

Gambling Update
December 2008

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Further progress in liberalising the gambling sector in Europe

Over the past few months there have been promising signs of liberalisation of the gambling sector within the EU both in terms of the European Commission's latest round of proceedings against EU Member States (which continue to limit licensed gambling operators' ability to offer their services) and in legal challenges brought by operators seeking to protect their commercial rights in the national courts. Furthermore, on 6 November Stanleybet International launched a campaign to lobby the European Commission to enforce the EC Treaty obligations on free trade in relation to the betting sector. What impact this campaign will have on the Commission's current round of proceedings remains to be seen.

Below we report on this interesting case and other recent developments affecting gambling operators' ability to provide their services in Europe.

European legislators consider the integrity of online gambling

On 17 October 2008, the European Parliament published a draft report, prepared by the Danish MEP Christel Schaldemose, on the integrity of online gambling. The objective of the draft report is to highlight the potential problems linked to the integrity of online gambling (namely the avoidance of fraud and criminal activities and the potential problems of addictive and underage gambling) and recommends a number of measures to deal with these problems. The key recommendations are as follows:

- the Commission should clarify the competences of the Member States and the EU in the field of online gambling;
- the European Court of Justice should not define the European gambling market. The report highlights that 50% of cases currently referred to the European Court of Justice are in some way related to gambling issues;
- Member States should co-operate to solve the problems arising from cross-border online gambling (e.g. gambling addiction and misuse of data/card fraud); and
- EU Member States should be able to restrict the freedom of gambling operators to provide online gambling services in order to protect consumers.

The European Parliament's political groups will consider the draft report and will have the opportunity to table amendments prior to the adoption of a final report (likely to be made in spring 2009). Once adopted, the report will be forwarded to the European Commission and the European Council. It is not a legally binding document but could stimulate further debate about the way in which this sector is regulated.

According to recent press reports, ministers of the Council of the European Union (the principal decision-making body of the EU) have also been considering whether legislation ought to be introduced to harmonise online gambling throughout the EU. The news agency Reuters reported that on 1 December 2008 European ministers met and discussed a paper which suggested that the EU should develop a

common approach to gambling regulation. According to the Reuters report the Commissioner for the Internal Market, Charlie McCreevy, voiced his concerns about such an initiative because of the lack of consensus between EU Member States. Ministers representing the UK and Malta were also said to strongly oppose the suggestions. Whether or not this debate will be continued when the Czech Republic takes over the Presidency of the Council of European Union on 1 January 2009 will largely depend upon the political will of the ministers concerned.

Portuguese Government facing increased pressure to amend legislation

In August we reported on a reference to the European Court of Justice ("ECJ") from a Portuguese national court ([click here](#)). In brief, the reference arose from an appeal brought by Bwin, the Vienna-based gaming provider, against a fine imposed upon it by La Santa Casa da Misericordia de Lisboa (SCML), the government-endorsed monopoly provider of betting, lottery and online gaming services in Portugal. SCML objected to Bwin's sponsorship of the Portuguese Football League and fined both parties for allegedly illegally promoting and advertising online gaming services exclusively reserved to SCML.

The Portuguese court deciding the appeal referred several questions about the legality of SCML's monopoly rights to the ECJ. As we have previously reported, the ECJ held a preliminary hearing in April attended by the parties, the Portuguese government, the European Commission and various Member States. At the hearing, representatives of Belgium and Germany strongly argued, amongst other things, that Member States should be free to have a gambling monopoly in one sector and a licensing system in place in another sector.

The Opinion of Advocate General Yves Bot presenting his preliminary arguments to the ECJ was published in mid-October. The Advocate General's key finding was that the EC Treaty does not preclude legislation which extends an exclusive right to operate lotteries and off-course betting within a Member State to the internet (such as that imposed by the Portuguese) if justified by overriding reasons relating to the public interest as established under European case law. He made the following points in relation to the application of the 'public interest' conditions:

- (1) the national courts must ascertain whether the 'public interest' conditions are fulfilled;
- (2) a Member State may legitimately restrict the right to operate certain games in order to protect consumers and to maintain public order (in view of the risks created by gambling and games of chance on the internet);
- (3) legislation may be appropriate for pursuing those aims if it enables the Member State to direct and control effectively the operation of gambling and games of chance by the monopoly and as long as the Member State does not manifestly exceed its margin of discretion; and
- (4) the grant of an exclusive right to a single State owned non-profit making entity may be a proportionate measure.

Another interesting aspect of his Opinion was that the Advocate General noted that where legislation providing a State owned entity with the exclusive right to organise and operate lotteries and off-course betting is extended to "all electronic means of communication in particular the internet" this constitutes a 'technical regulation' which requires pre-notification to the European Commission in accordance with EC Directive 98/34 as amended. This Directive lays down formalities which must be followed where a Member State wishes to implement a technical regulation. In particular, other Member States and the Commission

must be given the opportunity to propose amendments to a contemplated measure in order to remove or reduce barriers to the free movement of goods or services and the Member State in question must take these amendments into account before finalising the measure proposed. Without notification such legislation cannot be relied upon against individuals such as the Portuguese Football League and Bwin.

The ECJ is likely to publish its final judgment in early 2009 and the matter will then be referred back for the Oporto court to decide on the initial questions about the validity of SCML's monopoly. The ECJ is not in any way obliged to follow the Opinion of the Advocate General (although statistically this is most often the case) but if the ECJ accepts the Advocate's arguments it could have wide reaching implications for the gambling sector throughout Europe. Namely, State owned entities such as SCML would not be able to rely on their monopoly rights in the off-line betting sector to enforce the same level of exclusivity on the Internet unless such regulations have been formally notified to the Commission in accordance with EC Directive 98/34 as described above.

Meanwhile, in September the European Commission sent the Portuguese Government a formal request to amend its discriminatory tax laws. The Commission is concerned that winnings earned in Portugal from competitions, games or gambling are subject to taxation whereas winnings from lotteries and games organised by SCML are tax exempt. The Commission considers that this exemption constitutes discrimination against other EU operators carrying out activities of social interest such as SCML. Moreover the Commission stated that "*Taxing the winnings from foreign but not national lotteries cannot possibly be justified as a measure to avoid the damaging consequences of gambling.*" If the Portuguese government does not adequately address the Commission's concerns, the Commission has the ability to refer the case to the European Court of Justice.

