

# Industry



# on a precarious

**THE GAMBLING INDUSTRY** may find itself suffering the biggest blow to its reputation in years, and all for the sake of £40. Following a campaign by the consumer body Justice for Punters, a pressure group founded by an avid punter after an operator withheld the relatively meagre amount, industry practices have come under intense scrutiny.

This has seen the Competition and Markets Authority (CMA) launch an investigation into the gambling sector, after the UK Gambling Commission raised concerns with the watchdog. There is little indication that the industry knows how to react.

“Gambling inevitably involves taking a risk, but it shouldn’t be a con,” CMA senior director Nisha Arora said when announcing the review of “potentially unfair treatment” of players by operators.

Such emotive language is often used in hysterical tabloid attacks or by anti-gambling groups. This can only be combated with a calm, rational and measured fact-based response.

## Muted response

The actual response has, to put it kindly, left much to be desired. When the investigation was announced by the CMA on 21 October last year, it was discussed at length on *BBC Breakfast*, the UK broadcaster’s morning

news programme. The show attracts an average of 1.5m viewers, according to TV industry publication *Broadcast*. Gambling industry representatives were conspicuous by their absence.

The Remote Gambling Association (RGA) attempted to address the matter by releasing a statement in which it said it believed there was “no reason to believe that there are widespread failings”, in the industry’s use of terms and conditions.

It pledged to “cooperate fully with the CMA”, adding that if faults are discovered it is vital that the industry should learn lessons from these.

The RGA is normally one of the most bullish and effective entities in the sector at making operators’ voices heard. If a government even glances at a proposal for a tax rate that may hit operators’ bottom lines it leaps to their defence, firing a barrage of surveys and figures to show the benefits of a more favourable system. Here it was uncharacteristically tentative.

Operators were largely unwilling to comment. One said it had been ordered to keep quiet by the CMA. The authority did not respond to queries as to whether this was indeed the case.

Smaller operators blame the PLCs and the never-ending demand for profit growth from financial markets, the PLCs, meanwhile,

The gambling industry has stayed largely silent since UK regulators launched an investigation into unfair practices. But behind closed doors, operators are concerned, and with Spain launching similar actions, this is not just a UK problem

put the blame on smaller operators unable to pay out on major bonus promotions.

“As members of Senet Group we support high standards of advertising in the promotion of gambling,” said one major operator.

However Senet Group and the Association of British Bookmakers were also unwilling to discuss the matter. Critics may cite this lack of industry response as an admission of the operators’ supposed guilt. However it is worth noting just how much is at stake here.

Offers and promotions are a key part of any operator’s customer acquisition strategy. Much is made of a lack of customer loyalty in the industry today, but figures from marketing platform provider Rocket Fuel throw this into focus.

A survey carried out by the supplier reveals that 54 per cent of UK customers’ betting behaviour was “impulsive or unplanned”, meaning that it was prompted by a special offer or enhanced odds. These UK customers are less likely to be attracted by major events – 43 per cent of those surveyed are attracted by such sporting competitions – suggesting the offers are key. These customers were found to hold on average 2.4 betting accounts each.

This suggests a lack of customer loyalty, meaning promotions, bonuses and offers are necessary to acquire new players. The investigation could see operators lose one of their most effective tools in bringing in new players.

### What’s under scrutiny?

The scope of the investigation, as explained by the Gambling Commission, shows just how much is at stake.

“The Gambling Commission approached the CMA in regard to whether gambling operators are treating customers fairly,” Commission programme director Paul Hope explained.

“Using information we supplied, the CMA contacted a range of gambling operators to find out about their use of potentially unfair terms and misleading practices. This comes as a result of concerns that consumers have raised about issues such as cancelling bets, altering odds after bets have been accepted, and offering misleading sign-up promotions.”



### BOX 1

## Key issues to be investigated

### Gambling Commission programme director Paul Hope explains the scope of the CMA investigation

#### The CMA investigation is looking into four areas:

- In order to try to access sign-up promotions, players are being locked into complex and strict wagering requirements which are difficult to understand and may be unachievable. The CMA has concerns that some promotions may even prevent people accessing their own money.
- Operators may cancel bets or alter odds after bets have been accepted with no warning, because they made a mistake when the odds were first set.
- Terms and conditions allowing operators to impose overly severe penalties on players who, they claim, have breached them.
- Terms which place limits on customers’ ability to challenge an operator’s decision. For example, placing very short time limits on making a complaint or inaccurately suggesting that other legitimate means of redress are not available.

