

**EGBA contribution to Workshop II: “The organization and financing of sport”
EU Sport Forum, Madrid, 19-20 April 2010
Second session: “priorities for the planned Commission initiatives
in the field of sport”**

item 4: Match fixing

Online betting operators in Europe have been instrumental over the last few years in detecting suspicious betting pattern and therefore preventing and informing sports bodies of possible match fixing risks.

It is important to note that corruption in sport goes far beyond the sole remit of sports betting. Pretending otherwise just draws the attention away from the wider range of other possible threats to Sports integrity as recent non betting scandals (Formule one, Rugby) have recently shown.

EGBA strongly recommends that the Commission develops a broader approach towards Sports integrity looking at all possible sources of threats rather than solely addressing match fixing. Any EU policy that would just seek to address one source of risk would be unlikely to deliver adapted and efficient solutions.

Discussion initiated recently with the European Sport Security Association and the EU Athletes, has shown that that education and information of Athletes on the various sources of threats to the Integrity of Sports, is lacking today in Europe. They are not properly informed about the rules or about specific behaviors that could generate suspicion or even bring them at some point to corrupt a match. Therefore Sport Integrity policies that are solely based on sanctions are unlikely to succeed if Athletes are not even properly aware of what the underlying rules are. Prevention through adapted education and information tools should therefore be an important part of any efficient Sports integrity policy.

This has brought EGBA, ESSA and EU Athletes to define concrete recommendations and launch on the 15th April 2010 an education campaign to prevent Athletes around Europe to take risks in relation to sports betting <http://www.egba.eu/en/consumers/athletesconductcode>.

Moving forward we would recommend the Commission to tackle Sports integrity as a whole bringing all stakeholders in the sport entertainment chain around the table to clarify facts and figures in relation to various forms of threats and identify tools and best practices which implementation would be effective in preserving Sports' integrity.

Item 6: The role of sports betting and gambling in relation to the financing of sport

1/ Ongoing developments in the betting and gambling sector are not a threat but a clear opportunity for Sports:

- The development of online betting and gaming does not jeopardize existing revenue streams whether through tax income of central government **or** the revenue of certain national lotteries that are redirected to Sports in certain Member States;
- Existing state monopoly funding schemes are based on offline gambling revenue which is expected to continue to expand in the coming years and keep the lion share with 88% of the market. Therefore the existing financial streams will not be affected by the development of online gaming and betting;
- The development of online betting contributes on the contrary to increase the financial value of Sports: not only increasing visibility and interest for Sports at large or targeting new audiences, but also providing diversified sources of revenue.

2/ The contribution of sports betting to the financing of sports is many fold:

- As a complementary and popular form of entertainment it creates increased interest in sports events;
- Online betting, through audiovisual agreements and especially live streaming, broadens the visibility of sports to new audiences, even for secondary sports such as bowling, badminton, volleyball or table tennis that tend to have more difficulties to gain visibility through mainstream media or TV stations. The potential market for internet protocol TV/live streaming rights is enormous. Sports right owners can establish new revenue streams by carving out IPTV/Live streaming audiovisual rights from the traditional rights sold to traditional TV broadcasters;
- Sponsorship is also an important source of revenue for professional sports. Today however leading European operators are still unable to conclude or to maintain partnerships with Sports in certain Member States due to unjustified market restrictions:
 - As a result of the prohibition of the provision and advertising of online gaming and betting in Germany in 2008, German sports representatives have estimated that Sports as a whole in Germany was suffering a loss of 200 to 300 million Euros.
 - Unibet, one of our members, has been supporting a Swedish cycling team for several years from grass root to top Pro Tour team investing

approximately 17 million Euros before getting excluded from 9 ProTour races for the sole reason that the sponsor was considered illegal by certain national laws that where in return considered by the European Commission not compatible with EU law.

- These restrictions, including those in Germany or France, have triggered several infringement procedures from the European Commission;

EGBA therefore concludes that the only way to secure an optimum “financial return to Sports” from gaming and betting operators is to enforce EU Competition and Internal Market rules in the European online gaming and betting sector in a systematic and consistent way.

Item 7: Intellectual property rights

- EGBA strongly supports the need to ensure the consistent enforcement of Sports IPR in all Member States and to fight against any form of piracy of these rights;
- It is in the very interest of European online betting operators that the rights for which they conclude specific financial agreements are not illegally used free of charge by other stakeholders;
- It is important to note however that contrary to Audiovisual rights (sound and images are indeed protected) certain aspects of competition and sport events are, and have to remain publicly and freely available for information purposes (sports results and fixture lists in particular) and are subject in that respect to clear case law of the European Court of Justice;
- Although France has taken the initiative under its newly adopted online gaming and betting legislation (not enforced yet) to grant organizers an extended right over their sport events, EGBA considers that the sport’s right provisions in the law:
 - Are not compliant with EU competition and Internal Market rules and will therefore be subject to legal challenges both at EU and national level;
 - Set a worrying precedent and threaten the freedom of speech as they grant an exclusive right to specific sports stakeholders over information that is currently in the public domain;
 - Are detrimental to secondary sport as they force sports betting operators to concentrate their resources on larger sports federations;
 - Go against established case law in France as recently confirmed:
 1. On the 30 March 2010, the Tribunal de Grande Instance of Paris dismissed all claims raised by the French Rugby Federation (FRF) against the car manufacturer Fiat (see ruling attached page 13). The judge explicitly refused to extend the sport event organizers’ right to sport results and confirmed that these were strictly limited to audiovisual rights which objective is “*not to grant organizers a*

monopoly on the sport event for which no reference could be made without the consent of the organizers “. The judge held that sport event organizers “*cannot prevent all communication that would use a sport result or would refer to a sport competition*”. Finally the French judge stated that “*a sport event belongs to everyone because it forms part of the news, only its direct or TV representation is subject to particular rights*”.

2. On the 2 April 2010, the Paris Appeal court dismissed all claims raised by the Paris Saint Germain Football club against Bwin, in particular the allegation of counterfeiting and illegal use of its trademark (see ruling attached, page 4). The Court indeed found that the use of the acronym PSG or name of a sport team is a necessary reference to announce the events for which bets are offered by online betting companies such as Bwin;

For the above mentioned reasons, EGBA strongly opposes the definition at EU level of a property right for the organizers of sports competitions. Instead of seeking to create new rights which would jeopardize the fine balance that exists today between public and private interests and between different industries, EGBA recommends the Commission to focus on the enforcements of existing rights such as audiovisual and live streaming that have not achieved their full potential at EU level.

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