The Gambling Business Group

Response to the Proposals for changes to Gambling Commission fees from 1 October 2021.

Date submitted to the DCMS – March 25th 2021.

Introduction;

The Gambling Business Group (GBG) welcomes the opportunity to contribute to the consultation process regarding proposed changes to the Licence Fees charged by the Gambling Commission to cover their regulating activities.

The GBG represents a group of businesses with interests in the Gambling Sector in Great Britain. Members include online operators and service/product providers, betting office operators, AGC operators, family entertainment centre operators, operators of licenced bingo premises and suppliers of services, products and legal advice to all of the above. Subsequently, the GBG is unique in being able to provide a holistic view of the whole of the gambling sector without becoming partisan about any one particular segment of the Industry.

In this regard, the fees proposals put forward by the Gambling Commission causes a dilemma straight away, in that the basis of their rationale for a considerable uplift in fees is based upon their premise that the online sector has become far more demanding to regulate than they had anticipated. Yet there are also increases in fees proposed for the non-online areas which are currently in ‘dire straits’ following forced closures due to Covid-19. The land-based proposals appear to be badly judged at a time when all premise-based gambling operations have been closed for the majority, if not all of the last 12 months with zero revenues. The regulator has had very little to regulate from a land-based perspective during this period.

Whilst the Commission does make the claim that its income has been impacted by Covid-19, they have been enjoying the benefits of the Job Retention Scheme whilst still demanding Licence Fees as if Covid was not happening. Appearing to be completely dispassionate about the situation that many licenced operators are in, the Commission is now expecting premise-based operators (who have been far more deeply impacted by Covid regulations) to make up some of their revenue gap.

We at the GBG are aware that the Gambling Commission has restructured a number of times in recent years. More recently, we are aware that the number of field-based personnel has been reduced dramatically and that other posts have been made redundant too. Unfortunately, the Gambling Commission are not transparent (below Director level) with their organisational structures, which makes it impossible for anyone not within the organisation to have a constructive view on their people strategy (clearly their largest overhead). We are also advised that those within the organisation are not much better informed regarding their own organisational structure.

One of the most important requirements for the collective Gambling Industry in Great Britain to be successful is for it to be presided over by an effective and adaptable Regulator. We have a number of concerns that the Gambling Commission for quite some time now has not been fulfilling it's obligations in the Regulators' Code. We believe that if it was, then it would be far more effective at Regulation and it's reputation in all quarters would improve accordingly. It is in this regard that we believe that there is inadequate oversight and Governance of the Gambling Commission and its direction of travel. Regulation is its core purpose and function, yet the leadership have allowed themselves to be dragged into the political arena and used disparagingly by those who wish to curtail gambling for all. Whilst we are aware that the leadership at the Gambling Commission is currently in a change process, it would be disappointing if the mistakes of the recent past were not learned and taken on board by Government, the DCMS and by the incoming Senior Team.

There is of course one very easy way to instantly ramp up the Gambling Commission's understanding of the Industry whom it regulates that would also add to their Governance in terms of maintaining focus on their core purpose, whilst also ensuring that the knowledge about gambling as a set of products is vastly improved. This would be through the appointment of Commissioners with Industry knowledge and experience (at a senior level). This additional knowledge and insight would prevent the recurrence of events such as those recently seen with Football Index, and also give the Board of the Gambling Commission additional confidence of their convictions. These appointments would also bring a level of 'business acumen' to the Board of the regulator, which would help with efficiencies and transparent accountability for the monies being spent. Needless to say, there is no shortage of candidates for such appointments, it simply requires the will and wisdom to accept help and support from 'industry experts' where it is clearly much needed.

The GBG's conclusion therefore is that the majority of the Gambling Commission's current issues can be resolved relatively quickly through more effective and efficient management of the organisation and its existing resources, along with a refocus back to their core function of 'regulating gambling in Great Britain'. We would not agree that the huge increases in licence fees being proposed can be justified until first, the regulator is being run efficiently and effectively.

