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# REPORT

on online gambling in the Internal Market  
(2011/2084(INI))

Committee on the Internal Market and Consumer Protection

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on online gambling in the Internal Market (2011/2084(INI))

*The European Parliament,*

- having regard to the Commission communication of 24 March 2011 entitled ‘Green Paper on online gambling in the Internal Market’ (COM(2011)0128),
- having regard to Articles 51, 52 and 56 of the Treaty on the Functioning of the European Union,
- having regard to the Protocol on the application of the principles of subsidiarity and proportionality annexed to the Treaty on the Functioning of the European Union,
- having regard to the relevant case law of the Court of Justice of the European Union<sup>1</sup>,
- having regard to the Council conclusions of 10 December 2010 and the progress reports of the French, Swedish, Spanish and Hungarian Council Presidencies on the framework for gambling and betting in the EU Member States,
- having regard to its resolution of 10 March 2009 on the integrity of online gambling<sup>2</sup>,
- having regard to its resolution of 8 May 2008 on the White Paper on Sport<sup>3</sup>,
- having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services<sup>4</sup>,
- having regard to Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council<sup>5</sup>,

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<sup>1</sup> In particular the judgments in the following cases: Schindler 1994 (C-275/92), Gebhard 1995 (C-55/94), Läära 1999 (C-124/97), Zenatti 1999 (C-67/98), Anomar 2003 (C-6/01), Gambelli 2003 (C-243/01), Lindman 2003 (C-42/02), Fixtures Marketing Ltd v OPAP 2004 (C-444/02), Fixtures Marketing Ltd v Svenska Spel AB 2004 (C-338/02), Fixtures Marketing Ltd v Oy Veikkaus Ab 2005 (C-46/02), Stauffer 2006 (C-386/04), Unibet 2007 (C-432/05), Placanica and others 2007 (C-338/04, C-359/04 and C-360/04), Kommission v Italien 2007 (C-206/04), Liga Portuguesa de Futebol Profissional 2009 (C-42/07), Ladbrokes 2010 (C-258/08), Sporting Exchange 2010 (C-203/08), Sjöberg and Gerdin 2010 (C-447/08 and C-448/08), Markus Stoß and others 2010 (C-316/07, C-358/07, C-359/07, C-360/07, C-409/07 and C-410/07), Carmen Media 2010 (C-46/08) and Engemann 2010 (C-64/08).

<sup>2</sup> OJ C 87E, 1.4.2010, p.30..

<sup>3</sup> OJ C 271E, 12.11.2009, p.51.

<sup>4</sup> OJ L 95, 15.4.2010, p. 1.

<sup>5</sup> OJ L 149, 11.6.2005, p. 22.

- having regard to Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts<sup>1</sup>,
- having regard to Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing<sup>2</sup>,
- having regard to the Commission communication of 6 June 2011 entitled ‘Fighting corruption in the EU’,
- having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>3</sup>,
- having regard to Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector<sup>4</sup>,
- having regard to the Commission communication of 18 January 2011 entitled ‘Developing the European Dimension in Sport’,
- having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<sup>5</sup>,
- having regard to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market<sup>6</sup>,
- having regard to Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the Internal Market<sup>7</sup>,
- having regard to Rule 48 of its Rules of Procedure,
- having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs (A7-0342/2011),

A. whereas the online gambling sector is growing constantly, to some extent outside the control of the national governments of the citizens to whom such gambling services are provided, and whereas this sector is unlike other markets on account of the risks involved in terms of consumer protection and the fight against organised crime,

B. whereas, in application of the principle of subsidiarity, there is no specific European

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<sup>1</sup> OJ L 144, 4.6.1997, p. 19.

<sup>2</sup> OJ L 309, 25.11.2005, p. 15.

<sup>3</sup> OJ L 281, 23.11.1995, p. 31.

<sup>4</sup> OJ L 201, 31.7.2002, p. 37.

<sup>5</sup> OJ L 347, 11.12.2006, p. 1.

<sup>6</sup> OJ L 376, 27.12.2006, p. 36.

<sup>7</sup> OJ L 178, 17.07.2000, p. 1.

