

Raising standards for consumers
Enforcement report 2017-2018

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Chief Executive's message



The aim of our enforcement work is to protect consumers and the wider public and to raise standards in the gambling industry. We seek to do that through targeted action that drives a culture where operators act in a way that:

- ▶ minimises the risks to the licensing objectives and reduces gambling related harm
- ▶ puts the interests of consumers first, by treating them fairly and communicating with them in a clear way that allows them to make properly informed decisions
- ▶ is open and co-operative with us, as their regulator

In my view, effective regulation requires a balance between deterrence and advice and guidance.

We want operators to pay attention to the lessons set out in this document. We want them to focus on ways to make gambling fairer and safer for consumers in Great Britain. We also want operators to collaborate and invest the same amount of resource, technology and research into building better protections for consumers, as they do to creating new products, or advertising and marketing campaigns.

As a regulator, we will continue to set and enforce standards that the industry must comply with to protect consumers. We hope operators will learn the lessons outlined in this report and that their staff, management and Boards will use it as a guide to help decision making and investment priorities.

Neil McArthur Chief Executive

Introduction

The Gambling Commission exists to safeguard consumers and the wider public by ensuring gambling is fair and safe. Our enforcement work plays a vital role in ensuring standards are raised through targeted actions that drive a culture in which operators:

- ▶ Set the tone from the top and lead a culture of compliance and commitment to doing the right thing for consumers that resonates with staff.
- ▶ Strive to continuously raise their standards and at all times treat customers fairly.
- ▶ Resolutely work to reduce the risk of harm from gambling.
- ▶ Invest in and use data, technology and measures to identify harmful play, incorporate protections, intervene early to guard against consumer harm and prevent crime.
- ▶ Innovate to protect as much as for profit.
- ▶ Actively identify and manage risk and evidence this at every stage.

Our enforcement powers can be broadly divided between regulatory – which includes licence reviews, financial penalties and the voiding of bets – and criminal enforcement which takes place through the criminal courts. Our approach to enforcement is set out in the document Licensing, compliance and enforcement under the Gambling Act 2005: policy statement, published in June 2017, available on our website.

We also regulate the National Lottery, which is a currently licensed to operator Camelot.

We have decided to publish, for the first time, a review of our enforcement work over the past financial year in the same way as many other regulators. The aims of this document are to:

- ▶ Provide an overview of the enforcement work in which we have been engaged.
- ▶ Highlight areas of regulatory concern within the industry.
- ▶ Bring together lessons that are frequently published in our public decision notices.
- ▶ Help those within the industry raise standards and improve overall regulatory compliance.

Introduction continued

It is hoped this document will be read, in particular, by those in the industry. It aims not just to review the past year but to also be an industry facing publication building on our casework and bringing together our published lessons and guidance. It is intended to help ensure compliance and raise standards.

This review document is focused on our enforcement work under the Gambling Act 2005 and does not cover our regulation of the National Lottery. Information about how we regulate this can be found on our website.

Licensees are on notice that a failure to adhere to the guidance in both this document and within our public decision notices may see us bringing enforcement action more swiftly and with greater penalty if we are of the view lessons are not being learned, or if the issue in question has been uncovered by us or another authority.

Similarly, operators can expect lesser penalties if they report the matter to us promptly, cooperate during our investigation and proactively look to rectify matters.

The chapters in this review are divided by the key enforcement themes in which we have been most actively engaged during the year.

Anti-money laundering



Work to ensure gambling stays free from crime and the proceeds of criminal finance remains a key area of concern.

We expect licensees to comply fully with the terms of their licence as relevant to anti-money laundering (AML) and counter terrorist financing (CTF) and pay close regard to the various guidance documents. We provide regular updates on AML and CTF matters on our website.

