

What constitutes bingo?

Advice note, January 2014

1 Summary

1.1 Bingo is a traditional form of gambling that has seen considerable innovation in recent years. It is also the only form of gambling recognised in the Gambling Act 2005 (the Act) that does not have a specific statutory definition, the Act providing simply that ‘bingo’ means ‘any version of that game, irrespective of by what name it is described’. The Gambling Commission (the Commission) has no desire to change the position set out by Parliament. However, in the light of rapid and expanding product development and innovation in the sector, we consider it important to provide some clarity as to where we consider the boundaries between bingo and other forms of gambling lie. The Commission therefore offers the advice in this note to help bingo operators avoid creating and offering products that we consider to be casino games, lotteries or fixed odds betting.

2 Introduction

2.1 The Commission has, both before and since the coming into force of the Act, received many enquiries from both the ‘traditional’ bingo industry and from new entrants, or potential new entrants to the market, about new game formats proposed to be offered as bingo in bingo licensed premises. It has also had correspondence with The Bingo Association about what constitutes bingo. Whilst only the courts can provide a definitive interpretation of the law, the Commission considers it helpful to publish this advice note setting out its views as to the essential requirements for a gambling product to be recognised as bingo.

2.2 In the context of this advice, it should also be noted that, as well as providing bingo, holders of bingo premises licences may, by virtue of section 291 of the Act, also offer facilities for prize gaming¹ provided such gaming complies with the conditions attached to all bingo operating licences by the Gambling Act 2005 (Operating Licence Conditions) Regulations 2007 (SI 2007 No. 2257) which impose limits on both participation fees and prizes. Bingo itself, whilst traditionally played for a prize pool comprising players’ stakes less participation fees, may also be played for a set prize or prizes determined neither by reference to the number of persons playing nor the amount paid for or raised by the gaming, and therefore in a format which meets the definition of prize gaming. Such a bingo format, especially when played for modest prizes, is often referred to as ‘prize bingo’. But bingo of this type also meets the essential requirements set out below and consequently, unlike other types of gaming, may be offered in bingo licensed premises without the need for reliance on the specific permission contained in section 291 and thus without having to comply with the participation fee and prize limits laid down in the 2007 Regulations.

¹ Gambling Act 2005 section 288 – Meaning of ‘prize gaming’

Gaming is prize gaming for the purposes of this Act if neither the nature nor the size of a prize played for is determined by reference to—

- (a) The number of persons playing, or
- (b) The amount paid for or raised by the gaming.

3 Fundamental principles of bingo

3.1 In its historic development, bingo is essentially a lottery played as a game. Although dated, a good starting point in understanding the characteristics of bingo is its description in the 1978 Royal Commission Report:

'Bingo is a lottery played as a game. Each player receives for his stake a set of numbers which he has not chosen. These are marked off against numbers selected at random and announced by a caller, and the winner is the person who can first substantiate a claim to have marked off all those, or a particular section of those, in the set he has been given.'

3.2 The Act distinguishes bingo from casino gaming. It provides in section 65 for separate casino and bingo operating licences and, in section 68(3), excludes bingo from the 'other games of chance' that a casino operating licence authorises its holder to provide.

3.3 Against this background and following consultation with a wide range of bingo industry stakeholders, the Commission considers there are three fundamental principles of bingo. These principles are:

- bingo must be played as an equal chance game
- bingo must involve a degree of participation and
- bingo games must have a clearly defined end point.

3.4 Further information regarding the Commission's view of each of these principles is set out in the following paragraphs.

Bingo must be played as an equal chance game

3.5 In order for a game to be classed as 'bingo' it must meet the Act's definition (in section 8) of 'equal chance gaming' (as opposed to casino gaming). Thus, it:

- a) must not involve playing or staking against a bank, and
- b) must be a game in which the chances are equally favourable to all participants in the sense that each ticket or chance has the same probability of success as any other.