legislative act regulating online gambling,

- C. whereas gambling services are subject to a number of EU acts such as the Audiovisual Media Services Directive, the Unfair Commercial Practices Directive, the Distance Selling Directive, the Anti-Money Laundering Directive, the Data Protection Directive, the Directive on privacy and electronic communication, and the Directive on the common system of value added tax,
- D. whereas the gambling sector is regulated differently in different Member States and this not only makes it difficult for regulated providers to provide lawful gaming services on a cross-border basis, but also for regulators to protect consumers and combat illegal online gambling and potential crime associated with it at EU level,
- E. whereas the value added by a pan-European approach to combating crime and fraud, in particular when it comes to preserving the integrity of sport and protecting gamblers and consumers, is considerable,
- F. whereas Article 56 TFEU guarantees the freedom to provide services but whereas, as a consequence of its particular nature, online gambling was exempted from the E-Commerce, Services and Consumer Rights Directives,
- G. whereas, while the Court of Justice has clarified a number of important legal questions concerning online gambling in the EU, legal uncertainty remains with regard to a number of other questions, which can only be solved at the political level; whereas this legal uncertainty has led to a significant increase in the availability of illegal gambling offers and the high risks associated with them;
- H. whereas online gambling, if not properly regulated, may involve a greater risk of addiction than traditional physical, location-based gambling, owing inter alia to increased ease of access and the absence of social control,
- I. whereas consumers must be educated about the potential harm of online gambling and protected against dangers in this area, especially addiction, fraud, scams and underage gambling,
- J. whereas gambling represents a considerable source of revenue, which most Member States channel to publicly beneficial and charitable purposes such as sport,
- K. whereas it is essential to ensure the integrity of sport by stepping up the fight against corruption and match fixing,
- L. whereas, in order to achieve these objectives, it is essential to introduce mechanisms for scrutinising sports competitions and financial flows, along with common supervisory mechanisms at the EU level,
- M. whereas international-level cooperation among all stakeholders (institutions, sports federations and betting operators) is also crucial with a view to pooling good practices,
  - 1. 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, which will facilitate pragmatic and realistic consideration of the future of this sector in Europe;

2. 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; welcomes the fact that the Green Paper takes account of the European Parliament's clear and standing position on gambling; deplors the fact that the Commission is not closing the existing infringement cases;
3. Recalls 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; agrees with the Court of Justice of the European Union that this is an economic activity with specific characteristics; recalls that this growth also entails an increased social cost from compulsive gambling and illegal practices;
4. Takes the view that efficient regulation of the online gambling sector should in particular:
  - (1) 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,
  - (2) 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,
  - (3) guarantee effective protection for gamblers, with specific attention to vulnerable groups, in particular young people,
  - (4) preclude risks of gambling addiction, and
  - (5) ensure that gambling is proper, fair, responsible and transparent,
  - (6) ensure that specific measures are promoted to guarantee the integrity of sporting competition,
  - (7) ensure that part of the value of bets goes to sports and horse-racing bodies,
  - (8) ensure that a considerable proportion of government revenue from gambling is used for publicly beneficial and charitable purposes, and
  - (9) ensure that gaming is kept free from crime, fraud and any form of money laundering;
5. Sees such regulation as having the potential to ensure that sports competitions are attractive to consumers and to the public, that sports results remain credible and that the competitions retain their prestige;
6. Underscores the standpoint of the European Court of Justice<sup>1</sup> whereby the Internet is

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<sup>1</sup> Carmen Media 2010 (C-46/08).

simply a channel for offering games of chance with sophisticated technologies that can be used to protect consumers and to maintain public order, although Member States' discretion in determining their own approach to the regulation of online gambling is unaffected thereby and they can still restrict or prohibit the provision of certain services to consumers;

***Subsidiarity principle and European added value***

7. 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, which must be understood as 'active subsidiarity', entailing cooperation among the national administrations; considers, however, that this principle implies compliance with the rules of the internal market in so far as applicable in accordance with the ruling by the ECJ concerning gambling;
8. Highlights the fact that Member States have the right to regulate and control their gambling sector in accordance with European internal market legislation and with their traditions and culture;
9. Is of the opinion that an attractive, well regulated provision of gambling services, both on the Internet and via traditional physical gambling channels, is necessary to ensure that consumers do not use operators which do not fulfil national licensing requirements;
10. Insists on the need to dissuade players from engaging in illegal gambling, which means that lawful services must be provided as part of a system that is coherent across Europe, especially in terms of tax treatment, and which applies common minimum standards of accountability and integrity; calls on the Commission, with due regard for the subsidiarity principle, to investigate how these common standards should be implemented, including the issue of whether a European legislative framework laying down minimum rules would be appropriate;
11. 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;
12. Recognises the Member States' discretion in determining how gambling is organised, while observing the basic EU Treaty principles of non-discrimination and proportionality; 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;
13. Points out that the European Court of Justice has accepted in a number of rulings that granting exclusive rights to a single operator subject to tight public-authority control may be a means of improving protection of consumers against fraud and combating crime in the online gambling sector more effectively;