Progress amending French sports betting laws

In August's gambling update ([click here](#)), we reported that the French Government had presented an overview of its proposals for a controlled opening of the French sports betting market to the European Commission this summer. Although the extent to which that market will be opened will not be confirmed until the submission of a long awaited draft bill to Parliament, the French government indicated its intention to privatise the state-owned lottery monopoly Français des Jeux (FDJ). There has already been press speculation that several UK operators including Camelot and Ladbrokes are interested in acquiring FDJ.

Further information was released in October when the secretary of the Finance Commission indicated that under the proposed legislation new online licences will be made available for periods of five years. For an initial period of the licence, betting on horses and sports would be permitted together with some skill games, including poker and backgammon. The range of products would expand during the term of the licence, potentially to include live sports betting. However, the French government has indicated a total lack of willingness to license the playing of casino games online.

It is expected that the text of the draft gambling law will be presented to the other French government ministries and be released for debates and voting in the French Parliament in mid-December.

Norway proposes laws to bar payments to foreign remote operators

Following public consultation, the Norwegian Government has proposed new legislation that if enacted will prohibit companies from processing payments to remote gambling operators. Under the proposed law, processing payments to unlicensed operators will be a criminal offence. Anyone infringing the law could potentially be fined for non-compliance. These draft proposals were submitted to the European

Commission earlier this year. Although Norway is not a Member of the EU the European Free Trade Association ("EFTA") Surveillance Authority has the power to challenge Norwegian legislation which contravenes the EFTA obligations.

Meanwhile, Ladbrokes continues its legal campaign to provide its services in Norway. An Oslo court ruled in October that Ladbrokes could not offer its gambling services in competition with the Norwegian monopoly Norsk Tipping. The court also ruled that Norwegian laws were fully compliant with its EFTA obligations. Ladbrokes has indicated that it will appeal the Oslo City Court judgment.

Netherlands to tax earnings from overseas online gaming

The Dutch Senate recently approved a Bill amending the Dutch Gaming Tax Act (DGTA) which will reverse the burden of taxation from the online host to the prize-winner where the host is not based in the Netherlands. All online hosts deemed to be resident in the Netherlands will be taxed annually at 29% on their net winnings. Dutch prize-winners will be taxed monthly at 29% on their net winnings. All prizes may also be taxed as income from investments under the Dutch Income Tax Act, but any Dutch Gaming Tax (DGT) paid by prize-winners is deductible from tax due as PAYE. Prize-winners will not be liable for DGT on prizes that are subject to an equivalent tax in another country, though guidance on what is an equivalent tax is far from comprehensive.

In light of comments by the Secretary of State for Finance suggesting that online gaming would be domestic if the site could be accessed through a computer in the Netherlands there is still some uncertainty as to exactly what constitutes an online host resident in the Netherlands. The current draft of the legislation also leaves open to taxation under the DGTA affiliates which provide click through access to gaming sites.

Impact of the Interstate Gambling Treaty in Germany

The Interstate Gambling Treaty (the "Treaty") which came into force in January 2008 preserves the various German state monopolies over sports betting services and lotteries (but not casinos or slot machines) and heavily restricts the way in which all operators can advertise betting services in Germany.

Since the Treaty was ratified there have been a series of legal challenges by commercial operators objecting to the application of these restrictions. These proceedings have been brought in various courts at federal level and in a number of the German regions. The most recent judgments are briefly described below:

- In August the High Administrative court of Rhineland-Palatinate granted Happybet a temporary injunction to allow the sports betting operator to offer over-the-counter sports betting services in Rhineland-Palatinate. The court granted the injunction on the basis that the State betting monopoly operator in that region is in fact privately owned rather than by the State. Although the injunction applies only to Happybet the judgment paves the way for approximately 50 pending claims for injunctions by other operators to be granted. Under the terms of the injunction Happybet is not permitted to promote its services and must ensure compliance with the Treaty's player protection requirements.
- In September the Vienna-based operator Bwin failed in an attempt to overturn a ban on it offering its online gambling services in the German state of Lower Saxony. The regional Administrative

court in Hanover held that the state monopoly was lawful under EU legislation. Bwin has indicated that it will appeal this decision.

- In October Germany's Federal Constitutional Court rejected claims by the online lottery broker Tipp24 that the bans on online brokerage and advertising under the Treaty were unlawful. The court justified its decision on the basis that the ban is necessary in the fight against gambling addiction.

Operators will no doubt be keeping a keen eye on further legal challenges to the Treaty.

Belgian Senate recently proposed amendments to its gambling legislation

The Belgian Senate has recently drafted proposals to amend the 1999 Act on Games of Chance. Importantly, if adopted, the proposals could pave the way for operators already holding licences for land-based casinos, and betting and gaming operations to apply for online betting licences. Although this proposal is likely to be welcomed by the current Belgian licence holders, it is likely to be challenged because online licences could not be granted without an offline licence and this therefore discriminates against purely online operators. It is possible that the legislation will be enacted by March 2009.

News in Italy

On 13 September 2007 the ECJ ruled that the Italian government had acted illegally by extending 329 "historic" licences for betting on horseracing and seeking to extend the term for Superenalotto the Italian based operator. The Italian authorities were forced to set a date for a new tender for these licences and the process was duly announced at the end of August 2008. There was then a delay in releasing crucial tender documents and as a result Stanley International has made a legal challenge seeking to postpone the process.

We have previously reported on the progress of the new licensing regime (see [this article](#)) and further discussions between the European Commission and the Italian regulator Amministrazione Autonoma dei Monopoli di Stato took place at the end of October. At the beginning of November the Italian Government approved a number of amendments to the country's licensing regime in order to bring it closer in line with the EU principles. The key amendments include:

- 3,000 new betting shop licences (a portion of which will allow current holders of only a sole licence i.e. sports betting only or horserace betting only to expand their licences to offer a complete betting package);
- betting shop operators holding one of the disputed 329 horseracing licences (due to be revoked in line with the ECJ judgment) will be able to bid for a replacement licence in the same region; and
- operators will be able to offer a wider range of products than previously permitted.

These changes are likely to be enacted unless the Italian Senate opposes any of the details. Bookmakers will need to await the final amendments to be sure of the exact details of the licences including the duration, locations covered and the costs of application.

