

Free movement of services: Commission inquires into restrictions on sports betting services in Denmark, Finland, Germany, Hungary, Italy, the Netherlands and Sweden

The European Commission has decided to send official requests for information on national legislation restricting the supply of sport betting services to seven Member States (Denmark, Finland, Germany, Hungary, Italy, the Netherlands and Sweden). The Commission wishes to verify whether the measures in question are compatible with Article 49 of the EC Treaty which guarantees the free movement of services. This decision relates only to the compatibility of the national measures in question with existing EU law, and only to the field of sports betting. It does not touch upon the existence of monopolies as such, or on national lotteries. Nor does it have any implications for the liberalisation of the market for gambling services generally, or for the entitlement of Member States to seek to protect the general interest, so long as it this is done in a manner consistent with EU law ie that any measures are necessary, proportionate and non-discriminatory. The letters of formal notice are the first step in an infringement procedure under Article 226 of the EC Treaty. The Member States in question have two months in which to respond. The Commission hopes that the answers it receives will lead to an early and satisfactory resolution of the matter.

Internal Market and Services Commissioner Charlie McCreevy said: “The Commission has an obligation under the Treaties to ensure that Member States’ legislation is fully compatible with EU law. This is an important responsibility which it takes seriously. It has received a number of complaints from operators in the area of sports betting, and it feels obliged to respond. It has, therefore, decided to seek information on the matter from the Member States concerned. I don’t underestimate the sensitivities that exist in many Member States on the question of gambling. In sending these letters, we are not seeking to liberalise the market in any way. Rather, we are seeking reassurance that whatever measures Member States have in place are fully compatible with existing EU law, or have been brought fully into line. I hope that the replies we receive will offer us sufficient reassurance. In that case, it will be the end of the matter. I will certainly do what I can to facilitate an early resolution, and I encourage all concerned to play their part too.”

The Commission decision to inquire into the compatibility of the measures in question is based on complaints made by a number of service providers and on information gathered by the Commission Services. The complaints concern restrictions on the provision of sports betting services, including the requirement for a State concession or licence (even where a provider is lawfully licensed in another Member State). In some cases, restrictions also extend to the promotion or advertising of the services and to the participation of nationals in the Member State in question in the games.

The European Court of Justice has previously stated that any restrictions which seek to protect general interest objectives, such as the protection of consumers, must be “consistent and systematic” in how they seek to limit betting activities. A Member State cannot invoke the need to restrict its citizens’ access to betting services if at the same time it incites and encourages them to participate in state lotteries, games of chance or betting which benefits the state’s Finances.

The latest information on infringement proceedings concerning all Member States can be found at:

http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm