

CONSULTATION: GAMBLING ACT 2005  
LICENSING AUTHORITY POLICY STATEMENT  
(ENGLAND AND WALES) REGULATIONS

RESPONSE BY THE BINGO ASSOCIATION

Background

1. Para 2.2 reminds us that the licensing policy statement should, inter alia, “provide transparency for those wishing to apply to an authority for a permission under the Act ...”. For the reasons set out later in this response, we are concerned that the draft Guidance and Regulations are not sufficiently explicit to ensure that the policy statements will give that transparency.

The Options

2. The criterion, stated in Para 3.2, against which the competing options would be judged, appears to contradict the intention of having a balanced approach to making the Regulations, as expressed in Para 3.1.
3. A crucial element of the Regulations from the industry perspective must be consistency of approach and application on the part of the authorities. By using the qualifying expression “... and to some extent” when listing consistency as a required quality for the objective, its importance is diminished to the point where it implies that it could be disregarded if the authorities so wished.
4. The Association believes that, as drafted, the objective creates an imbalance that adversely affects the needs of the industry to expect a high degree of consistency when dealing with authorities. It is accepted that authorities should reflect local attitudes in their policies, but the need for consistency of approach should be given greater emphasis so as to give the industry confidence in the system.
5. The Guidance given to authorities should provide a framework or road-map by which they can establish their policies. It is unfortunate that, in justifying its proposed course, the DCMS has offered the extreme options of a totally prescriptive approach or a totally discretionary approach for preparing and revising licensing policy statements. Realistically, neither of these is a genuine option if the objective specified in Para 3.2 is to be achieved.

The Proposed Approach

6. The Department’s preferred approach, to impose minimum statutory requirements in relation to the statements, does not, in the Association’s view, meet the objective of Para 3.2 any more than the other options did. Its minimalist approach hardly distinguishes it from the ‘discretionary’ option rejected by the DCMS.

7. In 'A Safe Bet for Success', the Government clearly expressed its aversion to giving authorities unfettered discretion to determine premises licensing issues. Yet, the draft Guidance and Regulations offered in this consultation give very little guidance and a significant degree of discretion which falls not far short of being unfettered. In the Association's view, it fails to provide the guidance required.
8. In order to give the degree of consistency which would give the industry confidence in the system, the Guidance and the Regulations should explain the form a policy statement should take and the Guidance should provide a more informative outline of the content of each of the set of principles identified in Regulation 5 of the Draft Regulations. This can be done without making the Guidance too prescriptive and still allow the authorities to use some discretion with regard the tailoring the statement to suit local circumstances and to integrating other policy initiatives. In the Association's submission, this would provide a far more balanced approach vis-à-vis the needs of both the authorities and the industry.
9. The Association notes that the Consultation Document entitled "Guidance to Local Authorities", published in December 2005 by the Gambling Commission, contains in Part 6 of that document better (but still incomplete) information about what should be covered in the policy statement. It would seem highly appropriate and sensible that that section should appear in its entirety in the Guidance issued by the DCMS.
10. The Association suggests that the proposals for publishing notices about the impending publication of a statement or revision, as set out in Para 4.7 of the consultation, should be amended so that publication in a local newspaper should be obligatory rather than optional. Furthermore, the notice and the statement or revision itself should be sent automatically to all holders of Premises Licences (or Gaming Licences in the case of the first statement).

24<sup>th</sup> February 2006