

Q12 Do you support this package of measures to improve player protection measures for the online sector?

Free bets and sign up offers (5.16 – 5.18)

It must be right that any unfair terms and practices relating to promotional offers should be remedied. A number of improvements have already been made during the CMA enquiries, but now that some clarity is being provided to the industry as a whole a much higher degree of consistency will be achieved. However, this will largely be dependent on the final guidance which is provided by the CMA and the Gambling Commission. The sector is also aware that in the course of the CMA enquiries it identified several other areas that might be a cause for concern. The RGA is already exploring these with the CMA and the Gambling Commission and would very much want to support them to identify and disseminate best practice.

We will monitor developments closely in 2018, but it is very possible that changes flowing from the CMA enquiries combined with the introduction in August 2017 of 15% Remote Gaming duty tax on all online gaming ‘freeplays’ (ie including all bonuses and promotional offers of the type being reviewed by the CMA) will mean that many of the current offers are no longer viable and could therefore increasingly be removed from the market.

Customer interaction (5.19 – 5.25)

The use of behavioural analytics to identify signs of problematic online gambling is still at a relatively early stage in its development. However, real progress is now being made. As stated, approaches do ‘*vary widely across the industry*’, but this is reflective of the lack of hard research on which to base a model. As that research improves and as operators are able to evaluate and share learnings from any existing systems they have, greater consistency will be achieved.

This applies both to the methodology for identifying problematic gambling and, crucially, to the interactions with customers once they have been identified. It is self-evident that unless effective interactions take place which lead to either a return to safer patterns of gambling or to the cessation of gambling then there is little or no benefit to be had from having processes which identify potentially harmful play.

The GambleAware (now BeGambleAware) research cited in the DCMS consultation paper which was undertaken by PwC has been very helpful, but it did not provide all of the practical outcomes that had been hoped for. Following the completion of its work for BeGambleAware, PwC has continued discussions with the RGA with a view to perhaps trialling a practical model based on its research. BeGambleAware is now working on an associated piece of research to be undertaken by different providers which will focus more on evaluations and interactions. The RGA is supportive of, and co-operating with, this project and it would be disappointing if at its end there was

not a much greater consensus about what the most effective interactions are and how interactions can best be evaluated.

In the meantime the RGA is already working on draft industry good practice guidelines which will cover analysis and interactions. It is based on the PwC research and existing experience from within the industry. The aim is to have it published as soon as possible in the first half of 2018. Thereafter it will be reviewed and updated periodically to reflect any new learning in this emerging field and, of course, any related changes that are required following amendments to the Gambling Commission's LCCP.

Enhanced player protection (5.26 – 5.28)

Operators are already required to provide '*a range of online gambling management tools*' as described in para 5.26 of the paper and as with all aspects of regulation it is sensible to keep these under review. The additional measures that come into effect from April 2018 (see para 5.27) demonstrate this approach in action. The combination of the existing tools and the new ones provide effective and proportionate safeguards for all online customers.

Self-exclusion (5.29-5.31)

Unfortunately, the consultation paper did not reflect the latest timetable for the introduction of GAMSTOP, the national online self-exclusion scheme. The target date for its launch is Spring 2018, but the description in the paper is correct.

Although no system is fool-proof, GAMSTOP will bear comparison with any state or regulator-run self-exclusion system in the world and will undoubtedly make self-exclusion easier and more effective for tens of thousands of people. It should be noted however that, unlike those jurisdictions, there is no national ID scheme to facilitate the process and it will be run by a limited company rather than by the State or regulator.

Every reasonable effort will be taken to raise awareness among potential users of its existence and we are already very grateful to groups such as the treatment provider, GamCare for their support in this regard and for facilitating the input through them of their clients in the design phase of this work.

There is the related issue of raising awareness among, and obtaining the involvement of, all British-licensed online gambling operators. We have relied upon a range of approaches to reach out to non-RGA members, but in the final instance we are wholly reliant on the Gambling Commission (because it alone has a full list of licensees and contact details) to ensure that all operators are aware of the scheme and its requirements.

