



All Members

27<sup>th</sup> March 2020

Dear Member

**Re: Regulatory Advice – Coronavirus**

As discussed at yesterday's Board meeting of the BA's Executive Council, please find below some regulatory advice provided on behalf of the Association from Nick Aaron, of Poppleston Allen LLP;

Annual Fees

During the crisis members do not need to pay Alcohol Premises Licence annual fees which full due. The licence will be suspended following non-payment, and members will be able to make the payment prior to re-opening their bingo premises. Members should communicate their intentions to the Licensing Authorities.

The mechanism of the Gambling Act is different from the Licensing Act; the legislation requires Licensing Authorities to revoke a Bingo Premises Licence if the annual fee is not paid. As I mentioned on the call, I suggest you talk to your Licensing Authorities as some may be pragmatic about the timing of the payment. I know from our experience we have come across a number of operators who haven't paid annual fees, sometimes for a number of years, and rather than them revoke the Premises Licence, the Licensing Authorities have allowed the operator to make the payment.

When it comes to the Operating Licence, the message from the Gambling Commission is that they will require payment. Again, historically, particularly in the early years of the Gambling Act, the Gambling Commission was pragmatic in their approach, and I can think of a number of incidences where we dealt with matters where the operator had failed to pay, sometimes for a number of months. More recently, as we know, the Gambling Commission has been less pragmatic in their approach to regulation. If the Operating Licence fee is due, I suggest talking to your Gambling Commission officer, and also talk to Miles, seeking a deferment, although don't expect the Gambling Commission will necessarily be sympathetic. Hopefully the more they hear the request for assistance from operators the more willing they maybe to listen.

Marketing online to retail customers

Many of you will have received Neil McArthur's email, which was also posted on the Gambling Commission's website Wednesday evening. The link is below:

<https://www.gamblingcommission.gov.uk/news-action-and-statistics/news/2020/Covid-19-A-message-from-Neil-McArthur-to-online-gambling-operators.aspx>

For those of you with an online business, the message regarding marketing your website to retail customers is that the Commission will take action, if they believe that operators are exploiting the current situation for

**The Bingo Association Limited**

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marketing purposes. They say that operators should be very cautious when seeking to cross sell online gaming products.

They expect operators to be mindful that customers may be vulnerable, and experiencing financial uncertainty, whilst others may be experiencing other effects of being isolated, including for example feelings of anxiety, loneliness or boredom.

They say they expect you to know your customers and step in if they are showing signs that they are experiencing or at risk of harm. The message being that we may see more signs of harm during this challenging time.

The Commission say that they will step in immediately if they see irresponsible behaviour, and emphasised that operators must play their part in making sure that people are kept safe.

The message is clear, and I would think very carefully about considering any additional marketing initiatives at this time. I am of the view that any existing marketing initiatives can continue, but you should be reviewing those marketing initiatives in light of the challenges customers are experiencing in self-isolation. For those of you with multiple bingo halls, I know that entrepreneurial managers do post to their, or their clubs, independent social media accounts and that this message may need to be disseminated through your businesses.

You may also want to instruct your online businesses to review the markers of harm during this time, it may be that algorithms could be altered to appreciate self-isolation of customers.

Any potential marketing of different services should also be considered from a data protection perspective as businesses are subject to the UKGDPR, the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations (PECR).

The Information Commissioners Office provides detailed guidance on its website regarding marketing practices.

### Social Media Bingo

As confirmed by members on the recent board meeting, the Gambling Commission is aware of a number of operators providing varying degrees of bingo online on social media platforms. The Commission are looking at the subject and I understand from Miles that the Commission have offered to share their view, when in a position to do so.

The legal position. Section 6 of the Gambling Act defines gaming (and therefore bingo), which means playing a game of chance for a prize.

A person is considered to be playing a game of chance if they participate, whether or not they risk losing anything at the game. So free games, with no stake or charge, can be bingo, if there are prizes. You would need a remote bingo operating licence to provide these games and you would be required to undertake age verification, self-exclusion, etc. and comply with the LCCP.

The Act does not define a level of prize, so even no stake and low prize, is still bingo. Again you would need a remote bingo operating licence to provide these games and you must undertake age verification, self-exclusion, etc. and comply with the LCCP.

Prizes can be money or money's worth.

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A person is considered to be playing a game of chance if they participate in a game and thereby acquire a chance of winning a prize. Therefore if the social media prize is entry to a game in a bingo hall once the Coronavirus has passed, this is still considered to be gaming and the same applies above, re remote bingo operating licence.

Then for those considering adding trivia or skill into the equation. A game of chance is defined as including:

1. A game that involves both an element of chance and an element of skill;
2. A game that involves an element of chance that can be eliminated by superlative skill, and
3. A game that is presented as involving an element of chance.

So, fun bingo, with no stake and no prize is not gaming and is not an activity which requires a licence. However, even then the Commission have concerns regarding adverts (which is how they will view free or fun social media games) that are likely to appeal particularly to people aged 17 or younger ('under 18'); and, are generally available to view ('freely accessible'). The expectation then is that these games will only be available to over 18s, who have completed age verification online.

For more information see <http://www.gamblingcommission.gov.uk/PDF/Ltr-from-ASA-CAP-CG-RGA-final.pdf>

#### Key Events

You should make Key Event notifications to the Gambling Commission via eServices regarding your closed venues, and furloughed staff.

Yours sincerely

Miles Baron  
Chief Executive