



Strasbourg, **XXX**
COM(2012) 596/3

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE
AND THE COMMITTEE OF THE REGIONS**

Towards a comprehensive European framework for online gambling

{SWD(2012) 345}

TABLE OF CONTENTS

1.	Introduction	4
2.	Key challenges and proposed responses.....	5
2.1.	Compliance of national regulatory frameworks with EU law	6
2.2.	Enhancing supervision, administrative cooperation and efficient enforcement.....	8
2.2.1.	Establishing appropriate supervision and control in Member States	8
2.2.2.	Fostering cross-border administrative cooperation	9
2.2.3.	Ensuring efficient enforcement at national level.....	9
2.3.	Protecting consumers and citizens.....	11
2.3.1.	Working towards a high level of protection across the EU.....	11
2.3.2.	Ensuring the protection of minors	12
2.3.3.	Enhancing responsible advertising.....	12
2.3.4.	Preventing problem gambling or gambling addiction.....	12
2.4.	Preventing fraud and money laundering.....	14
2.4.1.	Extending anti-money laundering measures	14
2.4.2.	Tackling identity theft and other forms of cybercrime	14
2.4.3.	Safeguarding the security of gambling equipment.....	15
2.5.	Safeguarding the integrity of sports and preventing match-fixing.....	15
2.5.1.	Fostering cooperation between stakeholders.....	16
2.5.2.	Developing anti-match fixing measures.....	16
2.5.3.	Ensure effective deterrence of match fixing	16
2.5.4.	Promoting international cooperation.....	17
3.	Conclusions	17

1. INTRODUCTION

Online gambling¹ is a fast growing service activity in the EU, with annual growth rates of almost 15%². Annual revenues in 2015 are expected to be in the region of €13 billion, compared to €9.3 billion in 2011. This would represent a total growth rate of almost 40%³. The economic significance of the sector is also shown by the high level of innovation of the EU industry and the increasing amount of tax revenues generated in the Member States.

The fast pace of online technologies development in recent years has facilitated the provision of gambling services through diverse remote distribution channels. These include the internet and other means of electronic or distance communication such as mobile phone technology or digital TV. 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.

In 2011, the Commission adopted a Green Paper on online gambling in the Internal Market⁴. Through that public consultation it sought to obtain a full picture of the existing situation, to facilitate the exchange of best practices between Member States and to determine how, in due consideration of their public policy objectives and without undermining the internal market, the differing national regulatory models for gambling can coexist and whether specific action may be needed at the EU level to ensure greater coherence. The responses to the consultation differ both in terms of the content and the instruments that should be used for EU initiatives. Overall, it does not appear appropriate at this stage to propose sector specific EU legislation. However, there was an almost unanimous call for policy action at EU level and the responses allow for a clear identification of the key priority areas where action is required.

This Communication, together with the accompanying Commission Staff Working Document⁵, 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 Staff Working Document provides more detailed information resulting from the analysis of the responses to

¹ The term "online gambling" refers to a range of different gambling services and distribution channels. See for an overview and discussion of the definitions section 2 of the Staff Working Document

² In 2011 annual revenues of the overall EU gambling market were estimated to be around €84.9 billion, with annual growth rates of around 3%. Between 2008 and 2011 the land based gambling market grew by around 8.3%.

³ H2 Gambling Capital (gaming and betting consultancy)

⁴ Green Paper on on-line gambling in the Internal Market (COM(2011) 128 final)

⁵ Staff Working Document reference No

the Green Paper, the proposed initiatives in this Action Plan, as well as relevant data. The Commission has drawn from good practices in the EU and Member States in order to propose responses to the varied range of issues related to online gambling.

In view of the developments regarding the offer and promotion of online gambling in the EU greater clarity is needed. This Communication proposes a combination of initiatives and relevant 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:

- compliance of national regulatory frameworks with EU law
- enhancing administrative cooperation and efficient enforcement
- protecting consumers and citizens, minors⁶ and vulnerable groups
- preventing fraud and money laundering
- safeguarding the integrity of sports and preventing match-fixing

The proposed actions focus on online gambling services and issues linked to the free movement of services (Article 56 TFEU) and the freedom of establishment (Article 49 TFEU) in light of the growth of online gambling in the EU and the well-developed cross-border supply of such services. However, a number of the actions are pertinent to both online and offline gambling services⁷.

