not require any change in practice.

Some industry responses suggested the introduction of this code provision would be problematic as they would not be able to identify those using proxies. However, that is not what we are seeking to achieve. Instead the code provision will make clear that operators should prevent practices which enable self-excluders to continue to gamble by proxies with ease.

The amendment is included in ordinary code provision 3.5.2 set out at the end of this chapter (page 89, paragraph 10).

Photographs

Consultation proposal

- 7.28** The current self-exclusion systems are principally reliant on photographs, particularly in those sectors where the majority gamble anonymously. With the introduction of multi-operator self-exclusion schemes, it may become more imperative that photographs are provided to enable operators and staff who may not have met the customer before to take steps to enforce a self-exclusion agreement.
- 7.29** We sought views on whether it should clarify that a photograph must accompany every self-exclusion agreement.

Consultation question

- Q37. Should the Commission clarify that a photo must accompany every self-exclusion agreement?

Respondents' views

- 7.30** Most industry respondents agreed that a photograph would be required to make multi-operator self-exclusion schemes effective, although some queried whether the operator or the self-excluder should provide the photograph. Some respondents questioned the process which should apply where a customer wished to exclude without providing a photograph or was unable to provide one for individual reasons. The key concern here was whether a customer's inability or unwillingness to provide a photograph legitimated the operator's refusal to accept and process the self-exclusion request. One respondent considered the proposal ought to be introduced as an ordinary code rather than social responsibility code for this reason, in order to allow operators to facilitate exclusions where a customer is in clear distress and need of exclusion, but unwilling or unable to provide a photograph. One respondent suggested that operators could use CCTV images in the event of an individual not wishing to supply a photograph.
- 7.31** Respondents from the lotteries, on-course and bingo sector considered that the proposal ought not to apply to them. The lotteries and on-course sector considered it was unnecessary as their facilities are not predominantly premises based and, in the case of lotteries, low risk. The bingo sector stated that their membership schemes negated the need for photographs.
- 7.32** The majority of non-industry respondents were in favour of the proposal. A few respondents raised concerns around image changes and suggested that the self-exclusion agreement ought to require a regular photograph update. Non-industry responders also queried who was responsible for providing the photograph, with the general view that it ought to lie with the operator. Given the difficulty of requiring customers to provide photographs, one respondent suggested that account based play should be encouraged in the longer term.

The Commission's position

The existing social responsibility code provision 3.5.1 already includes the requirement for photo identification '**where available** and in particular where enforcement of the system may depend on photographic ID'. We have now made this use of photographs a requirement, except where a robust alternative is available. Whilst it is likely that self-exclusion agreements in multi-operator schemes will need photographs, the revised wording allows the provision to be sufficiently flexible to allow for future developments, for example, fingerprint technology or indeed a comprehensive account based system that would not require a separate photograph.

We consider that it is legitimate for licensees to ask for a photograph when an individual wishes to exclude, but if the individual cannot supply one then the licensee should facilitate a photograph. To be able to do so immediately on the premises would represent best practice. The exception is where an individual elects to self-exclude by not visiting a gambling venue, when they would need to take responsibility themselves for provision of the photograph.

This amendment is set out in social responsibility code provision 3.5.1 set out at the end of this chapter (page 87).

Staff training

Consultation proposal

- 7.33** Following advice from the Responsible Gambling Strategy Board (RGSB) on the extension of code provision 3.5.1, we sought views on the need to clarify staff training to provide information on self-exclusion to customers, and on the process of administering and implementing self-exclusion agreements.

Consultation question

- Q38. What are your views on making staff training on self-exclusion more explicit in terms of providing information on self-exclusion to customers, and on the process of clearly administering and implementing the self-exclusion agreement?

Respondents' views

- 7.34** The industry response was mixed, but a significant number was in favour of the proposal. A few respondents did not disagree with the proposal in principle, but considered it should not be introduced as it was too prescriptive of staff training requirements, which they considered was outside the Commission's remit. Many operators argued that they already met the requirement set out in the proposal, with clear expectations of staff around the administering of self-exclusion agreements, and suggested the Commission should instead focus their work with operators who had poor staff training in place. One operator suggested that the Commission could create a staff training accreditation scheme in order to instil good practice in this area.

7.35 Non-industry respondents supported the provision with some making further suggestions including that:

- self-exclusion agreements ought to be administered by senior members of staff only
- operators should include training on motivational interviewing within their staff training modules in order to better equip staff to interact with excluding customers and administer self-exclusion agreements more effectively.

The Commission's position

We have clarified this code provision to more accurately reflect what is required in staff training.

The current requirement refers to the need for staff training to ensure that staff members are able to 'enforce' the scheme. The Commission had always understood this to mean staff training needed to ensure that staff knew how to effectively administer the entire system, not just enforcement. However, in the light of comments received, including advice from RGSB, we concluded that we should amend the code to confirm that this was the case. This change should not have any material impact as we have always expected licensees to be providing staff training on the provision of information to customers about self-exclusion and on the process of administering and implementing an agreement, (the areas referenced by the RGSB) in addition to enforcement.

This amendment is included in the social responsibility code provision 3.5.1 (page 87 - paragraph 6c) and 3.5.3 (page 90- paragraph 6c).

Risk assessment of those excluding from gambling

Consultation proposal

7.36 In the consultation document we highlighted some of the difficulties for staff in identifying self-excluders attempting to breach, and the difficulty in preventing such breaches under the existing arrangements. In order to mitigate this issue we sought views on whether operators should develop effective risk based systems to enable venue staff to be informed about which self-excluded individuals are most at risk of attempting to breach their agreements. The rationale behind this proposal was that if members of staff know who to look out for, they are more likely to be successful in picking up attempted breaches.

7.37 We sought views on the principle of risk assessment through the consultation and whether this would more effectively identify those most likely to breach their self-exclusion in order to focus staff efforts on looking out for those individuals in particular. We suggested some examples of the possible basis for such risk assessment, such as a focus on those who had most recently self-excluded or on individuals known to have breached agreements.

Consultation question

Q39. What are your views on the proposal that operators should develop risk based systems so that venue staff are informed about which self-excluded individuals are most at risk of attempting to breach in their venue?

Respondents' views

- 7.38** There was almost unanimous opposition to this proposal from industry respondents, who considered it was impossible for staff to assess which individuals are most likely to breach their agreements. Whilst it may be useful to highlight those excluders who had recently breached or attempted to breach their agreement, many operators considered it would be very difficult for staff to try and predict the behaviour of a self-excluder. Additionally, a few operators highlighted the risk that efforts might become focussed on individuals assessed as high risk, resulting in missed opportunities to identify low risk individuals breaching or attempting to breach agreements.
- 7.39** In contrast, non-industry respondents expressed a great deal of support for the proposal, largely because they considered it would allow staff to focus their efforts on individuals who are at highest risk of breaching their self-exclusion agreement.

The Commission's position

Following the feedback received through the consultation, we have decided to amend the wording of the provision and introduce it as an ordinary code provision rather than as a social responsibility code provision, to clarify what was originally intended. This proposal acknowledged the limitations of the existing self-exclusion arrangements and, in a similar way to proposals on prioritisation or duration of self-exclusion agreements, was an attempt to make it easier for staff to identify self-excluded individuals attempting to breach. The proposal did not require elaborate risk systems but sought to ensure systems were in place to share knowledge between staff.

We continue to think that there is merit in this approach and we have therefore introduced an ordinary code provision which states that operators should have systems in place to share knowledge between staff in venues, and with neighbouring venues, about those that have most recently tried to breach their self-exclusion agreement as a key indicator that they may be likely to try to breach again.

This amendment is included in ordinary code provision 3.5.2 which is set out at the end of this chapter (page 89, paragraph 11).

Signposting

Consultation proposal

- 7.40** Self-exclusion is a tool used by those who have recognised that they are experiencing gambling related harm and/or are problem gamblers. The Responsible Gambling Strategy Board stated that 'self-exclusion is more successful in the context of counselling, family support and that consideration should be given to this approach at time of registration'²³. The Commission therefore proposed for there to be an

²³ [RGSB Advice note on self-exclusion](#).

explicit requirement for operators to signpost self-excluders, at the time of administering their exclusion, to support services.

Consultation question

Q40. Should there be an explicit requirement through a social responsibility code provision for operators to signpost to support services those who have chosen to exclude?

Respondents' views

- 7.41** There was almost unanimous support from both industry and non-industry responders for this proposal. Many operators stated that they already signposted individuals to support services. Many non-industry respondents considered that this proposal would increase the effectiveness of self-exclusion by encouraging individuals to get professional support and treatment at a point when they are open to help.
- 7.42** A small number of industry respondents considered that the proposal ought to be an ordinary code provision as, in carrying the weight of license conditions, social responsibility code provisions do not allow for an operator to act flexibly around individual circumstances and scenarios.

The Commission's position

There was near unanimous support for this proposal and we have adopted the amendment to require operators to signpost those who are self-excluding to support services.

Whilst a small number of industry respondents considered that it should be an ordinary code provision to allow flexibility, we consider that the need to signpost would be relevant, and therefore should happen, on every occasion.

Optimum duration of a self-exclusion period: minimum duration

Consultation proposal

- 7.43** As stated in the consultation document there is no academic consensus on the optimum length of a self-exclusion agreement. The existing LCCP ordinary code provision states that the self-exclusion period should be a minimum of six months and give customers an option of extending this to a total of five years. Six months was introduced because the Commission was advised at the time by problem gambling organisations that self-exclusion periods must last long enough to give the individual sufficient time to address the problems they may be experiencing with their gambling, for example, by seeking treatment. Nevertheless, as stated, we were aware that a long minimum self-exclusion period may also act as a barrier to take up, in addition to causing administrative complexities for operators.
- 7.44** Taking both positions into account, the Commission sought views upon elevating the six month minimum recommended in the ordinary code provision to a social responsibility code provision.

Consultation question

Q41. Should the Commission make it a requirement that the minimum self-exclusion period is 6 months by promoting this existing best practice guide from ordinary to social responsibility code provision?

Respondents' views

7.45 A majority of industry respondents disagreed with the proposal. Most already offered a minimum six month exclusion period in compliance with the ordinary code provision, so considered that any such elevation would be of little purpose or value. Additionally some were concerned it removed operator flexibility on self-exclusion, limiting agreements that can be tailored to an individual's circumstances.

7.46 In contrast, a few operators and the overwhelming majority of non-industry respondents were in favour of the proposal, with one suggesting the minimum period of self-exclusion ought to be one year. One non-industry respondent agreed with the industry argument that the elevation removed operator flexibility to offer a lesser time period, which might be more suitable to an individual's circumstances.

The Commission's position

We have decided to retain the six month duration provision as an ordinary code provision given the lack of academic consensus and that, in practice, it would make no material difference as six months is established as the minimum period that licensees offer.

Duration that should be offered

Consultation proposal

7.47 Currently, ordinary code provision 3.5.2 states that it is best practice for operators to allow a customer to extend their self-exclusion period to at least five years. We were aware, however, that for some parts of the industry longer periods of self-exclusion would make them less effective at identifying self-excluders attempting to breach.

7.48 As a result, on the basis of operational efficiency the Commission sought views on a proposal to amend ordinary code provision 3.5.2 to reduce the offer to customers to extend their self-exclusion period from five years to three years.

Consultation question

Q42. Should the existing ordinary code requirement to offer customers to extend their self-exclusion period to 5 years be reduced to 3 years?

Respondents' views

7.49 The response from industry was mixed. Some respondents disagreed with the proposal, whilst some operators and trade associations supported on the basis that it

would make it easier for staff to identify an excluder and prevent a breach of their exclusion agreement. A significant number of operators, who already offered annual renewals, considered the proposal was irrelevant if a customer could already renew their agreement annually over an indefinite period of time. Further, with an annual renewal the operator is able to update a customer's photograph, in case of any image changes. A small number of industry respondents considered that the five years ought to continue in all sectors.

- 7.50** The majority of non-industry respondents disagreed with the proposal and considered that the status quo ought to be maintained. In reducing the maximum to three years, they thought the Commission ran the risk of watering down the ordinary code provision and preventing customers who wish to exclude for longer periods of time from doing so. Most local authorities agreed with the proposal on the basis that it may not only increase the uptake of self-exclusion but also make it more manageable to maintain for operators.

The Commission's position

Following the launch of the consultation and further consideration about this provision, the Commission considers it is now appropriate to remove the existing provision for non-remote operators to offer self-exclusion periods of at least five years, given the move to multi-operator self-exclusion schemes.

Longer periods of self-exclusion can have a negative effect, in the non-remote environment, on licensees' ability to identify self-excluded individuals attempting to breach. This will only be exacerbated by the increased numbers of self-exclusions that licensees will have to administer with the introduction of multi-operator self-exclusion schemes. Licensees should continue to offer the longest possible period without compromising successful identification and allow individuals to renew their self-exclusion periods.

For similar reasons, we have amended the existing non-remote ordinary code provision 3.5.2. This states that a self-exclusion should remain in place unless the customer takes positive action in order to gamble again, and that operators should give customers returning to gambling following a self-exclusion a 24 hour cooling-off period before permitting them to gamble. We have clarified that these provisions should apply for any customer in the six months after their self-exclusion period ends. In order to apply the 24 hour cooling-off period, operators would need to make arrangements for the self-exclusions to remain in place for 6 months after the end of the self-exclusion period agreed with the customer. After that point, operators could remove the details of the self-exclusion. This decision is part of the overall approach that operators should develop self-exclusion arrangements which would best enable them to identify those who may attempt to breach their self-exclusion or be more vulnerable to the temptation to gamble in the months after their self-exclusion period has ended.

We are retaining the existing provisions within 3.5.4 applicable to remote licencees which state that remote operators should offer self-exclusion periods of a minimum of six months to 'at least five years' and that customers should be required to take positive action in order to gamble again (also with a cooling-off period). The difficulties of identifying self-excluders in an anonymous gambling environment do not apply online, so we are setting a longer minimum period of seven years after a customer's self-exclusion period ends, during which a positive return to gambling and a 24 hour cooling off period should be applied. This period is in line with the standard length of time that operators generally retain records for financial record purposes. The need to retain records to satisfy the requirements of 3.5.4 paragraph

5e is, in common with every relevant provision, subject to compliance with the relevant data protection legislation.

We have additionally amended the provision in relation to marketing for both non-remote (3.5.2 f) and remote (3.5.4 g) operators. It continues to be the case that someone who has previously self-excluded should not be returned to an operator's marketing list unless they have explicitly agreed to receive marketing.

12 month priority

Consultation proposal

- 7.51** Bearing in mind the issue of operational effectiveness, the Commission is aware how multiple photographs per set of premises can be difficult to manage and impacts the ability of staff to identify self-excluders attempting to breach their agreement. The Commission attempted to mitigate this risk through the proposal on risk assessments (highlight in paragraph 7.36 onwards) but also sought views on the proposal to inform self-excluders at the point of their exclusion that their photograph will not receive the same priority after 12 months, unless they actively renewed this priority, although their self-exclusion agreement would still remain in place.

Consultation question

- Q43. To aid the identification of self-excluded individuals, should someone who wishes to self-exclude be informed when they enter a self-exclusion agreement that their exclusion will not receive the same priority after 12 months unless they actively renew it?

Respondents' views

- 7.52** There were mixed views from industry respondents with some in favour of the proposal as they considered that this would allow operators to manage and enforce self-exclusion agreements more easily, with fewer photographs to focus on. Some operators who already had 12 month self-exclusion agreements with the ability to renew annually over a lifetime, considered this would fit well with the agreement they already offered, as both their staff and the customer would be able to uphold the agreement if there is active renewal and thus prioritising. These operators also made the point that if there was no active renewal after 12 months then details of the excluder were still retained on the system for a further six months before being removed.
- 7.53** Some industry respondents disagreed with the proposal as they considered all self-excluders should be given equal priority. Some operators flagged that a customer's request for exclusion is a request for help and thus, in telling a self-excluder at the point of their exclusion that the operator would no longer prioritise them after a year, they ran the risk of discouraging the customer, and making them feel unimportant and uncared for.
- 7.54** Many non-industry respondents also held similar views with the vast majority disagreeing with the proposal as they considered that the customer should be given equal priority as other excluders over the whole of their self-exclusion period. The proposal would be unfair to those who opted for longer periods of self-exclusion. Some local authorities agreed with the proposal on the basis of operational

effectiveness. One respondent considered that the proposal would be beneficial in increasing the effectiveness of maintaining self-exclusion agreements, but stated that operators should not just prioritise a customer at a customer's request and should also assess the list themselves, prioritising those they have found to breach.

The Commission's position

This proposal is no longer relevant given our decision to remove the requirement for Licensees to offer 'at least five years' as described above.

