

Public consultation on the Green Paper on on-line gambling in the Internal Market

You are invited to reply to the on-line questionnaire. The questions listed in the Green Paper are reproduced in the same order hereunder. A pdf version of the [Green Paper](#) is available in all EU languages for guidance to the questions.

There are 51 questions in the consultation document. You may reply to those questions in any one of the EU languages. You may focus your contributions on the areas of most interest to you; you are not obliged to answer all the questions.

Please save this document on your computer. Once you have completed the questionnaire, come back to the on-line questionnaire. You will be able to upload your answers on page 3 of the on-line questionnaire.

The consultation will close on 31/07/2011.

We thank you for your participation.

Your name / Your organisation:

Laura Santacreu / Association of Charity Lotteries in the EU (ACLEU)

Questions from the Green Paper on on-line Gambling in the Internal Market

1. Regulating on-line gambling in the EU: Recent developments and current challenges from the Internal Market standpoint
 - 1.1. Purpose of the consultation
 - 1.2. On-line gambling in the EU: current situation
- (1) Are you aware of any available data or studies on the EU on-line gambling market that would assist policy-making at EU and national level? If yes, do the data or study include licensed non-EU operators in the EU market?**

- (2) Are you aware of any available data or studies relating to the nature and size of the black market for on-line gambling services? (Unlicensed operators)**

- (3) What, if any, is your experience of EU-based on-line gambling operators licensed in one or more Member State and providing and promoting their**

services in other EU Member States? What are your views on their impact on the corresponding markets and their consumers?

(4) What, if any, is your experience of licensed non-EU on-line gambling operators providing and promoting their services in EU Member States? What are your views on their impact on the EU market and on consumers?

(5) If any, which are the legal and/or practical problems that arise, in your view, from the jurisprudence of national courts and the CJEU in the field of online gambling? In particular, are there problems of legal certainty on your national and/or the EU market for such services?

(6) Do you consider that existing national and EU secondary law applicable to on-line gambling services adequately regulates those services? In particular, do you consider that coherence / consistency is ensured between, on one hand, the public policy objectives pursued by Member States in this field and, on the other hand, the national measures in force and/or the actual behaviour of public or private operators providing on-line gambling services?

Other comments on issues raised in section 1

2. Key policy issues subject to the present consultation

2.1. Definition and organisation of on-line gambling services

(7) How does the definition of on-line gambling services in the Green Paper differ from definitions at national level?

(8) Are gambling services offered by the media considered as games of chance at national level? Is there a distinction drawn between promotional games and gambling?

(9) Are cross-border on-line gambling services offered in licensed premises dedicated to gambling (e.g. casinos, gambling halls or a bookmaker's shop) at national level?

(10) What are the main advantages/difficulties associated with the coexistence in the EU of differing national systems of, and practices for, the licensing of on-line gambling services?

Other comments on issues raised in section 2.1

2.2. Related services performed and/or used by on-line gambling services providers

(11) With focus on the categories mentioned in the Green Paper, how are commercial communications for (on-line) gambling services regulated for at national level? Are there specific problems with such cross-border commercial communications?

(12) Are there specific national regulations pertaining to payment systems for on-line gambling services? How do you assess them?

(13) Are players' accounts a necessary requirement for enforcement and player protection reasons?

(14) What are the existing national rules and practices relating to customer verification, their application to on-line gambling services and their consistency with data protection rules? How do you assess them? Are there specific problems associated with customer verification in a cross-border context?

Other comments on issues raised in section 2.2

2.3. Public interest objectives

2.3.1. Consumer protection

(15) Do you have evidence that the factors listed in the Green Paper are linked to and/or central for the development of problem gambling or excessive use of on-line gambling services? (if possible, please rank them)

(16) Do you have evidence that the instruments listed in the Green Paper are central and/or efficient to prevent or limit problem gambling relating to on-line gambling services? (if possible, please rank them)

(17) Do you have evidence (e.g. studies, statistical data) on the scale of problem gambling at national or EU level?

