

EGBA submission to the Polish Presidency of the European Union

Introduction

The European Gaming and Betting Association (EGBA)¹ is pleased to submit its position on the issue of match fixing and financing of sports, which the Polish Presidency aims to discuss and adopt conclusions on in the context of the EU Council on Education, Youth, Culture and Sport later this year.

The EGBA represents the leading online gaming and betting operators established, licensed and regulated within the EU. Our members offer their services online such as sports betting, poker, casino, bingo and backgammon. All EGBA members comply with a set of strict rules in terms of governance and account control. Some of our members are publicly listed companies.

Combating match-fixing

A priority for online sports betting operators

The prevention of match-fixing is of the utmost priority for EGBA member companies.

EU licensed operators have a vested interest in protecting sports competitions from match-fixing. If a sports bettor already knows the outcome of a competition in advance due to manipulation and is able to bet on it, he is not only cheating other sport fans but also the betting operators who will inevitably lose money because the odds they are offering are not correct.

Since 2005, EGBA members have been working with the European Sports Security Association (ESSA)² to keep sport corruption free. ESSA's early warning system allows EGBA members to work hand-in-hand with sports federations, ensuring that if they spot any suspicious betting patterns the details can then be passed immediately onto the relevant federation to assist in their investigation. ESSA has already established close cooperation with UEFA, FIFA, EPFL, ATP, ITF, WTA, DFB and many other sports regulators through memoranda of understanding, not only for the purpose of preventing sports fraud but also with the aim of assisting in the investigation of past events which are still under review. This system is provided free of charge to federations with all costs borne by EU licensed sports betting operators.

According to ESSA, *"with 10,000 separate sports books across Europe each week, and millions of separate bets taken in 2010, ESSA identified 58 incidents across its membership*

¹ <http://www.eu-ba.org/en/>

² <http://www.eu-ssa.org/>

*that were deemed to be irregular. Upon thorough investigation by ESSA's bookmaking team, ESSA was able to establish that four of these 58 alerts were suspicious and their case files were sent to the relevant sports governing bodies.*³

A need for fact based policy discussion

Any future policy discussion that addresses match-fixing needs to be guided by facts. EGBA members believe that no match-fixing takes place through EU licensed and regulated sports betting operators thanks to the perfect audit trail that exists through the interactive channel in a regulated environment.

A clear distinction needs indeed to be made between EU-licensed operators who fully cooperate with regulators and federations versus unlicensed operators from outside the EU who may not apply the same strict rules and controls to their sports betting activities.

This has already been recognised in the recent conclusions published by the European Commission reflecting an expert workshop discussion⁴ organised in the context of the Green Paper on online gambling in May 2011 and confirming in particular that: *"Sport betting is not a threat to the integrity of sports competitions in principle; risks emanate from the use of enabling technologies (internet, mobile commerce, IPTV) by unregulated online gambling operators, particularly those coming from the Asian markets"*.

The same was confirmed by the President of the International Olympic Committee (IOC), Jacques Rogge in March this year when he publicly recognised that the unregulated market (notably in Asia) was the problem *"We have no issue with legal betting. Betting on sports events is as old as sport itself. Reputable betting firms are our allies in this effort."*⁵

Effective regulation

Evidence has shown that only regulation that meets customers' expectations and is in-line with market realities will help to control the black market in sports betting and thereby minimise the risk of corruption and match-fixing. EGBA believes that overly-restrictive regulation will be counterproductive as it will drive consumers to unregulated black-market operators.

Live betting

One area of focus for regulators has been live betting, or in-running betting that takes place during a sporting event and which in many markets now makes up the majority of betting volume and is proving highly popular with sports betting fans. This new form of betting is the way that the modern-day sports betting consumer likes to place bets. Preventing EU licensed and regulated operators from offering this popular product will not prevent it from being offered by black market sites but will remove the visibility for regulators and sporting bodies currently provided by licensed operators. By lowering the betting limits on live bets that tend to be less liquid than pre-match bets, responsible operators are able to meet the

³ <http://www.eu-ssa.org/LinkClick.aspx?fileticket=9%2BR9em4RhBY%3D&tabid=55&mid=372>

⁴ http://ec.europa.eu/internal_market/services/docs/gambling/workshops/workshop-i-conclusions_en.pdf

⁵ <http://www.olympic.org/sport-for-all?&articleid=118681>

demands of the betting public whilst at the same time reduce the appeal of such bets to those who may seek to profit from corruption in sport.