Finally, this Communication responds to the Council's conclusions on the framework for gambling and betting in the EU Member States⁸, a series of Presidency progress reports⁹, the resolution of the European Parliament on online gambling in the Internal Market¹⁰ and to the Opinion of the European Economic and Social Committee¹¹.

2. KEY CHALLENGES AND PROPOSED RESPONSES

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 principles and rules. Ensuring compliance of national law with the Treaty is therefore a prerequisite of a successful EU policy on online gambling.

⁶ Minors as used in this Communication include "children". In line with Article 1 of the UN Convention on the Rights of the Child, a "child" means any person below 18 years of age. In certain Member States young adults are covered by the regime applicable to children

⁷ All the actions proposed to be taken up by the Commission in this document are consistent and compatible with the current multiannual financial framework

⁸ 3057th COMPETITIVENESS Council conclusions on the framework for gambling and betting in the EU member states, 10 December 2010

⁹ Council Presidencies Progress reports on the framework for gambling and betting in the EU Member States (2008-2011)

¹⁰ 2011/2084(INI)

¹¹ CESE 1581/2011 - INT/579

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 to effectively address these challenges alone and to provide individually a properly regulated and sufficiently safe offer of online gambling services. The Commission's actions on administrative cooperation will help Member States to better understand each other's regulatory frameworks, share good practices and improve convergence in tackling common problems. In addition, greater and long term collaboration between Member States would enhance the EU's capacity to more effectively tackle the international dimension of online gambling.

Improving the protection of consumers and the regulatory environment is in the interest of all Member States and all stakeholders. The development of an attractive range of legal gambling opportunities is also key to effectively prevent consumers from going on unregulated sites. Therefore, action at EU level should aim at adequately protecting all citizens in Europe within a balanced regulated environment. In light of this, the Commission proposes to undertake action, together with the Member States, designed to offer a common and high level of protection to all European consumers and citizens, including minors and vulnerable groups. These proposed actions seek to address the risks emanating from unregulated markets and organised crime, such as fraud and rigging of events.

Overall, the initiatives are expected to contribute to an improved framework governing online gambling services in the EU and pave the way for strengthened cooperation between Member States' regulatory authorities.

The Commission will

- In 2012 establish an expert group on gambling, composed of representatives of Member States, to exchange experiences and good practices as well as to provide advice and expertise on the preparation of EU initiatives.

2.1. Compliance of national regulatory frameworks with EU law

Online gambling regulation in Member States is characterised by a diversity of regulatory frameworks. Few Member States prohibit the offering of games of chance on the internet, either for all games or for certain types, such as poker and casino games. In some European jurisdictions, monopolistic regimes (offering online gambling services) have been established. These are run either by a state-controlled public operator or by a private operator on the basis of an exclusive right. A growing number of Member States has however established licensing systems thus allowing more than one operator to offer services on the market.

In response to the societal, technological and regulatory challenges, a significant number of Member States has recently reviewed their gambling legislation to take account of new forms of gambling services. These regulatory changes 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. There has also been a development in cross-border offers, 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

courts and questions on the interpretation of EU law have been referred to the Court of Justice of the European Union (CJEU).

National regulatory systems must respect EU law. In a series of judgements, the CJEU has provided general guidance on the interpretation of the fundamental freedoms of the internal market in the area of (online) gambling, taking into account the specific nature of gambling activities, with a view to enabling national courts to assess the circumstances under which restrictive national gambling laws are justified on grounds related to the general interest.

The CJEU has confirmed that the provision and the use of cross-border gambling offers is an economic activity that falls within the scope of the fundamental freedoms of the TFEU. In particular, Article 56 TFEU prohibits restrictions on the freedom to provide services to recipients in other Member States. National rules which 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.