A new regime proposed for the Czech Republic

The Czech Ministry of Finance is expected to propose new legislation to regulate online gambling by the end of 2008. The current legislation governing lotteries and games of chance does not clearly define rules on internet betting. However, it is still unclear whether the new proposals will prohibit or approve online betting, with strong arguments raised by both sides. Another important issue which may be included in the proposals concerns the regulation of foreign entities in the gambling sector in the Czech Republic. Under the current legislation, permission to operate lotteries or games of chance is only granted to companies established in the Czech Republic and not to a Czech company with a foreign ownership interest or one which is partly owned by a foreign company. These provisions are clearly discriminatory and contrary to the EU Treaty. It is therefore hoped that the new legislation will lead to a regulated system which will allow foreign entities to operate in the Czech market.

Stanleybet challenges Greek betting monopoly

On 29 October Stanleybet opened betting outlets in Athens and Thessaloniki. The betting outlets operate in a similar way to Stanley's Italian CTD model (an agency transmitting bets overseas) which Stanleybet believes ought to be considered legitimate applying the Gambelli and Placanica case law. Stanleybet and William Hill have applied for betting licences in Greece for the past three years and are waiting for the highest court in Greece to respond to their applications.

It will have come as little surprise that the Greek betting and gaming monopoly operator OPAP immediately threatened legal action against Stanleybet. OPAP (which is part owned by the Greek state) is currently the only operator licensed to offer betting in Greece until 2020. It is thought that the Greek government has been under pressure from the European Commission to amend its laws but Greece is likely to continue to counter any objections on the basis that the monopoly is maintained for reasons of social welfare.

Government bows to inevitable and Tote sale abandoned

As foreshadowed in our last update ([click here](#)) the Government announced on 22 October ([click here for statement](#)) that, given the current market conditions, it is not proceeding with the sale of the Tote. Instead, it will ***"be retained in public ownership for the medium-term, and brought to the market when conditions are likely to deliver value for the taxpayer and racing"***.

This statement has brought to an end a saga of mishaps since the Government stated in its 2001 Manifesto that it would privatise the Tote - including its initial plans for sale to the racing industry being vetoed by the European Commission and a subsequent £320m bid by a racing consortium being rejected by the Government. Goldman Sachs is believed to have advised the Government that, in current market conditions, the Government would only have raised £200-£300m.

Mr. Sutcliffe's statement ended by saying *"I would expect the Tote and racing to continue to work closely together for the benefit of the sport and the punter"* and this was swiftly followed by representatives of the British Horseracing Authority, the Racecourse Association and the Racehorse Owners Association committing to forging a closer relationship with the Tote.

Internet gambling in the United States - recent developments

Sam Basile¹

Early this month, in a sudden and unexpected move by the Bush Administration, the Federal Reserve Board and the Department of the Treasury adopted joint regulations to the Unlawful Internet Gambling Enforcement Act.

Despite pleas that the Regulations be drafted to include a precise definition of “unlawful Internet gambling”, the Regulations instead shift the burden of proof of the legality of Internet gambling activities to the gambling business seeking financial services. The Regulations further require banks and financial service companies to adopt certain due diligence policies and procedures to ensure effective compliance with the Regulations and the Act. The Agencies estimate that compliance with the Regulations will exceed \$100 million dollars and one million man-hours for the industry to collectively develop and establish the policies and procedures required by the Regulations and the Act.

The Regulations will officially take effect on January 19, 2009, one day before President-elect Barack Obama takes office. However, the financial industry will be given until December 2009 to bring themselves into full compliance with the Regulations. Whether, if or when the Obama Administration or the Democratic controlled Congress will overturn the Regulations or the Act remains questionable. Congress has 60 session days from the publication of the Regulations in the Federal Register to repeal the Regulations under the Congressional Review Act, a simplified legislative review and repeal process of Federal agency regulations that was enacted in 1996. Of course, congressional repeal of the entire Act would render the Regulations obsolete.

Yet the immediate focus of the Obama Administration and Congress will presumably not be the Internet gambling industry. Instead, its immediate attention will most likely focus upon stimulus packages for the U.S. economy, including the auto industry and other struggling sectors. Health care reform, transportation and corporate taxation are other measures that Congress and the Obama Administration are expected to advance.

Yet, history might have a way of repeating itself in the United States. The Prohibition era, which banned the manufacture, sale and transportation of alcohol in the United States, ended within President Franklin Roosevelt’s first 100 days of office in 1933. This repeal was one of several measures brought by the popular Democratic president that stimulated the U.S. economy during the Great Depression. Perhaps Internet gambling could be seen as an early economic catalyst and a new tax revenue source by a very popular Democratic President in his first 100 days of office.

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Regulation of the internet – events in Kentucky

The ruling by a Circuit Court judge in Franklin County that the state of Kentucky can seize ownership of 141 domain names owned by gambling operators has once again raised questions about regulation of the internet. If upheld, this decision will have an impact far beyond the online gambling industry and could pose a fundamental threat to the existence of a worldwide web operating without geographical boundaries.

On 16 October, in a [40 page ruling](#), Judge Thomas Wingate upheld his earlier interim order (from 18 September) that the state of Kentucky was authorised to seize the domain names of 141 internet gambling websites.

The action was launched by Kentucky's Justice and Public Safety Cabinet ("JPSC") in September, with the strong public support of Governor Steve Beshear. The JPSC claimed that online gambling operators, including Poker Stars, Bodog, Microgaming and Full Tilt Poker, had been illegally accepting bets from residents of Kentucky. These companies still accept bets from residents of the US despite the passing of the Unlawful Internet Gambling Enforcement Act "UIGEA" in October 2006 ([click here](#) for our previous article on this subject), which led other major operators, including PartyGaming and 888, to pull out of the lucrative US market.

This ruling of a lower Kentucky court attracted such widespread interest – and apprehension – because Judge Wingate authorised the forfeiture of the .com domain names operated by these companies (for example, [www.pokerstars.com](#), [www.absolutepoker.com](#) and [www.ultimatebet.com](#)). Whereas the UIGEA targeted financial institutions which facilitate bets, this ruling focused on domain names, which some commentators have seen as the "weak spot" of internet gambling operators determined to continue to accept bets from US residents.

The JPSC claimed that the state of Kentucky has the right to regulate all gambling activities that take place within its borders, including those that are online. As the state has not granted licences to any online gambling operators, the JPSC argued that any online gambling which takes place within state borders is illegal. The Seizure Order was issued primarily on the basis of Chapter 528 of the Kentucky Revised Statutes, which allows the state to assume ownership over gambling "devices" or "records" used for unlawful gambling purposes. As can be seen [here](#) the definition of "gambling device" under that chapter is "*any other machine or any mechanical or other device ... designed and manufactured primarily for use in connection with gambling*". Judge Wingate did not find the gambling operators' presentation on the proper construction of the literal text of the statute to be persuasive, stating that "*a person who adheres to the literal text of the law, but violates its spirit, cannot succeed*" and therefore ruled that a domain name falls within the meaning of a "gambling device" as "*internet domain names, when used as virtual keys to access, create and maintain a virtual casino, contain the vice at which the statute is directed*".

This judgment clearly raises substantial issues. A state court in the US has transferred ownership of domain names registered outside that state and belonging to companies involved in inter-state and international commercial activities. On 26 September, *The Register* reported that "*who is records list goldencasino.com as the rightful property of J. Michael Brown, the Justice and Public Safety secretary who filed the lawsuit*". Judge Wingate stated that he had legal standing to seize ownership of the domain names even where the owners of such domain names are not located in the state of Kentucky, writing that "*the internet... is still not above the law, whether on an international or municipal level*".

The ruling in this case stated that if domain name operators so choose "*they can filter, block and deny access to a website on the basis of geographic locations*". Consequently, Judge Wingate concluded that the 141 websites had been "designed" to be accessed by residents in Kentucky and could therefore be seized by the state. The judge did, however, amend his interim order to allow gambling operators who agree to no longer accept bets from residents of Kentucky to maintain ownership of their .com domain names if they could prove that they have installed technology to that effect within a 30 day period.

Opponents of the ruling have taken issue with the judge's reasoning on a number of levels. These include that: the court lacked the necessary jurisdiction, as the domain names were not physically located in Kentucky; domain names cannot be seized as they are rights granted under a service contract rather than an owned asset; under the US constitution, inter-state commerce is the responsibility of the federal government; and, that under the First Amendment (protecting free speech), seizure would be akin to censorship.

Politics is also reported by some to be a factor at play in this decision. The state of Kentucky is thought to be looking to license an additional 18,000 slot machines over the next few years and also needs to protect the taxes generated from horse racing in the state, particularly the prestigious Kentucky Derby. State officials are reported to have admitted that online gambling takes revenue away from these licensed activities and at a press conference Governor Beshear was reported to have described online gambling websites as "*leeches on our communities*" that are taking money away from Kentucky's horseracing industry.

A forfeiture hearing scheduled for 3 December was effectively cancelled by a ruling on 14 November from the Kentucky Court of Appeals. Following a petition from the Interactive Media Entertainment and Gaming Association ("**IMEGA**"), the Court of Appeals granted a stay applying to all online gambling companies named in the complaint filed by the state of Kentucky. IMEGA's case includes that the Franklin Circuit Court had no jurisdiction over the domain names as Kentucky residents do not own or manage any of them and that the state is attempting to protect state interests and drive away competition. The blocking of websites will now be delayed until further oral arguments have been heard - scheduled for December 12.

The danger for the online gambling industry is the uncertainty that this situation creates and in light of this it is perhaps not surprising that Microgaming, which supplies casino and poker software to some of the affected operators (including 32redpoker and Nordicbet), implemented a new policy in November of refusing new registered users from the US on any of its licensees' websites following requests from some licensees. Previously Microgaming had only blocked residents from the 13 US states where online gambling is expressly in violation of state law. Microgaming has also stated that some of its licensees are considering withdrawing from the US market altogether.

The case has also highlighted the wider issue of the vulnerability of domain names. Although Kentucky's action is limited to gambling operators, there is little to stop other states or countries from attempting to seize domain names owned by companies operating websites of which it does not approve. If Kentucky can seize the domain name of a gambling operator that is based outside of not just its state borders but the US itself then there may be little to stop authoritarian governments from clamping down on content of which they don't approve. Judge Wingate's actions could be the first shot in a battle for control over the internet, where content or services become subject to the laws of the most restrictive jurisdiction in which they are available.

Antigua added to DCMS White List

The DCMS has added Antigua and Barbuda to its "White List", meaning that licensed gambling operators from that jurisdiction have been able to lawfully advertise in the UK from 20 November 2008.

In all, it is now lawful under the Gambling Act 2005 for licensed operators based in any of the EEA, Gibraltar and the White List territories of Alderney, the Isle of Man, Tasmania and Antigua and Barbuda to advertise in the UK. However, it remains a criminal offence to make available information about gambling services offered by operators based outside those jurisdictions which is intended or likely to come to the attention of persons in the UK.

CAP and BCAP issue new guidelines on gambling advertisements

As we reported in our last update ([here](#)), the ASA has upheld a number of complaints against gambling advertisements. Further to this, and in order to assist advertisers going forwards, CAP and BCAP (the committees responsible for the Codes that are then administered by the ASA) issued guidance on the interpretation of the rules relating to gambling advertisements.

Since February, the ASA has upheld 3 out of 6 complaints about advertisements for gambling operators. In considering these complaints, it seems that CAP and BCAP are of the view that some rules are easier to assess than others and have therefore issued guidance clarifying their interpretation of three particular rules: that advertisements should not (i) suggest gambling can provide an escape from personal, professional or educational problems; (ii) suggest that solitary gambling is preferable to social gambling; or (iii) exploit cultural beliefs or traditions about gambling or luck.

The full guidance is available [here](#), and can be summarised as follows:

Escape from problems

Acceptable:

- featuring someone excited after a win or disappointed by a loss;
- suggesting that (enjoyed responsibly) gambling can help relieve boredom.

Unacceptable:

- suggesting that gambling can alleviate mental distress;
- portraying extreme contrasts in emotion before and after gambling.

Solitary gambling

Acceptable:

- depicting solitary gambling online.

Unacceptable:

- contrasting solitary gambling favourably with social gambling;
- featuring adults losing track of time, shunning the company of others, retreating into private fantasy or engaging in secretive gambling.

Cultural beliefs or traditions

Acceptable:

- featuring symbols or obsolete superstitions which are unlikely to be taken seriously (e.g. a clover leaf).

Unacceptable:

- using cultural symbols and systems which relate to an existing, strongly and communally held belief (e.g. horoscopes).

Threat of statutory levy hangs over UK operators

Unless UK operators make firm commitments to a voluntary funding structure for problem gambling treatment before Christmas, the Government has indicated that it is likely to introduce a statutory levy.

Following the Gambling Commission's findings that the gambling industry's current voluntary funding arrangements for the treatment of problem gambling are not working effectively, the DCMS has given the go-ahead for the implementation of a problem gambling levy, as it is entitled to do under section 123 of the Gambling Act 2005. According to the Commission, the opportunity for the industry to agree a voluntary arrangement is still very much available. However, the industry has been informed that the window of opportunity will close over the festive season, when the legislative process will pass the point of no return.