(18) Are there recognised studies or evidence demonstrating that on-line gambling is likely to be more or less harmful than other forms of gambling for individuals susceptible to develop a pathological gaming pattern?

(19) Is there evidence to suggest which forms of on-line gambling (types of games) are most problematic in this respect?

(20) What is done at national level to prevent problem gambling? (E.g. to ensure early detection)?

(21) Is treatment for gambling addiction available at national level? If so, to what extent do on-line gambling operators contribute to the funding of such preventive actions and treatment?

(22) What is the required level of due diligence in national regulation in this field? (e.g. recording on-line players' behaviour to determine a probable pathological gambler?).

(23) What is the statutory age limit for having access to on-line gambling services in your Member State? Are existing limits adequate to protect minors?

(24) Are on-line age controls imposed and how do these compare to off-line 'face-to-face' identification?

(25) How are commercial communications for gambling services regulated to protect minors at national or EU level? (e.g. limits on promotional games that are designed as on-line casino games, sports sponsorship, merchandising (e.g.

replica jerseys, computer games etc) and use of social on-line networks or video-sharing for marketing purposes.

(26) Which national regulatory provisions on license conditions and commercial communications for on-line gambling services account for the risks described in the Green Paper and seek to protect vulnerable consumers? How do you assess them?

Other comments on issues raised in section 2.3.1

2.3.2. Public order

(27) Are you aware of studies and/or statistical data relating to fraud and on-line gambling?

(28) Are there rules regarding the control, standardisation and certification of gambling equipment, random generators or other software in your Member State?

(29) What, in your opinion, are the best practices to prevent various types of fraud (by operators against players, players against operators and players against players) and to assist complaint procedures?

(30) As regards sports betting and outcome fixing - what national regulations are imposed on on-line gambling operators and persons involved in sport events/games to address these issues, in particular to prevent 'conflicts of interest'? Are you aware of any available data or studies relating to the magnitude of this problem?

(31) What issues should in your view be addressed in priority?

(32) What risks are there that a (on-line) sports betting operator, which has entered into a sponsorship agreement with a sports club or an association, will seek to influence the outcome of a sports event directly or indirectly for profitable gain?

(33) What concrete cases are there that have demonstrated how on-line gambling could be used for money laundering purposes?

(34) Which micro-payments systems require specific regulatory control in view of their use for on-line gambling services?

(35) Do you have experience and/or evidence of best practice to detect and prevent money laundering?

(36) Is there evidence to demonstrate that the risk of money laundering through on-line gambling is particularly high in the context of such operations set up on social web-sites?

(37) Are national e-commerce transparency requirements enforced to allow for illegally operated services to be tracked and closed? How do you assess this situation?

Other comments on issues raised in section 2.3.2

2.3.3. Financing of benevolent and public interest activities as well as events on which on-line sports betting relies

(38) Are there other gambling revenue channeling schemes than those described in the Green Paper for the public interest activities at national or EU level?

We would like to answer this question in conjunction with question no. 39, therefore see response below.

(39) Is there a specific mechanism, such as a Fund, for redistributing revenue from public and commercial on-line gambling services to the benefit of society?

This answer also applies to question 38:

The mechanisms explained below are strictly speaking not in place for on-line gambling services (e-gaming), but the mentioned operators do use the internet as a distribution channel to sell their lottery tickets (e-commerce). We therefore see similarities with their activities and with the definition used in the Green paper ("On-line gambling services are any service which

involves wagering a stake with monetary value in games of chance, including lotteries and betting transactions that are provided at a distance, by electronic means and at the individual request of a recipient of services") and include them in our answer.

As the Green Paper correctly explains there are state operators as well as private operators that donate funds to the public benefit/good causes. Almost all Member States have state-owned lotteries, whereas private charity lotteries (operating on a national scale with a license from the national government) only exist in seven Member States. The main differences with state lotteries: these are private charity lotteries, established to raise funds for good causes, and they use a lottery merely as a fundraising tool.

