



ONLINE GAMBLING IN THE INTERNAL MARKET

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AER POSITION

The Association of European Radios (AER) is a Europe-wide trade body representing the interests of over 4,500 commercially-funded radio stations across the EU27 and in Switzerland.

AER is located at:

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AER's Transparency Register ID Number is 6822083232-32.

AER welcomes the European Commission consultation based on the Green Paper on Online Gambling in the Internal Market.

AER's main objective is to develop and improve the most suitable framework for private commercial radio activity. Although there are many important aspects in the European Commission Green Paper on Online Gambling in the Internal Market, it should therefore be first stressed that this contribution focuses on the advertising / commercial communications aspects. Indeed, AER would like to recall that, in most of Europe, currently and for the foreseeable future, there is only one viable business model: free-to-air FM broadcasting on Band II. European radios can and will only be able to broadcast programmes free of charge to millions of European citizens thanks to the revenues they collect by means of advertising. Radio's plans to broadcast digitally could use band III (174-230 MHz), and L-band (1452-1492 MHz), depending on the EU Member States. Online radio activities are and will always only constitute a complementary activity to broadcast radioⁱ. As online and offline advertising are essential complementary means of existence and development for commercially funded radios, this contribution addresses both means of delivering advertising from a radio point of view.

First, one should stress it should be possible to advertise any legal products. Commercial radios are however committed to responsible advertising. Commercially funded radios – even online – are targeted at local, regional or national audience. Consequently, regulation and self regulation at national level on radio advertising is well developed. Regarding gambling, radio advertising is submitted in certain EU Member States to self regulation, outlining strict conditions. France provides a striking exampleⁱⁱ: radio advertising for gambling is subject to rules contained in a charter related *inter alia* to the volume, the concentration, the target of advertising for authorised and legal gambling activities. The first element recalled in the broadcasting national regulator's "délibération" regarding advertising for gambling activities is the fact that advertising for unauthorised gambling activities is forbidden. Advertising can thereby play an important role to canalize consumers' activities to legal gambling services and help avoiding that consumers use illegal offers, which are hard to control by the state authorities (and usually do not apply high standards to protect consumers).

Moreover, self regulation's effectiveness for gambling advertising seems to be recognised in a growing amount of EU countries: in France, the broadcasting national regulator has adopted a "délibération" renewing its recognition of the self regulation scheme for advertising of gambling on April 27th, 2011.

Other examples in the EU include: Spain which recently adopted a law acknowledging self regulation for advertising on gamblingⁱⁱⁱ and the UK which has integrated the self regulation scheme for lotteries in the BCAP code (and developed a gambling industry code for socially responsible gambling to complement the BCAP code)^{iv}. In Germany, the commercial broadcasting and audiovisual services association VPRT participated in elaborating guidelines of the German Advertising Council (Deutscher Werberat) on “strengthening responsible advertising for legal gambling services” („Eckpunktepapier zur Stärkung verantwortungsbewusster Werbung für legale Glücksspielangebote“).

Self regulation has furthermore a proven record on many sectors of advertising^v. Its role is acknowledged by the EU *inter alia* in the Audiovisual Media Services Directive (AVMS Directive)^{vi}. AER therefore believes that self regulation should be enabled for the advertising of the gambling sector too, across Europe.

AER would like to repeat that European radios represented by AER can only broadcast programmes free of charge to millions of European citizens thanks to the revenues they collect by means of advertising. In a time when important shares of advertising investments are moving from heavily regulated “traditional media” to “new media”, any constraint on radio advertising could severely endanger AER Members’ ability to pursue a viable economic activity – hindering thereby media pluralism. This would be to the detriment of radio listeners across Europe, since advertising revenue is essential in making the programmes and content which listeners really enjoy.

AER remains available to explain this position in further details.

ENDS

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On-air broadcasting radios reach massive audience on a daily basis in all EU Member States: between 60 and 85% of the EU population on average listens to radio for at least 2 or 3 hours per day, as shown by national audience measurement.

Commercially funded radios indeed constitute a unique network of small and medium-sized enterprises (SMEs), contributing to cultural diversity, media pluralism, access to creativity, social inclusion. They also offer free-to-air services of general interest:

- *they evolve in highly competitive environments^{vii}*
- *their programmes encompass, broadly speaking, all possible formats, from debates to music-only^{viii}*
- *As for the music broadcast, within one market, as soon as there is demand expressed, it has to be fulfilled; so, most of the musical expressions are represented*
- *most of them are non-politically affiliated, and certainly keep the freedom to express their opinion or to participate to the public expression of the opinions of their listeners*
- *their audiences are local, regional, or national*
- *they strive to develop on all possible platforms*
- *during natural, major or minor disasters, radio is the first – and possibly the only remaining – tool to inform the public^{ix}*

Radio is the most intimate medium, and has been so for the past 50 years at least: it is indeed ubiquitous, mobile, simple-to-use and free-to-air. All these features enable our audience to cultivate a personal relationship with our programmes, our DJs, our hosts, and our brands. Our listeners thereby access programming they enjoy, useful / crucial information^x.

ⁱ For more information, please refer to the AER position papers on spectrum use, accessible here:

http://www.aereurope.org/content/blogcategory/27/43/lang.en_GB/

ⁱⁱ Please see here: http://www.csa.fr/infos/textes/textes_detail.php?id=133284

ⁱⁱⁱ Please see Article 7 of the “Ley 13/2011, de 27 de mayo, de regulación del juego”:

<http://www.boe.es/boe/dias/2011/05/28/pdfs/BOE-A-2011-9280.pdf>

^{iv} Please see here for the BCAP Code: <http://www.cap.org.uk/The-Codes/BCAP-Code.aspx> and here for the Gambling industry code for socially responsible gambling:

<http://www.parliament.uk/deposits/depositedpapers/2008/DEP2008-1025.doc>

^v For more information, please refer to the European Advertising Standards’ Alliance (EASA) website:

<http://www.easa-alliance.org/>

^{vi} Please see Recital 44 and Article 4§7 of the AVMS Directive:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:0024:EN:PDF>

^{vii} For example, and bearing in mind that the amount of radios in a given country depends of course on its size: Spain now has more than 2000 frequencies used across the country; similar FM situations can be observed in France or Germany

^{viii} To give just examples, please see:

- the French AER Member, SIRTl : <http://www.sirti.info/spip.php?page=adherents>

- the UK AER Member, RadioCentre:

<http://www.radiocentre.org/rc2008/stationSearchResults.aspx?searchType=fullmembers>

^{ix} For example: in the UK in December 2009, during the Cumbria floods, to keep their communities and other media outlets informed, Commercial Radio in the area began rolling news and updates during events that occurred a fortnight ago and the on-going clean up operations. As soon as the situation started unfolding, both CFM Radio and Lakeland Radio dropped their usual formats and presenters and switched to a service of news, travel, weather updates, advice and other information to help the local community. For more details, please see here: <http://www.radiocentre.org/rc2008/showContent.aspx?pubID=341>

More recently, during the “Love Parade” at the end of July 2010 in Duisburg, Germany, the mobile phone network collapsed very fast. However, radios’ network remained

The most recent example was this morning when you had to avoid constructions on your way to work

^x For instance, in the UK, London’s Capital 95.8 won a Sony Award for its ‘Lights Out London’ initiative, which drew support from celebrities such as Justin Timberlake and politicians like the UK’s former Secretary of State for the Environment, Rt Hon David Miliband MP. This involved encouraging listeners to switch off lights when they weren’t needed. In Germany, Saxony’s Radio PSR was awarded the 2008 central Germany radio prize by the IHK Leipzig for its feature on Climate Change: “Die Radio PSR-Klimaoffensive: Was trägt bei zum Treibhauseffekt?”

Please see here: <http://www.radiopsr.de/7719/music/news/89143>