

GAMBLING COMMISSION

Meg Hillier MP
Chair, Public Accounts Committee
House of Commons,
London,
SW1A 0AA

15 May 2020

Dear Ms Hillier,

Additional information following our evidence session

Thank you for inviting me to give evidence to your Committee on the 27 April alongside DCMS Permanent Secretary, Sarah Healey. During the session there were a number of issues about which I promised you further information in order to give you and the Committee a clearer picture of gambling regulation and our work. This information is set out below.

The impact of the merger between Flutter and Stars Group

Our fee income structure is based on gambling businesses holding various different types of operating licence depending on the nature of the gambling facilities or services they offer. For example, those offering online gaming would require a 'remote casino' operating licence (ie gaming provided by remote means) whereas those offering betting services from high street premises would require a 'non-remote betting' operating licence (non-remote essentially meaning land-based gambling).

Regarding the merger of Flutter and Stars Group, which we can confirm was completed on the 5th May, the key trading names of the current Flutter group are Paddy Power (licensed to provide online betting and gaming, and betting from premises in Britain) and Betfair (licensed for online gaming and betting). The main trading brands of the Stars group are SkyBet and Full Tilt Poker, both licensed to provide online betting and gaming.

We have calculated that the smallest annual fee that a fully merged Flutter/Stars organisation could pay, could see the Commission lose around £401k in income, representing just over a 30% reduction in their annual fee income. This assumes that the licensed businesses fully rationalise their licences (ie aggregating their business currently conducted in reliance on multiple licences of the same type – such as multiple 'remote casino' licences – into only one licence of the that type for the merged organisation), which they could choose not to do.

To note, these figures do not take account of any impact of COVID-19 on the gambling industry. The figures are projected based on current operator Gross Gambling Yield (GGY) performance from data submitted by those operators.



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Our Fees and fee structure

Our immediate focus is on developing proposals for revised fees to submit to DCMS for their consideration. This should ensure we have the resources we need to continue to regulate an increasingly online industry effectively in the immediate future. We are working on this presently and appreciate DCMS for their support. In addition, we think there is merit in exploring alternative ways of settings fees and recovering costs which would better align with the nature of the work involved in regulating this industry over the longer term. Alternative approaches already exist and are operated by other regulators. A fees structure that is more flexible and better enables us to adjust fees to reflect additional or reduced costs in regulation is needed to ensure that regulation is effective. The Gambling Act 2005 confers on the Secretary of State the power to amend the Commission's licence fees by way of statutory instrument.

However, the merger discussed above is a good example of the challenges our current fee structure create. Aside from grant-in-aid funding which is ring-fenced for our role in regulating the National Lottery, we are entirely funded by licence fees which are set by the Secretary of State and paid by businesses and individuals in the gambling industry.

Regulatory flexibility is constrained by the existing framework for setting fees. The procedure for changing fees is lengthy and so is not undertaken frequently. Typically, our fees have been reviewed every four or five years, although there is no set period for these reviews. As a result, our fees can fall out of step with the challenges of regulating a fast moving, innovative and growing industry. Our advice for the last Fees review placed too much emphasis on the link between regulatory costs and Gross Gambling Yield (GGY). This was subsequently reflected in the current fees model. The fees review was held shortly after we had gained responsibility for regulating the whole online sector. Using our experience of regulating online gambling and the challenges that presents, we are now better placed to advise on the costs of regulating the online sector.

For the public to retain confidence in regulation it must continue to evolve to tackle new and emerging risks, including keeping pace with rapid advances in a dynamic and tech-led industry. While we believe the regulatory framework is largely capable of flexing to meet new risks, the way our licence fees are set presents a challenge. We are increasingly finding that regulation requires us to expend resources in a way that is not directly proportionate to GGY. So, while our income has increased as the regulated industry has grown, the costs being incurred in regulating the online sector, in particular, exceed the income rise. There are a number of factors that are driving this increased cost of regulation, and while they are by no means unique to the online and digital gambling market, it is in that sector where they are most pronounced:

- The gambling industry continually capitalises on new technologies and develops innovative business models and products. These challenge traditional gambling definitions and risks.
- Illegal gambling, increasingly digital in nature is resulting in more criminal investigations, which are resource-intensive and expensive.
- As discussed above, mergers and acquisitions activity results in merged entities paying less than previous constituent operators, despite the volume of gambling staying the same or increasing, and the new entity potentially posing new regulatory challenges.
- An increasingly globalised sector is resulting in complex corporate structures and international ownership arrangements. Typically, these require more scrutiny from the Commission and it can be costly to undertake the required level of due diligence in these circumstances.

