

Online gambling in the internal market

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PURPOSE: Commission Communication on a strategy to meet the regulatory and technical challenges of the online gambling sector.

CONTENT: online gambling is a fast growing service activity in the EU, with annual growth rates of almost 15% and estimated annual revenues in 2015 in the region of EUR 13 billion, compared to EUR 9.3 billion in 2011. This would represent a total growth rate of almost 40%. It is estimated that about 6.84 million European consumers participate in online gambling.

The nature of the online environment means that gambling sites may operate in the EU, outside any form of control carried out by regulators within the EU. Consumers in Europe also search across borders for online gambling services which, if not properly regulated, may expose them to significant risks. The extensive range of offers and the rising level of demand for online gambling services pose a number of challenges when it comes to ensuring the proper implementation of public policy objectives at the national, EU and international level.

Following the [Commission Green Paper in 2011](#) and the [European Parliament resolution](#) on online gambling in the internal market, this Communication identifies the key challenges posed by the co-existence of national regulatory frameworks within the internal market. It also seeks to propose answers to these challenges in the form of actions to be taken both at the national and EU level.

The paper points out that while Member States are in principle free to set the objectives of their policy on games of chance and to define in detail the level of protection sought, national regulatory frameworks have to comply with EU law and internal market rules. Ensuring compliance of national law with the Treaty is therefore essential to a successful EU policy on online gambling. In view of the type of challenges posed by the development of online gambling and their implications for each Member State, it is not possible for Member States effectively to address these challenges alone and to provide individually a properly regulated and sufficiently safe offer of online gambling services.

The Communication proposes a combination of initiatives and measures covering a range of issues, seeking to enhance legal clarity and establish policies based on available evidence. These actions, fully taking into account the principles of subsidiarity and proportionality, highlight five priority areas to address the challenges in the EU.

(1) Compliance of national regulatory frameworks with EU law: online gambling regulation in Member States is characterised by a diversity of regulatory frameworks. Recent regulatory changes in Member States have led to an increase in the offer of gambling services by operators authorised in an EU Member State over the last few years and to considerable differences in national regulations. Furthermore, **cross-border offers are often not authorised under national rules in the recipient Member State.**

Compliance of these national rules with the Treaty has been challenged in front of national 6 courts and questions on the interpretation of EU law have been referred to the European Court of Justice (ECJ). The ECJ has confirmed that national rules that prohibit the provision of gambling services authorised in other Member States were found to restrict the freedom of national residents to receive, over the internet, services offered in other Member States. They also **restrict the freedom of operators** established in other Member States to provide gambling services.

The national rules in question focus mainly on consumer protection objectives, in particular the prevention of problem gambling and the protection of minors, and on crime and fraud prevention. While Member States usually offer legitimate reasons for the restriction of cross border gambling services, they must nonetheless demonstrate the necessity of the measure in question, in particular the existence of a problem linked to the public interest objective at stake and the consistency of the regulatory system.

The Commission has launched **infringement cases** against a significant number of Member States, and will accelerate its assessment of national provisions in the pending infringements cases and complaints and take enforcement action wherever necessary.

(2) Enhancing administrative cooperation and efficient enforcement: enhancing administrative cooperation will assist Member States and gambling regulators in their regulatory and supervisory role and improve the quality of their work. Practical cooperation will enable Member States to become familiar with the systems of others, and to develop closer working relations at the operational level.

The Commission will:

- facilitate administrative cooperation between gambling regulators;
- enhance exchange of information and best practice on enforcement measures and explore the benefits and possible limits of responsive enforcement measures, such as payment blocking and disabling access to websites, at EU level;
- provide clarification on the procedures for notifying and acting on unauthorised content hosted in the EU by online intermediaries;
- develop regulatory dialogue with third countries.

Member States are urged to:

- provide gambling regulatory authorities with clear competences and ensure cooperation with other relevant competent authorities;
- explore means to inform consumers about available authorised offers in order to direct demand to the legal market.