Member States may restrict or limit the cross-border supply of all or certain types of online gambling services on the basis of public interest objectives that they seek to protect in relation to gambling. The national rules 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 suitability and 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. Member States must demonstrate that the public interest objectives they have freely chosen to ensure are being pursued in a consistent and systematic manner and they must not undertake, facilitate or tolerate measures that would run counter to the achievement of these objectives.

In the past years infringement cases have been launched by the Commission against a significant number of Member States and remain under investigation to date. Numerous complaints in the field of gambling, based on Articles 49 and/or 56 TFEU, are also currently registered. The Commission uses the in-depth factual information gathered from the Green Paper consultation as well as the latest case law of the CJEU in its on-going assessment of national legislation in the pending infringement cases and complaints. This assessment focuses in particular on whether national gambling policies are consistent, notably with regard to their regulatory approaches to the on-line and off-line offers of the same type of game as well as to games which are clearly comparable in terms of the degree of risk they bear in relation to fraud and/or consumer protection. The assessment also focuses on the transparency and non-discrimination of licensing schemes as well as on the proportionality of licensing conditions.

Simultaneously with the adoption of this Communication, the Commission is inviting the Member States concerned to provide information about the latest developments of their

gambling legislation. The Member States against whom infringement cases are open or complaints have been registered will be asked to provide legal and factual (updated) information to enable the Commission to complete its assessment of compatibility with EU law.

The Commission will, wherever necessary, take action to enforce the relevant Treaty provisions in respect of any national rules not complying with EU law, taking into account the latest case law of the CJEU. Furthermore, the compliance of draft national legislation on on-line gambling with EU law will continue to be assessed under the so-called notification procedure¹².

The Commission will

- Accelerate completion of its assessment of national provisions in the pending infringements cases and complaints and take enforcement action wherever necessary.

2.2. Enhancing supervision, administrative cooperation and efficient enforcement

In order to ensure the successful implementation and application of a gambling policy at national and EU level Member States need competent regulatory authorities, cooperating with authorities in other Member States and using all available efficient enforcement means.

Several of the initiatives announced in this Communication will imply the processing of personal data. In this respect, compliance with the EU acquis on data protection shall be ensured¹³. This will require in particular a clear definition of the specific purposes of data processing in order to ensure data quality and minimisation and compliance with other data protection requirements.

2.2.1. Establishing appropriate supervision and control in Member States

In order to ensure effective implementation and enforcement of gambling rules and efficient cross-border administrative cooperation, every Member State should have well-equipped regulatory authorities in place. National regulatory authorities need to have adequate competences and know-how in order to deal with regulatory challenges in a rapidly growing and technology-based market. As not all regulatory authorities may have full competences for the supervision of the gambling market they may need to cooperate with other relevant authorities at regional or national level in order to meet demands for cooperation from other Member States' regulators and not to fall short of their expectations.

¹² Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations, as amended by Directive 98/48/EC

¹³ Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data, see for the data protection reform and the reform package adopted by the Commission on 25 January 2012: http://ec.europa.eu/justice/newsroom/data-protection/news/120125_en.htm

2.2.2. Fostering cross-border administrative cooperation

Enhanced administrative cooperation is imperative if today's regulatory challenges are to be met. 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 and practices of others, and to develop closer working relations at the operational level. Actions aimed at fostering administrative cooperation also need to result in a reduction of unnecessary administrative burdens, in particular in the authorisation process and the supervision of operators authorised in more than one jurisdiction. The certification and standardisation of online gambling equipment can also play an important role in this respect.

Successful administrative cooperation requires a clear definition of the areas Member States can request and exchange information on and develop common actions and initiatives. Furthermore, an appropriate structure has to be in place, with a clear mandate for cooperation which can address the operational needs of regulatory authorities. The precise form of cooperation between national regulators depends on the kind of information and data that can be exchanged between the authorities.

