

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:

NeoPoint Technologies Limited (NeoGames).

Established in 2005, the NeoGames Group is a pioneer and global leader of the online "soft gaming" market. Primarily licensed by the Maltese LGA (Class 1 and Class 4), and with an additional license from the Alderney AGCC (Category 2), NeoGames offers its products both through its own B2C websites and through a vast network of B2B partnerships (white labels and fully managed software and platform integration solutions offered both to commercial operators and public lottery corporations). NeoGames' primary focus is on the soft gaming market, including online "scratch cards", instant-win games and slot games. NeoGames' offering includes over 100 types of games, based on nearly 50 game engines in 16 languages, allowing for a wide range of odds and payout possibilities, with over 120 million games sold per month.

In accordance with our corporate policy, NeoGames has consistently supported the regulation of online gaming. Comensurate with that policy, NeoGames will apply for an online gaming license applicable to its products in any jurisdiction which makes such a license available. Accordingly, NeoGames is presently engaged in the licensing processes of several EU Member States.

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?

From its inception, NeoGames has operated from Malta in accordance with its Maltese gaming licenses. As an EU-licensed operator, and in accordance with the consistent rulings of the European Court of Justice, recognizing gaming as a "service" governed by the free movement of services within the Internal Market, NeoGames has offered its services to consumers within the EU.

NeoGames believes that a "pan-European" gaming market, is not only consistent with the EU's free market approach, but also serves the best interests of players, operators, financial institutions and regulatory authorities. Allowing operators licensed and regulated in EU Member States to offer their products to players throughout the EU, will provide players with a broader selection of gaming options, provide larger markets to operators, and ease the processing of funds (lowering costs for both players and operators). Furthermore, the adoption of adequate mechanisms for regulation, verification and oversight on the European level, will provide players with a more secure and standardized gaming market, will remove unnecessary access barriers for operators, and will allow regulatory authorities to exercise their functions in a more streamlined and efficient manner. Finally, the adoption of appropriate EU mechanisms, will allow EU Member States to more effectively tax online gaming activity generated from players within their jurisdiction.

In contrast, creating a fragmented and segregated gaming market within the EU, will limit players' options, restrict growth of the market by subjecting operators to unjustified market barriers, increase the cost of gaming products and services, and ultimately - drive players to avail themselves of the services offered by unlicensed and unsupervised operators.

(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?

NeoGames is licensed both within the EU (in Malta), and by a non-EU jurisdiction (Alderney). As such, NeoGames believes that cooperation between the regulatory authorities of EU Member States and those of non-EU licensing jurisdictions, has the potential not only of providing EU-based players with a broader range of gaming products and services, but also

of allowing EU-based operators to grow and expand beyond the Internal Market. Furthermore, such cooperation could assist in protecting players in the EU from exposure to foreign operators maintaining inadequate standards of player protection or fairness, and could contribute to the fight against misuse of online gaming for illicit purposes. Needless to say, such cooperation should always be limited to those jurisdictions maintaining adequate regulatory standards, in order to preserve the integrity and safety of online gaming, and prevent infiltration of the market by undesirable operators or abuse of online gaming for the promotion of illicit activities.

(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?

Needless to say, the lack of clarity and consistency in the jurisprudence of Member States' courts with regard to the EU-law applicable to online gaming, coupled with the absence of a harmonized regulation of the industry on the EU level the absence of full guidance on the matter from the ECJ, and the frequent lack of clear national legislation governing online gaming, create a range of preactical and legal difficulties for EU-based operators, for consumers in Member States, for financial institutions and for national authorities.

Such difficulties include, inter alia, differing definitions of gaming products (e.g. the definition of what constitutes a "lottery game" as opposed to a "fixed-odds game of chance"), differing technical standards and requirements, differing player protection and AML standards, differing availability of payment solutions, etc. These all result effectively in barriers on the free movement of services within the Internal Market, in a manner which is neither consistent, nor coherent, nor proportional, and is therefore inconsistent with EU law and the jurisprudence of the ECJ.

