

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:

SNAI S.p.a. ("SNAI") welcomes the opportunity to contribute to the debate on the Commission Green Paper on on-line gambling in the Internal Market.

SNAI is one of the main operators in the gaming and betting sector in Italy. It has the most widespread bet acceptance network in Italy, with over 6.000 agencies and corners. Established in 1990, SNAI is the government's licensee for connection to the "new slot machines" and offers added value technologies and services for Bingo parlours. It manages satellite TV channels for horse races and broadcasts in-depth programs on subjects related to gaming and betting. Via its website, www.snai.it, it is possible to place bets and play pools and skill games such as Poker and Texas Hold'em and Black Jack. SNAI owns the gallop and trot race tracks at San Siro and the Montecatini trot race track; it owns shares in Rome and Pisa gallop race courses. Moreover, it owns the image rights for Varenne, the greatest trotter in history. SNAI is ISO 9001 Certified for quality in services and ISO 27001 Certified for security in the data.

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?

SNAI has over ten year-experience of dealing with on-line gambling operators licensed in EU Member States (namely Austria, Malta, UK), that provide their services (collection of bets) in the Italian territory to Italian customers, while they do not hold a betting licence granted by the Italian gaming authority (Amministrazione Autonoma dei Monopoli di Stato, "AAMS"), required under Italian Law.

These operators accept bets in Italy, via a network of data transmission / data processing centers that act as intermediaries. The data transmission centers, generally licensed as "internet points", advertise events on which bets can be placed, display the applicable quotes, collect and then transmit the betting data to the foreign bookmaker. Bets are placed on dedicated Internet websites, whose servers are located in the operator's country of establishment, sent to and remotely processed in that country of establishment. Such activity takes place outside the regulatory framework established under Italian law and results in unfair competition being brought to the duly regulated licensed operators, as data transmission centers are able to offer Italian players more attractive betting conditions, as allowed under the less stringent regulatory requirements of the home country.

The impact of these operators' activity on the Italian market for betting is a clear distortion of competition, which results in customers being directed to un-regulated channels. As bets are processed through avenues that escape any form of control by the Italian authorities, it is virtually impossible to protect consumers and combat crimes associated with gambling .

SNAI reports any such activity, which qualifies as "abusive collection of bets" (a crime under Italian Law), to the relevant authorities.

(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?

SNAI has limited experience of non-EU on-line gambling operators, operating through data transmission centers. The impact of these operators on the Italian market and on consumers appears thus less significant.

(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?

In Italy, there are two mutually contradictory and irreconcilable lines of authority within the national case-law, particularly in so far as licensing is concerned: one that specifically acknowledges the principle of mutual recognition, which implies that any EU-licensed operator is entitled to operate in Italy pursuant to the license issued by the home Member State, save for the public safety checks that its network of data transmission centres is to go through; and the other, relying on the most recent CJEU judgements (see cases *Santa Casa*, *Ladbrokes*, *Sporting Exchange*, *Stoss*, *Zeturf*), holding that mutual recognition does not apply.

This conflicting jurisprudence brings about an inconsistent application of domestic law and a resulting legal uncertainty, which in turn lead to a discriminatory regulation of market operators and a varying range of gambling and betting products being offered to the public. In addition, the regulatory uncertainty and market stratification have an impact on consumers' perception: it is hard to discern authorised (i.e., licensed) operators from non-authorised (i.e., illegal) ones and to ascertain the conditions and safeguards applicable at any time.

Furthermore, the Italian gambling framework has been repeatedly challenged, mainly by on-line gambling operators. To SNAI's knowledge, 19 requests for a preliminary ruling are currently pending before the CJEU on the compatibility of various elements of Italian law with EU law.

While the CJEU has clarified a number of legal questions concerning on-line gambling in the EU, it has not defined (nor could it be expected to do so, under its case-by-case approach) an exhaustive legal framework, such as to guarantee the necessary legal certainty. At times, the same CJEU has given conflicting indications, as in the case of the transparency requirements in licensing procedures: it first established that failing to invite competing bids for the renewal of existing licences was in breach of the principle of transparency and constituted a disproportionate restriction to the freedom of establishment and the freedom to provide services (Case C-260/04, horse-race betting in Italy); then, it justified instead the award/extension of similar exclusive rights (Case C-203/08, horse-race betting and lotto in the Netherlands).