14. 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; recognises, however, the consistent jurisprudence of the Court of Justice of the European Union which emphasises that national controls should be enacted and applied in a consistent, proportionate and non-discriminatory manner;
15. 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;
16. Is of the opinion that the principle of mutual recognition of licences in the gambling sector does not apply, but nevertheless, in keeping with internal market principles, insists, that Member States which 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; suggests, in this instance, 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; licence application procedures, which reduce administrative burdens by avoiding the unnecessary duplication of requirements and controls carried out in other Member States, could be set up in those Member States that have implemented a licensing system, while ensuring the pre-eminent role of the regulator in the Member State in which the application has been submitted; takes the view, therefore, that mutual confidence among national regulators needs to be enhanced through closer administrative cooperation; respects, furthermore, the decision of some Member States to determine the number of operators, types and quantities of games on offer, in order to protect consumers and prevent crime, on condition that those restrictions are proportionate and reflect a concern to limit activities in that sector in a consistent and systematic manner;
17. Calls on the Commission to explore – in keeping with the principle of ‘active subsidiarity’ – all possible tools or measures at the EU level designed to protect vulnerable consumers, prevent addiction and combat illegal operators in the field of gambling, including formalised cooperation between national regulators, common standards for operators or a framework directive; is of the opinion that a pan-European code of conduct for online gambling agreed between regulators and operators could be a first step;
18. 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; considers that this code of conduct should help to ensure responsible gaming, a high level of protection for players, particularly in the case of minors and other vulnerable persons, support mechanisms both at EU and national level that fight cyber crime, fraud and misleading advertisement and ultimately provide a framework of principles and rules which ensures that consumers are protected evenly across the EU;
19. Stresses that more action should be taken by Member States to prevent illegal gambling providers from offering their services online, for example by blacklisting illegal gambling providers; calls on the Commission to examine the possibility of proposing a legally



binding instruments obliging banks, credit card issuers and other payment system participants in the EU to block, on the basis of national black lists, transactions between their clients and gambling providers that are not licensed in their jurisdiction, without hindering legitimate transactions;

20. Respects the right of the Member States to draw on a wide variety of repressive measures against illegal online gambling offers; supports, in order to increase the efficiency of the fight against illegal online gambling offers, the introduction of a regulatory principle whereby a gambling company can only operate (or bid for the required national licence) in one Member State if it does not operate in contravention of the law in any other EU Member State;
21. Calls on the Commission, as guardian of the Treaties, and the Member States to continue to carry out effective checks on compliance with EU law;
22. Notes the fact that more progress could have been made on pending infringement cases since 2008 and that no Member State has ever been referred to the European Court of Justice; 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; reminds the Commission, as ‘guardian of the Treaties’, of its duty to act swiftly upon receipt of complaints about violations of the freedoms enshrined in the Treaties; calls on the Commission, therefore, to urgently and systematically pursue existing and new infringement cases;

#### ***Cooperation among regulatory bodies***

23. Is concerned about the possible emerging fragmentation of the European online gambling sector, which will hinder the setting up of legal gambling offerings in smaller Member States in particular;
24. 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; states that, in particular as a means of identifying blacklisted gamblers and combating money laundering, betting fraud and other organised crime, national standalone solutions are not successful; in this context; considers the establishment of a regulator with suitable powers in each Member State to be a necessary step towards more effective regulatory cooperation; states that the Internal Market Information System could serve as the basis for more effective cooperation among national regulatory bodies; takes note of initiatives by national regulators to work together more closely, such as the Gaming Regulators European Forum (GREF) network and the European Regulatory Platform; calls 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;
25. Points out in particular that spread betting – a form of gambling which is conducted primarily online and in which consumers may potentially lose many times more than their

initial stake – necessitates very strict conditions governing consumer access and should be regulated, as is already the case in a number of Member States, in a similar way to financial derivatives;

26. Takes the view that the various forms of online gambling – such as rapid interactive games of chance which have to be played at a frequency of seconds, betting, and lotteries involving a weekly draw – differ from one another and require different solutions insofar as some forms of gambling afford greater opportunities for abuse than others; notes in particular that the opportunity for money laundering depends on the strength of identification, the type of game and the methods of payment used, which makes it necessary, in respect of some forms of game, to monitor play in real time and exercise stricter control than is the case with other forms of game;
27. 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; suggests, therefore, that any future legislation aim to protect deposits in the event that fines are imposed on the websites in question, or legal proceedings brought against them;
28. Asks the Commission to support consumers if they have been affected by illegal practices and to offer them legal support;
29. Recommends the introduction of pan-European uniform minimum standards of electronic identification; considers that registration should be performed in such a way that the player's identity is established and at the same time it is ensured that the player has at his disposal a maximum of one gambling account per gambling company; emphasises that robust registration and verification systems are key tools in preventing any misuse of online gambling, such as money laundering;
30. Is of the opinion that 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; emphasises, in this context, that control and protection processes need to be in place before any gaming activity begins and could include, inter alia, age verification, restrictions for electronic payment and transfers of funds between gambling accounts and a requirement for operators to place notices about legal age, high-risk behaviour, compulsive gambling and national contact points on online gambling sites;
31. Calls for effective methods to be used to tackle problem gambling, inter alia by means of gambling bans and compulsory limits on expenditure over a particular period, albeit set by the customer himself; stresses that, in addition, if an expenditure limit can be raised, a time lag should apply before this takes effect;
32. Stresses that compulsive gambling is in fact a behavioural disorder which may affect up to 2% of the population in some countries; calls, therefore, for a survey of the extent of the problem in each EU Member State as a basis for an integrated strategy designed to protect consumers from this form of addiction; takes the view that as soon as a gambling account is created, comprehensive and accurate information must be made available with regard to gambling games, responsible gambling and opportunities for treatment of dependence on gambling;