(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 field of "soft gaming" and instant-win games adequately demonstrates both the vast discrepancies between the national gaming legislation of different Member States, and the manner in which the gaming laws of Member States fail to coherently promote the professed objectives for which they have been put in place.

Thus, the fact that identical games receive vastly divergent regulatory treatment in different jurisdictions, due to differing classification of the same game in different Member States, demonstrates how the absence of harmonized EU law on gaming, effectively results in barriers to the free access of consumers in different jurisdictions to identical products. While such differences are often explained by reliance on "legitimate" local interests, in reality they often reflect a protectionist favoring of local lottery monopolies or local terrestrial or online gaming enterprises. As the ECJ has repeatedly noted, such preferential treatment is entirely inconsistent with EU law.

Furthermore, in the absence of harmonization, and given the fairly broad margin of discretion jurisdictions have taken when regulating online gaming, there are no objective standards

which operators and regulators can use in determining, for example, the appropriate classification of different types of games (for instance, to enhance player protection). Such lacunae often encourage jurisdictions to adopt excessive regulatory standards that are overly burdensome to operators with no substantive justification. This too, is inconsistent with the principles of the Internal Market.

Additional difficulty results from the fact that EU jurisdictions have implemented non-gaming EU laws which may apply to online gaming services (such as AML legislation, privacy protection, etc.) in vastly differing manners, due to the absence of binding EU guidance as to the application of such legislation to online gaming within the Internal Market.

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?

The definition of "gambling" in the Green Paper is sufficiently broad to cover the assorted types of gambling products available online.

It is noteworthy that the definition makes reference to the term "lotteries" without defining the scope of that term. Different EU jurisdictions take differing approaches as to the definition of the term "lottery" (often aimed at granting a protectionist advantage to local lottery corporations), and the absence of a uniform definition of this type of product often results in legal uncertainty for operators, as well as unfair exclusion of entities offering "soft gaming" products.

(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?

See answers to section 1.

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?

As noted, NeoGames' products are offered through a wide range of B2B partnerships, including affiliates and "white labels". The Green Paper does not deal directly with the special legal needs and considerations applicable to such partnerships, which often involve entities in different EU Member States who may be subject to differing regulatory requirements and standards. In this context as well, the harmonization of legal and regulatory standards (in this context - those applying to marketing and advertising of gaming products), would serve the interests of consumers, operators, marketing and media outlets and regulatory authorities.

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

One of the primary difficulties resulting from the fragmented regulation of gaming in the Internal Market pertains to the disparate standards applied to different payment methods in different jurisdictions (e.g. the use of credit cards or the use of "electronic wallets"). These different standards, create practical difficulties for operators, consumers and financial institutions, and are incompatible with the free movement of services and capital within the Internal Market.

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

NeoGames requires any player wishing to use its products to open a player account and provide information sufficient to verify the players identity, protect the player's funds and prevent misuse of NeoGames' platforms. Unfortunately, the standards applied in this regard by different jurisdictions create practical difficulties for NeoGames and other operators. We believe that the creation of uniform standards in this regard (as was done in the context of AML, for example) would benefit both the industry and the regulatory and enforcement authorities, and would contribute to player confidence.

(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?

As a Malta-licensed operator, NeoGames complies with the customer verification and data protection standards imposed by Malta's gaming and data protection legislation (as it will comply with those of other jurisdictions where it will become licensed). As noted, NeoGames would support the adoption of harmonized standards in this regard (as has been done by the EU in the contexts of AML and data protection), as well as the creation of pan-European mechanism to assist in the conduct of customer verification, KYC and the exclusion from gaming of problem gamblers and criminal/terrorist elements.

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)

Player protection mechanism are efficient if they are instruments are clear, standardized and well enforced. The lack of centralized standards could encourage operators to either adopt lesser standards of player protection, or enforce player protection methods in a lax manner. Uniform standards for player protection will provide clear guidance to both operators and regulators and in-turn - increase player protection and consumer confidence in the industry as a whole.

(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)?