(3) Protecting consumers and citizens, minors and vulnerable groups: appropriate action in the EU is needed so as to: (i) draw consumers away from unregulated and potentially harmful offers; (ii) protect minors from accessing gambling facilities, recalling that the protection of minors must be a priority not least because 75% of 6-17 year olds in Europe use the internet; (iii) safeguard other vulnerable groups and (iv) prevent the development of gambling-related disorders, since it can be estimated that between 0.5-3% of the population in the EU suffer from some type of gambling disorder.

The paper notes also that responsible advertising is imperative in order to ensure that citizens are aware that:

- age restrictions apply;
- gambling can be harmful if not played responsibly and
- the risks can be financial, social or health related.

As a first step the Commission will prepare a **Recommendation on common protection of consumers**, which should include a set of principles including effective and efficient registration of players, age verification and identification controls – in particular in the context of money transactions, reality checks (account activity, warning signs, signposting to helplines), no credit policy, protection of player funds, self-restriction possibilities (time/financial limits, exclusion) as well as customer support and efficient handling of complaints.

The Commission will also prepare a **Recommendation on responsible gambling advertising** in 2013 to ensure that operators authorised in a given Member State advertise gambling in a socially responsible manner and provide key information to consumers.

The Commission will, inter alia:

- support benchmarking and testing of parental control tools through the [Safer Internet Programme](#) and the [Connecting Europe Facility](#) to improve age rating and content classification systems;
- assess recommendations on gambling-related internet addiction among adolescents under EU NET ADB in 2012.

Member States are urged to:

- strengthen information and awareness raising initiatives on the risks related to gambling, as well as on unregulated gambling offers;
- improve cooperation between gambling regulatory authorities and consumer organisations;
- increase the availability and use of online safety practices of children and young people to prevent them from accessing gambling sites;
- carry out surveys and data collection on gambling disorders.

(4) Preventing fraud and money laundering: the main public interest objectives of Member States with regard to public order are the prevention of gambling fraud and money laundering. Credit card fraud and theft of banking credentials are reported to be the most common crime in relation to on-line gambling. Online gambling may also be used for laundering of funds stemming from illegal activities. These criminal offences are often committed cross-border and involve organised crime.

The Commission will:

- consider extending the scope of the [AML Directive](#) to all forms of gambling in 2012;
- in the context of its policy on cybercrime, encourage exchanges of experience;
- explore the possibility of an EU standard on gambling equipment including gambling software in 2013.

(5) Safeguarding the integrity of sports and preventing match-fixing: betting related match fixing is a specific type of fraud that goes against the interests of sport organisations, sportspeople, players (consumers) and regulated gambling operators. The Commission will develop a **Recommendation anti-match fixing measures** with a view to:

- promoting a more efficient exchange of good practices in the prevention of betting related match-fixing, including initiatives on awareness raising and training for actors in the field of sports;
- ensuring mutual reporting and follow-up actions of suspicious activities by sport bodies, operators and regulators, including gathering reliable figures on the scale of the problem;
- establishing minimum conflict of interest provisions, e.g betting bans for sport people and sport officials as well as the exclusion of youth events from betting; and
- introducing hotlines and other reporting or whistle-blowing alert mechanisms.

The Commission will also:

- participate in the work of the Council of Europe on a possible Convention against manipulation of sports results;
- promote international cooperation and dialogue in the prevention of match fixing.

Member States are urged to:

- set up national contact points bringing together all relevant actors involved in fighting match fixing;
- equip national legal and administrative systems with the tools, expertise and resources to combat match fixing;
- consider sustainable financing of sports integrity measures.

Lastly, the Commission will publish a report within two years, assessing these actions, notably with regard to the objectives of a more effective protection of consumers and deterrence of match-fixing. It will also assess whether these actions provide an adequate EU framework for online gambling or if additional measures, where necessary legislative ones, need to be taken at EU level.