

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:

Response from Ireland

Hugh Boyle, Head of Casino Gaming Control, Department of Justice and Equality, Dublin 2 Ireland.

Introduction

The Irish authorities welcome the Green Paper and other discussions underway concerning the regulation of gambling. They believe the questionnaire is a very valuable fact-finding exercise. The following paragraphs describe the current position in Ireland on the regulation of gambling. The answers to particular questions should be read in the context of the overall arrangements.

A) In general, Irish law operates on the basis that all forms of gambling are illegal in Ireland except where specifically permitted by legislation.

B) The term gambling covers a wide range of activities such as gaming [e.g. slot machines, roulette, card games for money], lotteries [the National Lottery, charitable lotteries, bingo, scratch cards], and betting [e.g. on-course, off-course, spread betting, and the Tote].

C) In Ireland several public authorities are responsible for the regulation and supervision of gambling.

(i) The regulation of gaming under the Gaming and Lotteries Acts 1956-2003 is the responsibility of the Department of Justice and Equality. Those Acts cover gaming and lotteries except the National Lottery. The enforcement activities are carried out by the police, courts, and Revenue Commissioners. The Commissioners are also authorised under the Acts to issue various permits or licences. The National Lottery is subject to separate legislation, the National Lottery Act 1986, and is the responsibility of the Department of Finance.

(ii) The Betting Acts 1931 and 1994, as amended, govern the regulation of betting, including the licensing of bookmakers and betting shops. They are primarily the responsibility of the Department of Finance. The licence is issued by the Revenue Commissioners to a person to whom a certificate of personal fitness to hold a licence has been issued by a senior police officer (for residents in Ireland) or by the Minister for Justice and Equality (for those who are resident outside Ireland). Licences may be revoked by either the courts or by the Minister for Justice and Equality. (See also E (ii) below).

D) Separate arrangements apply in the case of on-course betting (horses and greyhounds). They are under the supervision of the Department of Agriculture, Fisheries and Food. These arrangements do not feature as part of the review referred to at paragraph F below.

E) (i) There is no provision in Irish law to regulate on-line or other forms of remote gambling. As a result no basis exists for the regulation of remote gambling sites (sites accessed by phone, mobile, computer, interactive TV etc.) whether they operate from within Ireland, or are based outside of Ireland but are making services available in Ireland.

(ii) The Minister for Finance, has announced that the Betting Acts are being amended to provide a basis for the licensing of all forms of remote betting. Draft legislation is being prepared.

(iii) The position in relation to all other forms of remote gaming is also being reviewed (see paragraph F below).

F) A paper entitled "Options for Regulating Gambling" published in December 2010 represents the culmination of the Department's review of gambling. The Minister is considering the proposals outlined in the Options paper, with a view to establishing a unified regulatory architecture for gambling that will meet current and future requirements. Any legislative proposals arising from the Minister's examination will be enacted in accordance with the normal parliamentary procedures.

G) Policy, etc. on the taxation of all forms of gambling is exclusively a matter for the Minister for Finance.

"Options for Regulating Gambling" is available on the Department's website www.justice.ie

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?

Gambling Compliance Reports (gamblingcompliance.com)

(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)

No

(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?

(i) On-line services are available and are availed of in Ireland but Irish law does not at this point in time regulate on-line gambling.

(ii) Services provided from outside the jurisdiction have negative exchequer impacts. They make no contribution and they reduce the market share of the land based operators who do contribute based on turnover. They also leave consumers at a disadvantage in relation to protective rights.

(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?

As (3) above

(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?

Since on-line gambling is not currently regulated in Ireland, there is an absence of national jurisprudence on the matter.

(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?

EU secondary law has not impacted in Ireland due to the absence of any national law on on-line gambling.

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?

Ireland does not have a legal 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?

Gambling services offered by the media are generally promotional games and are regarded as games involving some degree of skill.

(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?

(i) Casinos are not permitted under Irish law.

(ii) Given the present legal situation, the provision of on-line gambling services in a licensed gambling premises should not occur as it would not be part of the licence. However, in the event of a challenge based on Internal Market principles, (for example, freedom to provide services) it would be a matter for the courts to determine, having regard to relevant ECJ case law.

(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?

Advantage: National control enables account to be taken of national factors, not just taxation and revenue factors but also social and cultural factors.

Disadvantage: (i) Extra administrative burden for Member States and gambling provider.

(ii) Consumers may not be adequately protected and may have difficulty in getting redress.

Other comments on issues raised in section 2.1

As remote services grow in importance, there will be a need for cross-border cooperation in supervising operations etc.

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?

The following bodies have functions relevant to this question: Advertising Standards Authority for Ireland, National Internet Providers, Data Protection Commissioner. However, the position remains that there is no licensing regime in Irish law in this area.