A shared responsibility

Match-fixing in sports has many roots and cannot be addressed solely from a sports betting perspective (see Oxford Research study).⁶ A failure to recognise this fact would draw the attention away from the wider range of threats to sports integrity as non-betting scandals (Formula One with team Renault, Rugby Union in the UK, cricket in India) has shown. All stakeholders (public authorities, betting operators, sports organisations, players' unions) must accept and share responsibilities. We believe the following to be a clear priority:

- Clear rules: There needs to be clear and consistent rules across Member States both in terms of prevention and sanctions. A large number of countries have not defined or have no rules on sports-related fraud and apply very different (penal) sanctions against match-fixing. Such inconsistency means that there is uncertainty for sports professionals about the rules that may apply and also makes cross-border investigations of suspicious activity even more difficult. That's why EGBA welcomes current discussion in the internal market committee of the European Parliament in the context of the report on online gambling which takes the view that *"a common definition of sport fraud and cheating should be developed and that betting fraud should be penalised as a criminal offence throughout Europe"*;
- Education for sports professionals: A lack of clear rules means that there is an urgent need to educate those involved in sport about the dangers of corruption in sport, what it looks like, how to deal with it and the consequences of failing to do so. This applies first and foremost to the athletes themselves as they are closest to the sporting event. This is why in 2010 EGBA, in conjunction EU Athletes, the leading association in Europe representing over 25,000 athletes, launched a Europe-wide campaign (which uses as a basis a code of conduct⁷) to educate athletes about sports betting.

A year into the campaign, the main lessons learnt from the programme were:

- There is a real lack of information at the grass-roots level of sport
- Some countries and sports federations have no rules on sports betting
- Where rules do exist, these are sometimes too opaque to understand and not communicated clearly and effectively

So far the campaign spans six European sporting nations, four of the largest EU Member States (UK, Germany, France and Spain), seven sports and targets 8,500 athletes.⁸ A unique feature of this campaign is the employment of ex-players and top athletes to go into the dressing rooms and have face-to-face discussions with their peers about how to behave properly in relation to sports and betting. This approach has proven to be highly popular amongst players and athletes who welcome the experience of being able to receive advice from a fellow athlete that understands the pressures of competitive sport.

⁶ <http://www.eusportsplatform.eu/Files/Files/examination%20of%20threats%20to%20sports%20integrity.pdf>

⁷ <http://www.eusportsbettingcode.org/>

⁸ http://www.euathletes.org/11/?no_cache=1&tx_ttnews%5Btt_news%5D=597&tx_ttnews%5BbackPid%5D=2

Financing of sport

Contribution of sports betting to the financing of sports

Sports betting companies and sports organisations are important partners in the sports value chain. This partnership takes place through a number of channels:

- Sponsorship, advertising and promotion agreements: In addition to the commercial opportunity for sports betting companies from promoting sporting events, there is also an increased level of interest in a sporting event when wagering is involved and sponsorship, advertising and live streaming agreements with sports betting companies are major sources of revenue for sporting bodies across the globe. In 2010, the gambling sector was ranked number 7 out of the top 10 sponsors of sports teams and events in Europe. According to the European Sponsorship Association⁹, gambling companies in 2008 (this includes private companies and lotteries) had \$ 96.6 million of reported deals in Europe.
- Live streaming: The increase in live streaming of sporting events, has significantly increased the visibility of sports to new audiences, even for secondary sports such as bowling, badminton, volleyball or table tennis each of which tend to find it more difficult to gain visibility through mainstream media or TV channels.

One popular myth is that the development of online betting in some way might jeopardise existing revenue streams, whether through lowering tax income generated by other forms of betting or by reducing revenues earned by national lotteries that is redirected to sports in certain Member States. In fact, offline gambling revenue is expected to continue to grow (with lottery products remaining the largest category product) and keeping the majority share of the market with an estimated 85% share by 2015.¹⁰ Despite the expansion of online betting in regulated markets such as the UK, Italy and France, the latest figures from their respective national lotteries show that despite poor macroeconomic conditions, their revenues have continued to grow.

