

## 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:**

Jan Schejbal

### 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?**

**(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?**

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

**(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?**

**(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?**

**Other comments on issues raised in section 2.3.3**

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?**

Die vorgeschlagenen "technischen Maßnahmen" im Bezug auf die Internetkommunikation sind nicht nur technisch unwirksam, sondern würden durch ihre Umsetzung auch eine Infrastruktur zur Internetzensur etablieren.

Der Versuch, Online-Glücksspiel durch technische Maßnahmen zu ver- oder behindern, ist vergleichbar mit dem willkürlichen Sperren von Straßen oder Briefkästen zur Bekämpfung von Kriminalität. Nur weil Daten über das Internet statt in Briefumschlägen versendet werden, sind diese nicht weniger vertraulich und schützenswert - die Filtermaßnahmen sind durchaus damit vergleichbar, die Post anzuweisen, sämtliche Briefe zu durchleuchten und zur Vermeidung von illegalem Glücksspiel auf enthaltenes Bargeld oder Wettscheine zu durchsuchen.

Eine Sperrinfrastruktur würde große Begehrlichkeiten wecken und mit an Sicherheit grenzender Wahrscheinlichkeit auf andere Bereiche ausgeweitet, z. B. auf die Durchsetzung von Urheberrechtsansprüchen oder die Sperrung von vermeintlich illegalem Inhalt - beispielsweise legitimer freier Meinungsäußerung, die jemand als Beleidigend empfindet. Mit der Einführung solcher Technologie würde sich die EU auf eine Ebene mit China begeben - dort findet die Internetzensur auch unter dem Vorwand legitimer Ziele statt und wird auf andere Bereiche ausgeweitet.

Darüber hinaus sind die vorgeschlagenen Maßnahmen unwirksam. DNS-Sperren können leicht durch Nutzung alternativer DNS-Server (ggf. über verschlüsselte Kanäle, falls sämtlicher Datenverkehr gefiltert wird) oder manuelle Eingabe der IP-Adresse umgangen werden. IP-Sperren können durch wechselnde IPs, Anonymisierungsnetzwerke wie TOR und zahlreiche andere Methoden umgangen werden. Da die Glücksspielanbieter ein finanzielles Interesse an der Umgehung von Sperren haben werden, werden schnell laienfreundliche Anleitungen und Programme zur Umgehung dieser Sperren entstehen. Bei IP-Sperren ist darüber hinaus Overblocking zu erwarten: Da mehrere Websites sich eine IP teilen können, wären von einer IP-Sperre unter Umständen auch unbeteiligte Websites betroffen. Es ist in den meisten Fällen nicht möglich, vor einer Sperre festzustellen, ob unbeteiligte Websites betroffen wären (zumindest nicht ohne eine umfassende Überwachung des Datenverkehrs). Das Verfälschen von DNS-Antworten wird dank der baldigen Einführung von DNSSEC nicht mehr möglich sein. Es wird lediglich möglich sein, eine (gültige) Antwort komplett zu verhindern. Dies könnte von automatischen Systemen als Fehlfunktion eines beteiligten Servers angesehen werden und Kettenreaktionen auslösen, die sich auf die Kommunikation über das Internet auswirken (z. B. lokale Ausfälle). Gleiches gilt für IP-Sperren auf Routing-

Basis - der Versuch Pakistans, solche Sperren einzuführen, hat im Februar 2008 weltweit (!) den Zugriff auf Youtube verhindert. Das einwandfreie Funktionieren des Internets ist unter anderem auch dadurch bedingt, dass Provider Daten lediglich durchleiten, ohne sie zu filtern. Eine entsprechende Filter-Infrastruktur würde das Netz zusätzlich belasten, es weniger leistungsfähig und deutlich fehleranfälliger und somit weniger zuverlässig machen.

Weiterhin würde auch zur Durchsetzung dieser Sperren eine zusätzliche Überwachung des Datenverkehrs nötig werden, die Privatsphäre der Bürger würde somit erheblich verletzt.

Vergleichbare Sperren wurden bereits (vorgeblich) zur Bekämpfung von Kinderpornographie im Netz in Deutschland geplant, jedoch in der Praxis nicht umgesetzt. Inzwischen haben alle Parteien inklusive derer, die die Einführung beschlossen haben, die Sinnlosigkeit und Gefährlichkeit eines solchen Vorhabens erkannt und lehnen solche Sperren ab.

Im Hinblick auf die Überwachung von Zahlungssystemen ist die Gefahr gegeben, dass alternative (nicht überwachbare) Zahlungssysteme genutzt werden. Auch hier ist damit zu rechnen, dass die Durchsetzung von Sperrmaßnahmen tiefe Eingriffe in die Privatsphäre der Bürger erfordern würde.

Da Bürgerrechte scheinbar weniger Wert sind als wirtschaftliche Gesichtspunkte, sei auch darauf hingewiesen, dass ein freies und zuverlässiges Internet unerlässlich für die meisten wirtschaftlichen Tätigkeiten innerhalb der EU ist und Nebenwirkungen von Internetsperren zur Glücksspielgekämpfung massive wirtschaftliche Schäden verursachen könnten. Den Internetanbietern Kontrollpflichten aufzuerlegen würde sie von einem neutralen Dienstleister zu einem Inhaltskontrollleur machen und ist genauso absurd wie die Post zur Kontrolle von Briefinhalten zu verpflichten - selbstverständlich würde dies auch massive Auswirkungen auf den Betrieb von Internetdienstleistern haben, enorme Kosten verursachen und die EU als Technologiestandort weniger attraktiv machen.

Technische Maßnahmen gegen Online-Glücksspiel sind daher sowohl nutzlos als auch äußerst schädlich und daher grundsätzlich abzulehnen.

#### **Other comments on issues raised in section 2.4**

#### **Other comments on issues raised in the Green Paper**