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## **Camelot Group plc's response to the National Lottery Commission's 'Consultation on the use of gaming and betting themes on National Lottery Scratchcard games'**

### **1.0 Introduction**

1.1 Camelot welcomes the opportunity to respond to the National Lottery Commission's (NLC) consultation on the use of gaming and betting themes on National Lottery Scratchcard games. We would like to preface our responses to the specific questions asked with some observations on the historical and regulatory contexts.

### **2.0 Executive Summary**

2.1 The National Lottery, as the NLC acknowledges on *page 2 at paragraph 3.3*, has been offering players gaming themed Scratchcards since 1995. Over this 13 year-period, we are not aware of any consumer complaints linked to the theme of these gaming and betting Scratchcards, there has been no suggestion that any of them has contributed to excessive play, and in all cases players have known that they have been participating in a National Lottery game rather than a gaming or betting activity.

2.2 It is because of Camelot's history of responsible management of the lottery and in light of the NLC's existing powers to require the withdrawal of any Scratchcard it wants that, of the three options examined by the NLC, Camelot supports the granting of permission for any gaming and betting references.

### **3.0 History**

3.1 Camelot's extensive player protection measures ensure that National Lottery products present a low risk of consumer protection problems arising, and gaming and betting themed Scratchcards present no more of a risk than any other themed Scratchcards. Furthermore, the very clear nature of the product – whatever its theme – means that it cannot

be mistaken for anything other than what it is. Buying a Scratchcard cannot conceivably be confused with playing a fruit machine, for example.

- 3.2 We are unclear why the NLC has chosen to consult publicly on the matter and most concerned about its recommendation of an option which is more complex and restrictive than the status quo. We believe that the key policy issue which should underpin the consultation concerns whether or not the operator of The National Lottery and the NLC have appropriate measures in place to prevent products, be they Scratchcards or any other lottery game, with an unacceptably high risk of generating consumer protection problems from being launched.
- 3.3 Since the launch of the lottery in 1994, the gaming and gambling market has become increasingly competitive and this has been further accelerated by the implementation in 2007 of the Gambling Act 2005. Major contributors to this have been the wide public acceptance of gaming and gambling as a respectable form of entertainment; the significant technological advances enabling punters to participate where they want, when they want, bringing in new audiences to the market; and the change in taxation regimes for many sectors of the industry. These developments have resulted in major competitive pressures for The National Lottery.

#### **4.0 Regulation**

- 4.1 The NLC's consultation on its approach to regulation ('A Review of the National Lottery Commission's Approach to Regulation', April 2006) expresses the hope that: *"We are open-minded....and determined to regulate in a way which enhances the development of the National Lottery without imposing unnecessary burdens which constrain or restrict its potential."*
- 4.2 This reflects the efforts of the Better Regulation Executive (BRE) in recent years to try and simplify and rationalise the role that regulators play. Its definition of better regulation is that:
- 4.3 *"...it is not about removing necessary safeguards. It is about finding more effective ways of providing protection without overburdening those who are regulated. It is about streamlining bureaucracy in order to drive up productivity, increase prosperity and modernise public services for the benefit of society and everyone in it."*
- 4.4 The creation and operation of the Gambling Commission, for example, has been successfully achieved with extensive use of the principles of better regulation, namely; proportionality, accountability, consistency, transparency and targeting.

