



27<sup>th</sup> June 2011

The Chairman  
CMS Select Committee

**Per address:**

Committee Assistant  
Culture Media and Sport Committee  
Committee Office  
House of Commons  
7 Millbank London  
SW1P 3JA

Dear Sir,

**RE: Gambling**

We welcome your enquiry into gambling. In the attachment we provide our comments on the following two points:

1. The impact of the proliferation of off-shore online gambling operators on the UK gambling sector and what effect the Act has had on this; and
2. The current review of the remote gambling industry in the UK.

We would appreciate the opportunity to meet with the Select Committee to provide oral evidence of the matters raised in this letter.

Yours sincerely,

André Wilsenach  
*Executive Director*

(On behalf of AGCC)

# **Alderney Gambling Control Commission**

**Extract from a Response  
to  
Enquiry into Gambling  
by  
The Commons Select Committee  
on  
Culture Media and Sport**

## **Background**

1. Alderney Gambling Control Commission (“AGCC”) has been regulating eGambling for the past 10 years. At the end of 2010 the AGCC had a total of 51 licensed companies holding approximately 80 different licenses;
2. AGCC’s key objective is to provide a regulatory environment which offers robust, enlightened, active regulation while also being responsive to the needs of a changing industry. In this way, AGCC aims to protect players, to ensure the continuing high reputation of Alderney as a jurisdiction and to establish a regulatory environment which attracts operators who seek a comprehensive and tightly controlled regime.
3. AGCC is established under Alderney law. However the States of Guernsey has a key interest in AGCC’s regulation of the eGambling industry. The reason being that Guernsey offers world-class telecommunication infrastructure, as a result of which the large majority of Alderney licensees are today operating their eGambling servers from Guernsey, under a 2007 Guernsey Ordinance permitting this arrangement.
4. Alderney was amongst the first jurisdictions to be white-listed by the UK, following the 2005 Gambling Act’s “White Listing” of non-EEA jurisdictions with regulatory regimes that were considered to be of a standard sufficient to allow their eGambling operators to advertise their services into the UK.
5. AGCC has always been an advocate of high standards to ensure maximum protection to customers. In this regard, it is worth mentioning the following:
  - a. AGCC was one of the founding members of a Working Party within the International Association of Gaming Regulators (IAGR) which worked towards the establishment of common international standards for eGambling and AGCC is participating in similar forums within the Gaming Regulators European Forum (GREF);
  - b. Alderney is one of a very limited number of jurisdictions which requires rigorous independent testing and certification of gambling equipment prior to games being released to customers;
  - c. AGCC is one of only a handful of regulators that actively monitors ongoing changes to eGambling systems of licensees;

- d. AGCC inspects its licensees at least once a year, irrespective of location;
  - e. AGCC's Regulations provide extensively for rigorous customer verification; the protection of customer funds; customer complaints; the identification of problem gambling activity and self-exclusion mechanisms;
  - f. Importantly, AGCC's Regulations require licensees to contribute to research, education and treatment of problem gambling in the UK. Last year licensees facing the UK market contributed in excess of £1 million to the GRE@T fund in the UK;
6. The industry has experienced significant growth world-wide over the last 3 years or more. H2 Gambling Capital, one of the most widely quoted sources of online gaming statistics, indicated in 2009 that the market for global interactive gaming will grow about 42 percent to US\$30 billion in 2012 from US\$21.2 billion in 2008. This is significantly faster than the 15 percent growth that H2 forecasted for the gambling industry as a whole over the same period.
7. It is estimated that 85 nations have chosen to legalise gambling and that as of June 30<sup>th</sup>, 2010 there are approximately 2,680 internet gambling sites owned by 665 companies based in three groups. The first being smaller jurisdictions in the Caribbean (i.e. Costa Rica, Curacao, Antigua) and the Kahnawake Mohawk nation in Canada. The second group of licensing jurisdictions largely consist of, what is termed by the American Gambling Association as '*small places in Europe that use online gambling as an economic tool although they have imposed substantial regulations on their licensees.*' These are typically Gibraltar, Malta, the Isle of Man and Alderney. The third group of jurisdictions that have legalised online gambling includes the large, developed countries in Europe and some Canadian provinces which have liberalised their gambling markets primarily for income generating purposes.
8. To the extent that the UK's 2005 Gambling Act had an effect on the proliferation of off-shore remote gambling, it was probably limited to the second group jurisdictions (i.e. Alderney, Malta, the Isle of Man and Gibraltar). That part of the industry that is currently based in this group of jurisdictions has developed expertise, brand-name recognition and popular products over the last decade, but most importantly, under well regulated conditions. In fact, there is no evidence to suggest that the standards applicable in these off-shore jurisdictions are any lower than those applicable in the UK or in some of the new remote gambling jurisdictions in the EEA. It could be argued that the recent flurry of remote gambling laws in Europe and elsewhere in the world has often been motivated by revenue generation rather than attempts to improve player protection. In Alderney, the intention was never to maximise revenue at the cost of regulation but rather to provide a regulatory environment which offers robust, enlightened and active regulation while being responsive to the needs of the industry.