33. Calls on the Commission and the Member States to take note of studies already conducted in this field, to focus on research examining the incidence, formation and treatment of gambling addiction and to collect and publish statistics on all channels (online and offline) of gambling sectors and gambling addiction in order to produce comprehensive data on the entire gambling sector of the EU; underlines the need for statistics from independent sources, particularly concerning gambling addiction;
34. Calls on the Commission to prompt the formation of a network of national organisations taking care of gambling addicts, so that experience and best practices can be exchanged;
35. Observes that, according to a recently published study<sup>1</sup>, the gambling sector was identified as the sector where the lack of an alternative dispute resolution system most frequently makes itself felt; suggests, therefore, that national regulatory agencies could establish alternative dispute resolution systems for the online gambling sector;

***Gambling and sport: the need to ensure integrity***

36. 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; is therefore of the opinion that a common definition of sport fraud and cheating should be developed and that betting fraud should be penalised as a criminal offence throughout Europe;
37. 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; in this respect, invites Member States to consider dedicated prosecution services with primary responsibility for investigating match-fixing cases; calls for 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; this should happen, where appropriate, in cooperation with the gambling operators;
38. Considers, therefore, that a uniform definition of sports fraud should be set at European level and included in the criminal law of all Member States;
39. Expresses its concerns over the links between criminal organisations and the development of match-fixing in relation to online betting, the profits from which feed other criminal activities;
40. Notes that several European countries have already adopted strict legislation against money laundering through sport betting, sport fraud (classifying it as a specific and criminal offence) and conflicts of interests between betting operators and sport clubs, teams or active athletes;

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<sup>1</sup> Study on "Cross-Border Alternative Dispute Resolution in the European Union", 2011, <http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=41671>.

41. Notes that online operators licensed in the EU already play a role in identifying potential instances of corruption in sport;
42. Stresses the importance of education for protecting the integrity of sport; calls, therefore, on the Member States and sports federations to adequately inform and educate sportspeople and consumers starting from a young age and at all levels (both amateur and professional);
43. Is aware of the particular importance of the contribution from gambling revenue towards the funding of all levels of professional and amateur sport in the Member States, including measures to safeguard the integrity of sporting competitions from betting manipulations; calls on the Commission to look at alternative financing arrangements, while respecting practices in the Member States, in which revenues from sports betting might be routinely used to safeguard the integrity of sporting competitions from betting manipulations, while considering that no funding mechanism should lead to a situation from which only very few professional, widely televised sports would benefit while other sports, especially grassroots sport, would see the funding generated by sport betting diminished;
44. Reminds the Commission once again of the importance of lottery funding for sports and good causes and urges it to propose measures to secure this societal function; in this context also recalls the Council Conclusions of 10 December 2010;
45. Reaffirms its position that sports bets are a form of commercial use of sporting competitions; 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;
46. Stresses that the conclusion of legally binding agreements between organisers of sports competitions and online gambling operators would ensure a more balanced relationship between them.
47. Notes the importance of transparency in the online gambling sector; envisages, in this connection, annual reporting obligations, which should demonstrate, inter alia, what activities of general interest and/or sports events are financed and/or sponsored by means of the proceeds from gambling; calls on the Commission to investigate the possibility of compulsory annual reporting.
48. Points to the need to provide a reliable alternative to illegal gambling services; emphasises the need for pragmatic solutions with regard to advertising for, and sponsoring of, sports events by online gambling operators; is of the opinion that common advertising standards should be adopted which provide sufficient protection for vulnerable consumers, but at the same time make sponsorship of international events possible;
49. Calls on the Commission and Member States to work with all sports stakeholders with a view to identifying the appropriate mechanisms necessary to preserve the integrity of sport and the funding of grassroots sport;

50. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

## EXPLANATORY STATEMENT

The online gambling sector is growing constantly. Nowadays, according to current figures, about 10% - a figure which is rising - of all gambling in Europe takes place on the Internet or via comparable distribution channels such as mobile 'phones or interactive television platforms, with a market volume in excess of EUR 10 billion.

The market for physical, location-based gambling and the online gambling sector are characterised by a wide range of products: traditional lotteries, but also sports betting, poker, bingo, and totalisator betting on horse and greyhound races.

By its very nature, the Internet is a cross-border medium. online gambling therefore does not stop at borders. As a result of ever increasing offerings and the increasing number of gamblers, the current market fragmentation in this area in Europe is also becoming ever more obvious. In a host of Member States, there are total bans or bans with the possibility of authorisation, while others have a completely open and liberalised market.