While we take every opportunity to flex our resources to move quickly in response to these (and other) challenges, the extent to which we can do that on a strategic scale is limited by the nature of our funding arrangements, which are locked for periods of several years at a time. Leaving the current approach unchanged would mean these issues would continue to be exacerbated. Over time the complexity of the current fees structure has grown bringing with it a lack of certainty over our fee income (e.g. due to licence surrenders or variations which can reduce income). The number of licences and fee categories make the structure more expensive to administer. These issues suggest a need to explore alternative structures that would provide us with more agility in cost recovery to allow for investment in the skills and expertise we require to respond to emerging risks quickly.

We therefore agree with the assessment made by the National Audit Office (NAO) of our funding arrangements in their report. In particular, we agree that the current arrangements are not sufficiently flexible to enable us to deliver our objectives with full value for money. As the NAO analysis shows, this is not least because the current fees structure does not provide us with the flexibility needed to invest in new skills or allocate resources to address emerging risks.

Enforcement actions against operators and licence revocations and surrenders

The Gambling (Licensing and Advertising) Act 2014 that came into force in November 2014 was when the Gambling Commission took on responsibility for regulating all online gambling operators offering facilities for gambling to consumers in Great Britain. As stated to the Committee, we adopted a strategy of escalating enforcement alongside the publication of our Corporate Strategy in 2017. This has made clear to operators that repeated failures will not be tolerated and will lead to escalating penalties. That message, backed up by more than £60 million in penalty packages since 1 April 2018, and our published Enforcement Reports has helped to start to change the culture at the top of operators, as discussed during the evidence session.

Regarding the number of operating and personal licences revoked, since November 2014 we have revoked:

- 9 operating licences
- 9 personal management licences
- 59 personal functional licences (these are for operator staff such as croupiers or cashiers)

There have also been a number of occasions when operators or personal management licence holders have surrendered their licences rather than face the prospect of regulatory action by the Commission. This would be taken into account when assessing their suitability should they ever apply for a personal management licence in future.

Including the revocations specifically referred to in the NAO report, this takes the total to 12 licence revocations since April 2014. Below is set out both the turnover and the Gross Gambling Yield of the 12 operators last annual regulatory return or last four quarterly returns submitted to the Commission prior to the licence revocation.

Operator name	Turnover (£)	GGY (£)	Revocation date	Notes
William Grimes t/a Starbets Limited	Nil	Nil	23 Jan 20	All submitted returns were nil returns.
Contagious Sports Ltd	10,536	-18,645	1 Oct 19	

Maxent Ltd t/a Maxent NRR Entertainment	53,126,356	1,063,567	21 May 19	
Lucky 8 ltd. t/a Lucky	4,253,600	102,097	8 Nov 18	Only 2 x quarters reported.
Joanne Rowan	Nil	Nil	5 Jul 18	All submitted returns were nil returns.
Mad Gaming Limited t/a SpotSportShares	Nil	Nil	25 Jun 18	All submitted returns were nil returns.
Kevin Grace t/a North Ormesby Institute	39,276	21,560	3 Apr 18	
Michael Charles McFadden t/a VPA Entertainment Technology	N/A	10,563	1 Jun 17	No Turnover as only Gaming Machine Technical licence.
Jamie Knott t/a Bet James	1,743,313	120,426	25 Aug 16	
Bet Butler Limited	3,456,674	509,800	17 Sep 14	
Betting Consultancy Limited	Nil	Nil	22 Aug 14	No submitted returns.
Bodugi Limited	609,043	2,120	4 Apr 14	Only 3 x quarters reported.

For clarity, GGY is our preferred measure of a gambling operator's size and is our official metric for determining licence type, market size and risk management.

Turnover is the amount accrued through the sale of an operator's gambling products (bingo book/betting slip/lottery ticket/software etc) before winnings and overheads/expenses are deducted. It does not include turnover from gambling machines, gambling software or gaming machine technical (both B2B), or a gambling operator's wider operations (eg food, retail, accommodation).

By comparison, GGY captures amount received through gambling related activities (e.g. stakes) minus totals paid out (prizes), it doesn't take account of operating costs (staff, taxes, overheads etc). It is important to note that that GGY does not equate to profitability, liquidity or affordability of a sanction for any business.

Our framework for determining the quantum of a sanction is set out in our [statement of principles for financial penalties](#).

