

# **Jersey Gambling Commission**

## **Consultation Report**

**Paper No.1 2020: A report and recommendation on consultation proposals to amend Code of Practice: Minimum Standards Applicable to Gaming Machine Type I and Type II**

**Class I Bookmakers**

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## **The Jersey Gambling Commission**

The Jersey Gambling Commission (the Commission) is a statutory body corporate established under the Gambling Commission (Jersey) Law 2010. It is responsible for the general supervision of gambling, including in particular, (i) supervision of providers of gambling services, and (ii) investigation of whether any person is complying with, contravening, or committing an offence under an enactment relating to gambling.

## **Guiding Principles**

The Commission must, in the performance of all of its functions, have regard to the principles that any gambling services provided:

- should be conducted responsibly and with safeguards necessary to protect children and vulnerable people;
- should be regulated in accordance with generally accepted international standards to prevent fraud and money laundering, and should not be permitted to be a source of crime;
- and should be verifiably fair to consumers of those services.

## **The basis for the consultation**

The Commission issued the consultation in accordance with Article 5 (4) of the Gambling Commission (Consultation on Codes of Practice) (Jersey) Order 2011, namely that the amendment of stake values constitutes a significant revision that meets the following tests:

- (4) An...amendment of a code is significant if, in the opinion of the Commission, it would significantly alter the effect of the code on –
  - (a) any burden imposed on providers of gambling services; or
  - (b) any protection afforded to consumers of gambling services.

The Commission decided to make the consultation an open one based on the public interest the subject aroused in the UK.

## **Background**

In July 2020 the Jersey Gambling Commission published Consultation Paper No.1 2020 which launched a consultation on proposals to either amend the Code of Practice: Minimum Standards Applicable to Gaming Machine Type I and Type II (the Code), or retain the stake permissions already set in that document.

The proposals set out in the consultation document explored the fact that the Commission had been made aware of alternative machines that are not supported by FOBT content suppliers, and therefore offered flexibility in relation to stake values. As the Code currently stands, these machines could be offered for play now should all the other governing criteria of that document be satisfactorily met.

The consultation presented 3 points to consider:

1. Retain the stakes at the current Code levels;

2. propose a medium stake between the £2 and £100, or;
3. adopt the UK position and reduce to the stake to £2.

The consultation was open for three months, concluding on 30<sup>th</sup> September 2020.

Although the scope of the consultation was public, the impact of any change to stake levels or retention of the status quo only affected one section of the gambling industry: Class I Bookmakers. It is little wonder, then, that only this category of licensee responded to the consultation.

### **In numbers**

Four written responses were received, two respondents gave their view over the telephone or during a face to face meeting, and it is important to note that every Class I licensee expressed an opinion and a preferred outcome.

### **The Responses**

The majority, that is to say five out of the six responses, wished to amend the Code to reflect the reality of £2 stakes. The arguments made for the formal adoption of the dial down of stake threshold was mostly based on parity, the creation of a level playing field across the sector. That is not to say these operators agreed with the reasonings leading to the British government's decision to reduce stakes.

One respondent agreed with the conclusions of the GB Gambling Commission's formal advice to the Secretary of State, namely the "Review of gaming machines and social responsibility measures – formal advice" (February 2018), which noted:

- there were grounds for a stake limit of £30 or below for non-slots; and
- that stake cuts need to be considered as only one part of measures to ensure that customers can gamble safely.

The respondent went on to state it has:

... a range of controls in place, including training for staff in identifying and interacting with potentially at-risk customers, an electronic tablet-based system for recording the details of all customer interactions which enables us to monitor trends in terms of risk profile of our customers, back-office prompts relating to gaming machine play and options for time and money-based limit setting by customers.

However, the majority of respondents expressed similar sentiments to the following statement:

... operators providing facilities in Jersey have, since April 2019 voluntarily aligned the gaming machine facilities with the relevant requirements in Great Britain, with a maximum stake of £2. We have no immediate plans to change that approach. Therefore, we consider that amending the current stake levels to align with the current market situation would have the advantage of ensuring that there is a consistency of approach and level playing field in Jersey.

Another respondent added to these reasons for retaining the status quo:

From a practical point of view having a consistent offering across our estate is beneficial in terms of the testing, roll out and ongoing monitoring of our content but also in terms of marketing and promotion considerations. It is for these main reasons we support the formal adoption of the current position in Jersey.