A first immediate step on cooperation is to focus on exchange of general information and best practice, in order to share intelligence and experience and to build trust and a sense of mutual interest between regulators. As a second step, through dialogue with Member States, the Commission will further explore the possibilities for an exchange of personal data, in compliance with national and EU rules on data protection. To this end, recourse to the Internal Market Information system (IMI)¹⁴ could facilitate administrative cooperation between Member States.

Cooperation within the EU will not respond to all the challenges in the online gambling market. Many of these challenges are of a cross-border nature, often originating from outside the EU. In order to coordinate actions and promote initiatives addressed to countries outside the EU, the Commission will together with Member States identify issues to be raised with third countries and seek to strengthen dialogue with them.

2.2.3. Ensuring efficient enforcement at national level

Effective enforcement by Member States of their national legislation – a key prerequisite of which is compliance with EU law – is essential for the attainment of the public interest objectives of their gambling policy. Effective enforcement depends, inter alia, on a sound organisational structure and full competences for the national gambling authority, adequate administrative cooperation with other regulators and suitable enforcement tools.

¹⁴ A Regulation on administrative cooperation through IMI (based on Commission proposal COM(2011) 522 final) is expected to be formally adopted by the European Parliament and the Council in September/October 2012. This Regulation will create the possibility to launch IMI pilot projects to test the use of IMI for administrative cooperation, including the exchange of personal data, in any Single Market area provided that there is a legal basis for the exchange of these data.

Preventive enforcement measures aim at reducing the initial contact of citizens with the offer of cross-border online gambling services which are not compliant with the legislation in force in the recipient Member State ("unauthorised")¹⁵ and at ensuring compliance with national gambling rules and common principles, such as player education and information, understanding players' choice and behaviour and encouraging responsible business conduct. *Responsive* enforcement measures, such as limiting access to websites offering unauthorised gambling services or blocking payments between players and unauthorised gambling operators, have certain benefits but also possible shortcomings. Such measures also need to be carefully assessed in the light of safeguarding fundamental rights and fundamental freedoms of the TFEU. Responsive enforcement measures that require online intermediaries hosting illegal gambling offers to take action (take down the offer or disable access to the offer to customers in specific Member States), could benefit from clarification as regards the procedures to be followed. The Commission is preparing a horizontal initiative on notice-and-action procedures which should provide the clarity needed. In addition, cooperation could be enhanced via the network established by the Consumer Protection Cooperation Regulation which allows cross-border enforcement actions¹⁶.

MAIN ACTIONS

The Commission will

- Facilitate administrative cooperation between gambling regulators and explore possibilities offered by the IMI regulation to cover the exchange of information/cooperation between Member States by 2013,
- 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 intermediaries¹⁷,
- Develop regulatory dialogue with third countries.

Member States are urged to

- Set up and 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.

¹⁵ Unauthorised gambling services in the recipient Member State does not imply that such services are not regulated in the Member State of origin. Neither does that imply that they are not authorized in other recipient Member States.

¹⁶ Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)

¹⁷ For more details see http://ec.europa.eu/internal_market/e-commerce/notice-and-action/index_en.htm

2.3. Protecting consumers and citizens

Throughout the EU Member States converge on the objective of protecting citizens although they differ in terms of the regulatory and technical approaches undertaken to achieve this objective. Appropriate action in the EU is needed so as to: 1) draw consumers away from unregulated and potentially harmful offers, 2) protect minors from accessing gambling facilities, 3) safeguard other vulnerable groups and 4) prevent the development of gambling-related disorders¹⁸. All citizens should enjoy a high level of common protection throughout the internal market.

While fully respecting each Member State's right to determine the regulatory framework for gambling services, the Commission sees significant benefits in the development of a range of authorised gambling opportunities in order to effectively dissuade consumers from using other gambling offers. It is important for authorised operators to be able to offer sufficiently attractive products, because in the absence of credible and sustainable offers consumers will continue to turn to unregulated gambling websites, with the ensuing potentially harmful effects.

2.3.1. Working towards a high level of protection across the EU

It is estimated that about 6.84 million European consumers participate in online gambling¹⁹. In an inherently cross-border environment consumers must be able to make informed choices and be able to recognise an authorised gambling offer. Faced with information overload, consumers do rely on labels²⁰. Therefore, the Commission encourages that details of the relevant regulating authority feature prominently on the website of operators and that the level of consumer information and knowledge is improved.

