



14 July 2015

**URGENT BRIEF TO ALL BACTA MEMBERS**

Dear BACTA Member

**CRANE-LIKE MACHINES OPERATED AS SWPS TO BE RECLASSIFIED AS GAMES OF CHANCE**

*Following discussions with the Gambling Commission, this brief explains that certain types of machines currently operated as SWPs with a maximum £1 stake and £50 non-monetary prize, such as Key Master or Barber Cut, will be classed as Category D non-complex crane grab machines. This will require in some cases premises licences to be obtained or amended and, potentially, non-certificated operators, to obtain an operator's licence from the Gambling Commission.*

**BACKGROUND**

The Gambling Commission has consistently advised Local Authorities and the trade that crane grab machines are games of chance and should therefore require appropriate permits to be in place before they are sited. They have expressed concern furthermore that premises such as entire shopping centres do not constitute premises wholly or mainly for the provision of gambling and therefore should not be granted a premises licence covering the whole venue.

In looking again at this issue at the back end of 2014, the Gambling Commission began work with BACTA and a number of manufacturers/distributors, principally Namco and Sega, to understand better how cranes and machines that function in a similar way determine prize winners. It was clear following discussions that most machines that operate a mechanical arm or device of some kind to select a prize and which employed a compensator unit to effectively determine the percentage payout of the machine, were games of chance and skill combined. Given the majority of these machines (other than cranes) were operated as games of skill, with a maximum £1 stake and £50 non-monetary prize (in accordance with the characteristics required of SWPs agreed some time ago by the GC and BACTA), there was a clear need to determine how best to regularise the permitting arrangement for these machines in a way that would not adversely impact on the market.

One key concern was that as games of chance (Category D non-complex) the maximum stake and prize permitted would be only 30p with and £8 non-monetary prize, clearly making these machines unviable.

Following further discussion and relevant advice, the Gambling Commission has determined that the definition of a crane grab machine in the Gaming Machine (Amendment) Regulations 2009 (No 1502) covers these types of machines as well as what one would consider traditional cranes. The definition is given below:

*A crane grab machine is a reference to a non-money prize machine in respect of which—*

*(i) every prize which can be won as a result of using the machine consists of an individual physical object (such as a stuffed toy), and*

*(ii) whether or not a person using the machine wins a prize is determined by the person's success or failure in manipulating a device forming part of the machine so as to separate, and keep separate, one or more physical objects from a group of such objects;*

The Gambling Commission has further agreed to replace the current definition of a crane grab machine in the Category D non-complex Technical Standards with this definition. This means that despite the categorisation of these machines as gaming machines the maximum stake and prize can continue to be £1 and the maximum permitted non-monetary prize will be £50. A cash prize of any amount whether individually or combined with a non-monetary prize is not permitted.

Following agreement on these points BACTA has now agreed with the Gambling Commission that it would inform its members and the trade, with manufacturers and distributors writing likewise to their customers, that where new permits or a variation to existing permits are required from the local licensing authority as a result of the reclassification of these machines, then the process must be underway by 31<sup>st</sup> August 2015. Furthermore we have agreed that the premises licences should be granted and in place by 31<sup>st</sup> December 2015.

If there are any operators that do not currently have an operator's licence from the Gambling Commission but who are currently operating these types of machines on the assumption they are SWPs, then an application for an operator's licence should be made to the Commission before the 31<sup>st</sup> August 2015.

In practice the majority of these machines will be located in FECs and therefore there should be no disruption to their operation as Category D gaming machines are permitted in licensed and unlicensed FECs.

However, a number of alcohol licensed premises, namely pubs, have increasingly made Category D machines available for customers and have as a result obtained the relevant licence from the local licensing authority to operate a number of Cat D machines (typically cranes) alongside their Cat C machines. Where the premises have also made available the types of machines covered by this brief, they will need to be added to the number of Category D machines permitted on the premises. An application for a variation in the licence will therefore need to be made to the local licensing authority. We are looking to work with Local Authorities to ensure this is done in a way that provides no business disruption ie that there is no sudden insistence that a machine is disabled to ensure compliance on numbers with existing permits. That would be unreasonable. We will also suggest that a fee should not be charged by licensing authorities as the requirement for a variation came about effectively through a reclassification of an existing machine.

A sticker (available from BACTA) should be displayed on the machine indicating it is a Category D gaming machine.

The Commission has made it clear that where there is no prospect of a licence being obtained, that is to say where a machine(s) are located in premises that are not wholly or mainly for the provision of gambling, then the affected machines should be removed from site. This is likely to be mainly shopping centres and similar.

Members are requested to make their members or staff and/or customers aware of the contents of this brief and to note in particular the deadlines of 31<sup>st</sup> August and 31<sup>st</sup> December 2015 referenced above.

I enclose a copy of the letter BACTA has received from the Gambling Commission on this matter for your records.

I also provide a summary of the position for ease of reference.

If you are in any doubt about which machines are covered by this brief then please consult your supplier.

Please also note that the above is not legal advice and BACTA cannot be held liable for the consequences of decisions based upon it.

Yours sincerely

John White  
Chief Executive

## **SUMMARY**

- Certain games currently operated as skill games should be treated as games of chance
- A full list of such games is available from manufacturers and distributors of affected games who have written to customers directly.
- The games concerned operate in a similar fashion to cranes, that is to say a mechanical arm or similar is used to select a prize and a compensator unit determines the outcome of the game.
- Any machine which is a genuine game of skill, offers a guaranteed prize or a prize every time is not covered by this brief. Note: If the same machine can be configured as either a prize every time or as a gaming machine you should check with your supplier to ensure you apply for an appropriate licence if applicable.
- As a consequence of this reclassification, machines affected must be supplied only by a certificated operator and located only in premises with an appropriate premises licence.
- FECs will already have the correct licence.
- Alcohol licensed premise may have to obtain or obtain a variation to their premises licence
- The process to obtain or vary a licence (or to obtain an operator's licence) must be underway by 31<sup>st</sup> August 2015 and the process must be complete by 31<sup>st</sup> December 2015.
- Machines that are unlikely to be granted a licence should be removed from site immediately.
- The maximum price of play can continue to be £1 and the maximum non-monetary prize £50. No cash prizes or combined cash and non-monetary prizes are permitted.
- These machines are classified as Category D non-complex crane grab machines.
- A sticker should be displayed on the machine indicating it is a Category D gaming machine.
- A list of machines affected is available from your supplier.