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Public statement

Clockfair Limited trading as Broadway Public statement

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Key failings

Anti-Money Laundering:

- Licence condition 12.1.1

Safer Gambling:

- Social Responsibility code provision 3.4.1

Operators are expected to consider the issues here and review their own practices to identify and implement improvements in respect of the management of

customers.

Introduction

Licensed gambling operators have a legal duty to ensure that their gambling facilities are being provided in compliance with The Gambling Act 2005 (the Act), the conditions of their licence and in accordance with the licensing objectives, namely to:

- prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- ensure that gambling is conducted in a fair and open way
- protect children and other vulnerable people from being harmed or exploited by gambling.

Executive summary

This case concerns Clockfair Limited trading as Broadway (Clockfair) which holds non-remote casino 1968 Act operating licence.

The Commission investigated Clockfair's handling of 11 customers following concerns identified at a compliance assessment in July 2019.

Our investigation identified failings in the way Clockfair identified and managed customers who were at higher risk of gambling related harm and who presented a higher risk of money laundering or terrorist financing. These failings stemmed from Clockfair failing to identify risks relating to money laundering and having inappropriate anti-money laundering (AML) and safer gambling policies and procedures.

On 24 October 2019, we gave Clockfair notice that we were commencing a review of its operating licence. That review revealed Clockfair had breached a number of conditions of its operating licence

Clockfair cooperated with our enquiries throughout the course of our investigation and has accepted that its money laundering and terrorist financing risk assessment was not appropriate and that its policies and procedures in respect of AML and safer gambling were not appropriate nor implemented effectively. It has accepted that it failed to act in accordance with conditions of its operating licence between January 2017 and July 2019.

In line with our Statement of principles for licensing and regulation, Clockfair will pay a payment in lieu of a financial penalty of £260,000. It will also pay Commission costs of £11,690.41.

Findings

Failure to identify customers at risk of gambling related harm

Social responsibility code provision 3.4.1

Social responsibility code 3.4.1 states that 'Licensees must put into effect policies and procedures for customer interaction where they have concerns that a customer's behaviour may indicate problem gambling. The policies must include ... (e) specific provision for making use of all relevant sources of information to ensure effective decision making, and to guide and deliver effective customer interactions, including in particular:

i. provision to identify at risk customers who may not be displaying obvious signs of, or overt behaviour associated with, problem gambling: this should be by reference to indicators such as time or money spent.

ii. specific provision in relation to customers designated by the licensee as 'high value', 'VIP' or equivalent.... Our investigation identified weaknesses in Clockfair's safer gambling controls and found it had failed to put into effect policies and procedures for customer interaction with specific provision for making use of all relevant sources of information to ensure effective decision making and to guide effective customer interactions, contrary to SRCP 3.4.1 paragraph 1. e(i).

- Customer A registered in 2015 and incurred losses of £58,830 in a 12-month period between 2018 -2019. Clockfair interacted with the customer at the end of this period in July 2019 and the customer stated they were comfortable with their level of play. During this same period company accounts showed a loss of circa £100,000 for the customer's two companies. No other responsible gambling interactions were recorded on the customer's account.
- Customer B registered in 2006 and incurred losses of circa £39,000 between 2006 and 2019. The customer stated to Clockfair that they were unable to provide documentation to evidence his source of funds from the restaurant that it understood he owned, as the business and finances were all in relatives' names. The customer stated that this was to prevent them losing the business through gambling. The Commission found that Clockfair undertook just one responsible gambling interaction with the customer in June 2018.

Failure to have appropriate AML measures

Licence condition 12.1.1 relates to the Prevention of Money Laundering and Terrorist Financing

Licence condition 12.1.1(1) requires:

Licensees must conduct an assessment of the risks of their business being used for money laundering and terrorist financing. Such risk assessment must be appropriate and must be reviewed as necessary in the light of any changes of circumstances,

including the introduction of new products or technology, new methods of payment by customers, changes in the customer demographic or any other material changes, and in any event reviewed at least annually.

Licence condition 12.1.1(2) requires:

Following completion of and having regard to the risk assessment, and any review of the assessment, licensees must ensure they have appropriate policies, procedures and controls to prevent money laundering and terrorist financing.

