

Integrity of online gambling

European Parliament resolution of 10 March 2009 on the integrity of online gambling (2008/2215(INI))

The European Parliament,

- having regard to Article 49 of the EC Treaty,
- having regard to the Protocol on the application of the principles of subsidiarity and proportionality annexed to the EC Treaty,
- having regard to the case-law developed by the Court of Justice of the European Communities¹,
- having regard to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market² (Services Directive),
- having regard to Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities³ (Directive on audiovisual media services),
- 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 (Directive on electronic commerce)⁴,
- 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 financing⁵,
- having regard to its resolution of 8 May 2008 on the White Paper on Sport⁶,
- having regard to the Oral Question by the Committee on the Internal Market and Consumer Protection to the Commission of 16 October 2006 on gambling and sports betting in the Internal Market and to the following debate in the Committee on the Internal Market (O-0118/2006) and Consumer Protection on 14 November 2006, and to the answer given by the Member of the Commission,

¹ Schindler 1994 (C-275/92), 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), Placanica 2007 (C-338/04), Unibet 2007 (C-432/05), UNIRE 2007 (C-260/04).

² OJ L 376, 27.12.2006, p. 36.

³ OJ L 332, 18.12.2007, p. 27.

⁴ OJ L 178, 17.7.2000, p. 1.

⁵ OJ L 309, 25.11.2005, p. 15.

⁶ Texts adopted, P6_TA(2008)0198.

- having regard to the briefing paper on Online gambling, focusing on integrity and a code of conduct for gambling, prepared for the European Parliament by Europe Economics Research Ltd,
 - having regard to the study of Gambling Services in the Internal Market of the European Union dated 14 June 2006, prepared for the Commission by the Swiss Institute of Comparative Law (SICL),
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A6-0064/2009),
- A. whereas, at present, online gambling, worth EUR 2 to 3 billion in gross gaming revenues in 2004, accounts for roughly 5% of the total gambling market in the EU, as noted by the above-mentioned study by SICL, and rapid growth seems inevitable,
 - B. whereas the revenue generated by government and government-authorised gambling activities is by far the most important source of income for sports organisations in many Member States,
 - C. whereas gambling activities, including online gambling, have traditionally been strictly regulated in all Member States on the basis of the principle of subsidiarity, in order to protect consumers against addiction and fraud, to prevent money-laundering and other financial crimes, as well as match-fixing, and to preserve public order; whereas the European Court of Justice accepts restrictions of the freedom of establishment and the freedom to provide services in the light of such general interest objectives, if proportionate and non-discriminatory,
 - D. whereas all Member States have differentiated such restrictions according to the type of gambling service concerned, such as casino games, sports betting, lotteries or betting on horse-races; whereas the majority of Member States prohibit the operation - including by local operators - of online casino games, and a significant number prohibit in the same way the operation of online sports betting and online lotteries,
 - E. whereas gambling activities were excluded from the scope of Directives 2006/123/EC, 2007/65/EC and 2000/31/EC, and Parliament voiced its concern at a possible deregulation of gambling in its above-mentioned resolution on the White Paper on Sport,
 - F. whereas Member States have regulated their traditional gambling markets in order to protect consumers against addiction, fraud, money-laundering and match-fixing; whereas these policy objectives are more difficult to achieve in the online gambling sector,
 - G. whereas the Commission has launched infringement proceedings against ten Member States in order to verify whether national measures limiting the cross-border supply of online gambling services, mainly sports betting, are compatible with Community law; whereas, as the Commission has highlighted, these proceedings do not touch upon the existence of monopolies or national lotteries as such, nor do they have any implication for the liberalisation of gambling markets in general,
 - H. whereas an increasing number of preliminary questions on gambling-related cases are

being referred to the European Court of Justice, which clearly demonstrates a lack of clarity on the interpretation and application of Community law with respect to gambling,

