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**Gambling Commission Consultation: High Value Customers (HVCs/VIPs)**

**Do you agree with the proposed new wording of the social responsibility code 5.1.1?**

Firstly, we would like to express our support for an immediate ban on VIP accounts, echoing the Gambling Related Harm All Party Parliamentary Group’s recommendation: *‘Rather than relying on the industry to self-regulate, the Gambling Commission must act decisively and ban these highly problematic VIP schemes.’* [[1]](#footnote-2)

We offer our responses to this consultation on the understanding that enhanced protection for ‘high value customers’ (HVCs) is urgently needed until such a ban can be secured.

We welcome the addition of a requirement specifically focused on HVC management to SR Code 5.1.1. However, we believe that it would benefit from being strengthened further in the light of the worrying evidence set out in the consultation.

The proposed additional requirement states that operators ‘must’ take the guidance into account; the guidance states that its contents represent a ‘minimum standard’ to be met in order to continue offering HVC incentives; and the majority of measures included in the guidance are described as actions operators ‘should’ take i.e. advisory rather than regulatory requirements. In our view, this risks creating a level of ambiguity which some operators could use in order to continue potentially harmful practices. Rather than requiring operators to take the guidance ‘into account’, we would like to suggest the following alterative wording:

*‘Licensees must be able to demonstrate the extent to which they have put the Commission’s guidance on High Value Customers into practice, how they have done so and, where appropriate, the reasons why specific measures have not been implemented.’*

**Do you agree that concerns regarding the management of HVCs can be addressed with the proposed additions to social responsibility code 5.1.1 and associated guidance?**

We believe that the focus of addressing the serious concerns associated with HVCs should be placed firmly on prevention, rather than on reacting to malpractice once it has come to light.

The Commission explicitly acknowledges the inherent tension between commercial interests and licencing objectives: *‘Information on customer habits, preferences and vulnerabilities have (sic) been exploited with the driver for relationships being to increase customer spend to the exclusion of other considerations.’*  It describes the behaviour of some staff as *‘irresponsible and, on occasion, exploitative*’ whilst confirming that it had found *‘too often... existing requirements applicable to all customers watered down or not applied rigorously to HVCs.’*

This evidence serves as a powerful indictment of current practice within the industry, and a measure of the cultural change needed in order to protect HVCs, their families and communities who do not have the time to wait for improvements to come into effect. It is difficult to imagine that urgent, significant change can be achieved through the proposed Code amendments, however well- intentioned.

This is particularly the case given the extent to which some operators are dependent on HVC income[[2]](#footnote-3). For this reason, we wish to repeat our call for an immediate ban on HVC schemes/incentives.

Meanwhile, we suggest that it would be helpful if the Commission could provide an explicit statement on how it intends to measure the effectiveness of any new measures implemented by the industry, as described in its update report of the HVC Industry Challenge. We hope that this would also include specific sanctions which will be applied, should further malpractice be identified. The APPG report highlights the need for these to be of sufficient weight to be a genuine deterrent: *‘We are concerned that fines to companies for offering inducements inappropriately have very little impact on this well-resourced and well-funded industry.’*

**Do you agree with the proposed use of guidance to help explain the new LCCP requirements?**

We understand the necessity to restrict lengthy additions to the SR Code, and the need to minimise duplication i.e. with SR Code 3.4.1 (Customer Interaction). We are also aware of the Commission’s continued preference for providing succinct Code requirements, supported by guidance documentation. In the consultation, it confirms that the effectiveness of this approach depends on ‘*licensees taking responsibility for ensuring that they operate their businesses to comply with both the letter and the spirit of the requirement.’*

We are seriously concerned that the Commission is proposing to offer the industry flexibility, rather than prescription, regarding how they respond to the revised Code and guidance. We appreciate that operators’ businesses vary greatly in terms of size and complexity, and the guidance does provide some clear and helpful information, informed by good practice with which many operators will already be familiar. Despite this, some have chosen to conduct their HVC business in ways that exacerbate gambling-related harm and, we suggest, may continue to do so in the absence of legally enforceable regulation.