Licensees should be aware of the following key updates over the past year:

- ▶ **21 June 2017:** We urged operators to review when their customer identity checks were being made in a [public statement on our website](#).
- ▶ **27 September 2017:** We updated our AML guidance for non-remote and remote casinos, following publication of [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#).
- ▶ **5 October 2017:** We updated our AML and counter terrorist financing: [Approach to supervision publication](#).
- ▶ **5 October 2017:** We revised and published our new [AML advice for operators](#) (excluding casino operators).
- ▶ **9 October 2017:** We reminded remote and non-remote casino operators of their requirement to appoint an individual who is a member of the board of directors (or equivalent) or of its senior management as the officer responsible for the operator's compliance with the [Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#), and to appoint an individual responsible for the nominated officer role and responsibilities.
- ▶ **7 March 2018:** We republished our [Prevention of money laundering and combating the financing of terrorism guidance](#) for remote and non-remote casinos document, following approval of the guidance by HM Treasury.
- ▶ **26 March 2018:** We published our [Money laundering and terrorist financing risk assessment 2017](#).

Anti-money laundering continued

We took enforcement action against a number of operators with regards to AML failings. Notable cases included:

- ▶ [Silverbond Enterprises Limited](#) (June 2016)
- ▶ [Stan James Online](#) (October 2017)
- ▶ [William Hill Group](#) (February 2018)

The casework has shown the industry continues to face issues with problem gamblers who steal in order to fund their gambling activities, and in some cases did not do enough to protect the consumer or tackle money laundering risks. To this extent, AML issues often overlap with safer gambling themes.

We have taken robust action where we are of the view an operator's AML policies, procedures and controls are not fit for purpose. Where they are not properly engaging with an individual who may be a problem gambler from an early stage there is a significant risk criminal finances are being laundered or spent through the gambling industry.

We are concerned customers whose gambling starts to escalate are only identified and their source of funds verified once an operator's commercial triggers are hit, and often once it is too late to have picked up on the deposits of significant criminal finances.

Over the past year, we have been particularly concerned about operators' 'VIP customers', those with a high spend on gambling who are not being sufficiently challenged as to their source of funds. Often, simple open-source checks can cast doubt on assertions or assurances given by such customers. We have seen repeated examples of individual, high spending customers 'slipping through the net'.

However, we have been encouraged to see examples where some operators have more closely integrated their VIP management teams with their AML and social responsibility management teams – or indeed stepped back from a business model that focuses on VIP management, helping to both minimise the money laundering risk and support safer gambling.

Anti-money laundering continued

Levels of staff training continue to be a concern and repeated instances of apparently compliant policies, procedures and controls not being put into practice have led to significant regulatory failings. This applies from the high street through to senior management.

In our enforcement work over the past year, we have issued increasingly tough financial penalties (or payments in lieu of financial penalties) in cases where there have been major AML failings in order to send a clear message to the industry.

We will continue to strive to ensure market integrity. This includes, where appropriate, divestment by operators of the proceeds of crime gambled with them to ensure (where possible and appropriate) victims of the crime are properly compensated.

Furthermore, we recognise the casino industry is particularly at risk from those who seek to launder criminal finances. In June 2017, we instigated a thematic review of all non-remote casino operators in consultation with the National Casino Forum. This was because we had major concerns with the AML controls operators had in place. This review led to guidelines being issued by the National Casino Forum.

Early this year we also instigated **22** investigations into remote casino operators following a broad compliance audit. We were concerned by the number and range of AML issues identified following this audit. These investigations are ongoing.

22 
investigations
into remote
casino operators

Anti-money laundering continued

Case studies

This year we took enforcement action against a large operator for systematic social responsibility and AML failings.

That investigation revealed there were repeated failings with the operator's AML processes concerning at least **10** customers who had used stolen money to gamble between 2014 and 2017. It was established the source of customers' funds was thefts from employers and fraud offences involving the elderly.

We found the operator failed to abide by the Money Laundering Regulations and, despite a substantial amount being spent by these customers and internal alerts being raised, the operator did not carry out sufficient AML checks and failed to properly interact with customers.

For example, one customer was allowed to deposit **£654,000** over nine months without source of funds being checked. The customer lived in rented accommodation and was employed within the accounts department of a business and earned around **£30,000** per annum.

We also dealt with a case in which a casino was offering cheque cashing facilities with minimal background checks – a direct breach of Money Laundering Regulations.

Taking a customer's word at face value does not suffice for compliant due diligence and puts the operator at great risk. We were especially concerned by the lack of record keeping in that particular case as well as the absence of risk-sensitive policies, procedures and controls.



Anti-money laundering healthcheck

Good practice

During the year we published advice to operators through public statements. You should consider the following to ensure you are complying with the terms of your licence:

- ▶ Have you allocated **sufficient resources** to AML compliance?
- ▶ Have you ensured you have clear, up-to-date, and **fit for purpose AML policies and procedures** available to all who require guidance?
- ▶ Have you ensured your **policies and procedures have been informed by our guidance** on AML? Are you assuming that if you comply with the AML requirements of another regulator you are in compliance with the Commission's requirements? Have you taken into account the Commission's Risk Assessment?
- ▶ Have you ensured staff have and continue to receive **proper training** on AML matters?
- ▶ Are you **supporting your nominated officers** with the appropriate resources and do they have the authority to operate objectively and independently?
- ▶ Are your **systems and controls appropriate for your business**?
Do you regularly assess the adequacy of your systems and controls?
- ▶ **Do you know your customer** (KYC)? Are you gaining a holistic picture of the customer's source of funds, particularly in relation to VIP customers?
Are you critically assessing assurances you receive as to source of funds?
- ▶ Are you **making records of customer interactions** and transactions where necessary?
- ▶ Is your approach **governed by risk**? Once an alert has been raised, do you have in place procedures to ensure the case is properly reviewed in a timely manner?
Will decisions be appropriately recorded?
- ▶ Are you confident **commercial considerations do not outweigh your adherence to the terms of your licence**?
- ▶ Is **risk being 'owned' at an appropriately senior level** within your organisation?

Customer interaction

We have set out our expectations for operators in relation to safer gambling in our strategy. We expect operators to actively work and cooperate with each other to mitigate and minimise harm, collaborating to accelerate progress and evidence impact. We want a focus on ‘what works’ and we expect operators to empower and protect consumers.



This area of regulatory oversight is broad, encompassing proper identification and engagement with those who may be at risk of harm, ensuring terms and conditions are clear, fair and straightforward for consumers and do not target the vulnerable, and that self-excluded customers are properly supported, to give a few examples.

Social responsibility codes are built into the *licence conditions and codes of practice* (LCCP) and must be adhered to in the same way as licence conditions – for example, as a requirement of holding a licence.

Those who are experiencing harm or at risk of harm from gambling are a continuing concern for us and society generally.

Our research last year showed signs public trust and confidence in gambling is declining, with **78%** of those surveyed believing there are too many opportunities to gamble, and **69%** feeling gambling is dangerous to family life. In addition, our evidence shows **430,000** people in this country are classified as problem gamblers and up to two million are classified as ‘at risk’.

Customer interaction continued

Customer interaction describes how gambling operators identify people who may be experiencing, or at risk of developing, problems and how you interact with them to offer support.

Over the past year we have continued to take action where we believe an operator is not doing enough to identify and engage with customers who may be at risk. As set out in our 2018-2021 strategy *Making Gambling Fairer and Safer* we want operators to innovate to protect as much as they do for profit.

We have become particularly concerned – and taken the most stringent action – where customers who were experiencing significant problems with their gambling have been treated as ‘VIP’ customers. Here we have seen repeated instances of engagement with these people being only to facilitate their further gambling rather than to make checks on their source of funds and their welfare.

We have taken regulatory action against a number of licensees who have failed to meet the customer interaction requirements to detect customers who are or may be problem gamblers. Key public statements were made following licence reviews in the following notable cases:

- ▶ [Gala Interactive](#) (November 2017)
- ▶ [888](#) (August 2017)

In February 2018, the Commission published [guidance for remote gambling operators on customer interaction](#). This is essential reading for operators, helping them identify people who may be experiencing or are at risk of developing problems with their gambling, and ensuring their systems are robust enough.*

Operators should use this guidance to look at their own policies and procedure. They must think about whether they meet our expectations or if more needs to be done. Although drafted specifically for remote operators, many of the themes and issues are also relevant for other businesses.