This is because the decision on 'at least five years' enables self-exclusion periods to be tailored to the timeframe that allows licensees to have the best opportunity to identify those attempting to breach (subject to a 6 month minimum).

Barriers to self-exclusion

Consultation proposal

7.55 The consultation document included proposals to reduce barriers to the uptake of self-exclusion, as highlighted by the Trust's review²⁴. There were two main issues:

- in expecting an individual to exclude themselves from gambling activity in a shop or on a gambling website, there was a risk of exposing a problematic gambler to further gambling activity
- having identified they have a problem with their gambling, the individual may feel embarrassment in approaching an operator or their staff in store or on the phone, and thus may be deterred from taking up self-exclusion.

7.56 The Commission proposed to amend the relevant ordinary code provision on self-exclusion, in order to enable an individual to self-exclude without visiting premises.

Consultation question

Q44. Do you agree with our proposal to remove the words 'where practical' from the existing ordinary code provision about the facility to self-exclude without having to enter premises?

Respondents' views

7.57 Industry and non-industry responses to this question were broadly balanced. The majority of operators and trade associations were in favour of the proposal in principle, although some suggested the provision should remain unchanged. Their main concerns were the practicalities of signposting individuals to support services off premises and how the customer would provide a photograph, as well as the additional burden it may place on smaller operators. A few trade associations considered that individuals wanting to self-exclude would lose the benefit of face to face interaction and operators would no longer have flexibility on how they administer

²⁴ [Blaszczynski, Parke, Parke and Rigbye \(2014\) Operator-based approaches to harm minimisation in gambling: summary review and future directions \(Report prepared for the Responsible Gambling Trust\).](#)

a self-exclusion agreement. The casino sectors expressed particular concern, as their sector specific self-exclusion scheme relied on a face to face interaction with a manager.

- 7.58** The general response from non-industry respondents was that of support for the proposal. Nevertheless, one faith group disagreed with the proposal as they considered that the onus lay with operators to deliver the most suitable and effective self-exclusion agreement.

The Commission's position

Following consideration of the consultation responses, the Commission has proceeded with the amendment to ordinary code provision 3.5.2 so that customers are given the option to self-exclude without entering the gambling premises again. We have removed the words 'wherever practicable' from paragraph 2 of provision 3.5.2 (page 89).

- 7.59** In order to address the barriers stated above for remote gamblers, the Commission also proposed to elevate the **remote** ordinary code provision – which allows customers to self-exclude via customer services or equivalent and through an automated system - to a social responsibility code provision; and sought views on this elevation.

Consultation question

- Q45. Should the Commission make it a requirement that remote gambling customers must be given the opportunity to self-exclude by means of an automated process as well as by contacting customer services by promoting this existing good practice guide from ordinary to social responsibility code provision?

Respondents' views

- 7.60** The vast majority of both industry and non-industry respondents in support of the elevation. One trade association raised similar concerns to those above, around how an automated process may reduce the effectiveness of the self-exclusion agreement, as it would not allow for signposting or supportive interaction in the way that self-exclusion by telephone might.

The Commission's position

We have concluded that, as proposed in the consultation, remote gambling operators should be required to give customers the opportunity to self-exclude by means of an automated process as well as by contacting customer services. This is one means to minimise the barriers to customers to enter self-exclusion agreements and we are pleased that the majority of respondents agreed with this proposal.

We have therefore proceeded with the proposal to elevate the previously existing ordinary code provision to a social responsibility code provision. This is seen at the end of this chapter at paragraph 8 of social responsibility code provision 3.5.3 (page 91).

Minimum self-exclusion period (remote and non-remote)

Consultation proposal

- 7.61** In considering barriers to uptake for self-exclusion the Commission also sought views on the minimum length for self-exclusion agreements. The Commission considered it appropriate to consult on this on the basis that a lengthy minimum exclusion period may be off-putting to an individual however, as advised by treatment providers, a too short self-exclusion period may be ineffective. We sought views on setting the minimum period made available to customers in social responsibility code provisions 3.5.1 (non-remote) /3.5.3 (remote) between six months minimum and at most 12 months (ie operators would have to ensure that all self-exclusions lasted at least six months but they must not force customers wishing to self-exclude to set the self-exclusion for a period of more than a year).

Consultation question

- Q46. Do you agree that for remote and non-remote, the minimum self-exclusion period offered must be no less than 6 months and no more than 12 months?

Respondents' views

- 7.62** There appeared to be some confusion with some respondents assuming that the proposal was setting out parameters for the minimum and maximum duration of self-exclusion agreements, rather than setting the parameters for the minimum self-exclusion period, in order to avoid deterring an individual from initial uptake of self-exclusion.
- 7.63** Some industry respondents considered that there was little evidence available to support the introduction of any timeframes on minimum self-exclusion durations and so the ordinary code provision ought to remain in its current form. Some respondents considered that the minimum of six months was adequate and others supported the minimum of 12 months, overall supporting the parameters set out by the proposal.
- 7.64** Most non-industry respondents considered that the proposal was adequate and some faith groups stated that individuals ought to be able to choose their length of self-exclusion from a range of options varying from six months, 12 months, three years or more.

The Commission's position

As set out above, the Commission is retaining the ordinary code provision that every self-exclusion should for a period of at least 6 months.

We are also introducing a new ordinary code provision that the minimum self-exclusion period offered can be no longer than 12 months. This is to avoid a long minimum period being offered which may act as a barrier to take up for some individuals interested in self-exclusion.

Disallowing winnings

Consultation proposal

- 7.65** The consultation document drew attention to the Responsible Gambling Council's report ²⁵ on withholding winnings as part of self-exclusion agreements. The practice of disallowing winnings from self-excluded individuals is intended to remove the incentive to breach their self-exclusion agreement.
- 7.66** Following this report, and coupled with RGSB advice, the Commission proposed to introduce a social responsibility code provision that requires winnings to be withheld from those who have breached their self-exclusion agreement and the associated stake or participation fee being forfeited and donated to relevant charities supporting research, education and treatment for gambling. This would provide a disincentive for self-excluded individuals to breach their agreement.

Respondents' views

- 7.67** The Commission did not publish a question in the consultation document for this proposal, but we did receive some comments on this subject. Given that, and the nature of the responses, the Commission will take the opportunity to consult further before proceeding.
- 7.68** Industry respondents raised a number of queries, particularly focussed on identification and legal issues, suggesting that careful drafting of the wording would be required. The betting sector considered that it would be difficult to identify those who have breached agreements and so the operators should not be penalised for missing an individual. In refusing to pay out winnings, operators may be committing a criminal offence as the obligation to pay once a bet is placed is legally binding via consumer contract legislation, and there may be tax implications for the operator. One operator stated that if a bet was deemed void then no winnings ought to be paid out. Other operators raised concerns of whether they would be expected to trace back any previous breaches once the self-excluder has been identified and then chase them for already paid out winnings.
- 7.69** The response from non-industry respondents varied. One respondent considered that it would be unfair to penalise and deny an individual their winnings having already breached their exclusion, whilst another respondent considered that disallowing winnings was a good practice to adopt to remove any incentive for a self-excluder to continue to attempt to participate in gambling activity.

The Commission's position

The Commission continues to see merit in this proposal and will work with interested parties with a view to bringing back more developed proposals for consultation.

²⁵ [Responsible Gambling Council \(RGC\) Report: Disallowing Winnings as a Part of Self-Exclusion Agreements](#)

Amended Social responsibility code provision 3.5.1

Self-exclusion - non-remote SR code

All non-remote licences and remote betting intermediary (trading rooms only) licences, but not gaming machine technical and gambling software licences

- 1** Licensees must have and put into effect procedures for self-exclusion and take all reasonable steps to refuse service or to otherwise prevent an individual who has entered a self-exclusion agreement from participating in gambling.
- 2** Licensees must, as soon as is practicable, take all reasonable steps to prevent any marketing material being sent to a self-excluded customer.
- 3** Licensees must take steps to remove the name and details of a self-excluded individual from any marketing databases used by the company or group (or otherwise flag that person as an individual to whom marketing material must not be sent), within two days of receiving the completed self-exclusion notification.
- 4** This covers any marketing material relating to gambling, or other activities that take place on the premises where gambling may take place. However, it would not extend to blanket marketing which is targeted at a particular geographical area and where the excluded individual would not knowingly be included.
- 5** Licensees 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 wagers from them. Where the giving of credit is permitted, the licensee may retain details of the amount owed to them by the individual, although the account must not be active.
- 6** Licensees must put into effect procedures designed to ensure that an individual who has self-excluded cannot gain access to gambling. These procedures must include:
 - a** 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);
 - b** photo identification (**except where the Licensee can reasonably satisfy themselves that in the circumstances in which they provide facilities for gambling an alternative means of identification is at least as effective**) (~~where available and in particular where enforcement of the system may depend on photographic ID~~); and a signature;
 - c** staff training to ensure that staff are able to ~~enforce~~ **administer effectively** the systems; and
 - d** the removal of those persons found in the gambling area or attempting to gamble from the premises.
- 7** **Licensees must ensure that their procedures for preventing access to gambling by self-excluded individuals take account of the structure and layout of the gambling premises²⁶.**
- 8** **Licensees must, when administering the self-exclusion agreement, signpost the individual to counselling and support services.**

²⁶ Please refer to the chapter on Access to Gambling by Children and Young People which explains the transfer of this principle to other areas of social responsibility, namely customer interaction and self-exclusion.

Amended Ordinary code provision 3.5.2

Self-exclusion – non-remote ordinary code

All non-remote licences and remote betting intermediary (trading rooms only) licences, but not gaming machine technical and gambling software licences

- 1 Self-exclusion procedures should require individuals to take positive action in order to self-exclude. This can be a signature on a self-exclusion form.
- 2 ~~Wherever practicable,~~ individuals should be able to self-exclude without having to enter gambling premises.
- 3 Before an individual self-excludes, licensees should provide or make available sufficient information about what the consequences of self-exclusion are.
- 4 Licensees should take all reasonable steps to extend the self-exclusion to premises of the same type owned by the operator in the customer's local area. In setting the bounds of that area licensees may take into account the customer's address (if known to them), anything else known to them about the distance the customer ordinarily travels to gamble and any specific request the customer may make.
- 5 Licensees should encourage the customer to consider extending their self-exclusion to other licensees' gambling premises in the customer's local area.
- 6 Customers should be given the opportunity to discuss self-exclusion in private, where possible.
- 7 Licensees should take steps to ensure that:
 - a the **minimum** self-exclusion period **offered is of a duration of not less than 6 nor more than 12 months**; ~~is a minimum of six months and give customers the option of extending this to a total of at least five years~~
 - b **any self exclusion may, on request, be extended for one or more further periods of at least 6 months each**;
 - c a customer who has decided to enter a self-exclusion agreement is given the opportunity to do so immediately without any cooling-off period. However, if the customer wishes to consider the self-exclusion further (for example to discuss with problem gambling groups) the customer may return at a later date to enter into self-exclusion;
 - d at the end of the period chosen by the customer ~~(and at least six months later),~~ the self-exclusion remains in place, **for a further 6 months**, unless the customer takes positive action in order to gamble again. ~~No marketing material should be sent to the individual unless the individual has taken positive action in order to gamble again, and has agreed to accept such material~~
 - e where a customer chooses not to renew the self-exclusion, and makes a positive request to begin gambling again, **during the 6 month period following the end of their initial self-exclusion period**, the customer is given one day to cool off before being allowed access to gambling facilities. The contact must be made via telephone or in person; and
 - f **notwithstanding the expiry of the period of self-exclusion chosen by a customer, no marketing material should be sent to them unless and until they have asked for or agreed to accept such material.**
- 8 The licensee should retain the records relating to a self-exclusion agreement at least for **the length of the self-exclusion agreement plus a further 6 months** ~~until the agreement has been formally ended.~~

- 9 Please note that the Commission does not require the licensee to carry out any particular assessment or make any judgement as to whether the previously self-excluded individual should again be permitted access to gambling. The requirement to take positive action in person or over the phone is purely to a) check that the customer has considered the decision to access gambling again and allow them to consider the implications; and b) implement the one day cooling-off period and explain why this has been put in place.
- 10 Licensees should have, and put into effect, policies and procedures which recognise, seek to guard against and otherwise address the fact that some individuals who have self-excluded might attempt to breach their exclusion without entering a gambling premises, for example, by getting another to gamble on their behalf.**
- 11 Licensees should have effective systems in place to inform all venue staff of self-excluded individuals who have recently attempted to breach a self-exclusion in that venue, and the licensees neighbouring venues.**
- 12 In providing training to staff on their responsibilities for self-exclusion, licensees should have, as a minimum, policies for induction training and refresher training.²⁷**

²⁷ Please refer to the chapter on Access to Gambling by Children and Young People which explains the transfer of this principle to other areas of social responsibility, namely customer interaction and self-exclusion.

Amended Social responsibility code provision 3.5.3

Self-exclusion – remote SR code

All remote licences except: any remote lottery licence the holder of which does not provide facilities for participation in instant win lotteries, and all gaming machine technical, gambling software, ancillary remote bingo, ancillary remote casino, betting intermediary (trading room only) and remote betting (standard) (remote platform) licences

- 1 Licensees must have and put into effect procedures for self-exclusion and take all reasonable steps to refuse service or to otherwise prevent an individual who has entered a self-exclusion agreement from participating in gambling.
- 2 Licensees must, as soon as practicable, take all reasonable steps to prevent any marketing material being sent to a self-excluded customer.
- 3 Licensees must take steps to remove the name and details of a self-excluded individual from any marketing databases used by the company or group (or otherwise flag that person as an individual to whom marketing material must not be sent), within two days of receiving the completed self-exclusion notification.
- 4 This covers any marketing material relating to gambling. However, it would not extend to blanket marketing which is targeted at a particular geographical area and where the excluded individual would not knowingly be included.
- 5 Licensees 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 wagers from them. Where the giving of credit is permitted, the licensee may retain details of the amount owed to them by the individual, although the account must not be active.
- 6 Licensees must put into effect procedures designed to ensure that an individual who has self-excluded cannot gain access to gambling. These procedures must include:
 - a 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);
 - b a record of the card numbers to be excluded;
 - c staff training to ensure that staff are able to **administer** ~~enforce~~ **effectively** the systems; and
 - d the removal of access from those persons found to have gambled or who have attempted to gamble on the facilities.
- 7 **Licensees must when administering the self-exclusion signpost the individual to counselling and support services.**
- 8 **Customers must ~~should~~ be given the opportunity to self-exclude by contacting customer services and in addition, where technically possible, by entering an automated process using remote communication. In order to avoid inadvertent self-exclusion it is acceptable for an automated process to include an additional step that requires the customer to confirm that they wish to self-exclude. The licensee must ~~should~~ ensure that all staff 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.**

Amended Ordinary code provision 3.5.4

Self-exclusion – remote ordinary code

All remote licences (including ancillary remote betting licences), except gaming machine technical, gambling software, ancillary remote bingo, ancillary remote casino, remote betting intermediary (trading rooms only) and remote betting (standard) (remote platform) licences

- 1 Self-exclusion procedures should require individuals to take positive action in order to self-exclude:
 - a over the internet; this can be a box that must be ticked in order to indicate that they understand the system
 - b by telephone; this can be a direct question asking whether they understand the system.
- 2 Before an individual self-excludes, licensees should provide or make available sufficient information about what the consequences of self-exclusion are.
- 3 Licensees should encourage the customer to consider extending their self-exclusion to other remote gambling operators currently used by the customer.
- ~~4 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 remote communication. In order to avoid inadvertent self-exclusion it is acceptable for an automated process to include an additional step that requires the customer to confirm that they wish to self-exclude. The licensee should ensure that all staff 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.~~
- 4 Within the licensee's information about self-exclusion policies, the licensee should provide a statement to explain that software is available to prevent an individual computer from accessing gambling internet sites. The licensee should provide a link to a site where further information is available.
- 5 Licensees should take all reasonable steps to ensure that:
 - ~~a 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~~
 - a the minimum self-exclusion period offered is of a duration of not less than 6 nor more than 12 months**
 - b any self-exclusion may, on request, be extended for one or more further periods of at least 6 months**
 - c the self-exclusion arrangements give customers the option of **selecting** a self-exclusion period of **up to** at least five years
 - d a customer who has decided to enter a self-exclusion agreement is given the opportunity to do so immediately without any cooling-off period. However, if the customer wishes to consider the self-exclusion further (for example to discuss with problem gambling groups) the customer may return at a later date to enter into self-exclusion
 - e at the end of the period chosen by the customer ~~(and at least six months later)~~, the self-exclusion remains in place, for a minimum of 7 years, unless the customer takes positive action in order to gamble again. ~~No marketing material should be sent to the individual unless the individual has taken positive action in order to gamble again, and has agreed to accept such material~~
 - f where a customer chooses not to renew the self-exclusion, and makes a positive request to begin gambling again, **during the 7 year period following the end**

of their initial self-exclusion, the customer is given one day to cool off before being allowed access to the gambling facilities. The contact must be made via telephone or in person; re-registering online is not sufficient.

