

department for
**culture, media
and sport**

Summary of Responses to Proposals for Gambling Commission Fees from 6 April 2012

30 July 2012

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Chapter 1: Introduction

1.1 This document is the post-consultation report for the DCMS and Gambling Commission consultation document Proposals for Gambling Commission Fees from 6 April 2012. It covers:

- the background to the consultation exercise
- a summary of the responses to the consultation, including the DCMS and Commission's detailed responses to the common concerns raised during the consultation exercise
- conclusions.

1.2 The appendices cover:

- the names of all consultation respondents
- a summary of stakeholders' responses to the consultation's specific questions, including the DCMS and Commission's responses in turn.
- a detailed summary of the amendments and additional provisions made to the proposals originally published in the consultation document.

1.3 This report will be published electronically at www.culture.gov.uk. Hard copies will be available from:

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Chapter 2: Background

2.1 The consultation paper *Proposals for Gambling Commission Fees from 6 April 2012* was published on 22 September 2011 and the consultation ended on 15 December 2011. The consultation paper invited comments on proposals to amend the operating licence fee structure from 6 April 2012.

Gambling Act 2005 and policy on fees

2.2 The 2005 Act put in place new arrangements for regulating gambling in Great Britain and repealed previous legislation, such as the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976. The Act also established the Gambling Commission as the body responsible for regulating all gambling in Great Britain, except the National Lottery and spread betting which are regulated by the National Lottery Commission and the Financial Services Authority respectively.

2.3 The Commission issues two types of gambling licence, operating and personal (both of which can be subject to applications for change or variation). Government policy on fees, charges and levies charged by public bodies is set out in *Managing Public Money*, published by HM Treasury in July 2007. This states the general principle that fees should be set to recover the full cost of the service provided. This principle applies to gambling licences even though the function of the Commission is to regulate the gambling industry in the public interest, rather than to provide a service to the industry.

2.4 Any person providing commercial gambling opportunities to the public from fixed premises, rather than remotely, is also required to obtain a premises licence from the relevant local licensing authority. Premises licence fees are subject to maxima set by the Department for Culture, Media and Sport, with the actual annual fee being set by the local licensing authority. As they are not administered by the Commission, premises licence fees were not included in the review of licence fees and were not considered in the Impact Assessment.

Impact

2.5 The Department for Culture, Media and Sport and the Gambling Commission's initial Impact Assessment (published with the consultation document on 22 September 2011) considered the impacts, risks and benefits of the policy behind the Proposals for Gambling Commission fees from 6 April 2012. The final Impact Assessment can be found on the Department's website (<http://www.culture.gov.uk/consultations/8446.aspx>).

Chapter 3: Summary of Responses

3.1 A total of 25 responses were received from trade associations, operators and others. In addition, the Commission and the Department held a consultation workshop at the Commission's offices in Birmingham on Friday 11 November 2011. A list of respondents is at Appendix A.

3.2 Each of the issues considered in the consultation document was addressed by specific questions. A number of themes emerged from the responses submitted:

- The Commission's level of expenditure on betting integrity, illegal enforcement and other major areas of activity
- The Commission's overall level of expenditure
- The size of the fee increases for larger operators, and conversely that fee reductions for smaller operators did not go far enough.
- The fee banding system
- The size of the fee increases for some pool betting and ELM operators
- The nature of the proposed new fee sub-category to cover operators who use remote platforms in the course of a business.

The Commission's level of expenditure on betting integrity

3.3 Concerns were raised over the Commission's increasing spend on integrity in betting, with arguments that the British regulated market generates very few betting integrity incidents and that there were insufficient substantive criminal cases to justify the Commission's increased spend. In contrast, a number of consultation respondents argued that the Commission should continue to provide adequate funding of its betting integrity operations, to ensure that the Sports Betting Integrity Unit (SBIU) can perform its functions, and the increase in the level of expenditure in this area was welcomed.

Response

3.4 Regulating gambling in the public interest is one of the Commission's strategic objectives. In the context of pursuing the licensing objectives of preventing gambling being a source of crime and ensuring fair and open gambling, the Department and the Commission consider that the maintenance of a regulatory framework that seeks to ensure integrity in sports betting is essential.

3.5 The Sports Betting Integrity Unit (SBIU) is working to a capacity greater than envisaged before the Parry Report. The vast majority of the well-over 200 incidents reported to the unit since 2007 relate to activity flowing through regulated operators even where the source of the corruption may well be on unlicensed markets. Information from the licensed industry is key to tackling sports betting corruption and the Commission's work on betting integrity helps build up the intelligence needed to counteract the threat.

3.6 The Commission's work in this area is necessary to improve public confidence in sport and betting on sport, and at around £700,000 annually is a relatively modest investment compared to the gross gambling yield (GGY) of £1.7 billion on sports betting by British punters. The Commission's costs in the areas of compliance and enforcement, which includes betting integrity, must be recovered from those who engage in licensed activities and the most equitable way to do this is in

relation to the size of the operator's British business conducted in reliance on its operating licence. For example, the largest betting operators in Britain (the ten largest off-course operators and the largest British-based remote betting operator) generate over 80% of the betting industry's GGY. The ten largest off-course betting operators also account for over 85% of betting shops in Britain. Such operators need to bear a more proportionate share of regulatory costs.

The Commission's overall level of expenditure

3.7 Some respondents argued that the Commission should have pursued an overall cash-terms reduction in fees with no operators subject to an increase in fees; that the rising costs explained in the consultation document should have been managed within existing budgets, and particularly so given the economic climate and the decline in the gambling industry itself.

Response

3.8 Paragraph 1.6 of the consultation document had indicated that the Commission intended to maintain the overall fee burden on the industry at the levels set in cash terms in 2009, representing a significant reduction in real terms.

3.9 In light of the further amendments made to the fees proposals partly as a result of consultation (see Appendix C of this document for full details) but also as a result of having more up to date figures on the Commission's finances, the overall fee burden will reduce in cash terms as well as real terms. These further reductions are provided by, in particular, the reduction in annual fees for non-operational 2005 Act casino licensees, the further reduction in annual fees for the new remote ancillary society lottery licence (lower than had been published in the consultation document) and the reduction in annual fees for other ancillary operating licences.