Customer interaction continued

Case studies

We took enforcement action against a large operator at the end of last year for customer interaction failings.

We reviewed their licence and found social responsibility failings in respect of two customers who were displaying signs of problem gambling. Customer A had lost **£837,000** over the course of **14** months, and Customer B had lost **£432,000** over **11** months. Both customers had used stolen money in order to gamble.

In addition, we found the operator had failed to adequately interact with these 'VIP' customers who were displaying clear signs of problem gambling – this was in breach of Social Responsibility code provision 3.4.1. The operator also failed to have in place written policies and procedures that could have curbed the problem gambling behaviour.

We found interactions with Customer A had been more focused on preserving the commercial relationship than engaging with him to ensure a proper assessment had been undertaken from a problem gambling perspective. The customer had an established relationship with the VIP team but, despite frequent contact, opportunities were missed to ensure all information was used to make effective decisions as to whether he was an 'at-risk' customer.

In respect of Customer B, there was no evidence any customer interactions took place to assess if he was experiencing problems with gambling, despite significant deposits and losses being made.

The operator was made to pay a large penalty package. This included **£1m** in lieu of a financial penalty to fund research relating to the causes of problem gambling, and **£1,270,310** in reimbursement to two businesses whose money was used to gamble, as part of the regulatory settlement.

In addition, we also took action against another operator in a similar case concerning a customer who had gambled with smaller but still significant amounts of money online over a **13**-month period. She had stolen **£55,000** in order to fund her gambling addiction but there had been no interaction to enquire into her welfare or source of funds.



Customer interaction healthcheck

Good practice

You should be asking yourself the following key questions with regards to customer interaction and identifying problem gamblers:

- ▶ Do you have **policies and procedures** in place to identify customers who may be experiencing or at risk of developing problems with their gambling? Have you allocated **sufficient resources** to be able to interact with customers early and effectively when you have concerns?
- ▶ Are you **curious about your customers**? Do you monitor customer activity? Do you record interactions?
- ▶ Do you **track customers** across your different platforms and do enough to spot multiple customer accounts?
- ▶ Do you have **systems in place to identify potential problem gamblers**? Do these include appropriate trigger points for when the usual pattern of gambling becomes unusual (these should not be just financial)? How do you protect new customers (where a pattern of play cannot yet be established)?
- ▶ Will your **processes keep pace** with increased demand? Will your growth or any merger affect your ability to monitor customers?
- ▶ How are you evaluating these measures and procedures to ensure they are effective and how do you plan to make improvements over time?
- ▶ Are your **staff sufficiently trained** to spot problem gamblers and know how to report concerns? Are there clear procedures once a concern has been raised?
- ▶ Where concerns arise, are you able to **intervene early** and engage with a customer?
- ▶ Do your customer interaction policies and procedures also cover **VIP customers**? Are you alert to the particular risk these customers bring? Are commercial considerations overriding customer protections?

Self-exclusion

We have brought enforcement action against a number of operators over the past year who have allowed self-excluded customers to continue to gamble or have sent marketing material to self-excluded customers.



We are concerned the pace of change in this area isn't fast enough and operators aren't sufficiently investing in systems that would allow them to identify self-excluded customers who register for duplicate accounts, sometimes by simply changing the payment card.

We have seen some operators successfully introduce customer-linking software which aims to give operators a better understanding of their customer base, and to identify self-excluded customers across their platforms. This is to be encouraged.

However, we have encountered serious system failures in which customers have been allowed to continue gambling despite software being designed to stop this. We have also seen repeated cases where manual overrides by employees unfamiliar with correct procedures have caused system failures.

We have also brought enforcement action where systems failures have resulted in self-excluded customers being sent marketing material against their wishes.