- g notwithstanding the expiry of the period of self-exclusion chosen by a customer, no marketing material should be sent to them unless and until they have asked for or agreed to accept such material.**
- 6** The licensee should retain the records relating to a self-exclusion agreement **for as long as is needed to enable the self-exclusion procedures set out in paragraph 5 above to be implemented** at least until the agreement has been formally ended.
- 7** Please note that the Commission does not require the licensee to carry out any particular assessment or make any judgement as to whether the previously self-excluded individual should again be permitted access to gambling. The requirement to take positive action in person or over the phone is purely to a) check that the customer has considered the decision to access gambling again and allow them to consider the implications; and b) implement the one day cooling-off period and explain why this has been put in place.
- 8** **In providing training to staff on their responsibilities for self-exclusion, licensees should have, as a minimum, policies for induction training and refresher training²⁸.**

²⁸ Please refer to the chapter on Access to Gambling by Children and Young People which explains the transfer of this principle to other areas of social responsibility, namely customer interaction and self-exclusion.

8 Local risk assessments

- 8.1 The consultation document outlined the Commission's view that operating licensees who, or who propose to, provide facilities for gambling from licensed premises should have policies and procedures in place to mitigate the **local** risks to the licensing objectives arising from the provision of gambling at those premises. This is consistent with ensuring that licensees have responsibility, as gambling providers, for mitigating risks to the licensing objectives arising from their businesses.
- 8.2 Assessing local risk should therefore provide a means for licensees to address local concerns about gambling premises; and for licensing authorities and gambling licensees to work collaboratively with a view to minimising risks, within the framework of aiming to permit gambling where reasonably consistent with the licensing objectives.
- 8.3 In respect of our proposals, we outlined our expectation that applicants for new premises licences or variations of existing premises licences should assess risks when submitting their applications, and that assessments should be revised when there are significant changes to the local environment that might change the level of risks posed. We also proposed to provide advice in our *Guidance to licensing authorities*²⁹ (GLA) that authorities request risk assessments from such licensees as part of the application process, but that assessments should only be requested from existing premises licensees in circumstances where there is significant environmental change that affects the level of risk or the mitigation of those risks.

Consultation proposal

- 8.4 The Commission proposed to introduce the concept of local risk assessments through a new social responsibility code provision, which would require those applying for a new premises licence or a variation of an existing premises licence to assess the local risks to the licensing objectives.

Consultation question

- Q47. What are your views on the concept of a local and premises-based assessment of risks to the licensing objectives?

Respondents' views

- 8.5 Responses from the industry were mixed, although there was concern from licensees and trade associations across the gambling industry that the proposals could be overly-bureaucratic and introduce a disproportionate regulatory burden. Respondents from the arcades sector in particular were very concerned about this aspect of the proposal, and stated that there was a lack of evidence for introducing it. However, a number of stakeholders from the different gambling sectors advised that they already assess local risks when applying for premises licences and submit this information along with their licence applications; as such, the proposal was deemed unnecessary by them in so far as it might replicate existing practice.

²⁹ [Guidance to licensing authorities](#)

- 8.6** A number of operators had specific concerns about the proposals, for example that it was essential that the proposal must support, and be consistent with, the ‘aim to permit gambling’ framework which section 153 of the Gambling Act requires licensing authorities to work within. There was also concern that what is assessed as a ‘risk’ by licensing authorities must be objective and evidence-based, and must not be purely theoretical. Similarly, some operators were keen to emphasise that licensing authorities themselves play a key role in identifying local risks. A number of industry respondents were concerned about how licensing authorities might interpret what a ‘variation’ of licensed gambling premises is; and some respondents also queried how the concept of ‘significant change’ to the local environment was to be defined.
- 8.7** Faith groups supported the proposals, and were keen that assessments should provide a minimum standard for licensees to adhere to. They expressed some concern that the proposals should also appropriately apply to existing premises licensees as well as those who are applying for new premises licenses or variations.
- 8.8** Licensing authorities and local authority groups were, in the main, very supportive of the proposed new codes, on the basis that the assessments would greatly assist in determining licence applications and could reduce the need for premises licences to be subject to review.
- 8.9** A number of local authority respondents pointed out their specific concerns with the premises licence application process in stressing their support for the proposals. For example, their concern that the statutory application forms for the licence process are minimal in terms of information requirements, and so it is essential for authorities to seek additional information from applicants around how they intend to adhere to the licensing objectives. A number of authorities stated their concern that, when applying for premises licences, applicants will often submit their national or corporate policies and procedures that, by their nature, do not take into account key local risk factors, and that some licensees do not consider any assessment of local risk factors until a representation is made as to their application. The proposal would therefore help to reduce the need for such representations and boost public confidence.
- 8.10** Some licensing authorities made the point that they themselves had an essential role to play in providing objective information on the risks and vulnerabilities that exist in certain areas, and that they should only request sight of a licensee’s written assessment when it is proportionate to do so. There was agreement that the GLA must provide examples of the circumstances in which authorities should request such assessments. Some local authority representatives expressed concern that formalising the local risk assessment process might enable licensees to provide only a bare minimum of information, and that it was important that existing premises licence holders should also have regard to local risks.

Consultation question

Q48. What are your views on the proposed new social responsibility code provision on assessing local risk?

Respondents’ views

- 8.11** In the main, industry respondents restated their concerns about the concept of the risk assessment in response to this question. However, a number of respondents also questioned the legal authority of the Commission in what they considered to be

an intervention by the regulator in the statutory premises licence application process. That is, it was suggested that the Commission does not have the ability to implement its proposal for local risk assessments without, for example, the Department for Culture, Media and Sport (DCMS) amending premises licence regulations.

- 8.12** Some operators were concerned that they would not have the appropriate knowledge base on which to judge what the local risks might be in any given circumstances, and that the primary duty in identifying and quantifying local risks in an area must fall to the local authorities themselves. There was also some concern that these provisions, while intended to create a more constructive dialogue between authorities and licensees, might actually be a source of acrimony.
- 8.13** Faith groups and licensing authorities also repeated their arguments in response to question 47 to support the proposed social responsibility code provision. Authorities reiterated the need for strong guidance in the GLA and that operators, as providers of gambling facilities, must be responsible for mitigating risks; albeit that authorities themselves must provide frameworks for identifying those risks within which licensees can have a degree of certainty.

The Commission's position

As stated in the consultation document, we expect all licensees who operate from premises, as a matter of routine, to assess and take steps to address the local risks to the licensing objectives posed by the gambling facilities they provide. Consequently, the provision is not expected to constitute an additional burden.

Some respondents have expressed a view that the Commission should not intervene in local premises issues, and indeed that it does not have the authority to do so given that, in their view, such matters relate only to the statutory premises licence application process. We are clear, however, that this proposal is intended to ensure that operators undertake and maintain risk assessments where particular challenges to complying with their social responsibility obligations might appear at their premises, and in the context of local environmental risk factors. This is entirely consistent with the promotion of the licensing objectives and the Commission's duty to issue codes of practice under s.24 of the Act to 'describe arrangements that should be made by a person providing facilities for gambling for the purposes of', effectively, the second and third licensing objectives.

A number of local authorities expressed concern that the proposed provision should also apply to existing premises license holders rather than just those who are applying for new premises licences or variations of those licences. The Commission had intended this, consistent with its expectation that all licensees should consider the local risks to the licensing objectives and this principle must remain.

We are clear that there may be certain circumstances when local environmental factors change, and potential risks consequently change also (for example, where a rehabilitation centre or facility for young people opens in the vicinity of existing gambling premises, or where areas are identified as having a higher proportion of vulnerable people or crime levels).

As well as the Commission, licensing authorities will want to be assured that all gambling licensees within relevant areas or localities have taken into account such risks as appropriate. There may also be circumstances where there are changes to the control measures that a licensee has put in place to mitigate any risk, and where that licensee therefore has to revisit his risk assessment and consider alternative control measures.

However, it is also desirable for operators to have some clarity about the characteristics of the local environment that might have a bearing on how they conduct their business. Licensing authorities will need to work in partnership with local businesses, communities and responsible authorities to identify risks, and the local areas in which they apply, that they require licensees to address. We are expecting the primary vehicle for building this partnership to be the statement of licensing policy that licensing authorities are required to develop under s.349 of the Act.

To help this process, the Commission intends to complement the new code provisions with further guidance in the GLA. The guidance will clarify the need for licensing authorities to provide a clear and transparent picture of local risks in relation to gambling. In order to minimise undue administrative burden on both businesses and licensing authorities, we are proposing that the need for a local risk assessment will be triggered in four main circumstances:

- When a business first moves into a local area: corresponding with an application for a new premises licence
- When a business changes in such a way as to require a re-assessment of local risk: corresponding with an application to vary an existing licence
- When a business changes in such a way that the licensee's control measures for mitigating existing risks need to be reviewed
- When a local area changes to such an extent that a re-assessment of risk is required. We are expecting that licensing authorities will be the best judges of when re-assessments will be necessary and to explain the need for them as part of the development of their statements of licensing policy.

In their consultation responses, some licensees expressed concern that they might be expected to submit a revised assessment of risks when only a very minor variation to their premises is made. For clarity, our intention here is that the code provisions only apply to variations of a gambling premises licence applied for under s.187 of the Act and not, for example, variations applied for under alcohol licensing legislation.

The DCMS previously outlined, in its guidance for operators and licensing authorities concerning the Act (Gaming machines in Adult Gaming Centres and Bingo Premises) Order 2011, its expectation that 'only where there are material changes to the layout of the premises will there be an expectation that an application for a variation will be required. What constitutes a material change will be a matter for local determination, but the Government envisages that a common sense approach is adopted. Where variations are applied for, the licensing authority concerned will need to have regard to the principles to be applied as set out in section 153 of the Gambling Act 2005.'

We also expect to clarify in the GLA that local authorities might provide suggestions as to what policies, procedures and control measures could be put in place. The authority could draw on best practice as well as examples of how operators could mitigate risk.

It is necessary to consider the timing of when these new code provisions should most appropriately take effect. In view of the advice from local authorities as to the timescales for consulting on licensing policy statements, we consider that the most appropriate implementation date will be 6 April 2016 after the majority of licensing policy statements have been reviewed and consulted upon in 2015.

In view of the responses received to the consultation, the Commission has reviewed the draft wording of the proposed code provisions as originally published in the consultation document. The revised provision which will come into effect on 6 April 2016 as set out below.

New Social responsibility code provision 10.1.1

Assessing local risk

All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.

This provision comes into force on 6 April 2016

- 1** Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.
- 2** Licensees must review (and update as necessary) their local risk assessments:
 - a** to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
 - b** when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
 - c** when applying for a variation of a premises licence; and
 - d** in any case, undertake a local risk assessment when applying for a new premises licence.

New Ordinary code provision 10.1.2

Sharing local risk assessments

All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences

This provision comes into force on 6 April 2016

- 1** Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

Consultation question

- Q49.** What are your views on the proposed new ordinary code provision on seeking advice from responsible authorities on assessing local risk?

Respondents' views

- 8.14** Industry respondents raised concern that this might create a very large additional burden upon the responsible authorities themselves, along with licensees, and that there is a high risk that this could slow down application processes due to those

authorities having other duties. As there is a range of various responsible authorities who might have an interest in the application process, a requirement upon licensees to consult such bodies could be extremely burdensome.

- 8.15** Faith groups supported this element of the proposed ordinary code, and while local authorities also tended to support this in principle, there was some concern about the costs that responsible authorities might incur by extending their involvement in the processes, and also their capacity to assist given their other duties.

The Commission's position

We have removed from the amended ordinary code provision the requirement that licensees seek advice from responsible authorities in conducting their assessments. We note that premises licence applications are, in any event, already copied to responsible authorities, and we consider that it would be more appropriate for the licensing authority to seek the advice of responsible authorities (and any other source of information they think appropriate; public health, housing and so on) when drawing up its research or profile of the local area.

This will avoid creating the burden on both licensees and responsible authorities alike of requiring each licensee to seek advice from the latter on a recurring basis.

9 Annual assurance statements

- 9.1** In the consultation document, the Commission proposed to introduce a requirement for the largest gambling operators, including those operators that form a group of companies which together would be classified as very large, to provide annually an Assurance statement. This would be analogous to a 'Statement on Internal Control' or similar, with which many larger operators would be familiar. We proposed that the Assurance statement would take the form of a short document setting out the operator's own view of where it was performing well against the licensing objectives and where it needed to make progress. We stated that the document would be an important information requirement and this would be reflected in making it a condition that it is signed off by the key position holder occupying the 'specified management office' for 'the overall management and direction of the licensee's business or affairs'.
- 9.2** We considered that this would provide a mechanism for senior management of major gambling operators to demonstrate their focus on mitigating the risks to the licensing objectives within their business, and provide evidence to that effect to the Commission, for which they could be held to account. We sought views on the principle of introducing the Assurance statement under Licence Condition 15.3.1 and indicated that we might conduct a supplementary consultation on the details of the Assurance statement in the near future.

Consultation question

- Q50. What are your views on the Commission's proposal for the introduction of a licence condition to require the largest operators to provide an Annual assurance statement and for this to be signed off by the key position holder occupying the 'specific management office' for 'the overall management and direction of the licensees business or affairs'?

Respondents' views

- 9.3** The general consensus from non-industry stakeholders (faith groups, licensing authorities) was that introducing an Assurance statement was both valid and necessary. Respondents argued that making it a condition that the key position holders sign off the document was a good way for the industry to evidence accountability and commitment to responsible gambling.
- 9.4** The response from industry, however, was mixed. A significant number of industry responses supported the principle of an Assurance statement – with caveats, for example, about what we might do with the information, as well as requests for further discussion on the detail of the return. Others rejected the proposal as disproportionate, a duplication of existing requirements and at risk of being exposed beyond its intended audience (the operator itself and Commission).
- 9.5** A few respondents also considered that if the requirement was to be introduced then it ought to be applicable to all operators and not just those the Commission considered to be large.

The Commission's position

We continue to see the benefit of introducing the Assurance statement requirement as the gambling industry's equivalent to other existing disclosure requirements but focused on the three licensing objectives – a headline summary statement of how operators, at the most senior levels, make sure that they pursue the licensing objectives in providing facilities for gambling. We think that most of the concerns expressed can be addressed in the way we approach and use the proposed Assurance statements. We are therefore taking this proposal forward and will issue a supplementary consultation in the Spring in which we will provide further details on the contents of the Assurance statement.

We do not intend the Assurance statements to provide a comprehensive account of everything the largest operators are doing in pursuit of the licensing objectives. Rather, it should provide a guide to an operator's key activities and an assessment of how effective those activities have proved in pursuing the licensing objectives. Operators can be held to account for their Assurance statements. Assurance statements will help the Commission both in its oversight of those operators with the greatest impact and in its developing its understanding of what works in terms of delivering the licensing objectives.

The Annual assurance statement will be introduced under the existing licence condition 15.3.1 which states that 'On request, licensees must provide the Commission with such information as the Commission may require'.

Content of the Assurance statement

- 9.6** The Commission will provide guidance on how to complete an Assurance statement once the content has been settled following the supplementary consultation referred to above. As outlined in the previous consultation document, the Assurance statement will require qualifying operators to report on some key items (as described in Q.51 below), with specific references to regulatory return data where applicable.

Consultation question

- Q51. What are your views on the proposed content of the Annual assurance statement (as set out in paragraph 9.9)? Please comment on the potential requirement to report on the specific items set out below:
- the control systems and governance arrangements in place to enable operators to objectively and critically evaluate performance against each of the licensing objectives
 - the difficulty operators have faced in meeting the aims/requirements of those objectives
 - the operator's specific plans for improving performance in those areas
 - the operator's overall plans for improvement over the following year.

Respondents' views

- 9.7** The overwhelming response from non-industry stakeholders was of support for the specific items listed in the question to be reported on. A few non-industry respondents went on to make further suggestions. The first was that licensees ought to also report on how they have taken into consideration potential health harms when planning their social responsibility strategies for future improvement. The second was that the Commission ought to take a more prescriptive approach where failings are identified.

