

Online gambling in the internal market

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The European Parliament adopted a resolution on online gambling in the Internal Market, in response to a Commission Green Paper on the subject.

Recalling the growing economic importance of the online gambling industry, the take from which was over EUR 6 billion, or 45% of the world market, in 2008, Parliament welcomes the fact that the Commission has taken the initiative of launching public consultation in connection with its Green Paper on online betting and gambling. It also welcomes the Commission's clarification of the fact that the political process initiated by means of the Green Paper is in no way aimed at deregulating/liberalising online gambling.

According to Parliament, efficient regulation of the online gambling sector should in particular:

- channel the natural gaming instinct of the population by restricting advertising to the level that is strictly necessary in order to direct potential gamblers to the legal provision of services, and by requiring all advertising for online gambling to be systematically coupled with a message warning against excessive or pathological gambling,
- combat the illegal gambling sector by strengthening technical and legal instruments for identifying and sanctioning illegal operators, and by promoting the legal provision of high-quality gambling services,
- guarantee effective protection for gamblers, with specific attention to vulnerable groups, in particular young people,
- preclude risks of gambling addiction, and ensure that gambling is proper, fair, responsible and transparent,
- ensure that specific measures are promoted to guarantee the integrity of sporting competition,
- ensure that part of the value of bets goes to sports and horse-racing bodies,
- ensure that a considerable proportion of government revenue from gambling is used for publicly beneficial and charitable purposes, and
- ensure that gaming is kept free from crime, fraud and any form of money laundering.

1. Subsidiarity principle and European added value: Parliament emphasises that any regulation of the gambling sector is subject to, and must be underpinned by, the subsidiarity principle, given the different traditions and cultures in the Member States. It rejects, accordingly, any European legislative act uniformly regulating the entire gambling sector, but nonetheless takes the view that, in some areas there would be **clear added value from a coordinated European approach, in addition to national regulation**, given the cross-border nature of online gambling services.

The resolution recognises the Member States' discretion in determining how gambling is organised, while observing the basic EU Treaty principles of non-discrimination and proportionality. Parliament respects in this context the decision by a number of Member States to ban all or certain types of online gambling or to maintain government monopolies on that sector, in accordance with the jurisprudence of the Court of Justice, as long as they adopt a coherent approach.

Parliament points out that online gambling is a **special kind of economic activity**, to which internal market rules, namely freedom of establishment and freedom to provide services, cannot fully apply. Parliament stresses, on the one hand, that providers of online gambling should in all cases respect the

national laws of the countries in which those games operate and, on the other hand, that Member States should retain the exclusive right to impose all the measures they deem necessary to address illegal online gambling in order to implement national legislation and exclude illegal providers from market access.

Whilst noting that that the principle of mutual recognition of licences in the gambling sector does not apply, Parliament stresses that in keeping with internal market principles, Member States should open up the online gambling sector to competition for all or certain types of online gambling must ensure **transparency** and make **non-discriminatory competition** possible. It suggests that Member States introduce a licensing model which makes it possible for European gambling providers meeting the conditions imposed by the host Member State to apply for a licence.

Parliament takes the view that a pan-European code of conduct for online gambling should address the rights and obligations of both the service provider and the consumer. It urges the Commission to continue its investigation of the possible inconsistencies of Member States gambling legislation (offline and online) with the TFEU and – if necessary – to pursue those infringement proceedings that have been pending since 2008 in order to ensure such consistency.

2. Cooperation among regulatory bodies: the Parliament calls for cooperation among national regulatory bodies to be considerably expanded, giving them a sufficient remit, with the Commission as coordinator, to develop common standards and take joint action against online gambling operators which operate without the required national licence. In this regard, it considers the establishment of a **regulator** with suitable powers in each Member State to be a necessary step towards more effective regulatory cooperation.

Members call for closer cooperation and better coordination among **EU Member States, Europol and Eurojust** in the fight against illegal gambling, fraud, money laundering and other financial crimes in the area of online gambling.

The resolution emphasises the need to address the protection of customer accounts opened in connection with online gambling in the event of the service provider becoming insolvent. It asks the Commission to **support consumers** if they have been affected by illegal practices and to offer them legal support. It recommends the introduction of pan-European uniform minimum standards of electronic identification.

In order to effectively protect consumers, **especially vulnerable and young players**, from the negative aspects of gambling online, the EU needs to adopt **common standards** for consumer protection. Members emphasise, in this context, that control and protection processes need to be in place before any gaming activity begins and could include, inter alia, i) age verification, ii) restrictions for electronic payment and transfers of funds between gambling accounts and iii) a requirement for operators to place notices about legal age, high-risk behaviour, compulsive gambling and national contact points on online gambling sites.

3. Gambling and sport: the need to ensure integrity: Parliament notes that the risk of fraud in sports competitions - although present since the outset - has been exacerbated since the emergence of the online sports betting sector and represents a risk to the integrity of sport. It calls for a **common definition of sport fraud and cheating** should be developed and that betting fraud should be penalised as a **criminal offence** throughout Europe.

The resolution calls for:

- **instruments to increase cross-border police and judicial cooperation**, involving all Member States' competent authorities for the prevention, detection and investigation of match-fixing in connection with sport betting;
- **a framework for cooperation with organisers of sports competitions** to be considered with a view to facilitating the exchange of information between sports disciplinary bodies and state

investigation and prosecution agencies, by setting up, for example, dedicated national networks and contact points to deal with cases of match-fixing.

Lastly, Parliament recommends that **sporting competitions should be protected from any unauthorised commercial use**, notably by recognising the property rights of sports event organisers, not only in order to secure a fair financial return for the benefit of all levels of professional and amateur sport, but also as a means of strengthening the fight against sports fraud, particularly match-fixing.