The members of the Association of Charity Lotteries in the EU (all private charity lotteries) come from four different EU member states: the United Kingdom, Ireland, Sweden and the Netherlands. Therefore we focus on these four countries in our response. These lotteries are responsible for a large share, up to 25%, of total giving to charity in these countries.

Each country has its own rules and regulations regarding (charity) lotteries and channeling of revenues to the public good, however, two separate categories of charity lotteries can be distinguished:

1) A charitable organisation receives a license from the government to organize a lottery for its own mission and objectives

In the Netherlands, five charities are granted this opportunity:

- Scouting (largest youth organisation in the Netherlands);
- Zonnebloem (dedicated to disabled or sick people and the elderly);
- Jantje Beton (stands up for the chance to play for all children in the Netherlands);
- Grote Clubactie/Support Actie (for all kinds of small scale clubs and associations);
- KWF Kankerbestrijding (Dutch Cancer Society).

These organisations are allowed to perform drawings one to four times a year. Their volunteers sell the tickets themselves or via the internet. Up to 80% of the revenues are destined for projects of the organisations themselves. These lotteries together raise € 21 million annually.

In the United Kingdom, the state lottery (National Lottery), operated by Camelot, enjoys freedom of operation and less restrictions from Ofcom (independent regulator and competition authority) or the National Lottery Commission. Conversely, 'society lotteries' (as charity lotteries are called in the UK) independent of the state, are constrained and limited in a number of ways by these actors, including methods of promotion, turnover limits and prize capping. Several hundred (remote and non-remote) licenses for society lotteries are issued annually, each contributing a minimum of 20% of revenue for charitable causes. Examples of such lotteries include Asthma UK, Age UK, The Royal Bird Society Lottery and various hospices lotteries.

Restrictions effectively prevent growth what could be interpreted as a method to protect the National Lottery's position in the market. Ticket sales for a society lottery may not exceed £4 million per draw, while the proceeds generated by each charity in any given year may not exceed £10 million per society. The maximum prize is also restricted to 10% of the total value

of tickets sold per ticket. These limitations make it impossible for such society lotteries to seriously compete with the National Lottery, which, free of such restrictions, is able to offer millions of pounds per draw. More importantly, society lotteries are capped and restricted from driving a sustainable and extensive income from their lotteries.

In Sweden, many not-for-profit organisations run lotteries for their own cause, such as the Swedish Red Cross and the Swedish Cancer Foundation. Next to the object of public benefit as a purpose, a prize payout percentage between 35% and 50% is an additional requirement. A 'reasonable' part of the profits must be destined for the charities; the Lotteries Act does not specify this percentage.

In Ireland, there has been a long tradition, going back to the 1940s, of charities using lottery games to raise funds. Lottery licenses are issued by the State using the District Court system. Examples of leading not-for-profit organisations who operate lotteries are the following: The Asthma Society of Ireland, Gael Linn, the Irish Cancer Society, the Polio Fellowship of Ireland, the Irish Society for the Prevention of Cruelty to Children, the Irish Lung Foundation and Rehab.

The arrival of the State owned National Lottery in 1987 made it very difficult for charities to continue with their lottery activities. The Gaming and Lotteries Act 1956, under which the charities operate, limits the amount of prizes which may be awarded in any charity lottery to € 20,000 per week whereas there is no limit on the prizes which the National Lottery may award. The National Lottery is governed by its own legislation, the National Lottery Act 1986. This discriminatory regulatory position means that charity lotteries are prevented from competing with the National Lottery. As a result, the National Lottery is an effective monopoly with a 99% market share.

This type of fundraising corresponds with category 1 on page 30 of the Green Paper, though strictly speaking not offered on-line, but only using the internet as a distribution channel.

2) A private lottery operator receives a license to run a lottery for the benefit of multiple charitable organisations

In the Netherlands, three large charity lotteries exist that raise funds for more than 170 (inter)national non-governmental organisations (NGOs) and some 3,500 (sports) clubs and associations:

- Nationale Postcode Loterij: in 2010 € 270 million has been distributed to 81 NGOs that work in the fields of development aid, human rights, nature & environment or social cohesion.