In the past year we have taken action against a number of operators who have made significant failings on self-exclusion, with key public statements being made in the following cases:

- ▶ [888](#) (August 2017)
- ▶ [Bonne Terre Limited t/a Sky Betting](#) (March 2018)
- ▶ [Tabcorp](#) (April 2018)

Self-exclusion continued

Case studies

We reviewed a large operator's licence after concerns were raised that self-excluded customers had been allowed to continue gambling. The operator ran two distinct platforms, which together hosted more than **270** websites and brands through which customers could gamble. The operator's process was supposed to ensure a customer who self-excluded from one platform would be self-excluded from both but this process failed.

It was discovered by the operator over the course of a year that some **7,010** self-excluded customers were able to continue gambling, depositing **£3.5m**. Customers were able to gamble, using deposits and recycled winnings, to a total of **£50.6m**.

We considered this to be an extremely serious breach of Social Responsibility code provision 3.5.1.1, which states: "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."

The operator accepted it failed to process the self-exclusion requests properly and that effective customer identification checks were not in place. This breached Social Responsibility code provision 3.9.1.2(a), which states: "Where licensees allow customers to hold more than one account with them, the licensee must have and put into effect procedures which enable them to relate each of a customer's such accounts to each of the others and ensure that:

- (a) "if a customer opts to self-exclude they are effectively excluded from all gambling with the licensee unless they make it clear their request relates only to some forms of gambling or gambling using only some of the accounts they hold with the licensee."

As part of a regulatory settlement the operator agreed to return to the self-excluded customers the **£3.5m** deposited during the period and make a payment in lieu of a financial penalty of **£4m** as to the self-exclusion breaches.

We also took action against another operator who had failed to return deposited funds to self-excluded customers on the closure of their accounts. Our investigation revealed some **36,748** customers were affected.

It was further revealed this same operator had sent marketing material to around **50,000** self-excluded customers inviting them to gamble. We imposed a penalty package of **£1m** for both failings.



Self-exclusion healthcheck

Good practice

You should be aware we take failures in relation to self-excluded customers particularly seriously. In order to ensure compliance in the future, you should ask yourself the following:

- ▶ Are you allocating **sufficient resources** to ensure your self-exclusion policies are compliant?
- ▶ Are your **systems sufficiently robust**? How many details would a self-excluded customer need to change in order to open a duplicate account with you? Can your systems pick up on simple case changes?
- ▶ Do you perform **holistic reviews of your customer base** and make use of all information available to you, including complaints, to protect self-excluded customers?
- ▶ If a customer self-excludes from one of your websites, brands or products, are you satisfied this self-exclusion will be applied across all of these (unless the customer requests for a limited self-exclusion)?
- ▶ How promptly are **details of self-excluded customers removed** from your marketing databases? Are your data sets ring-fenced to prevent access to self-excluded customers' details for marketing purposes? Does this also include marketing affiliates, for which you have responsibility?
- ▶ How **responsive** are you when things go wrong to enable prompt investigation and provide an appropriate remedy?

Unfair terms and practices

In our [Strategy 2018-2021](#) document, published in November last year, we made it clear that we wanted to create an environment that is both fairer and safer for consumers. Central to this is consumers being:

- ▶ empowered to make informed choices about gambling
- ▶ fully informed of, and able to make use of, their rights
- ▶ free to enjoy gambling and to feel confident that they will be treated fairly
- ▶ aware of the risks and clear about when and how to seek help or redress
- ▶ able to differentiate between operators in a competitive market on the basis of customer care and values.



We are concerned that there is an imbalance of rights and obligations between businesses and consumers, which is heavily weighted in the operators' favour. Complex and unfair terms and misleading practices commonly used in the sector may have led to consumers being unable to make informed decisions on products and being unable to fully apply their rights.

Central to our work to redress this imbalance has been our joint programme of work with the Competition and Markets Authority (CMA) to tackle unfair terms and misleading practices in the remote gambling sector. After we raised concerns, the CMA launched an enforcement investigation into potential breaches of consumer protection law in the sector. We have supported the CMA in their work, which initially focused in particular on terms and practices that may prevent players from withdrawing their own money (including winnings made with it) as part of a bonus promotion.

