

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:

Rational Entertainment Enterprises Limited (REEL).

REEL is an Isle of Man based corporation which operates the world's largest online poker site - pokerstars.com. PokerStars offers players a huge range of non-house-banked poker games (cash and tournament) all available in a wide range of limits that suit every type of player. PokerStars is not a casino – players always play against each other, and never against the dealer or the site - it is a fun and safe place to play poker with people from around the world, for real or play money. PokerStars is a licensed and registered business. Apart from the Isle of Man, PokerStars is licensed in several European jurisdictions, with online gaming licenses issued in France, Italy, Belgium and Estonia. As a matter of corporate policy, PokerStars abides by all laws and regulations where it does business.

As the world's leading online poker provider, PokerStars welcomes the European Commission's Green Paper on Online Gambling in the Internal Market (hereinafter: "the Green Paper"), and is grateful for the opportunity to participate in the present public consultation.

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?

PokerStars is aware of a number of surveys and datasets available in relation to the online gaming market in the EU and the various Member States, including by national regulatory authorities. We trust that other respondents to the consultation will provide more detailed citations. In general, existing data clearly supports the conclusion that the online gaming market is growing, without such growth having a detrimental effect on the traditional terrestrial gambling industry.

(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)

PokerStars' experience, further supported by studies conducted regarding the EU online gaming market, shows that overly prohibitive legal regimes in the various Member States, encourage players to take their business to operators unlicensed within their home jurisdiction. In contrast, successful regulatory regimes can result in a well developed and attractive licensed market, which players will generally prefer over unlicensed operators. Thus, PokerStars believes that the most efficient way to encourage players to take their business to licensed operators (and as a result - increasing government revenues from gaming), is by implementing a workable and accomodating regulatory regime which will encourage operators to become licensed and offer players an attractive range of licensed products and services at competitive prices.

(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?

The inherent nature of the internet, has created immense potential for the online gaming market, allowing it to become a truly universal cross-border industry. This is of particular importance for operators offering players a peer-to-peer (or player-to-player) product such as poker. Since peer-to-peer games offer players the opportunity to socially interact with other players around the world, and are naturally reliant on the availability of players around the clock, the success of such games is strongly influenced by operators' ability to pool players from different jurisdictions together (typically referred to as "liquidity").

The potential for shared international liquidity is not only consistent with the desires and needs of players and operators, but is also fully comensurate with the objectives of the internal EU market. Allowing players from different European jurisdictions to freely compete against each other in their favorite online games, personifies the European Community's objective of creating a free and borderless market in goods and services between Member States.

Relying on the European Court of Justice's consistent position (most recently in the German sports betting cases) that online gaming falls within the definition of "services" under EU-law, many EU-based and -licensed operators offer their services to players throughout the EU.

PokerStars believes that the ability for EU-based and -licensed operators to offer their services throughout the EU, should be a cornerstone of the EU's approach to online gaming. Not only

would such an approach be, by far, the one most consistent with the core principals of the EU, it would benefit the online gaming market as well as players themselves. The ability to provide players with access to a pan-European offering will not only enhance their enjoyment of online gaming and of its social aspects, but will also allow operators to offer higher quality products at lower costs (a good example are poker tournaments, which are obviously dependant on the availability of a player pool, and can be offered with higher prizes at a lower cost when larger liquidity is available). Furthermore, a uniform pan-European offering, will give operators (and regulators) better tools to combat online fraud and to detect attempts to abuse online gaming platforms for illicit purposes. In contrast, limiting players to "national" gaming products, encourages players to seek unlicensed (and potentially dangerous) alternatives, which offer both universal liquidity and lower costs, making them more attractive to players.

Finally, by implementing a pan-European online gaming regime, three additional objectives will be attained - firstly, such a regime will allow for improved sharing of information, oversight and control by regulatory authorities - thereby allowing more efficient control and oversight by regulators; secondly, such a regime would lend itself to standartization of technological requirements, reporting requirements, etc.; thirdly, such a regime would enhance the ability of European jurisdictions to effectively collect tax revenue from the participation of their residents in online gaming throughout the EU. In other words, pan-European regulation of online gaming, would contribute precisely to the alleviation of some of the concerns raised by the ECJ in its rulings on the matter, as detailed in Section 1.2 of the Green Paper.