3.10 As stated in the final impact assessment, this has enabled the overall fee burden to be reduced by £714,000 in real terms for the year 2012/13 after the implementation of the fee changes on 6 April 2012, the start of that fiscal year.

3.11 However, as identified in the consultation document and pre-consultation impact assessment in discussion of the second option, an increase in fees for a limited number of larger operators and a significant increase for a very small number of the largest operators was required to ensure that the share of costs that falls to those operators is fair with respect to the rest of the industry. The focus of the Commission has changed with much less engagement with small operators, more effort devoted to higher impact issues and operators and growing inequity in terms of cost recovery between the largest operators in the same fee band. This has meant that some operators have benefited over time from a proportionally lighter fee than, in the light of experience, was warranted. For this reason, across-the-piece reductions in fees for all operators would not have been warranted.

3.12 Nevertheless, of approximately 3850 operators licensed by the Commission, only 33 of those operators were subject to fees increases. Around 45% of licensees were subject to fees decreases of some level (including the smaller betting, bingo and arcade operators and remote society lotteries that will benefit from the new ancillary licence), and fees for the remaining 2,100 operators were unchanged from 2009 levels i.e. a real terms reduction.

The size of the fee increases for larger operators, and that fee reductions for smaller operators did not go far enough

3.13 There were concerns from some operators and trade associations about the level of the fee increases proposed for the largest betting operators, and the justifications behind those increases. In particular, it was argued that the largest operators had invested heavily in their own internal compliance controls; they were not subject to direct regulatory actions from the Commission and they had experienced only small increases in the number of visits to their premises. Further, that some operators had invested in their own betting integrity assurance programmes and were not responsible for the Commission's work tackling illegal gaming machines. Conversely, other

respondents claimed that the largest betting operators in category E should be paying much more than had been proposed given the number of premises they operate.

3.14 While the reduction in fees for the smaller category A and B operators was welcome, some said that the Commission should have pursued reductions greater than 7%.

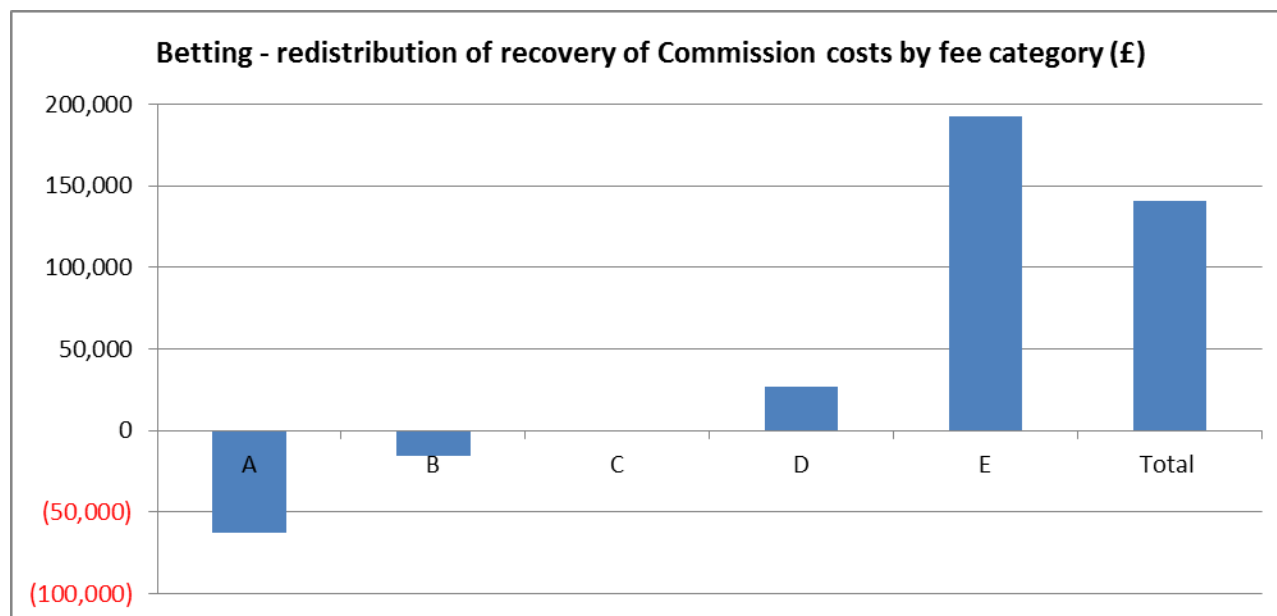
Response

3.15 Although the nine largest betting operators will be facing fees increases, some 550 smaller bookmakers will receive 7% fee reductions. This reflects the move away from the Commission's earlier efforts on smaller operators (where it is now concentrating on working with and supporting local authorities with regards to the regulation of smaller operators) towards its regulatory efforts on higher impact issues – such as betting integrity work and illegal machine supply.

3.16 In terms of the recovery of these costs, in as far as they are attributable to the betting sector, it is reasonable that the largest betting operators should recover a greater proportion, because of the move in regulatory effort towards higher impact issues: as explained above, the largest betting operators in Britain (the ten largest off-course operators and the largest British-based remote betting operator) generate over 80% of the betting industry's GGY. The ten largest off-course betting operators also account for over 85% of betting shops in Britain. More than half of all gaming machine GGY in Britain is generated from the B2 gaming machines on the largest bookmakers' premises alone.

3.17 The table below shows the fee increases and decreases by operator fee category within the premises-based betting sector (the non-remote general betting (standard) licence). The Commission needs to recover approximately £140,000 extra (net) from this sector in order to recover the increases in regulatory costs. This is around a 5% increase on current Commission costs incurred from the betting sector. Taking into account the move away from smaller operators and the consequent necessary fee reductions for them, and the increased focus on higher impact issues, as described above, this equates to 10% fee increases for the larger betting operators in order to balance the recovery of costs.