Unfair terms and practices continued

Following CMA action, earlier this year, Ladbrokes, William Hill, PT Entertainment and BGO committed to change how they offer online bonus promotions and to be more upfront and clear in their terms and conditions. Between them these operators gave undertakings that:

- ▶ players won't be required to play multiple times before they can withdraw their own money
- ▶ gambling firms must ensure that any restrictions on gameplay are made clear to players, and cannot rely on vague terms to confiscate players' money
- ▶ gambling firms must not oblige players to take part in publicity
- ▶ gambling firms should not have terms that could be used to unfairly change their promotions after a customer has opted in.

We fully supported the CMA's action and in a [public statement](#) set out that all operators must ensure the terms applied to their promotions are clear, so that customers can understand the deals they are signing up to and what they need to do to fully benefit from promotions.

Further, in March this year we supported the CMA in taking enforcement action against a number of online operators in respect of terms and practices that may place unfair obstacles in the way of people withdrawing their own money, whether that be as part of a promotion or not.

In addition, we launched a [consultation](#) on changes to our regulations relating to marketing and advertising, unfair terms, and complaints and disputes. We proposed various changes to the *Licence conditions and codes of practice*. In relation to unfair terms our proposal was:

- ▶ making clear that licensees must obey all relevant consumer protection legislation at all stages of dealing with consumers and not only when designing marketing materials
- ▶ ensuring consumer notices are also fair and transparent.

We have also looked into concerns relating to 'cross-matching' algorithms being used by a licensee in the last year. Customer complaints suggested that the system did not work in a way to allow for best execution in exchange markets, which provides unfair financial gains to the operator. The principle concern was that T&Cs did not clearly explain the process, and consumers would have difficulties understanding its effect.

Unfair terms and practices continued

Case studies

We took action against the [holder of a remote operating licence](#) last year.

During the Cheltenham Festival the operator promoted bonus offers on four separate brands, which were all subject to their own T&Cs as well as the operator's general terms. The brands offered bonuses for new sign ups and for existing customers. None of the brands allowed customers to have multiple accounts. The operator considered that a large number of bets had been placed in contravention of a clause in their general terms that forbade the abuse of promotions. The operators accordingly suspended over **5,000** accounts.

The Commission and the Independent Betting Adjudication Service received a large number of complaints from members of the public about this action.

As part of our investigation the operator acknowledged that their handling of the case was inefficient and that their T&Cs were unclear and ambiguous, and did not provide a clear definition of situations where opening multiple accounts would breach the T&Cs. As a result of our engagement, the operator began to release funds affected to players who had had their accounts suspended. They accepted that their general terms needed to be more detailed and took steps to improve the clarity of their terms, and engaged solicitors to undertake a full review of their terms to ensure compliance with the Consumer Rights Act 2015.

The operator accepted it did not make it clear to customers, and had not included a specific provision in their terms, that an existing customer could not sign up and take advantage of the bonuses for new sign ups. We considered this breached licence condition 7.1.1B, as well as social responsibility code provision 5.1.1.1a.

The operator agreed to a regulatory settlement package, which included changes to its terms in order to address the failings identified, and implementing a package of measures to improve compliance.



Unfair terms and practices healthcheck

Good practice

To ensure compliance with both our licensing regime and consumer law, you should ask yourself:

- ▶ Have you read the guidance on consumer law ([Unfair contract terms: CMA37](#) and [Consumer Protection from Unfair Trading Regulations – traders: OFT1008](#)) and the material relevant to gambling sector published by the CMA ([Do's and don'ts for online gambling companies](#) and [Further information for online gambling companies](#) which relate to the specific compliance issues they have addressed in their investigation)? Have you taken any legal advice on this?
- ▶ Have you reviewed your practices (and made necessary changes) to ensure terms and conditions are in line with consumer protection law?
- ▶ Are you **allocating sufficient resources** to the creation of fair contractual terms and to assess how you treat your customers? Do you have sufficient in-house knowledge to ensure compliance in this area?
- ▶ Have you embedded changes to ensure compliance with consumer protection law in internal policies, guidance and training materials for employees? For example, are those handling complaints sufficiently trained on consumer protection issues?
- ▶ Are you satisfied that **you are acting in accordance with your terms**?
- ▶ Do you ensure that an **accurate summary** of contractual terms on which gambling is offered is available to customers and is set out in plain English?