- 9.8** Respondents from industry considered that there were a significant number of issues around the proposed content of the Assurance statement. They expressed concerns around both the value of the Assurance statement and the increased regulatory burden the proposal could impose. This was especially the case in relation to sections a and d³⁰, where respondents thought that affected operators would have to duplicate information already provided in regulatory returns. Consequently, these respondents thought other mechanisms, such as annual stakeholder meetings and compliance visits, would be a more effective way for the Commission to gain insight and assurance from operators on these items.
- 9.9** A number of respondents reiterated concerns around the sensitivity of providing such data to the Commission, given that no commitment was made regarding the release of this information (eg potential for successful Freedom of Information (FOI) requests to be made). Some respondents stated concerns around the suggested performance measures and were apprehensive that the Commission might use the information returned to 'punish deficiencies' and expect unrealistic timeframes within which operators would have to address any weaknesses within their business. A few operators also thought that the Commission ought to convene a working group to develop the information requirements within the document.
- 9.10** A small number of respondents considered that they ought to be exempt from such a requirement, due to them perceiving their operations to be 'low risk' or not sufficiently widespread, or that the statement they produce should to be tailored to the nature of their business, especially in the case of business-to-business (B2B) operators.
- 9.11** A further suggestion was that the guidance to the Assurance statement ought to be published three months prior to its implementation.

The Commission's position

We accept the need for further clarification on the proposed content and purpose of the Assurance statement and will further clarify or amend the content/ requirements of the Assurance statement through supplementary consultation.

We do not expect the Assurance statement to impose a disproportionate regulatory burden. We expect it to be a concise assessment of how effectively the operator considers that it has pursued the licensing objectives.

By holding operational and personal licensees to account for the Assurance statement, we expect senior managers, including board members, to focus on their responsibility for devising, implementing and evaluating policies and procedures to achieve the licensing objectives – both now and in the future.

The Assurance statement should not duplicate information from other sources. It will complement existing returns, but be quite different from them. Regulatory returns, compliance assessments and meetings with operators are ways in which the Commission:

- tracks developments in the industry, for example through changing risk indicators (eg numbers challenged before entry or key events)
- builds and keeps up to date its understanding both of individual operators and of the size and shape of the industry

³⁰ Section a refers to the control systems and governance arrangements in place to enable operators to objectively and critically evaluate performance against each of the licensing objectives. Section d refers to the operator's overall plans for improvement over the following year.

- checks on compliance standards.

These sources provide the Commission with data and information on licensees that it has specified. The Assurance statement, by contrast, will provide the Commission with each operator's analysis of how it pursues the licensing objectives, referring to such data sources as necessary. Aside from providing assurance from an operator's senior management, this will help the Commission to build its understanding of actual and emerging risks and how these are best mitigated. We will then be able to share this with the industry, albeit in anonymised form, to promote best practice.

Regulatory returns information

- 9.12** The consultation document also highlighted the Commission's intention to review the information collected via regulatory returns in order to ensure that the data collected was fit for purpose. The Commission thus asked a general question in the consultation document to gather stakeholder views on what information should be collected through regulatory returns.

Consultation question

- Q52. We have indicated that we intend to carry out a review of regulatory returns to ensure that the information gathered is right. What social responsibility information would it be helpful for the Commission to collect through regulatory returns?

Respondents' views

- 9.13** A significant number of respondents made a variety of constructive suggestions as to what further information the Commission ought to collect through its regulatory returns. Most of these suggestions were in favour of further detail and statistics on the following: customer interactions, age-verification testing, staff training, self-exclusion numbers with regards to known breaches and numbers of returning customers following the end of an exclusion period, pre-commitment usage, including the number of times a level is reset, and the number of terminals damaged by disgruntled customers.
- 9.14** A number of respondents, however, felt that the current data collected via regulatory returns was sufficient and suggested that the Commission ought to make good use of the current information submitted first and foremost, and also display back to the industry and public how it goes on to use such information.

The Commission's position

We regularly review the information collected in regulatory returns and will consider including the information suggested in the responses to this consultation. In the meantime, we will continue to use the information submitted in regulatory returns to aid our understanding of operator performance and to compile industry statistics.

We accept that we have an obligation to keep the regulatory burden to a minimum and to make best use of the data we collect, including sharing it as widely as is consistent with commercial or personal confidentiality. We work continuously to improve the ways in which we do this.

Estimating revenues from problem or at-risk gamblers

Consultation proposal

- 9.15** We said in the consultation that successive governments have regarded gambling as a mainstream leisure activity that most people enjoy safely. But we noted that it is also one that involves some risks to consumers and society, and licensees need to minimise these risks. The commercial success and sustainability of the industry depends on it being built on revenue from normal leisure gamblers choosing to spend money that they can afford to lose and time that they have to spare.
- 9.16** We therefore sought views on whether each of the very largest operators should include in its Assurance statement an estimate of the amount of revenue generated from problem and at-risk gamblers, together with an account of the actions it is taking to reduce that figure by addressing the contributing factors specific to its business.

Consultation question

- Q53.** What are your views on the proposal to include in the Annual assurance statement an estimate of the amount of revenue generated from problem or at risk gamblers, the factors that might be contributing to that amount, and the action taken to bear down on it?

Respondents' views

- 9.17** Industry responses overwhelmingly opposed the proposal for a variety of reasons, in particular:
- the difficulty in generating estimates and that any estimates would depend heavily on assumptions, making them too unreliable
 - concerns that the Commission would use the information to construct a league table of operators and make overly simplistic regulatory decisions on that basis.
- 9.18** As with the Assurance statement in general, a large number of operators expressed concerns around whether or not we would make this information publically available, for example in response to a request under (FOI). Operators noted that this could potentially cause reputational damage and might discourage operators from recording problem gambling statistics in future. Some pointed out that the amount of money spent was not the only measure of gambling-related harm, so the Assurance statement should not make it so prominent. Nevertheless, some operators offered to help the Commission explore the proposal.
- 9.19** The majority of non-industry respondents supported the proposal, although a handful also echoed the industry's concern around the accuracy of such calculations. A small number of non-industry respondents suggested that the Commission should provide a methodology for operators to generate figures.

The Commission's position

Tackling problem or 'at-risk' gambling

In the consultation, we argued that analysing the extent to which revenue comes from problem and at-risk gambling would help operators to consider where to focus their player protection and harm minimisation efforts. We were not expecting licensees to produce a definitive figure, given limitations in the information available. Instead, we were looking for proxy indicators which might well vary from licensee to licensee. Our objectives were to encourage licensees to become more effective at:

- i) identifying problem and at-risk gambling
- ii) tackling it
- iii) tracking their progress.

In so doing, licensees would reduce gambling-related harm. We fully accept that the amount of revenue from those gambling excessively would be an incomplete or partial measure of harm from gambling. Some players can experience significant harm while spending relatively little. But it would be a measure of the extent to which businesses receive money from people incurring harm, and is likely to be a helpful proxy measure for a substantial component of harm related to gambling.

We continue to consider it essential for the industry to make significant progress against these harm reduction objectives. If major operators demonstrate progress in minimising the extent to which they receive revenue from those experiencing harm from gambling, they would help the industry to be accepted as a mainstream leisure activity safely contributing to the nation's prosperity and entertainment.

We have welcomed licensees' offers to help the Commission explore some of these issues. We convened a small, informal consultation group for that purpose. The group's work has helped to inform an approach on which we will seek views as part of the supplementary consultation on the Assurance statement. The Commission, however, takes sole responsibility for the proposed approach.

As part of that approach, we will provide in the supplementary consultation some reference material to stimulate licensees' thinking around how to identify problem and at-risk gambling. This reference material draws on evidence from the health surveys to highlight how demographic factors might indicate that individuals or groups are more likely to be experiencing problems with their gambling. It illustrates how licensees might start to identify areas of risk on which to focus their efforts. We would expect licensees to go on to explore how they might incorporate socio-economic and behavioural indicators into their own analyses, drawing on the health surveys and other research such as the RGT's machines research.

We would then expect each licensee to provide a report in its Assurance statement on how it has:

1. developed tools to identify problem and at-risk gambling according to the circumstances of its own business, building where relevant on the Commission's reference material
2. acted to address the risk, using metrics to show the scale of action

3. evaluated the effectiveness of those actions
4. assessed the impact of its actions on the extent to which its revenues are likely to come from moderately at-risk or problem gamblers
5. draw on experience over the previous year to identify additional actions that it will pursue over the following year.

We would expect the fourth item (above) to comprise a narrative assessment supported wherever possible by indicators or proxy measures. We understand and accept that it is impossible to provide an exact figure for revenue associated with harmful or potentially harmful play. However, it should be possible for each licensee to draw on the information gathered under points 1 to 3 to form an assessment that is meaningful in the context of its own business.

For the fifth item, we would expect licensees to look not only to their own experience, but also to shared industry experience and evaluation of what measures work.

We will support licensees' efforts with all of these items by working collaboratively through discussion groups and other means to help develop and share best practice.

Disclosure of Assurance statements

We do not intend to publish licensees' Assurance statements. However, the Commission falls within the remit of the FOI Act provisions covering public bodies. As such, we are not in a position to guarantee that information we hold will not be released into the public domain, especially where the information may be more generic in nature or already in the public domain, eg through annual reports.

Nevertheless, our view is that the FOI Act would support a decision to exempt commercially confidential information in the Assurance statements from being disclosed in a manner which reveals the identity of licensees. While decisions have to be made on a case by case basis we would expect to argue successfully that disclosure of detailed commercially confidential information provided as part of an Assurance statement would not be justified on public interest grounds.

10 Research, education and treatment

- 10.1** The consultation document highlighted a number of aspects of social responsibility that we expect to see addressed by individual operators in the course of their business. One such aspect is the mitigation of harm that gambling can cause to some people. There is a clear benefit for the industry as a whole to demonstrate its commitment to addressing problem gambling. The range of activities required by the industry to meet this responsibility is set out in the social responsibility code of practice provision collectively known as research, education and treatment (RET) although research into responsible gambling and education for the public on the risks of gambling is perhaps better expressed as harm prevention. This highlights the industry's additional and collective responsibility to fund research and education to improve understanding of harm prevention and to fund treatment.

Revision of social responsibility code 3.1.1

Consultation proposal

- 10.2** In the consultation the Commission aimed to make RET requirements clearer through revised wording for social responsibility code provision 3.1.1 and asked respondents for their views on this revision. This redrafting serves to make it clear that the requirement to fund initiatives to address RET is mandatory.

Consultation question

- Q54. Do you agree that the revised wording of social responsibility code provision 3.1.1 (combating problem gambling) makes the requirement clearer?

Respondents' views

- 10.3** The vast majority of responses, including all those directly from the industry, considered the revised wording of social responsibility code 3.1.1 made the requirement clearer.
- 10.4** A few respondents, however, disagreed. One respondent saw no need for any revision at all. Two respondents felt that the phrase 'including, but not necessarily confined to' was convoluted and stated that the Commission's expectations of the operator needed to be explicit. One respondent stated that the rewording failed to make clear that this requirement was designed to combat problem gambling, as it only stated the requirement for the promotion of 'socially responsible gambling'.
- 10.5** Some respondents that agreed with the revised wording of the code also made further suggestions. For example, one suggested that the title of the code provision should be 'preventing problem gambling' as opposed to 'combating problem gambling'. Two respondents were concerned that the supporting narrative in this section of the consultation document appeared to dismiss the value of in-house social responsibility initiatives that go beyond the requirements of the LCCP.

The Commission's position

We have implemented the change as proposed, save that the word 'following' has been deleted from the first sentence to aid clarity.

Some parts of the original code of practice provision have been retained but reworded and reordered to make the code provision clearer. Specifically this is to highlight that financial contributions must be made to RET, in addition to the range of social responsibility-related policies and procedures specified later in code provision 3. Licensees are also free to have additional policies for other matters not specified, but relevant to the business.

The suggestion that the title of the code provision could be improved is interesting and the Commission can see that the word 'combating' may be considered aggressive. The difficulty with substituting 'preventing' problem gambling is that prevention cannot be absolute and mitigation and treatment measures will continue to be needed. On balance, we prefer to retain 'Combating problem gambling', which conveys the requirement to take action without being unrealistic.

The narrative stating that compliance with other social responsibility requirements cannot be cited as the sole RET contribution was not intended to suggest that there is no credit given for 'going the extra mile'. We are aware of companies that have additional initiatives such as responsible gambling websites or community groups which are a valid and welcome component of those companies' contributions to responsible gambling. The financial contribution to RET is only one aspect of social responsibility but it provides a systematic approach to responsible gambling across the industry and ensures that pan industry initiatives can be funded.

Annual financial contributions

Consultation proposal

- 10.6** The consultation highlighted that while some operators donated relatively significant sums to suitable organisations to meet their obligations under this code provision, a considerable number of operators continued to make either no financial contribution at all, no meaningful contribution, or failed to contribute to appropriate bodies.
- 10.7** The Commission considers it appropriate that all licensees make an annual financial contribution to one or more organisation(s) which between them research into the prevention and treatment of gambling-related harm, develop harm prevention measures and identify and fund treatment to those harmed by gambling. The Commission therefore proposed to make this requirement clearer in the social responsibility code provision.
- 10.8** The Commission also viewed the requirement to contribute to RET as applying to all operators, even if they are not trading or not profitable, as a cost of being in a licensed business.

Consultation question

- Q55. Do you agree that the Commission should specify that each licensee must make at least an annual financial contribution?

Respondents' views

- 10.9** We received responses from a mix of both industry and non-industry to this question. The overwhelming majority agreed with the proposal and saw benefit in specifying this requirement. One respondent suggested alternative wording to the current drafting, as they felt it was too prescriptive as it stood.
- 10.10** There were a handful of respondents who disagreed with the proposal for various reasons. One area of industry that did not support this proposal was the on-course sector, who suggested that on-course bookmakers should either be exempt from the requirement or continue with the *status quo*, where the requirement is met by an annual financial contribution made by their trade association. A few respondents disagreed with the requirement for an annual financial contribution on the basis they felt it was too prescriptive.
- 10.11** Another viewpoint expressed by a small number of respondents, some of which agreed with the proposal and one of which did not, was that the Commission ought to invoke the levy provided for in s.123 of the Act to fund RET. Of those that agreed with the proposal and suggested this, they felt that a levy would ensure a more significant financial contribution would be made.
- 10.12** One respondent also stated that the exclusion of 'in-kind contributions' was not progressive and thus ought to be permitted with an estimate of the value of such a contribution.

The Commission's position

We have amended the code of practice provision and (will amend the) associated regulatory returns guidance, to make it clear that a financial contribution is required at least annually. During previous consultations, the industry has made it clear that it prefers not to have a levy and the Commission's position is that the current approach will remain provided that the industry provides sufficient funds to support the RET needed to underpin the national responsible gambling strategy.

Where a trade body (generally representing smaller operators) contributes to RET on behalf of all its members, this will constitute a financial contribution having been made by those licensees. There is no intention to disallow these indirect contributions.

We were not persuaded that any of the suggested alternative wording was preferable to that proposed.

The opportunity to provide 'in kind' contributions has existed since 2007 but the Commission's evaluation of such contributions was that they were rarely sufficient and in any event did not contribute to funding the RET needed to underpin the national responsible gambling strategy. For this reason the code requires a financial contribution although licensees can, of course, choose to make contributions in kind in addition to their financial donation.

Contributions to all three elements of RET

Consultation proposal

- 10.13** The Commission considered it appropriate for all licensees to contribute to all three elements of RET, rather than giving the option to choose just one or two elements. The Responsible Gambling Trust (RGT) is the industry's principal funding body for RET and makes grants to providers of all three elements. Therefore a contribution to RGT is a simple way for an operator to ensure compliance.

Consultation question

- Q56. Do you agree that all licensees should make a contribution that addresses all three elements of the RET requirement, or should harm prevention (research and/or education) plus treatment be specified?

Respondents' views

- 10.14** The vast majority of respondents agreed that all licensees should make a contribution that addresses all three elements of RET, as opposed to harm prevention plus treatment separately. A small number of respondents disagreed with the question on the basis that they did not see any need to make it explicit in the code that contributions should address all three elements of RET and felt this drafting was too prescriptive.
- 10.15** One respondent stated that treatment ought to receive more priority over education and research (harm prevention), as harm is embedded in the nature of gambling, thus harm prevention should not receive an equal amount of funding as treatment, and the contribution to each ought to be specified.
- 10.16** A few respondents also stated that they felt that operator expenditure towards information leaflets, posters and Auto Teller Machine stickers etc, should be considered as a contribution to the educational element of RET, as these materials also educated customers on the harms related to gambling.

The Commission's position

We continue to hold the view that research and the range of harm prevention or minimisation measures are all important and that all licensees should contribute to all these aspects. Whilst it cannot require a contribution to RGT, the Commission reminds licensees that a contribution to this charity is a straightforward way to ensure full compliance.

Advice provided to the Commission by the Responsible Gambling Strategy Board places the emphasis on problem gambling prevention rather than treatment. Whilst both are needed, the Board suggests that it is more effective to take a public health approach to addressing problem gambling, with its focus on prevention and reducing the need for treatment.

We recognise that expenditure on leaflets, posters and stickers is part of the money spent by licensees on ensuring that they are operating in a socially responsible manner and they are, in any case, required to do so under other social responsibility code provisions. However, such expenditure does not make any contribution to funding industry wide programmes needed to underpin the national responsible gambling strategy and therefore are no substitute for a licensee's contribution to RET.

Amended social responsibility code provision 3.1.1

Combating problem gambling

All licences

- 1** Licensees must have and put into effect policies and procedures intended to promote socially responsible gambling **including the specific policies and procedures required by the provisions of section 3 of this code.**

- 2** Licensees must make an annual financial contribution to one or more organisation(s) which between them research into the prevention and treatment of gambling-related harm, develop harm prevention approaches and identify and fund treatment to those harmed by gambling. Licensees' policies and procedures for socially responsible gambling must include but need not be confined to:
 - a.** ~~the specific policies and procedures required by the following provisions of section 2 of this code~~
 - b.** ~~a commitment to and how they will contribute to research into the prevention and treatment of problem gambling~~
 - c.** ~~a commitment to and how they will contribute to public education on the risks of gambling and how to gamble safely~~
 - d.** ~~a commitment to and how they will contribute to the identification and treatment of problem gamblers.~~

11 Marketing, advertising and fair and open terms

11.1 This section of the consultation document proposed changes and amendments to update and strengthen the LCCP to ensure that fair and open terms of gambling are implemented and to ensure that marketing and advertising is socially responsible. Within this section, the consultation document explored five topics:

- the fairness and openness of gambling terms and conditions
- socially responsible rewards
- fair and open marketing and advertising
- marketing in proximity to social responsible messaging
- removal from marketing and account closure

Fair and open terms

Consultation proposal

11.2 Although existing licence condition 7.1.1 gives the Commission powers to take action against operators over unfair terms and conditions, the Commission's review of social responsibility provisions of LCCP provided the opportunity to review the existing condition to ensure its effectiveness, particularly in light of the introduction of new consumer rights legislation in the form of the [Consumer Rights Bill](#).

11.3 The Commission sought views on whether any action would be needed to address the fairness of gambling operators' terms and conditions, and the consultation document set out a number of options open to the Commission and/or operators to enhance or demonstrate the fairness of their terms. These included, for example, voluntary industry codes, extended guidance for both operators and consumers on consumer rights issues, or amendments to LCCP.

11.4 In particular, we asked respondents to provide examples of any terms used by gambling operators which they considered to be unfair or unclear to consumers, whether the existing or future consumer legislation presented any gaps in relation to the fairness of gambling contracts and, if so, what action could be taken to address these limitations. We also asked for views on how gambling operators should deal with changes to their terms and conditions and whether only material changes should be actively notified to customers.

Consultation questions

Q57. Do you consider that there are terms used by gambling operators which are inherently unfair? Please give examples of terms within gambling contracts which you consider to be unfair or unclear to customers?

Q58. To what extent do you consider that existing or upcoming consumer rights legislation already address possible concerns about unfair terms in gambling contracts? If you consider that there are still gaps in relation to gambling contracts, what action do you consider should be taken to address the possibility of unfair terms in gambling contracts?

Q59. How should gambling operators make consumers aware of changes to terms and conditions? Should only material changes be notified and if so, what do you consider to be material changes?

Respondents' views

- 11.5** On the whole, both industry and non-industry respondents expressed support for the principle that operators' terms should be fair and open, and a number of operators asserted that they considered their own terms and conditions to be fair and open.
- 11.6** A number of respondents, both from industry and non-industry, agreed that one or more of the example unfair terms and conditions which were set out in the consultation document would be considered unfair or unreasonable. In particular, the examples of potentially unfair terms and conditions provided by respondents were:
- terms around free bets and bonus: a number of respondents stated that use of the term 'free' is misleading if combined with other conditions such as a minimum churn, and that a clear definition of the term 'free bet' is required
 - terms that make customers fully responsible for any discrepancies on their betting receipts, even where there is undisputable evidence that their intentions have been misrepresented
 - the acceptance of late bets which are void, without sufficient information to consumers about late bet restrictions and how to reclaim monies staked for bets which are now void
 - bets accepted even though the payout would be more than allowed by the operator
 - delays in meeting customer withdrawal requests, such as where the option to reverse withdrawal is made available.
- 11.7** A number of respondents from the industry commented that operators need to have terms and conditions which are legally enforceable and commercially viable. Terms and conditions must also deter/prevent practices such as bonus abuse, which they stated could be connected to money laundering. A number of respondents therefore welcomed the acknowledgement in the consultation document that it is entirely reasonable for operators to put in place some restrictive terms and conditions to prevent fraud or bonus abuse. These respondents emphasised that any updates to LCCP should take account of these practical concerns. Assurances were also sought by some respondents that restrictive LCCP provisions would not be introduced that could disrupt established practices such as 'free' bingo promotions within the Adult Gaming Centres (AGC) and Family Entertainment Centres.
- 11.8** The majority of respondents, both industry and non-industry, did not consider there to be any gaps between either the existing or upcoming consumer rights legislation and therefore took the view that the LCCP should not be amended on this issue. One respondent commented that as well as satisfying themselves that their terms are fair, operators must be able to demonstrate this to the Commission.

11.9 However, a number of suggestions were made by respondents for further work by the industry and the Commission, including:

- collaboration between the Commission and industry to develop a voluntary code, or to further develop existing industry voluntary codes in this area
- publication by the Commission of examples of any unfair terms which had been found to be legally unfair, to raise understanding of this issue
- that the industry work together to build standardised terms and conditions and develop an initiative to alert customers about late bets
- that the Commission should give further guidance to consumers about their rights in the gambling sector in light of changes to the consumer rights framework
- that LCCP should be changed so that bonuses are opt-in only (so that terms are not applied because of earned bonuses which the customer neither chose nor is aware of)
- that information should be included in the registration process about why an operator might restrict a customer's account.

11.10 On the proposed amended wording of licence condition 7.1.1, which would require operators to only notify their customers of material changes to terms and conditions, most of the respondents supported the proposed amendment to paragraph 3 of licence condition 7.1.1 to include the word 'material'. However, a few non-industry respondents expressed the view that all changes should be notified to customers. A number of industry respondents felt that the Commission should set out guidance on what would be defined as material, whereas one operator stated this should be for each operator to determine bearing in mind another authority/ court/arbiter may rule a change was material later in a dispute process.

The Commission's position

We have introduced licence condition 7.1.1B to replace references to legislation that will become out of date once the Consumer Rights Bill is enacted. Until such time as the Consumer Rights Bill is enacted, licence condition 7.1.1A, which reflects the current consumer rights legislation, remains in place.

We have also proceeded with the addition of the word 'material' into licence condition 7.1.1, so that only material changes to terms and conditions must be notified to consumers. Operators are advised to err on the side of caution if in doubt when interpreting which of their terms should be considered material.

We have existing powers under the current LCCP provisions to take action concerning the fairness of an operator's terms as and when these arise and therefore we do not plan to make further amendment to LCCP at this stage to prohibit the use of specific terms and conditions.

The Government has indicated that, following the enactment of the Consumer Rights Bill expected in early 2015, they will issue guidance to businesses in April 2015 and to consumers in October 2015, when the Bill is intended to come into force.

We will review the general guidance for businesses and consumers and will, if appropriate, supplement with further advice for the gambling sector and gambling customers, both to ensure that operators understand their responsibilities to offer fair and open terms and conditions and to help consumers understand their rights.

In such advice, we will consider whether the issues highlighted by respondents can/should be addressed, such as examples of terms which would be considered material and information on terms and conditions which we consider unfair. The advice may also cross-refer to other relevant sources of information. For example, one respondent called for guidance on what should be considered a free bet and we could cross-refer to the existing [guidance from the Committee of Advertising Practice \(CAP\) and Broadcast Committee of Advertising Practice \(BCAP\)](#) on the use of the term 'free'.

Amended licence condition 7.1.1A

Compliance with terms

All operating licences except gaming machine technical and gambling software licences

This condition will remain in force unless and until replaced by 7.1.1B

- 1 Licensees 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, and must comply with those terms.
- 2 An accurate summary of the contractual terms on which gambling is offered must be made available to customers and set out in plain and intelligible language.
- 3 Customers must be notified of **material** changes to terms before they come into effect.

Licence condition 7.1.1B

Compliance with terms (consumer rights)

All operating licences except gaming machine technical and gambling software licences

If the Consumer Rights Bill 2014 - 2015 is enacted, this condition will come into force on the date the resulting Consumer Rights Act is brought into force

- 1 Licensees must satisfy themselves that none of the terms on which gambling is offered are unfair terms within the meaning of **the Consumer Rights Act 2015** and must comply with those terms.
- 2 An accurate summary of the contractual terms on which gambling is offered must be made available to customers and set out in plain and intelligible language.
- 3 Customers must be notified of **material** changes to terms before they come into effect.

Socially responsible rewards

Consultation proposal

- 11.11** Whilst marketing gambling services is, of course, permitted and the aim of marketing is typically to encourage a customer to choose a particular provider or product, we would be concerned about marketing that is linked to intensity of gambling. In short, rewards should not be offered to customers for gambling harder or faster. The marketing code of practice aims to protect this principle.
- 11.12** The code of practice currently says that rewards may not be dependent on the customer gambling for a 'pre-determined length of time or with a pre-determined frequency', but this could rule out some practices that are legitimate and appropriate. It is not unreasonable for an operator to define a qualifying level of activity in order for a customer to earn a particular reward and in particular in online gambling this may be necessary to prevent 'bonus abuse'. Equally we remain concerned that consumers should not feel under pressure to gamble to beat the clock, otherwise lose a bonus. We see a distinction between a long running promotion lasting months and one that requires gambling immediately or within hours.
- 11.13** In the consultation the Commission sought opinions as to whether the current wording of the code caused problems. It invited suggestions for alternative wording that would preserve the principle of protecting customers from devices that might pressurise them to increase the intensity of their gambling, but would permit legitimate practices.

Consultation question

Q60. In what way could the code provision which prohibits gambling operators from offering rewards which are connected with a 'pre-determined length of time or with a pre-determined frequency' be made clearer?

Respondents' views

- 11.14** The Commission received a variety of opinions. Even within the industry, opinion was divided as to whether we should change the code, leave it as it is, or change it for some industry sectors but not for others.
- 11.15** Some drafting suggestions were made which require further consideration. These focused on the principles of reasonableness and proportionality, which seem helpful in this context, although this language has generally been avoided in the LCCP because it tends to generate further questions. For example, there was a proposal to refer to 'an unreasonable length of time or unreasonable pre-determined frequency' adding 'that would be considered disproportionate to the normal level of play expected for the customers concerned.'
- 11.16** Some respondents called for examples to be provided, to help people to understand what the Commission considered to be acceptable or not.
- 11.17** Of those that responded, the representatives of the faith communities and treatment providers were most concerned about the potential for harm associated with any form of inducement to gamble.

The Commission's position

We consider that there would be benefit in undertaking further work to improve the drafting of this code of practice to protect the principle of socially responsible rewards but to avoid prohibiting legitimate and commercially necessary practices. A revised code of practice provision would be subject to further public consultation and could be included in the supplementary LCCP consultation.

Pending such a change in the code, we can confirm that revised wording would serve to clarify the position rather than change it. The current wording is not intended to prohibit reasonable requirements for qualifying activity.

The value of illustrative examples is accepted, and we will consider their inclusion in any further guidance produced by us in the future.

We acknowledge the concerns that some respondents have about anything that encourages people to gamble and the dangers that this could present for vulnerable people. However, public policy – which positions gambling as a mainstream leisure activity – and the associated legal framework permits the marketing of gambling and therefore clearly envisages the use of some reasonable inducements.

Fair and open marketing and advertising

Consultation proposal

- 11.18** As part of the Government's four strand review of gambling advertising, the Commission committed to reviewing LCCP to ensure that all gambling advertising (with a focus on free bets and bonus offers) continues to comply with the licensing objectives of the Act.
- 11.19** Although existing LCCP Code Provision 5 (notably 5.1.1, 5.1.2 and 5.1.6) already affords protection to the customer around fair and open marketing and advertising, we wanted to ensure that these protections remain relevant, robust and fit for purpose.
- 11.20** Our focus on free bets and bonus offers was prompted by an increase in the number of complaints about these types of offer - mostly relating to the absence of significant terms and conditions - to the Advertising Standards Authority (ASA) and that the vast majority of subsequent investigations were upheld or upheld in part.
- 11.21** The Commission sought views on proposed amendments to ordinary code provision 5.1.6, which aimed to:
- strengthen references to, and awareness of, the CAP and BCAP gambling advertising rules and the CAP and BCAP 'help note' which contains a specific section on the marketing of free bets and bonus offers
 - clarify and reinforce the rules which apply to images of individuals who are, or appear to be, under 25 in marketing communications.
- 11.22** We also sought views on the introduction of a new social responsibility code provision which requires that marketing communications must adhere to the Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and the CAP and BCAP guidance on the accessibility of significant terms and conditions associated with marketing offers.

Consultation questions

- Q61. Do you agree that the proposed amendments to ordinary code provision 5.1.6, which strengthen references to the CAP and BCAP advertising rules and, more specifically, the recent CAP and BCAP 'help note' (which contains a specific section on the marketing of 'free bets' and 'bonus offers'), will help reinforce and raise awareness of the rules and guidance?
- Q62. Do you agree that the ordinary code provision should be further amended to better reflect ASA guidance/rules on the use of under 25s for remote gambling?
- Q63. Do you agree that the proposed new social responsibility code provision requiring remote operators to provide the significant terms and conditions for each bonus offer in the advertisement or, if not practical within 'one click' of the initial offer, will help address concern relating to the marketing of misleading and/or unclear 'free bets' and 'bonus offers'?

Respondents' views

- 11.23** There was strong support across all respondent groups for the proposed amendment to ordinary code provision 5.1.6 which strengthens references to the CAP and BCAP advertising rules and, more specifically, the CAP and BCAP guidance on gambling advertising.
- 11.24** Some industry respondents cautioned against duplicating existing regulatory requirements although this was mostly relevant to Q.63 which will be addressed separately. Some respondents were also concerned that in referencing specific excerpts of the CAP and BCAP rules or guidance that LCCP could be rendered out of date, should those requirements change.
- 11.25** A number of respondents pointed out that the guidance was issued by CAP and BCAP, not just BCAP, as the drafting suggested.
- 11.26** Feedback to Q.62 was mixed, with some operators cautioning against the 'unnecessary' duplication of the CAP and BCAP rules. Those operators suggested that the Commission ought to simply require adherence to the provisions of the CAP and BCAP codes, rather than replicating specific provisions. Feedback across the other respondent groups was very supportive. One operator sought clarification on how this rule applies to social media.
- 11.27** Feedback to Q.63 was varied with a marked split between operators and trade associations, and other stakeholders. The former (although with numerous exceptions) expressed concern about duplication of regulation and the risk of incorporating 'subjective' requirements into a social responsibility code provision, whilst the latter were mostly supportive.
- 11.28** Some operators sought clarity on which licences the proposed provision would apply to. It was noted that the proposed drafting reads 'All licences' whilst Q.63 refers only to remote operators.

The Commission's position

We note the positive feedback received in relation to Q.61 and therefore have published the amendments to sub-sections '1' and '2' of ordinary code provision 5.1.6, subject to some very minor drafting revisions. This includes clarifying that the guidance on gambling advertising belongs to CAP and BCAP and that the provisions will be applicable to any equivalent guidance that either body may issue in future.

We note the mixed feedback received in relation to Q.62, particularly the cautioning against unnecessary duplication. However, we consider it is necessary to publish the amended provision on the grounds that to not do so, would create a regulatory gap for non-remote point of sale advertising, which is not within CAP's remit. We consider it necessary to capture the full picture within LCCP so as to avoid any confusion about the exemption.

We have sought advice from CAP on how the rules on under-25s appearing on point of sale adverts apply to social media. For the exemption to be valid, the advert must appear in a place where a bet can be placed **directly** through a transactional facility, for instance, an operator's own website. It is therefore unlikely that a social media page or feed would be exempt from the rules.

We note the feedback received in relation to the provision of significant terms for each bonus in the advertisement or within one click (Q.63), particularly the concern about duplication of regulation. However, we consider it desirable and necessary to publish the proposed new social responsibility code provision, subject to some minor drafting revisions, for the following reasons:

- the ongoing level of public and political interest and concern relating to the marketing of free bet and bonus offers
- the publication by the ASA of a significant number of upheld adjudications on free bet and bonus offers for sports betting and online gaming websites
- the increase in the number of new overseas remote operators licensed by us as a result of the Gambling (Licensing & Advertising) Act 2014
- the findings of the ASA report into gambling advertising which identified concerns over whether gambling sales promotions are always clearly and accurately advertised
- the outcome of a recent remote website review by us, which identified a number of relevant breaches of the CAP rules.

The new social responsibility code will apply to all licences. The Consumer Protection from Unfair Trading Regulations 2008 (CPRs) and the CAP and BCAP codes apply, between them, to all operators who advertise.

We intend to work closely with CAP, BCAP and the ASA in 2015 to raise awareness of the rules governing the marketing of 'free bets' and will undertake compliance and enforcement activity where necessary.

Amended Ordinary code provision 5.1.6
Compliance with advertising codes
All licences

- 1** All advertising of gambling products and services should be undertaken in a socially responsible manner. In particular, licensees should comply with the advertising codes of practice **issued by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP)**, which apply to the form and media in which they advertise their gambling facilities or services. ~~and~~ For media not explicitly covered, **licensees** should apply the principles included in these codes of practice as if they were explicitly covered. Licensees should also follow any relevant industry code of practice on advertising, **notably the Gambling Industry Code for Socially Responsible Advertising**
- 2** Licensees should also have regard to the CAP and BCAP ‘Guidance on the rules for gambling advertisements’ which contains a specific section on ‘Misleadingness’: ‘free bets’, or any equivalent guidance that either body may issue in future.
- 3** Marketing communications must not include a child or young person. No-one who is, or seems to be under 25 years old may be featured in gambling. No-one may behave in an adolescent, juvenile or loutish way. However, the restriction on allowing people who are, or seem to be, under 25 years old (ie: those in the 18-24 age bracket) to appear in marketing communications need not be applied:
 - a** In the case of non-remote point of sale advertising material, provided that the images used depict the sporting or other activity that may be gambled on and not the activity of gambling itself and do not offend any other aspect of the advertising codes.
 - b** In the case of remote gambling, provided that the images ‘appear in a place where a bet can be placed directly through a transactional facility, for instance, a gambling operator’s own website. The individual may only be used to illustrate specific betting selections where the individual is the subject of the bet offered. The image or other depiction used must show them in the context of the bet and not in a gambling context’ (as provided in the Gambling section of the CAP code)¹.

¹This is currently set out in CAP code rule 16.3.14.

New Social responsibility code provision 5.1.7

Marketing of offers

All licences

- 1 Licensees must satisfy themselves that their marketing communications, advertisements, and invitations to purchase (within the meaning of the Consumer Protection from Unfair Trading Regulations 2008), including ‘free bet’ offers, do not amount to or involve misleading actions or misleading omissions within the meaning of those Regulations.**
- 2 Licensees must abide by any relevant provision of the CAP or BCAP code, as the case may be, which relates to ‘free bet’, ‘bonus’ or similar offers and in that regard follow the CAP and BCAP ‘Guidance on the rules for gambling advertisements’. In particular that:
 - a Marketing communications (which include advertisements) must state significant limitations and qualifications. Qualifications may clarify but must not contradict the claims that they qualify.**
 - b Marketing communications that include a promotion and are significantly limited by time or space must include as much information about significant conditions as practicable and must direct consumers clearly to an easily accessible alternative source where all the significant conditions of the promotion are prominently stated. Participants should be able to retain those conditions or easily access them throughout the promotion.**
 - c Terms and conditions relating to consumers’ understanding of a ‘free bet’ offer and of the commitments that they have to make in order to take advantage of such an offer should generally be stated in the advertisement itself. Where the advertisement is limited by time or space (for example a banner advertisement), significant conditions likely to affect a consumer’s decision to participate in promotions should be displayed no further than one click away from the advertisement itself. If the significant conditions are not displayed with sufficient prominence, the advertisement will be seen as misleading.****
- 3 The terms and conditions of each marketing incentive must be made available for the full duration of the promotion.**

Marketing in proximity to social responsible messaging

Consultation proposal

- 11.29** The Commission identified a limited number of websites where the main page on which socially responsible gambling information is displayed appeared to be created using a standard template in which marketing banners appear on one side of the screen.
- 11.30** The Commission considered it inappropriate for marketing or information about offers to be displayed on the primary screens and pages on which the operator makes available information on socially responsible gambling.

- 11.31** The Commission sought views on the introduction of a new ordinary code provision to encourage operators to consider the proximity of marketing to social responsibility information and in particular that the primary page of responsible gambling information be entirely free of marketing communications.

Consultation question

- Q64. Do you consider that a code provision should be introduced to state that operators should consider the proximity of marketing and information about offers on their websites and premises to socially responsible gambling messages, and in particular that remote operators should ensure that the primary page of responsible gambling information should be free of marketing?

Respondents' views

- 11.32** There was very strong support across all respondent categories for the introduction of such a provision. In particular, it was felt strongly that remote operators should ensure that no advertising or marketing information appears on the primary web page or micro site that provides information on responsible gambling. While we did not specifically consult on the provision applying to **websites** run by non-remote licensees to publicise their gambling operations, there is clearly an analogous argument against positioning marketing information alongside responsible gambling material on those websites.
- 11.33** Some respondents expressed a concern that the first part of the question may prevent operators from including educational messages and links to gambleaware.co.uk on their adverts.

The Commission's position

The proposal received widespread support and we have included the ordinary code provision that no advertising or marketing information should appear on the primary web page or micro site that provides advice and information on responsible gambling. Given the widespread support for this provision, it will come into force alongside the majority of changes proposed in the consultation.

The provision will also apply to any **websites** run by non-remote licensees to publicise their gambling operations. If those websites have a primary page or micro site on responsible gambling, the operator should ensure that no advertising or marketing appears on that page or micro site.

Although it does not appear to be a widespread issue at present, we will consider elevating the provision to a social responsibility code provision at a later stage should it emerge as more of a problem.

The new code provision will not impact on operators' ability to include educational messages and appropriate web links on their adverts. It will also not apply to the proximity of advertising and responsible gambling messages within gambling premises where, for example, we encourage operators to place responsible gambling leaflets or signposting near to marketing materials.

New Ordinary code provision 5.1.8

Online marketing in proximity to information on responsible gambling

All licences

- 1 Licensees should ensure that no advertising or other marketing information, whether relating to specific offers or to gambling generally, appears on any primary web page/ screen, or micro-site, that provides advice or information on responsible gambling.**

Removal from marketing and account closure

Consultation proposal

- 11.34** The consultation document explained that customers sometimes use self-exclusion as a means of opting out of marketing or closing an account. This practice gives rise to two issues. Firstly, customers may enter into self-exclusion when this is not the option which suits them best and secondly, the number of exclusions that operators have to manage at any one time becomes inflated. As a result the schemes become less effective.
- 11.35** We therefore sought views on the introduction of a new ordinary code provision to state that remote operators should make it clear and transparent to customers how they can close their account and provide a facility to allow customers to remove themselves from marketing material at any point, not just during account set up.
- 11.36** We also sought views on whether customers should be given the ability to opt out of marketing by particular product. We felt this could be particularly relevant for those individuals who experience problems with some gambling products but not others.
- 11.37** We also invited views on the establishment of a national marketing opt-out facility which could allow anyone to opt-out of receiving any, or certain forms, of direct gambling marketing.

Consultation questions

- Q65.** Do you consider that a code provision should be introduced to state that operators should offer customers the ability to easily opt out of any and all marketing and/or to close accounts held with an operator?
- Q66.** Should customers be able to exclude themselves from marketing by product?
- Q67.** Do you consider that a national marketing opt-out facility should be made available to all customers not only those who are also self-excluding from gambling?

Respondents' views

- 11.38** Feedback on questions 65 and 66 (concerning opt-outs from marketing and opt-out by product) was mixed, with operators and trade associations tending to agree strongly with the 'all' marketing opt out requirement but citing existing legislation or regulations which already apply to direct marketing and opt-outs. The Information Commissioner's Office (ICO) also responded advising that the Data Protection Act and the Privacy and Electronic Communication Regulations already provide clear protections for consumers in this area.

11.39 Operators and trade associations tended to strongly oppose the concept of marketing opt-out by product, citing practical challenges, costs and the impact on multi-product marketing. A number of operators stated that they did not believe that product specific opt outs would help reduce gambling related harm. The concept, in principle, was generally supported by the other respondent categories.

11.40 Many of the non-industry respondents supported the concept proposed in Q.67 (although in some cases there may have been confusion between marketing opt-out and self-exclusion which would lead to marketing opt-out in any case). Operators and trade associations generally opposed the concept citing practical challenges, unreasonable costs and disproportionate regulation. The ICO also cited existing provisions and protections for the consumer and the challenge of considerable data sharing between operators.

The Commission's position

In light of feedback received we do not intend, at this stage, to proceed with the publication of the proposed ordinary code provision on marketing opt-out (relevant to Qs 65 & 66). We consider that the provision, as drafted, may not resolve the identified issues and notes that existing legislation and regulations already offer protections relating to direct marketing and opt-outs. We are in discussion with the ICO to consider whether further action is required in this area, including whether more should be done to improve consumer awareness of the existing protections. Our website now includes a dedicated section on how to stop, or complain about, emails and text messages offering gambling products.

We acknowledge that a national marketing opt-out facility requires further thought in terms of cost, proportionality and the practical challenge associated with cross-operator data sharing. Nevertheless, this is an area that we remain keen to consider further, in collaboration with relevant agencies and stakeholders. We are already exploring this concept further with the ICO and via the self-exclusion working group, which is currently considering remote multi-operator self-exclusion.

12 Bingo and gaming machines in pubs and clubs

Consultation proposal

- 12.1** This section of the consultation document set out the Commission's concerns about a range of issues related to steps taken by some businesses – not all of them licensed gambling operators – to be able to deploy gambling facilities that are more commercially attractive, or in greater numbers than those to which they are entitled in law. Since the coming into force of the Act, we have encountered this in many forms, for example the pressure to create 'split premises' in the arcade and bingo sectors and the conversion of Adult Gaming Centres (AGCs) into putative bingo or betting premises. Recently we have seen businesses in the pub sector exploring the possibility of obtaining bingo operating and premises licences in order to make commercial bingo and harder category B3 gaming machines available. Pubs are currently only entitled to very limited numbers of Category C gaming machines, in keeping with the very light-touch regulatory regime that applies to low-level gambling in pubs.
- 12.2** In the Commission's view, such developments are likely to undermine one or both of two specific policy objectives reflected in the regulatory arrangements for gambling:
- that land-based gambling should, with some exceptions for very low level gambling, be restricted to premises dedicated to it, into which customers should have to make a conscious decision to enter
 - that different gambling environments offer different forms and levels of gambling and attract different levels of regulation as a result.
- 12.3** At the time of publication, a decision by the Commission not to issue a bingo operating licence to a major pub chain was being contested at the First Tier Tribunal.

Consultation question

Q68. We invite views on the provision of commercial bingo, B3s and B4s in pubs and clubs and how you think concerns about commercial bingo in these premises should be addressed.

Respondents' views

- 12.4** The vast majority of respondents agreed with the risk to the licensing objectives and the Commission's policy objective. A number of respondents, whilst supporting our overall approach, made limited comments, noting that the issue is to be subject to a separate consultation.
- 12.5** Several submissions, whilst agreeing with the Commission's overall approach, expressed concern that any subsequent changes should not limit the commercial freedoms of bingo operators.
- 12.6** A number of respondents, including licensing authorities (LAs), expressed particular concerns about higher stake and prize machine numbers, supervision arrangements and access for children and young people.

- 12.7** Several respondents had particular concern about the presence of higher stake and prize machines in premises where the consumption of alcohol was often one of the main reasons for people to visit the premises, leading to an increase in risk of, what one respondent described as, 'binge gambling'.
- 12.8** One trade body stated that they did not believe there was an appetite from the pub sector to expand into commercial bingo, nor to move beyond the existing narrowly prescribed mixture of low stake machines, low level poker and non-commercial bingo.
- 12.9** One submission made the distinction between correctly licensed premises which were sited adjacent to one another and an operator seeking to obtain a premises licence simply for the purposes of the machine entitlements which it attracts.
- 12.10** One respondent considered that the Commission had not taken sufficient account of the variety of circumstances in which alcohol is present in 'mixed use' entertainment venues and suggested that such venues are distinguishable from pubs due to the other activities taking place. The same respondent also suggested that, as bingo has evolved from bingo halls to the high street, customer expectation has changed and the Commission should not prejudge why a person may visit a premises. The reason for their visit may be related to the variety of facilities available rather than solely for alcohol or food.

The Commission's position

In December 2014, the First Tier Tribunal allowed the appeal of the pub chain in question and directed the Commission to award it a bingo operating licence. We have serious concerns about the implications of that judgment and have been given permission to appeal to the Upper Tribunal.

In the meantime, we are considering amendments to the relevant licence conditions and codes of practice. In the event that the Commission is unsuccessful in its appeal to the Upper Tribunal it is likely to seek changes in the law and/or other elements of the regulatory regime. The Government has put on record its support for the Commission's position.

13 Other items for consultation

- 13.1** This chapter of the consultation document proposed and consulted on minor amendments to a number of LCCP codes given the opportunity created by the social responsibility review to do so. Some of the amendments were linked closely to social responsibility and thus intended to further strengthen the social responsibility elements of LCCP. The remaining areas consulted on within this chapter were unrelated to social responsibility; however the Commission took this opportunity to review their appropriateness and status within the LCCP at the same time.

Age verification in remote lotteries

Consultation proposal

- 13.2** In the consultation document, the Commission highlighted its recognition of the fact that for some remote lotteries, namely those that are low frequency and small prize, the burden and cost of carrying out age-verification checks outweighs the risk of under-age gambling on these products. We considered it a reasonable judgement that those offering low frequency, weekly or longer frequency subscription lotteries, varying from weekly to annual draws, were generally unattractive to children, and thus did not require the full scale age verification measures that would be required in high frequency, repetitive play or instant win products, which could be more appealing to children.
- 13.3** With that in mind, we proposed to remove remote lottery licensees from the requirements which apply to other remote operators in social responsibility code provision 3.2.11 and introduce a new social responsibility code, specifically for remote lottery licensees. It was proposed that this new social responsibility code will retain the requirements within 3.2.11, but will be amended at paragraph (f) to achieve the above. We sought views on this amendment.

Consultation questions

- Q69.** What are your views on the proposal to remove lottery licensees from social responsibility code provision 3.2.11 (access to gambling by children and young persons – remote SR code) and introduce a new social responsibility code for remote lotteries which amends the requirement around age verification for low frequency subscription lotteries?

Respondents' views

- 13.4** There was an even mix of responses to this question from both industry and non-industry. The majority of industry respondents were in favour of the proposal. One trade association suggested that the relaxation ought to be monitored, and if it appeared to deliver an adverse affect, namely an increase in underage attempts of participation, it should be reversed back to the initial provision. Three other industry respondents however took the opportunity to raise concerns around the general age restriction of lottery participation. All three felt that the age requirement for lotteries ought to be raised from 16+ to 18+ in line with all other gambling activities. One respondent in particular felt that the risks of harm associated with participating in a lottery were not to be overlooked by the fact that society lotteries exist to support charitable and other non-commercial fundraising.

- 13.5** The majority of non-industry respondents agreed with the proposal. However a significant number of respondents, such as treatment providers and academics, were not in favour of the proposal on the premise that they felt that age-verification checks ought to apply to all gambling activities. One respondent in particular raised the concern that individuals exposed to and participating in gambling at a younger age are more likely to develop problems with their gambling in the future, and thus age-verification checks for all gambling products ought to be robust.

The Commission's position

There appeared to be some misunderstanding about this proposal. In removing low frequency lottery licensees from social responsibility code provision 3.2.11, the Commission does not intend to remove low frequency and subscription lotteries from all age verification checks. What the Commission intended to do was acknowledge that the risk of underage play in some society lotteries, namely low frequency and subscription, is very low, and enforce age-verification checks accordingly. In this case, current practice will be maintained, whereby for these types of lotteries individuals will be required to self verify their age and then lottery operators are required to carry out random age verification checks in order to test or check for any under-age participation.

For all other types of lotteries, such as lotteries offering instant win games, which may be more attractive to the underage, we propose to reinforce the original expectation that all individuals participating or depositing for play on these lotteries are verified through additional checks and third party databases listing the names and addresses of all those over 16.

The Commission by no means negates the harm that may be caused by any gambling activity, whether it is in receipt of charitable funding or not. Nevertheless we still consider it important to identify low and high risk gambling activities, in order to ensure maximum robustness in age-verification checks equal to that risk are conducted. We are therefore proceeding as proposed on this matter.

