



interactive gaming, gambling
and betting association ■

Friars House, 157-168 Blackfriars Road
London SE1 8EZ, UNITED KINGDOM
(Tel): +44 (0)20 7620 2770
(Fax): +44 (0)20 7928 5850
info@iggba.org.uk
www.iggba.org.uk

iGGBA Response to the UK Draft Gambling Bill

28th February 2004

Major Themes

- .0 The interactive Gaming, Gambling and Betting Association welcomes the publication of the UK Draft Gambling Bill and agrees with its intention to provide a remote gambling license. iGGBA has been very supportive of the efforts to modernise the gambling market in the UK, particularly the emphasis to reconcile gambling regulation with modern technology.
- 2.0 iGGBA agrees with the Bill's purpose of creating a proper UK regulatory framework by issuing a set of regulations and conditions for a remote gambling licence. Remote gambling is the only gambling segment currently unregulated in the UK and this Bill will bring such laws up to date with new technology and communications platforms. This will have the affect of enhancing consumer protection and social responsibility for such services.
- 3.0 iGGBA believes that the Bill strikes the right balance between wanting to bring remote gambling within the regulatory sphere while assuring that such an industry can operate in the UK. The approach by the Bill to provide flexibility in adopting new technologies, licensing the use of such technologies and advancing new services is welcome by iGGBA.
- 4.0 The Association recognises that the prohibition of remote gambling is not an option as this would only encourage sites to be established in other jurisdictions with less rigorous standards of regulation. Prohibition would not be able to limit the ability of UK citizens from accessing remote gambling sites. In this light, it is encouraging to see that the Bill recognises this basic tenet and seeks to provide a licence to establish a level of protection for consumers and probity for the industry. One particular note is that the Salvation Army has reiterated the same need for regulation in the UK.
- 5.0 iGGBA recognises the responsibility of the industry to uphold the three principles outlined by the Government in the Draft Bill. To this extent, iGGBA has adopted its own internal Code of Conduct as well as having concluded a substantial Code of Practice with Gamcare, the social responsibility organisation. The latter Code of Practice is the most far reaching of its kind and addresses key issues of age identification, socially responsible gambling and consumer protection.

- 6.0 iGGBA believes the remote gambling licence, without prejudice to taxation and regulation levels, will have a positive impact on job growth, tax revenues and overall technological development in the UK. It is important for the UK, in areas like broadband take up, to encourage the development of content driven services and a remote gambling licence will have positive effects on these public policy objectives. iGGBA has released a impact statement which shows increased levels of inward investment, job creation and tax growth.
- 7.0 iGGBA believes that the UK must have an effective tax regime to encourage offshore operators to locate to the UK. The tax regime must take into account the aspects of the global market and thus any regime should be competitive with existing regimes in other countries. If such a rate is advantageous compared to other regimes, the UK has a great opportunity to attract a large segment of the market which will positively impact the country in terms of job growth, tax revenue and technological advancement. The Association is not convinced that a “UK Kitemark” will mean much to consumers and therefore provides little value to operators. This is also the case with advertising now that the recent guidance has now ruled out restricting advertising to licensed operators as a means of adding value to a UK licence.

It is very important to distinguish between the remote gambling markets with the high street shops and land based casinos. These are two different markets composed of two different customer requirements and are complementary, not substitutional. It must be remembered that remote gambling will not disappear if it is not regulated in the UK.

We note the remarks from Treasury Minister John Healey MP that the Treasury is concerned with distortion, displacement and the substitutional effects that a tax rate lower than that for land based activities might have; that land based operators might change modes of play in order to classify some of their revenue as “remote”. iGGBA believes that this risk can be entirely mitigated if the tax for land based casinos is levied on any gaming and/or betting activity where the customer is present on a licensed premise.

Therefore, the Treasury should only consider the global competitive market when determining a tax rate. Any comparisons and rate setting to land based tax regimes are fundamentally flawed in this regard.

- 8.0 The Association believes that the success of any remote gambling licence will rest on the interpretation of this Draft Bill by the Gambling Commission and the drafting of such regulations by the Commission following adoption by the Bill. iGGBA would like to see the measured content of the Bill prescribed in the actual regulations.

Draft Bill comments

- 9.0 iGGBA agrees with the definition of remote gambling in Article 1, point 3 but would encourage the Government to establish a transparent system of determining whether a technology platform comes under the definition of remote gambling. In order to develop new services, the Association believes that new technology should be encouraged.
- 10.0 Much of the responsibility of operating licence should rest on the personal and fit and proper licence. By standardising these requirements across the three levels of the remote gambling licence – betting, gaming and lotteries - it will make it easier for companies to offer a multitude of services to customers. And by underpinning the licence on these two items, the ability to adapt operating services to the market is enhanced. iGGBA recognises the fact that a level of regulation must be administered in this sector. By relying on the probity of the operating company and the personal licence, major regulatory hurdles can be avoided that would make it impossible to operate in the UK.

