

IRB RESPONSE TO THE EUROPEAN COMMISSION GREEN PAPER ON ON-LINE GAMBLING IN THE INTERNAL MARKET

The International Rugby Board (IRB) as a member of the Sports Rights Owners Coalition (SROC) supports the separate response to this consultation provided by SROC. However, the IRB as the International Federation for Rugby also forwards this paper setting out the specific position with respect to Rugby of the IRB and its European Member Unions.

As with the SROC response, we have only responded to those questions which we consider relevant to the IRB and its European Member Unions.

QUESTION 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.

As a matter of policy the IRB does not associate itself or permit its Tournaments to be directly associated with the promotion of gambling.

France: The Fédération Française de Rugby (FFR) is a member of the Professional Sport Committee of the Comité National Olympique et Sportif Français. The Professional Sport Committee is providing a response to this consultation which sets out the position of the FFR.

Italy: The Federazione Italiana Rugby has advised that it is not aware of any specific regulations in place aimed at the protection of minors in this context. A proposal was made in recent months to the Italian Parliament where the issue of commercial communications on gambling with reference to minors, among others, was addressed, however no text or law has been approved or enforced yet.

QUESTION 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?

In the context of sports gambling, players (called gamblers here to distinguish them from the playing participants in sport) against betting operators is the most relevant scenario whereby a gambler arranges to fix an aspect of a match through corrupting a participant(s) or uses inside information obtained from a participant not available to the betting operator in setting the odds on a particular contest or aspect of a contest. Although anecdotally not as common in the sports betting context as in the on-line casino setting, betting operator against gambler is also possible where the betting operator undertakes any of the above conduct. Gambler against gambler is possible in betting exchanges. The IRB is not aware of any such conduct, nonetheless, in relation to Rugby.

Best practices in the sporting context would include:

- Clear sporting (and national, as appropriate) regulations (and legislation) proscribing the conduct which sporting participants and persons connected to them (appropriately defined) may not engage in (and their obligations as to reporting corruption, potential corruption or attempted potential corruption such as approaches) and allowing discovery of computer and/or telephone records as appropriate by the relevant sporting body (and law enforcement agencies). We note that not all jurisdictions in the EU have relevant and appropriate gambling legislation at present and would hope that the EU could assist to rectify this.
- Education of sporting participants to ensure that they are aware of the risks and their obligations.
- A regulatory requirement for gambling operators to alert the relevant sporting body in the event of unusual betting patterns and to share the information of such persons for the purposes of the sporting body's investigation subject to appropriate confidentiality guarantees and appropriate data protection exemptions in this limited context.

- A regulatory requirement on gambling operators to withhold the winnings of an online gambler subject to a notification per the preceding point pending resolution of the sporting and/or law enforcement investigation/proceedings.
- Appropriate liaison with law enforcement agencies in the relevant jurisdiction in cases of potential criminal conduct.
- Legislated fair return from betting operators as exists in France (and Australia, albeit not an EU Member State) to assist the resourcing of the above measures and related personnel.

QUESTION 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 IRB supports the introduction of a specific and consistent criminal offence of sporting fraud across EU Member States and notes that one of the main Rugby markets, being the Republic of Ireland, does not presently have legislation in relation to gambling. We would hope that the EU can assist in encouraging a uniform approach to be adopted across the Member States. The IRB is not aware of any available data or studies with respect to sports betting and outcome fixing.

France: Please see the response to this consultation of the Professional Sport Committee of the Comité National Olympique et Sportif Français which sets out the position of the Fédération Française de Rugby.

Italy: The Federazione Italiana Rugby (FIR) advises that according to the Fundamental Principles for all Sport of the Comitato Olimpico Nazionale Italiano (see attached Principi Fondamentali Statuti) any person who is a member of a sport union or association in Italy must not enter into forms of gambling that relate to the outcome of any games falling within their respective sport union or associated sports disciplines. This principle is reflected in Article 22 of FIR’s own Disciplinary Code (see attached Regolamento di Giustizia), which also provides for disciplinary measures (one to six months’ disqualification – clause 22.2) as well as sanctions (fines of €100 to € 500 – clause 22.3) where breaches of the Union’s Judicial Regulations take place.