Customer interaction by Industry

We are clear, both in the minimum standards set for operators in the Licencing Conditions and Codes of Practice (LCCP) and in our work to raise standards for consumers more widely, that affordability checks, backed up by comprehensive customer interaction where there is concern, are absolutely essential to making gambling safer. Only last year, we strengthened customer interactions required under LCCP. This week, we have also issued further guidance to online operators. It ensures that consumers are further protected following the publication of new evidence that shows some gamblers maybe at greater risk of harm during lockdown. Included in the guidance is the need for affordability checks, prevention of reverse withdrawals and restrictions on bonus offers. Further details can be found [on our website](#).

As part of our Compliance work with operators, we assess the markers that they have in place to indicate when customers may be experiencing harm. We expect these to include both financial and behavioural triggers. When a customer hits these triggers, we expect to see interactions taking place in real time to limit any potential harm.

These actions should be appropriate to the triggers hit and there should be an escalation process in place for customers who continue to hit the markers. Where an operator has identified harm, we expect to see that they have interacted using the most appropriate method and then monitored the customer to assess the impact of that interaction. Following this, we want to see that the interaction has had a positive impact on changing the customers behaviour.

If the customers behaviour does not change and continues to hit markers of harm following interactions, we expect to see the operator take proactive action. This may include enforcing time outs, setting financial limits or potentially ending the business relationship. As part of the additional monitoring of online operators we have been conducting during the the lockdown, we have been collecting data on customer interactions:

- There have been approx. 617,000 customer interactions conducted between 16th – 30th April 2020 across 25 different licences.
- This is an increase of approximately 179,000 customer interactions, in comparison to the first two weeks of April.
- Approximately 1 million customer interactions were conducted for the month of April, in comparison to March 2020, in which there were approximately 741,000 customer interactions recorded.

The scale of illegal gambling, how many operations have been detected and prosecuted, and how many operations the Commission decided it would not be in the public interest to prosecute.

In terms of scale, there is little evidence of a substantive online gambling provision that is unlicensed and overtly targeting UK consumers. There is a large online market outside our regulatory framework that UK based individuals could try or inadvertently interact with, and if the operator did provide facilities for gambling would then be in breach of the legislation. Where the Commission has concerns offences are being committed under the Gambling Act (whether providing illegal gambling facilities or advertising illegal gambling sites) to GB residents/consumers we take an incremental enforcement approach to deliver our statutory objective to keep crime out of gambling.

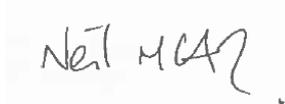
Where we suspect individuals or companies are illegally interacting with UK consumers, we will initially issue cease and desist notices. 143 notices have been issued in the past three years. If these notices are not complied with and the majority are, we will escalate the case which can include the opening of a formal criminal investigation which allows us to utilise a range of investigatory powers with a view to bringing prosecution action. Over the past 3 years we have steadily increased the number of investigations opened with one successful prosecution occurring in 2016/17 against Fut Galaxy (further details can be [read here](#)).

Prosecutions brought against individuals in the UK are relatively straightforward and the Commission has long established processes for this. However, many of our investigations reveal that key culprits are often not domiciled in Great Britain, and may be resident in countries with whom we don't have mutual legal assistance/bilateral agreements. As a rule, the Commission prioritises consumer protection above entering into protracted prosecution which may or may not be fruitful and so in the public interest those cases may not be brought forward to full prosecution. There have been 13 instances in the period 2018 to present where we have taken the decision not to proceed in the public interest. In those instances, the Commission has utilised its enforcement toolkit to seek to employ other disruption tactics including with internet hosting providers or payment merchants or requesting the owner to geo block themselves to GB customers.

The Commission invites the Committee to note that some providers will not engage with us short of a court order or formal proceedings which is why the Commission is building evidence to consider whether provision of additional powers to us, such as the blocking of identified websites, would better enable us to target such operations. We continue to monitor the impact of our ongoing actions in relation to illegal gambling to ensure consumers are protected. In relation to the scale of illegal gambling, in the period October 2019- March 2020, the Commission received 93 reports of illegal sites, predominantly through our intelligence reporting and public contact centre routes. The Commission have also been tracking other illegal gambling activity including that provided by way of social media. In the period October 2019 to 31 March 2020 the Commission received 284 reports of illegal social media gambling activity and the action we took included engagement with the social media platform to seek closure of those accounts, dissemination to other law enforcement agencies and issuing Cease and Desist notices where it was appropriate to do so.

I hope you find this information useful. We look forward to the publication of the Committee's findings and recommendations later this year.

Yours sincerely,

A handwritten signature in black ink that reads "Neil McArthur". The signature is written in a cursive style and is positioned above a light grey rectangular box.

Neil McArthur
Chief Executive