

GAMBLING COMMISSION

Carolyn Harris MP
Chair, Gambling Related Harm APPG
House of Commons
London
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6 July 2021

Dear Ms Harris,

Response to your questions regarding the National Lottery

Thank you for inviting me to meet you to discuss how we may work constructively to improve gambling regulation. I would be happy to meet with you to discuss your views and concerns. Whilst there are areas I won't be able to elaborate on at present, such as our ongoing work to formulate advice to Government for the Gambling Act Review, I am sure an introductory meeting would be of great help.

As previously communicated to you and the APPG, I also won't be able to discuss the live work around the fourth National Lottery licence competition or share details regarding the current Licence that could impact on the competition. However, I am grateful to receive your concerns in writing so that the team can share information that would not risk, or prejudice, the ongoing competition.

The Fourth National Lottery Licence Competition (4NLC)

Since launching the 4NLC programme in 2018, we have been working hard to develop a licence that builds on the National Lottery's success to-date. In addition to potential licensees, we have been engaging with key stakeholders, including the organisations responsible for distributing National Lottery funds, political representatives, and retail sector trade bodies, to keep them informed of progress and ensure their views are incorporated into the next licence. Whilst I am not able to go into detail about the provisions set out in the licence, I can tell you that it will ensure the licensee's incentives are closely aligned with contributions to good causes, while also providing the licensee with the flexibility needed to continually develop and adapt its operations in a safe and responsible way, to meet the needs of players and maximise contributions to good causes in 2023 and beyond.

The protection of consumers remains one of our statutory duties as a regulator and is fundamental to the fourth licence. We are clear that the licensee will be held fully accountable for protecting players from day one of the new licence. It is through the competition process that we evaluate the applicants' credentials and plans in this area. The successful applicant will have demonstrated high standards of player protection, including on prevention of underage or excessive play, and we will hold them fully accountable for delivering on their commitments during the licence period. We will retain strong enforcement powers and, if necessary, we will not hesitate to use them.

Future proofing is equally important. We commenced this process alive to the fact that the context for the National Lottery has changed since its inception in 1994. In fact, a great deal has changed since 2009, when the third licence was awarded. We recognise that the world is likely to once again be very different by the time the fourth licence concludes, in 2033, which is why the next licence will enable,



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and incentivise, the licensee to adapt, in a safe and responsible way, according to technological advancements, new opportunities, and changes in consumer preferences.

Harm monitoring in the current Licence

I am also keen to address, as best as I can, your questions relating to the current – third – National Lottery licence.

For instance, you asked about our ability to obtain data from the current licensee of the National Lottery, and it is important to state that we have clear powers which give us the ability to obtain a vast range of relevant data from the licensee. The areas in which we request and receive data - and how we receive it - has developed greatly since the award of the third licence and, therefore, go considerably further than the conditions noted in your letter, and the broader licence itself. We receive significant data from the licensee on a weekly, monthly, quarterly, six monthly and annual basis, either as agreed through a very detailed set of Management Information and Reporting Requirements (MIRR) or through information required for performance review meetings. This includes substantial data in relation to player protection matters, including around participation, playing habits and risk. As a result, and because we consider the proportionality of our requests, I could not cite an example where we have had difficulty in obtaining any information we deem necessary from a regulatory perspective. The MIRR requirements are adapted as necessary over time and additional information is provided through regular reviews across each of our statutory duties, as well as through specific reviews of emerging issues. These processes have not been negatively impacted by the pandemic, allowing us to maintain oversight of the current licensee throughout. It is also worth noting at this stage that the way in which we set targets has evolved. We can, and have, set targets through means other than the licence itself, for example, via conditions of game approvals.

In terms of how we use this data to monitor and minimise the risk of harm being experienced by National Lottery players, our focus is to ensure the licensee is preventing underage play, preventing excessive play and is continuing to raise standards of player protection.

