

Gambling Supervision Commission



Gambling Regulations Package 2016

Consultation Responses

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1. Introduction

On 20th April 2016, the Gambling Supervision Commission (the Commission) published its limited consultation on a number of proposed changes to secondary legislation. We intend to update various regulations to:

- Allow virtual currencies to be accepted as if they were cash;
- Expand services that a sub-licensee can take from a full licensee;
- Enable the Commission to unilaterally accept test certificates issued by another authority;
- Expand voluntary gambling controls that an operator can offer players;
- Clarify protections required for winnings that the Commission deems to be out of scope for protection;
- Offset unused portions of licence fees against new licences.

The consultation ended on 20th May 2016, and we would like to thank all individuals, organisations and sector stakeholders who took the time to respond.

During the consultation period an additional proposed change to secondary legislation was included:

- The abolition of network partner fees.

As this proposal did not form part of the initial consultation, the Commission, on 7th November 2016, undertook a limited consultation on this proposal only.

This document sets out the Commission's final position based on the responses received during both the consultation periods. For the purposes of the document and to ensure any contributions do not compromise requested anonymity, views and comments have been paraphrased, but express the same sentiment.

2. Consultation Summary

The consultation document sets out the Commission's changes to a number of regulations.

During the course of the consultation period, the Commission received 10 responses as set out below:

List of Respondents	Category
Adoptit Publishing Limited	Software Publisher
Cavendish Trust Company Limited	Corporate Service Provider
Celton Manx Limited	Licensed Operator
Counting House Ltd	Payment Processing Service Provider
Equiom (Isle of Man) Limited	Corporate Service Provider
ILS Fiduciaries (IOM) Limited	Corporate Service Provider
Microgaming Software Systems Limited	Licensed Operator
Premier Gateway International Limited	Licensed Operator
SMP eGaming Limited	Corporate Service Provider
TGP Holding Limited	Licensed Operator

The Commission is grateful for all the contributions received.

3. Consultation Responses

Each of the seven consultation proposals is set out in the following paragraphs as follows:

- The consultation summary;
- The respondent's views; and
- The Commission's position.

3.1 Virtual Currencies

Consultation Summary

A change that will allow Isle of Man licensees to open accounts for players who use convertible virtual currencies (CVCs).

The Respondent's Views

The responses were largely positive and it was generally agreed to amend the regulations to allow the inclusion of deposits of other forms of worth alongside deposits of money. Respondents supported the need to move with the times and account for innovation in the sector.

Clarity, with regard to the definition of terms used in the proposed regulations and in particular the lexicon used in the area of convertible virtual currencies, featured in a

number of responses with suggestions for adopting the same or similar wording as used by other authorities or regulations where possible.

Recognising convertible virtual currencies is an emerging technology and has been used or associated with various nefarious activities, the potential risk to the jurisdiction's reputation was a concern expressed by one respondent.

The adequacy of the regulatory framework in place to control and supervise convertible virtual currencies was questioned specifically with regard to powers to undertake AML/KYC/source of funds to an acceptable standard.

The Commission's Position

Isle of Man Government, through the Designated Business (Registration and Oversight) Act 2015 and amended Proceeds of Crime Act 2008 has the necessary legal framework in place from which the Financial Services Authority has developed appropriate regulatory oversight of the convertible virtual currencies sector. In proposing these changes, the Commission was cognisant of the required oversight framework being in place on the Island.

The Commission proposes to allow operators to accept convertible virtual currencies, subject to regulatory safeguards on the protection of value and the security of the way value is stored.

Clear and concise definitions specific to the regulations will be included. Additionally the Commission's handbook - Guidance for On-line Gambling will carry the necessary definitions for terms used within the vocabulary of convertible virtual currencies sector.

3.2 Broader Services Available to Sub-Licensees From Full Licensees

Consultation Summary

A change that will clarify that sub-licensees can use all parts of a full licensee's platform, not just games.

The Respondent's Views

From the responses received, no additional comments or objection were offered to the proposal.

The Commission's Position

As proposed, the Commission will broaden the services that a full licensee can offer a sub-licensee to include back office services as well as the provision of games and lottery products. Provision of betting and live dealing products will also be included as types of products or services a full licensee can offer a sub-licensee.

The Commission will not make any changes to the platform and/or games exclusivity requirements for such relationships. A sub-licensee will only be able to obtain products or services from one single full licensee.

3.3 Test Certificates

Consultation Summary

A change that will allow the GSC to make a list of jurisdictions and transnational organisations from whom it will recognise test certificates as equal to Isle of Man certificates.

The Respondent's Views

This proposal received the most comprehensive response with respondents very much in favour of the proposal to accept test certificates issued by approved testing laboratories in respect of non-Isle of Man standards or in respect of any transnational standards.

While not within the scope of the specific consultation proposal, some respondents took the opportunity to make additional contributions in areas related to testing standards and certification. The Commission has included these related comments in the interests of openness and completeness.

It was clear that some respondents consider the Commission's current practice in the area of testing and certification to be confused stating its published guidance to be at odds with its internal policy. Areas specifically cited were the frequency of game testing and rules applicable to re-testing of games. It was requested that any change to the legislation must be supported by clear, published policy positions and comprehensive guidance.

It was also suggested that the Commission consider introducing a set of minimum standards in respect of testing and test certificates provided by approved test facilities and including games/software version numbers, binary MD5 Sum/SHA checksum etc. and test history.