- 4.5 Camelot recognises that the NLC is seeking to embrace many of these principles by looking afresh at its own way of operating, and looks forward to working with it to try and find a modus operandi that protects the reputation of The National Lottery while raising the maximum amount for the Good Causes.
- 4.6 Camelot shares the NLC's belief that the current arrangements, whereby gaming and betting themes have to be approved on a case-by-case basis, lacks transparency, clarity and certainty. The present situation is perhaps an administrative oversight. Nevertheless, under the current regulatory framework the NLC can always request that Camelot suspend any constituent lottery if, in its opinion, the game has resulted in problem play. Proposing a more prohibitive use of gaming themes than has gone before does not reflect the fact that the NLC is already empowered to regulate any activity it thinks may result in detriment to players. Nor does it reflect the fact that as the operator Camelot has a strong record of running the lottery responsibly.
- 4.7 We also agree about the importance of avoiding excessive play of any lottery product and of maintaining a clear distinction between the lottery and harder forms of gambling. However, when reviewing the recommended option proposed by the NLC in this consultation against the Five Principles of Good Regulation, we believe it falls well short of proportionality, consistency or targeting, for the following reasons:
- Proscribing a range of gaming and betting themes, a number of which have been used without incident in the past, is disproportionate when the available evidence about potential consumer detriment points in the opposite direction. If the criteria contained in the Commission's preferred option had been applied to the betting and gaming themed Scratchcards launched to date, over 50% would have been prohibited;
  - It is entirely inconsistent with previous permission to use such themes;
  - The target is unclear, but it appears to be principally the achievement of administrative clarity rather than tackling a live player protection issue.
- 4.8 The absence of any experience of betting or gaming themed Scratchcards being the cause of problem play tends strongly to support the conclusion that existing player protection strategies and arrangements are highly effective. These include the use of the Game Design Protocol and, more recently, of GAM-GaRD. The range of player protection measures we apply to all our games is discussed in more detail later in this paper.

## **5.0 The Options**

### ***Prohibition of all gaming and betting references***

- 5.1 This is not an option that the NLC has ever adopted and itself concedes – on *page 3 at paragraph 4.3*, that *‘there is no evidence of a direct link between gaming themed Scratchcards and excessive play...’*
- 5.2 We therefore agree with the NLC that to pursue this option would run counter to all available evidence of detriment to players. We would add that such a step would be entirely contrary to the Better Regulation principles.

### ***Permission for any gaming and betting references***

- 5.3 This is the option which Camelot supports and which provides for regulatory certainty and clarity on the issue. The evidence available strongly indicates that in relation to betting and gaming themed Scratchcards existing player protection measures have dealt successfully with the principal regulatory concerns outlined at *paragraph 3.1* of the NLC’s paper. It seems to Camelot that in rejecting this option the NLC is disregarding all the evidence already available to it over a protracted period. Camelot monitors and tracks all lottery products extremely carefully through a variety of different procedures and, far from encountering any detriment, has found that these betting and gaming themed Scratchcards carry the same average risk as other National Lottery Scratchcards.
- 5.4 Granting a general permission for any gaming and betting references would not alter or compromise any of the existing arrangements between Camelot and the NLC. There will still be complete clarity and visibility about future game plans, and those plans will continue to be the subject of rigorous player protection measures.

### ***Permission for themes not featuring particular prohibited characteristics***

- 5.5 The NLC appears to be recommending this option on imprecise and unsubstantiated fears that there may be some as yet unidentified risk associated with gaming and betting themes. We have found no evidence to back up these fears. Moreover, the proscriptions proposed are more restrictive than any that have been imposed before. We do not think this will do anything to protect players, but we do think it will impede the ability of the National Lottery to compete effectively in the UK marketplace, and will undermine the objective of maximising returns to the Good Causes.

## **6.0 The Questions**

**5.1a Is there any evidence, that the Commission should take account of, which suggests that the featuring of gaming or betting themes on National Lottery Scratchcards can lead to any player detriment, for example, excessive play?**