New Social responsibility code provision 3.2.13

Access to gambling by children and young persons – remote lottery SR code

All remote lottery licences

- 1** Licensees must have and put into effect policies and procedures designed to prevent underage gambling, and monitor the effectiveness of these.
- 2** Such procedures must include:
 - a** warning potential customers that underage gambling is an offence;
 - b** requiring customers to affirm that they are of legal age;
 - c** regularly reviewing their age verification systems and implementing all reasonable improvements that may be made as technology advances and as information improves;
 - d** ensuring that relevant staff are properly trained in the use of their age verification procedures; in particular anyone who sell lottery tickets including canvassers and customer services staff must be appropriately trained in the use of secondary forms of identification when initial verification procedures fail to prove that an individual is of legal age;

- e enabling their gambling websites to permit filtering software to be used by adults (such as parents or within schools) in order to restrict access to relevant pages of those sites;
- f in the case of any GB resident customer who deposits money using any type of payment method other than a credit card, and unless the licensee has established that a third party has satisfactorily carried out age verification, the following age verification procedures apply:
 - i. **in the case of both subscription lotteries and low frequency lotteries¹, and provided it is clear in the terms and conditions that those under the age of 16 are not permitted to participate and that the prizes will not be paid out to those found to be under 16, customers must be required to verify their age before being able to make any subscription or purchase entry into the lottery. (The operator is expected to conduct a programme of random checks of users who self verify for compliance with age restrictions);**
 - ii. **in every other case** verifying additional information about the customer, such as carrying out searches of credit reference and other databases that list names and addresses of individuals over the age of 16;
 - iii. carrying out secondary age verification checks in any circumstances which give the operator reason to suspect that the person may be underage;
 - iv. not permitting the customer to withdraw any winnings from their account until age verification has been satisfactorily completed; and
 - v. in any event, **in a case which falls within ii above**, a requirement that if age verification has not been satisfactorily completed within 72 hours of the customer applying to register to gamble and depositing money:
 - o the account will be frozen
 - o no further gambling will be permitted until age verification has been successfully completed
 - o if, on completion of age verification the customer is shown to be underage, the operator must return to the customer any money paid in respect of the use of gambling facilities, but no winnings shall be paid.
- g in the case of any non-UK resident customer who deposits money using any type of payment method other than a credit card, and unless the licensee has established that a third party has satisfactorily carried out age verification, the following age verification procedures:
 - i. taking all reasonable steps to make use of information available for age verification purposes from whichever country the potential customer is resident in; and
 - ii. each of the following steps, unless they cannot reasonably be implemented or, in the case of the fourth bullet point, a period of more than 72 hours was reasonably required:
 - o verifying additional information about the customer, such as carrying out searches of credit reference and other databases that list names and addresses of individuals over the age of 18
 - o carrying out secondary age verification checks in any circumstances which give the operator reason to suspect that the person may be underage
 - o not permitting the customer to withdraw any winnings from their account until age verification has been satisfactorily completed

- a requirement that if age verification has not been satisfactorily completed within 72 hours of the customer applying to register to gamble and depositing money:
 - the account will be frozen;
 - no further gambling will be permitted until age verification has been successfully completed; and
 - If on completion of age verification the customer is shown to be underage all deposits held by the operator are returned to the customer and no winnings paid.
- h in the case of any customer who registers to gamble and deposits money using a credit card, conducting a programme of random checks of credit card users for compliance with age restrictions.

¹ A 'low frequency lottery' is a series of lotteries promoted on behalf of the same non-commercial society in respect of which there is a period of at least two days between lotteries.

Consultation proposal

- 13.6** In lotteries where the risk of underage play increases, even though the lottery is of the type that would normally be considered low risk (ie small prize, occasional or subscription lotteries), the Commission also sought views on the introduction of some best practice measures through ordinary code provision in order to address occasions when the level of risk of underage play increases in certain types of remote lottery – ie a prize that is attractive to young people is offered.
- 13.7** The Commission proposed that a new ordinary code provision be added to the LCCP to support the proposed new social responsibility code provision above, and ensure that where the level of risk surrounding underage lottery play increases, age verification checks equal to that risk are conducted.

Consultation question

- Q70. What are your views on the proposal for a new ordinary code provision to address concerns about suitable age verification processes being in place in those lotteries that might be particularly attractive to the underage?

Respondents' views

- 13.8** The majority of both industry and non-industry respondents were in favour of this proposal for a new ordinary code provision for lotteries which might be particularly attractive to children. They considered it necessary for the Commission to set out this ordinary code, especially if the relaxation in removing lotteries from social responsibility code 3.2.11 (and creating a provision specific to lotteries) was to go ahead.
- 13.9** A small number of respondents disagreed with the proposal, mainly on the premise that they disagreed altogether with the removal of lotteries from social responsibility provision 3.2.11 (and the creation of new social responsibility code for remote lotteries), and thus felt that this ordinary code should be unnecessary.

New Ordinary code provision 3.2.14

Access to gambling by children and young person's – remote lottery ordinary code All remote society lottery licences

- 1 Where operators consider the lottery will be more likely to attract underage play – eg where the prize is of particular appeal to children (those under the age of 16) such as concert tickets, games consoles, large prizes - operators should ensure that age verification measures are appropriate to the risk of attempted underage play. In these circumstances it is unlikely that self-verification alone will be sufficient.**

Provision of credit in society lotteries (remote and non-remote)

Consultation proposal

- 13.10** Social responsibility code provision 3.7.1 currently requires that the provision of credit is prohibited in remote and non-remote lotteries unless the proceeds are paid into a customer account. In most cases where a single or small number of lottery tickets are purchased, this is done through a single cash transaction. Where players purchase a larger number of tickets, for example an annual subscription in a weekly lottery, it is possible that they could pay using a credit card but we know that societies operating these types of lottery will usually have an account into which the lottery proceeds are paid. That account will usually be a general lottery account set up by a society or External Lottery Manager (ELM) into which all proceeds are paid, the operator will have a record of each player detailing information such as which lotteries they have entered, funds committed, payment details etc.
- 13.11** Compliance with code provision 3.7.1 however is an issue for some lottery operators, particularly those who use retail outlets such as charity shops and supermarkets to sell tickets, as in these cases, it is possible that an individual could purchase a lottery ticket collectively with a weekly shop for example, and may use a credit card as a method of payment. Given that most lotteries are low stake and low frequency we accept the potential for harm in offering credit in small, occasional (weekly, monthly or longer frequency) lotteries, is minimal.
- 13.12** As a result, we proposed and consulted on the removal of lottery operators from social responsibility code provision 3.7.1 and the introduction of a new customer interaction social responsibility code for all lottery operators (licensed societies and ELMs) in order to mitigate any problem gambling risks this relaxation may give rise to. This would require operators to set a limit on the value of tickets to be purchased in a single transaction and, where an attempt to exceed this limit is made, an interaction is to occur.
- 13.13** We did not propose to set a value on maximum ticket sales as this could vary from a £1 single play to £52 in an annual subscription to a larger amount in a lottery syndicate. We therefore stated that it would be for operators to determine the appropriate limit, as many already do, and intervene if a person tries to purchase more than the limit. Setting the appropriate limit will be the responsibility of the operator to determine but should depend on the type of lottery promoted eg subscription, instant win (scratchcard).

Consultation questions

- Q71.** Do you consider the use of credit cards in society lotteries has the potential to result in debt or other problems for some participants in society lotteries?

Q72. Do you agree that the new requirement for society lotteries to limit the value of tickets sold to one person without customer interaction will help to identify and prevent potential problem gambling?

Q73. Is it practical for society lotteries to set limits on different types of lotteries and keep records of interactions with customers who attempt to purchase tickets in excess of those limits?

Respondents' views

13.14 In relation to Q71 (the use of credit cards in society lotteries) the majority of non-lottery operators felt that there was a level of risk associated in allowing credit cards to be used to participate in any gambling activity, including lotteries. All lottery operators and some non-lottery operators felt that there was little problem in allowing the use of credit cards in society lottery participation as most lotteries tend to be low frequency, low stake and offer small prizes thus they are judged to be low risk.

13.15 Some non-industry respondents felt that the use of credit cards with any form of gambling could prove potentially harmful. Although a small number of non-industry respondents supported the use of credit card purchasing for lotteries as they recognised the lower risk of harm associated with low frequency and low stake gambling activities such as these.

13.16 There was a mixed response from industry on this proposal to limit the volume of tickets sold to one person. Some respondents agreed with the proposal and felt that for low risk gambling activities such as lotteries, both this relaxation and mitigation via the introduction of a customer interaction code seemed adequate.

13.17 Some industry respondents raised queries around society lotteries that used machines to dispense lottery tickets, and thus questioned how operators would know when an individual is attempting to purchase above this limit. One respondent raised the issue that the proposal was 'one size fits all', in that it assumed that a certain value of tickets would be the point at which a customer interaction is required, when in reality a customer interaction may be required at a much lower value if an individual is exceeding their own limits.

13.18 The vast majority of non-industry respondents were in agreement with the proposal; however one local authority in particular felt there was a risk of over interaction where an individual may be able to afford purchasing a larger value of tickets in good will, and thus society lotteries needed to avoid offending such gestures with an interaction.

13.19 Q 73. sought views on the practicalities of implementing different limits for different lotteries and for keeping records of customer interactions. The majority of industry respondents felt that it was not unreasonable to ask society lotteries to maintain three years of interaction records given that, in effect, this was a mitigation of any risks surrounding the relaxation around the provision of credit. A small number of lottery operators felt that maintaining three year's worth of records would be difficult as customer interactions were a rare occurrence in the non-remote lottery sector. Additionally, it was felt that where non-remote lotteries used machines as ticket dispensers, interactions and records of interactions in this case would be difficult.

13.20 The vast majority of non-industry respondents were in agreement with this proposal. One individual in particular suggested that all premises selling lottery tickets, including newsagents and supermarkets, ought to be subject to this customer interaction requirement also.

The Commission's position

Having consulted on both the risk of harm associated with the relaxation of credit card purchases of lottery tickets and our proposal to mitigate such harm via a customer interaction code, we are proceeding with both the relaxation and introduction of the new code. However, we have included some drafting amendments in light of the responses received. (The changes are set out within Chapter 5 (Customer Interaction) social responsibility code 3.4.3 page 49).

In response to the issue of how this provision is to be upheld by lotteries using vending machines to dispense tickets, we expect that retailers, such as public houses who commonly site lottery ticket vending machines on behalf of society lotteries or their ELM, must comply with the licence holders policies and procedures, including those relating to ticket sales limits and customer interaction. It is the responsibility of the licence holder to ensure that the retailer is made aware of the requirements and that they take all reasonable steps to ensure compliance.

Provision of credit (general)

Consultation proposal

- 13.21** Given the wider social responsibility proposals outlined in the consultation document, the Commission considered elevating ordinary code provision 3.7.2 – the provision of credit – to a social responsibility code provision.
- 13.22** The good practice currently outlined in the ordinary code provision represents the minimum activity many operators undertake when undergoing the process of agreeing credit with a customer. As a result, we sought views on the elevation of this ordinary code provision to social responsibility code provision on the basis that doing so would enable us to take proportionate and appropriate action where operators are found to be providing credit in a socially irresponsible manner.

Consultation question

- Q74. Do you agree with the proposed change to elevate the ordinary code provision 3.7.2 (about the provision of credit) to a social responsibility code provision? Please explain your reasons.

Respondents' views

- 13.23** Although the majority of both industry and non-industry respondents did not object to this proposed elevation, a small number did. The disagreement from some industry respondents was primarily on the grounds that this requirement is already implemented as best practice and, in elevating it to social responsibility code, some flexibility on providing some forms of credit to longstanding customers is removed.
- 13.24** A small number of non-industry respondents expressed concern that any form of credit is provided for any form of gambling activity at all. Nevertheless the majority of respondents were in favour of this elevation.

The Commission's position

Given the importance attached to the provision of credit being done in a socially responsible manner, and the risks inherent in not doing so, we consider it appropriate to elevate this ordinary code to social responsibility code.

We have considered the views of industry respondents and do not believe these requirements will preclude them from making sensible and proportionate commercial decisions whilst still having the necessary regard to the licensing objectives. We also consider this elevation appropriate in order to allow robust action to be taken in cases where credit is provided irresponsibly.

Elevated to social responsibility code provision 3.7.2

Provision of credit – ~~ordinary code~~

All non-remote general betting licences (except where betting is offered under a 2005 Act casino premises licence) and pool betting licences, and all remote licences, (including ancillary remote betting licences) except gaming machine technical, gambling software, ancillary casino, ancillary bingo and betting intermediary (trading rooms only) licences

- 1 Licensees who choose to offer credit to members of the public who are not themselves gambling operators ~~should~~ **must** also:
 - a have procedures for checking and scoring applications for credit from such customers, for setting, and for the increase of, credit limits
 - b explain these procedures to customers
 - c set a maximum credit limit for each customer and not permit customers to exceed that limit without further application
 - d apply a 24-hour delay between receiving a request for an increase in a credit limit and granting it in those cases where the limit exceeds that which the operator previously set
 - e not require a minimum spend within a set time period
 - f take all reasonable steps to ensure that offers of credit are not sent to vulnerable persons, including those who have self-excluded from gambling
 - g ensure that information about an offer of credit includes a risk warning of what may happen in the event of default.

Display of rules (betting) – change of name

Consultation proposal

- 13.25** In social responsibility code provision 4.2.6, under paragraph 1h, the text refers to 'Horseracing Regulatory Authority rules'. The Commission took this consultation as an opportunity to update this to instead refer to the 'British Horseracing Authority rules' to reflect the organisation's change of name.

Consultation question

- Q75. Please explain if you disagree with the following proposal:
- a. Display of rules (social responsibility code provision 4.2.6): to update the reference to the British Horseracing Authority

Respondent's views

13.26 All respondents to this question were in favour of the proposed amendment.

The Commission's position

The Commission is proceeding with the change as proposed.

Amended Social responsibility code provision 4.2.6

Display of rules – betting

All general betting and betting intermediary licences, except remote betting intermediary (trading rooms only) licences

1 Licensees must set out within the full rules that they make available, the core elements for the acceptance and settlement of bets. These rules must cover:

- h the rules for the event itself to be specified (eg horserace bets only to be accepted where the racing is subject to ~~Horseracing Regulatory Authority~~ **British Horseracing Authority** rules).

Display of rules – on-course betting

Consultation proposal

13.27 In social responsibility code 4.2.7 – about display of rules for betting on-course – we proposed that a footnote be added to fully reflect the scope of operations at point-to-points, as well as to reduce regulatory burden. The Commission sought views on this addition.

Consultation question

Q75. Please explain if you disagree with the following proposal:

- b. Display of rules (social responsibility code provision 4.2.7): to add a footnote clarifying the information requirements applicable at point to points

Respondents' views

13.28 There was no opposition to the addition of the footnote as proposed in the consultation. Some in the on-course sector, however, disagreed with some other points of the provision and recommended changes. There were three main areas of query. The first was around the duplication of the requirement for operators to display contact details, both on their joint and on the betting receipt. It was felt that the need to display a contact address on the joint was unnecessary if it is already present on the betting slip, especially given the limited amount of space on the joint.

13.29 The second issue was raised around the requirement for the operator to display a maximum guaranteed liability on their joint. The basis for this requirement and

potential for misinterpretation was raised on the grounds that the on-course sector does not have a maximum pay out figure in the same manner as off-course operators do, and are only obliged to payout whatever returns are stated on the betting slip itself or in line with the quoted terms. The suggestion was therefore made to make this distinction clear in the LCCP.

- 13.30** The final point made by the on-course respondents was around the inability to state the potential returns to customers of a bet laid at starting price, namely point 3d; thus the suggestion was made for a slight modification to ensure the wording reflects the different betting options.

The Commission's position

We proposed a minor amendment to ensure the balance between appropriate protections for customers betting on tracks and the regulatory burden on operators is correct. We have proceeded with this amendment as proposed in the consultation.

In addition, respondents to the consultation who operate and administer on-course betting took the opportunity to draw our attention to some further proposed amendments to address a number of minor issues arising from the existing wording. The Commission agreed that a small number of amendments could be made to improve the intelligibility of the social responsibility code, without adversely impacting on the underlying objective of ensuring on-course betting is conducted in a fair and open manner. These amendments are set out below.

