

Licence conditions and codes of practice

Proposed changes to licence condition 11, concerning lotteries

Consultation document, July 2008

1 Introduction

- 1.1** In the light of representations made by the Lotteries Council and the Hospice Lotteries Association, the Secretary of State for Culture Media and Sport has decided, after discussion with the Gambling Commission (the Commission), to consult on a proposal to increase the limit under section 99(3)(a) on the proceeds of any single lottery draw. The proposed changes are set out in the Gambling Act 2005 (Variation of Monetary Limits) Order 2008 (the Order) and the Department for Culture, Media and Sport's (DCMS's) consultation on this order runs in parallel with this consultation by the Gambling Commission.
- 1.2** Section 99 of the Gambling Act 2005 (the Act) requires the Commission to attach various conditions to lottery operating licences issued to non-commercial societies or local authorities. These conditions include monetary or percentage limits on proceeds and prizes in lotteries run by such societies or by local authorities. Section 99(11) of the Act permits the Secretary of State to vary by Order a monetary amount or percentage set out in section 99.
- 1.3** Since these monetary limits are set out in licence conditions issued by the Commission, the Commission is also consulting on the proposed change. Section 99(10) of the Act permits the Commission to set similar, or alternatively more onerous, conditions on a lottery operating licence. The Commission is proposing simply to implement, without change, the increases in lottery proceeds and maximum prizes that stem directly from the changes proposed in the Order. Whilst DCMS is consulting on the proposed increases in the limits, the Commission is consulting on the consequent change to the licence condition continuing to match the limits set by Parliament.
- 1.4** Although the two consultations are running simultaneously, the implementation of the proposed changes in the licence condition will be confirmed and implemented only if the Order is approved by Parliament. The Commission has recently consulted on a number of other changes to its Licence Conditions and Codes of Practice (LCCP) and it is intended that the revised version should be published on 1 October 2008 and take effect on 1 January 2009. It is proposed that subject to the Order being approved before the end of 2008, the consequent revision to the relevant licence condition will be issued as a supplement to the LCCP as soon as possible after that. We are considering whether we should use our powers to make this supplement effective from the same date as the implementation of the revised LCCP.
- 1.5** This issue will primarily be of interest to existing and potential new operators in the lottery sector; the Lotteries Council and Hospice Lotteries Association; the National Lottery Commission; organisations concerned with gambling and social responsibility; and academics and organisations with an interest in lotteries.

2 Proposed change to the licence condition concerning lotteries

Amending the limit on lottery proceeds

- 2.1 After an opening clause setting out the requirement to apply at least 20% of lottery proceeds to an appropriate cause, the relevant licence condition in LCCP (June 2007), which takes the monetary limits directly from section 99(3) of the Act, says:

Lottery operating licences issued to non-commercial societies; lottery operating licences issued to local authorities; and lottery managers' operating licences

The proceeds of any lottery promoted in reliance on this licence may not exceed £2,000,000 and the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence may not exceed £10,000,000.

The rules of any lottery promoted in reliance on this licence must be such as to ensure:

a) that it is not possible for the purchaser of a ticket in the lottery to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other and including any winnings arising from a rollover) more than:

- £25,000; or
- if more, 10% of the proceeds of the lottery; and

b) that membership of the class among whom prizes are allocated does not depend on making any payment (apart from payment of the price of a ticket).

- 2.2 Higher limits have been proposed by the Lotteries Council and the Hospice Lotteries Association. DCMS is consulting on doubling the proceeds limit on a single lottery to £4,000,000, whilst retaining the annual maximum of £10,000,000. The limit on prizes, set by section 99(4) of the Act at 10% of the proceeds, is to remain unchanged. However, the proposed change in the limits on proceeds would permit a maximum prize of £400,000 rather than £200,000, provided that the lottery proceeds reach the new maximum level.

- 2.3 The previous limits were designed to ensure that draws run by society lotteries for the purpose of raising funds for charitable and sporting activities remained primarily attractive to supporters of those causes. They did not offer prizes so large that they changed the character of a society lottery by appealing to players for whom winning a prize of a life-changing amount would be a greater attraction than supporting the charitable cause in question. The government considers that the proposed level of increase achieves a satisfactory balance between providing a valuable boost to hospices and other charitable enterprises that raise funds through lottery draws, and retaining the character of society lotteries, thus remaining wholly consistent with the licensing objectives of the Act.