Unfortunately, the reality is that leading European betting operators remain unable to conclude commercial arrangements with sports organisations in certain Member States due to unjustified market restrictions, restrictions that EGBA believes are in contravention of EU law. This is true in particular for European cross-border competitions such as the Europa League or Champions League. As well as being in breach of EU law, such restrictions are limiting the natural flow of funds from the sports betting industry to sports organisations.

The creation of new rights for sports organisers

EGBA strongly supports the enforcement of existing audiovisual rights, but clearly oppose the creation of new ones. The betting industry already pays significant sums for the use of images, sounds, and live streaming and supports strict enforcement against those that seek to breach such rights through illegitimate use. However, EGBA believes that the focus of

⁹ <http://www.egba.eu/pdf/EGBA-News-Issue8.pdf>

¹⁰ <http://www.eesc.europa.eu/resources/docs/holiday--2.pdf>

governments and regulators should be on improving the enforcement of existing rights rather than on the creation of new ones.

Some stakeholders are already attempting to define new rights which sports betting operators would then be forced to pay for in order to continue to operate. It should be noted that the European Court of Justice has already ruled that football fixture lists¹¹ and 'runners and riders' horseracing lists do not even give rise to a database *sui generis* right (which is considerably easier to obtain than a copyright). The claimed justification for such a right is the charge that sports bets are a commercial use of sporting competitions and that the sports betting industry is effectively 'free-riding' on the sporting event for commercial gain.

EGBA believes that sports bets are NOT a form of commercial use of sporting competitions. Betting operators 'sell' betting products to their customers, they do not 'sell' sports events to their customers. .

Sport betting as a commercial use of sporting competitions is only recognised in the French law since May 2010. A year after its implementation, the so called "betting right" has proven not to be an efficient tool as it has not achieved what it was designed to set out to do (namely serve integrity) for the following reasons:

- It is favoring premium sports at the expense of secondary sports. From June to December 2010¹², event organizers in all sports generated an income of no more than €530,000, with around 60% going to the football and 20% to tennis.
- It has a negative impact on consumer value: It increases the price customers have to pay, as betting operators have to integrate the cost of the "betting right" in they manage their risk.
- It has a negative impact on the operators: They have reduced their marketing and sponsorship spending. Today no more than five League football teams have betting partners, compared with more than half of the entire Premier League and Serie A teams in the UK and Italy respectively. It has made to the regulated offer in France becoming unattractive to consumers, uncompetitive and unprofitable for operators.
- Last but not least, event organizers have not increased their efforts in the fight against corruption in sport. A lot of small event organizers, that run only a limited number of events per year, clearly said they would not spend their limited resources on integrity but on commercial success.

There are however other concerns with such a "betting right". Giving such additional, new rights to sports event organisers will lead to conflicts of interest as sports event organisers would have *de facto* control of the betting product whereas it should clearly be the preserve of statutory regulatory authorities to determine the scope of sports betting markets and not sports event organisers. Second, such a right will force sports betting companies to only offer

¹¹ *Fixtures Marketing* cases C-46/02, C-338/02 and C-444/02; *British Horseracing Board v. William Hill* case C-203/02.

¹² <http://www.ariel.fr/IMG/pdf/20110121voeux.pdf>, page 6

bets on the most significant sporting events where volumes are sufficient to justify payment of the right, thereby polarising the flow of funds only to the very large events. Third, by forcing operators to remove coverage of second-tier sporting events, illegitimate operators can be expected to move in to fill the void. This will reduce the ability of regulators to monitor betting patterns on such events and increase the attractions for those seeking to profit from match-fixing.

If sport is deemed to be a social good and the objective is to generate more revenue for sport, then this should be done via central taxation, rather than a targeted attack on the sports betting industry.

EGBA believes that there are alternative and more efficient sports funding mechanisms (see Finland and Italy) where part of national tax revenue is earmarked for sports. For instance, in Italy, the sports betting industry's contribution to the financing of sports is guaranteed by governments/regulators allocating a percentage of the taxes paid by the sports betting industry to the financing of professional and grassroots sports.

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