- 6.1 We are not aware of any evidence which suggests that the featuring of gaming or betting themes on National Lottery Scratchcards can lead to any detriment. We have launched 20 betting and gaming themed Scratchcards since 1995, none of which has been identified as causing any player problems. It is worth noting that many of our EuroMillions partners (including La Francaise de Jeux), as well as most state lotteries in the USA, use gaming or betting themes on Scratchcards without, so far as we are aware, any detriment to players.
- 6.2 The lottery's Draw-Based games, Scratchcards and Interactive Instant Win Games (IIWG) carry lower risks than harder forms of gambling, but to assess how our products affect vulnerable players, we monitor how many calls are made to GamCare as a result of playing our games. In 2006/07, only 2.5% of GamCare calls related to the lottery, a reduction of 0.1% compared with the previous year.
- 6.3 To help us assess any potential problems, since 2003 we have used our Game Design Protocol. With the gambling environment in the UK changing rapidly, we developed a tool which would help to assess whether a new lottery game might encourage problem play. The tool allows us to measure a new game as having a high, medium or low potential for play among vulnerable groups – namely those aged under 16, low income groups and people with addictive tendencies. If there is a clear danger to any of these groups, Camelot will adapt, re-design or scrap the game. This applies to all our games, including Scratchcards.
- 6.4 In addition, as an illustration of our pioneering work in player protection measures, Nottingham Trent University was commissioned by Camelot to develop an additional game design tool called GAM-GaRD which looks at the structural characteristics of a game to understand associated risk levels to vulnerable adults (specifically in regard to excessive play). We now apply GAM-GaRD to all new games, alongside our established Game Design Protocol.
- 6.5 Operation Child, which was developed in consultation with the NLC, involves test purchasing visits carried out by young people who are aged 16, but look younger. Retailers who sell on three separate occasions to test purchasers have their terminal removed. In 2007, retailers achieved a first refusal rate of 93% and no terminals needed to be removed.
- 6.6 And finally, the Gambling Commission's Gambling Prevalence Survey 2007 showed minimal evidence of National Lottery products, including Scratchcards, encouraging problem gambling; quite the reverse, the Survey again drew attention to The National Lottery's success in

attracting the highest number of players while being at the lowest end of problem play.

- 6.7 In sum, the range of protection measures in place, which are kept under regular review, are quite clearly effective and successful in preventing any detriment to players.
- 6.8 We have 14 years' experience of operating The National Lottery successfully and, above all, responsibly. Camelot currently ranks first in the Leisure category in Business in The Community's Social Responsibility Index. It increased its overall score in the Index by 4% to 96.5% in 2007. It is also listed in the Platinum category for its overall CR achievements – the highest category possible within the Index.

***5.1b Should National Lottery Scratchcards be associated with or feature gaming or betting themes?***

- 6.9 Maintaining a clear distinction between the lottery and the gambling sector has always been a critical component of Camelot's commercial strategy. The marketing and promoting of games as one form of gambling when they are in fact another, plus the blurring of the line between lottery and other products, undermines the operator's ability to ensure the long-term health of The National Lottery.
- 6.10 That is why it is crucial that it is always entirely clear to players when they are playing a National Lottery game; Scratchcards are no exception. The prominence of the crossed fingers logo on the card, a brand which is recognised by 92% of the adult population, combined with the blazoning of 'The National Lottery' underneath are designed to leave no room for any doubt or confusion about the provenance of the product and its unique association with the Good Causes.
- 6.11 The NLC itself acknowledges that the *'difference between a NL Scratchcard and gaming or betting products is generally sufficiently clear to make the risk of confusion for players minimal.'* Page 3 - at paragraph 4.5.
- 6.12 The NLC will be aware that the level of clarity and transparency achieved by National Lottery games is not always replicated by some betting operators. Our own research has shown that the imagery used on their websites, including lottery balls, actually confuses players into thinking they are playing a lottery rather betting on one. To date, the Gambling Commission has declined our repeated requests to require these operators either to stop, or at least curtail, such misleading activities. It would be unfortunate if we found our commercial room for manoeuvre reduced by our own regulator while our competitors continue to enjoy a latitude which we calculate actually diverts money away from The National Lottery and the Good Causes which it funds.

- 6.13 The reality, as acknowledged on *page 2 – at paragraph 3.3* of the consultation document, is that the NLC has been approving gaming themed Scratchcards since 1995 with no evidence of harm having appeared over all that time. Had such evidence existed, we believe it would already have been identified. That no such evidence has emerged is testament to the effectiveness of player protection measures already outlined and the public's overwhelming ability to distinguish lottery products from gaming or betting products.
- 6.14 The advantage to the operator of being able to continue, as it has for 13 years, the judicious use of gaming or betting themes is that they bring balance and variety to our products. To put the issue into some perspective, Scratchcards accounted for 20% of total annual sales in the financial year 2007/08. Since 1995, less than around 5% of Scratchcard games launched have featured gaming or betting themes (20 gaming themes from approximately 400 launches). Without tying ourselves into arbitrary targets, we would not expect to see any dramatic shift in this kind of illustrative pattern in the years ahead.
- 6.15 The disadvantage of either an outright prohibition or a more restrictive regime than exists currently, is that our commercial judgement and freedom to introduce those products we think will boost sales will be impaired. That is inconsistent with our duty to maximise returns to the Good Causes.