- 2.4 The Commission has previously advised DCMS that we have no objection to the limits being raised. We remain of the opinion that the proposed increase will not threaten the licensing objectives.

Amending the limit on prizes in linked lotteries

- 2.5 The licence condition goes on to say:

Lottery operating licences issued to non-commercial societies, lottery operating licences issued to local authorities and lottery managers' operating licences

No lottery promoted in reliance on this licence may be linked to any other lottery, free draw or prize competition.

Gambling Commission – consultation on a revision to the lottery licence condition

For the purposes of this condition:

a) two or more lotteries are linked if any of them is so structured that a person who wins a prize in that lottery will also win a prize in some or all of the others, unless the maximum amount which a person can win is no more than £200,000 in aggregate. In determining whether two or more lotteries are linked it is immaterial how many of them are promoted in reliance on this licence.

b) a lottery is linked to a free draw or prize competition if:

(i) a person's participation in, or his being allocated a prize in, the lottery is a means of establishing his eligibility to enter the draw or competition; and

(ii) the arrangements for the lottery and/or the draw or competition are such that a person may win more than £200,000 in aggregate as a result of his participation in the lottery and the draw or competition.

If a lottery, whilst not a linked lottery, has the feature that by selecting the same numbers, or combination of numbers in the lottery and in one or more other lottery or lotteries the participant in those lotteries may win prizes which, in aggregate, exceed £200,000, no advertisement for, nor other marketing of, the lottery may make any reference to that feature.

2.6 The Commission's intention here was to prevent the limits on lottery prizes being breached by linking lotteries, or by linking a lottery to a free draw or prize competition. We therefore imposed a limit on aggregate prizes that was the same as the limit on a single draw. It therefore follows that this limit should also be uplifted to the same extent as that proposed in the draft order. Therefore it is proposed that each time an aggregate prize limit of £200,000 is mentioned in the current condition, this should be increased to £400,000 if the order is passed.

Arrangements for implementing the revised licence condition

2.7 Subject to the necessary affirmative action by Parliament, the Commission would plan to publish the revised licence condition as a supplement to the LCCP. The precise date for the order to be made is unknown but it is expected to be during autumn 2008.

2.8 The Commission has recently concluded a consultation on the whole of the LCCP that may introduce changes to a number of licence conditions and codes of practice. The revised LCCP is due to be published on 1 October 2008, and will come into effect on 1 January 2009 following a three month notification period.

2.9 Ordinarily, the Commission would also give a three month notice period following the publication of a supplement to the LCCP. However, we can waive this notice period in certain circumstances and have previously implemented a change in a shorter period when none of the licensees affected by the change had any objection. In the present case, the proposed change is potentially to the advantage of the operators concerned. Furthermore, it would seem appropriate to implement a change approved by Parliament as quickly as possible after the order has been made. Therefore we are considering whether we should use our powers so that, subject to confirmation of the revised limits, the change would come into effect for lottery tickets sold after 1 January 2009. This would have the benefit for licensees that all the changes to the LCCP would come into effect on the same date.

2.10 The proposed revised provision (using the convention that deletions are struck through and insertions underlined) is:

11 Lotteries

Lottery operating licences issued to non-commercial societies, lottery operating licences issued to local authorities and lottery managers' operating licences

[The opening paragraph, on applying at least 20% of the lottery proceeds to an appropriate cause, (and which varies in some particulars between the three types of lottery operating licence) is unchanged]

The proceeds of any lottery promoted in reliance on this licence may not exceed ~~£2,000,000~~ £4,000,000 and the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence may not exceed £10,000,000.

The rules of any lottery promoted in reliance on this licence must be such as to ensure:

a) that it is not possible for the purchaser of a ticket in the lottery to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other and including any winnings arising from a rollover) more than:

- £25,000; or
- if more, 10% of the proceeds of the lottery; and

b) that membership of the class among whom prizes are allocated does not depend on making any payment (apart from payment of the price of a ticket).