- I. whereas integrity in the context of this resolution on online gambling means a commitment to preventing not only fraud and crime but also problem gambling and under-age gambling by compliance with consumer protection and criminal laws and by protecting sporting competitions from any undue influence associated with sports betting,
- J. whereas online gambling combines several risk factors related to problem gambling, such as, among others, easy access to gambling, the availability of a variety of games and fewer social constraints¹,
- K. whereas sports betting activities and other online games have developed rapidly and in an uncontrolled manner (particularly cross-border over the internet), and the ever present threat of match-fixing and the phenomenon of “lay bets” on specific events in sports matches makes sports particularly vulnerable to illegal betting behaviour,

A transparent sector that safeguards the public and consumer interests

- 1. Highlights that, in accordance with the principle of subsidiarity and the case law of the European Court of Justice, Member States have an interest and right to regulate and control their gambling markets in accordance with their traditions and cultures in order to protect consumers against addiction, fraud, money-laundering and match-fixing in sports, as well as to protect the culturally-built funding structures which finance sports activities and other social causes in the Member States; highlights that all other stakeholders as well have an interest in a well-monitored and regulated gambling market; underlines that online gambling operators must comply with the legislation of the Member State in which they provide their services and the consumer resides;
- 2. Stresses that gambling services are to be considered as an economic activity of a very special nature due to the social and public order and health care aspects linked to it, where competition will not lead to a better allocation of resources, which is the reason why gambling requires a multi-pillar approach; emphasises that a pure Internal Market approach is not appropriate in this highly sensitive area, and requests the Commission to pay particular attention to the views of the European Court of Justice regarding this matter;
- 3. Endorses the work that has started in the Council under the French Presidency addressing issues in the field of online and traditional gambling and betting; calls on the Council to continue holding formal discussions about a potential political solution as to how to define and tackle problems arising from online gambling, and calls on the Commission to support this process and to carry out studies and make appropriate proposals considered desirable by the Council for the attainment of common objectives in the area of online gambling;
- 4. Calls on the Member States to cooperate closely in order to solve the social and public order problems arising from cross-border online gambling, such as gambling addiction and misuse of personal data or credit cards; calls on the EU institutions to cooperate closely with the Member States in the fight against all unauthorised or illegal online gambling

¹ Opinion of Advocate General Bot of 14 October 2008 in Case C-42/07; the above-mentioned study by SICL at p. 1450; Professor Gill Valentine, Literature review of children and young people’s gambling (Commissioned by the UK Gambling Commission), September 2008.

services offered and to protect consumers and prevent fraud; stresses the need for a common position on how to do this;

5. Stresses that regulators and operators should closely cooperate with other stakeholders operating in the field of online gambling, e.g. gambling operators, regulators, consumer organisations, sports organisations, industry associations and the media, which share a joint responsibility for the integrity of online gambling and for informing consumers of the possible negative consequences of online gambling;

Tackling fraud and other forms of criminal behaviour

6. Notes that criminal activities, such as money-laundering, and black economies can be associated with gambling activities and impact on the integrity of sports events; considers that the threat to the integrity of sport and sporting competitions impacts heavily on grassroots participation, a key contributor to public health and social integration; is of the opinion that, if a sport is perceived as the subject of manipulation for the financial gain of players, officials or third parties rather than played according to its values, rules and for the enjoyment of its fans, this could result in a loss of public trust;
7. Is of the opinion that the growth of online gambling provides increased opportunities for corrupt practices such as fraud, match-fixing, illegal betting cartels and money-laundering, as online games can be set up and dismantled very rapidly and as a result of the proliferation of offshore operators; calls on the Commission, Europol and other national and international institutions to closely monitor and report on findings in this area;
8. Considers that the protection of the integrity of sports events and competitions requires cooperation between sports rights owners, online betting operators and public authorities at national as well as EU and international level;
9. Calls on the Member States to ensure that sports competition organisers, betting operators and regulators cooperate on measures to tackle the risks related to illegal betting behaviour and match-fixing in sport and explore the establishment of a workable, equitable and sustainable regulatory framework to protect the integrity of sports;
10. Highlights that sports bets are a form of commercial exploitation of sporting competitions, and recommends that Member States protect sporting competitions from any unauthorised commercial use, notably by recognition of a sport organisers right, and put in place arrangements to ensure fair financial returns for the benefit of all levels of professional and amateur sport; calls on the Commission to examine whether it is possible to give competition organisers an intellectual property right (some sort of *portrait right*¹) over their competitions;

Prevention of consumer detriment

11. Considers that the potential omnipresent opportunity provided by the internet to gamble online in privacy, with immediate results and with the possibility of gambling for large sums of money, creates new potential for gambling addiction; notes, however, that the full impact on consumers of the specific forms of gambling services offered online is not yet known and should be researched in a more detail;

¹ *Portretrecht*.