Marketing and advertising

During the year we have taken enforcement action against a number of operators for misleading advertising. We have worked to ensure adverts are both clear and fair to consumers and don't induce them to gamble on a misunderstanding.



Since May 2015 new social responsibility codes have been introduced which oblige operators to abide by any relevant provision of the Committee of Advertising Practice (CAP) code and the Broadcast Committee of Advertising Practice (BCAP) code, which relates to 'free bet', 'bonus', or other similar offers, and follow the CAP and BCAP 'Guidance on the rules for gambling advertisements'.

We continue to have concerns a number of operators have been too slow to amend their marketing on free bets and bonuses and, as a consequence, consumers may be misled. This typically concerns key terms and conditions not being present in the body of such advertisements.

We have also been concerned some operators do not have PMLs in place with direct responsibility for marketing and advertising. This can mean when concerns arise as to misleading marketing campaigns it can take a long time for the operator to address the issues because no single person owns responsibility for compliance.

With the increasing use of marketing affiliates, we have noted operators do not have full control over their marketing campaigns once they have been launched, and we have seen that where problems are identified it can be difficult for licensees to ensure non-compliant advertising is swiftly taken down. The LCCP is clear, operators have responsibility for the actions carried out on their behalf by third parties that relate to the licensed activities.

We are concerned some operators are still failing to adhere to CAP and BCAP guidance as to the marketing of their offers and continue to advertise in a non-compliant manner.

Marketing and advertising continued

During the year we have further taken action where an operator has offered betting on the outcome of a lottery but not made it abundantly clear to consumers they are not betting on the lottery itself. Such confusion can undermine confidence in the industry and give players a false impression that part of their bet has gone towards good causes. Betting on lotteries is an area in which a consumer may be easily misled.

Notable cases in which we have taken action and published public statements on marketing concerns include:

- ▶ [BGO](#) (April 2017)
- ▶ [EU Lotto Limited](#) (June 2017)
- ▶ [Broadway Gaming](#) (December 2017)
- ▶ [Electraworks](#) (February 2018)

This year we consulted on changes to the *licence conditions and codes of practice* affecting marketing and advertising. We proposed the following:

- ▶ ensuring licensees adhere to the UK Advertising Codes.
- ▶ making our current requirements about misleading advertising clearer to licensees.
- ▶ introducing a new requirement to prevent consumers from receiving ‘spam’ marketing by email or SMS
- ▶ making clear to licensees they are responsible for the actions of any third-party organisations they use.

Marketing and advertising continued

Case studies

On 8 May 2015, following a consultation, new social responsibility codes came into force which compelled operators to abide by any relevant provision of the Committee of Advertising Practice (CAP) code, and the Broadcast Committee of Advertising Practice (BCAP) code, which relates to ‘free bet’, ‘bonus’, or other similar offers.

In particular, adverts are required to state significant limitations and qualifications. Marketing material must not amount to or involve misleading actions or omissions. These rules apply to all forms of marketing communications, including social media and those carried by marketing affiliates.

Social responsibility code 1.1.2 requires licensees to take responsibility for third parties with whom they contract for the provision of any aspect of the licensee’s business related to the licensed activities. This means licensees are considered responsible for the actions and behaviour of third parties with whom they contract, including marketing affiliates and advertising networks.

We became concerned advertisements on an operator’s website, as well as on social media, did not include significant limitations and qualifications important to consumers and were therefore potentially misleading. We had extensive contact with the operator but continued to find non-compliant adverts.

We found the operator failed to act in accordance with social responsibility codes 1.1.2 and 5.1.7.2.a as a result of the misleading advertising and false assurances the matter was being dealt with. We imposed a **£300,000** financial penalty and issued a formal warning.

In addition, we also took action against an operator who was offering betting on the outcome of National Lottery draws while not making it sufficiently clear the consumer was not taking part in the lottery itself.