As the European Court of Justice has established in many judgments, gambling is not a normal service. Accordingly, it was expressly exempted from the Services Directive, though it goes without saying that freedom to provide services, under Article 56 TFEU, also applies to gambling. Inter alia on the basis of Articles 51 and 52 TFEU, Member States may largely regulate their markets themselves, provided that the regulatory arrangements are consistent with objectives being pursued, e.g. combating gambling addiction.

Because of the very great differences in traditions, however, the subsidiarity principle plays a particularly powerful role in this area. To a large extent, the Member States themselves determine how they want to regulate their gambling sectors. As regards the Internet, however, such considerable regulatory divergence also results in market distortions. Gambling service providers from Member States with open markets and low tax rates are accessible in countries in which online gambling is banned, too, or are in competition with licensed online providers. It is virtually impossible for those providers, and for providers of physical, location-based gambling services from those countries, to compete. Furthermore, there is a large unregulated black market on the Internet.

The central objective must therefore be to contain that black (and grey) market to a large extent. One option for the Member States to realise that objective would be to impose a total ban, which, however, would then have to be strictly enforced. The subsidiarity principle makes it possible for Member States to decide on that option.

However, it would be better to establish legal gambling offerings on the Internet. But under no circumstances must that bring about a (government) monopoly over gambling, since monopolies rarely ensure adequate supply. Accordingly, the market should be opened up and sufficient incentives should be created for firms to provide legal offerings. To do this, a licensing model is the best approach, provided that it is based on the principle of non-discriminatory competition. In such a system, which has already been successfully introduced in some Member States, such as France and Italy, national regulatory bodies lay down the conditions for licences to be granted. In France, for instance, the proportion of legal providers

has sharply increased since the introduction of the licensing system: licensed providers now account for more than 80% of the French online gambling sector. To prevent discrimination, there must be a sufficient or unlimited number of licences available. Furthermore, there must be no indirect discrimination, e.g. in the area of technical standards.

An open and regulated market for online gambling presupposes an independent and powerful national regulatory body. It must determine, and above all also be able to enforce, the environment for gambling. National regulators must therefore be given the necessary powers to penalise infringements and act against illegal providers.

Because of the cross-border nature of the Internet, however, Member States alone are not in a position to regulate all areas of online gambling. Much-expanded cooperation between national regulatory bodies is therefore essential. To date, collaboration has been on a small scale, e.g. through bilateral procedures. What is needed, however, are institutionalised collaborative arrangements, e.g. on the basis of the Internal Market Information System, in order to share information efficiently and quickly. An extended, Commission-coordinated network of regulators is also conceivable. Only through a common European approach can unregulated providers be prevented from exploiting regulatory gaps and playing national regulatory bodies off against each other. The challenge for the Commission and the Member States is to act quickly, therefore, in order to safeguard consumers in Europe against untrustworthy providers.

Gambling involves a risk of addiction. Studies show that, since online gambling was introduced some 10 years ago, there has been a significant increase in the number of people approaching support centres for gambling addicts. There are already many initiatives - both by regulatory bodies and in the form of codes of conduct and commitments - attempting to stem Internet problem gambling and gambling addiction. In this connection, however, it is not appropriate that different standards should apply in each Member State. In many Member States, both public- and private-sector providers of online gambling services operate exemplary safeguards. In many instances, however, they are based on purely national standards and are therefore not compatible with the notion of the internal market. In some Member States, for example, an electronic badge is required for identity checks on the Internet. Many foreign nationals do not have such a badge and are therefore debarred from online gambling - even if they are permanent residents in the Member State concerned. For that reason, European technical standards which could be jointly developed by the industry, consumer organisations and the Commission are important; they also lower market entry barriers for gambling service providers from other European countries. Lower market entry barriers are an important step towards establishing a legal and regulated gambling sector.

Safeguarding minors against gambling is a further universal objective; it is not governed by different traditions or cultures. What obviously needs to be done, accordingly, is to lay down pan-European minimum standards for safeguarding minors and for combating gambling addiction, but also for combating money laundering and other crimes associated with gambling. This could be done in a Commission proposal for a directive laying down minimum standards applicable across Europe and binding on all regulated online gambling service providers. Member States would be free to set further criteria. Resolute action by the Commission and the Member States is important in order to ensure, across Europe, a uniform and high minimum level of protection for consumers.

In most Member States, revenue from gambling is also used for charitable and publicly beneficial purposes and for the funding of sport. However, that only applies in the case of legal and regulated gambling providers. Illegal providers pay no taxes and therefore make no contribution towards society. If markets were regulated at Member State level, online gambling service providers would have to pay much of the gaming tax levied in the country of the gambler. That is important for ensuring that government revenue from gambling throughout Europe is available for the funding of sport and for other publicly beneficial purposes. With regard to horse race betting, for example, this can ensure that breeders receive a proportion of betting revenue so that breeding can continue to be funded.