3.6 The Commission sees no objection to players in bingo being able to select some, or indeed all, of their numbers provided there is a mechanism to ensure that each player nevertheless has a unique set of numbers and the game therefore remains equal chance. We also consider that fixed odds bingo games are acceptable provided they are structured to ensure there is no banker's interest.

3.7 The Commission has produced a note addressing what it considers constitutes a banker's game and how equal chance gaming can be distinguished from it. This can be found at Annex A.

Bingo must involve a degree of participation

3.8 To distinguish a bingo game from a straight lottery, a player must be required to participate in order to be successful. Participation could, and traditionally does, take the form of human interaction with the game, ie: players actively marking their cards and/or claiming to have won. Alternatively, as is often the case in modern bingo formats, especially when played on-line, by means of bingo machines or hand-held devices, technology can be used to act as the participant's agent in playing out the game which the player has initiated. In this way participation can be made up of a combination of activity taking place both within the mechanic of the game and by the player's own actions.

3.9 Bingo games where the winning numbers are pre-selected are acceptable, provided that those numbers are subsequently called or displayed.

Bingo must have a clearly defined end point

- 3.10** A fundamental element of a game of bingo, as with any game, is that it needs to end at a predetermined designated point or time. This end point needs to be appropriate, realistic and clearly communicated to players. The period within which a player is able to claim a prize should be factored into the timeframe of the game; determining who has won is part of the game.

4 Further guidance

- 4.1** In June 2009 the Commission published a document entitled *Key characteristics of bingo*, which had particular relevance to bingo played on bingo machines and which bingo industry stakeholders have said they found helpful. A copy of that document, as updated and revised in the light of more recent discussions with such stakeholders, is reproduced at Annex B.
- 4.2** The Commission has, of course, separately set technical standards and equipment requirements for remote and non-remote bingo respectively with which, as a condition of their licences, operators must comply.

Annex A: Banker's games and equal chance gaming

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- A.1** Under the Gambling Act 2005, bingo must always be 'equal chance gaming' in order to distinguish it from casino gaming (see s7(2): 'In this Act, 'casino game' means a game of chance which is not equal chance gaming').
- A.2** In s8(1), the Act says that gaming is 'equal chance gaming' if:
- it does not involve playing or staking against a bank and
 - the chances are equally favourable to all participants.
- A.3** It is important to note that these are two separate, cumulative, requirements. If a game either involves a bank or is one in which the chances as between all those playing are unequal then it is not 'equal chance gaming' and cannot be offered as bingo.
- A.4** This note seeks to address the meaning in this context of playing or staking against a bank.
- A.5** A good starting point is the definition given in 'The Law of Gambling' edited by Smith and Monkcom which says that in essence a game involves a bank where one player plays against all the others, winning from them the stakes² that they lose and paying out to them the stakes that they win.
- A.6** The most obvious types of banker's game are those (such as roulette or blackjack) which contain an inbuilt advantage to whoever is the banker (a house or banker's edge). The players' payments are made up entirely of stakes: the operator does not need to decide what deductions to make from stakes and never makes any such deductions.
- A.7** The position is however complicated by the fact that, even if the bank does not have an edge, the game remains a banker's game (and therefore cannot be played as bingo) if the operator acts as the bank in the sense at paragraph 2.
- A.8** As a consequence, in deciding whether or not something offered as bingo is truly equal chance gaming, regard needs to be had to the following:
- are stakes involved at all, or merely participation fees? For instance, if the person makes a payment to participate for a prize put up by the operator, that is not a stake and the game is not a banker's game
 - if there are stakes, are there any circumstances in which any part of those stakes may be retained by the operator, or are they all paid out in prizes, either in that game or rolled over to later ones? If the latter, there is no bank against which the person is betting; instead the operator merely holds the prize fund on behalf of the players.
- A.9** A game which has both a participation fee and stakes which are fully returned to the winning player(s) also remains 'equal chance' gaming.
- A.10** Thus, as long as bingo operators either return all stakes in prizes or decide themselves how much to put up as prizes and separately decide how much to charge to ensure that the payouts are likely to be covered (such that they do not make a commercial loss) the format will not be a banker's game and will (provided chances are equally favourable to all players³) meet the definition of 'equal chance gaming'.

