

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:

RSM Malta Consulting Limited

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?

We are aware of the following:

'Online Gambling - Focusing on Intergrity and a Code of Conduct for gambling' including the minority opinion thereon.

Various MAG studies including the 2010 report on the Italian Regulatory Framework and the 2011 report on the French legal gaming offer.

(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)

Black market in this context is taken to mean operators that are not licenced or licenced outside of the member states.

We are not aware of recent available data regarding above, other than what is already mentioned in the green paper.

For the black market is also difficult to obtain accurate statistics since it is not in the interest of the stakeholders to publish such information.

(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?

The major concern/focus should be to have a regulatory framework that focuses on three main principles:

- Ensure that all games are fair and delivered in a transparent manner
- Protect children and vulnerable persons
- Keep gaming free from crime, corruption and money laundering.

As long as these principles are upheld and effectively enforced by the regulator of the Member State from where a licence is issued than that operator so licenced should be allowed to operate in other Member States provided that the fiscal obligations in each Member State the operator operates in are respected and adhered to.

This will ensure that markets get their fair share of the taxes from operators that are well regulated whereas the consumer will get a wider choice of operators that are properly licensed within the EU.

(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?

Not all non EU gaming jurisdictions are of the same level and calibre, indeed they may range from brass plate jurisdictions with no or very limited regulation to a well regulated one.

However in the main one can safely say that non EU licensed operators have minimal (if at all) positive effect on the economies of the countries they operate in especially when it comes to investment, job creation and indeed fiscal and similar contributions.

Other risks with non EU licensed operators mainly relate to:

- Lack of transparency and accountability;

- Limited form of redress to consumers especially in cases of weak or no regulation;
- Money laundering
- Lack of trust from prospective players

(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?

The problems that arise mainly relate to the inconsistencies or apparent inconsistencies arising from rulings and decisions given by national courts and the CJEU.

Some years back the decisions/rulings had established two key principles, namely:

- The right of Member States to impose restrictions is not absolute (Gambelli and Lindman cases)
- Restrictions of cross-border gambling to secure public revenues is not a justified ground to override the freedom to provide/receive services.

At the time (2007 and 2008) certain EU member states had received infringement notices from the EU on measures they had then taken.

The situation however changed dramatically after the BWIN Liga case. Subsequent to this case some member states whilst realising that the defence of a monopoly was difficult to justify but same or similar objectives could be achieved through an 'a la carte liberalisation process'.

In our view this process gave national governments the opportunity to look at the industry as a cash cow, and regulation as an excuse to milk it.

The adoption by member states of a unique licensing system is: creating enormous difficulty on operators (in essence driving out medium to small ones); limiting the choice of the consumers whilst not really providing any additional safeguards where that operator had already been licensed in an EU Member State; going against a fundamental EU freedoms principle. It is precisely because of the latter that this 'anomalous' situation will have to be addressed but as seems to be common practice within the EU it will take years to get to this state.

(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?

The legislative and regulatory frameworks in Malta provide adequate regulation of gaming services including online gaming services. At the centre of these frameworks are the three core principles outlined below:

- Ensure that all games are fair and delivered in a transparent manner
- Protect children and vulnerable persons
- Keep gaming free from crime, corruption and money laundering.

The significant years of serious regulatory experience render the Lotteries and Gaming Authority in Malta one of the most advanced online gaming jurisdictions within the EU. The licensing, monitoring and enforcement processes adopted by this independent Authority provide, on the one hand, a serious and equitable playing field to operators and on the other adequate protection and comfort to the players.

The creation of unique licensing systems within individual Member States is not necessarily conducive to the proper protection of the consumer and seems to be more concerned with state revenues and in some cases with protecting the state run entities.

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?

Maltese Legislation defines:

'gaming' to mean an agreement, scheme, or arrangement between two or more parties to play together at a game of chance in which a prize or reward consisting of money or some other item of value, worth, advantage, or opportunity is offered to be won and becomes the property of the winner under defined conditions established for the purpose of the game.

'remote gaming' as any form of gaming by means of distance communication; and

'remote betting' as the negotiation or receiving of any bet by means of distance communications.

(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?

Distance communication mentioned in the definitions above includes media.

The definitions above indicate that there is a difference between promotional (for fun) games and gaming as the former are not considered to be the latter as long as they do not include monetary or value winnings.

(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?

Live casino and poker services are offered from land based licensed casinos in Malta.

(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?