The FIR also advises that the following pieces of legislation regulate gambling activities within the Italian jurisdiction, although none refer specifically to on-line gambling:

- Decrees by the Ministry of Economics and Finance (“*Decreto Scosse*”; *dm_2_6_98*;) plus an Explanatory Note (“*Nota esplicativa*”);
- Protocol on Sports Wagering (*Protocollo Scosse Sportive – PSS*);
- Regulation setting out measures in place for cases of illegal gambling on sport games (*Law n. 401, 13_12_1981*)

Copies of these are attached for your reference.

QUESTION 31 – In your view what issues should be addressed as a priority?

Rugby Union, thus far, has avoided the scourge of corruption and Match or spot fixing. However, we are conscious that betting interest in our sport is increasing in various jurisdictions at a rapid rate. The IRB is composed of Member Unions with varying levels of finance and resources with respect to addressing the risks associated with this increased prevalence of gambling on Rugby Union.

The IRB firmly supports the position set out in SROC’s paper with respect to a right of fair return or “competition organiser’s right” to enable a percentage of the stake bet with gambling operators in the EU on our sport to be reinvested into the appropriate governing body to assist that body to fund integrity measures, which would ordinarily benefit the gambling operators also in providing a clean contest.

The IRB notes that such a system is already operational in France (and Australia).

Further information as to the position of the Fédération Française de Rugby with respect to the regime in France is set out in the response to this consultation of the Professional Sport Committee of the Comité National Olympique et Sportif Français.

Although acknowledging that the following example comes from outside of the EU, the IRB notes that its Member Union the Australian Rugby Union now funds a full-time integrity officer engaged in education, prevention, investigation and disciplinary procedures where appropriate. The IRB has also consulted with other sports in Australia who have retained dedicated integrity personnel funded or part-funded by the fair return monies and understands that this measure has proved successful in combating potential corruption thus far.

We also consider that a statutory obligation for gambling operators to monitor and alert sporting federation(s)/event organiser(s) and/or law enforcement agencies as to unusual betting patterns as part of their licence in the applicable EU Member State and an exception to data protection legislation for gambling operators to share data of gamblers with appropriate sporting federation(s) (including cross border if applicable) for the specific purpose of investigation and sporting disciplinary processes ought to be given consideration as priorities.

As noted above, we also consider the introduction of a specific and consistent criminal offence of sporting fraud across EU Member States and note, in particular, the legislative vacuum in this area in the Republic of Ireland, a major Rugby market, at present.

More generally, the IRB supports the position put by SROC that the vulnerability of sport to corruption coupled with the decreased incentive for gambling operators to self-regulate in the sports betting context compared with their casino-type offerings (in light of the lack of stake an operator has in the particular sport on which it offers markets and thus the ability simply to abandon an affected sport for other markets) makes sports integrity a priority issue at the present time.

QUESTION 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?

This is not an area the IRB nor its European Member Unions have direct experience of. However, anecdotally from other sports the risk appears to be less in the case of a licensed on-line gambling operator than in the case of potentially corrupt ‘unknown’ owners of a club who can more easily abscond. A strong regulatory and licensing regime in the particular jurisdiction (including appropriate due diligence mechanisms in relation to licence applicants) will reduce the likelihood of such conduct occurring.

Possible existence of a principle of return to event organisers

As the IRB has stated above and further to the SROC position on this matter, the IRB considers fair return legislation across the EU to be of paramount importance in assisting the fight against potentially corrupt practices in sport. The experiences of France (and Australia) offer guidance as to the positive impact such an instrument would have in practice in other jurisdictions. The IRB notes, in this respect, SROC’s answer to Question 44 as highlighting the need for a cross-border solution.

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

France: Please see the response to this consultation of the Professional Sport Committee of the Comité National Olympique et Sportif Français which sets out the position of the Fédération Française de Rugby.

Italy: The Federazione Italiana Rugby notes that Decreto-Legge 8 Luglio 2002 of the Comitato Olimpico Nazionale Italiano (CONI) (available at <http://coni.it/index.php?id=300>) confirms that a proportion of the revenues derived from sports betting relating to sporting events organised or controlled by CONI are redirected to CONI, net of any taxes and expenses.

QUESTION 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?

Neither the IRB nor, to its knowledge, its European Member Unions benefit from such rights.