

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT GAMBLING ACT 2005 (OPERATING
LICENCE CONDITIONS) (AMENDMENT)
REGULATIONS 2018

Tuesday 20 March 2018

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The Committee consisted of the following Members:

Chair: PHILIP DAVIES

Ali, Rushanara (<i>Bethnal Green and Bow</i>) (Lab)	† Harper, Mr Mark (<i>Forest of Dean</i>) (Con)
† Allin-Khan, Dr Rosena (<i>Tooting</i>) (Lab)	† Hayes, Mr John (<i>South Holland and The Deepings</i>) (Con)
† Bowie, Andrew (<i>West Aberdeenshire and Kincardine</i>) (Con)	† Hughes, Eddie (<i>Walsall North</i>) (Con)
Burden, Richard (<i>Birmingham, Northfield</i>) (Lab)	† Jones, Mr Marcus (<i>Nuneaton</i>) (Con)
† Cowan, Ronnie (<i>Inverclyde</i>) (SNP)	† Smeeth, Ruth (<i>Stoke-on-Trent North</i>) (Lab)
† Crouch, Tracey (<i>Parliamentary Under-Secretary of State for Digital, Culture, Media and Sport</i>)	† Smith, Jeff (<i>Manchester, Withington</i>) (Lab)
† Dunne, Mr Philip (<i>Ludlow</i>) (Con)	† Stephenson, Andrew (<i>Lord Commissioner of Her Majesty's Treasury</i>)
† Eagle, Ms Angela (<i>Wallasey</i>) (Lab)	Gail Bartlett, <i>Committee Clerk</i>
† Evennett, David (<i>Bexleyheath and Crayford</i>) (Con)	† attended the Committee
Godsiff, Mr Roger (<i>Birmingham, Hall Green</i>) (Lab)	

Fourth Delegated Legislation Committee

Tuesday 20 March 2018

[PHILIP DAVIES *in the Chair*]

Draft Gambling Act 2005 (Operating Licence Conditions) (Amendment) Regulations 2018

8.55 am

The Parliamentary Under-Secretary of State for Digital, Culture, Media and Sport (Tracey Crouch): I beg to move,

That the Committee has considered the draft Gambling Act 2005 (Operating Licence Conditions) (Amendment) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Davies. The draft regulations impose a new mandatory condition on the holders of any betting operating licence issued under the Gambling Act 2005. The purpose of the new condition is to prevent such operators from accepting bets from British consumers on the outcome of the EuroMillions draw or of a EuroMillions game in a participating country outside the UK. Section 95 of the 2005 Act already prohibits the holder of a betting licence from offering a bet on the outcome of any lottery that forms part of the national lottery, including the lottery known in the UK as EuroMillions. The additional licence condition extends the existing prohibition on betting on the national lottery to the EuroMillions lottery games and applies to all general betting operating licences, pool betting licences and betting intermediary licences issued by the Gambling Commission, which will reduce the customer confusion that has arisen as a result of operators offering such bets and maintain the clear blue water between the national lottery and other forms of gambling, as set out in section 95 of the 2005 Act.

The national lottery was established in 1993 to support good-cause projects across the UK. It enjoys a unique status. It is not regulated as gambling, a distinction further protected by section 95 of the 2005 Act, which prohibits betting on the national lottery, including the UK EuroMillions game. However, EuroMillions is, in fact, a number of technically separate lotteries played in nine European countries, each licensed in accordance with that country's regulatory framework and determined by a single draw held in Paris. A small number of gambling operators offer bets on the outcome of a non-UK EuroMillions lottery, for example, the Spanish EuroMillions. Our consultation showed that that has led to customer confusion, with some players unable to distinguish between placing such a bet and buying a national lottery EuroMillions ticket. Although small, the number of operators offering such bets has increased in recent years, and there is a risk that further growth will affect the national lottery, in particular its returns to good causes, as there is no requirement for operators to contribute to these.