SNAI submits that the activity of the above EU-based operators in the Italian market for on-line gambling, especially via data transmission / data processing centres, and the resulting problems of legal certainty call for regulatory clarification. The CJEU shed some light on various legal issues concerning the gambling sector; yet action by the Commission is needed to ensure the proper functioning of the internal market and guarantee consumer's access to safe and adequately regulated on-line services. The *Zeturf* judgement (C-212/08, 30 June 2011) provides a guiding principle though: the CJEU recalled that "the internet constitutes a simple channel through which games of chance may be offered" and thus the market should "in principle, be considered in its entirety, independently of the question whether the bets concerned are offered by traditional channels, at physical locations, or by the internet and a restriction on the activity of collecting bets should be examined independently of the medium through which they are made" (pp. 76-77).

As mentioned, the above legal uncertainties require a clarification. Pursuant to the subsidiarity principle, SNAI maintains that the regulation of national gambling markets (licensing in the first place) shall be left to the Member States, which can adequately accommodate national traditions and cultures. However, a harmonised EU approach to on-line gambling, laying down binding high-level minimum standards for the protection of gamblers and consumers and for combating crime, appears to be appropriate at the current stage of development of EU gambling law.

(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?

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?

Italian Law does not provide for a general definition of on-line gambling services.

(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?

Subject to a licence granted by AAMS, on-line gambling services may only be offered at national level through a dedicated ring-fenced platform, which players can access by providing their fiscal / tax code (Codice Fiscale), a personal alphanumeric code issued by the Tax Authorities (Amministrazione Tributaria) to residents in the Italian territory. Thus, cross-border on-line gambling services, provided on authorised Italian websites, can only be offered to fiscal / tax code holders.

(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?

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?

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

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

(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?

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)

(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)?

SNAI cares for the social problems related to gambling and is promoting initiatives at national level to raise public awareness (specially amongst players) for a conscious and responsible approach to gaming and betting, with a view to rediscovering their playful, recreational and aggregating dimension. Against this background, SNAI launched in 2010 an awareness campaign (“Gioca per Vincere”, “Play to Win”) directed at the prevention of pathological-compulsive gambling disorders. The campaign aims at uncovering the true and proper function of gambling in order to discourage pathological gamblers from self-harm events, counteract obsessive compulsive behaviour and raise awareness amongst potential problematic players on the need to maintain self-control when playing.

Under this campaign, and in compliance with the law, SNAI also implemented additional initiatives for stimulating game awareness and limiting problem gambling in the online environment. In particular, SNAI opened a dedicated space on its website (www.snai.it), which offers online gamblers the opportunity to "self-restraint" when determining the amount, duration and frequency of their bet and to "self-exclude" themselves either permanently or for limited periods of time.

(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?

The National Health System offers treatment services for drugs addiction (SERT) and for addiction in general (SERD). These are public services dedicated to the care, prevention and rehabilitation of people suffering from abuse of psychoactive substances (drugs or alcohol) or other addictions, including gambling. The treatment of pathological gamblers by these structures is not homogeneous; yet the ASLs (Aziende Sanitarie Locali- Local Healthcare Undertakings) are generally able to provide information on treatment centers even when they do not deal with those addictions directly.

Several private organizations are also active in the field of rehabilitation, care and assistance such as:

ALEA - Associazione per lo studio del gioco d'azzardo e dei comportamenti a rischio (Association for the study of gambling and risk behaviors);

AND - Azzardo e Nuove Dipendenze (Gambling and new addictions);

SIIPAC - Società Italiana di Intervento sulle Patologie Compulsive (Italian society for intervention on compulsive pathologies);

SOS AZZARDO - Associazione A.GIT.A, Associazione degli ex Giocatori d'Azzardo e delle loro famiglie (Association of former gamblers and their families);

Orthos project - Study and treatment of pathological addictions.

SNAI has contributed to the funding of Orthos.

(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?).