- VriendenLoterij: in 2010 € 45 million went to 36 beneficiaries active in the sectors health and well-being. In addition, over 3,500 clubs and associations receive earmarked funding by selling tickets themselves for the lottery to their supporters.

- BankGiro Loterij: in 2010 almost € 60 million went to 57 museums and cultural (heritage) organisations.

By law these lotteries are obliged to pay out 50% of every ticket for the public benefit. According to transparent criteria and procedures, NGOs can apply for funding each year. The Supervisory Board of the lotteries allocates the funds. This way the lotteries are not closed shops but open to every NGO. Every year, if the turnover of the lottery has increased, more NGOs receive funding. More importantly, the support of the lotteries is long term and does not change once a new government comes into office: it does not replace government

subsidies, but is rather additional to government subsidies. Over 25% of all private gifts in the Netherlands comes from these charity lotteries.

In the United Kingdom, next to the society lotteries mentioned under 1), some society lotteries are operated by private External Lottery Operators. Examples are The Weather Lottery, The Health Lottery, Unity Lottery and the People's Postcode Lottery. The latter raises funds for a dozen local charity partners throughout the UK and one grant giving organisation called the People's Postcode Trust. Over £12 million has been raised since the launch in 2005.

In Sweden, several operators are active at the lottery market that run lotteries for NGOs such as Folkspel (for some 70 organisations), Ideella Spel (for 4 organisations) and Lottericentralen (for 15 organisations). In addition, there is the Svenska PostkodLotteriet that supports a growing number of NGOs. Organisations can apply for funding each year. In 2010, € 87 million went to 35 NGOs.

This type of fundraising corresponds with a combination of categories 4a and 4b on page 30 of the Green Paper, though strictly speaking not offered on-line, but only using the internet as a distribution channel.

(40) Are funds returned or re-attributed to prevention and treatment of gambling addiction?

No. In 2008 research (1) has been conducted by two prominent Dutch addiction research centers that concluded that lotteries with a monthly (or even a yearly) draw -which applies to most charity lotteries- are not addictive, and neither are they a stepping stone for more addictive games of chance such as casino games or slot machines.

Next to this research from the Netherlands, several scientists that are involved in studies of gambling agree that lotteries with weekly or monthly draws are not addictive because of their long odds character. (2)

1) De Bruin e.a., "The Relationship between participation in number lotteries and addiction in the Netherlands", IVO/CVO, July 2008

2) M. Griffiths, "A Social Responsibility Assessment of the People's Postcode Lottery", Nottingham Trent University, December 2010

(41) What are the proportions of on-line gambling revenues from sports betting that are redirected back into sports at national level?

(42) Do all sports disciplines benefit from on-line gambling exploitation rights in a similar manner to horse-racing and, if so, are those rights exploited?

(43) Do on-line gambling exploitation rights that are exclusively dedicated to ensuring integrity exist?

(44) Is there evidence to suggest that the cross-border "free-riding" risk noted in the Green Paper for on-line gambling services is reducing revenues to national public interest activities that depend on channelling of gambling revenues?

If participants of a particular charity lottery are easily enabled to participate in foreign games of chance, through the internet for example, with more attractive prize payouts, a chance exists that this will occur at the expense of the charities that benefit from the domestic charity lottery. Dutch research has shown that some of the participants of charity lotteries will stop participating in those lotteries and start playing online games once the online market is legalized. This could result in a loss of income for charities.

(45) Do there exist transparency obligations that allow for gamblers to be made aware of whether and how much gambling service providers are channelling revenues back into public interest activities?

Even though not formally obligatory, it is in the interest of the charity lotteries themselves that their participants are well informed about the destination of their stakes as well as the impact of the funds for the lottery beneficiaries. Usually, the support to good causes is (one of) the reason(s) to start playing and to continue to play in a particular lottery.