The Government's move towards legislation shows its frustration with the failure of UK operators, who only met this year's funding targets set by the Responsibility in Gambling Trust (RIGT) when the "big 3" of Ladbrokes, William Hill and Gala Coral committed to donate significant funds at the last minute.

If a statutory levy is introduced, the Gambling Commission has suggested a minimum funding level of £5 million per year. This is below the targets previously set by the RIGT (0.07% of gross gambling yield from operators, plus similar proportions of revenue from software and machine suppliers), which reflects the uncertainty over how the current economic crisis will affect the gambling industry in the medium term. The money is likely to go principally towards research, education and treatment. However, the Act also allows the funds to be spent on any of the other licensing objectives (i.e. keeping crime out of gambling, and ensuring that gambling is fair and open).

If the Government does go down the legislative route then, despite losing control of their own destiny in this area, operators may be comforted by the fact that any statutory scheme would aim to ensure that all UK licensees contribute equitably to the fund.

Turf TV Part 2: Victory for the bookmakers

As reported in the last Gambling Update ([click here](#)), the first judgment was handed down in October in the complex legal battle between, on one side, the bookmaker body BAGS (together with William Hill, Ladbrokes and BetFred) and, on the other side, AMRAC (owner of the LBO broadcaster Turf TV, acting together with its shareholders, which comprise half of all British racecourses and Alphameric, the supplier of equipment to LBOs).

That judgment rejected BAGS' competition law challenge to the contractual arrangements by which AMRAC was established through coordination amongst its racecourse shareholders. It also as a result rejected a conditional counterclaim by AMRAC challenging the validity of exclusive rights with racecourses that are held by BAGS and the LBO broadcaster SIS, as this counterclaim applied only if BAGS' challenge to AMRAC's agreements had been successful.

Left outstanding from the first judgment was a separate counterclaim by AMRAC directed at alleged cartel activity by William Hill, Ladbrokes, Betfred and Coral (Coral was originally a party to BAGS' claim, but reached a separate settlement with AMRAC). This counterclaim was dealt with in a second judgment delivered on 6 November 2008.

AMRAC had alleged that, contrary to EU and UK competition law, the four bookmakers were parties to an agreement and/or concerted practice to refuse to purchase Turf TV and/or to exclude or impede AMRAC's entry to or survival in the relevant upstream and downstream markets. AMRAC also alleged that the bookmakers agreed to withdraw sponsorship from certain racecourses that had licensed their LBO rights to AMRAC. Certain other claims were withdrawn by AMRAC during the proceedings.

These were clearly very serious allegations, with heavy implications for the bookmakers and their directors. However, the Court categorically held that AMRAC had failed to prove that there had been any collusion amongst the bookmakers and accordingly dismissed AMRAC's counterclaim in its entirety.

Whilst this victory for the bookmakers has evened the scores, the game is not over yet. Last week the same judge who had heard the original trial granted leave to BAGS to appeal the first judgment. At the same time, he refused leave to AMRAC to appeal in relation to its counterclaim against BAGS and SIS (AMRAC does not appear to intend to appeal the second judgment). The judge's refusal to allow AMRAC to appeal was on the basis that BAGS' case against AMRAC's contracts was on a factual and legal basis that was not applicable to BAGS and SIS's contracts, so that AMRAC would have no prospect of reviving its conditional counterclaim against BAGS and SIS. Should it wish to pursue an appeal, AMRAC will therefore have to seek permission directly from the Court of Appeal.

Levy rolls on – at least for one more year

In our last update ([click here](#)) we speculated at to whether the Levy might be referred for determination by the Government for an unprecedented second year in a row. In the end, with just a few hours remaining before automatic referral to the Government, a new scheme was agreed.

The 48th Levy Scheme (which will apply from 1 April 2009 to 31 March 2010) is, in large part, a continuation of the previous year's scheme. The Levy continues to be at the rate of 10% of bookmakers' gross win from bets on British horseracing subject to the following changes:

- (i) the threshold above which smaller bookmaking businesses have to pay the full 10% is increased from £85,700 to £90,000;
- (ii) the minimum guaranteed payment has been removed;
- (iii) there has also been a change in the basis on which on-course bookmakers are charged.

The bookmakers had been arguing that now that the High Court has confirmed the validity of Turf TV's structure ([click here](#)), the Levy should be reduced significantly to take account of bookmakers' increased costs in taking both the Turf TV and SIS services. No such reduction was agreed but, instead, it was agreed to add further race meetings and races at times suited to the betting shop programme of televised events.

In late September the independent members of the Levy Board had engaged a retired Court of Appeal judge, Sir Philip Otton, to assist in the process. Sir Philip, who is an experienced arbitrator, gave his views on the various contentious issues to the interested parties and then acted as a mediator in the final period leading up to the 31 October deadline.

One of the other points on which agreement was reached is that the Levy Board will now take responsibility for completing the process of reviewing and modernising the Levy set in train by the Sports Minister, Gerry Sutcliffe, in February of this year. The Levy Board has committed to submit its report to the Government by 30 April 2009 and Sir Philip Otton will continue to be retained by the Levy Board for his advice.

Despite agreement being reached on 31 October, there are clearly unresolved issues between the betting and racing industries. The Racing Post reported earlier this month on the contentious issue of whether bookmakers' earnings from FOBTs (the very profitable gaming machines located in most betting shops – [click here](#) for a separate piece on FOBTs in this update ([click here](#))) should be taken into account in determining the amount of Levy. A William Hill spokesman was quoted as saying: *"There's no justification for racing to receive any revenue from any other products. In fact, legally, racing can only receive its income from its own product. As it wishes to move from the levy to a commercial relationship, what other industry has a commercial relationship where you get paid for products you don't supply?"*. This statement appears to misunderstand the position adopted by racing, which is not that bookmakers should be obliged to pay to racing a percentage of their profits from FOBTs; rather, we understand racing's contention to be that, in determining the amount of the Levy, bookmakers' profits from FOBTs should be taken into account – particularly if it can be shown that it is horseracing which encourages many FOBT-players into the betting shops in the first place.

Remote betting or remote gaming? Gambling Commission attempts to clarify

The Gambling Commission has responded to a number of industry enquiries about whether a product should be classified as remote betting or remote gaming by issuing an advice note. Whilst the distinction is less important now that both activities can be provided lawfully under licence from the UK, it remains of significance because the two activities require different operating licences in relation to which different fees and regulatory requirements apply.