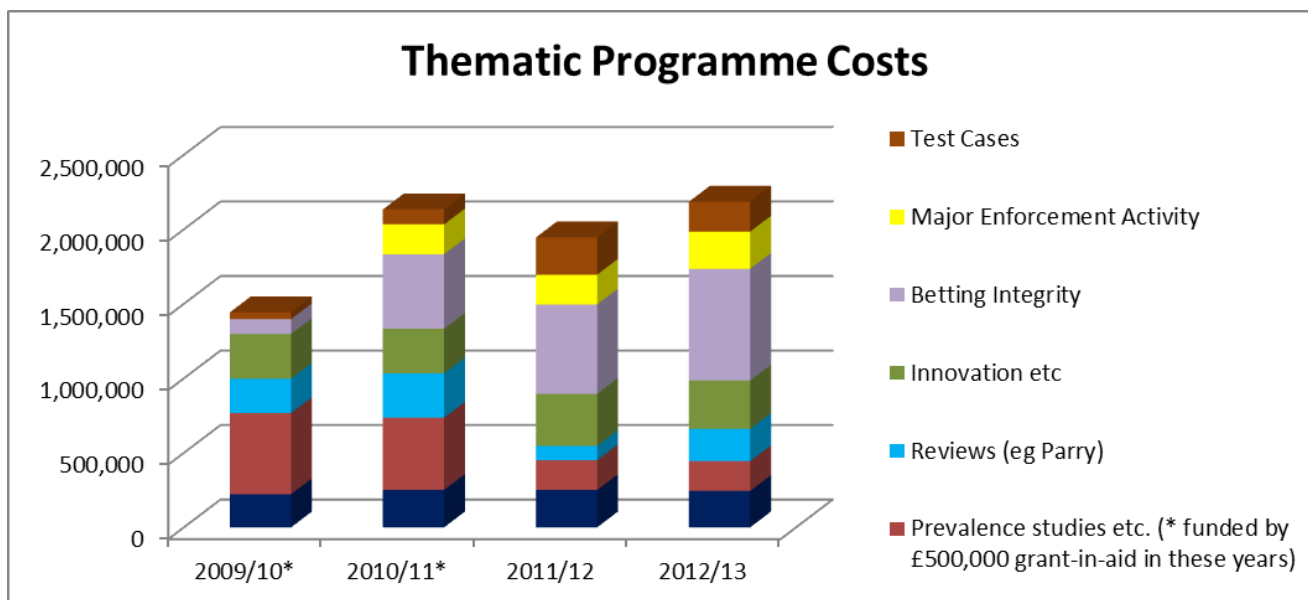
Table 1



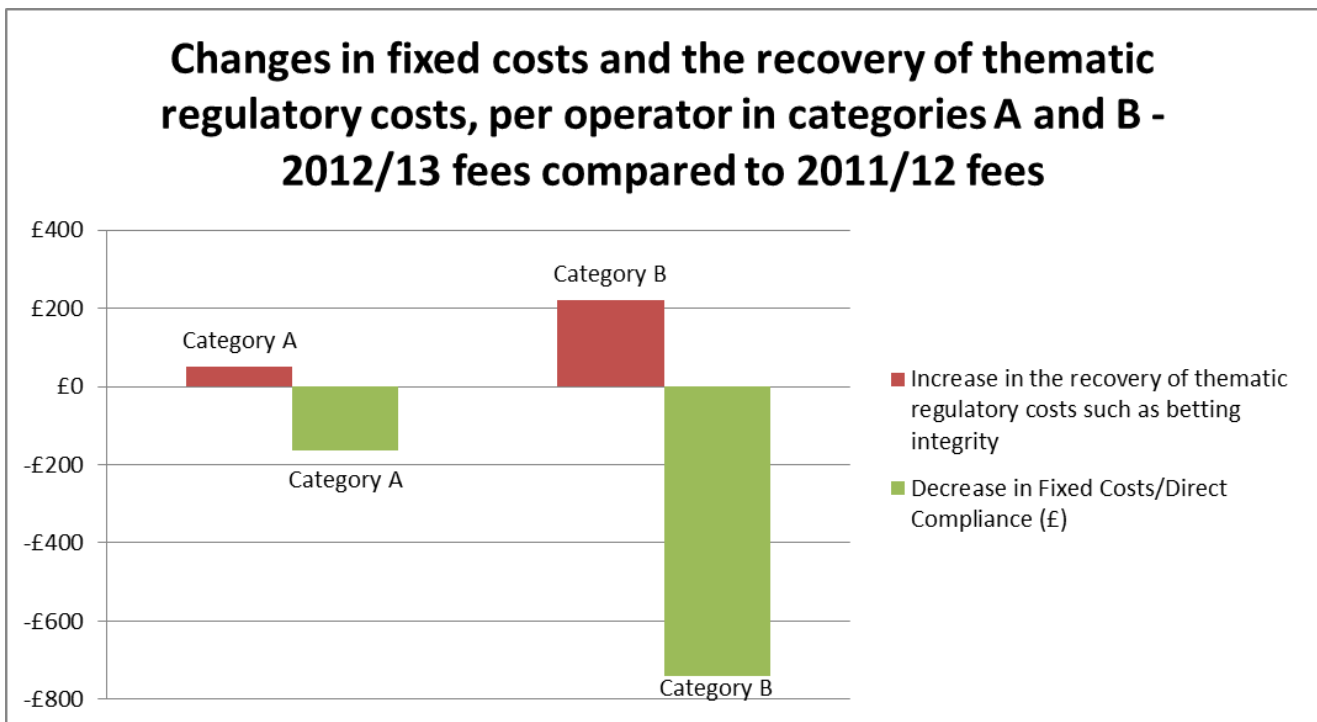
3.18 Fees were originally set on the basis of the number of premises for non-remote general betting (standard) operators as an approximation for GGY, as the Commission did not have reliable GGY data. The fee bandings took into account that the larger operators had compliance departments that would be able to undertake their own auditing compliance, and could also supply data to the Commission. This meant there were huge economies of scale in regulating larger operators whose premises could be sampled for compliance purposes, and much of the data be provided by the operators without the need for visits. However, the balance of Commission work has since shifted

away from premises-related work to more thematic work (e.g. betting integrity, illegal machine supply) and advisory work (e.g. addressing public concern about B2 gaming machines, helping DCMS on stakes and prizes reviews). Such regulatory costs need to be spread in relation to GGY (or its proxy, the number of premises) as there are far less economies of scale available to the Commission with regards this thematic work. The chart below illustrates the rising costs of the Commission's thematic regulatory work.