(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 an online operator licensed both within and outside the EU, PokerStars firmly believes in the advantages to be gained through greater cooperation between the EU and Member States and non-EU licensing jurisdictions (such as the Isle of Man). Such cooperation would further enhance the benefits described in our answer to Question 3 - improving player experience; improving player protection and prevention of fraud and money laundering; lowering costs for players and operators; standartization of the online market; and improved coordination and cooperation between regulatory authorities.

The positive and successful experience of the United Kingdom with its "white-list" system demonstrates the successful manner in which EU Member States can cooperate with non-EU regulators whose standards of control and supervision comply with the highest EU standards. PokerStars supports the adoption of a similar system on the pan-European level. It is worth noting, in the latter context, that a consultation document recently published by the UK Government, acknowledges that foreign operators from jurisdictions with a robust and effective regulatory regime, should be afforded "fast track" licensing, under a future UK regime requiring such operators to obtain a local license. Furthermore, the UK Government has recognized that in those cases where the regulatory standards of foreign jurisdictions provide adequate safeguards and oversight, operators seeking to be licensed in the UK will not be required to relocate their systems and infrastructure into the UK. These are examples of successful and appropriate cooperation between EU and non-EU regulated jurisdictions.

(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?

The European Court of Justice (ECJ) has repeatedly recognized that online gaming falls within the definition of "Services", the free transfer of which is a cornerstone of EU law (as described in detail in Section 1.2 of the Green Paper). However, by further recognizing a fairly broad margin of discretion given to Member States to limit the free transfer of online gaming services in the name of protected local interests, ECJ jurisprudence has resulted in a lack of certainty regarding the legal standards applicable to online gaming under EU law. Furthermore, the divergent manners in which national courts and the ECJ have interpreted the requirements that any limitation on the free transfer of services be systematic, proportionate, coherent and consistent, has contributed to the aforementioned uncertainty.

Given the above, and in the absence of a pan-European normative framework governing online gaming, operators, regulators, legal practitioners, courts and even players, are faced with uncertainty as to the legal standards applicable to online gaming in the Internal Market. This uncertainty is exacerbated by the fact that most Member States' laws do not directly address online gaming as such.

PokerStars believes that harmonization of the normative framework applicable to online gaming across EU Member States, would remove the existing uncertainties, contributing to the growth of the industry, to player confidence and protection, and most importantly - would grant Member States' authorities with an adequate legal framework to uphold national interests, protect players, prevent illicit behavior, and collect revenue - in a manner fully compliant and coherent with the principles of the EU Internal Market.

(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?

As noted, the laws of most EU Member States do not address online gaming as such. Those Member States who have legislated in this field, have done so in manners that are widely divergent. Examples of such disparities include: definition of lawful and unlawful gaming products; the legal status of games of skill (such as poker); technical standards and certification requirements; use of assorted payment methods; player protection standards; player verification and AML procedures; tax structures and rates; enforcement mechanisms against unlicensed operators, etc.

Furthermore, while certain EU law is applicable to the online gaming market (even in the absence of primary EU legislation regarding online gaming, as noted by the Commission and by the ECJ), national legislation is often divergent on these matters as well. Obvious examples include the inconsistent anti-money laundering (AML) standards applied by different Member States to online gaming operators; inconsistent advertising standards and restrictions applied to the marketing of online gaming products; differing standards for the protection of privacy and player data; and of course - differing mechanisms regarding the application of Value Added Tax (VAT) to online gaming products and services.

A further difficulty resulting from the absence of harmonization of EU law on online gaming, is the subsequent absence of uniform determinations on issues of legal and social importance - e.g. the appropriate manner in which to address problem gaming (it is noteworthy, in this

regard, that online gaming presents operators and regulators with enhanced tools to identify and assist problem gamblers). A particularly pertinent example demonstrating the inconsistency common to national regulation of online gaming is the issue of local presence - do to the absence of a uniform harmonized regulatory framework, jurisdictions are required to individually perform supervisory functions locally; to achieve the desired standards, many jurisdictions resort to mechanisms borrowed from the terrestrial gaming world, insisting that operators locate their technical infrastructure (and even their corporate infrastructure) within the licensing jurisdiction. Such requirements not only place an excessive (and entirely unnecessary) burden on operators, they are also patently inconsistent with EU law.

