

# Briefing

## Gaming Team

### UPDATE ON GAMBLING COMMISSION DRAFT CODE OF PRACTICE, GUIDANCE ON ADVERTISING BY REMOTE OPERATORS AND REMOTE GAMING TAX RATE

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The Gambling Act 2005, enacted in April of last year, modernised and consolidated the law of gaming, gambling and betting in the UK and makes the UK the first major country to legalise and licence online gaming. The Act introduced a new Gambling Commission to consolidate the functions of several previous regulatory bodies including the Gaming Board of Great Britain. The Gambling Commission has now been established and will move its temporary offices in London to its new offices in Birmingham in the summer of 2006.

The Gambling Commission is now in a period of developing regulations and policy with respect to implementation of the Act. It has been holding consultations with the public and industry on various issues to assist it in this process.

#### Draft Code of Conduct

On 10 March 2006, the Commission published a draft of the new rules which will govern British gambling in the future. The Commission's draft Licence Conditions and Codes of practice sets out a number of new rules designed to combat problem gambling.

There are several key provisions that affect remote gambling operators. All operators will be required to have published policies and procedures for promoting socially responsible gambling. Online gaming operators must make information about



responsible gambling and help available to problem gamblers accessible on their home and login pages. Operators will have to make sure that customers are aware of how much time and money have been spent on their sites. In addition, operators must carry out random credit card checks, and filtering software must be made available to allow adults to block access by children and young people. Key staff such as managing and finance directors must be licensed by the Commission. The rules of games, odds, house edge and average return to the player will need to be clearly displayed, and operators will need to have well publicised complaints procedures which include an external, independent element.

## Guidance on Remote Advertising

The Gambling Commission in conjunction with the DCMS, in response to its concerns about abuses by remote operators in advertising of remote gaming and the industry's requests for more clarity and guidance, also recently published guidelines for advertising of remote gaming. These guidelines are based on the current law, section 42(1)(c) of the Gaming Act 1968. The current law will continue to apply until new regulations under the Gambling Act 2005 for advertising are developed and implemented, which is not expected to be until September, 2007.

The view of the Commission in the remote advertising guidance is that the existing law permits remote gaming advertisers only to give information about its services, but not to invite the public to gamble through any inducement, enticement or encouragement. In its view, such invitations would include a bonus or benefit offered to taking part in gaming or submitting money for use in gaming. So purely factual information such as setting out the URL where an online casino website can be found (such as the 888.com advertisement on Middlesbrough team shirts) would not run afoul of the law, while advertising that offers free play or bonuses would be considered illegal. There are still many types of advertising that could be construed either as being factual information or inviting the public to gamble so the guidance has not done much to remove the ambiguity of what is legal and what is not and the industry will continue to be dogged with uncertainty.

## Tax on Remote Gaming

Finally, there will be a further wait for the Treasury's position on the tax rate to be applied to remote gaming operators. At the Budget Report released on 22nd March, 2006 the Treasury indicated it would defer a decision on this until next year. This decision is met with some relief by many in the industry, who would prefer to continue to have discussions with the Treasury about viable tax regimes for remote gambling in the UK over the coming months rather than have a 15% rate immediately applied.

## Further Information

For more information and any other gaming related issues contact:

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This briefing note is intended merely to provide a summary of the law in this area and is not a comprehensive guide. It is not intended to provide legal advice for specific cases. Note: The law and practice in this note is stated as at March 2006.