AAMS launched and promoted the "Safe, Legal and Responsible Gaming" ("Gioco Legale e Responsabile") initiative, aimed at fostering legality and social responsibility for both operators and players. It focuses on the distinction between legal and illegal gaming, comparing the pleasure and excitement of games controlled and guaranteed by the State with the negative consequences of clandestine betting.

All licensed betting shops and gaming points linked on-line with AAMS are invited to display a stylised tiller with a band in the colours of the national flag on all products and relative communications, as a seal of guarantee of their most important quality: the security of the product for both the player and for society as a whole. The advertising campaign illustrates the social and economic importance of transparent gaming and emphasises AAMS's institutional roles.

(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 for having access to on-line gambling services in Italy is 18 years (legal age / age of majority, which bestows the status of adulthood under Italian law).

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

On-line gambling services may only be offered via dedicated platforms connected to the centralised control system ran by AAMS' technological partner - SOGEL. Each and any bet placed by an Italian customer is thus cross-checked in real time with the Tax Authorities' data-base (via the Codice Fiscale, see question 9), for the purpose of age-control.

In case of off-line "face to face" identification, besides affixing a clear ban at the premises, the operator's agent is entitled to request the player to provide an identity card.

(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?

Please see answer to question 22 on the "gioco legale e responsabile" initiative.

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?

All gambling equipment of licensed operators, including both software and hardware, are certified by AAMS and regularly verified (conformity checks).

(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 SNAI's opinion, the Italian regime provides for an efficient fraud-control mechanism, based on data verification and reporting obligations placed on licensed operators.

Under Article 24(9) of Law 88/2009, to access on-line gambling services, a player needs to fill in an on-line or off-line form with his / her identification data and the Codice Fiscale and sign a gaming agreement ("contratto di gioco") with the operator. That allows the player to have a gaming account ("conto di gioco"), which is a prepaid account where all bets and winnings are registered and accounted for. It is personal, free of charge and fed via electronic payment.

All winnings are directed to the gaming account. Pending the gaming agreement, the player can only withdraw the amounts won at any time; the amounts deposited in the account (e.g., the initial deposit and subsequent re-charges) can be made available when the agreement is terminated (Article 24(19) of Law 88/2009). That is aimed at preventing the player from using the gaming account as a bank account for money laundering purposes. A player can open no more than one account with each operator.

Under Article 24(4) of Legislative Decree n. 231/2007, which implements Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, operators shall apply player's due diligence measures when processing transactions above 1,000 Euro. The sum shall be paid by means that allow full identification of the player; every information shall be registered within 30 days; operators shall store data as prescribed by the Decree. For this purpose, operators shall create a Single Informatic Archive (Archivio Unico Informatico - AUI). Failure to do so will result in administrative sanctions (Article 57). Licensed operators shall also report any suspicious transactions to the Financial Information Unit (Unità di informazione finanziaria - UIF).

(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

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?

The Italian regulatory body is AAMS. For an overview of its competences, activities and scope of action in connection with on-line gambling, please see www.aams.gov.it

(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 list of licensed operators of gambling services, both on-line and off-line, is publicly available on AAMS website and is updated regularly by AAMS.

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

AAMS and the French regulator ARJEL announced their cooperation agreement on 28 June last. The cooperation agreement shall enable information sharing with a view to defending the integrity of sports and fighting illegal on-line gambling.

(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?

IP blocking has been applied since 2006 in Italy, further to a provision introduced by the Budget Law (Legge Finanziaria 2006). In order to contrast the increasing illegal phenomena (in particular, fraud) linked to the distribution of on-line gaming winnings, AAMS's action focused on detecting and blocking illegal gaming websites operating without the required license. Upon specific and formal communication by AAMS, Internet access service providers are to block access to illegal on-line gambling websites; should they fail to do so, Internet Service Providers face administrative sanctions up to 500.000 Euro.

Illegal websites can be reported to "giochi.segnalazione.siti@aams.it"; a list of unauthorised on-line gambling services websites is provided at: <http://www.aams.gov.it/site.php?id=2484>.

Besides the announced aim of the recent AAMS-ARJEL agreement, SNAI is not aware of any cross-border initiative aimed at limiting access to illegal on-line gambling services.

(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

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