

- > [UK Gambling Law](#)
- > [European Union Law](#)
- > [Data Protection](#)
- > [Intellectual Property](#)
- > [Sports Betting](#)
- > [Advertising](#)

Newham releases draft application pack for large casino



The London Borough of Newham has released details of its proposed competition process for awarding a large casino licence, for consultation with potential applicants.

The Borough was awarded one of the sixteen new casino licences in February 2008. Newham envisages beginning the competition process in May 2010 with a final decision to be reached in February 2011.

The large casino must have a gaming floor area of between 1,500 and 3,500 square metres including a table gaming area of at least 1,000 square metres. Up to 150 slot machines will be on offer along with non-gambling areas offering additional recreational facilities.

Those applicants who reach the second stage of the application process will submit further details of their proposed casino and the benefit they can offer to the local community. Under Newham’s proposals, ‘deliverability’ of the proposal will be a key factor in deciding which applicant should ultimately be awarded the licence. With the emphasis on deliverability, the licence may well be awarded to the operator who can prove they have the greatest ability to fund the development, enabling them to produce the strongest cost assumptions and trading projections and to employ a management team of the highest quality.

The authority reserves the right to pass a ‘no casino resolution’ in the event that there is insufficient applications or it feels that the applications do not offer sufficient benefit to the area, resulting in no licence being awarded at the end of the competition process. Although there is no reason to believe Newham is likely to take this measure, if it were employed it would be a huge blow to potential operators who have spent considerable time and resources preparing their application.

£500,000 fines for serious Data Protection breaches

The UK Government has recently published its proposals on fines for serious breaches of the Data Protection Act 1998, which would give the Information Commissioner’s Office (ICO) the power to fine organisations of up to £500,000 for serious breaches of data protection principles. The £500,000 fine. For the time being it was decided not to impose a penalty based on the organisation’s turnover (similar to the powers of the FSA). However, the jury is still out there and the current proposals may be amended to increase the £500,000 fine. The fine can only be imposed where there has been a “serious contravention” of one of the eight Data Protection principles which is likely to cause substantial damage or substantial distress to the data subject. The cross-border nature of the online gambling industry will be of particular interest to the Information Commissioner. The big question therefore is: are you ready for an audit?

Inside this issue:

EU Update	2
Advertising	2
Cookies	3
Poker ad decision	3
Free TV	3
DCMS Review	4

France and Italy one step further to open their gambling markets

Since 2006, the European Commission has taken action against state gambling monopolies. As a positive result, gambling reform discussions are taking place in more than 17 member states. How these trends are changing the European landscape and the rules of the game can be best illustrated by recent developments in France and Italy:

France: France will end its gambling monopoly in 2010 and will open the industry up to private competition. This “controlled” opening (supposedly in line with EU regulations) includes the requirement that interested parties obtain a French gambling licence and be regulated by the French gambling regulatory body. Licensed operators will be subject to stakes-based tax rates of 8.5% for sports betting, 15.5% for horse racing betting, and 2% for online poker. Licences will only be granted to operators established in the EEA and these operators will not have to relocate to France.

Italy: The Italian Parliament has recently approved significant provisions that appear to open up the Italian market to EU operators and allow them to offer

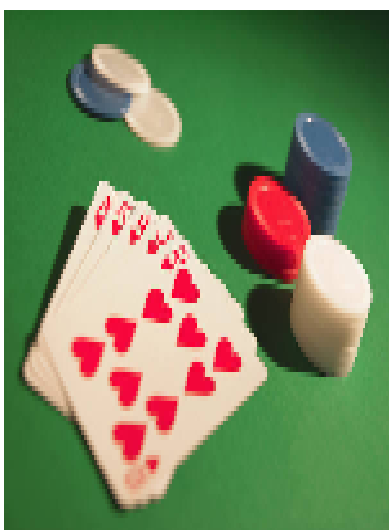


more products. Here again, a national (Italian) gambling licence will be issued to online gambling operators, who will be liable to local taxes: a 20% profit based tax on all new products and a turnover based tax on all existing products. The Italian online gambling market is open to online operators from EEA states and allows these operators to have their servers outside Italy, as long as they are located within the EEA.

Both France and Italy also intend to introduce responsible gaming standards in accordance with best practice. Some may argue that these responsible gaming standards bear the hallmark “made in Great Britain”. There are, of course, issues that both countries still have to address to comply with EC law (such as the reciprocal accreditation of operators already licensed in a EU member state). What is noteworthy however is the fact that the European Commission seems to have accepted a double / triple / multiple-licensing model whereby a member state may issue separate local licences and impose local taxes. This (political) compromise may, of course, itself be capable of being challenged as a failure to respect the EU principle of “mutual recognition” of businesses and of the free movement of services under Article 49. That said, it is quite possible that the French / Italian approach will be adopted by other EU states wishing to open their markets to online gambling operators.

What this means for the UK will be discussed in next month’s issue.

