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Privacy & Online Gambling

Editorial



Eprivacy takes center stage for this summer issue of EGBA news. EU legislators have been busy on that front with the General Data Protection Regulation (GDPR), and now the ePrivacy Regulation which both should come into effect by 2018.

With the ePrivacy regulation being discussed at the moment in the European Parliament, we are delighted to give the floor to **MEP Daniel Dalton** shadow rapporteur on the file. MEP Dalton casts a critical eye both on the timing of the proposed regulation as well as its intended objective. MEP Dalton remains doubtful whether the eprivacy regulation has added value to the GDPR, and that any deficiencies in the GDPR should be resolved there, not in a separate regulation.

We also welcome in this issue the view from **Mark Robinson, Delta DNA**, a leading data analytics company on the impact of the GDPR on gambling operators' advertising policy. Taking a different angle, Mark Robinson argues that the GDPR is an opportunity for the industry to optimize their responsible gaming policy.

Last but not least, we feature an infographic on the **European Commission Digital Single Market** and its relevance to the online gambling sector.

Maarten Haijer,
Secretary General, EGBA

Privacy in the digital age – How far should the European Union regulate the online sphere?

Daniel Dalton, Member of the European Parliament, and shadow rapporteur on the draft ePrivacy regulation shares his views with the EGBA on the challenges that this new proposal will pose to on-line industries.¹

The ePrivacy proposals pose significant challenges for any industry with a digital presence. Not only is the timeframe problematic, with a proposed implementation date next May, but it includes proposals which make all communications data confidential by default.

The ePrivacy proposal is likely to catch many services and industries, including the gambling industry, unnecessarily. The gambling industry is not built around electronic communication but has embraced it to offer both a much enhanced service and to be better able to identify suspicious betting patterns which can identify cheating and match fixing.

This inclusion of all industries with a digital presence, envisaged by this proposal, means everyone will need to take note. This is particularly true because ancillary features, which are intrinsic to another service, are also included. Ancillary services include chat



"Ancillary services include chat box functions and could affect many online industries from gambling, to clothing websites, to online gaming. The collective impact on customers will not be small, in the UK alone 17% of the population gamble online."

Daniel Dalton, Member of the European Parliament

box functions and could affect many online industries from gambling, to clothing websites, to online gaming. The collective impact on customers will not be small, in the UK alone 17% of the population gamble online.

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Privacy in the digital age – How far should the European Union regulate the online sphere? (Cont from the page 1)

Match-fixing is an existential issue for the gambling industry, which has, particularly in Europe, done a significant amount to try to identify suspicious betting patterns using data mining techniques. The increasing calls for more collated data to be shared on suspected match-fixing when detected by a stakeholder requires access to the data being held and transmitted by all betting companies.

The processing of data for the purposes of detection is currently allowed under the new general data protection regulation. However, the ePrivacy proposal reverses this position and propose to curtail such processing. To date I have not received any satisfactory explanation as to why this should be included.

The proposal does include an exemption for detection of criminal offenses, however it is not clear how broad this will be and if this will be enough to ensure that betting companies can continue to use data for these purposes. It is crucial that access to data for these reasons is maintained and the legislation will not

be fit for purpose if it makes it harder for the industry to police itself.

The aim of ePrivacy is to protect the confidentiality of the most sensitive communications. It is not to hamper innovation, diversity of services, and indeed the security of services.

An example of the unintended and damaging consequences of over regulating to protect confidentiality of communications are virus checkers, which are hired by a company to improve cybersecurity but could disappear altogether.

Under the proposal a virus checker is not considered as an end-user or a provider of electronic communication networks or services, therefore the virus checker has no grounds under which it can scan the traffic related to companies' computers and the external internet. Rather than taking into account the growing threat from cybercrime, the proposal essentially makes virus checkers illegal.

Gambling companies, which need to build and retain the trust of their customers, face huge and growing challenges to ensure their cyber security systems are up to date. EU legislation should be helping this, not hindering it.

One of the more high profile elements of the proposals are the European Commission's attempts to fix the disastrous cookie rules. The commission recognised there was a problem but unfortunately their proposals to fix it will actually make the situation even worse. The proposals

will create a second layer of cookies which will ask people to change their default settings. The distinction between what the proposal terms first and third party cookies is obsolete and will serve only to make independent web audience measurements, across all of the industries, more difficult.