A number of Member States has experience with protecting consumers in the online environment. The gambling industry has also developed valuable technical expertise and self-regulatory approaches for socially responsible gambling. Action requires efforts of all stakeholders. The right balance needs to be struck and measures to protect consumers should not have the adverse effect of leading players to seek more attractive offers on unregulated sites.

A common set of principles elaborated at EU level should aim at ensuring a high level of consumer protection. These principles should include 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

¹⁸ E.g problem gambling, pathological gambling, excessive gambling

¹⁹ H2 Gambling Capital

²⁰ A European Consumer Agenda - Boosting confidence and growth (COM(2012) 225 final)

credit policy, protection of player funds, self-restriction possibilities (time/financial limits, exclusion) as well as customer support and efficient handling of complaints²¹.

As a first step the Commission will prepare a Recommendation on common protection of consumers.

2.3.2. Ensuring the protection of minors

The protection of minors must be a priority not least because 75% of 6-17 year olds in Europe use the internet²². Preventive protection measures should be aimed at precluding minors gaining access to gambling content. This is why the Recommendation should encourage that regulatory systems provide sufficient age verification tools and ensure controls by operators. Moreover, gambling sites should be encouraged to carry notices clearly indicating '*no underage gambling*' and provide information on the implementation of age verification measures. These types of measures should be complemented by wider efforts such as improving parental awareness of associated risks and software filtering in the home. In addition, all operators should conduct their business in a responsible manner.

2.3.3. Enhancing responsible advertising

Responsible advertising is imperative in order to ensure that citizens are aware that: 1) age restrictions apply, 2) gambling can be harmful if not played responsibly and 3) the risks can be financial, social or health related. In the EU not all Member States have advertising regulations specific to gambling services. Some Member States have dedicated codes of conduct. Self-regulatory approaches have also been undertaken by the gambling and advertising industry. All citizens in the EU need to be sufficiently informed on the choices they make as well as on the risks associated with gambling.

The Commission will prepare a Recommendation on responsible gambling advertising to ensure that operators authorised in a given Member State advertise gambling in a socially responsible manner and provide key information to consumers. For the Recommendation to be wholly effective, both Member States and industry will be asked to contribute to the preparation of its scope and design. Member States will be recommended to provide for adequate sanctions for breaches or non-compliance. The Recommendation will complement the Unfair Commercial Practices Directive²³.

2.3.4. Preventing problem gambling or gambling addiction

Based on the responses to the Green Paper, it can be estimated that between 0.5-3% of the population in the EU suffer from some type of gambling disorder. Evidence of both the scale

²¹ As proposed in the proposals for a Directive on consumer Alternative Dispute Resolution and a Regulation on consumer ODR at http://ec.europa.eu/consumers/redress_cons/adr_policy_work_en.htm

²² European Strategy for a Better Internet for Children (COM(2012) 196 final)

²³ Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market and amending Directives 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC and of Regulation (EC) 2006/2004

and variety of gambling disorders is not readily available. Moreover, existing studies and surveys do not allow for incontestable conclusions. A better understanding is required of 1) the definitions used, 2) the determinants (for example, chasing winnings/losses, commercial communications, accessibility, frequency), 3) causal links of types of games/bets, 4) the adequacy of preventive instruments (for example, warning signs, self-limits, restricting certain games/bets) and 5) the type of treatment required.

The Commission is currently seeking to acquire relevant information through ALICE RAP²⁴, an EU co-funded research project which will inter alia compile data, classify addiction, assess determinants and the transition to dependence, present governance practices on addictions and provide a consolidated figure for the scale of the problem in the EU. On the basis of the intermediary reports that will be drawn up under this project, the Commission will consider initiatives for a research policy on the development of gambling disorders, including detection and treatment.