This brings us to the three 'Key elements' of the Commission's proposals;

Increased technological developments (GC's challenge 1):

As we have mentioned above, the Gambling Commission has been less than transparent regarding its structures and reporting lines. Even job titles used within the organisation give very little away regarding their role and functions. In the same vein, the justifications for the increases in 'specialist technical staff' are vague and unspecific, a request which any commercial business would dismiss as not-thought-through. The GBG has said on many occasions that the Gambling Commission's reluctance to employ anyone with Industry knowledge and experience is to their own detriment. Similarly, their knowledge gap could be so much reduced were they to bring themselves to work more collaboratively with the industry. The industry's specialist knowledge and expertise are a key resource available to the Commission without necessarily having to employ them. This is another area where the leadership of the organisation is not making the best of the opportunities and resources that are right in front of their eyes. Whilst some meetings between the Commission and Trade Bodies have been taking place, it is noticeable that what were once regular sector meetings between operators (those whom they regulate) and the Commission have effectively stopped. The GBG's Members would welcome their reinstatement which would in turn open back up a source of knowledge and information that the regulator is clearly missing out on.

Other industries in the UK have good crossover of staff between regulator and industry. Similarly, other jurisdictions (including Nevada) have a crossover of employees between industry and their regulator. We continue to support this principle as the learnings gained are not just with the individuals, but with those whom they work alongside and any ensuing processes too. This is also a very effective way of influencing cultural change. The GBG is minded of the gap in salary bands offered by the Gambling Regulator compared to similar level roles within the Industry. This gap would need to be addressed. If this were to be put forward as the basis for an increase in Licence Fees, it would be far more readily accepted by 'those whom they regulate' as a progressive step. An alternative way around this would be to set up a 'secondment scheme' where key people could be transferred from the regulator into the Industry for a fixed period as part of their personal development – and vice versa. Improving the quality of the regulator via this type of resourcing will only improve regulation and reputations for all.

If the Gambling Commission could bring themselves to be more transparent and open about their recruitment strategy and people development (including the details of job descriptions and roles) the industry would be able to assist, including through identifying suitable candidates for posts and secondments or temporary development posts (from all stakeholder groups).

Focus more on international regulatory agenda (GC's challenge 2):

The GBG is struggling to understand why a Regulator of activities in Great Britain is taking it upon itself to adopt an 'international regulatory agenda'. It may be true that the larger operators are now more global, but they are separately licenced and regulated in those other jurisdictions in which they operate. What is the detail of the international work that justifies any cost increases here? No 'evidence' appears to have been provided by the Gambling Commission to support this proposed policy change. The consultation support document also states that more resource is needed to interrogate and understand complex structures. We find this statement bizarre when all the Commission has to do is to simply ask operators for the additional information they require and then properly engage on areas that they may not fully understand.

Rising black market (GC's challenge 3):

The GBG will not be the only organisation who is struggling with the logic being displayed by the gambling Regulator here. Just last year when defending 'affordability checks' and their potential to push gamblers towards the black-market, the CEO of the Commission said that "there is no great sense of a burgeoning illegal market" and more recently that he was "not convinced" further regulation of the licensed market could send customers to the black market. The implied accusation being that the industry has been overstating the size and risks associated with the black-market including unhelpful suggestions that their 'industry funded research' was unreliable. Anyone reading the dialogue will understand this confusing position for the Regulator to take, saying there is a need for more money to tackle a 'rising black-market' which the Gambling Commission believes does not even exist. This is far from an 'evidence-based approach' to regulating gambling - another area where oversight and strategic direction appear to be missing.

The GBG is fully aware that the black-market is ever present and will continue to morph in order to avoid being shut down completely. It is worth noting that this area is very complex and not just a risk to the Gambling Commission and the vulnerable. The black-market is a threat to the wellbeing of Licenced Operators too, and we believe a far more collaborative approach to tackling the black-market would be much more effective and efficient. But the Gambling Commission need to bring themselves to engage with the Industry more effectively and collaboratively. We know the following;

- In the USA the black market is thriving, despite the introduction of the Unlawful Internet Gambling Enforcement Act and the heft of both the FBI and Department of Justice with the power to enforce it.
- Not even the twin powers of the Ministry of Public Security and the People's Armed (State) Police in China have made inroads into their online black market – the largest in the world.
- In the Gulf states where there is much control of civil liberties including all access to the internet, little has been done to stop the rise in local black-market activity there.
- And closer to home in Europe, the Director General of the Swedish Chamber of Commerce has recently acknowledged that the "tools the authority has today to counter illegal gambling are not sufficient..." with the Ministry of Finance there launching an inquiry into the black market.