Indeed, some operators even undercut the national lottery. When the price of a EuroMillions lottery ticket went up from £2 to £2.50, operators took advantage by advertising their products at a lower price. I cite just one example as an illustration:

“Why can Lottoland advertise tickets for tonight's £112 million jackpot at £2.00 while everyone buying a ticket from a Camelot outlet or on-line via Camelot has to pay £2.50 per ticket? How do you explain this?”

Operators continue to offer bets for less than the price of buying a lottery ticket or offer two bets for the price of one, adding to customer confusion. The Gambling Commission has undertaken a number of non-legislative measures to reduce customer confusion about bets on EuroMillions and the EuroMillions lottery, which has resulted in changes to how some operators promote their products, but even where such proactive steps have been taken significant numbers of customers are still unable to distinguish between the two products. In fact, some of the operators themselves have provided evidence of customer confusion. Lottoland carried out a survey of customers in 2017, which revealed that 28% of them did not believe there was a difference between betting on EuroMillions and participating in national lottery EuroMillions. A further point of confusion is how players can arrive at the operators' websites. It cannot be right that if someone wants to buy a EuroMillions lottery ticket from the national lottery online and they search for EuroMillions they get a proliferation of sites offering a range of betting services to choose from. Another operator, jackpot.com, tells us that it sees increased numbers of visitors to its site when there are big EuroMillions draw roll-overs

A Government consultation on prohibiting betting on EuroMillions ran between March and May 2017. Respondents included lottery operators, beneficiaries of lottery funding, betting operators and members of the public. Of the 52 responses, 32 strongly agreed with the proposal that non-UK EuroMillions bets should be prohibited. Their reasons included preventing customer confusion, closing the regulatory loophole, protecting the national lottery good-causes funding, protecting the integrity of the national lottery brand, and the potential loss of retailer commission. Only five respondents strongly disagreed, all of whom were operators currently offering the bets to British consumers. They argued the action was disproportionate in the light of the absence of evidence that these products had a negative impact on EuroMillions lottery sales, and that they would reduce customer choice and tax revenues. We concluded that there was broad support for introducing this action, which will remove any customer confusion. It will also preserve the distinction between betting and the national lottery, and by doing so help to protect against potential future losses to good-cause returns.

Betting on the outcome of lotteries is nothing new. It has been offered legally for many years, but not on the national lottery. For most operators offering bets on lotteries the product is one element of a wider portfolio. British customers will still be able to participate in the other products offered by these operators, which remain unaffected by this action.

Betting on EuroMillions is a growing market, and it is important that we maintain a clear distinction between the national lottery and other forms of gambling, as set out in section 95 of the Gambling Act 2005. The effect

of the regulations will bring non-UK EuroMillions draws into line with UK draws and prevent gambling operators taking advantage of the technical way in which EuroMillions is structured as individual country draws. More urgently, this action will eliminate customer confusion. For those reasons, I commend the regulations to the Committee.

9.1 am

Dr Rosena Allin-Khan (Tooting) (Lab): It is a pleasure to serve under your chairmanship, Mr Davies. Our national lottery funds over half a million projects across the UK. Since its inception, it has donated more than a staggering £37 million towards good causes supporting our local communities. It is and always has been our position that the national lottery should be the flagship lottery of the UK. From supporting our Olympic and Paralympic athletes to inspiring future generations to participate in local grassroots sports it promotes our arts, culture and heritage sector by funding local museums, preserving areas of natural beauty and historical places and parks. It backs our voluntary and community sector, which is the lifeblood of local communities everywhere. Its contribution cannot be understated. We have a duty to protect the fantastic work that it does.