MAIN ACTIONS

The Commission will

- Adopt Recommendations on common protection of consumers and on responsible gambling advertising in 2013,
- Support benchmarking and testing of parental control tools through the Safer Internet Programme²⁵ and the Connecting Europe Facility²⁶ to improve age rating and content classification systems,
- Assess recommendations on gambling-related internet addiction among adolescents under EU NET ADB²⁷ in 2012,
- Report on the relevant working groups under ALICE RAP in 2014 and carry out an assessment of these research results,
- Assess market performance of online gambling services under the Consumer Market Monitoring Survey from 2013.

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

²⁴ This is a trans-disciplinary project, funded under the 7th Framework Programme for research and technological development. It focuses on research related to addiction and lifestyles in Europe over 5 years (2011-2015), For more information: http://ec.europa.eu/research/social-sciences/projects/486_en.html

²⁵ Decision No 1351/2008/EC establishing a multiannual Community programme on protecting children using the Internet and other communication technologies

²⁶ Proposal for a Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility (COM (2011) 665)

²⁷ Aimed at evaluating the prevalence and determinants of borderline addictive internet use and internet addiction among European adolescents

- | |
|---|
| <ul style="list-style-type: none">• 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. |
|---|

2.4. 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.

Member States' authorities as well as regulated operators are faced with a number of challenges with regard to the effective application of anti-fraud and anti-money laundering mechanisms. They can be most efficiently tackled through international cooperation and coordination, for example through structured cooperation between national gambling authorities, national police and international enforcement authorities. To the extent appropriate, preventive and protective measures also relevant to the fight against money laundering (such as, for instance, the prohibition of incurring loss on an anonymous basis) should also be considered in the context of the Recommendation on common protection of consumers. Training of the judiciary on issues surrounding fraud and money-laundering related to gambling is also needed.

2.4.1. Extending anti-money laundering measures

With regard to gambling activities the Anti-Money Laundering Directive²⁸ currently applies only to casinos. Some Member States have already extended the scope of application of the Directive to other forms of gambling and a number of regulated operators apply tools such as customer verification processes, customer's profiling and payment monitoring. To create a level playing field for all gambling operators as well as to ensure a comparable level of protection across Member States, there is a need for a broader application of the Directive to all gambling services.

The Commission will, in the context of the review of the Directive, consider extending its scope to all forms of gambling whilst ensuring that proportionality is respected.

2.4.2. Tackling identity theft and other forms of cybercrime

The public consultation has made clear that the most frequent type of gambling fraud is identity theft. This seems, however, to be reflecting a more general pattern, namely the growing challenge that identity theft and other forms of cybercriminality are posing to the online provision of services. These issues are currently addressed by the Commission in the

²⁸ Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

context of its current policy on cybercriminality, including through its recent proposal to establish a European Cybercrime center.²⁹ In order to ensure that the solutions identified in this context also contribute to safer online gambling services, the Commission will encourage exchanges of experience and good practice in the fight against cybercrime within the expert group on gambling, as well as exchanges with the European Cybercrime center, as appropriate.

2.4.3. Safeguarding the security of gambling equipment

Certification of online gambling equipment including gambling software is commonly required by Member State's competent authorities when deciding on an application for a gambling licence. In order to ensure a comparable level of security of online gambling in the EU, reduce the administrative burden relating to different national certification procedures and provide for a possibility of interoperability where appropriate, the Commission will explore the merits of introducing an EU standard on gambling equipment certification.

MAIN ACTIONS

The Commission will

- Consider extending the scope of the AML Directive to all forms of gambling in 2012,
- Encourage, in the context of its policy on cybercrime, exchanges of experience and good practice within the expert group on gambling, as well as exchanges with the European Cybercrime center, as appropriate,
- Explore the possibility of an EU standard on gambling equipment including gambling software in 2013.

Member States are urged to

- Promote the training of the judiciary on issues surrounding fraud and money-laundering related to gambling.