A further respondent reasoned it was better to avoid adverse attention by introducing any Jersey specific changes:

Prior to the triennial review in the UK that resulted in the stake reduction to £2 the overall public sentiment towards Bookmakers was overwhelmingly negative... To bring back higher stakes in the Island pushes the issue back into the spotlight, which in our opinion is totally unnecessary... We therefore feel that the risk of causing a public backlash by raising the stakes far outweighs any possible benefit to potential increased revenue.

This respondent was not alone in expressing concerns about negative publicity that might further damage the industry.

The case against formally adopting the reduction to a £2 stake was only made by one operator. The respondent drew heavily on the research and responses made to the Department of Culture Media and Sport when it launched the *Consultation on the Proposals for Changes to Gaming Machines and Social Responsibility Measures*; this consultation ran from 31 October 2017 to 23 January 2018.

The research focusing on whether a stake reduction would be the optimum policy response to achieving the objective of reducing harm was mostly equivocal. The respondent elected to examine and cite responses from the Association of British Bookmakers, the UK Gambling Commissions response (also mentioned above) and the Responsible Gambling Strategy Board (RGSB). The UK consultation was an emotive one and the various respondents' submissions, both for and against, stake reductions are still available online:

<https://www.gov.uk/government/consultations/consultation-on-proposals-for-changes-to-gaming-machines-and-social-responsibility-measures>

The respondent chose several citations to endorse the point that the effect of stake reductions on reducing the prevalence of problem gambling went unevicenced in any persuasive way, for example:

a reduction to £2... we would find it difficult to regard so strong an action as being proportionate on the basis of the existing evidence.

large stakes are placed relatively infrequently, even by problem gamblers; and problem gamblers are found at all levels of staking.

The average loss per session on B2 only content was £6.31. The average loss per session on B3 only content was much the same, at £6.37.

[**Source:** RGSB: Advice in relation to the DCMS review of gaming machines and social responsibility measures. 31<sup>st</sup> January 2017.]

For... B2 games, we agree with RGSB that there is a precautionary case for a stake cut below £50, which is now the effective limit for most players, and we think the maximum stake should be materially lower than £50. In our view, a precautionary approach should involve a stake limit at or below £30...

[**Source:** GB-Gambling Commission: Review of gaming machines and social responsibility measures – formal advice. February 2018.]

The respondent also remarked on the powerful media and political lobbying undertaken by the Campaign for Fairer Gambling, while questioning the accuracy of some of its statements:

With National Media coverage obtained, public opinion was clearly influenced as were some of the MP's at Westminster although the RGSB rightly recognized that the public widely supported the view "that people had the right to gamble if that is what they wanted".

The respondent also remarked that Jersey should not be unduly influenced by the UK, as there was little similarity between the two markets. The role of content suppliers was also called into question:

...does not believe it is a healthy regulatory or commercial environment when either content suppliers or operators are able to unduly influence the regulation of a Territory simply by imposing their own commercial decisions upon a jurisdiction... each jurisdiction should make the right decisions for themselves based on the facts and evidence that relates to that Territory.

Alternative Machine Suppliers are available to the market should the future position be established in suitable terms.

## **Conclusion**

The Commission had anticipated both a broader and more mixed response to this consultation, but is thankful to the industry for taking time to reflect and respond to this issue.

The Commission has carefully considered all of the submissions to this consultation. As previously stated with the exception of one operator, the industry was in concord with the adoption of a £2 stake and the requisite amendments to the Code to achieve this reduction.

The one dissenting respondent made a very strong argument for settling on a mid-range stake of £30. However, the Commission believes it cannot discount the dominant will of an industry directly affected by any changes made to the Code.

Another factor raised by one licensee is that the sector was not as adversely affected by the dial down to a £2 stake as was initially anticipated. This submission supports both sides of the argument:

- that play was rarely at the £100 limit and the dial down was unnecessary, and
- the imposition of a £2 stake represents similar spend levels in that the reduction did not destabilise the market.

The Commission has considered these points in relation to the records sent to it in relation to machine play, and taking an average (churn notwithstanding), stakes were roughly in the region of £2.70 - £3.70 per game.

## **Recommendation**

To the Commission's knowledge, the 2018 triennial review of stakes and prizes was remarkable in the UK for actually reducing thresholds, generally increases are in line with inflation. The Commission has reflected on the actions of the game content and terminal suppliers in this matter, namely their unwillingness to tailor games to reflect the regulations of unique markets in jurisdictions other than Great Britain. The Commission therefore intends to apply a mechanism to the Code to reflect future triennial review increases, while amending stakes to the £2 threshold.