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

No

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

In the absence of regulation we are unable to give a definite answer but it would appear to be the case.

(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?

There are no national rules since on-line gambling services are not currently regulated in Ireland.

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)

Consideration is being given to a National Prevalence Study on Gambling in Ireland which would highlight issues such as this but it has not yet been commissioned.

(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)

Currently there are no regulatory instruments in force to prevent/limit on-line gambling. The instruments listed in the Green Paper would very probably be included.

(17) Do you have evidence (e.g. studies, statistical data) on the scale of problem gambling at national or EU level?

We find the evidence referred to in the Green Paper very helpful. No evidence at national level - answer to Q15 refers.

(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?

Not aware of any such studies or evidence.

(19) Is there evidence to suggest which forms of on-line gambling (types of games) are most problematic in this respect?

Not aware of any such evidence.

(20) What is done at national level to prevent problem gambling? (E.g. to ensure early detection)?

Voluntary code of practice supported by/sponsored by some bookmakers or their representative bodies are in place.

(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?

It is understood that specialist addiction clinics and services provide treatment etc. for gambling addicts. Not aware of any formal funding arrangements by on-line gambling operators.

(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?).

On-line gambling not currently regulated.

(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?

Please see reply to Q 22.

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

Please see reply to Q 22.

(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.

Commercial communications for on-line gambling services not currently regulated at national level. However, certain advertising standards applicable to children (e.g. no advertising of certain products before 9pm) may apply.

(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?

On-line gambling not currently regulated.

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?

Not aware.

(28) Are there rules regarding the control, standardisation and certification of gambling equipment, random generators or other software in your Member State?

On-line gambling not currently regulated.

(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?

Not in a position to comment - would be guided by best practice in the Member States.

(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?

On-line gambling is currently not regulated in Ireland. However, general criminal law on fraud may apply, it's a matter for the police to decide.

(31) What issues should in your view be addressed in priority?

Identity theft and data protection related issues.

(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?

There is a risk of a conflict of interest but difficult to quantify.

(33) What concrete cases are there that have demonstrated how on-line gambling could be used for money laundering purposes?

Not aware of any concrete cases.

(34) Which micro-payments systems require specific regulatory control in view of their use for on-line gambling services?

Not in a position to say at this stage.

(35) Do you have experience and/or evidence of best practice to detect and prevent money laundering?

The national authorities have implemented the relevant EU and other instruments and an inspection system has been established.

(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?

Not aware of such evidence.

(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?

On-line gambling services not currently regulated at national level.

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?

See replies to questions 39, 40. Otherwise not aware of any other gambling revenue channelling schemes at national 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?

All funds generated by the National Lottery are used for good causes in the areas of Youth, Sport, Recreation and Amenities, Health and Welfare, Arts, Culture and National Heritage and the Irish Language. Funds raised by the National Lottery are transferred to the Exchequer and are used to part-finance expenditure by various Government Departments on beneficiary projects as provided for under the National Lottery Act (1986).

(40) Are funds returned or re-attributed to prevention and treatment of gambling addiction?

Community groups and voluntary organisations with an involvement in the provision of health services to specific client groups, national groups providing information and support for various disabilities and illnesses and groups with a specific interest can apply for National Lottery grants through the Department of Health. The Department of Health has a National Lottery Discretionary fund in place which provides once-off grants to organisations providing a range of health related services. In addition, the National Lottery runs its own programme to encourage responsible play. This programme is certified by the European Lotteries Association and independently audited.

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

None- on-line gambling not regulated.

(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?

Please see answer to Q 41.

(43) Do on-line gambling exploitation rights that are exclusively dedicated to ensuring integrity exist?

On-line gambling not regulated.

(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?

On-line gambling not regulated or taxed.

(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?

The amount raised for good causes by the National Lottery each year is detailed in our annual report which is available on our website www.lottery.ie Appropriation Accounts of the Comptroller & Auditor General Departments with allocations part-funded by the National Lottery publish detailed lists of assisted lottery grants in their appropriation accounts. These accounts are available from the Government Publications Office. The National Lottery promotes , through its TV game shows and sponsorship programmes, some of the flagship projects which have received funding from the National Lottery.

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?

Currently no specific regulatory body for on-line gambling services. However, general criminal law (e.g. fraud, theft) may apply in particular cases, that becomes a matter for the police and prosecution authorities.

(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?

National register for licensed "bricks and mortar" bookmakers maintained by the Revenue Commissioners.

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

Administrative cooperation outside GREF, specifically licence conditions.

(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?

Not aware.

(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?

None of the methods described are currently applied in relation to on-line gambling services. Aware of the Italian initiative. No experience of their effectiveness.

(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?

No experience to date with such measures.

Other comments on issues raised in section 2.4

Other comments on issues raised in the Green Paper