2.5. 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. Match fixing runs contrary to the principle of fairness in sporting competitions, which is one of the objectives of EU action in the field of sport (Article 165 TFEU). Addressing the issue requires concerted and coordinated efforts from public authorities, sport organisations and gambling operators.³⁰ A number of regulatory (gambling licensing conditions, statutes of sport federations) and self-regulatory mechanisms (codes of conduct) are in place in the EU as well as educational campaigns, conflict of interest rules, bet monitoring systems and alert tools

²⁹ Tackling Crime in our Digital Age: Establishing a European Cybercrime Centre (COM (2012) 140 final)

³⁰ See Nicosia Declaration on the Fight Against Match-Fixing of 20 September 2012

(whistle blowing, hot lines etc.). Cooperation between stakeholders exists but is limited in scope. There is a clear need for more cooperation between betting operators, sport bodies and competent authorities including gambling regulators, both at national and international level.

2.5.1. Fostering cooperation between stakeholders

Cooperation agreements are a useful tool in this area and the Commission encourages their further development and to include all relevant stakeholders (gambling operators, sport organisations, regulators). These agreements effectively facilitate the creation of national contact points where all relevant actors involved in fighting match fixing at national level can come together, exchange information and coordinate actions. National contact points are an essential element of efficient cooperation in view of tackling match fixing issues at EU and global level.

2.5.2. Developing anti-match fixing measures

Member States' approaches to financing of anti-match fixing measures vary considerably whilst none of the financing models currently applied has been found to be more or less efficient than the others.

The Commission will develop in a recommendation anti-match fixing measures applicable across Member States and sport disciplines in cooperation with stakeholders with a view to 1) promote 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, 2) ensure 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, 3) establish minimum conflict of interest provisions, for example betting bans for sport people and sport officials as well as the exclusion of youth events from betting, and 4) introduce hotlines and other reporting or whistle-blowing alert mechanisms. Dedicated workshops will be organised to this purpose with the involvement of experts on gambling.

2.5.3. Ensure effective deterrence of match fixing

The Study on match fixing in Sport³¹ found that match fixing is criminalised in all Member States. It also indicated that a specific incrimination of sport offences did not necessarily lead to better enforcement or fewer suspicious cases. The main shortcomings in relation to the prosecution of match-fixing cases are of an operational nature and initiatives at EU level should aim at improving the enforcement of anti-match fixing rules.

The Commission is participating in the work of the Council of Europe which is discussing a possible convention against the manipulation of sports results. The aim is to provide national systems with the tools, expertise and resources necessary to combat this threat.

³¹ http://ec.europa.eu/sport/news/20120410-study-on-match-fixing_en.htm

2.5.4. Promoting international cooperation

The Commission will, by using part of the funds available under the 2012 Preparatory Action for European Partnerships in Sport³², launch test projects aimed at promoting international cooperation in the prevention of match fixing. It will equally continue cooperation with the International Olympic Committee (IOC) and the Council of Europe both of whom have proposed and developed measures to address the issue in a global manner³³. The Commission will explore the possibility of including protecting the integrity of sport and combatting match fixing in discussions with third countries and the competent international organisations in the field of sport.

MAIN ACTIONS

The Commission will

- Adopt a Recommendation on best practices in the prevention and combatting of betting related match fixing in 2014,
- 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.

3. CONCLUSIONS

Responding to the various regulatory and technical challenges of the online gambling sector requires sound and effective measures. The actions announced in this Communication form a comprehensive strategy to meet these challenges.

The European Commission will work together with the European Parliament, Member States and all stakeholders concerned on the prompt implementation of this Communication. It will call for a first meeting of the expert group on gambling in 2012 and initiate a dialogue with all stakeholders. A stakeholder conference will be organised in 2013.

The European Commission will evaluate the implementation of this Communication and the application of the measures by Member States and stakeholders. It will report on the progress

³² http://ec.europa.eu/sport/news/20120417-2012-call-for-proposals_en.htm

³³ CM/Rec(2011)10, IOC recommendations against match fixing of 2 February 2012

achieved by publishing a report within two years of the adoption of this Communication. In the report, the Commission will assess if the actions as implemented are sufficient, notably with regard to the objectives of a more effective protection of consumers and deterrence of match-fixing. The Commission 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.