This gives the CMA a wide purview to investigate a range of actions by operators (see Box 1), ranging from sign-up offers with unfathomable terms and conditions to refusing bets from savvy punters.

### Redefining gambling

Justice for Punters’ founder Brian Chappell believes what is happening is that operators are effectively redefining what gambling means. “Gambling should be about winning or losing,” he says. “But that has been written out of the rule book.

“The big operators have moved away from that completely. They have no intention of making books. The sooner they can get everyone into the casino, or gambling on a six-team accumulator, the better. If that’s their business fine, but they need to be honest about that.”

Players sign up for a bonus offer and often find themselves having to pump in significant amounts of cash before they can secure a fraction of that sum for ‘free’.

They might pump money into their account for years to no avail, then get lucky and have one big win. Users will suddenly find their identity being queried and face a long, torturous wait before they can obtain their winnings. If they consistently win they will suddenly find their accounts shut down or restricted to a degree that makes placing a bet pointless.

And what if they play regularly and lose hefty sums? They will find the operators rolling out the red carpet for them, giving them VIP status. One big win, however, and it’s likely that this special service will end. The only way to secure an easy ride is to play and lose, or win in a way that appears to be pure

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Brian Chappell, Justice for Punters

BOX 2

## ASA cases

### Complaints upheld by the ASA in which the gambling operator was found to have misled customers.

- **Cozy Games:** A £10 bonus offer for Big Bucks Bingo was banned after it was revealed customers would have to wager at least £80 before they could withdraw any winnings from the original promotion.
- **Ladbrokes:** The ASA banned an ad that failed to disclose a maximum bet limit linked to a bonus promotion. A player found that after exceeding a bonus bet limit they were no longer eligible for any bonus.
- **TitanBet:** Players complained after an offer promising to return 100 per cent of any losing bets placed at odds of 1-2 or higher turned out to only process refunds on bets settled within four days. TitanBet agreed that this key condition was not properly highlighted.
- **Coral:** An offer promoting enhanced odds on a football match attracted the ire of customers as it was not made clear that the special price was only available for one hour on the day of publication, between 8am and 9am.
- **William Hill:** A website promotion was banned after offering £20 free for a £10 bet but failed to specify that users had to place bets on selections with odds of 1.5 or higher.

All rulings from October 2016.



luck. What is clear, however, is that customers are unlikely to leave with a positive view of the gambling experience.

It's not hard to find evidence of the accusations levelled against operators. Hardly a month goes by without the Advertising Standards Authority (ASA) upholding a complaint against a promotion that it believes has misled customers. In what is becoming the norm, an operator will draw players in with promotions, then use small print that makes winning any money very difficult for the majority of players.

In a promotion banned by the ASA in late 2016, Cozy Games' Big Bucks Bingo offered players a £10 bonus, but required players to gamble at least £80 to secure this sum. In this case it was a bingo game. But it could have been a sports bet, roulette or slots offer. Such promotions are widely used by almost all UK operators, across just about every vertical.

Information is unavailable on how many punters have taken up promotions ruled to have breached advertising laws. And there is no indication that their funds are returned once the ad has been banned. It should also be noted that it takes only one complaint for these ads to be challenged and banned. How many punters tried to take up the offer, were pushed out by the complicated web of terms and conditions, but did not complain?

This only serves to harm the operator. A player will walk away, often poorer and feeling duped. Not only are they unlikely to recom-



## BOX 3

## Punters' grievances

### A cross section of players reveal how they felt conned

#### Bettor 1

A player regularly lost thousands gambling. The individual finally won big, scooping a £20,000 win. However, when the player attempted to withdraw their winnings the operator ordered them to verify their identity. In the time it took to process the withdrawal the player had lost £7,000 of the original win.