Time and time again in the past, regrettably, there have been cases of betting fraud in sport; that calls the integrity of sport into question. It is in the direct interest of all stakeholders, i.e. sports associations, fans, gambling service providers and players, to safeguard the integrity of sport and prevent betting fraud. Betting fraud can best be combated at European level. The Commission should therefore develop a system, together with the Member States, which effectively combats betting fraud. Common action against betting fraud will also produce a greater impact vis-à-vis non-European criminal betting fraudsters.

In the interests of the integrity of sport, conflicts of interest between sports betting providers and sports clubs must be avoided. Advertising for gambling or sponsoring a sports club does not yet, in itself, constitute a conflict of interests, however. Accordingly, advertising and sponsoring bans should be rejected.



5.9.2011

## **OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS**

for the Committee on the Internal Market and Consumer Protection

on online gambling in the Internal Market  
(2011/2084(INI))

Rapporteur: Sophie Auconie

### **SUGGESTIONS**

The Committee on Economic and Monetary Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Recalls 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; agrees with the Court of Justice of the European Union that this is an economic activity with specific characteristics; recalls that this growth also entails an increased social cost from compulsive gambling and illegal practices, and that regulation of the industry should seek to minimise these costs through appropriate standards in relation to marketing and conditions of access to online gambling sites;
2. Stresses that Member States can choose freely between three options: banning online gambling and gaming; introducing or preserving a national monopoly; or controlled deregulation of this sector, with Member States having the right, in accordance with the established case-law of the Court of Justice, to restrict the number of operators, the types of game on offer and the volume of such games; urges Member States electing to deregulate their online gambling and gaming sector to introduce a licensing system based on compliance by operators and public authorities with stringent specifications;
3. Reiterates that the Court of Justice of the European Union has confirmed that cross-border gambling services – including those provided electronically – constitute an economic activity which falls under Article 56 TFEU on the freedom to provide services; confirms that restrictions on the freedom to provide cross-border gambling services may be justified on the basis of the grounds for exceptions referred to in Articles 51 and 52 TFEU or for

reasons of overriding public interest, in accordance with the case-law of the Court of Justice;

4. Reaffirms its position that, in as sensitive an area as gambling, industry self-regulation can only complement but not replace statutory legislation; takes note of self-regulatory initiatives launched by public and commercial gambling operators' associations in connection with responsible gaming and other standards;
5. Stresses that the inherent nature of all online activities, in particular the fact that they operate across national borders and the proliferation of offshore operators, means that they must be dealt with in a coordinated manner at the European or global level, where appropriate; highlights the importance of a common EU-wide definition of online gambling as a starting point for any future legislation;
6. Insists on the need to dissuade players from engaging in illegal gambling, which means that lawful services must be provided as part of a system that is coherent across Europe, especially in terms of tax treatment, and which applies common minimum standards of accountability and integrity; calls on the Commission, with due regard for the subsidiarity principle, to investigate how these common standards should be implemented, including the issue of whether a European legislative framework laying down minimum rules would be appropriate;
7. Stresses that online gambling and gaming, if not properly regulated, involve greater risks than traditional gambling and gaming, and that measures must be taken at the European level to clamp down on fraud, money laundering and other illicit operations linked to online gambling; calls for more effective cooperation between Member State authorities, the Commission and Europol, including regular exchanges of information; calls on the Commission to extend the scope of legislation designed to clamp down on organised crime and money laundering so that it includes the gambling and gaming sector; recommends establishing a blacklist of illegal undertakings; supports the introduction of a regulatory principle whereby a gambling company can operate (or bid for the requisite national licence) in one Member State only if it is not operating in breach of the law in any other EU Member State; urges the Commission, therefore, to consider the possibility of introducing interoperable EU standards in relation to fraud detection and prevention with a view to improving global market monitoring;
8. Points out in particular that spread betting – a form of gambling which is conducted primarily online and in which consumers may potentially lose many times more than their initial stake – necessitates very strict conditions governing consumer access and should be regulated, as is already the case in a number of Member States, in a similar way to financial derivatives;
9. Takes the view that the various forms of online gambling – such as rapid interactive games of chance which have to be played at a frequency of seconds, betting, and lotteries involving a weekly draw – differ from one another and require different solutions insofar as some forms of gambling afford greater opportunities for abuse than others; notes in particular that the opportunity for money laundering depends on the strength of identification, the type of game and the methods of payment used, which makes it necessary, in respect of some forms of game, to monitor play in real time and exercise

stricter control than is the case with other forms of game;