Government position for consultation (5.32 – 5.39)

5.32 It is disappointing that the Gambling Commission does not feel that the pace of change has been fast enough. In some areas the industry shares that frustration, but equally there should be an acceptance that (i) this is a very diverse industry and it is rarely possible to ensure that all operators move at the same speed; (ii) there are no simple solutions and as yet few certainties about the respective merits of different player protection safeguards; and (iii) from their own experiences, DCMS and the Gambling Commission will be aware how difficult and time consuming it can be to undertake reviews, evaluate the findings, and then consequently implement practical measures. Notwithstanding this the RGA and its members are committed to doing more and better in this area.

5.33 While we support the thrust of what DCMS expects of the industry in this part of the consultation paper we would comment as follows on each:

- With regard to the expectations relating to GAMSTOP we are happy to endorse these and to commit to a full evaluation of the scheme after 12 months of its operation. The industry has invested heavily in this project in terms of finance, resource and effort following the Gambling Commission's decision not to establish the system itself and given that it was always the intention to have regular reviews and evaluations of its effectiveness.
- We have a slight concern that DCMS may have a misunderstanding about the robustness and application of the findings of BeGambleAware's existing research into harm minimisation in the online sector. It has undoubtedly been informative, but it would be misleading to suggest that it has created any standalone solutions. That aside, a range of harm minimisation tools are being, and will be, trialled.
- Evaluation of harm minimisation tools and the sharing of learning are objectives the industry should pursue and the RGA will play its part in achieving that (eg the production of guidelines on markers of harm and behavioural analytics) so as to raise standards across its membership while still encouraging individual operators to go further. All guidance of this kind will be made freely available to the rest of the remote sector in the hope that they will drive industry wide improvements, but ultimately that can only be achieved via the Gambling Commission and requirements contained in the Licence Conditions and Codes of Practice.
- The industry at this stage could not commit to adopting '*in full the final findings of the next stage of GambleAware's research, expected to be completed in 2019*'. At the time of writing that work does not even appear to have been commissioned yet and, as with all research, it would not be appropriate or sensible to commit to anything until it has been completed and peer reviewed. We also know from the recent PwC research that any final findings may not be sufficiently definite to be readily adoptable. So although

we agree with the principle behind the DCMS suggestion, we would suggest that it is far too early to be seeking any firm commitments from the industry about what it will or will not do with the research's findings.

5.34 We agree that operators should not '*wait for the final outcome of the research to improve their processes*', not least because experience has shown that there may have been unrealistic expectations about what gambling-related harm research can deliver. In other words it has generally been very strong at describing the problems, but less so in identifying clear and practical solutions that can be applied across the industry. This is not a criticism. It is more an acknowledgement that the industry has in the past waited too long for clear outcomes that it could build solutions around.

The risk, of course, is that the industry will trial measures in the absence of independent research and then be castigated for any failings so there is a balance to be struck. If the Government and the Gambling Commission could acknowledge that then there would be far more confidence in introducing measures in the absence of reliable research, but in the meantime our approach will be to try and take forward initiatives but make them amendable as new and better research emerges.

5.37 There are inherent risks with all types of gambling and that is why it is a regulated activity. However, reliance on stakes and prizes limits as a key regulatory tool is an archaic and simplistic approach in the modern technological world, especially where online is concerned. The aim should be to assess the behaviour of individual customers rather than to adopt blanket approaches that may or may not work. The industry is already well on the road to doing that. The first challenge is to ensure that all licensed operators have some form of analytics system in place. As mentioned above, only the Gambling Commission can ensure that this happens, but the RGA guidelines will be designed to help all of its members and others to have at least the same starting point and minimum standards. This will give the sector something to build on as and when better research emerges; and as the operators who have already made significant progress can share the outputs of their own evaluations of processes operating in a real world environment.

Beyond that we would urge caution in seeking to transport regulatory measures across directly from the land-based sector to the online sector or vice versa.

5.39 We await with interest any further work that is being undertaken by the Gambling Commission in relation to online gambling. It has no doubt learnt a lot more about the sector since 2014 when it became responsible for licensing all GB-facing online gambling businesses. We would, naturally, endeavour to support any justified enhancements to the regulatory system.