The co-existence of differing national systems is not tenable in the long term because it goes against the Freedom concepts underlying the existence and raison d'etre of the EU.

On balance, in the short to medium term they create more disadvantages than advantages as outlined below:

- There will be significant administrative and financial burdens on the operators resulting in the driving out of small to medium size operators and the favouring of state run operations
- Less choice to the consumer not only in view of the above but also because the 'larger' operator may not necessarily obtain a licence from all (or indeed most) of the EU countries
- Significant liquidity impairment as players will only be able to play against players on the 'national network'.

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?

Commercial communications are regulated under the Remote Gaming Regulations and a directive issued by the LGA entitled 'Code of Conduct on Advertising, Promotions and Inducements'. Inter alia these seek to:

- Protect minors and vulnerable persons
- Forbid advertising that implies or is based on social acceptance or financial success
- Forbid well-known personalities from endorsing gaming by attributing their success to same
- Forbids the featuring of minors in the advert
- Prohibits false or untruthful advertising particularly about the chances of winning or expected return.
- Prohibits promotion which commits players to gamble for a minimum period of time or for a minimum amount to qualify for a player reward scheme
- Locally there is other legislation, outside of gaming, that restricts and limits advertising including Ecommerce and Broadcasting legislation.

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

There are no specific regulations related to payment systems for online gambling services - however such service providers would be regulated by the Malta Financial Services Authority and in line with the relevant EU Directives. The financial services regulations should be viewed in conjunction with the other rules and regulations applicable to online gaming - in terms of KYC requirements, gaming addiction, prevention of money laundering, payment provider policies and operator policies. Together, these provide a suitable mechanism for protecting both the online gaming industry and the players.

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

Yes.

Under local legislation players are required to register with the operator. Upon registration players are requested to provide personal details. Registration of players facilitates KYC and fraud detection procedures and anti money laundering investigations.

Local legislation requires that Player Monies are to be deposited in a ring fenced 'client account' separate from the operating accounts of the licensee. The account has to be held with a credit institution approved by the Authority. This segregation of players monies is intended to protect players monies should there be a run (or investigation) on the licensee's assets.

(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?

Customer verification is carried out through a mix of real time and back office checks. The latter are normally carried out if/when the player passes a risk threshold.

Maltese licensed operators are required to outline their data protection policy on the website and such has to be in line with the local Data Protection Act which in turn is based on EU directive in this respect. This policy is regarded as part of the General Terms & Conditions and thus the player has to accept such policy before having the possibility of completing the player registration process.

Licensed operators have to register with the local Data Protection Commission.

Data protection issues could arise in the following circumstances:

- Transfer of data to third countries
- Transfer of data to service providers or other third parties
- Closing of a player account
- Business combinations, mergers and takeovers

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)

There are no comprehensive local studies in this respect.

Our regulations provide for:

- The setting of gambling limits (time and money) that a player may impose on himself/herself, if the player requests that such limits are to be removed then there is a 7 day cooling off period before the said limits are removed.
- Self exclusion and a 7 day cooling off period if the player requests that his / her account is reopened.
- Reality check which informs the player of how long he / she has been playing and the amount spent in the time period, also granting the player the option to quit at that point in time.
- Links to organisations assisting problem gamblers are also required to be presented on the homepage of the licensed operator.

The sharing of the above or similar information (done within the parameters of data protection legislation) amongst operators/regulators could result in more effective limitations on problem gambling. Such however is not likely to come about in the current state of affairs within the EU.

(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)

They limit problem gambling to the extent that the player wants to make use of such instruments. They are better suited for online gambling, however if a player wants to ignore notifications, use of limits etc. neither the operator nor the regulator can further impose their use.

(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?

Generally from experience the highly repetitive games with a quick payout interval betting with only small amounts of money tend to be the most addictive.

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

What is outlined below is what is provided for under Maltese remote gaming regulations and thus what is required from licensed operators.

Our remote gaming regulations have several safeguards that are meant to prevent and/or reduce the risk of problem gambling. Some of these have already been outlined under question 15; others include the following:

- Counter display where the licensee has to display on screen a counter which automatically updates the player's balance
- Reality checks every one hour which clearly show the playing time, winnings and losses during that time, player confirmation is required to continue

- Links to websites assisting compulsive gamblers and a responsible gambling page on the website
- Clearly displayed warning on the risks of addiction.

(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?