In order to assist operators in understanding what licence they require, the Commission has formulated two tests, as follows:

Test 1

Is the product a virtual version of a known casino game, a derivative of one or designed to resemble one?

*If the answer is **yes** then the Commission considers that the product is gaming and a remote casino operating licence is required.*

*If the answer is **no** then Test 2 becomes relevant.*

Test 2

Does the product meet the following criteria?

- 1. Is it a virtual game which is not a sport?*
- 2. Do the customers participate in or bet on the outcome of the game?*
- 3. Is there an element of chance involved? Is the outcome determined by anything other than skill?*
- 4. Is there a prize?*

*If the answer to **all four** questions is **yes** then the Commission considers that the product is gaming and a remote casino licence is required.*

This guidance clarifies that holders of remote betting licences cannot, without also obtaining a remote casino licence, offer games which look like (by way of example) roulette, on the old FOBT argument that customers are simply placing a fixed odds bet on a particular colour or number being thrown up by a random number generator. This is consistent with the reclassification of FOBTs as gaming machines.

However, the guidance is perhaps confusing in relation to offerings such as virtual horse racing where a prize is available for winners. Applying question 1 of Test 2, is virtual horse racing of itself a sport? Assuming not (on the basis that it is not an activity that exists of its own accord on which people then bet), then this suggests that any form of virtual horseracing should be regulated as gaming not betting.

The Commission's second question is poorly phrased. The Gambling Act 2005 makes a clear distinction between playing a game (a characteristic of gaming but not betting), and betting on the outcome of a game (characteristically betting). However, question 2 of Test 2 seems to combine them. In light of this, it seems

that the answer to question 2 of Test 2 will always be "yes", with the result that the requirement to actually "play" a game of chance falls away.

The Commission's third question in Test 2 is also rather confusing. In addressing the difference between a game of chance and a game of skill, the Commission understandably echoes the Gambling Act 2005, which provides that any game which involves an "element of chance" is a game of chance, even where the chance "can be eliminated by superlative skill". However, under the Act this is relevant to determining whether or not a game is gambling at all (an issue that itself is in need of clarification) and not the difference between betting and gaming. A "bet" is not defined in the legislation. Question 3 also comprises two parts, which is of itself rather confusing, as whilst this approach may distinguish between betting and gaming in most circumstances, it seems likely that some products will still fall into a grey area. An example of this might be those products which do have an element of chance but in relation to which it is questionable whether or not the outcome is really determined by anything other than skill.

Whilst clearly the line between betting and gaming has to be drawn somewhere, in the absence of any further guidance from the Commission, we will most likely have to wait until the issue makes it to the Courts to get clarity – a point that is itself stressed in the Commission's advice.

Differential VAT treatment of slot machines

Rank Group Ltd V The Commissioners For Her Majesty's Revenue & Customs, decision number 20777

In the second VAT case brought by it this year, the Rank Group is claiming a refund of £25 million of overpaid VAT paid in connection with slot machines with built in random number generators ("RNGs"). Legislation that was previously in force treated slot machines with internal RNGs as subject to standard rated VAT and machines with external RNGs as exempt for VAT. Rank's claim is that, since both of these types of slot machine are similar, their VAT treatment should be the same; in accordance with the principle of fiscal neutrality. Whilst the VAT Tribunal has agreed that Rank's claim is valid, HMRC has argued a defence of due diligence which, HMRC contends, is justified by European case law. The Tribunal has indicated that, if HMRC pursues this argument then, in order to determine whether it is a proper defence, the question will need to be referred to the ECJ. As a consequence, this case (on which similar claims of many other gambling operators will turn) may yet have a long time to run.

Despite the fact that the provision of most betting and gaming facilities is an exempt supply for VAT purposes, the provision of gaming machines, including slot machines, is generally standard-rated. Consequently, a provider of gaming machines has an "output" VAT liability which it will seek to pass on to its customers as a direct VAT cost. However, unlike a provider of exempt supplies, a provider of gaming machines will be able to recover any "input" VAT that it incurs on goods and services attributable to these supplies.

Between 1 October 2002 and 5 December 2005 and pursuant to the VAT legislation in force at that time, Rank Group Ltd paid a net figure of over £25 million in VAT in respect of slot machines in its Grosvenor Casinos and Mecca Bingo clubs. These slot machines featured a built-in random number generator ("RNG") which was responsible for creating the chance element in the games played on the machines. However, comparable slot machines, which were instead serviced by a remote RNG, were treated as exempt from VAT.

Rank Group Ltd claimed that HMRC's differing VAT treatment of these two types of slot machine contravened the principle of fiscal neutrality, which requires that supplies of services that are the same or similar should not be treated differently for VAT purposes. Consequently, Rank Group Ltd requested a refund of the £25 million of VAT it had paid in respect of its slot machines with built-in RNGs due to the fact that similar slot machines, differing only by virtue of having a remote RNG as opposed to a built-in RNG, were treated as VAT exempt during the same period. HMRC refused to refund this sum and so Rank Group Ltd appealed to the VAT and Duties Tribunal.

The Tribunal, which handed down its interim decision at the end of August 2008, agreed with Rank Group Ltd and held that the two categories of supplies were similar and that HMRC's disparity in treatment breached the principle of fiscal neutrality. Further, the Tribunal held that there was no need for Rank Group Ltd to identify a distortion of competition or imbalance in the market as an additional requirement to establishing a breach of fiscal neutrality.

However, HMRC went on to submit that if there had been any breach on its part of the principle of fiscal neutrality, such a breach was objectively justified. The basis of its submission was that the UK had acted with due diligence in responding to the development of remote RNG slot machines by amending the law with effect from 6 December 2005 so that slot machines with remote RNGs were no longer treated as VAT

exempt, but rather, like the comparable slot machines with built-in RNGs, became subject to VAT at the standard rate.

This defence of due diligence put forward by HMRC stems from ECJ case law relating to the principle of non-discrimination, which requires that similar situations must not be treated differently unless it is objectively justified. In particular, HMRC sought to rely on an ECJ decision which held that where a difference in treatment arises out of new developments, the public authority is obliged to remedy the difference but is only in breach of the principle of non-discrimination if it shows a lack of diligence (which is a question of fact).