#### Bettor 2

Following a big win a player was asked to verify their identity by standing next to their passport, taking a picture and sending it to the operator. They refused, only to be told they were effectively being suspected of a crime. The player attempted to take the case to an arbitration body, only to be told that this could only be accomplished via a body approved by the operator. The arbitrator found in favour of the operator.

#### Bettor 3

A gambler regularly played roulette and after spending an unspecified sum won £7,000. They attempted to withdraw the winnings only to be told they had to verify their identity. Having done so it took days for the withdrawal to be processed. After weeks of talking to customer

service representatives they were told the withdrawal was still pending. They got in touch with *Gaming Intelligence*, and informed the operator of this. The withdrawal was then processed within minutes.

#### Bettor 4

A player went into a betting shop to place a bet on the Kentucky Derby. The player's bets were readily accepted. After watching the race, in which the player's horse won, they returned to the shop to collect their winnings, only to be told that the shop had not been authorised to accept the bet in the first place. The player was not offered a refund. When he told his story to *Gaming Intelligence* and the operator was asked for a comment, the bettor received his winnings.

#### Bettor 5

A professional poker player and avid traveller was told that he must set up a new account when attempting to play in ring-fenced markets he was visiting. Having done so, his accounts were suspended and funds frozen for having multiple accounts.



mend the site to others, they are more likely to complain to a wider group. Gambling comes up in conversation? They will repeat the story.

#### ASA cases

Operators bemoan the high cost of acquiring new customers in the UK market. So why do they draw them in with these offers and then leave them disgruntled?

It goes beyond operators simply tangling customers in terms and conditions. Even getting winnings paid out can become a struggle. This is potentially the most damaging element of the investigation, and it seems to be a genuine problem.

Brian Chappell explains that he has been a bettor for more than 40 years, having been taught how to back horses by his grandfather. As he neared retirement age he began betting online. "My treatment has been appalling," he

says. "The policy now for online sports betting is that nobody with ability is allowed at all."

Chappell had £40 withheld and his accounts restricted or blocked after he consistently won sums ranging from £30 to £700. He denies he is a professional bettor, however, and is only now involved in Justice for Punters as he has the time as a retiree.

"I treat a 16-runner handicap on a Saturday like a newspaper crossword," he says. "It's like trying to solve a puzzle, but I'm absolutely fuming if someone won't let me have a £10 or £20 bet on it. I choose one of the most difficult races of the day, and if an operator's not taking money on these then what are they taking money on?"

One operator responded by saying there were "a number of reasons" why it might restrict or refuse business.

"There are concerns about the use of inside information, problem gambling or professional

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bettors, and it is almost always related to issues such as multiple accounts,” a spokesperson says. “It is a tiny number affected.”

### Existential crisis

“Their business model is based on attracting new customers at any time, but if they show any ability they will shut them down,” Chappell suggests. “A more extreme organisation may accuse them of only targeting vulnerable people, but that hasn’t got other groups very far. It’s unacceptable and unbelievable that the authorities have allowed operators to do it,” he says.

“I fully understand why professional gamblers get shut down – it’s not feasible to trade with someone who wins £50,000 a year, but now ordinary punters are affected,” he continues.

He shares an example: he tried to place a £10 bet on an 11/10 drifting favourite, and was readily accepted. But when he tried to bet £10 on a 16/1 shot he was restricted to a maximum of £1.23.

Paul Beattie of Soko Advisors, formerly vice president of content operations and overseas development for Openbet, sees this boiling down to an existential crisis for bookmakers. Do they want to attract savvy punters, or those who treat every form of gambling the same as playing a slot machine?

“From the player’s viewpoint they’ve bought something, invested money in it, so why can’t they get it back? Every company is culpable here, to an extent,” he says.