The aforementioned disparities lend themselves to the inevitable conclusion that EU Member States have thus far been unsuccessful in coherently and consistently identifying the challenges posed by online gaming, and the manner in which these are best addressed in compliance with EU law. Such an exercise would be vastly aided by uniform regulation of the online gaming market on a pan-European level.

Other comments on issues raised in section 1

An additional matter to consider in the context of European regulation of online gaming is the unavoidable discrimination between players in assorted Member States resulting from the disparate regulation of online gaming by these jurisdictions. Thus, in a manner entirely dissonant with EU Internal Market principles, players in different Member States are subject to differing legal regimes with respect to identical products, afforded differing levels of protection, and denied the right to enjoy equal access to the online gaming market under uniform standards. Similarly, operators in different Member States are subjected to inconsistent standards, differing tax rates, protectionist measures by national market regulators, and cumbersome barriers to the free movement of online gaming services across the Internal Market. Finally, the preferential status given by most Member States to national lottery and sports betting monopolies, often for reasons entirely inconsistent with the jurisprudence of the ECJ on this matter (though sometimes disguised as serving legitimate national interests), places commercial operators at an unfair disadvantage, entirely foreign to the principles of the EU Internal Market.

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 broad definition of online gambling contained in section 2.1 of the Green Paper covers the majority of online gambling products available today. However, the proposed definition ignores some of the important distinctions drawn by some national legislative frameworks. Of these, two are of particular significance to the online poker market - i) the distinction between online games of chance (e.g. roulette or blackjack) and online games of skill (e.g. poker); ii) the distinction between house-banked games (e.g. roulette or blackjack) and peer-to-peer games (e.g. poker). These substantive distinctions are crucial to the design of an adequate regulatory framework for online gaming.

In peer-to-peer games like those offered by PokerStars, the dealer or "house" (i.e. the online gaming website) is not a party to the game and it only provides players a platform upon which

they can play between themselves (in return for a fixed fee). In contrast, providers offering casino-style games (e.g. blackjack or roulette) essentially play "against" their own patrons, and profit from players' losses. Hence, while the latter must structure games to give themselves an edge, providers of non house-banked games are indifferent to the outcome of games. This obviously justifies differential regulatory responses due to the differing characteristics of each type of game (e.g. the differing levels of scrutiny over operator conduct as well as differing measures necessary to prevent fraud, collusion and illicit behavior by players).

The same is true for the distinction between online games of chance and online games of skill. The difference between these types of games has not only legal significance, but also requires an appropriate regulatory response, due to the differences in player conduct, differing exposure to problem gambling, etc. The unique characteristics of games of skill (e.g. poker), which substantively distinguish them from games of chance, merit separate regulatory treatment, which the Green Paper does not reflect (see more on this below).

(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?

Generally, we endorse the position that gaming products based wholly or predominately on skill, should not be considered "gambling", and that any regulatory regime should distinguish contests of skill from games of chance.

(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 questions in Section 1 supra.

Other comments on issues raised in section 2.1

In summary, it is PokerStars' position that the existing fragmented regulatory landscape in the Internal Market, results in the following adverse consequences:

1. Differing levels of protection for players;
2. Difficulty in amassing sufficient liquidity on ring-fenced national platforms, encouraging players to seek unregulated alternatives (which may be less safe);
3. Higher operator costs due to compliance and the loss of "economy of scale" advantages, resulting in reduced profitability for operators, and higher costs for players;
4. Efforts, money and time spent on legal proceedings as a result of inconsistencies and uncertainties;

5. Loss of income for media and advertising industry as a result of inconsistent regulatory restrictions; etc.

PokerStars supports standardization of the regulatory regimes across the Internal Market, on the basis of a well based analysis and understanding of the needs of consumers, operators, satellite industries and regulators, as well as an in depth familiarity with the unique characteristics of the online gaming industry. We support harmonization of technical standards, and other forms of cross-border cooperation to remove unnecessary and unjustified barriers to market access.

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?

