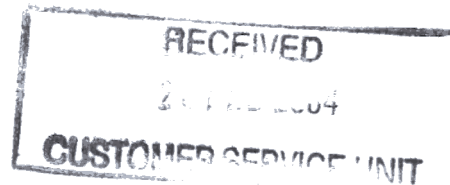




## ALDERNEY GAMBLING CONTROL COMMISSION

17 February 2004

Mr Brian Webb *Brian Webb* 20/2/04  
Devolution and Crown Dependencies Division  
Department of Constitutional Affairs  
Fourth Floor  
South Side  
105 Victoria Street  
London  
SW1E 6QT



Dear Mr Webb

### Draft UK Gambling Bill

Further to our telephone discussions on 17 February 2004, I have pleasure in confirming the following:

- Based on a policy paper prepared by the Department of Culture Media and Sports (DCMS) and subsequent discussions with officials in the Department during the course of last year, we became concerned that consideration is being given to the possible blanket prohibition of advertising by online gambling operators outside the EEA, which will include operators based Alderney.
- Considering that the intention with the possible prohibition was to protect the UK citizen from unscrupulous operators based in poorly regulated jurisdiction, the Commission, with support from the States of Alderney, made representation to the Parliamentary Scrutiny Committee and DCMS, explaining the standard of regulation applicable to Alderney licensees. Our representation is attached.
- In February the DCMS published a Supplementary Policy Memoranda to the Draft Gambling Bill, a copy of which is attached to this letter. In Policy Note 6, advertising of gambling is dealt with. From paragraphs 17 and 18 of the said note you will notice the intention to grant the Home Office reserve powers to prescribe non-EEA countries that will be allowed access to the UK market, on a case by case basis, based on their standard of regulation.

We regard this policy position as very positive as it seems to discriminate against jurisdictions with unacceptable standards of regulating while recognising jurisdictions that are well regulated.

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We should appreciate it if you could at an inter-departmental level render your support to the said position and specifically, inform the appropriate departments within government of both the standard of interactive gambling regulation applicable to Alderney and the economic implications, should Alderney licensees not be allowed to advertise in the UK. We are most willing to assist you in every possible way.

Your assistance in this regard is highly appreciated.

Yours sincerely,



André Wilsenach

*Chief Executive Officer*

Copy: Mr. David Jenkins, States of Alderney.

# Memorandum

**To:** The Joint Committee of Parliament on the Draft Gambling Bill, UK  
**From:** The Alderney Gambling Control Commission, British Channel Islands  
**CC:** Department of Culture, Media and Sports, UK  
**Date:** February 17, 2004  
**Re:** **Draft Gambling Bill: Remote Gambling**

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## 1. Introduction

1.1. The Alderney Gambling Control Commission was established 3 years ago by the States of Alderney to regulate remote gambling. The Commission is an independent and non-political body, consisting of a Chairman and three members, with extensive international experience of gaming, regulation licensing and finance. Three members of the Commission are based in the UK. A short CV of the members of the Commission is set out in Appendix A. The activities of the Commission are supported by its own Inspectorate, directed by the CEO of the Commission. Details of the activities of the Commission can be found in the attached Annual Report for 2002.

1.2 On the basis of the legislation enacted by the States of Alderney, the Commission has positioned itself to offer a regulatory environment that is likely to attract those operators who seek a comprehensive and tightly controlled regime. This is not what is typically offered elsewhere in the world. There are currently about two thousand internet gambling sites operated by approximately 350 operators from jurisdictions other than Alderney, of which only a handful are regulated in any meaningful way.

- 1.3 The Commission currently regulates ten licensees, of which most are probably known to the Committee, and who are subsidiaries of well known and reputable land-based gambling operators elsewhere in the world and include companies such as the Ritz, Rank, SkyBet and Attheraces, which are based in the UK, PaddyPower, which is based in Ireland as well as The Venetian, WagerWorks and Harrah's, based in the USA.
- 1.4 The Commission is a member of the International Association of Gambling Regulators (IAGR), the International Masters of Gambling Law (IMGL) and the Gambling Regulators European Forum (GREF), where it participates with the Isle of Man as an associate of the Gaming Board for Great Britain.
- 1.5 It is relevant to mention that at the last meeting of IAGR, the Alderney Commission was asked to take the lead in establishing a Working Group on remote gambling, which will identify and comment on regulatory issues. We anticipate that the Gaming Board for Great Britain will join this group.