Table 2



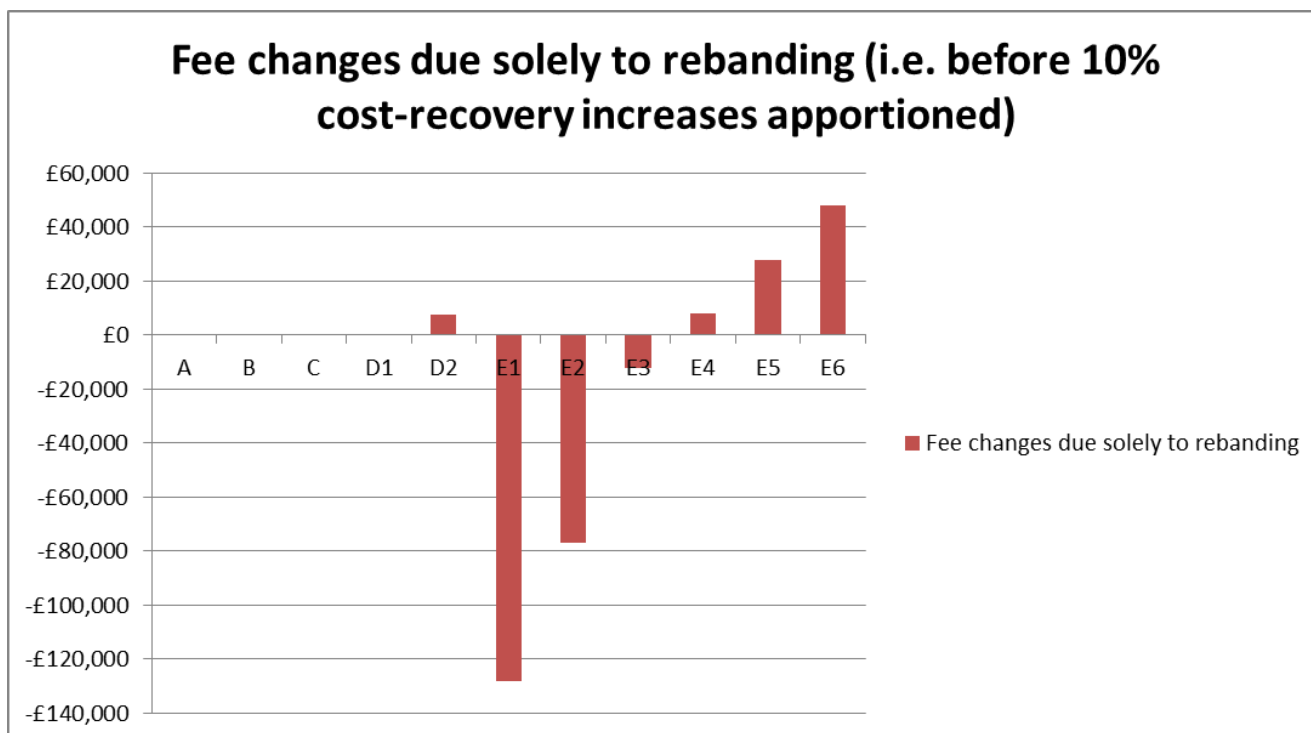
3.19 While the Commission is reducing its costs associated with direct compliance, the costs that need to be recovered for increased thematic regulatory work (e.g. betting integrity) are therefore increasing. The most equitable way to recover the Commission's costs in these areas is in relation to the size of the operator's British business conducted in reliance on its operating licence. Given the shift in regulatory focus away from the smaller operators, the Commission is able to implement fee reductions for betting operators in categories A and B. Although these operators' fees still encompass a small portion of the thematic regulatory costs described above, which must be shared amongst all betting operators, these portions are smaller than the scale of the decreases in direct compliance costs.

Table 3

3.20 The overall fee increases for the largest betting operators range from 10% to 29%. As explained above, 10% of the increase is needed to ensure full cost recovery from the sector. However, the bulk of the increases are a direct result of the breaking-up of the largest category E fee band. This band formerly covered betting operators with over 200 premises, and has now been split into smaller bands to ensure a more equitable apportionment of regulatory costs across the sector. For example, an operator with 2000 premises should bear a greater proportion of the Commission's costs from thematic work than an operator with 1000 premises (costs being spread proportionally to premises numbers as a proxy for GGY).

3.21 Therefore, even if there had not been a need for any overall increase in fees for the larger category of operator to recover the costs of regulating the sector, fees would have increased anyway for some category E operators by between 3% and 20% solely as a result of the splitting of the former fee category E. The table below shows the changes in fees within the former category E, which is now banded E1, E2, E3 etc.

Table 4



3.22 The overall annual fee increases for the largest four bookmakers represent only around 0.01% of their annual gross gambling yield; and for the other five bookmakers subject to annual fee increases i.e. those with between 50 and 200 premises, the overall annual fee increases represent only around 0.04% of annual GGY. There are no operators that are currently expected to be licensed for categories E2 or E3; however the annual fee for an operator that reaches 200 premises will now be £113,960 rather than £236,927 as under the previous fees.

3.23 With regards to smaller operators in the betting, bingo and arcade sectors that have been subject to 7% fee reductions, the Commission will need to continue to support local licensing authorities in their efforts to regulate gambling premises and combat illegal gambling. The Commission has continued to invest effort in providing expert information and advice to local authorities, along with training and guidance as required, targeting its resources to ensure that local authorities are adequately equipped.

3.24 However, as local authorities continue to build up their expertise, the Commission hopes to reduce further its involvement with compliance and enforcement issues in relation to such smaller operators and explore further reductions in line with costs.