Naturally, the universal nature of the internet, as well as the existence of cross-border broadcasting networks, coupled with the absence of pan-European harmonization regarding the marketing and promotion of online gaming, creates significant practical difficulties for operators. For example - the varying substantive differences in national legislation pertaining to the airing of poker-related content, creates immense practical difficulties both for operators and for media outlets wishing to offer such content to consumers across the Internal Market. Another example is the difficulty faced by operators sponsoring sports teams in a certain jurisdiction, when those teams compete in or with teams from other jurisdictions (where such sponsorship may be treated differently). Clearly, uniform regulation of the standards pertaining to commercial communications related to online gaming, would assist in the alleviation of such difficulties.

Furthermore, it is worthwhile drawing attention to the issue of affiliate marketing, which is widely used by the online gaming industry. As opposed to operators, who are the subject of specific regulatory requirements in many jurisdictions, the activities of affiliates are not necessarily regulated. This creates a potential vulnerability for the online gaming market, as well as potential risks for players, which could be mitigated by the adoption of uniform standards for the regulation of online affiliates and commercial promotion sites.

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

Given the importance of payment processing methods to the online gaming market, assorted jurisdictions within the EU have adopted differing rules related to the processing of payments for online gaming (both licensed and unlicensed). These differences exist not only in the context of enforcement measures against unlicensed online gaming activity, but also in the context of the types of payment methods approved for use by players engaging with licensed operators (an illustrative example are the differing national laws regarding the use of credit and debit cards for online gaming payments). Needless to say, these differences create practical difficulties for both operators and financial institutions which are not typically present in other forms of internet commerce, and which do not necessarily correspond to the attainment of legally defensible ends under EU law.

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

PokerStars is committed to ensuring that its online gaming offering is safe and fair, and that minors, problem gamblers and criminal elements are excluded from its services. The attainment of these objectives rests on the existence of adequate mechanisms to verify player identity, analyse player behavior, and safeguard players' funds. These are all achieved through a robust player account system. We firmly believe that standardization of the requirements applicable to player accounts will not only benefit players (due to uniform levels of protection across the regulated market), it will also help operators streamline account management, auditing and verification processes, and help national regulators conduct adequate and meaningful oversight of online gaming activity.

(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?

National legislation regarding customer verification vary from jurisdiction to jurisdiction. While some jurisdictions rely on digital verification (typically with the aid of a national database), others rely on manual verification or on third-party verification (e.g. through financial institution KYC processes). Furthermore, different jurisdictions set differing thresholds with regard to the triggers requiring enhanced customer due diligence. The difficulties posed by these distinctions are further exacerbated by the difficulties associated with performing KYC on foreign residents / tourists, etc.

PokerStars believes that maintenance of adequate customer verification standards is crucial to ensuring that online gaming is safe, fair and free of criminal elements. These goals would be advanced by both the adoption of uniform standards for customer verification (at different levels of scrutiny for different types of players), as well as by the creation of centralized databases accessible to operators for the purpose of augmenting customer-based verification processes. Methods used by financial institutions to meet KYC requirements across the Internal Market, could provide inspiration to the implementation of similar mechanisms by the online gaming industry.

For example, in some regulated markets (such as the UK), operators rely on 3rd party verification services to cross check consumer data (e.g. for exclusion of minors). This offers operators an effective available solution in real time. PokerStars supports regulation that would allow such services to be made available to operators throughout the Internal Market, rather than requiring them to undergo localized, cumbersome, and often - less efficient, customer verification processes. While the former could have positive knock-on effects for e-commerce across the Internal Market, the latter encourages players to access unregulated sites where the sign-up process is faster and easier.

The need to collect player information and documentation for verification purposes, dictates the further need to safeguard player data in an adequate manner, consistent with EU data protection standards. Once again, PokerStars believes that players, the industry and regulators would all benefit from the adoption of uniform standards in this regard. Furthermore, by streamlining customer verification processes and creating harmonized verification solutions, as advocated above, the need for individual operators to maintain separate caches of player data and documentation would decrease, contributing to the overall interest of player data protection.

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)

Research shows that true games of skill, such as poker, are far less prone to problem gaming (and may even discourage it). For example, the Harvard Medical School's study titled "Sitting at the Virtual Poker Table" (attached) found that poker players reduce their play time and stakes after losing repeatedly (much like players of other sports, where losses indicate to players that their personal skills are either insufficient or inadequate compared to those of their opponents). This discourages the "loss chasing" phenomena which sometimes occurs in other forms of gaming.