## **2. Proposed Remote Gambling Policies for the UK**

- 2.1 After three years of experience of regulating remote gambling, the Commission welcomes the decision by the UK Government to allow regulated remote gambling and also endorses the proposals contained in both the Draft Bill and The Policy underlying the Draft Bill, which were published in November 2003.
- 2.2 In particular, we support the following principles, which are substantially incorporated in our own regulatory framework:
  - The regulation rather than prohibition of both the operation and playing of remote gambling games;
  - Protection of customers against operators who may be subject to less stringent regulation;

- The introduction of measures to prevent children gaining access to gambling sites;
- The introduction of licence conditions to protect the vulnerable;
- Agreeing standards with other jurisdictions to facilitate cross-border gambling; and
- Maintaining high standards in respect of remote gambling systems, processes and operations.

2.3 We note that the Draft Bill and The Policy do not make specific provision for the approval of system and software providers. This seems to be a material omission. The providers of software in the remote gambling industry can best be compared with the manufacturers and suppliers of gambling machines of terrestrial casinos. The significant difference is that a gaming machine only affects a small part of the casino operation, while remote gambling software in effect constitutes the whole casino. It is the software providers who develop and maintain software which ensures the games are fair and that the systems are secure and auditable. Furthermore, it is common practice in the remote gambling industry for casino operators to contract with software providers to operate their casinos on a revenue sharing basis.

Therefore, although we recognize the intention of the UK Government to test the software that will be used in remotely operated casinos, we suggest that consideration should also be given to the licensing of software and system providers to ensure that they are 'fit and proper'.

### 3. Advertising by remote gambling operators outside the UK

3.1 Although the Draft Bill and The Policy do not contain any specific provisions indicating the final position of the UK Government in respect of advertising by operators based outside the UK, we understand from discussions with DCMS

that consideration is being given to the possible prohibition of advertising by operators outside the EEA.

3.2 From our discussions with DCMS it seems that the most important consideration for introducing such a prohibition relates to the protection of UK residents from remote gambling operators that are subject to less stringent regulation.

3.3 We fully support the principles of both the proper regulation of remote gambling and the protection of the UK resident. However, we respectfully request that in finalizing the UK policy and legislation on advertising by non-European operators, consideration be given to the following:

- Alderney, as is the case with the other Channel Islands, is not a member of the European Union. Alderney has a relationship with the European Union which is governed by Protocol 3 to the UK's Act of Accession, which relates principally to trade in goods.
- Alderney has over the last three years established itself as a 'first tier' remote gambling jurisdiction. This is evident from both the status it enjoys within the international regulatory community and the quality of companies that have already sought and obtained licences.
- Alderney is actively engaged in the regulation of remote gambling based on the very same principles which are proposed for the UK.

4. If invited to do so, the Commission would be most willing to provide oral evidence to the Committee on any of the matters covered in this memorandum and indeed would welcome the opportunity to share in more detail our experiences in regulating the remote gambling industry.

## **The Commission**

## **Appendix A**

The Commission is chaired by **John Godfrey**, who is a specialist in gambling regulation. He was consulting accountant to the Gaming Board for Great Britain for almost 30 years. He was also an adviser to the Government of The Bahamas and an expert witness for the Metropolitan Police for much of the same period.

**Raymond Birdseye** was President of Barclays Bank Corporate Division in North America for a number years before joining the Board of the Civil Aviation Authority (CAA), where he was the financial regulator for United Kingdom Airline Companies and Air Travel Organisers Licences. Additionally, he was Chairman of the CAA Audit Committee and several other committees.

**John Buggy** has recently joined the Commission. He is a qualified engineer and Chief Executive Officer of Alderney Electricity Ltd. In addition to his general business experience, he was closely involved in the early legislation to permit electronic betting on Alderney and understands the economic and social needs of the Island.

**John Clitheroe** was senior partner of Kingsley Napley, a prominent firm of London solicitors where, in addition to a distinguished career in litigation, he was an expert on licensing law. He is now an international law consultant and lecturer on gambling.

**André Wilsenach** is the Chief Executive Officer of the Commission. André had been engaged in the regulation of gaming in South Africa for ten years, initially as a management consultant establishing the regulations and methods of operation of regulatory boards. He then served on both provincial and national boards, and was Chief Executive of a company set up to test electronic systems used in gaming equipment.