***5.1c Has the Commission identified the most appropriate option for addressing the use of gaming or betting themes on National Lottery Scratchcards?***

- 6.16 We note the NLC's concern that the current arrangements '*are unsatisfactory because there is a lack of transparency of the Commission's rationale for decisions to approve gaming themes and that such a lack of clarity provides uncertainty for the operator in developing its game plan.*' *Page 3 – at paragraph 3.4*
- 6.17 We agree that the present arrangements could be construed as ad hoc. However, in seeking to bring greater clarity and transparency to them we think that the NLC in recommending - '*permission for themes which do not feature particular prohibited characteristics*' *page on 3 – at paragraph 4.1* - has chosen an inappropriate option, for the following reasons:
- It is a more restrictive position than the status quo;
  - It is inconsistent with best regulatory practice to recommend a more interventionist and restrictive approach when no evidence of harm has been identified and no risk assessment undertaken;
  - Such a course would impede the operator's ability to develop its optimum game plan.

- 6.18 It is for these reasons that we strongly support the option that permission should be given for any gaming and betting references. This would bring immediate clarity to the process. As we have already made clear, this would not, as the NLC appears to fear, result in a free-for-all.
- 6.19 The NLC itself recognises the strength of player protection measures, the absence of evidence of a direct link between gaming and betting themed Scratchcards and excessive play, and the public perception that The National Lottery is more socially acceptable than other forms of gambling. We are therefore unclear why a regime that apparently takes none of this into account should be proposed.
- 6.20 Camelot has proved itself a socially responsible operator and believes that it should be expected and trusted to run the lottery without the highly prescriptive additional intervention being proposed.

***5.1d Are the proposed exclusions appropriate, or can alternatives be suggested?***

- 6.21 As already noted, several of the proposed exclusions would preclude games which have received NLC approval in the past and we can therefore see no rationale for their inclusion now. We agree that the present case-by-case system is imperfect and occasionally time-consuming. Our preferred option would eliminate an unnecessary layer of regulatory administration without compromising the core regulatory objectives. Camelot shares its Scratchcard game plan with the NLC on a quarterly basis and this would not change.
- 6.22 Camelot has welcomed the NLC's stated desire to adopt the best principles of regulatory practice and looks forward to working with it to this end.
- 6.23 The new Licence period provides a real opportunity to streamline and simplify a whole range of conditions to enable greater speed in making important commercial decisions and getting new games to market. Encouraging informal contact to resolve potential problems is a central tenet of good regulation.

***5.1e Do you have any other general or specific observations on the use of gaming or betting themes on National Lottery Scratchcards?***

- 6.24 Scratchcards are a very important part of the operator's portfolio of games and are popular with the public. They currently account for approximately 21% of total weekly National Lottery sales. As part of a strategy to increase Scratchcard sales in a socially responsible way it is important that Camelot should have the opportunity to maintain and enhance the appeal of these games. However creative and

imaginative Camelot's game development team might be, there is a limit to the pool of themes and imagery that will appeal to the public and encourage them to play, which is why gaming and betting themes are occasionally useful when deployed sparingly and responsibly.

- 6.25 Playing the lottery, like betting on the Grand National, is seen as a 'harmless flutter'. Camelot is as anxious to see this differentiation from harder forms of gambling maintained as the NLC. We are acutely aware that the lottery's success relies to a significant degree on people's perception that it delivers a great deal of social good with minimal social harm .
- 6.26 It is inconceivable that either Camelot or the NLC would behave in such a way as to risk damaging this precious reputation.

***5.1f Do you think the Commission should consult on the use of gaming themes in Interactive Instant Win Games in the future?***

- 6.27 We note that the NLC – on *page 3 at paragraph 3.5* – believes there is scope for greater confusion if IIWG were given freedom to use gaming or betting themes. We would be interested to learn in greater detail the basis for the NLC's concern.

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