Yes - through a state run organisation SEDQA which provides treatment of abuse and addiction. Assistance is provided to the individual and also his/her family.

(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?).

A prospective applicant for a remote gaming licence has to undergo a due diligence process conducted by the LGA.

An operator is required to have a risk based customer due diligence process in place that caters for the identification and verification of players.

Applicants for a licence are required to have a fraud management policy in place which has to be submitted for LGA review at application stage. This policy does cater for some knowledge of behavioural trends of players and licensees should taken action when and if a player is identified as a problem gambler.

All transactions are to be recorded and the local regulator requires that a full list of monthly transactions are submitted to the authority on a monthly basis, furthermore the Lotteries & Gaming Authority of Malta may request further details in respect of any transaction, payout etc. which the licensee must mandatorily provide.

(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?

In Malta the statutory age limit is 18 years. A player cannot be accepted by an operator if he/she is under the age of 18. Moreover this age limit may be higher if the adult age is higher in those countries the operator operates in.

If a minor fraudulently registers with an operator and the latter becomes aware of this then any monies deposited or won by such a minor shall be forfeited to the LGA.

As 18 years is considered to be the age when a person is legally regarded as an adult it is considered an appropriate age limit for remote gaming purposes.

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

Yes such controls are imposed locally.

Remote gaming operators licensed in Malta are required to abide by the provisions of anti-money laundering legislation as part of their licence conditions. Furthermore, as payment is necessarily effected through licensed payment processors, the risk of money laundering is somewhat reduced as the funds used would already be in the financial system and operators would not be dealing with cash payments.

Operators licensed in Malta are obliged to implement strict KYC procedures on players applying for registration. Upon such application the person has to provide details of the person's identity, residential address, age and a valid email address. If upon verification the operator finds out that information is false then the person's account shall be blocked and not considered to be registered as a player.

Moreover an operator shall not effect payment of player's winnings in excess of €2330 cummulatively or otherwise to a player, out of his/her account, until the operator verifies the player's identity, age and place of residence.

(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.

See replies to question 11.

A more harmonised approach at EU level should contribute to better protection of minors.

(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?

The third schedule to the Maltese remote Gaming Regulations outlines the technical requirement for a gaming system and provides, amongst other things, that:

- The gaming system should faithfully follow the game rules published by the operator
- The gaming system should provide no more than the expected house advantage to the operator
- Gaming and financial system must be congruent and secure
- Highest standards of randomness to be adhered to
- Gaming system must be capable of producing monthly auditable reports.
- Discretionary regulation standards and frameworks (eCogra) are also in place that help to facilitate a safe, secure and reliable operating environment.
- The gaming equipment, setup and system in general is to be approved by the Lotteries & Gaming Authority and also sealed by the same authority to avoid amendments being made to an approved system.

(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?

Operator Against Player

The limited evidence in hand suggests that this is not common and occurs rarely. As mentioned in the other questions, operators (and all employees) undergo a rigorous scrutiny by the LGA prior to being granted a license.

Having said that the direct recourse players have that they can report issues directly to the LGA (where operators are licenced in Malta) facilitates timely awareness to the issue. The risk increases significantly where operators are not licenced in Malta and hence the player has no direct right of complaint/recourse with the LGA.

Player Against Operator

Practice indicates that this is more prevalent than the previous scenario.

Operators licenced in Malta have to submit processes and procedures to LGA including procedures relating to KYC, fraud management, player monitoring, gameplay monitoring and others. The objective for this submission is to enable LGA to determine if, prima facie, the

operator has sufficient and adequate procedures in place to be able, amongst other things, to detect fraud in a timely manner. So for example the procedures should be such as to indicate that the operator will be monitoring:

- Player accounts where there are deposit and withdrawal movements but no play
- Player accounts where initial deposits are substantial (above predetermined limits)
- Deposits from countries different to the residential address of the player
- Players that have more than one payment account

and similar situations.

Certain players may be more susceptible to fraud than others (poker) and in such cases Maltese licensed operators are expected to have more robust processes and procedures and tools in hand to better address the higher risk of fraud. The Maltese regulator disallows transfers of money between player accounts and urges operators to disallow the use of bots on their websites.

Player Against Player

Network operators in such cases usually have 'house rules' that are meant to reduce the risk of fraud amongst players. As long as the operators are properly licensed within the EU there is likely to be commonality in the objectives to guard against fraud. Issues are likely to arise if such networks accept operators that have a license outside of the EU where there may not be legislation and regulation of a level similar to that of the EU.