The Tribunal concluded that further evidence would be required in order for HMRC to establish such a defence. Interestingly, the Tribunal indicated that whilst it was inclined to view that a due diligence defence was not possible, it could not conclude as such without referring the matter to the ECJ. The Tribunal has therefore determined that if HMRC adduce evidence to establish that the UK acted with reasonable due diligence, then a reference will be made to the ECJ.

The outcome of this decision has been eagerly awaited by the gaming industry as approximately 1,100 appeals by other slot machine operators have been stood over pending its outcome. The decision therefore has serious implications for HMRC in terms of its potential liability to repay substantial sums of VAT to these slot machine operators. However, any final outcome could be a long time coming as HMRC have been given time to adduce further evidence to establish its defence. Furthermore, if a reference to the ECJ is made we could be waiting a further two to three years for the ECJ to hand down its decision.

This is the second case involving Rank Group and HMRC that has been heard by the Tribunal this year. The first case, which was also heard in April 2008, has resulted in Rank Group Plc reportedly recovering £59.1 million in overpaid VAT after successfully arguing that HMRC's disparity in VAT treatment between two comparable bingo games breached the principle of fiscal neutrality. HMRC have appealed against this decision and the appeal is scheduled to be heard in the first half of 2009.

Government intervention needed to clarify legality of house raffles

The Gambling Commission's limited mandate means it is unable to clarify the boundaries of legality for homeowners attempting to sell their properties through raffle-style competitions. In light of this, decisive action is needed by the Secretary of State to either nip this trend in the bud or allow it to flourish.

In the current climate of falling property values and tighter lending criteria, the practice of attempting to sell properties by staging raffle-style competitions has become increasingly popular. This concept seeks to exploit the legal grey area between illegal lotteries and lawful prize competitions, and now the Gambling Commission has begun to investigate the boundaries of the concept's legality in earnest.

Broadly speaking, and subject to certain limited exceptions, it is illegal to organise a lottery without a licence from the Gambling Commission. Obtaining a lottery licence would not be practical for property vendors, because such licences currently limit the value of prizes to £200,000, and are conditional upon a fixed proportion of the revenues being given to charity.

Property "raffle" schemes therefore rely on introducing a sufficient element of skill to take the competition outside the definition of a lottery under the Gambling Act 2005. This would have the effect of bringing the scheme entirely outside the remit of the Gambling Commission. In order to do so, the scheme must incorporate a requirement for participants to exercise skill or judgement, or to display knowledge, which can reasonably be expected to either:

- prevent a significant proportion of persons who participate from receiving a prize; or
- prevent a significant proportion of persons who wish to participate from doing so.

Some organisers have attempted to do this by limiting the raffle draw to those entrants who correctly answer a qualifying question. However, the key issue is whether the question is difficult enough either to put off enough people from entering, or for enough people who do enter to get it wrong.

And therein lies the first problem. Nobody knows what "a significant proportion" means in these particular circumstances.

Of course, there is also the issue of the clash between the commercial proposition and the protections set out in the legislation. The organisers do not want to make the question so difficult as to put off too many entrants, as success of the scheme depends on sufficient tickets being sold. However, this is exactly what the legislation is designed to prevent.

The Gambling Commission has issued guidance in an attempt to clarify the issue. Sadly, the guidance has failed to resolve the confusion, even, quite possibly, creating a reasonable expectation from property vendors that the Commission would let them get away with these schemes. However, as more and more people attempt to sell their houses this way, the Commission now appears to have done something of an about-turn and has asked organisers, on a case by case basis, to provide evidence that their questions are in fact putting off or excluding sufficient people.

In the Commission's defence, this is all it is capable of doing. It is not empowered to make the law, or to give legal advice. Faced with rather vague legislation, the Commission is powerless but to investigate each case individually, checking the evidence provided as to how many people visited the site but didn't enter

the competition, and how many people got the question wrong, and somehow deciding whether or not those numbers are "significant".

It also must be mindful that if it starts giving the green light to these schemes, then more and more will spring up. Considering the risk to the public of scam schemes, and the policy objective behind the Gambling Act of protecting the National Lottery and charity lotteries from competition from schemes set up for private gain, this does not seem a sensible or likely course of action. On the other hand, if the Commission decides that a scheme does constitute a lottery, then the homeowner would in many cases be perfectly justified in challenging the Commission's decision in the courts.

So what we are left with is either a proliferation of unregulated house raffles, or a proliferation of time-consuming and expensive investigations and potentially thereafter court cases, each of which will only be able to be decided on its own merits and therefore is unlikely to provide legal certainty to anyone considering selling their property by this method in the future, or indeed running any other "skill-based" competition where the level of skill is perhaps questionable.

Both of these scenarios are clearly unsatisfactory, and there appears to be only one way to resolve the issue. Under section 14(7) of the Gambling Act, "*the Secretary of State may by regulations provide that an arrangement of a specified kind is to be or not to be treated as a lottery*". Perhaps it is time for Mr Burnham to give this issue some serious thought.

This article was first published on www.gamblingcompliance.com

EU commission to conclude US trade barriers regulation investigation

As we have previously reported ([here](#)), the EU Commission is formally investigating the continuing prosecution by the US Department of Justice of EU-based online operators who voluntarily withdrew from the US market following the passage of the UIGEA. The Commission is likely to report on its decision before Christmas, which may result in another WTO dispute against the US.

Since March this year, the EU Commission has been investigating whether the US Department of Justice is in breach of the international Trade Barriers Regulation by continuing to pursue EU online gambling operators which did business in the US prior to the passage of the UIGEA. The investigation is based on a complaint made by the RGA in December 2007. Having sent a delegation to Washington in September, the Commission has suggested that it will report on its conclusions by early December.

As the US has already been found to be in breach of its WTO commitments following the well-publicised complaint by Antigua and Barbuda (see our coverage [here](#)), it seems likely that the EU will decide that it can best protect the interests of EU businesses by launching a fresh WTO dispute against the US. Unlike Antigua, any threat of trade sanctions against the US by the EU in the event of a favourable WTO ruling would be far more effective, making the possibility of a settlement with the US authorities more likely. Whilst the re-opening of the US market to EU-based operators is too much to hope for in the short term, the industry will hope that any such settlement would at least include certainty for EU-based companies and their executives that they will not be prosecuted in the US for activities prior to the passing of the UIGEA.

In the meantime, the RGA has encouraged the Commission to introduce blocking legislation which would prevent any authorities in the EU from extraditing anyone to the US on pre-UIGEA gambling charges, at least until this TBR complaint is concluded.