The size of the fee increases for some pool betting and ELM operators

3.25 Concerns were raised over the size of the fee increases for medium and large pool betting operators and ELMs. Respondents requested more evidence of the Commission’s effort and justification behind the increases, and it was argued that pool betting was a low risk activity. It was also suggested that that the new ELM fees were, as a percentage of the commission that lottery managers charge to their society lottery clients, much higher than the fees as a percentage of total lottery proceeds.

Response

3.26 The Commission needed to pursue the fee increases for medium and large pool betting operators and ELMs to ensure the full recovery of its costs in these sectors, and needed to split fee bands to ensure that larger operators were not cross-subsidised by the smaller. In light of the responses made to the consultation, the Commission undertook a further review of its costs and workload associated with the pool betting sector, and revised some of the proposed new pool betting

fees (categories D and E, as described in Appendix C of this document). The Commission nevertheless considers that some of the pool betting and ELM fees (in particular the non-remote fees), were initially set at too low a level in 2007, in relation to regulatory costs since incurred.

3.27 The Commission incurs significant costs from regulating the betting sector overall, and at least some of these costs are attributable to larger pool betting operators rather than just fixed-odds betting providers. In particular, the Commission's costs with regards to sports betting integrity have increased six-fold since 2009 and are expected to increase in the future. Whilst it might be argued that there are no direct links between pool betting and betting integrity concerns, it is nevertheless the case that around 30% of cases concerning integrity in betting are football related and another 25% are horseracing related, with around 6% of cases involving greyhound betting. We think it reasonable that licensees whose operations are centred around betting on such markets should share some of the costs that the Commission generates in playing its role in helping maintain and build public confidence in sports betting, on the basis that the benefits of such work are shared by the regulated industry as a whole.

3.28 It is also worth mentioning, however, that the fees payable by non-remote pool betting operators continue to be small in comparison with non-remote general betting (standard) operators i.e. high-street betting shops. The largest non-remote pool betting fee of £12,137 would be payable when an operator reached a GGY threshold of £10 million per annum. Although the regulatory proxy for non-remote general betting (standard) operators is the number of licensed premises rather than GGY itself, it should be noted that such licensees who generate annual GGYs of around £10m are likely to be paying around £45,000 per year in annual fees.

3.29 The changes to pool betting and ELM fee categories are a result of the splitting-up of existing fee bands. We needed to split the fee bands for both non-remote and remote pool betting, and external lottery managers, to ensure that smaller operators do not cross-subsidise larger operators.

3.30 The Commission acknowledges the argument that the ELM fees, as a percentage of the commission that ELMs charge to their clients, will be higher than those fees as a percentage of annual proceeds (in the context that the fee bands for ELMs, like society lotteries, are defined by total lottery annual proceeds). However, fee bands are a means of spreading the Commission's costs within a particular sector. The Commission's fee bands for ELMs, and indeed all operators, must reflect the scale of the activity that is being managed rather than the amount of profit an ELM chooses to take for the service they provide; it is the scale of the operation that drives the Commission's costs and assists the Commission in measuring the risk of the operator. In short, the greater the aggregate proceeds of the society lotteries that are managed by an ELM, the greater the scale and potential impact of that ELM, and indeed the potential regulatory costs posed by it. For the same reasons, society lotteries themselves are measured by their annual proceeds rather than, say, the amount of expenses declared by them, as the latter would not be an adequate indicator of scale.

3.31 The new fee bands are also designed to ensure that the Commission recovers an appropriate share of its costs from businesses that may expand i.e. operators that cross fee category thresholds as their GGY increases.

3.32 ELM businesses are commercial companies that offer services to non-commercial organisations such as charities; their influence in the society lottery sector has significantly increased in recent years and some ELMs have been instrumental in introducing significant developments in the sophistication of the kinds of product offered in the sector. As a result the Commission has had to invest significantly more effort in this sector than had been foreseen, and expects to continue to need to do so. The increases in ELM fees are therefore designed to ensure that the Commission can properly recover its costs from this sector in the future.

The nature of the proposed new fee category to cover operators who use remote platforms in the course of a business

3.33 A small number of respondents expressed concerns about the nature and necessity of this proposal. Some disagreed with the Commission's and DCMS's legal view and argued that by acting

as a customer of a remote operator, a non-remote operator would not be providing facilities for gambling, as per section 5 of the Gambling Act. They argued accordingly that if no facilities for gambling were being provided, there could be no requirement for a licence for that activity. There were also concerns that the proposal discriminated against betting exchanges (intermediaries), and chiefly that customers of exchanges should not be licensable simply by virtue of their betting on exchanges.

3.34 Other respondents welcomed the proposal to ensure that the new fee category would be provided for free to non-remote general betting (standard) and (limited) licensees.

Response

3.35 The Commission discussed this matter at length with respondents in the wake of the fees consultation to clarify the following points:

3.36 It is not the Commission's intention that customers of betting exchanges, nor indeed customers of any other remote betting platform operator, normally should be licensed for their activity. However the Act requires that someone who provides facilities for gambling in the course of a business must be licensed. The Commission has consistently taken the line that it regards 'in the course of a business' as a tax concept and therefore the Commission will be guided by HMRC both as to the criteria and in terms of identification of any such individuals using remote platforms in the course of a business.

3.37 The Commission's and DCMS's view is based on Sections 296(3) and 5 of the Act: if users of remote platforms are providing facilities for gambling in the course of a business, then a remote licence will be required. Section 5(1)(a) involves any invitation to gamble being "in accordance with arrangements" made by the inviter. Any agreement to place a bet may be an arrangement by the punter, but the ordinary punter will not be providing facilities for betting and so will not require a licence: as per section 302, a betting transaction is not commercial if no party to the transaction is acting in the course of a business. However, in the case of a betting operator deciding what potential liabilities he needs to cover as part of his hedging strategy, the Commission and DCMS do consider that "arrangements" are made (at least in part) by that operator. Thus, as the operator is betting in the course of his business section 296(3) does not relieve him of the requirement to be licensed. If HMRC were to identify someone who was not merely making money by their betting but doing so in the course of business, in a way which brought them within section 5, and so section 33, they would require a licence. As the impact assessment makes clear we are not expecting any such persons to be identified.

