

Legislative environment

EGBA strives for a non-discriminatory regulatory framework that allows European consumers to have the choice to access safe and secure EU-licensed and regulated online gaming services.

EU legislation for online gaming?

Like any other internet service, online gaming is by definition a cross-border activity that does not stop at the territorial boundaries of individual Member States. For this reason, gaming is already covered by some EU consumer protection rules, such as the Unfair Commercial Practices, the Distant Selling and the Data Protection directives. It would make sense to harmonise the gaming sector at EU level on the basis of the principle contained in the EC Treaty that ensures the freedom to provide services. But it is also clear that so far there has been little political appetite to harmonise the legislation and that, despite increasing interest and discussion, there is no political momentum for it yet. Nevertheless, both consumers and operators would ultimately benefit from a single piece of legislation that would regulate the sector across the EU.

Up to the Member States?

Yes, but only to a certain extent. In the absence of EU legislation, the Member States can have their own legislation to regulate their market and protect their consumers. However, that does not mean that EC law is irrelevant. As was confirmed by the recent Santa Casa ruling, gaming is an economic activity and the legislation of Member States therefore needs to comply with the basic rules and freedoms provided by the EC Treaty. Any restriction must be strictly justified for consumer protection and public order purposes and meet clear conditions. It also means that the European Commission is mandated, in its role of Guardian of the Treaty, to ensure that both existing and future legislation of Member States do not infringe upon basic freedoms. If they do infringe, the Commission can refer the offending Member State to the European Court of Justice.

What can Member States regulate?

Member States are entitled to have national measures, but they must consider the measures and level of protection offered by other EU jurisdictions to avoid unnecessary administrative duplications. These measures cannot discriminate against operators that are licensed and regulated in other Member States or be misused for other purposes such as protection of traditional monopolies or tax income of the state. When drafting legislation Member States need to be aware that they are part of the Common Market and that measures restricting it should be properly motivated and supported by objective evidence and data.

What does the industry do?

In addition to the protection that is provided by both EU and Member State legislation, the EGBA has developed a comprehensive set of additional standards that covers all aspects of player protection, fair gaming and responsible operator behaviour in the online gaming and betting environment. Pending harmonization of regulation at EU level, the establishment of a European Code of Conduct is the best practical option in the near future. It will ensure that EU licensed operators apply a common and consistent set of responsible standards and guarantee consumers can play in a safe, secure and reliable environment.