This is a collective problem requiring input and a cohesive approach from a wider group of stakeholders, include those outside of the gambling arena. The Commission should take the black-market threat far more seriously than they appear to be doing. Keeping crime out of gambling is of course one of the Licensing Objectives after all. It needs a much stronger approach than simply proposing to spend a further £300,000 a year if there is to be any material impact.

This also begs the question whether this is a cost that should be fully born by bona fide Licenced Operators who act within the law, particularly when it comes to the cost of prosecuting unlicenced criminals. Fighting crime in gambling should not be and is not the responsibility of the Gambling Commission alone, neither should be the funding of it.

Consultation question 1: Do you agree that annual fees should be increased in line with the proposals set out here, in order to enable the Commission to meet the challenges it has identified?

GBG Response;

The GBG has explained above why the Gambling Commission's proposals for a huge increase in Licence Fee's is far from robust. It becomes clear upon evaluation of the proposals that there have been directional leadership and management issues over recent years that have led them to this difficult point where change needs to happen. We believe that the change required is to their strategic approach to regulation, not simply by increasing financial resources which will only lead to an amplification of the prevailing issues.

Last year we explained why we believe that the Gambling Commission was not underfunded then, nothing of which has materially changed today. Before the onset of Covid -19, the Gambling Commission's own statistics (published in May 2020) show the Industry they regulate is shrinking (not expanding), which we believe is very relevant as things will have only got worse since the start of the lockdown.

- Total number of licensees declined by 23% in the decade between 2009 and 2019
- Total number of licensed premises declined by 21% (2.562 fewer premises to oversee) between 2012 and 2019
- £14.3bn – Gross Gambling Yield (GGY) of the gambling industry in Great Britain (GB) (Oct 2018 – September 2019) (0.5% decrease from Apr 2018 – Mar 2019)
- 9,745 – total number of premises in GB (September 2019) (9.6% decrease from March 2019)
- 7,315 – number of betting shops in GB (September 2019) (12.1% decrease from March 2019)
- £2.5bn – GGY for gaming machines in GB (October 2018 – September 2019) (11.8% decrease from April 2018 – March 2019) (excludes those requiring only a local authority permit)
- £624m – GGY for category B2 machines in GB (October 2018 – September 2019) (46.4% decrease from April 2018 - March 2019)
- £1.3bn – GGY for category B3 machines in GB (October 2018 – September 2019) (18.5% increase from April 2018 - March 2019)
- £1.1bn – GGY for land-based casinos in GB (October 2018 – September 2019) (0.6% decrease from April 2018 – March 2019)

This is not a set of statistics that supports an increase in the size of the gambling regulator.

Over this very same period of time the Gambling Commission's head count has been increasing. These numbers are taken from their own annual reports;

- 2014-15 286
- 2015-16 290
- 2016-17 300
- 2017-18 300
- 2018-19 355

There has been a 24% increase in headcount within the Gambling Commission against the backdrop of those they regulate being in considerable decline, before any Covid implications are taken into account.

It does beg the question as to whether the gambling Regulator is effective at managing the resources they already have at their disposal. Their lack of transparency (explained above) does little to help understanding.

The Commission states that its income has reduced due to closure of premises and due to a smaller number of operators as a result of merger activity. The Commission acknowledges that it has re-structured in 2021 to make efficiency savings but is now wanting to increase staff numbers again to "effectively regulate going forward". The evidence shown above actually proves that this increase in staff numbers has already happened with its head-count rising from 286 to 355. We have yet to see or understand what the impact of the alleged 'efficiency savings' are as no evidence has been provided to this effect. However, we are very aware that the number of site visits and the number of inspectors and technical experts working on land-based regulatory issues has reduced considerably, which logically should be reflected as a reduction in the land-based Licence Fees.

The timing of these proposals couldn't be worse. Despite the above, the Commission are proposing a locked-in fee increase which cannot be unravelled in the future without further consultation. No one, including the Commission, knows if this sector will indeed recover or how long it will take to get back to previous levels. We propose that any suggestions for fee increases for the non-remote sector should therefore be put on hold until the non-remote sector has stabilised, and an educated view can be established as to what permanent structural changes may be relevant (i.e. channel shift to remote) in the post Covid-19 business environment.