Both the licensee as well as the platform operator are requested to have tools, processes and procedures in place so as to ensure that effective monitoring is carried out with particular reference to p2p games (e.g. chip dumping, player collusion etc).

Licenses are required to report any suspicious activity to the platform operator and in some cases, particularly when accounts are blocked, are to provide the LGA with all the information and game data available to substantiate their cause.

Complaints procedures

Players registered with Maltese licensed operators who play on a game licensed in Malta have the right to register their complaint directly with the LGA. The LGA has a specific unit to deal with player complaints and ensure that these are resolved in a timely and satisfactory manner. Complaints in the Maltese jurisdiction have to be replied to within 48 hours thus ensuring a timely response to players.

(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?

The Prevention of Corruption (Players) Act in Malta deals with the prevention of corruption of players and other sports officials. Penalties include fines and in extreme cases imprisonment

Licensees are further encouraged to impose restrictions in their Terms & Conditions, that must be accepted by the players prior to registering an account. Such restrictions may include for example that a bet placed by an individual involved in the game / event or any related party will not be accepted. Ultimately, any bet may be refused at the operator's discretion.

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

There are issues that the EU should address in the short term to facilitate proper and adequate regulation to achieve better player protection and protection of children and vulnerable persons, ensure fair gaming delivered in a transparent manner, and keep gaming free from crime, corruption and money laundering. The longer term objective of mutual recognition which emanates from freedoms enshrined in the EU framework should not be abandoned however.

Issues that should be addressed in the short term include the following:

- Harmonisation of licensing requirements within the EU
- Application of the principle of 'non-duplication of controls' according to which a regulator from an EU Member State should accept and not repeat controls already carried out by a regulator in another EU Member State.
- Harmonisation of regulatory frameworks around the 3 precepts outlined in para above and in question 3 as these precepts are shared by all EU jurisdictions
- Development of 'International Standards of best practice in on line gaming operations' - basically a set of standards agreed to within the EU which if well implemented will achieve the 3 precepts mentioned above
- Development of an 'International Seal of Approval' given to operators who implement 'International standards of best practice in on-line gaming operations'. This seal should be valid for a period of time and renewed periodically. Operators having this seal should be fast tracked in any potential licence application within the EU'
- Opening up of 'national' player networks to EU licensed operators (liquidity is a key issue and unless the network has the necessary volumes it will not work and will not be financially feasible)
- Developing protocols for the 'sharing' of information amongst EU regulators.

(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?

We are not in a position to determine how low or high such a risk really is.

However the development of a code of ethics - similar to that developed in Italy should only help to improve things.

(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?

There should be some form of regulation of micro-payment systems irrespective of the fact of their use in on-line gambling. Such systems may include:

- e-wallet - where users can open accounts without the need to provide identification
- payment service providers that do not hold funds on behalf of the clients but just act as intermediaries in respect of the transferring of funds

It is imperative that all payment service providers are in some way regulated to ensure that:

- account holders are genuine, verified and above age
- funds are secured

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

The Maltese remote gaming regulations and the local regulatory framework are structured in a manner as to require licensed operators to have good and adequate prevention and detection controls to mitigate the risk of money laundering. These include the following:

- The implementation on LGA's part of strict due diligence checks (including good conduct confirmation), at application stage, over shareholders (up to the ultimate individual shareholders with at least 5% direct or indirect holding in the applicant entity) and directors and top entity officials of the applicant entity
- Review, on LGA's part, of the business and financing plans of the proposed gaming operation to determine if such is feasible and if the applicant has the means and experience to manage the remote gaming operation
- Preparation of policies and procedures by the applicant relating to amongst others, KYC, fraud management, payment process, player accounts and transfers therefrom, player monitoring and gameplay monitoring and the review on LGA's part of these policies and procedures prior to granting a licence to ensure that these are of the required standard
- Reporting requirements on the part of the operators to the LGA. The former have to submit monthly reports to LGA regarding game transactions and player accounts. This information/data is reviewed on an on-going basis by LGA to identify potential issues that may indicate money laundering and other crimes including consistent placing of high stakes, chip dumping, irregular bets, accounts in credit and others
- Requirement on the operator's part to maintain information about all games played to facilitate traceability.

- Requirement on the operator's part to request LGA approval prior to employing staff (at any level) with the licenced entity. LGA carries out due diligence checks on such staff.

(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?

Not aware of any such evidence. However stakes in such cases are usually low.