ACLEU is a proponent of transparency obligations for all games of chance, whether private or state, whether donating to the public benefit or not. Amounts, percentages and methods of distribution should be communicated in annual reports, on the website and in promotional materials. This way, consumers can make a well-informed decision when choosing a game of chance to participate in.

Other comments on issues raised in section 2.3.3

Because of the importance of the private funds from charity lotteries for the civil societies in the abovementioned Member States, the members of ACLEU regret the fact that fundraising for good causes is considered a mere ancillary effect in European jurisprudence. For the members of ACLEU fundraising is their *raison d'être*.

For the following charity organisations, that received funding from our members in 2010, fundraising for good causes via private charity lotteries is very important:

Aflatoun, African Parks Network, Amnesty International, AMREF Flying Doctors, ARK, Artsen Zonder Grenzen, BiD Network, Carbon War Room, Clinton Foundation, Cordaid Memisa, Cordaid Mensen in Nood, Dance4Life, De12Landschappen, Defence for Children-ECPAT, De Provinciale Milieufederaties, De Vrolijkheid, De Dierenbescherming, Dokters van de Wereld, Dutch Caribbean Nature Alliance, European Climate Foundation, Fairfood International, Fair Trade Original, Free Voice, Goois Natuurreservaat, Greenpeace, Hivos, Humanitas, Human Rights Watch, ICCO, IMC Weekendschool, IUCN Nederlands Comité, IVN natuur- en milieueducatie, Johan Cruyff Foundation, Kinderfonds MAMAS, Landelijke Vereniging van Wereldwinkels, Landschapsbeheer Nederland, Leprastichting, Liliane Fonds, Mama Cash, Milieudefensie, Natuurmonumenten, Nederlandse Rode Kruis, Oranje Fonds, Oxfam Novib, Peace Parks Foundation, Plan Nederland, Prins Claus Fonds, Resto VanHarte, Right To Play, Rocky Mountain Institute, RutgersWPF, Save the Children Nederland, Sea Shepherd, Simavi, Skanfonds, Solidaridad, SOS Kinderdorpen, Stichting AAP, Stichting DOEN, Stichting Max Havelaar, Stichting Natuur en Milieu, Stichting Vluchteling, Stichting voor Vluchteling-Studenten UAF, STOP AIDS NOW!, Terre des Hommes, The Climate Group, The Elders, UNHCR, UNICEF, University for Peace, UTZ CERTIFIED, Vereniging Nederlands Cultuurlandschap, VluchtelingenWerk Nederland, Vogelbescherming Nederland,