The regular monitoring we undertake enables us to understand these issues across the National Lottery and respond accordingly. An example of this was - with the support of the licensee - the speed with which we were able to implement additional monitoring around online play during the early phases of the Covid-19 pandemic. This enabled us to track a set of key indicators relating to 'at-risk' players and spend, and while ultimately no issues of concern emerged throughout that period, we were well informed and ready to respond, had the outcomes been different.

A combination of this regular monitoring, our close engagement with the licensee and our powers under the licence enable us to apply focus to specific areas as risks emerge. While no two interventions are the same, another good example of how we use the data we gather about the National Lottery, both from the licensee and elsewhere, is the withdrawal of £10 scratchcards in 2019 and subsequently £10 Interactive Instant Win Games (IIWGs) in 2020. In both cases, the Commission proactively undertook research with players and used extensive analysis from the licensee in order to understand the risk present. This information suggested a possible link between problem gamblers and these products and after further research and analysis was conducted, the licensee promptly, and voluntarily, removed them from the market.

Focussing on questions regarding the current licensee's use of data to identify problem play in online channels, as per your letter, the current licensee uses a behavioural analytics model called Mercury

V2 to identify 'problem play' in online users – including a wide range of indicators of problematic play. Whilst outlining directly how this system works or the granularity of the data produced at this point in time would be inappropriate in relation to the Competition process, I can confirm that the types of information outlined within your letter are made available to the Commission.

More broadly, as part of the data gathering and regular cycle of meetings and scrutiny of the current licensee, we continually assesses the current licensee's performance in relation to gambling harm prevention under the current licence and again, where we have concerns, we step in. As part of this work we have an annual review of performance that helps inform where we will then seek improvements from the licensee in the year ahead.

Regarding 16-17 year-old players, while the caveats I noted in respect of the Competition process remain relevant, a range of information regarding this specific cohort is already within the public domain through the Government consultation on the minimum age for National Lottery play, which can be found here: [Consultation on the minimum age for playing National Lottery games - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/consultation-on-the-minimum-age-for-playing-national-lottery-games). As you will be aware, the change in the minimum age limit for National Lottery play from 16 to 18 was introduced almost six months in advance of the change in legislation, which comes into effect on 1 October 2021. Regarding players who are under 18 and are already registered for National Lottery play, a range of controls have been put in place by the licensee, which are outlined on the [National Lottery website](https://www.national-lottery.co.uk).

On your queries regarding the joint investments in marketing approved in recent years, it is important to note, such investments are permitted in accordance with Condition 23 of the current Licence and are focussed on an initial investment of funding from good causes in order to drive an incremental return on this investment, in most cases extremely quickly. For each investment, we undertake a robust analytical assessment, as well as negotiation with the current licensee to ensure the best possible deal for good causes. This includes a detailed assessment of the current licensee's evidence base, both internally and by external specialists, along with a detailed assessment of the historic performance of similar investments. We therefore have a high level of assurance that each investment has and / or will deliver benefits to good causes, supported by our evidence, which suggests previously approved joint investments have delivered hundreds of millions of pounds for good causes. The full detail of all previously approved joint investments are published on [the Commission's website](https://www.gov.uk/government/publications/joint-investments-in-marketing-for-good-causes). As is evident from this list of publications, we have never approved a joint investment in marketing for either scratchcards or interactive instant win games.

Finally, as reported by [GambleAware on their website](https://www.gambleaware.co.uk), the current licensee donated £425,000 to the charity in 2020/21. The current licensee's plans to publish their 2020/21 Annual Report and Accounts later this year remain in line with the terms of its Licence. We do not intend to press the licensee to publish such information any earlier, particularly given the recent public announcement of its [results for the financial year](https://www.gambleaware.co.uk).

I hope this information is of use to the APPG in your work. I look forward to meeting you as Chair of the APPG soon. My office will be in touch shortly to arrange the details.

Yours sincerely,



Andrew Rhodes
Interim Chief Executive