Actions by operators to prevent problem gambling and provide assistance to players at risk are dependant on requirements imposed by specific licensing bodies.

(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?).

There is no legislation or regulation specifically governing KYC procedures solely aimed at identifying problematic behavioral patterns.

(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?

The statutory age Limit in Malta is 25 for Maltese residents and 18 for all non-residents.

Operators verify consumers' ages using assorted methods, including reliance on age-check services provided by commercial third parties (often at high costs). The effectivity of such mechanisms is greatly dependent on the availability of and access to relevant data and could obviously be aided by the existence of a centralized database.

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

Yes, online controls are imposed by operators using assorted mechanisms. Offline identification has the benefit of the operators' employees being able to physically assess the player's age. This is however highly subjective.

Online verification starts with account creation, at which point consumers are informed that accounts cannot be created by minors. Consumers are required to provide ID data for assorted purposes including fraud prevention, AML and payout protocols, as well as age verification. Furthermore, multiple and repetitive verification processes are required to comply with the aforementioned requirements, granting operators the ability to repeatedly assess consumers age, among other parameters. Furthermore, technological solutions allow operators to constantly review player behavior, to identify minors, problem gamblers, potential fraudsters and other illicit elements.

(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

NeoGames is committed to keeping online gaming fun and safe. To do so, we implement mechanisms aimed at identifying and excluding problem gamblers, and ensuring that minors

are excluded from accessing our sites. The types of games offered by NeoGames are, by their nature, less susceptible to problem or addictive gambling. Nevertheless, our technical systems, augmented by our highly trained support staff and fraud teams, are calibrated to ensuring that our products are only made available to those for whom they are safe and appropriate. As a Malta-licensed operator, NeoGames complies with the substantive requirements imposed, in this regard, by Maltese law and by the LGA (as it will comply with those of other jurisdictions where it will become licensed). In this context as well, we believe that the creation of pan-European standards for player protection and prevention of problem gambling, could assist in identifying, excluding and treating those for whom gambling is unhealthy or unsafe.

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?

These issues are governed by the Maltese laws and regulations applicable to NeoGames.

(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?

The establishment of centralized fraud prevention standards, and more importantly - the share of information through a centralized database, would assist both operators and regulatory authorities in effectively identifying and preventing fraud (for example by rapidly identifying new fraudulent behavior and/or criminal rings involved in fraudulent activity across platforms and jurisdictions).

(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

As an operator committed to fair and safe gaming, NeoGames products are all based entirely on an advanced Random Number Generator (RNG), which has been tested and approved by internationally accredited testing facilities. There is never any human interference or involvement in determining the results of our games, which are all dependent on the random outcomes generated by our RNG. Like all technical components, RNGs must meet certain standards to ensure that they provide a statistically adequate level of randomness. We believe that the creation of harmonized standards in this regard (which is already being done independently by the industry itself), would increase player protection and make the market safer and more reliable.

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?

NeoGames is licensed and regulated by the Maltese Lotteries and Gaming Authority (LGA), whose authority extends to all types of gambling (terrestrial and online), in accordance with

Maltese law (specifically the Lotteries and Other Games Act, 2001). NeoGames is presently undergoing licensing in other EU jurisdictions as well.

(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?

The LGA maintains a registry of licensed operators, which is publicly accessible on the LGA's website at <http://www.lga.org.mt/lga/content.aspx?id=86949>.

(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

NeoGames believes that the EU Green Paper on Online Gambling in the Internal Market represents an important step in recognizing the nature of the online gaming market as a pan-European industry worthy of attention from the European Commission. NeoGames believes that it is squarely in the interest of all involved - customers, operators, financial institutions, regulators and treasuries - that this vibrant and evolving market be the subject of harmonized regulation on the EU level (as other forms of e-commerce and financial activity have been). We believe that the potential embodied in the Green Paper process will only be fully realized if the Commission seizes this opportunity to increase harmonization of the industry, enhance consumer access to products and services across the Internal Market, remove barriers to the

free movement of goods and services, and improve the capacity of local authorities to regulate and oversee the industry.