² The 2005 Act's definition of a stake is: 'an amount paid or risked in connection with gambling and which either (a) is used in calculating the amount of winnings or value of the prize that the person making the stake receives if successful or (b) is used in calculating the total amount of winnings or value of the prizes in respect of the gambling in which the person making the stake participates.'

³ Case law establishes that the fact that a player in bingo may purchase more than one card does not make the chances unequal as between players; such a player will have paid for two or more chances to win and not a chance to win two or more times what another player can win.

Annex B: Key characteristics of bingo

Revised, January 2014

- B.1** Following discussions with the Bingo Association and BACTA, the Gambling Commission published in June 2009 a list of characteristics, which it considered should be present in games, whether or not played by machine, in order for them to be classed as bingo. The Commission has recently reviewed and revised, and now republishes, this list.
- B.2** The listed characteristics are particularly relevant to bingo machines, also known as video bingo terminals (VBTs). Machines that play bingo are exempt from limits on numbers, and stakes and prizes which apply to gaming machines. If these characteristics are not present it is likely that the Commission will view the machines as gaming machines and regulate them accordingly.
- B.3** Manufacturers and operators should address these characteristics when developing bingo machines for bingo clubs, adult gaming centres (AGCs) and family entertainment centres (FECs) and should also note that the Commission has concerns about potential access to these machines by children and young people (those under the age of 18). At this stage we do not intend to introduce licence conditions restricting this product to over 18s in those premises that are not age restricted, as the industry has agreed to the following characteristics. However, the options to do so remains open to the Commission should issues arise.
- B.4** The Commission will continue to monitor the development of bingo machines with a view to a decision, in the longer term, whether it is necessary to incorporate the characteristics in our Technical Standards, Equipment Technical Requirements and/or Licence Conditions and Codes of Practice. In the meantime, we note that both the Bingo Association and BACTA have communicated these characteristics to their members by way of a Code of Practice.
- B.5** In the list below any reference to 'game' or 'games' means a game or games of bingo.

Key characteristics of bingo

- Players' payments must be divided between stakes and participation fees, although they may consist entirely of stake or entirely of participation fee.
- The way that division is made must be transparent to the player and in particular there must be a notice displayed showing participation fees in a way that makes it readily accessible to players. Any stakes must be returned to players, either in the particular game or in a subsequent one.
- Each game must be played to a single set of numbers, or symbols; drawing a second set starts a new game.
- Any game formats must clearly be presented as offering the player the opportunity to participate in a game of bingo. This includes numbers (or symbols) being marked off and the game having the appearance of a game of bingo (rather than a gaming machine).
- Any 'added prize money' stated to be available in a game, once offered (and unless the offer is specifically limited in time), must remain available until won in that or subsequent games ie: by way of rollover; the operator cannot claim them back. Prizes clearly advertised as being offered only for a limited period can be claimed back if they are not won. All prizes offered in each game must be transparent to the player.
- Games may operate with a single player, provided there is a meaningful opportunity for other players to participate in the same game.
- The game must comply with the requirements of the Gambling Act 2005 and must be capable of audit, where appropriate, to demonstrate legal compliance. Such audit data will demonstrate for example how players' payments are split between

stakes and participation fees and that all stakes are returned to the players, either in that game or subsequent games.

Characteristics specific to bingo machines

- The speed of game, including the time taken to join, should be similar to that of an interval game. Games must not have an auto play function.
- The machines must provide a facility for the player to extend the playing time by a minimum of 100%.
- The amount that can be staked in a set period should be no greater than on a Category C machine.

Regulations specific to bingo machines in AGCs/FECs

- The nature or size of the prize offered may not be determined by the number of persons playing; or the amount paid for or raised by the game.
- Bingo machines in FECs will not be made available in areas where children and young people (those under the age of 18) are permitted.

Gambling Commission, January 2014

Keeping gambling fair and safe for all

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www.gamblingcommission.gov.uk

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