Unfortunately, revenue generated from ticket sales has been decreasing in recent years and the Gambling Commission has expressed concerns about the increasingly popular practice of licensed gambling operators selling non-EuroMillions bets. It is illegal for licensed gambling operators to place bets on the outcome of a national lottery draw within the UK, and rightly so. It is our responsibility to ensure that the national lottery delivers the maximum benefit to charities and the other good causes that it supports. However, because of the unique set-up of the EuroMillions draw, which includes nine separate lotteries from each participant country, some gambling operators have found a way to exploit the current legislation. Betting firms are using this as an escape clause to capitalise on low-cost bets. We must close this loophole. The Gambling Commission is right to express concerns about this growing practice, which poses a substantial risk, both now and in the future, of diverting funds from the national lottery, placing it in direct competition with other gambling operators. Driven solely by profit, those operators have found a way to offer the same jackpot rewards while marketing tickets at a lower price. They can reap all the benefits without the added responsibility of having to contribute a single penny to any good cause. That practice has to stop.

Alongside the evidence gathered in the consultation conducted by the Department of Digital Culture Media and Sport, it is clear that consumers are more often than not unaware of exactly what they are purchasing. There is a clear difference between participating in a lottery and gambling on lottery odds, but that distinction has been deliberately obscured. It is easy to understand why. If non-UK betting slips are branded with a EuroMillions logo, for most people they are no different from a lottery ticket. We all associate the national lottery and the UK EuroMillions with the good causes that they represent. Players are attracted to that because it offers a fair way to contribute to local causes and projects as well as a chance of winning a life-changing amount of money. There should be no room for betting firms to capitalise on the positive branding that our national lottery offers. Camelot has expressed concern

about the additional pressure that that generates, as money has to be allocated to defend key brand terms against being constructed by other market players—money that could otherwise be allocated to good causes.

We welcome and support the statutory instrument. The Gambling Act 2005 is intended to protect our national lottery. Some licensed gambling lottery operators have not been playing fairly. I would go as far as to suggest that, at times, they have acted without integrity. Their conduct has shown that it is time for this loophole to be closed. I would be grateful for clarification on a few points from the Minister. Some operators have threatened a judicial review. Should the SI not have been withdrawn? Operators such as Lottoland, which strongly opposes this change, have registered concerns that the measure breaches EU laws. What legal advice has the Department received on that? How much does the national lottery EuroMillions return to good causes? Does the Minister know how much money Camelot has spent trying to protect its branding as a result of the rising popularity of non-UK EuroMillions betting? Does the Minister know how many consumers have unknowingly participated in these betting channels, believing that they were playing the real lottery? Has the Minister held any conversations with the Department for Exiting the European Union on any implications that Brexit might have on the implementation of the measure? Finally, will the Government take any further steps to support the role of the national lottery in the UK?

9.5 am

Ms Angela Eagle (Wallasey) (Lab): It is a pleasure, Mr Davies, to see you sitting in the Chair for today's proceedings. I welcome this statutory instrument, which does an important job. I am interested to see whether the Minister will tell us a bit more about the customer confusion caused by the marketing of foreign lotteries and bets on the outcome of foreign lotteries. What she has said today sets an interesting and good precedent regarding customer confusion about advertising leading to more regulation of lotteries and much wider measures. Would she say more about that?

There are some anecdotes in the impact assessment about people who confuse betting on the outcome of the EuroMillions lottery with the buying of tickets for our lottery. Such marketing—along with the operation of websites that send people to dubious places when they search, tempting them to buy dubious things that are not what they think they are—happens far more widely than lotteries, although in gambling it is clearly a difficult issue and could lead to problem gambling. Would the Minister say more about the good precedent set by her and her Department in taking this draconian but welcome legislative action, tipped off by evidence that customers are confused?

9.7 am

Tracey Crouch: I am grateful for support across the Committee for these measures, which are the right ones to introduce. They close a loophole and they will ensure that customers have greater clarity about what they are getting involved with.

I would like to address some of the additional points made by the hon. Member for Tooting: operators have logged a judicial review, but we have set out a robust defence of the legality of the issues and we believe that

[Tracey Crouch]

we are acting well within our powers in doing so. She asked about EuroMillions and the return to good causes. EuroMillions returns approximately 27% of its sales to good causes through the retail sector, and 33% through online sales. In contrast, betting operators can advertise the same jackpots—a key sales driver—at lower prices without any obligation to return a percentage to good causes, perhaps increasing some of the confusion to which the hon. Member for Wallasey referred.