Q13 Do you support this package of measures to address concerns about gambling advertising

Government position for consultation (5.57 – 5.64)

Overall, and especially in the light of media and political interest in gambling advertising, we feel that the DCMS consultation has provided a very objective and balanced view of the information and issues.

ASA/CAP Guidance (5.66 – 5.73)

The existing ASA/CAP guidance is already extensive and is designed to address exactly those areas that have been highlighted as being of concern. However, we agree that they can usefully be tightened and clarified in some areas and were grateful to be offered the chance to take part in a closed consultation in December 2017 about a range of possible reforms. The RGA expects a number of these to be introduced early in 2018 with a focus on protecting the young and vulnerable.

The RGA put forward proposals earlier in 2017 to put in place restrictions on 'urgent calls to action' such as 'Bet now!' type messaging in television adverts and we are pleased to see that CAP have been giving this active consideration.

Social media advertising and the use of affiliates are also examples of areas where additional guidance from CAP has been welcomed by the sector.

Gambling Commission (5.74 – 5.76)

It is timely for the Gambling Commission to consult on elevating compliance with the CAP/BCAP codes to a social responsibility code requirement. We look forward to considering the proposals when they are published.

Ideally, direct marketing should not be sent to anyone who is self-excluded, but there are legal and practical limitations to the application of this and these should be acknowledged. We are in separate discussion with the Gambling Commission on the detail of this, but operators are not in control of all direct marketing and there is a fundamental concern about giving marketing companies access to the inevitably sensitive data associated with self-excluders.

There have unfortunately been serious breaches of the rules in certain advertorials. The ones we are aware of have been placed by affiliates without the knowledge of operators, but the Gambling Commission's rules are clear; that operators are ultimately responsible for the actions of the affiliates that they contract with. As a consequence many companies have been reviewing their relationships with affiliates to ensure that they can exercise the requisite degree of control.

Online advertising, targeting and social media (5.77 – 5.83)

The RGA is supportive of all the initiatives set out in this section.

Unfortunately, there is an error in para 5.81, which we would like to take this opportunity to correct. Although GAMSTOP will enable online consumers to self-exclude from all Gambling Commission licensed online gambling operators it does not have a function that would enable self-excluders to be removed from all marketing databases.

It was not designed with that in mind and there are a number of practical and legal reasons that would prevent it happening. These have been explained in detail to the

Gambling Commission. The focus when the GAMSTOP service goes live in 2018 must be to ensure that it fulfils its primary purpose of providing effective self-exclusions. Notwithstanding that, GAMSTOP has agreed to include the issue of marketing in its first annual review and, in the meantime, will at least be seeking to ensure that operators do not market directly to any of their customers that have been self-excluded with GAMSTOP.

Responsible Gambling Awareness Campaign

We continue to be fully supportive of this initiative and we very much appreciated the Government's recognition in the consultation paper of the planned Campaign. Through our representation on the Campaign Board we look forward to continuing our work with colleagues at BeGambleAware; the Senet Group; broadcasters; and the Advertising Association; to develop and implement the campaign in 2018.

Q14 Do you agree the Government should consider alternative options including a mandatory levy if industry does not provide adequate funding for RET?

The RGA has already announced that it would like the government to introduce a statutory levy now rather than retaining the current system or considering alternatives. We have had initial discussions on this subject already with DCMS officials and would urge the government to initiate a scoping study to determine how best to take this forward. This is not a position that the RGA has taken lightly and our opposition to levies, most notably the Horserace Betting Levy, is a matter of record. However, we have listened to the calls from the Gambling Commission and others to put customers first and believe this is the only way to ensure the levels of long term and sustainable funding that are needed to provide the support that is required for those affected by gambling-related harm, and to meet the requirements of the National Responsible Gambling Strategy, which is overseen by the Responsible Gambling Strategy Board.