Waddenvereniging, War Child, Wereld Natuur Fonds, Wilde Ganzen, World Food Programme, World Press Photo, Amsterdam Museum, Anne Frank Stichting, BOEi, Bonnefantenmuseum Maastricht, Centraal Museum Utrecht, Cobra Museum, De Hollandsche Molen, De Nieuwe Kerk, Drents Museum, FOAM_Fotografiemuseum Amsterdam, Frans Hals Museum / De Hallen Haarlem, Fries Museum, Gemeentemuseum Den Haag, Graphic Design Museum, Groninger Museum, Het Concertgebouw, Het Fundatiehuis, Het Groote Museum in Artis, Het Spoorwegmuseum, Joods Historisch Museum, Kröller-Müller Museum, Kunsthal Rotterdam, Mauritshuis, Museum Beelden aan Zee, Museum Boijmans van Beuningen, Museum De Fundatie, Museum Het Valkhof, Museum Plus Bus, Museum Speelklok, Museum Volkenkunde, Museum voor Moderne Kunst, Museumstoomtram Hoorn-Medemblik, Nationaal Fonds voor Vrijheid en Veteranenzorg, Nationaal Luchtvaart-Themapark Aviodrome, Nationaal Museum Paleis het Loo, NCB Naturalis, Nederlands Architectuurinstituut, Nederlands Fotomuseum, Nederlands Instituut voor Beeld en Geluid, Nederlands Openluchtmuseum, Noordbrabants Museum, Prins Bernhard Cultuurfonds, Rijksmuseum Amsterdam, Rijksmuseum van Oudheden, Scheepvaartmuseum, Singer Laren, Stichting Museumkaart, Teylers Museum, Tropenmuseum, TwentseWelle, Van Abbemuseum, Van Gogh Museum, Vereniging Hendrick de Keyser, Vereniging Rembrandt, Zeeuws Museum, Zuiderzeemuseum, Aids Fonds, Alzheimer Nederland, Astma Fonds, Diabetes Fonds, Doe Een Wens Stichting Nederland, Fonds Gehandicaptensport, Fonds Psychische Gezondheid, Fonds Slachtofferhulp, Fonds Verstandelijk Gehandicaptent, Hersenstichting Nederland, Jantje Beton, KNCV Tuberculosefondsen, KWF Kankerbestrijding, Maag Lever Darm Stichting, Nationaal Epilepsie Fonds, Nationaal Fonds Kinderhulp, Nationaal Ouderenfonds, Nationale Hoorstichting, Nationale Vereniging de Zonnebloem, Nederlandse Brandwonden Stichting, Nederlandse Hartstichting, Nederlandse Vereniging voor Autisme, Nierstichting, NSGK voor het Gehandicapte Kind, Pink Ribbon, Prinses Beatrix Fonds, Reumafonds, Revalidatiefonds, Richard Krajicek Foundation, Scouting Nederland, Stichting Kinderpostzegels Nederland, Stichting Lezen & Schrijven, Stichting Meer dan Voetbal, Stichting MS Research, Stichting Oogfondsen Nederland, the Rehab Group, Alzheimerfondsen, Amnesty International Sweden, Astma- och Allergiförbundet, Barncancerfondsen, BRIS, Cancerfondsen, Diakonia, Erikshjälpen, ECPAT, Friends, Friluftsrämjandet, Greenpeace Sweden, Hand in Hand, Hjärt-Lungfondsen, Kooperation Utan Gränser, Kvinna till Kvinna, Läkare Utan Gränser, MinStoraDag, Naturskyddsföreningen, Neurologiskt Handikappades Riksförbundet, Nordens Ark, Peace Parks Foundation Sweden, Plan Sverige, PostkodLotteriets KulturStiftelse, PostkodStiftelsen, Reumatikerförbundet, Rädda Barnen, Scouterna, Sjöräddningssällskapet, SOS Barnbyar, Svenska Röda Korset, Sveriges Stadsmissioner, UNHCR Sweden, UNICEF Sweden, Världsnaturfondsen WWF, Children North East, Missing People, Maggie's Cancer Caring Centres, Maggie's Cancer Caring Centres, Daisy Chain, Northumberland Wildlife Trust, Yorkshire Wildlife Trust, Yorkshire Dales Millennium Trust, CHILDREN 1ST, Scottish Wildlife Trust, WWF Scotland, National Galleries of Scotland, Woodland Trust, People's Postcode Trust.

2.4. Enforcement and related matters

(46) Which form of regulatory body exists in your Member State and what are its competences, its scope of action across the on-line gambling services as defined in the Green Paper?

| |
|--|
| |
|--|

(47) Is there a national register of licensed operators of gambling services? If so, is it publicly accessible? Who is responsible for keeping it up to date?

(48) Which forms of cross-border administrative cooperation are you aware of in the domain of gambling and which specific issues are covered?

(49) Are you aware of enhanced cooperation, educational programmes or early warning systems as described in the Green Paper that are aimed at strengthening integrity in sport and/or increase awareness among other stakeholders?

(50) Are any of the methods mentioned in the Green Paper, or any other technical means, applied at national level to limit access to on-line gambling services or to restrict payment services? Are you aware of any cross-border initiative(s) aimed at enforcing such methods? How do you assess their effectiveness in the field of on-line gambling?

(51) What are your views on the relative merits [in terms of suitability and efficiency] of the methods mentioned in the Green Paper as well as any other technical means to limit access to gambling services or payment services?

Other comments on issues raised in section 2.4

Other comments on issues raised in the Green Paper