The ban aims to eliminate customer confusion by protecting those who wish to buy a EuroMillions lottery ticket online from ending up on a betting site. We do not intend to prevent operators from offering bets on lotteries that do not form part of the national lottery to consumers who genuinely wish to place a legitimate bet on such a lottery. Betting on the national lottery is illegal, and this ban will bring betting on all EuroMillions products in line with the rest of the national lottery portfolio. We believe that that is a way of supporting customers to ensure they make the right decisions about what they are betting on, and for the right reasons. People are not aware that by betting on a lottery they are not returning any money to good causes—good causes that, as the hon. Member for Tooting pointed out, have returned billions of pounds to support a variety of projects.

Mr John Hayes (South Holland and The Deepings) (Con): The explanatory notes make the point that the number of non-UK EuroMillions bets is increasing. Indeed, the Gambling Commission has said that it has grown, endangering the pot of money that goes to good causes. I do not expect the Minister to be able to give details of the extent of that issue today, but will she let members of the Committee and others know how she sees that going, and at what point will it become a real problem for the amount of money that is distributed to the good causes that we all support?

Tracey Crouch: We face many challenges at the moment regarding the national lottery and the return to good causes. We are seeing some stabilisation of lottery sales, which is a good sign, and we have regular discussions via the Gambling Commission with Camelot about lottery sales. Today, we are specifically looking at EuroMillions, which gives 27% of its retail sales and 33% of its online sales to good causes. We want to ensure that we eradicate any threat to that by looking at closing the loophole that allows people to bet on EuroMillions. That is something that has been discussed over time, and we feel strongly that it is a way of supporting the good causes that people who play the national lottery believe they are getting involved in.

Ms Eagle: I am interested in the level of confusion caused by advertising the presence of gambling websites—the way in which one goes through a search engine on to a gambling website, which gives confusing information—

and what assessment the Government have made of the standards that are acceptable on those websites and those that are unacceptable because they are actively misleading. Can the Minister give us more information about the way in which she and her Department have reached decisions on that? We support the decisions, but there is a much bigger issue about confusion and sales issues on all kinds of websites, for which she may be setting a good precedent. That is what I am interested in.

Tracey Crouch: I refer the hon. Lady to the gambling review, in which we look at issues around advertising and gambling, full stop. That includes advertising online and we will continue to work on that. There is a whole system of algorithms that are in place, which we are trying to unpick to see whether we can seek to develop a much more responsible way of advertising gambling products in response to particular search items.

As I said, we are aware that if people search for EuroMillions, the first thing that comes up is not necessarily the national lottery site but gambling sites. That is one of the things we are trying to unpick, but on a much wider scale, not just related to this issue. We have to ensure that customers have a choice. We must recognise that there are legitimate betting operations and practices out there, but we want to ensure that we have the right choices for the consumer.

Ms Eagle: Is the Minister saying that the Government might be mandating changes to algorithms so that there is a proper choice when one uses a search engine?

Tracey Crouch: We are reviewing all of this as part of the gambling review and the outcome of the review will be published soon, in the spring, although the hon. Lady knows as well as I do that in Government parlance that can vary.

Ms Eagle: “Soon” could be winter.

Tracey Crouch: It is the first day of spring today. I urge the hon. Lady to engage with the outcomes of the gambling review, which looks at the much wider issue of advertising in gambling: not just in broadcast, but how we can reduce customer confusion and protect vulnerable people from harm online.

To conclude, in introducing regulations imposing a new licence condition, we are doing no more than extending the existing protection against betting on the national lottery and taking action to remove consumer confusion relating to bets on EuroMillions games. I further commend these regulations to the Committee.

Question put and agreed to.

9.14 am

Committee rose.