We are mindful that DCMS last consulted on this issue in 2008 when serious consideration was given to the introduction of a levy in 2009 (based on implementation of the reserve powers in S123 of the Gambling Act 2005). This was prompted by concerns that the industry through the voluntary system would not be able to increase its funding from £3m to £5m.

The RGA did not support the proposal at that time because there was a confidence that the additional funding could be raised on a consistent basis. However, the target figure is now in excess of £10m per year and in our view this will inevitably and rightly increase.

As the DCMS Impact Assessment at the time said, the levy would spread *'the cost across the entire industry in an equitable burden across sectors and size of operators.'* However, most importantly it would ensure the long term and adequate funding of research, education and training. That Assessment also addressed

numerous alternatives for practical arrangements such as bases for payment; and transitional arrangements.

This consultation is not the place to go into extensive details about our reasoning or our thoughts about how such a system could work, but in summary:

The case for a levy:

- The main reason for supporting a levy is that, despite extended efforts and the public support of the Gambling Commission and DCMS, BeGambleAware has consistently struggled to reach its funding targets. This means that work identified under the National Responsible Gambling Strategy is not being undertaken, and too much of the time and resource at BeGambleAware is being allocated to fundraising. It is worth noting that the 2008 DCMS Impact Assessment cited potential savings of over £138,000 in this area alone if the Gambling Commission was to take over the fundraising responsibilities.
- At the moment, the gambling industry, both land-based and online, is repeatedly criticised for not contributing enough and in public little if any distinction is drawn between regular payers; under-payers; and non-payers. A levy would provide an equitable solution where all would contribute on a proportionate basis.
- In contrast to the voluntary system, a statutory levy would create a much more transparent process and as the amounts raised would technically be public funds there would also be a degree of welcome Parliamentary oversight.
- Most importantly, a levy would ensure there was sufficient funding on an annual basis to provide the necessary levels of research, education and treatment to minimise the risks associated with gambling.
- It is of course disappointing that the voluntary system that is administered by BeGambleAware has struggled to keep up with demand, and we would not want to lose sight of all the good that has been done over many years solely as a result of that industry funding. However, the truth is there is a better, more effective and more efficient model for achieving these objectives and, as mentioned above, this is an area where the interests of the vulnerable should come first.
- Concerns might be expressed by some about an increased financial burden for the industry, but we do not believe it is credible for an industry with a combined land-based and remote Gross Gaming Yield (GGY) of over £13bn to baulk at funding a worthwhile statutory levy. This is true, even if for arguments sake, this came to double the current voluntary funding target if that kind of amount was required to meet the needs of the National Responsible Gambling Strategy.

Framework for a statutory levy

- The levy could be collected annually by the Gambling Commission on a proportionate basis, based on a percentage of GGY, to raise specific amounts for specific projects (most obviously funding treatment services such as GamCare and Gordon Moody, but also research which hopefully will be accepted by all as being truly independent).
- Again DCMS has previously mapped out the options for the mechanics of collection, but it could be form part of the annual licence fees payment process. and the Gambling Commission already has the staff and regime for that. This should lead to synergies which although estimated at £138,000 in 2008, would presumably be higher now. The Gambling Commission as a public body is also subject to government oversight and has annual cost saving targets. This should ensure downward pressure on costs.
- The projects for funding should be determined by the advice of the Responsible Gambling Strategy Board in line with its National Responsible Gambling Strategy, following consultation with the industry and other stakeholders.
- The levy should only be used to fund harm minimisation work and not, for example, objectives under other licensing objectives such as crime prevention.
- The Gambling Commission and/or RGSB could establish an executive arm to consider bids for funding, to allocate those funds, and evaluate their use.
- The position of BeGambleAware as operator of the voluntary system would need to be reviewed. It is unclear what role a charity, which at the moment provides an intermediary service, would have under this system and it is not obvious what role it might fulfil. However, that is a secondary issue.
- If operators wish to fund additional social responsibility projects in addition to their levy payments then they would be free to do so and to get credit for doing so. Under the present arrangements that is not the case because DCMS, the Gambling Commission and BeGambleAware appear to count only those donations to BeGambleAware as qualifying amounts when assessing whether the target figures are being achieved.