

House raffle is probably illegal, says gambling law expert

Brian and Wendy Wilshaw are selling their Devon house and grounds, which they say is worth GBP 1m, in a GBP 25-per-entry competition. They have said that their legal advisors have cleared the competition, but one gambling law expert has raised questions about the legality of the plan.

Antoinette Jucker is a gambling law expert with Pinsent Masons, the law firm behind Out-Law.com, and she thinks the competition is against the law.

„I think this is an illegal lottery. The Gambling Commission should take an interest in this,“ she said. „If they don't do anything, others will do the same thing, raffling houses or cars or anything else that they're struggling to sell.“

Competitions and lotteries are tightly controlled by law. It is against the law to run a lottery for personal profit, and only small numbers of lotteries gain licences to operate. Competitions can be run for profit but they must involve an element of skill.

The Wilshaws are asking a question which is intended to satisfy the condition that the competition involves skill. It is „what is the cost of an adult full season coarse fishing licence for 2008/2009?“.

The Gambling Act says that to avoid being a lottery, a competition's skill element must be failed by a „significant proportion“ of the people who enter. The answer to the Wilshaws' question can be found on an internet search engine within seconds.

„This question falls foul of section 14(5) [of the Gambling Act],“ said Jucker. „It has two tests and this competition fails both of them. A significant proportion of entrants will ‚win‘ and the question won’t deter people from participating. The prize is being awarded wholly by chance because the overwhelming majority of entrants will get the answer right.“

„How do you choose a winner when almost everyone gets the answer right? You take their name out of a hat. That makes it a game of chance, and therefore an illegal lottery. When the Gambling Act was going through Parliament, the clear intention was that the only legal lotteries would be those that operated for good causes, not those that operate for personal gain. This competition is side-stepping that intention,“ she said.

The Wishaws did not respond to a request for comment, but they have said that they believe the competition to be legal. „We know by the legal advice that we’ve had that the competition meets all the rules and regulations,“ Wendy Wishaw told BBC News.

The competition raises a fundamental question about gambling law: is it possible to have a simple question competition in the age of ubiquitous internet access?

„The current guidance from the Gambling Commission fails to reflect the fact that any Trivial Pursuit-type question can be answered by Google,“ said Jucker. „With most people in the country having access to the internet, asking a single question that is answered correctly without any effort whatsoever cannot be an exercise of skill.“

The Gambling Commission said that it did not comment on individual cases and at the time of going to press could not comment on the broader issue of what kind of question would be permissible as the basis of a legitimate competition.

Jucker said that it might be possible to frame questions so that they demand more time, skill or knowledge to answer and

cannot be answered by a simple web enquiry. „They could have added an element of skill – for example by asking the price of a permit in 1808, or something that isn't answered right away by putting the question into Google. I presume they haven't done that because they wouldn't get enough participants,“ she said.

The question of what is a competition and what is a lottery has been a controversial one in the past. The Gambling Act, which came into force last year, clamped down on competitions with too-easy questions that were designed only to get around restrictions on the operation of lotteries.

Many television competitions have come under intense scrutiny and been found wanting in the last two years and broadcasters and production companies have been fined millions of pounds because their competitions were badly or dishonestly run.