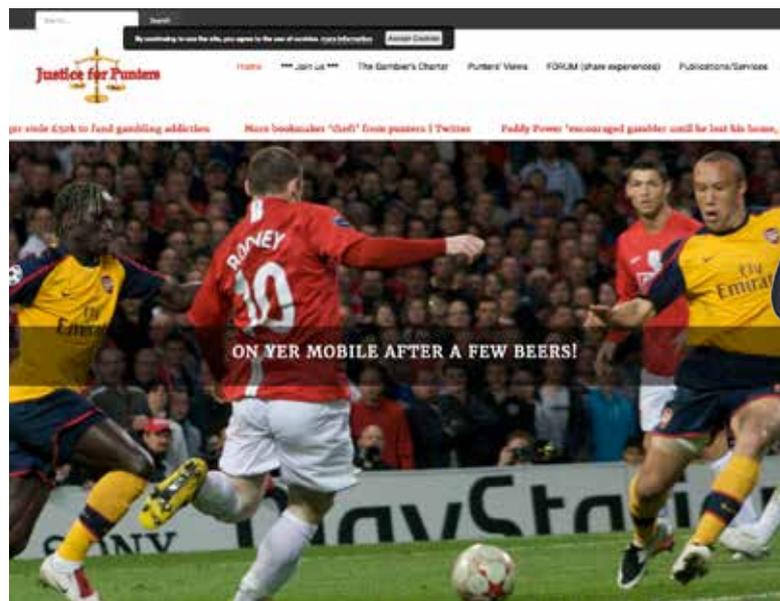
“The issue here is that European operators want to protect their margins as opposed to the absolute amount wagered,” Beattie explains. “They need to either accept lower-margin bets or accept VIP bets from sharper punters. These would erode margins, but ultimately make more money.”

The stance of EU operators contrasts with that of Asian bookmakers, who want the sharp money, in order to help them gauge their prices. Bookies in countries such as the UK, where automated trading solutions are the norm, are willing to turn that money away.

As customer segmentation becomes more sophisticated, players’ performance is easier to track which, in turn, can make the smart punters easier to identify. Should things keep progressing as they are currently, operators will be able to refuse to serve such customers.

And what then? The offshore, unlicensed bookmakers suddenly find themselves with an opportunity to make hay. Asian bookies can take a bigger piece of the action in the UK.

It may also open up space in a seemingly impenetrable market for new operators – after



all, there is a clear opportunity for a company to muscle in by targeting the savvy punters. MadBookie is already doing so in the Australian market.

### Regulatory failings

This is not a UK-centric problem. In other European markets such as France and Italy, all bets must be logged on a central government server. Unless there is an extremely good reason, bets cannot just be cancelled as a result of this monitoring service. The UK, which is arguably a more liberal and established gambling market, appears to have a gaping hole in its regulations. That is ultimately a failure on the part of the UK Gambling Commission.

“The Gambling Commission’s stance is that they [set out] the guidelines and operators can interpret these as they see fit,” Chappell says. “That is totally naive, and hopefully the CMA will come out and stop this.”

Chappell believes that the regulator currently skews in favour of its licensees rather than consumers. This assessment is backed up by an unexpected source.

“Earlier this year [Gambling Commission CEO] Sarah Harrison noted that we have recognised that, at the moment, the relationship is weighted too heavily in favour of the operators,” Hope said.

The regulator is quick to highlight efforts taken to improve communication with customers, strengthening compliance requirements for terms and conditions following a review of social responsibility requirements



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Paul Beattie, Soko Advisors

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for licensees that concluded in 2015. It has also warned operators to ensure terms, especially those relating to bonus offers, are not unfair or overly complex.

However the efforts of Muebete, a bettors' group formed in Spain, shows the issues are not limited to the UK. It is looking for disgruntled punters to join class action suits against bet365, William Hill and bwin, party, accusing the operators of "discriminatory" practices that "seriously affect" their entertainment.

It argues that the companies are contravening Spain's consumer protection laws by restricting the bets they can place, effectively attempting to stop them from winning money as they are not profitable. This may sound familiar to a lot of seasoned UK bettors.