Licence condition 12.1.1(3) requires:

Licensees must ensure that such policies, procedures and controls are implemented effectively, kept under review, revised appropriately to ensure that they remain effective, and take into account any applicable learning or guidelines published by the Commission from time to time. Clockfair has accepted that it was in breach of this licence condition between January 2017 and July 2019 as:

- The risks assessments were not appropriate
- The policies, procedures and controls were not appropriate to adequately mitigate the risks identified – particularly the monitoring and review of customers to ensure the proceeds of crime were not being spent
- The AML policies, procedures and controls in place were not effective. During the investigation we identified Clockfair had failed to undertake checks to verify the underlying source of the customer funds in some instances. In other instances, where checks had been undertaken, Clockfair had failed to undertake sufficient steps to verify the source of the customer funds. The Commission also found that Clockfair failed to conduct adequate checks in relation to Politically Exposed Persons (PEPs) and persons subject to financial sanctions, despite some customers originating from high-risk jurisdictions.

Examples of AML failings are:

- Customer A registered in 2015 and deposited £360,629.00 and incurred losses of approximately £81,000 between 2015 and July 2019. Clockfair undertook open-source checks to verify the customer's source of funds which suggested the customer was a sole director of two companies. Clockfair understood from Companies House that the companies were making a loss of circa £100,000 in their last financial year. Although the customer had hit Clockfair's AML triggers, it was not until July 2019 it requested evidence from the customer to establish their source of funds. The customer also originated from a high-risk jurisdiction but this was not reflected in the customer's profile and Clockfair failed to undertake PEPs and financial sanctions checks.
- Customer B registered in 2006 and deposited £723,670 and incurred losses of approximately £39,000. The customer hit Clockfair's AML triggers and in October 2017 was requested to provide evidence of their source of funds which, at the

time, Clockfair understood was from the restaurant the customer owned. Clockfair made a number of further requests but the customer failed to provide the information. The customer was nonetheless allowed to continue to gamble until June 2019, when they were suspended by Clockfair for failing to provide source of funds information.

- Customer C deposited £284,470 and incurred losses of £3,315.00 in a 12-month period between 2018 – 2019. The customer stated to Clockfair they had operated and sold a car wash but refused to supply further details. The customer hit Clockfair's AML triggers in May 2019 and was requested to supply evidence of their source of funds however, this was not provided, and the customer was allowed to continue to gamble later that month. The customer also originated from a high-risk jurisdiction, but this was not reflected in the customer's profile and Clockfair failed to undertake PEPs and financial sanctions checks.

Failure to have appropriate usage of cash policies and procedures

Licence condition 5.1.1(1) requires:

Licensees, as part of their internal controls and financial accounting systems, must implement appropriate policies and procedures concerning the usage of cash and cash equivalents (eg bankers drafts, cheques and debit cards and digital currencies) by customers, designed to minimise the risk of crimes such as money laundering, to avoid the giving of illicit credit to customers and to provide assurance that gambling activities are being conducted in a manner which promotes the licensing objectives.

Licence condition 5.1.1(2) requires:

Licensees must ensure that such policies and procedures are implemented effectively, kept under review, and revised appropriately to ensure that they remain effective, and take into account any applicable learning or guidelines published by the Gambling Commission from time to time. Clockfair accepted that it failed to implement appropriate policies and procedures and ensure that they were implemented effectively.

We found aspects of Clockfair's cash desk policy document had not been updated as we would have expected.

Action taken by the Licensee

In addition to accepting these failings, Clockfair has committed to an ongoing programme of improvements to ensure its policies, procedures and controls are appropriate and implemented effectively including, but not limited to, the following specific remedial action:

- Reviewed and updated its policies and procedures for AML and social responsibility.

- Incorporated within its social responsibility policy properly defined indicators of risk for the identification of problem gambling
- Assessed its internal and external reporting processes.
- Reviewed and updated its record keeping procedures.
- Undertaken a significant staff training exercise to ensure understanding of its policies and procedures.

Regulatory settlement

This regulatory settlement consists of:

a) £260,000 payment in lieu of a financial penalty, which will be directed towards delivering the National Strategy to Reduce Gambling Harms b) Agreement to the publication of a statement of the facts in relation to this case c) Payment of £11,690.41 towards the Commission's costs of investigating the case.

In considering an appropriate resolution to this investigation, the Commission has had regard to the following aggravating and mitigating factors:

Aggravating factors

- The duration of the breaches
- There were repeated breaches of licence conditions as a result of the absence of internal controls and procedures.
- The Licensee should have been aware of the breaches
- Many of the breaches were serious and had an impact on the licensing objectives
- The breaches arose in circumstances that were similar to previous cases the Commission has dealt with which resulted in the publication of lessons to be learned for the wider industry
- The need to encourage compliance among other operators.

Mitigating factors

- There was timely co-operation with the investigation undertaken by the Commission and no attempt to conceal the extent of the breaches
- An ongoing programme of remedial action was commenced in response to the breaches being brought to the Licensee's attention
- The Licensee has shown insight into the seriousness of the breaches.