We have issued specific guidance here as it is an area in which a consumer can be easily misled. For example, by thinking part of the money they bet will go towards a good cause. The operator was ultimately required to pay **£150,000** as a payment in lieu of a financial penalty.



Marketing and advertising healthcheck

Good practice

We encourage you to consider the following:

- ▶ Do your marketing and advertising materials **comply with the BCAP and CAP codes**, and the *licence conditions and codes or practice*? If in doubt, have you made use of CAP's copy advice team?
- ▶ Are your **advertisements clear and fair**? Does your marketing communications include significant limitations and qualifications consumers should be aware of?
- ▶ Are you confident you have **control over your marketing materials** once you have engaged marketing affiliates? Have you ensured your contractual terms with affiliates are robust? Are you conducting regular audits of your affiliates' activity against your compliance policy?
- ▶ Are you allocating **sufficient resources** to ensuring your marketing and advertising is compliant?
- ▶ Is responsibility for marketing and advertising being **owned at an appropriate level** within your organisation?

Illegal gambling

A key part of our enforcement work is the opening of criminal investigations and the use of criminal investigatory powers where we have concerns offences are being committed under the Gambling Act. We have a statutory remit to keep crime out of gambling.

We take an incremental approach to suspected criminal activities. Where we suspect individuals or companies are illegally interacting with UK consumers we will typically send cease and desist letters. Where this is not effective we will escalate matters which may lead to the opening of a formal criminal investigation. Once a criminal investigation has been opened we may use a broad range of investigatory powers.

We continue to use disruption techniques where remote, unlicensed operators engaging with UK customers do not comply with cease and desist notices. Over the past year we have built relationships with web hosts, payment providers and social media sites, who can all help prevent an unlicensed operator interacting with UK consumers.

We continue to investigate allegations of cheating under s.42 of the Gambling Act, and work with sports governing bodies such as the Great British Greyhound Board in tackling this type of crime.

We are especially concerned by the proliferation of individuals who are offering gambling to children through skin gaming. We continue to disrupt those who offer illegal skin gaming to UK consumers and young people and take this sort of offending particularly seriously.

And we continue to liaise with other law enforcement agencies. Last year we worked closely with the City of London Police's Intellectual Property Crime Unit on a project that led to an **87%** drop in adverts placed by gambling operators on websites that infringe copyright content over a **12-month** period.

Illegal gambling continued

Case studies

We received a complaint from the parent of a **14**-year-old child relating to a website called Futgalaxy allowing customers to buy virtual coins which could then be gambled on the Futgalaxy website. There were particular concerns this form of gambling was being aimed squarely at children.

FutGalaxy.com – which has no official association with the FIFA series of games or EA Sports – allowed customers to buy virtual currency called FUT coins. Customers could then use those FUT coins to gamble, converting these into FIFA coins which could in turn be sold for real money on an unauthorised secondary market in which those responsible also had an interest.

FutGalaxy.com offered gambling products including sports betting, a jackpot lottery style game and a higher or lower style game. The full extent of the gambling operation facilitated and advertised by the defendants was revealed after we executed search warrants at the defendants' homes and seized a number of electronic devices and company documents.

We identified Dylan Rigby and Craig Douglas as being behind a company called Game Gold Trading Limited (GGT) that operated the Futgalaxy website. Mr Douglas was a prolific user of YouTube, where his profile “nepenthez” had more than one million followers.

We brought criminal proceedings against Rigby, Douglas, and GGT. Ultimately both Rigby and Douglas pleaded guilty to offences contrary to s.33 of the Gambling Act and were fine **£24,000** and **£16,000** respectively. They were further required to pay our costs in the sum of **£215,000**.

In sentencing the pair at Birmingham Magistrates' Court, District Judge McGarva described the offending as “very grave” and highlighted the risk to children as having been the “real mischief” in the case.

Illegal gambling continued



Some relevant statistics

The statistics for unlicensed remote gambling we have taken enforcement activity on are:

- For 2015  40 unlicensed operators
- For 2016  57 unlicensed operators
- For 2017  61 unlicensed operators

In addition, we have been involved in disrupting large number of unlicensed activities such as lotteries taking place through social media sites.

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