The voluntary ban on offering VIP status to customers aged under 25 introduced recently by some operators has been cited as a sign that the industry has acknowledged the need to improve its standards. However, we have been unable to find any data confirming the proportion of current HVCs in this age group, which may represent a relatively small sub-set of HVCs overall. If so, the ban will have limited impact on either harms or profits. In addition, older HVCs are not necessarily less vulnerable, and are more likely to have families, including dependent children, who will be deeply affected. As the Commission’s experts by experience pointed out: *‘schemes are either safe or not.’*

We fear that the flexible approach proposed in this consultation may lead to many more customers, their families and communities experiencing long-term harms and hardship, particularly at this time of economic uncertainty and increased stress related to the COVID-19 pandemic.

One alternative would be to issue a checklist specifying measures which must be implemented, and the evidence the Commission will require in order to assess operators’ adherence to Code 5.1.1. The proposed guidance could then be used to inform the development of good practice and staff training.

**Do you agree with the proposed guidance on what know your customer checks should be undertaken on HVCs?**

Section 2.14 of the guidance highlights *‘a risk of commercial motivations conflicting with regulatory compliance.’* Whilst we support the need for checks which could help to mitigate risks for vulnerable customers, we do not believe that this conflict can be resolved swiftly or, in some cases, without regulatory action. It is particularly worrying to learn that personal and sensitive information relating to customers’ vulnerability has been used instead by some operators for targeting them with incentives and bonuses.

The guidance states that licensees are expected to take ‘*all reasonable steps’* to verify the information they receive and to conduct ongoing checks. It would be helpful if the Commission could qualify this expectation.

**Do you agree that where a customer has previously been part of a multi-operator self-exclusion scheme (e.g. Gamstop or SENSE), they should be prohibited from HVC schemes?**

Yes

**Are there additional safeguards or good practice which should be included in the guidance relating to customer checks and the assessment and mitigation of risk? Yes/No**

We support the APPG’s view that *‘gauging affordability cannot be left to operators, given the majority of their revenue comes from people who are losing more than they can afford.’* Instead, the Group recommends supporting initiatives being developed by banks e.g. gambling transaction blocks, and the implementation of a single sign-on (SSO) mechanism. We share the Group’s opinion that these measures are likely to provide a better level of customer protection than the industry’s internal processes.

**Do you agree with the proposed guidance on oversight and accountability for HVC schemes?**

Yes

**Do you agree with the proposed guidance on maintaining an audit trail for HVC schemes?**

We agree with the proposed guidance but would like to suggest that, given the importance of such evidence in the event of a future investigations, complaints procedures or legal action, paragraph 2.17 could be strengthened to read: *‘A full audit trail must be maintained detailing the management of individual HVCs.’*

**Do you agree with the proposed guidance on relationship management for HVC schemes?**

Paragraph 2.20 suggests that operators ‘*should consider what additional steps are required’* to ensure effective HVC management by their staff and follows with some examples. In our view, each of these measures is critical i.e. should not be optional, for improving the management of these relationships, if HVC schemes are to continue. As such, we recommend that this section is amended to require operators to implement all of these measures.

**Do you agree with the proposed guidance on the use of incentives within HVC schemes?**

As above, we recommend that wherever the guidance suggests operators ‘should’ take a specific action related to incentives, this is amended to read ‘must’. The consequences of operators not putting these measures into practice are too serious, and the potential impact on vulnerable customers too strong, for them not to be a regulatory requirement. (See also our response to Question 8).

1. Online Gambling Harm inquiry, Final Report, Gambling Related Harm All Party Parliamentary Group, June 2020 [↑](#footnote-ref-2)
2. <https://www.theguardian.com/society/2020/jan/02/gambling-report-shows-industrys-reliance-on-loss-making-customers> [↑](#footnote-ref-3)