Furthermore, experience in regulated markets (the UK being an excellent example), clearly shows that liberalization of online gaming, and easy access to online gaming products, has not resulted in a significant increase in problem gambling. This is primarily due to the fact that online gaming afford operators the ability to identify and exclude problem gamblers much faster than is possible in the terrestrial gambling world. Operators pursuing an adequate responsible gaming policy, can contribute significantly to the prevention and treatment of problem gambling.

(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)

PokerStars believes operators need to use a suite of complimentary responsible gaming measures in an integrated, risk-based, approach. These should include age verification and vigilant exclusion of minors, employee training focused on socially responsible gaming practices, player verification, adequate self-exclusion and self-limitation mechanisms, operator imposed limitations for beginner players, provision of responsible gaming information and support, etc.

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

Data published by the UK Gambling Commission shows that the prevalence of problem gambling remains in the region of 0.5-0.7% (according to data collected between 1998 and 2010). Data collected by Sintef in Norway showed similar numbers, unchanged between 2002 and 2007. These data suggest that despite the proliferation and growing popularity of online gaming, problem gambling has not increased.

(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?

PokerStars' experience shows that online gaming is not only no more prone to problem gambling than terrestrial gambling, but rather the opposite is true. The real-time and historical data available to operators regarding player behavior, coupled with advanced technological solutions, make it possible for operators to rapidly identify problem gamblers, exclude them from further participation in online gaming, and refer them to assistance or treatment as appropriate.

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

As noted, studies show that skill games, such as poker, are by their nature less prone to problem gambling patterns than pure games of chance.

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

From our experience, the contribution of governments to prevention of problem gambling is achieved primarily through corresponding requirements imposed on operators through licensing requirements. PokerStars and other operators, as well as assorted NGOs, are involved in sophisticated and easily accessible problem gambling assistance and treatment programs, the details of which are made available to players, inter alia, on operators' sites.

(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?).

(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?

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

PokerStars employs sophisticated methods (including through reliance on commercial 3rd party providers) to verify that players are not minors. We believe that the solutions available to online operators in this regard, are as effective in excluding minors as the traditional terrestrial methods, if not more so.

(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.

We believe that harmonization of rules applicable to advertising and promotional activities across the Internal Market would be beneficial. Generally, we believe advertising for online gaming should be socially responsible, following these general guidelines:

1. No targeting of minors;
2. No portrayal of gaming as a means for solving debt problems;
3. No equation of gaming with social success, personal attraction, etc.;
4. No encouragement of irresponsible gaming behavior;
5. No misleading of consumers regarding the chances of winning.

Needless to say, both operators and media enterprises would benefit from a coherent harmonized approach, particularly given the trans-border nature of many forms of media used to advertise online gaming.

(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

Academic research clearly shows that mechanisms existing in the context of online gaming are often more successful than regulation pertaining to terrestrial gambling in mitigating the risks related to gambling. The existence of comprehensive record keeping and the ability to analyze and track online activity (due to the possibility of accurately recording every single online transaction), facilitates the identification of problem gambling patterns (as well as immediate exclusion and the provision of assistance), cheating or collusion, as well as money laundering attempts and other criminal activity. These, along with the ability to more effectively monitor and cap player spending, grant online operators the enhanced capability to detect and prevent problem gambling, fraud and collusion.

Further information in this regard may be found in the 2009 report titled "Can Internet Gambling be Effectively Regulated? Managing the Risks", authored by Prof. Malcolm K. Sparrow of the John F. Kennedy School of Government at Harvard University, as well as the expert opinion of the TUV Rheinland titled "What is the Internet Capable Of?".

PokerStars' primary gaming license is from the Isle of Man (IOM). The three core principles of the IOM regulation regime, are as follows – (i) keep gambling crime free; (ii) protect the young and vulnerable; and (iii) ensure that facilities offered by licensees are fair and that players receive their true winnings. In addition, the IOM regime also addresses the issues of data security and privacy protection.

In connection with underage gambling and problem gambling the IOM regime includes the following central elements – licensees must utilize age verification technologies aimed at excluding underage players. Licensees use various methods of age verification including data services, and the limiting of access by use of PIN numbers mailed to participants' home addresses. All licensees must contribute to a central fund used to promote research, support

and education in the field of problem gambling. Additionally, websites must contain mechanisms allowing players to exclude themselves from future participation, registration or receipt of marketing materials. A mechanism must be in place to prevent self-excluded players from re-registering to the site. Mechanisms must be implemented to allow players to self limit their participation, and to prevent gambling from occurring until funds (or an appropriate guarantee) have actually been deposited in a player's account. Operators must use their "best endeavors" to cancel the registration of problem gamblers.