Consultation question 2: Do you agree with the proposals to increase the additional flat fees for licences that combine remote casino, bingo and/or virtual event betting (RNG licences), and the flat fees for those that combine host licences?

GBG Response;

We do not agree with these proposals because we do not understand the logic behind them.

The Commission notes that the flat fees have not increased since 2009, but it is worth pointing out that the fee bandings for the total GGY generated across these activities has done so by significant amounts. For example, some of largest remote casino operators have seen an almost 286% rise in their banding – from 01/04/2012 operators with GGY of £500m or more paid £155,425 per year. Versus under the current proposals, operators with GGY of between £550m and £1bn are due to pay £599,979.

The concept of flat fees where operators combine licences appears to be obsolete and should be removed. Operators already pay the principal annual fee amount (based on the total GGY generated across the casino, bingo, and virtual betting activities) and logically, this amount should adequately cover any costs the Commission has in regulating these types of licences.

It transpires that the majority of case work carried out by the Commission's representatives in respect of AML or Safer Gambling issues are with operators who have multiple product types. This therefore means that the risks are universal irrespective of whether a game is presented as a bingo, casino, or virtual offer. We do not therefore understand how these flat fees (in the Commission's words) "better reflect the costs of regulating these types of licensee"?

Consultation question 3: Do you agree with the proposals to remove the 5% annual fee (and first annual fee) discounts for other types of combined licence, and the 5% annual fee discount where both non-remote and remote licences are held?

GBG Response;

The GBG cannot support this proposal. It is our Member's view that there are efficiencies of scale to be gained through regulating multiple license holders, particularly where the licenses correspond to activity in the same sector. The unintended consequence of the discount being removed would be a further increase in license fee for land based Licencees.

That said, the GBG would welcome more logical proposals with the objective of simplifying the fees structure and reducing administration costs regarding licensing at the Commission. We believe that the number of licence options available should be, and can be reduced and simplified. However, it is worth noting that the Commission themselves created the current complex licensing system with numerous licence options available. It is therefore within the Commission's gift to resolve these issues rather than charging operators more to maintain a complex licensing arrangement. Perhaps a more engaging dialogue with the industry in this regard would product better thought through proposals. It is noted that many other gambling regulators, particularly for remote sectors, have licensable activities within a simple B2C, B2B and software supply arrangement which seems to work well.

Consultation question 4: Do you agree with the proposals to introduce additional fee categories for society lotteries and ELMs that generate (or manage) greater than £10m proceeds per annum?

GBG Response;

No comment, other than this sector should have its own compartmentalised specialists within the Regulator's structure that should be very easy to clearly justify and quantify against the number of licencees. In terms of transparency, it would be helpful to see the costs for this specialist resource being totally covered by the licensees whom they regulate, along with a reasonable proportion of the senior Gambling Commission Team's overhead.

Consultation question 5: Do you agree with the proposal to increase application fees to better reflect the costs involved in processing applications?

GBG Response;

The GBG does not agree with the proposed increases in processing applications by 60%.

The experience of GBG Members is that applications are unnecessarily prolonged by the fact that applicants and/or their agents are having to deal with officers who do not seem to read the actual application documents at the start of the process. The alternative possibility to this is that Gambling Commission officers do not fully understand Gambling Licensing or indeed, what they are actually dealing with. As a result, they then send out reams of questions about the application, which takes considerable time for all parties to process. In our experience there is an efficiency issue prevalent in the Licence Application process at the Gambling Commission. It is clear that if officers read and fully understood the applications they are employed to deal with, the whole process would be more efficient and far less demanding on their resources.

Regarding the Commission's claim that there are extra checks and associated costs required over and above those currently in place - the consultation proposals do not give enough detail or 'evidence' as to exactly what the Commission believe they need to carry out, not least to justify their proposed fee increases of 60%. We are not therefore in a position to support such an uninformed proposal.

There are clearly inefficiencies in the current processes that have been explained above. We regard this as a management issue that should be resolved within the current fees structure. When things are running efficiently, the Commission by then should have evaluated properly what additional checks they believe need to be carried out, defining more clearly the cost and benefits of doing so, and then calculating how much of this can be done within the current fees structure. This is a basic (cost evaluation) management process that any conscientious business should follow.