Poker ad did not condone addictive behaviour



A television advertisement for Full Tilt Poker featured a man losing a game of poker and walking away from the table. A voice over included the statement “Some nights you catch great cards. Mix up your play. And completely control the action. And it’s still not enough. But there’s always another hand.” One viewer complained that the use of the phrase “And it’s still not enough. But there’s always another hand.” was socially irresponsible because it condoned addictive behaviour.

In reaching the conclusion that a breach of the BCAP Code had not occurred, the ASA considered in particular the fact that the man was walking away and was acting in a way that was calm and measured, with no sense of urgency to either his behaviour or the tone of the voice over. The overall sense of the ad was not that the man intended to return immediately and play another hand, or that he was suffering in any way from a gambling addiction.

In recent adjudications, the ASA has shown a tendency to look at the theme and tone of advertisements as a whole, rather than analysing individual elements in isolation. This can work for or against operators. In some cases the individual elements of an advertisement might not give cause for concern, but the combination of, for example, bright colours, cartoon characters and a catchy tune may lead to an overall impression that the ad is designed to appeal to children.

Do you want a cookie?

The European Parliament comprehensive information of accepting each cookie passed a Telecoms Package about the purposes of the separately. of reforms last week. The processing". This means reforms will have to become that all website visitors, The World Federation of law in all 27 member states. whether registered or not, will Advertisers (WFA) has The Package restrictions on have to manually approve therefore called on EU the use of cookies, which will every cookie stored on their member states not to "only be allowed on condition computers. Bearing in mind implement the new "cookie that the subscriber or user that one web page can laws" because this law could concerned has given his or contain several cookies; significantly damage her consent, having been many visitors will be inclined advertisers and affiliates who provided with clear and to leave the website instead rely on their backing.



ASA to accept complaints about website content

Within the next year the Advertising Standards Authority is, for the first time, to have jurisdiction over marketing statements made on websites. Under the current system, the ASA can investigate special offers and competitions offered online, but can only adjudicate on marketing claims when made in third party advertisements. The majority of marketing claims made online do not, therefore, currently fall within the ASA's remit.

It is envisaged that blogs and social networking sites will be covered under the new regime as well as search based advertising, although it is unclear as yet how all forms of online advertising will be policed. For online gambling operators targeting the UK, this means that all claims made when promoting their services, whether on their own website or in paid for advertising, must not breach the specific gambling advertising rules.

The implications of this could be far reaching. For example, an online casino offering live scantily clad dealers could be in breach of the rule against linking gambling to seduction, merely because this feature is promoted on the site. The way games are presented on the site will need to avoid being perceived as of particular appeal to children, whereas at present it is only the case that external advertising must avoid appealing to under 18s.

Google has agreed to provide funding to enable the new regime to start operating. Currently, advertisers pay a levy to fund the system but at this stage it seems that Google will not be involved in collecting the levy from online advertisers. Whether it will be possible to collect a levy from many of those making marketing claims online remains to be seen.

Sports - Free TV or not free TV: that is the question

A review of sport's "listed events" will recommend that the England cricket team's home Ashes Tests should be screened on free-to-air television. The Wales Cricket Board recommendations will be published in December 2009. As well as the Ashes, the report will also recommend that World Cup and European Championship qualifiers involving home nations be listed events, plus the Wimbledon tennis championship and golf's Open championship.

The UK Government is not obliged to follow these recommendations, however, if accepted, the England and Wales Cricket Board could lose out on a £300 million deal with Sky while the Scottish Football Association will lose £12million if its cup final is included.

This brings back memories of the "Turf TV wars". Turf TV was launched by 31 of UK's 59 racecourses to provide exclusive live coverage of



racecourses at higher prices than they had previously paid.

Some critics believe the emphasis has been overly biased towards bringing in cash today rather than strategically growing the market for tomorrow... In China the German Bundesliga, shown on the free-to-air state network CCTV, is far bigger, thanks to the Premier League's decision to do a deal with fledgling payTV company WinTV.

racing, leaving bookmakers with little choice but to buy pictures from the 31

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The combined experience of our gaming, entertainment and commercial lawyers provides the gaming industry with a unique and complementary service. We have an understanding of the regulatory, technical and operational issues of our clients and our partner-led approach ensures that our legal advice is both practical and commercial. We provide a level of service that is second to none.



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UK Gambling Update

Government delay in creating a more level playing field

Earlier this year, leading UK-based bookmakers called on the Government to create a more “level playing field” so they could compete with operators based in offshore jurisdictions.

The UK Government has responded in two ways:

- First: the Department of Culture, Media and Sports has frozen applications to its “White List”.
- Secondly the Gambling Commission and the DCMS are reviewing the current system and will consider issues such as “securing fair contributions from overseas licensed operators towards the costs of regulation, the treatment of problem gambling and the Horserace Betting Levy”.

DCMS intended to report its findings to Parliament before the end of 2009. However, it transpired recently that the report will not be presented to Parliament before 2010. This delay will leave UK gambling operators unsure about the future of UK online gambling and may result in further offshore migration.

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