Until the General data protection regulation (GDPR) is implemented the role of ePrivacy

cannot be properly accessed and holes in the regulatory framework cannot be identified. The most sensible course of action would be to wait until we see the deficiencies of the new GDPR rules, which don't come into force until next year, and then react to them with an updated ePrivacy proposal. To rush head first into a review of ePrivacy any earlier needlessly complicates the regulatory framework for everyone.

If the EU does seek to widen the scope and double regulate the gambling industry, then at the very least it cannot maintain only one narrow basis for processing data. ■

¹ Disclaimer : The article is the responsibility of the author and does not necessarily reflect the position of EGBA



How the GDPR will help operators optimise their responsible gaming policy

Mark Robinson, CEO and founder of Delta DNA, a leading data analytics company, talks to the EGBA about the impact of the GDPR on operators' marketing activities.¹



GDPR is undoubtedly going to make a significant impact on European licensed online gambling operators, when it comes into force in May 2018. The requirements of GDPR will undoubtedly be seen by many operators as being a threat to their business, due in no small part to the scale of potential fines they can face, up to 4% of total global annual turnover or €20 million, whichever is greater. I don't blame them. This legislation appears tailor made for extracting big fines from an industry that is a long way away from having control over its customer data.

So, with all these weighty topics up for debate, the volume of poorly targeted emails sent to customers should become a priority for operators as explicit consent² will be required for profiling activities or cross-border data transfers. While this may appear as a threat to the industry, it can also be viewed as an opportunity to address the major problems it faces. An emphasis on improving data management will in many cases organically lead to a review of how data is used and the value it provides. With encouragement from regulators, the potential of behavioural data should be brought within scope. As operators are already going to require explicit consent for CRM profiling, there will be little additional impositions from the collection and processing of behavioural data, particularly as behavioural data is strictly gathered anonymously, with no way of identifying the device or user. It's only the reconciliation with CRM data or other augmentation that brings it

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of the game, identifying unusual activity and correcting it, live within the game, through messaging, making offers or changing game parameters, such as imposing restrictions on cashing-out, or the availability of specific types of bet.

Behavioural data, when combined with predictive analytics and the capability to react to what's happening in real-time, provides a powerful tool to identify and mitigate potential fraud and money laundering. It can manage player experiences very closely, so doing away with the protective and misleading

under the auspices of GDPR.

Behavioural data is the data collected on the activities of players within a game. Any activity they undertake within the game can be recorded for the purposes of statistically evaluating the health

"By understanding how individual players interact with a game, it is possible to use predictive analytics to define players who are most likely to be at risk and provide progressive remedies, through messaging, incentives aimed at preventing these behaviours, and imposing limitations on the account."

covenants associated with sign-up bonuses, that are so unloved by players and regulators alike. Importantly, it is also the ideal tool for identifying the well-defined behavioural patterns associated with problem gambling when they occur, and enabling the game to encourage healthier patterns of play, or impose protective limitations, automatically and live, as the player plays.

By understanding how individual players interact with a game, and comparing this to well defined problem behaviours, such as only leaving with zero credits, high numbers of daily sessions and taking increasing risks after losing, it is possible to use predictive analytics to define players who are most likely to be at risk and provide progressive remedies, through messaging, incentives aimed at preventing these behaviours, and imposing limitations on the account.

This has to be the way forwards, as the disadvantages of self-exclusion are well documented. It's a tool that can arrive too late for some of the affected players, offering only limited protection, and for the operator it risks to act as a means of chasing away high value players to competitors. ■

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² Article 29 Working Party under Directive 95/46/EC describes it as "all situations where individuals are presented with a proposal to agree or disagree to a particular use or disclosure of their personal information"

“ Spotlight on the online gambling sector in the EU’s digital economy. ”

The EU Digital Single Market

The **leading European online gambling operators** support the European Commission’s implementation of the digital single market strategy.

The EU Digital Single Market aims to make the most of the digital opportunities in Europe by ensuring companies offering their goods or services in the European Union are subject to the same rules regardless of where they are based.

EUROPEAN ECONOMY

Europe’s online gaming’s gross gaming revenue is expected to rise from **16.5 billion in 2015** to **24.9 billion in 2020**

LEGISLATION

More and more EU legislation and initiatives, such as the **4th Anti Money Laundering Directive** and the recent **EU privacy legislation**, will transform the way online gambling companies operate

ENTERTAINMENT

More than **20 million EU consumers** enjoy the high-quality regulated online gambling services provided by the members of EGBA.