- 11.0 iGGBA members wishing to obtain all three remote gambling licenses should be able to do so without burdensome requirements that would limit their ability to offer a multi-service offering (betting, gaming and lottery). It is unclear what the extra requirements would be for each licence. Proving financial and technical expertise and additional testing compliance measures must be measured to insure that the remote gambling licence does not effectively become three different licences by virtue of differentiated requirements.
- 12.0 iGGBA welcomes the establishment of a Gambling Commission (Article 2, point 12). However, iGGBA would strongly encourage the early establishment of the Commission in order to provide licences at an early a date as possible. iGGBA is concerned that the delay in obtaining licences will deflate the UK's ability to capture the advantages of remote gambling licences. iGGBA is particularly concerned with any phasing in of licences as the continual delay will only deter remote gambling companies from locating in the UK. Recent discussions on a staggered award of licences cause concern among members that licences will take too long to be granted.
- 13.0 iGGBA welcomes the formal consultation guidelines on Gambling Commission policy including principles and Code of Practice (article 2, point 15 (5); Article 1, point 16 (7)).
- 14.0 iGGBA is gravely concerned about Article 3, point 31 which stipulates the ability of the Secretary of State to determine which countries an operator may not take bets. iGGBA believes it is the operators responsibility to obey the laws of other jurisdictions and that once an operator has a UK license it is free to provide such services globally. The liability of obtaining bets from other jurisdictions is the business of the operator and international treaty obligations.
- 15.0 iGGBA is concerned about the interpretation of Article 4, point 34 which addresses gambling advertising in relation to children. iGGBA whilst supporting the wholesale restriction of gambling to under 18's, notes that often advertising medium are of such a nature as to be visible to under 18's. It is unclear whether this would mean a potential liability for the operator. Point 4 and 5 are unclear about advertising an internet site for use by over 18's if such advertisement can be seen by under 18's. Advertising should restrict the element of invitation to play for under 18's, but the posting of a web site should not imply an offence under the Act. iGGBA has already taken a robust position on advertising on television with the publishing of the advertising policy.
- 16.0 iGGBA is concerned about Article 5, point 2 which indicates that the Gambling Commission will not provide a unique remote gambling licence. Operators provide a mix of casino, gaming and betting options to consumers. To obtain all three licenses and their remote gambling extensions would be an undue regulatory burden on remote gambling operators. It is also unclear whether a remote gambling licence for multiple games could only be made available under a casino operating licence (Article 5, point 54 (4)). Most operators wish to offer a variety of games across the gambling spectrum and having to obtain multiple licences would delay the start of services and cause regulatory gridlock when having to comply with different sets of regulations. iGGBA would advocate a single remote gambling licence which could be expanded (a tick box system) to cover the different activities (gaming, betting, betting intermediary). The add on compliance measures should demonstrate expertise in the various sectors, but not be so burdensome to effectively be three different licencing tests.
- 17.0 iGGBA is concerned about the vagueness surrounding which companies will be required to seek an operating licence, particularly companies involved in the provision of services but are not the actual operator. For instance, there seems to be no clear indication of which companies would require an operating licence for the provision of software to operators for remote gambling services. iGGBA is of the view, in principle, that a company that has a

commercial interest in the outcome of the game or have access to the RNG should be licensed.

- 18.0 iGGBA supports some sort of system of testing for the RNG and other areas directly related to the outcome of the game or the accuracy of the data collected and stored in a database. However, we would still suggest that a licence be predicated on the passing of the fit and proper test and personal licence test for the application. Approval of equipment, games and other compliance factors should only be considered with a regard to the proportional benefit of each regulation.
- 19.0 iGGBA is concerned about Article 5, point 64 (7) which allows a licence to be arbitrarily amended for any number of items, particularly restricting means of communication which previously were acceptable under Article 1, point 3. Such uncertainty will make it more difficult for offshore operators to take up a UK licence.
- 20.0 iGGBA is concerned about the change control mechanism under Article 5, point 81 (6) which allows the Gambling Commission to determine when a variation to the licence may take effect. iGGBA feels that if the holder of the operating licence has passed the fit and proper test and hold a personal licence then the variation should be permitted during the time of Commission amendment of the licence or approval of the variation within the licence.
- 21.0 iGGBA is concerned about the process of appeal to decision by the Gambling Commission. In the case of the draft Bill it seems that the Commission acts as both judge and jury for determining violations of the licence. In this case there should be a system in place which does not force a shutting down of an operation without some sort of independent investigation into the alleged breaches.
- 22.0 Under Article 5, point 70 (2), stipulates that remote gambling equipment must be located in Great Britain. iGGBA is concerned that many ancillary technology requirements such as “on the edge” and game download servers, call centres and bank processing are not core to the game determination and thus should not be required to be situated in Great Britain. iGGBA has stated that the “primary determination” server should be located in Great Britain where authorities have access to the logs and player database, but not a requirement for all equipment involved in remote gambling to be located in the country.
- 23.0 iGGBA would wish to clarify the position within the draft Bill on credit play and positive incentives for adults to visit and play on the sites. It is rather unclear about the legality of allowing various marketing methods such as credit play, free play and other mechanisms.
- 24.0 iGGBA is also very concerned about the timing. The Policy document from the DCMS states that the Gambling Commission may have to phase in the licence schemes. Any more delay will only defeat the Government’s purpose of insuring companies relocate to the UK for remote gambling purposes. iGGBA strongly advises that remote gambling licences should be made available as soon as possible after the coming into force of the Bill.
- 25.0 In summary, iGGBA is pleased with the Draft Bill which reflects the position set out by the government in the Remote Gambling Position Paper. The provision of a UK remote gambling licence will go a long way in securing a proper regulatory environment, protecting consumers and accruing benefits to the UK in terms of jobs and tax revenue.

END