12. Draws attention to the growing concern about young people's ability to access online gambling opportunities, both legally and illegally, and stresses the need to have more effective age checks and to prevent underage gamblers from playing free demos on websites;
13. Points out that young people in particular may have trouble differentiating between the concepts of luck, fate, chance and probability; urges Member States to address the key risk factors which may increase the likelihood of a (young) person developing a gambling problem, and to find the tools to target those factors;
14. Is concerned by the increasing cross-over between interactive television, mobile phones and internet sites in offering remote or online gambling games, particularly those aimed at minors; considers that this development will pose new regulatory and social protection challenges;
15. Is of the opinion that online gambling is likely to give rise to risks to consumers and that Member States may therefore legitimately restrict the freedom to provide online gambling services in order to protect consumers;
16. Stresses that parents have a responsibility to prevent under-age gambling and gambling addiction by minors;
17. At the same time, calls on Member States to allocate adequate funding for research into, and the prevention and treatment of, problems relating to online gambling;
18. Considers that profits from gambling should be used for the benefit of society, including rolling funding for education, health, professional and amateur sport and culture;
19. Supports the development of standards for online gambling regarding age limits, a ban on credit and bonus schemes to protect vulnerable gamblers, information about the possible consequences of gambling, information about where to obtain help in case of addiction, the potential addictiveness of certain games, and so on;
20. Calls on all stakeholders to address the risk of social isolation caused by online gambling addiction;
21. Considers that self-regulation regarding the advertising, promotion and provision of online games is not sufficiently effective and therefore emphasises the need for both regulation and cooperation between the industry and the authorities;
22. Urges Member States to cooperate at EU level to take measures against any aggressive advertising or marketing by any public or private operator of online gambling, including free demonstration games, to protect in particular gamblers and vulnerable consumers such as children and young people;
23. Suggests examining the possibility of introducing a maximum amount that a person can use for gambling activities per month, or of obliging online gambling operators to make use of prepaid cards for online gambling to be sold in shops;

Code of Conduct

24. Notes that a Code of Conduct may still be a useful supplementary tool for achieving some public (and private) objectives and to take account of technological developments, changes in consumer preferences or developments in market structures;
25. Stresses that a Code of Conduct ultimately remains an industry-driven, self-regulatory approach and can therefore only serve as an addition to, not a replacement of, legislation;
26. Also stresses that the effectiveness of a Code of Conduct will heavily depend on its recognition by national regulators and consumers, as well as on its enforcement;

Monitoring and research

27. Calls on the Member States to document the extent and growth of their online gambling markets, as well as the challenges which arise from online gambling;
28. Calls on the Commission to initiate research on online gambling and the risk of developing a gambling addiction, for example how advertising influences gambling addiction, whether it is possible to create a common European categorisation of games according to addictive potential, and possible preventive and curative measures;
29. Calls on the Commission to examine in particular the role of advertising and marketing (including free online demonstration games) in encouraging, directly or implicitly, under-age young people to gamble;
30. Calls on the Commission, Europol and the national authorities to collect and share information about the extent of fraud and other criminal behaviour in the online gambling sector, e.g. amongst actors involved in the sector;
31. Calls on the Commission to study, in close cooperation with national governments, the economic and non-economic effects of the provision of cross-border gambling services in relation to integrity, social responsibility, consumer protection and matters relating to taxation;
32. Stresses the importance for the Member State of the residence of the consumer to be able to effectively control, limit and supervise gambling services provided on its territory;
33. Calls on the Commission and the Member States to clarify the place of taxation of online gambling activities;

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34. Instructs its President to forward this resolution to the Council and Commission.