10. Underlines that structural cooperation between national regulatory bodies is essential; urges, therefore, that such cooperation be expanded, with the involvement of the Commission, so as to develop common standards and take joint action against online gambling companies operating in one or more Member States without the requisite national licence(s) for all the games they offer; points to the discussions in Council as to whether, and in what way, the Internal Market Information System could contribute to more effective cooperation between national regulatory bodies; states that, in particular when it comes to combating money laundering, betting fraud and other – often organised – crime, national stand-alone solutions are not successful; takes the view that cooperation between national supervisory authorities and the pooling of best practices should be promoted, and that such authorities should exchange information with the responsible authorities of other Member States in order to prevent abuses and money laundering;
11. Stresses that compulsive gambling is in fact a behavioural disorder which may affect up to 2% of the population in some countries; calls, therefore, for a survey of the extent of the problem in each EU Member State as a basis for an integrated strategy designed to protect consumers from this form of addiction; takes the view that as soon as a gambling account is created, comprehensive and accurate information must be made available with regard to gambling games, responsible gambling and opportunities for treatment of dependence on gambling; suggests that gamblers should be invited to set themselves daily and monthly monetary expenditure limits applicable to the whole gambling service;
12. Calls for the introduction of statutory minimum consumer protection standards, especially for the most vulnerable consumers, without prejudice to the right of Member States to adopt more stringent rules;
13. 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; suggests, therefore, that any future legislation aim to protect deposits in the event that fines are imposed on the websites in question, or legal proceedings brought against them;
14. Insists that more must be done to protect children from the dangers of gambling and in particular the dangers of addiction; suggests that consideration be given to industry-funded safeguards and monitoring; takes the view that online gambling should be subject to a requirement to open a gambling account, that players should be identified in a precise and watertight manner before they can open a gambling account, and that financial transactions should be monitored, and maintains that all of these aspects should be absolute requirements so as to protect gamblers, ensure that systems of gambling bans are effective and prevent under-age gambling, abuses and crime;
15. Notes that a large number of people taking part in gambling are professional gamblers; takes the view that it must be possible to identify the gambler at all times so that it is impossible to create more than one gambling account per person with the same gambling company; maintains that this should be done by means of a standardised, infallible identification procedure such as the online verification systems used for bank and credit cards; emphasises that robust registration and verification systems are key tools in preventing any misuse of online gambling, such as money laundering;

16. Takes the view that the proliferation of illegal online gambling and the fact that online gambling is not regulated at the global level may represent a threat to the integrity of sport; stresses that keeping sporting events credible and honest is vital to the sports industry as a whole; stresses that this can be done effectively only at transnational level; takes the view that the European Union must therefore play a more prominent role in safeguarding the integrity of sport, alongside all stakeholders;
17. Deplores recent cases of corruption and match fixing in sport; calls, therefore, for the establishment of structural cooperation at the EU level in order to uphold integrity and fair play in sport in accordance with Articles 6, 83 and 165 TFEU; notes that such cooperation must involve sports event organisers, online betting operators and public authorities, with a view to promoting player education and coordinating action against fraud and corruption in sport by sharing information and expertise and by applying the common definition of offences and sanctions;
18. Stresses that online gambling is a significant source of funding for the sports industry and other activities of general interest; recalls that online betting is one form of commercial exploitation of sporting events; calls on the Commission to look at ways in which revenues from sports betting might routinely be used to safeguard and develop the integrity of amateur sport; calls on the Commission to ensure that there is a high level of legal security, particularly as regards the application of the rules on state aid;
19. Notes the importance of transparency in the online gambling sector; envisages, in this connection, annual reporting obligations, which should demonstrate, inter alia, what activities of general interest and/or sports events are financed and/or sponsored by means of the proceeds from gambling; calls on the Commission to investigate the possibility of compulsory annual reporting.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	31.8.2011
<b>Result of final vote</b>	+: 38 -: 0 0: 2
<b>Members present for the final vote</b>	Burkhard Balz, Sharon Bowles, Udo Bullmann, Pascal Canfin, Nikolaos Chountis, Rachida Dati, Leonardo Domenici, Diogo Feio, Markus Ferber, Ildikó Gáll-Pelcz, José Manuel García-Margallo y Marfil, Jean-Paul Gauzès, Sven Giegold, Liem Hoang Ngoc, Jürgen Klute, Philippe Lamberts, Astrid Lulling, Arlene McCarthy, Sławomir Witold Nitras, Ivari Padar, Alfredo Pallone, Antolín Sánchez Presedo, Olle Schmidt, Edward Scicluna, Theodor Dumitru Stolojan, Ivo Strejček, Marianne Thyssen, Corien Wortmann-Kool,
<b>Substitute(s) present for the final vote</b>	Sophie Auconie, Pervenche Berès, Herbert Dorfmann, Sari Essayah, Vicky Ford, Ashley Fox, Olle Ludvigsson, Thomas Mann, Sirpa Pietikäinen, Andreas Schwab, Theodoros Skylakakis, Catherine Stihler
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Kriton Arsenis (S&D), Knut Fleckenstein (S&D), Bill Newton Dunn (ALDE)