The Commission was asked to consider, in place of a full re-test for games with out of date test certificates, whether a formal letter or report supplied by the RNG software provider containing a full product version (name, version number, etc.), product change history and

test history information could be provided to the Commission in place of a updated test certificate. It was advocated the RNG software provider should become a 'party approved' in the systems certification process and that the Commission could then take comfort in a report provided by the RNG software provider.

One final comment related to the cost associated with testing new games and re-testing games that had out of date certificates and the not inconsiderable cost impact this may have on fledgling or smaller software providers and start-up operators and the concern such business cannot compete with larger provider or operators.

The Commission's Position

The Commission welcomes the time and effort respondents have taken to provide comprehensive and detailed responses to this proposal and associated matters.

The Commissioners will accept a certificate by a party approved for that purpose by the Commissioners that the system by means of which such gaming or lottery is to be conducted complies with either:

- The Commissions standards as set out in Schedule 1 of the Online Gambling (Systems Verification)(No.2) Regulations 2007;
- the standards published by another gambling regulator with whom the Commission has entered into a Memorandum of Understanding; or
- the standards published by an international body or grouping of gambling regulators of which (in either case) the Commission is a member.

In light of the additional contributions in areas related to testing standards and certification, the Commission will review its published guidance against internal policy positions and align where necessary. In addition the Commission will draft and publish its policy positions along with comprehensive guidance on all aspects of testing and test certification.

The Commission acknowledges the proposals outlined with regard to out of date certification and re-testing obligations. Whilst sympathetic to the arguments made to introduce measures to aid determination of the status of change within a given game utilising the RNG software provider testimony, the Commission has a concern that such proposals ignore a fundamental aspect of any testing solution, that of independence of the decision. The Commission, with consumer protection at its core, considers independence of testing to be integral in upholding its key regulatory objective of ensuring games are fair. The Commission does not support a position in game testing and certification that does not depend upon independent verification.

The Commission notes the comments with regard to the cost impact of testing and certification on fledgling or smaller software providers and start-up operators and the concern such business cannot compete with larger provider or operators. The Commission is

alive to the cost burden regulation can have on businesses and endeavours to apply appropriate measures and controls when developing all regulations, policies and procedures. The cost of regulation cannot be a key consideration when developing our risk based, consumer focussed regulatory framework.

3.4 A wider choice of elective controls for gamblers

Consultation Summary

Operators provide controls to allow players to voluntarily control their gambling. This change broadens the types of controls that can be offered to players.

The Respondent's Views

All respondents were content with the proposal and expansion of the tools available to the consumer to aid responsible play.

Respondents agreed the proposal introduces more effective and varied functionality to assist consumer with responsible play. One significant comment was with regard to the period of time each measure is to be applied. There was a strong view that while the flexibility to use a broader suite of effective tools to manage responsible play was welcome, the mandatory 7 day cooling off period remained inflexible and is not aligned to standards and regulations in other jurisdictions.

Another comment identified that while the Commission require operators to offer self-exclusion, this is not mandated under any legislation and made the suggestion it be included in the scope of this proposal.

The Commission's Position

The Commission is grateful for the insightful comments that will offer a broader range of tools to aid consumers play responsibly.

The Commission will introduce a range of options which allows a player to set a monetary value for deposit, spend or loss for a set period of play. Once a player has chosen a period, no element of the limit may be modified until the period has elapsed. This ability to manage how long the monetary limits apply will also serve to support the request for self-exclusion functionality to be made available to players.

3.5 Clarification on protection of winnings

Consultation Summary

The fund protection law of the Isle of Man is problematic for some gambling models. This change allows the Commission to specify case by case protection that is more suitable for these models.

The Respondent's Views

The consensus of respondents was in agreement with the proposal.

One respondent suggested consideration be given to excluding funds held on behalf of the professional gamblers who operate as gambling businesses and also consider defining 'participants' money' to exclude monies held by third parties (such as Totes).

The Commission's Position

The Commission will change the law to allow exceptions and exemptions to be specified in the licence conditions of an operator.

3.6 Ability to offset unused amount of licence fee when upgrading and downgrading licence types

Consultation Summary

Operators sometimes wish to upgrade to more expensive licence types. The inability of the GSC to refund the unused portion of the previous licence type acts as a disincentive and constrains business.

This change removes that disincentive by allowing unused licence fees to be offset against the upgrade costs. The change also grants a credit for a down-graded licence which can be offset against future licence fees.

The Respondent's Views

All respondents welcomed this proposal. However one respondent considered a more simplified approach of directly refunding licensee fees that have not been consumed.

The Commission's Position

The Commission will change the law in respect of fees so that an upgrading licensee can offset its existing unused licence fee against the cost of a new one.

The Commission recognises the point made by one respondent concerning the complexity of approach. This point was explored by the Commission and its legal options with regard to its ability to offer refunds and has concluded its primary legislation has no provision for the refund of unused licence fees. However, regulations can accommodate changes to allow unused licence fees to be offset against upgrade costs.

3.7 Removal of the network partner fee for holders of a network licence

Consultation Summary

The licence fee of a network services licence is £50,000 plus £5,000 for every third party that made use of the services in the preceding year. DED have requested that the £5,000 additional fee be removed as it is a barrier to business development.

The Respondent's Views

All respondents welcomed the proposal to remove the £5,000 fee charged to a network licensee for each of their network partners. Most respondents considered the removal of the network partner fees to be essential to the future growth of these companies occurring in the Isle of Man.

The Commission's Position

The Commission will change the law to remove the network partner fees.

4. Appendix 1 – Online Gambling (Amendments) Regulations 2016

Link to the [Online Gambling \(Amendments\) Regulations 2016](#)