Investigation into Fixed Odds Betting Terminals ("FOBTS")

Fixed Odds Betting Terminals are highly profitable gaming machines that are located in most betting shops, meaning that any threat to their continued operation is a matter of serious concern for the bookmaking industry. In this piece we look at the current position in relation to the numbers of FOBTs in betting shops and restrictions on their manner of play and also at the investigation currently being conducted by the Gambling Commission into such machines.

At present, the following principal standards apply to FOBTs:

- The maximum number of machines in a betting shop is currently four;
- Frequency of play is 20 seconds, (e.g. each game cycle must last at least 20 seconds to complete);
- The maximum stake is £100 (in multiples of £10); and
- The maximum prize is £500.

It is worth noting that the actual number of machines may be amended by the Secretary of State (currently Andy Burnham) under secondary legislation, so it would be relatively straightforward for the number of permitted FOBTs per shop to be altered if that was the outcome of the investigation. Also, new regulations could be put in place by the Secretary of State re-categorising the machines and placing new restrictions on their use. Finally, it is a condition of gaming machine technical operating licences that they comply with the Gambling Commission's technical standards, which contain specific requirements for hardware, software and games in relation to frequency of use for example. The current Technical Standards were drafted after extensive consultation; it is unclear but likely that a further period of consultation would be required in order to amend these Standards in the future.

On 20 February 2008 (at the same time as announcing its determination of the 47th Levy Scheme) the Government also announced an investigation by the Gambling Commission into the risks associated with high-stakes gambling machines. Concerns were expressed that the Government had instigated the enquiry into FOBTs as a stick with which to encourage the bookmakers to play ball in the review and modernisation of the horserace betting levy. However, if the Government were to reduce the permitted number of FOBTs or otherwise limit their attractiveness to punters in a way not supported by the evidence of the Commission's latest investigation, a judicial review would be likely to be brought by the bookmaking industry.

On 14 March the Minister for Sport, Gerry Sutcliffe, asked the Commission to give priority to the research on FOBTs and further to this the Commission published its research proposals on 31 July in a letter to the Minister for Sport ([click here](#)). The proposals suggested:

- Immediate qualitative work be undertaken using the at-risk and problem gambling contacts made in the British Gambling Prevalence Survey 2007, looking at specific gaming machine features;
- Re-analysis of data from the Prevalence Survey and other studies in light of recent research;

- The establishment of an international panel to help the Commission develop a research programme focused on gaming machine regulation and minimising harm in the Great Britain context; and
- Subject to the advice of such panel and the necessary funding, the extension of this work to study a larger panel or regular gamblers.

The Commission devised these proposals following a review of existing research and consultation with experts to determine the usefulness and relevance of the available research to machines in Great Britain. After conducting this review, the Commission stated that there was a broad consensus that high-stake, high-prize machines are particularly attractive to those at risk of problem gambling and to those with a gambling problem. Mr Sutcliffe specifically picked up on this point in his response to the Gambling Commission dated 6 August ([click here](#)). Highlighting the finding as a "key conclusion of the review" he stated "I welcome the Commission's commitment to explore this association in greater detail in the UK context through a programme of further research..." However, the Commission had actually qualified this conclusion by emphasising that this does not mean, however, that there is a consensus about the extent to which such machines cause gamblers to become problem gamblers, how such machines should be compared with other forms of gambling, or the extent to which regulatory action focused on high-stake, high-prize machines would actually reduce the development of problem-gambling. A summary of the results of the review or 'desk exercise' is to be made available imminently.

In its letter to the Minister, the Commission set out a number of short-term initiatives along with longer-term proposals. In the short term, the Commission aims to obtain the views of panel experts and stakeholders to discuss harm minimisation, methods of behavioural study and the making available of industry data to aid with research efforts. Longer term, the Commission will look at the possibility of commissioning a "British longitudinal study", involving repeated observations of the same group of people over different points in time, to look at the risk factors for problem gambling.

The Commission is scheduled to report in June 2009 on the proposed short term initiatives, and provide an update as to its progress in relation to the longer term proposals.

In the meantime, certain organisations remain opposed to FOBTs and how they are currently regulated and continue to make their feelings on the subject known. As part of its response to the Gambling Commission Second Consultation on the Review of Gambling Research, Education and Treatment (responses and final report and recommendations document published on 21 October 2008 - [click here](#)), when referring to a formula for calculating voluntary contributions to RIGT, the Casino Operators Association stated that "an industry formula rather than a sector formula is disproportionate", based in large part on evidence of increasing income generated for the bookmakers from FOBTs. The COA also stated its view that, further to references in the Prevalence Survey to the contribution of FOBTs to problem gambling, "*the polluter should pay" and betting shops should contribute in relation to the problems caused by their B2 machines*".

In addition, a few months ago a lobby organisation fairandpengambling.net launched with the aim of letting "everyone in the gambling industry, the industry regulators and the government know that there is a groundswell of people who believe that these Terminals are unfair, exploitative and unethical." Fairandpengambling.net placed an advertisement in the Financial Times regarding FOBTs with a list of reasons that they believe FOBTs are unfair, and exploitative. It has also started an online petition to the Government to 'Terminate the Terminals'.

Gambling Commission guidance and consultations – recent highlights

The Gambling Commission has published a consultation document on a full new edition of the Guidance to Licensing Authorities, showing changes from the current second edition to the proposed third edition ([click here](#)). The third edition has an overarching aim to be more concise and user-friendly. A public consultation workshop for stakeholders, in Birmingham, is scheduled on 7 January 2009.

The Gambling Commission has recently contacted in writing all licensees, giving three months notice in respect of changes to the Licence Conditions and Codes of Practice (LCCP) which are coming into effect on 1 January 2009. The Commission will also send out a new licence to each individual licensee in advance of the changes and will detail the licence conditions and codes of practice that apply specifically to their business. Further, each personal licence holder will receive a letter setting out the changes to the three general licence conditions applicable to personal licence holders. The revised LCCP can be found [here](#).

Other Recent Highlights

[Gaming Machine Technical Standards: Category C and complex Category D - game links and speed of play consultation](#)

[Homeowners urged to be aware of rules on 'house competitions and risk of falling foul of the Gambling Act 2005'](#) – also see our article on this topic – [click here](#).

[Primary gambling activity: consultation document on proposed wording of a new operating licence condition](#)

If you would like further information, please contact David Zeffman (david.zeffman@olswang.com) or Luisa Hoffman (luisa.hoffman@olswang.com).

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