13.7.2011

## **OPINION OF THE COMMITTEE ON LEGAL AFFAIRS**

for the Committee on the Internal Market and Consumer Protection

on online gambling in the internal market  
(2011/2084(INI))

Rapporteur: Sajjad Karim

### **SUGGESTIONS**

The Committee on Legal Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. 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;
2. Highlights the fact that Member States have the right to regulate and control their gambling markets in accordance with European internal market legislation and with their traditions and culture;
3. Notes that, while the Court of Justice has clarified a number of important legal questions concerning online gambling in the EU, legal uncertainty remains with regard to a number of other questions, which can only be solved at the political level;
4. Underlines that the Court of Justice has clarified in recent rulings<sup>1</sup> that Member States' regulatory restrictions must be justified, consistent and in line with the legal objectives pursued in order to protect consumers, prevent fraud and protect public order;
5. Calls on the Commission and the Member States to introduce effective measures to raise awareness of the risks of gambling addiction, targeting young people in particular;
6. Asks the Commission to support consumers if they have been affected by illegal practices

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<sup>1</sup> Joined cases C-316/07, C-358/07, C-359/07, C-360/07, C-409/07 and C-410/07, Markus Stoß, not yet published.

and to offer them legal support;

7. Welcomes the Commission's statement that different games have different inherent risks and asks for a differentiated regulation;
8. Asks for minimum standards of consumer protection from online gambling, enabling Member States to have stricter rules;
9. Underlines the importance of national licenses for online gambling operators; considers that in this regard the Member States are best placed to act, in accordance with the principle of subsidiarity;
10. Notes the fact that more progress could have been made on pending infringement cases since 2008 and that no Member State has ever been referred to the European Court of Justice;
11. Welcomes the presentation of a Green Paper by the Commission as a step in the right direction and believes that action by the Commission in this field is needed to avoid fragmentation of the internal market and to ensure consumers' access to safe and properly regulated online services; supports the Commission's undertaking a wide public consultation, addressing all policy challenges and internal market issues raised by legitimate and illegal online gambling;
12. Reminds the Commission, as 'guardian of the Treaties', of its duty to swiftly act upon reception of complaints of violation of the freedoms enshrined in the Treaties; calls on the Commission, therefore, to urgently and systematically pursue existing and new infringement cases;
13. Welcomes the CEN Workshop Agreement<sup>1</sup>, but nevertheless reaffirms its position that, in the area of gambling, industry self-regulation can only complement, but not replace, statutory legislation;
14. Reaffirms its position that sports bets are a form of commercial use of sporting competitions, and recommends that the European Commission and the Member States protect sporting competitions from any unauthorised commercial use, notably by recognition of sports bodies' property rights over the competitions they organise, 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 way to strengthen the fight against match-fixing;
15. Urges the Member States to ensure that the fraudulent manipulation of results for financial or other advantage is prohibited by establishing as a criminal offence any threat to the integrity of competitions, including those linked to betting operations;
16. Calls on the Commission to bring forward meaningful legislative proposals to provide a legal framework that will create legal certainty for legitimate European businesses and protect consumers;

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<sup>1</sup> CWA 16259:2011: Responsible Remote Gambling Measures.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	11.7.2011
<b>Result of final vote</b>	+: 22 -: 0 0: 0
<b>Members present for the final vote</b>	Raffaele Baldassarre, Luigi Berlinguer, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Marielle Gallo, Klaus-Heiner Lehne, Antonio Masip Hidalgo, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Dimitar Stoyanov, Alexandra Thein, Rainer Wieland, Cecilia Wikström, Tadeusz Zwiefka
<b>Substitute(s) present for the final vote</b>	Kurt Lechner, Eva Lichtenberger, Toine Manders, Paulo Rangel, Dagmar Roth-Behrendt
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Giuseppe Gargani



## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	6.10.2011
<b>Result of final vote</b>	+ :            30 - :            1 0 :            3
<b>Members present for the final vote</b>	Adam Bielan, Lara Comi, Anna Maria Corazza Bildt, António Fernando Correia De Campos, Jürgen Creutzmann, Christian Engström, Evelyne Gebhardt, Louis Grech, Małgorzata Handzlik, Iliana Ivanova, Edvard Kožušník, Kurt Lechner, Toine Manders, Hans-Peter Mayer, Phil Prendergast, Mitro Repo, Robert Rochefort, Zuzana Roithová, Christel Schaldemose, Andreas Schwab, Emilie Turunen, Bernadette Vergnaud, Barbara Weiler
<b>Substitute(s) present for the final vote</b>	Marielle Gallo, Anna Hedh, Constance Le Grip, Emma McClarkin, Sylvana Rapti, Oreste Rossi, Wim van de Camp
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Alexander Alvaro, Monika Hohlmeier, Axel Voss, Pablo Zalba Bidegain