As noted, PokerStars is also licensed in Italy. The Italian regulator (AAMS) has adopted measures aimed at protecting players (specifically – vulnerable players), which include measures for – safeguarding minors from gambling; safeguarding players by implementing standards of transparency and supervision; responsible gambling campaigns; and a legally imposed cap on wagers. Inter alia, operators must comply with the following requirements –

Players must be registered on the centralized registration system operated by AAMS, prior to gaining access to a provider's website;

Operators must establish mechanisms for self exclusion, and for preventing access by minors;

Operators must promote responsible gaming measures, and supervise customer activity in accordance with the Italian Consumer Code.

Furthermore, PokerStars has adopted self-imposed measures to encourage responsible gaming - provision of guidelines for self assessment by players; providing information and links to problem gambling assistance; providing free software to allow internet users to block access to gaming sites for themselves or their families; limitations on deposits and manual approval for high-volume players.

PokerStars believes that the adoption of uniform industry standards in this regard, will benefit players, assist regulators and strengthen public confidence in online gaming as a whole.

2.3.2. Public order

(27) Are you aware of studies and/or statistical data relating to fraud and on-line gambling?

PokerStars believes that a well regulated and responsibly administered operator can effectively prevent the vast majority of attempts by fraudsters to abuse online gaming platforms, by using a comprehensive set of advanced technological solutions that are uniquely available in the online gaming (as opposed to terrestrial gaming) world.

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

(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?

As in connection with the prevention of problem gaming, PokerStars believes that a suite of overlapping measures is necessary to effectively combat suspicious and illicit activities online. In this context, PokerStars adheres to EU AML requirements, and has also put in place a series of advanced methods to detect and prevent any attempt to misuse its systems. In addition, we employ highly trained personnel to handle financial transactions, in a manner that compliments the technological solutions put in place.

(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?

Player to player transfers - to be completed.

(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

Due to the nature of peer-to-peer games, wherein players play against each other and not against the "house", and wherein the operator has no stake in the outcome of the game, the risk of operator-fraud is naturally low. In these types of games, the primary concern relates to collusion between players. As noted, the technical characteristics of online gaming vastly enhance the ability of operators to detect and prevent suspicious behavior. PokerStars has implemented technologically advanced solutions that monitor player behavior patterns to detect any abnormal behavior or any indication of fraudulent activity (for example - the analysis of gaming data makes it possible to quickly detect players engaged in "chip dumping", players who regularly play at the same tables with other players, and other irregular player activity). Such technologies, which are wholly unavailable to terrestrial operators, make it possible to promptly discontinue any fraudulent activity by players, and remove suspicious players from play.

PokerStars believes that the adoption of uniform industry standards in this regard, will benefit players, assist regulators and strengthen public confidence in online gaming as a whole.

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?

PokerStars has been licensed by the Isle of Man Gambling Supervision Commission; the Italian AAMS; the French ARJEL; the Belgian Gambling Commission and by the Estonian Tax and Customs Board.

(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?

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

PokerStars supports the cooperation measures entered into between regulatory authorities of various Member States, particularly when those allow for easier market access, reduce compliance burdens, and contemplate mixed liquidity between players from different jurisdictions. We believe such cooperation should be enhanced to cover the entire Internal Market through systematic harmonization of the regulation of online gaming throughout the EU.

(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?

Our experience shows that ISP blocking measures and similar attempts to prevent consumers from accessing different types of internet sites, have been largely unsuccessful. PokerStars believes that a robust and safe regulatory regime, is vastly more beneficial to all those involved, is far more compliant with the basic nature of the internet and is consistent with the basic principles of the Internal Market.

(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

Attached please find a short summary regarding the classification of poker as a game of skill.

Games of skill (and certainly those that are "peer-to-peer" games) have always been recognized as being distinct from games of chance and worthy of different legal treatment due to their unique characteristics. We believe this substantive distinction should be reflected in any regulatory regime for online gaming.