3.38 The new fee sub category is free to holders of the non-remote general betting (standard) and (limited) licences, with no annual fees payable. It should be remembered that prior to the introduction of this fee category (which is a sub-category of the remote general betting (standard) operating licence), the only available licence for this activity would have been the remote general betting (standard) operating licence, at an annual fee cost of £13,529.

3.39 This amendment to the fees regulations is designed to enable those whom DCMS and the Commission consider already require a remote operating licence to obtain an appropriate licence at an appropriate fee; in the case of existing betting operators, at no fee, and in the case of others (if any), at a very modest fee; and that these fee levels are consistent with the regulatory costs involved.

3.40 On the point raised during the consultation that the proposal would discriminate against betting exchanges, the Commission would clarify that the new fee category is required by someone who uses any remote betting platform in the course of business. That is, when the platform is the holder of a remote betting intermediary operating licence, a remote general betting (standard) operating licence, or indeed any other remote platform that provides facilities for betting from an EEA state, Gibraltar or a white-listed jurisdiction.

3.41 The Commission has so far issued around 500 general betting (standard) (remote platform) licences to holders of non-remote betting licences, after those operators had confirmed to the Commission that they used remote platforms in the course of their business.

3.42 Finally, the Department and Commission have sought to clarify via amendment regulations that new applicants for (as well as existing holders of) the non-remote general betting (standard) or (limited) operating licences will not be subject to pay fees for the new remote platform sub-category. Holders of, and applicants for, the remote general betting (limited) licence will be added to this list. These provisions were omitted in error from the order that came into effect on 6 April 2012. A statutory instrument was laid to the Joint Committee on Statutory Instruments on 16 July 2012 which, subject to Parliament, will implement these provisions effective from 1 September 2012.

Chapter 4: Conclusion and Next Steps

4.1 Following public consultation, the Gambling (Operating Licence and Single-Machine Permit Fees (Amendment) Regulations 2012 were submitted to the Minister to be made under powers conferred by sections 69, 100, 103, 104 and 355 of the Gambling Act 2005. The regulations were subject to the negative resolution procedure in Parliament, and came into force on 6 April 2012.

4.2 The Commission is committed to review its fee levels annually to ensure they are set at a level that enables the Commission to recover the full costs of delivering its responsibilities. In line with the Minister's announcement in 2011 that remote gambling will be regulated from the point of consumption rather than the point of supply, to ensure better protection for British consumers using overseas operators, the Commission will undertake a review of the structure of its remote licence fees. As stated in the Commission's responses to the consultation on the maintenance of personal licences, the Commission expects the net costs of maintaining a personal functional licence to fall and that of a personal management licence to remain the same in cash terms. DCMS and the Commission sought to implement changes accordingly to personal functional licence maintenance fees. A statutory instrument was laid to the Joint Committee on Statutory Instruments on 16 July 2012 which, subject to Parliament, will reduce the maintenance fee for a personal functional licence from £185 to £145. The instrument would come into effect on 1 September 2012.

4.3 The Department and the Gambling Commission would like to thank all respondents for the time taken to provide comments and feedback on the proposals set out in the fees consultation document.

Appendix A: List of Respondents

1. Association of British Bookmakers Ltd. (ABB)
2. Mr A Coeshall t/a Tony Lusardi
3. British Amusement and Caterers Trade Association (BACTA)
4. Betfair
5. Bingo Association
6. Business in Sport and Leisure (BISL)
7. Debbie Hough, Chattertons Solicitors
8. The Football Association (FA)
9. Federation of Racecourse Bookmakers (FRB)
10. Rank Group plc
11. Hospice Lotteries Association (HLA)
12. Independent Members of the Association of British Bookmakers
13. Local Government Association (LGA)
14. The Lotteries Council
15. Mr J A Griffiths
16. National Casino Industry Forum (NCIF)
17. Gala Coral Group
18. Noble Organization Ltd / the Noble Group
19. Power Leisure Bookmakers Ltd t/a Paddy Power
20. Racecourse Promoters Association Limited (RCPA)
21. Remote Gambling Association (RGA)
22. Sterling Management Centre Ltd.
23. Sport and Recreation Alliance and Sports Betting Group
24. Sportech plc
25. William Hill

Appendix B: Responses to Specific Questions

Question 1: Do you have any comments generally on the approach to setting fees?

Respondents expressed wide-ranging views on the Commission's commitment to ensuring integrity in sports betting, and its expenditure in the funding of that programme. Views were also expressed that the Commission should have pursued an overall reduction in its workload, costs and fees. These matters are dealt with in detail in Chapter 3. Other respondents welcomed the overall aims and approach to the fees proposals.

The other main points of concern raised in regards to this consultation question were:

- The methodology used by the Commission to explain its costs for the consultation document was inadequate, and activity-based costing should have been provided.
- The proposals to allow local licensing authorities to become the main point of contact for smaller operators were welcome in principle. However, it is essential that the Gambling Commission continues to provide effective support to licensing authorities.

Response

DCMS and the Commission note these concerns and make the following additional responses:

Previous fees consultations had provided material relating to the number of person-days required to process particular licences. The Commission did not follow precisely the same approach this time round, for the principal reason that it was considered to be much more helpful to stakeholders to explain how the resources the Commission seeks are deployed in particular areas, and then to explain the rationale for allocating those costs as fairly as possible amongst licensed gambling operators, against a background of significant reductions to the Commission's overall costs.

The Commission did not set out to provide a zero-based costing for all transactional activities, because a) much of the Commission's work is not transactional and b) it leads to the unhelpful misapprehension that fees are charged in relation to specific activity with specific operators when in fact the fee reflects a share of the benefit of the overall service delivery. To make the most obvious point, the money the Commission spends on, for example, tackling corrupt betting is not charged directly to criminals; but because the benefit of that work is shared among many operators, the costs are shared. It is much clearer, for example, to focus on the fact that at headline level the Commission plans to spend a certain amount on routine compliance and enforcement and then explain how it apportions that cost, than it is to focus on the cost of an hour's worth of compliance manager's time.