**Time for action**

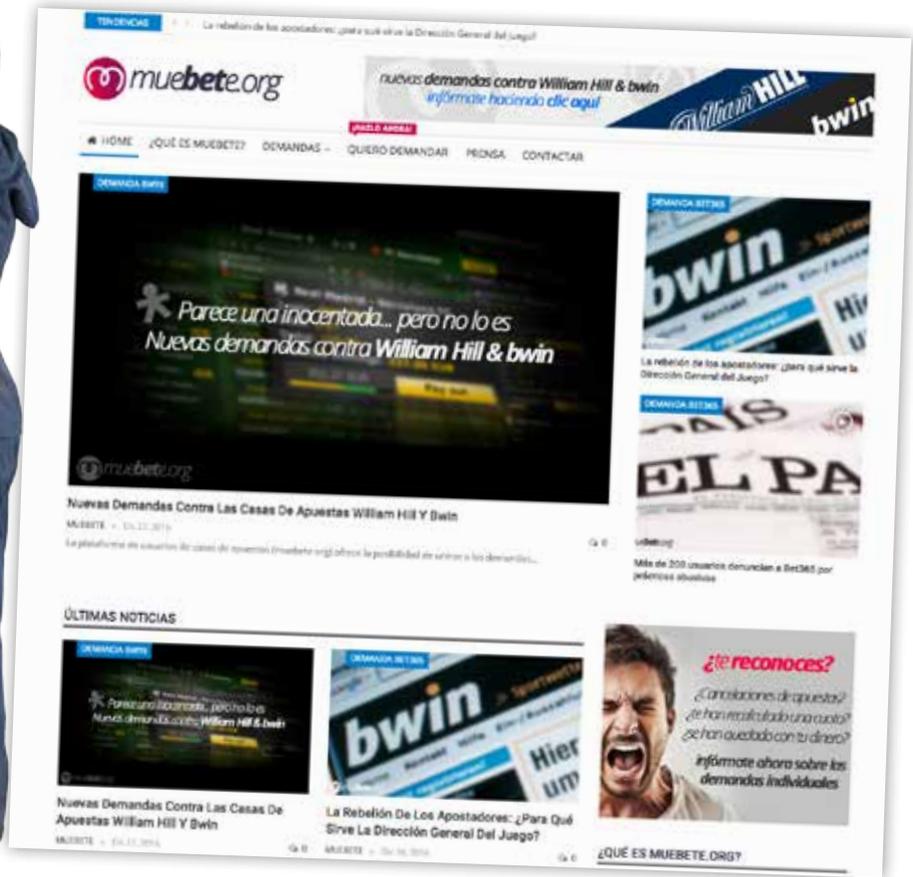
Where does this leave the industry? The gambling regulator can only do so much, and years of being skewed in favour of operators over consumers suggest that its licensees have not heeded its warning.

This is why the CMA's involvement is so significant. It can prosecute over unfair terms under the 2015 Consumer Rights Act, as well as enforcing the 2008 Consumer Protection from Unfair Trading Regulations.



**"Don't wait for a crisis. Act now and demonstrate to consumers that your interest in their needs is genuine"**

**Sarah Harrison, Gambling Commission**



Spanish bettors' group Muebete

"Both the Gambling Commission and the CMA have a shared concern about the fairness and transparency of terms and conditions that apply when consumers gamble, particularly online," the UKGC said.

"We therefore consider that the CMA's expertise and powers will be the most effective means of challenging certain terms and practices which may be unfair, and setting the scene for the Gambling Commission's ongoing compliance and enforcement activity – both online and for the wider gambling sector."

This in part explains the industry's muted response. The Commission has brought in the big guns, and for the first time in years the gambling sector is facing a major hit to its reputation

Indeed, UK GC CEO Harrison is unlikely to appreciate the industry's wait-and-see approach: "[Don't] wait for a crisis to happen that shakes the very foundation of customers' trust in your industry," she said in a speech to operators in November. "Act now and demonstrate to consumers that your interest in their needs is genuine."

These are not empty threats: "One of the principles in the Commission's existing

statement for licensing and regulation is a preference for pursuing compliance through means that stop short of a licence review, in favour of a regulatory settlement," Harrison continued.

"We propose to remove this bias in favour of settlement. We will put access to all tools, including licence review – both of the operator and personal management licences – on an equal footing. Put simply we will use the right tool for the job.

"In addition, we will propose changes to our statement on financial penalties with the likelihood of higher penalties going forward, in particular where we see systemic and repeated failings. Our principles on penalties already reflect the need to remove profits from non-compliance, take account of costs and consumer harm, and deter poor compliance – but higher penalties are likely if we do not see behaviour changing."

An update on the investigation is due early this year. The regulatory bodies have taken proactive steps to address a problem that has threatened to become a normal state of affairs for the industry. The onus is now on the industry to prove that it can positively react to such matters. ■