No lottery promoted in reliance on this licence may be linked to any other lottery, free draw or prize competition.

For the purposes of this condition:

a) two or more lotteries are linked if any of them is so structured that a person who wins a prize in that lottery will also win a prize in some or all of the others, unless the maximum amount which a person can win is no more than ~~£200,000~~ £400,000 in aggregate. In determining whether two or more lotteries are linked it is immaterial how many of them are promoted in reliance on this licence.

b) a lottery is linked to a free draw or prize competition if:

(i) a person's participation in, or his being allocated a prize in, the lottery is a means of establishing his eligibility to enter the draw or competition; and

(ii) the arrangements for the lottery and/or the draw or competition are such that a person may win more than ~~£200,000~~ £400,000 in aggregate as a result of his participation in the lottery and the draw or competition.

If a lottery, whilst not a linked lottery, has the feature that by selecting the same numbers, or combination of numbers in the lottery and in one or more other lottery or lotteries the participant in those lotteries may win prizes which, in aggregate, exceed ~~£200,000~~ £400,000, no advertisement for, nor other marketing of, the lottery may make any reference to that feature.

[The remainder of licence condition (which varies in some particulars between the three types of lottery operating licence) is unchanged]

Consultation questions

- Q1** Do you agree that, subject to the Order for the increase being approved by Parliament, the Commission should increase the limit on proceeds from individual society lottery draws to the level set by the Order?
- Q2** Do you agree that the Commission should also amend the licence condition imposed on lotteries in respect of aggregate prizes for linked lotteries, to the same maximum prize as that set by Parliament for a single draw?

3 Consultation responses

- 3.1** Responses to the questions posed in this consultation document and any other comments should reach the Commission by 9 October 2008. We would prefer to receive your comments by email. Please send them to consultation@gamblingcommission.gov.uk. If you would prefer to post your comments please send them to:

Consultation Co-ordinator
Gambling Commission
Fourth Floor
Victoria Square House
Victoria Square
Birmingham
B2 4BP

- 3.2** When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who that organisation represents. If responding as an individual, please mention your own interest.
- 3.3** Please note that responses may be made public or published in a summary of responses to the consultation unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.
- 3.4** Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000 (FOIA). The Commission's policy on release of information is available on request or by reference to our website at www.gamblingcommission.gov.uk. The Commission will treat information marked confidential accordingly and will only disclose that information to people outside the Commission where it is necessary to do so in order to carry out the Commission's functions or where the Commission is required by law to disclose the information. As a public authority the Commission must comply with the requirements of FOIA and must consider requests for information made under the Act on a case-by-case basis. Therefore when providing information, if you think that certain information may be exempt from disclosure under FOIA, please annotate the response accordingly so that we may take your comments into account.
- 3.5** All information provided to the Commission will be processed in accordance with the Data Protection Act 1998. However, it may be disclosed to government departments or agencies, local authorities and other bodies when it is necessary to do so in order to carry out the functions of the Commission and where the Commission is legally required to do so.

Gambling Commission – consultation on a revision to the lottery licence condition

- 3.6** The implementation of the proposed change to the licence condition imposed on lotteries, set out in this consultation, is dependent upon the passing of the Order which is being consulted on by DCMS in parallel with this consultation. Subject to the outcomes of both consultations, and the passing of the Order, the Commission will issue a supplement to the LCCP as soon as possible after the date on which the Order is made. The LCCP as a whole has also recently been the subject of public consultation and a revised version is scheduled to be published on 1 October 2008 and to come into force on 1 January 2009. The Commission intends to bringing the lotteries licence condition supplement into force on the same date as the other proposed changes to licence conditions and codes of practice. A summary of responses to this consultation will also be published by the Commission.

Gambling Commission July 2008

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling, by ensuring that gambling is conducted fairly and openly, and by protecting children and vulnerable people from being harmed or exploited by gambling. The Commission also provides independent advice to government on gambling in Britain.

For further information or to register your interest in the Commission please visit our website at: www.gamblingcommission.gov.uk

Copies of this document are available in alternative formats on request.

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