(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?

In order to offer online gaming a Maltese operator requires a licence from the LGA. In the event that the LGA becomes aware of a website that falsely claims to be regulated by it, a public statement is issued for the benefit of the general public. Furthermore, Maltese law provides for expedient judicial remedies to stop the carrying out of licensable activities without a licence.

Furthermore at an operatoral level, irrespective whether the entity is a remote gaming company or not, individuals must file suspicious activity report (SAR) to the FIAU upon identifying a suspicious transaction. Severe penalties and imprisonment would be applicable is such reports are not made.

Other comments on issues raised in section 2.3.2

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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?

Not to our knowledge

(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?

The National Lotteries Good Causes Fund, is set under the Lotteries and Other Games Act, 2001 Section 50 (7) and has the main objective of helping out various individuals, agencies or organisations that have a social, cultural, educational, sport, philanthropic or religious activity. The National Lotteries and Good Causes Fund Committee administers and operates the fund. The Fund generates its income through a percentage contributed from the amount of tax payable from gaming activity and unclaimed prizes. One can apply for funds after having consulted the guidelines and submitting the relevant application form.

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

Government agencies that deal with such issues are recipients of the Good Causes Fund

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

N/A

(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?

N/A

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

N/A

(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?

No such evidence.

(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?

The accounts of the Good Causes Fund mentioned above are prepared by the Ministry of Finance and tabled in Parliament.

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?

The Lotteries and Gaming Authority (LGA) is a public, independent, single regulatory body that is responsible for the governance of all forms of gaming in Malta.

Since the enactment of the Lotteries and Other Games Act, 2001 the LGA established the following mission statement:

"To regulate competently the various sectors of the lotteries and gaming industry that fall under the Authority by ensuring gaming is fair and transparent to the players, preventing crime, corruption and money laundering and by protecting minor and vulnerable players."

Furthermore the LGA also:

- 1) Conducts research on various aspects of gaming;
- 2) Grants licences relating to gaming and lotteries;
- 3) Monitors licensed gaming;
- 4) Collects gaming taxes on behalf of the Government;
- 5) Supports good causes;
- 6) Ensures that the sector contributes to the country's development.

(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?

This is kept on the LGA website - www.lga.org.mt

The responsibility lies with the authority, however it is in the interest of each operator to notify the LGA if any errors are noted.

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

Bilateral agreement between Italy and France which seems to be based on sharing of information and best practices.

(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?

No

(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?

IP blocking, DNS filtering and payment blocking were measures introduced to some degree or other by certain EU Member States with limited success. This is evidenced by the fact that countries adopting such measures find themselves having to introduce more and more of such measures in their frantic attempts to try to render these more effective.

Malta has always been of the view that fair regulation, which is consistent with the EU founding principles, is the way forward - rather than prohibition or a form of liberalisation that flies in the face of Fundamental Freedoms enshrined in the EU treaty

With things being what they are at present however, it is important that measures (as outlined in our response to question 31) are introduced in the short term.

Therefore at national level, by the Maltese regulator there are no automatic mechanisms via the ISPs aimed at limiting access to on-line gambling or restrict payment services. However each and every operator licensed under the Maltese Jurisdiction is required to implement the necessary controls in order to ensure that players from countries prohibiting online gambling such as the USA are not allowed to play. One of the most common filtering techniques used at operator level is IP blocking.

(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?

As already mentioned above, we believe that the introduction of such measures go against the Fundamental Freedoms enshrined in EU Treaty. Justification of such measures is allowed in limited circumstances and where it may be justified by overriding reasons relating to public interest. It is highly questionable if the latter was the overriding reason for the current developments in the individual EU Member States - especially when it is considered that the national regulatory regimes are quite similar amongst EU Member States when it comes to issues of player protection and fair gaming.

It may be more productive in the current circumstances that EU Member States recognise operators that are already licensed in another EU state and set up a framework that will enable/facilitate the collection of taxes by each of the various Member States from where that operator is operating.

At national level, by the regulator there are no automatic mechanisms via the ISPs aimed at limiting access to on-line gambling or restrict payment services. However each and every operator licensed under the Maltese Jurisdiction is required to implement the necessary controls in order to ensure that players from countries prohibiting online gambling such as the USA are not allowed to play. One of the most common filtering techniques used at operator level is IP blocking.

Other comments on issues raised in section 2.4

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Other comments on issues raised in the Green Paper

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