An important element of the Commission's work going forward will be to continue to place greater emphasis on the work it is doing to support local authorities in the delivery of their responsibilities, which have already proved effective in areas like primary gambling activity, illegal poker and illegal machines supply. The Commission has increased the levels of resource it devotes to supporting local authorities in delivering their responsibilities, for example by continuing to invest effort in providing expert information and advice to local authorities, along with training and guidance as required, targeting its resources to ensure that local authorities are adequately equipped. The investment the Commission and local authorities are making in improving partnerships is to the direct benefit of operators.

Question 2: What are your views on the proposed changes to fee bandings and associated changes to fees, as outlined under Option 1?

Respondents expressed concern at the level of fee changes that were being proposed; in particular the size of the fee increases for larger operators, for pool betting operators and ELMs. Respondents also suggested that fee reductions for the smaller operators did not go far enough.

These matters, along with the concerns expressed about the fee bandings, are addressed in detail in Chapter 3 and therefore no further reference is required in this section.

Question 3: What are your views on the proposed new category of licence for operators that use exchanges or remote operators 'in the course of business'?

This matter is addressed in detail under Chapter 3.

Question 4: What are your views on the proposed changes to application and annual fees following the death of a sole trader?

The proposal was welcomed by all respondents who commented. Some respondents stated that there should be a 'grace period' in between the lapse of the first licence and the issuing of the second licence, during which the new entity would be allowed to trade, and that the new fees should be minimal if the new applicant was involved in the previous business.

Response

The new fee arrangements have been introduced to take account of the reduced levels of effort that the Commission will expend in processing applications where the business is simply a continuation of the previously licensed enterprise. As such, where the applicant or applicants are known to the Commission (e.g. by having previously completed an Annex A personal declaration for a granted licence) then fees will be reduced to 25% of the normal application fee.

The Commission is unable, however, to grant a 'grace period' for trading. Section 114 of the Gambling Act provides that an operating licence will lapse upon the death of the licence holder, or when that entity ceases to exist. No extension of that licence or conferring of 'grandfather rights' to another licence is possible under the Act. The new entity would not be able to trade until such time as a new operating licence was granted to it.

Question 5: What are your views on the proposed changes to application and annual fees on the death or retirement of a partner in two person partnerships?

This proposal was also welcomed by all those who commented, although similar questions were raised by respondents with regards the granting of a 'grace period' for trading while the new application was being considered. The Commission's response to this is provided above under consultation question 4.

Question 6: What are your views on the proposed changes to application and annual fees in relation to changes of legal entity?

The proposal was welcomed by all those who responded, although one respondent questioned whether the Commission would refund operators who had applied to change their legal entity prior to the introduction of the discount arrangements for such applications. The Commission is unable to do this as the fees regulations, effective from 6 April 2012, cannot of course be applied retrospectively to applications for changes of legal entity submitted before this date.

Question 7: Do you agree with the proposed changes to fees payable where a change of corporate control has taken place?

This proposal was welcomed by all who commented.

Consultation question 8: Do you agree with the proposed changes for 2005 Act casino fees?

The reduction in first annual fees for holders of the non-remote new casino operating licence, along with the delay in payment of that first annual fee to six months after the issue of the licence, was welcomed by respondents.

A number of respondents raised concern about the subsequent annual fee payments for that type of licence, when the licence holder remains non-operational. In light of these responses, the Commission has introduced further arrangements for such non-operational licensees and this is detailed in Appendix C. This arrangement is only being applied to non-operational holders of the new casino licence rather than to other operators, because no other type of operating licence is subject to the same competition processes as 2005 Act casinos.

Question 9: What are your views on the proposed introduction of a remote supplementary society lottery licence?

The introduction of the new licence was welcomed by all respondents who commented. The Commission confirms that the new licence is an ancillary remote operating licence rather than a supplementary licence as originally proposed. The ancillary remote society lottery operating licence will have an application fee of £100 (in line with all other ancillary remote licences) and an annual fee of £50. This ancillary licence was issued for free to all those societies licensed with the Commission before 6 April 2012 that requested such ancillary licence. There is no restriction on the means of remote communication authorised by this licence, unlike other ancillary licences e.g. gaming machine technical ancillary licences are restricted to email facilities, betting ancillary licences are restricted to telephone, email or betting terminals. Further, the society lottery ancillary licence authorises the holder to generate lottery proceeds in reliance on the ancillary of up to £250,000 per annum. For these reasons, some compliance checks will need to be conducted with regards the society lottery ancillary licence, and the annual fee for the licence is set at a level to recover such costs. Further details of the scope of this licence are provided in Appendix C.

Question 10: What are your views on the proposed changes to relating to the general betting telephone only operating licence?

The raising of the GGY threshold from £275,000 to £550,000 per annum for this licence was welcomed by most respondents. As detailed in Appendix C, this licence will also now permit the acceptance of bets by email, in circumstances where bets placed are manually processed by the operator. One respondent suggested the introduction of further fee categories for this licence, e.g. categories G and H with GGY thresholds higher than £550,000, to allow such businesses to expand further before requiring the remote general betting (standard) operating licence.

Response

The raising of the GGY threshold from £275,000 to £550,000 (a doubling) was introduced as a concession to small remote betting operators to allow them to generate more business before the full remote general betting (standard) licence would be required. The addition of further fee categories would make policing the GGY more difficult and therefore add a greater administrative element onto the fees (i.e. a fee increase would be required to cover the administrative element). Further, telephone-only operators can sometimes have high-staking customers and therefore the Commission would need to have a greater regulatory focus on them due to betting integrity and proceeds of crime

concerns. We therefore consider that any increase in GGY beyond the £550,000 limit should continue to necessitate the full remote licence to ensure regulatory costs are recovered.

Question 11: Do you have any comments on the other fees and charges set out in Appendix 1?

A number of respondents requested that the Commission reviews its position on payment by instalments.