## Remote gaming review in the UK

9. In March 2010 the UK Government (Department of Culture, Media and Sport) issued a consultation paper on the Regulatory Future of Remote Gambling in Great Britain. The aim of the consultation paper was to assess the extent to which the current arrangements, whereby operators in overseas jurisdictions (both within the EEA and white-listed jurisdictions) can advertise into the UK, are still adequately protecting the British customer. From the consultation paper it was evident that the UK Government preferred the option of introducing a system of licensing and regulation in the UK i.e. a system of regulation at the point of consumption.
10. AGCC responded to the UK Government's proposition, pointing out that the White List arrangement lacks only a proper verification process requiring overseas jurisdictions applying for white listing to properly demonstrate or substantiate their representations. With that addition the white list arrangement provides a no-cost means of effective regulation. In its absence there is significant risk of misrepresentation, reputational risk, reduced standards and a significant resource requirement to police overseas operations accessing UK players.
11. Apart from the no-cost means of effective regulation offered by the white list arrangement, one should not lose sight of the fact that it provided considerable other benefits, the most important of which are:
  - a. It has facilitated the development of much needed standards between the UK and white listed jurisdictions which is quite significant considering that remote gambling is a global industry that inherently crosses borders;
  - b. It has facilitated a greater level of cooperation between regulatory bodies in the UK and white listed jurisdictions to prevent crime and ensure player protection. It is worth noting that the white listed jurisdictions participated with the UK Gambling Commission in joint investigations to prevent crime and conducted joint mystery shopping exercises to prevent under-aged persons from accessing gambling sites.
12. From our experience, the white listing approach generally works well and could be further improved by, for example, recovering the costs associated with assessing applicants for white listing and by further strengthening the ties between the UK Commission and white listed and other overseas regulators. In fact, the consultation paper on the review of remote gambling acknowledges that the white listing arrangement has played a significant role in improving regulatory standards in non-EEA jurisdictions. The obvious question is therefore, if the system is not broken, why is the UK Government trying to fix it? If it is a case, as is generally suspected, that the UK lacks a similar mechanism for EEA countries, the UK Government may wish to consider the option of extending the white list concept to other overseas jurisdictions in the form of regulator to regulator agreements which will

establish a basis for cooperation between the UK and foreign jurisdictions based on comparable standards of regulation.

13. However, should the UK Government decide to introduce a full licensing system at the point of consumption, as is suggested, the manner in which it is introduced could have significant implications for the remote industry and consumers alike, the reasons being that:
  - a. Should the intention be to duplicate the regulatory requirements currently in place in off-shore jurisdictions such as Alderney, it will result in unnecessary bureaucracy and significant increase in regulatory cost to the industry;
  - b. It is generally well known that the one of the most important reasons why most UK facing remote operators have located in the mentioned off-shore jurisdictions relates to the UK's 15% remote gaming duty, which does not apply to operators based outside the UK.
  - c. Although the extension of the 15% remote gaming duty to off-shore operators may have some fiscal benefits to the UK, it is unlikely to be in the interest of player protection, which is the primary focus of DCMS, because it will drive business to unlicensed operators.
  - d. In fact, it could be argued that bringing the existing off-shore operators (approximately 400) on-shore in the UK is likely to have detrimental implications for player protection in the UK, as it may encourage UK players to play with unregulated operators where they can obtain better odds.
  - e. It is a well-accepted fact that the odds offered by operators are directly affected by the expenses associated with the offering which will significantly increase under the proposed regime. Under the UK's preferred option, operators who are currently operating off-shore will be required to pay the remote gaming duty (15% of gross profits); the Horse Racing and Betting levy (10% of gross profits); and contribute to GRE@T Trust for player protection. In addition to these costs, operators who are already well regulated will be required to pay additional application and licence fees to the UK Gambling Commission.
  - f. Importantly, it is impossible to effectively prevent operators that base themselves in unregulated jurisdictions, with a view to reducing their operating costs, from advertising their services into the UK, which is, as we understand, the reason why the UK does not intend to introduce blocking mechanisms. Looking at what happened in France, for example, with the recent liberalisation of their gambling industry, it inevitably results in a situation where a) the player in the home jurisdiction is being more exposed to unscrupulous operators than before; and b) the licensed operator in the home jurisdiction's license has very little value.