Amended Social responsibility code 4.2.7

Display of rules – on-course betting

All non-remote general betting licences

~~In their terms on which bets may be placed (required to be displayed in accordance with mandatory conditions attaching to their premises licences) licensees must give prominence to their rules concerning voiding, late bets and maximum payouts.~~

- 1** When providing facilities for betting on-course, licensees must display on their 'joints' in an intelligible format:
 - a** any rules that differ from the relevant racecourse rules on betting, such as Tattersalls' 'Rules on Betting'¹
 - b** any types of unorthodox bets accepted (such as forecast betting, betting without the favourite, distance betting etc)
 - c** whether win-only or each way bets are accepted
 - d** any concessions or bonuses offered
 - e** all of the runners and the odds available to the public
 - f** the operator's trading name ~~and contact address~~
 - g** the minimum bet accepted
 - h** ~~the maximum guaranteed liability.~~ any applicable maximum payout
- 2** Licensees operating within the ring at horserace tracks² must issue customers with a betting slip or ticket for each transaction accepted. Betting slips or tickets must include the following information:
 - a** operator's name and contact details
 - b** race day name or code, date and race number
 - c** name and/or number of the selection
 - d** the stake ~~and potential return,~~ **odds and potential return or whether the bet will**

be settled according to Starting Price

- e ~~the odds, or whether the bet will be settled according to the Starting Price~~
- e the type of bet.

- 3** 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.

¹ The references to Tattersalls' 'Rules on Betting' reflect the current position and may need to be amended in future.

² Licensees operating under the provision of an occasional use notice (eg point-to-points) must ensure ledger systems are capable of providing the information listed here.

Offering of alcoholic drinks to people while gambling

Consultation proposal

- 13.31** Alcoholic drinks may be sold and served in casinos, bingo clubs and at racecourses but not in other gambling licensed premises. There is a history, particularly in casinos, of customers being given complimentary food and drink. The consultation document highlighted that although this can be seen as a natural component of customer care in the leisure industry, it could also be viewed as an inducement to gamble.
- 13.32** The Commission sees a distinction between the freedom for a customer to pay for and to drink alcohol, and being given free alcohol as an incentive to gamble more. Customers may therefore request a drink, but cannot be offered free drink whilst gambling.
- 13.33** The Commission's initial proposal in 2006 was for a social responsibility code to apply to casino and bingo licensees to say simply that operators must ensure that alcohol is not supplied to promote or encourage increased spend on, or speed of, gambling. This provision was later expanded (before it came into force in 2007) to make two distinct points: that the offer of free or discounted drinks must not be linked to whether or when the customer gambled; and that licensees must not make unsolicited offers of drinks for immediate consumption while a customer was actually gambling.
- 13.34** The latter point specified the activities during which drink could not be offered; when participating in a casino game, a bingo game or playing a gaming machine. This inadvertently left out equal chance gaming in casinos, typically poker. In order to make the code provision resilient, the Commission has now consulted on a proposal to replace the itemised list of types of gambling with a wider provision that captures all gambling activities in bingo and casino premises.

Consultation question

Q75. Please explain if you disagree with the following proposal:

- c. Offering of alcoholic drinks to people whilst gambling (social responsibility code 5.1.3): to clarify that customers may not be offered unsolicited free alcoholic drinks during any gambling activities

Respondents' views

- 13.35** The majority of respondents did not object to the clarification in Q75c above. A handful of industry respondents felt that the original code was clear enough and thus

did not require further clarity. One issue in particular raised by the bingo industry, was that the code needed to allow flexibility for operators to serve free alcoholic drinks to groups of customers at social occasions, such as birthdays, Christmas or to celebrate a 'big win'.

The Commission's position

The Commission considers that the small amendment to the code provides further clarity, and puts right an inadvertent omission in the original drafting. The code has therefore been amended to replace the itemised list of types of gambling with wording which captures all gambling activities.

We considered the concern expressed by the bingo sector over the acceptability of serving free alcoholic drinks to groups of customers on special occasions. We can clarify that the practice of serving free alcoholic drinks in this way (during a break in gambling activity) is not affected by this change to the code.

Amended Social responsibility code provision 5.1.3

Alcoholic drinks

All non-remote bingo and casino licences

- 1 If licensees offer customers free or discounted alcoholic drinks for consumption on the premises they must do so on terms which do not in any way link the availability of such drinks to whether, or when, the customer begins, or continues, to gamble.
- 2 Licensees must not make unsolicited offers of free alcoholic drinks for immediate consumption by customers at a time when they are participating in ~~a casino game, bingo game or playing a gaming machine~~ **gambling activities**.

References to premises and on-course betting

Consultation proposal

13.36 In a number of instances in the LCCP there are provisions that apply to all non-remote licences that make a reference to 'their premises'. This is not appropriate for on-course betting operators who generally do not provide facilities for gambling from their own premises. The consultation document proposed therefore that in these instances a slight change to the language is made to reflect this.

Consultation question

Q75. Please explain if you disagree with the following proposal:

- d. References to premises and on-course betting (found in many social responsibility codes): to be more specific in the use of language for on-course betting operators where the licensees operators from premises which are not their own

Respondents' views

13.37 All of the respondents were in favour of these amendments.

The Commission's position

We are proceeding as proposed with these changes.

An **example** of the change that is to be made to make this clearer is provided below where the word 'their' is changed to 'the'.

Extract from social responsibility code provision 6.1.1

Complaints and disputes

All licences (including ancillary remote licensees) except gaming machine technical and gambling software licences

- 6** Licensees must ensure that:
- a** information about their complaints procedure is set out in their terms and conditions;
 - b** such information is also readily accessible on ~~their~~ gambling premises or website as the case may be;

Tic-tacs

Consultation proposal

13.38 Licence condition 12.1.1 describes the facilities for gambling that can be offered by tic-tacs under their intermediary operating licence. Given that there are very few, if any, tic-tacs in operation we proposed and sought views on this licence condition being removed from the LCCP.

Consultation question

Q75. Please explain if you disagree with the following proposal:

- e. Tic-tacs (licence condition 12.1.1): to remove the licence condition relating to tic-tacs which is no longer relevant

Respondents' views

13.39 All of the respondents to this question were in favour of removing this licence condition, given it is no longer relevant.

The Commission's position

We are proceeding as proposed with this change.

Licence condition 12.1.1

Tic-tacs

All non-remote betting intermediary operating licences

- ~~1 Licensees must not lay bets on their own behalf when operating in their capacity as a public tic-tac on a track.~~
- ~~2 Tic-tacs must act only in relation to bets between holders of general betting operating licences (whether acting as principal or agent or through their authorised employees).~~

Pool betting – annual accounts

Consultation proposal

13.40 Licence condition 13.1.3 outlines how pool betting operating licence holders are required to ‘produce annual accounts which should be certified by a qualified independent accountant’. The condition states that ‘Licensees must make copies available to the Commission’. We proposed in order to reduce the regulatory burden that this sentence applied, that it be changed to reflect that copies should be made available to the Commission on request. The Commission sought views on this amendment.

Consultation question

Q75. Please explain if you disagree with the following proposal:

- f. Pool betting – annual accounts (social responsibility code 13.1.3): to specify that annual accounts should be provided on request by the Commission rather than routinely.

Respondents’ views

13.41 All industry respondents were in favour of this amendment. The majority of non-industry respondents were also in favour, however two respondents disagreed with the amendment as they felt that annual accounts ought to be provided to the Commission on a routine basis, and reviewed by us as a matter of course.

The Commission’s position

Amending the provision to state accounts are to be provided ‘on request’ does not remove the operator’s obligation, to provide annual accounts to the Commission, neither does it remove the Commission’s ability to review annual accounts, but does remove any regulatory burden to do so annually without request. Therefore we are proceeding with the amendment.

Licence condition 13.1.3
Pool betting – annual accounts
All pool betting operating licences

- 1 Licensees must produce annual accounts which should be certified by a qualified independent accountant. Licensees must make copies available to the Commission **on request**.

Reportable events – remote operators and the targeting of new jurisdictions

Consultation proposal

- 13.42** The Commission gathers information, as part of the licence application process, of the markets that an applicant provides gambling services or facilities to/accepts players from, details of any licences, permits or authorisations that the applicant holds in those markets, and the revenue that each of those markets generates as a percentage of the overall revenue generated by the applicant's remote gambling activities. We gather this information at application stage for both the applicant and the group.
- 13.43** In regulatory returns for remote gambling operators, we gather information on changes which have occurred **in relation to the licensee** since application. Operators are required to record the jurisdiction and revenue for every jurisdiction, where the revenue is more than 3% of the operator's total revenue (or more than 10% for operators whose total revenue is less than £5 million per annum). In addition, if operators actively target a jurisdiction they will need to name these and report the percentage of revenue, if they have not already been reported under the 3% or 10% threshold. However, regulatory returns are generally focused on the licensee rather than the group, and, in this case, the information on the jurisdictions targeted by the group is not collected. This is because it is common for more than one company within a group structure to hold a licence with the Commission and reporting across the group would result in complex overlaps in reporting which would be onerous for both the operators completing the returns and for the Commission in analysing and acting on such information.
- 13.44** The Commission will therefore require licensees that are members of a group of companies to report on the jurisdictions targeted by any company within the group. This applies to information about any company within the group which is not licensed by us, as companies within the group which are licensed by us will already be supplying such information. This was not consulted on as part of this review, although the issue and the intended data requirements have been discussed extensively in the Commission's guidance to operators in preparing for the implementation of the Gambling (Licensing and Advertising) Act 2014 and further information has been published in our [frequently asked questions blog](#) in question 14 of that blog.

The Commission's position

We consider it important to require information to be provided to the Commission on the jurisdictions targeted by both remote gambling licensees and other remote gambling companies within the group.

We already gather this information in relation to the licensee and other companies within the group who are also licensed by us. This is part of understanding an operator's business model and enables us to ensure that licensing and compliance decisions remain accurate in the light of this new information.

The addition to licence condition 15.2.2 (set out below) will now require information on the group companies not licensed by the Commission to be supplied as an 'other reportable event'. This has been included in the LCCP published alongside this document and will come into force on 8 May 2015.

The change will allow us to monitor the information provided during the licence application and ensure that we maintain sufficient information about the activities being undertaken in other jurisdictions by the licensee and companies within their group structure.

Licence condition 15.2.2

Other reportable events

All operating licences except ancillary remote licences

- 1 Licensees must also notify the Commission in such form or manner as the Commission may from time to time specify, or ensure that the Commission is so notified, as soon as reasonably practicable, of the occurrence of any of the following events¹:
 - a the conclusion of a dispute referred to an ADR entity and in such case providing the Commission with a copy of the decision or note of the outcome²;
 - b any outcome adverse to the licensee of any proceedings taken against the licensee (in whatever jurisdiction) by a customer in relation to a gambling transaction; but excluding proceedings allocated to the County Court small claims track or equivalent in jurisdictions outside England and Wales; and
 - c **their becoming aware that a group company which is not a Commission licensee is advertising remote gambling facilities to those residing in a jurisdiction in or to which it has not previously advertised.**

¹ Events required to be notified to the Commission by 15.2.1 or 15.2.2 may be reported securely online at the Commission's website through our eServices system www.gamblingcommission.gov.uk or by email to: key.events@gamblingcommission.gov.uk

² In respect of the referral of disputes to an ADR entity the licensee's attention is drawn to social responsibility code provision 6.

In this condition:

- a 'group company' has the same meaning as in condition 15.2.1, and
- b without prejudice to section 327 of the Act, 'advertising' includes: having a home page directed towards a jurisdiction and written in, or in one of, that jurisdiction's official language(s), having arrangements enabling that jurisdiction's currency to be selected for gambling or the use of payment methods available only in that jurisdiction, and providing a specific customer service facility referable to that jurisdiction.

February 2015

Keeping gambling fair and safe for all

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LCCP 15/01

Annex1 - List of respondents to the consultation

A total of 141 formal written responses were received during the consultation period. A list of non-confidential respondents is set out below and the full responses are available on the Commission's website.

Association of British Bookmakers (ABB)	Evangelical Alliance
Administration of Gambling on Tracks (AGT) Ltd.	Featurespace
Alan Cruickshank	Fraser Brown
Angus Johnson	Federation of Racecourse Bookmakers (FRB)
Ashford Borough Council	George Eckton
Astra Gaming Group	G Phillips
British Amusement Catering Trade Association (BACTA)	Gala Coral
British Association of Leisure Parks, Piers and Attractions (BALPPA)	GamServe
Baroness Howe	GamCare
Battersea Dogs and Cats Home	Gaming Integrity Services
British Beer and Pub Association (BBPA)	Gambling Business Group (GBG)
Beacon Bingo	Geoffrey Bridges
Bet365	Glasgow City Council
Betfair	Gloucester Licensing Officer Group
Betfred	Godfrey Harverson
BetVictor	Gordon Moody
Biggerbet	GerhardMeyer - Bremen University
Bingo Association	Greene King
Bwin Party	Greg Fletcher
Campaign for Fairer Gambling	Guy Rowland
Christian Action Research and Education (CARE)	Harlow Council
Carlton Clubs	Havant Borough Council
Carnaby Gaming	Health Lottery
Carol Morley	HealthCICServices Ltd
Cashino	Hereford City Council
Catherine Forbes	Hippodrome Casino
Ceredigion County Council	Independent Betting Adjudication Service (IBAS)
Christian Medical Fellowship	Industry Group for Responsible Gambling (IGRG)
Christians Against Poverty	International Game Technology (IGT)
Chris Thorogood	Information Commissioners Office (ICO)
Connie Andrews	Inspired Gaming
Cornwall County Council	Jim Orford (Prof)
Convention of Scottish Local Authorities (COSLA)	John Mellor
Craig Tampin	John Wainwright
David Clapham	Jon Gowers
David Lumb (Dr)	Judith Coleman
David Masson	Judith Willcox
David Miers (Prof)	Kent Police
Deirdre O'Reilly	Kevin Vaughan (Dr)
Donald Fleming	Ladbrokes plc
Elaine Harris	Les Taylor
EPIC Problem Gambling Consultancy	Local Government Association (LGA)
	LGA Licensing Policy Forum
	Liverpool City Region FOBTs Steering Group

London Boroughs
London Borough of Newham
Lord Browne
Lotteries Council
M Macleod
Manchester City Council
Mary Douglas
Matthew Rockloff - Central
Queensland University
Melksham Baptist Church
Methodist, United Reformed & Baptist
Churches
Michael Barbour
Monica Wisker
Moto
Nadco Leisure
Northern Bookmakers Protection
Association (NBPA)
National Casino Forum (NCF)
New Life Church
Newcastle City Council
Paddy Power
Pendle Borough Council
People's Postcode Lottery
Peter Du Feu
Phil Barnett
Playnation
Playscan & Sustainable Interactive
Powys County Council
Praesepe
Quaker Action on Alcohol and Drugs
(QAAD)
Rank
Racecourse Promoters Association
(RCPA)
Responsible Gaming Networks
Rethink Gambling
Remote Gambling Association (RGA)
Responsible Gaming Trust (RGT)
'Richas'
Riley's Sports Bars
Roadchef
Rob Kingston
Rod MacRorie (Dr)
Rosalind Porter
Royal College of Psychiatrists
Salvation Army
Sceptre
SG Gaming
South Lakeland District
Council
Talarius
Telford & Wrekin Council
Underage sales Ltd
W John Aust (Dr)
Westminster City Council
William Hill

Working Mens Clubs and Institutes
Union
Young Gamblers Education Trust
One anonymous respondent

Annex 2 – Glossary of terms

Acronym / abbreviation	Definition
AAS / AS	Annual assurance statement / Assurance statement
ABB	Association of British Bookmakers
AGC	Adult gaming centre
ASA	Advertising Standards Agency
B2B	Business to business
BCAP	Broadcast Committee of Advertising Practice
CAP	Committee of Advertising Practice
Commission	Gambling Commission
CIC	Community Interest Company
CPRs	Consumer Protection for Unfair Trading Regulations 2008
DCMS	Department for Culture Media and Sport
ELM	External lottery manager
FEC	Family entertainment centre
FOI	Freedom of Information
The Act / the Gambling Act	The Gambling Act 2005
GLA	Guidance to licensing authorities
GGY	Gross gambling yield
ICO	Information Commissioner's Office
IGRG	Industry Group for Responsible Gambling
LA	Local authority
LCCP	Licence conditions and codes of practice
NatCen	NatCen Social Research
NCF	National Casino Forum
RET	Research, education and treatment
RGC	Canada's Responsible Gambling Council
RGSB	Responsible Gambling Strategy Board
RGT	Responsible Gambling Trust
RTP	Return to player
RTS	Remote technical standard(s)
Senet	The Senet Group is a body set up to promote responsible gambling standards and ensure that the marketing of gambling is socially responsible
SIC	Statement on Internal Control
SR	Social responsibility
The Trust's review	The Responsible Gambling Trust's <i>Operator-based harm minimisation review</i>