One respondent suggested that a new smaller fee category be added to the non-remote general betting (limited) operating licence, for example having category A as 0 to 25 working days, with a very small annual fee to reflect the small scale of the operation.

Response

As has been outlined by the Commission before, the Gambling Act does not permit annual fees to be paid by instalments as fees must be paid to the Commission in full before each anniversary date of an operating licence. Changes to primary legislation would be required to implement any instalment system.

The Commission has looked into a number of instalment-based options and it considers that an instalments scheme would inevitably result in additional costs to the Commission in order to establish and maintain. The main risks to the Commission would be a negative impact on its cash flow, increased administration costs and the possibility that only part-payment would be received should an operator become insolvent midway through the year. In order to mitigate the risks to the Commission, an administration charge would need to be included to cover both the costs of processing such a scheme and to cover the potential loss of income from failed payments. This would necessarily increase the overall costs recovered from licensees.

The Commission also considered entering into negotiations with credit suppliers to investigate whether a market-based instalment plan was viable. However, as operators could of course make their own arrangements with any credit provider, the Commission did not consider the pursuit of this option as substantially beneficial to operators.

The current lowest annual fee for the non-remote general betting (limited) operating licence is £200 (for 0 to 75 working days). The suggestion from the respondent was to have a smaller fee category with a fee lower than £200. The Commission has considered this suggestion, but does not believe that a smaller regulatory cost below £200 per annum is feasible. The Commission has to regulate the operating entity and there will be a minimum level of costs associated with that regulation. For example, the Commission must review the regulatory return of each operator and there will be a minimum of administrative work involved in the ongoing 'lifecycle' of an operating licence. It should also be remembered that a portion of every betting operator's annual fee is required for the funding of sports betting integrity work. The Commission therefore considers that £200 represents the minimum costs of the smallest on-course bookmaker, and there is therefore no scope for an even smaller annual fee below this category.

It is worth noting however that annual fees for on-course bookmakers who operate less than 200 days per annum have now been frozen since 2007.

Question 12: What are your views on the proposed date for implementation of the changes to fees?

The implementation date of 6 April 2012 was considered acceptable by most of those who commented. A handful of respondents suggested that this date should be delayed to 2013, to give operators subject to fee increases a moratorium, and further time to consider, before the new fees took effect.

The Department and Commission did not consider a delay in implementation to be appropriate. This is because, while only 33 operators will be subject to fees increases, approximately 1700 smaller

operators will be subject to fees decreases as a result of this review. It would not have been reasonable to delay the implementation of these changes to the detriment of the significant majority of licensees affected.

Appendix C: Amendments to Published Consultation Proposals

- i. The annual fees payable by holders of the non-remote new casino licence will be reduced by 50% when the licence holder is not yet operational. The Commission will consider a new casino licence holder to become operational twelve months before the planned opening date of their first 2005 Act casino premises. NCIF members were consulted on the draft specific condition for the New Casino licence.
- ii. The new proposed annual fees for larger non-remote pool betting operators will increase by less than was originally proposed. The annual fee for a category D pool betting operator will be £6,477 and £12,137 for a category E operator; reduced from £7,108 and £17,477 respectively in the original consultation proposals.
- iii. The introduction of a new society lottery ancillary licence will allow many existing societies that hold both non-remote and remote lottery operating licences to accept remote payments in reliance on this new ancillary licence, rather than hold the full remote licence. The saving to such an operator that currently holds a category F remote licence, for example, will be almost £300 per annum.

The remote ancillary society lottery operating licence will allow holders of a non-remote society lottery licence to accept payments for participation in a lottery by means of remote communication, up to a maximum of £250,000 proceeds per annum from such remote means. The ancillary licence will have an application fee of £100 and an annual fee of £50, but was offered for free (i.e. no application fee) to existing operators (existing as of 5th April 2012) that held both non-remote and remote society lottery licences. The Commission wrote to all such operators.

This licence will also allow payments to be accepted by any remote means, rather than just via telephone, fax, direct debit or email, as had been originally published in the consultation document. This therefore clarifies the question raised by the HLA at the consultation workshop.

- iv. The remote general betting (limited) 'telephone only' operating licence will allow the acceptance of bets by email, in circumstances where bets placed are manually processed by the operator (as opposed to the bet being automatically processed by computer software). The general betting (standard) and (limited) ancillary licences will also both have this permission.

The general betting (standard) and (limited) ancillary licences will allow the acceptance of bets up to a maximum of £550,000 gross gambling yield per annum; however, the GGY from bets taken in reliance on these ancillary licences must be less than the GGY taken in reliance on the corresponding non-remote licences.

- v. The Commission had identified that operators who allow customers to place bets via bet receipt terminals ('betting machines') on their betting premises would require a remote licence, as the customers would be participating in gambling via remote communication. The general betting (standard) ancillary licence (along with the newly-created pool betting ancillary licence) will cover the provision of bet receipt terminals on licensed betting and track premises. The pool betting and general betting (standard) ancillary licences are being issued

for free to existing non-remote operators (existing as of 5th April 2012) that require the licence for the provision of bet receipt terminals.

- vi. Annual fees for the casino, bingo, betting, gaming machine technical and gambling software ancillary remote licences will be removed (currently £25), as the compliance work for these ancillary licences can be covered by the main operating licence fee. This will reduce annual fees for over 300 smaller operators.
- vii. The remote betting intermediary (trading room only) licence, originally introduced in 2008 to allow remote betting from premises linked to third party betting intermediaries, will be extended so that facilities for general betting can be provided by the third parties to which terminals link, rather than just intermediary facilities as at present.
- viii. The Commission has also used this consultation to clarify that gaming machine yield should be included when calculating the gross gaming yield for an existing (1968 Act) casino licence. The Commission has always considered that 'gross gaming yield' as a definition should be inclusive of gaming machine yield and has always progressed on that basis. In introducing this clarification, the Commission ensured that it would have no impact on any of the existing holders of the Casino 1968 Act operating licence i.e. that there would be no changes to the current fee category assignment of any of these operators as a result.



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