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Brussels, 13 July 2011

Re: Letters sent to EGBA members on gaming and betting operations in Poland

Dear Sir,

I am writing to you in response to letters you have sent to a number of members of the European Gaming and Betting Association (EGBA) on gaming and betting operations in Poland. This letter is on behalf of those members.

EGBA is an association of leading European gaming and betting operators Bet-at-home, BetClic, bwin.party, Digibet, Expekt, Interwetten and Unibet.¹ EGBA is a Brussels-based non-profit association. It promotes the right of private gaming and betting operators that are regulated and licensed in one Member State to a fair market access throughout the European Union in line with EU law. All EGBA members adhere to the EGBA responsible gambling standards and the recently concluded workshop agreement on Responsible Remote Gambling Measures (CWA 16259: 2011) of the European Committee for Standardization.²³

EGBA members are committed to comply with applicable laws that are compliant with the Treaty on the Functioning of the European Union (TFEU) and do not wish to take any actions that could be regarded as infringements of those laws.

EGBA inter alia monitors regulatory developments in the Member States of the EU, including in Poland. We have analysed both the Polish Gambling law ('the Act') and the Act on the amendment

¹ <http://www.egba.eu/en/>

² <http://www.egba.eu/en/consumers/standards>

³ <ftp://ftp.cen.eu/CEN/AboutUs/Publications/GamblingMeasures.pdf>

of the Gambling law and have come to the conclusion that numerous provisions of the Polish gaming regulations violate EU law. As a result EGBA members would not be able to obtain a Polish license under terms that are compliant with the TFEU.

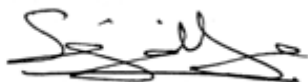
We consider that the refusal to allow a company founded in another EU Member State to apply for a licence and, at the same time, the requirement to get a gambling/betting licence only by establishing a company in Poland, is an obvious and disproportionate breach of the TFEU.

In addition to the above, the Polish law amongst other things allows private online operators to apply only for a sports betting license, it requires that online operators have devices for archiving all data exchanged between the operator and the customer located in Poland, it only allows for limited liability and/or stock companies (with a high share capital) established in Poland to be granted a license and it prohibits advertising and promotion of some games by private but not by the state operator. We believe these requirements violate EU law.

We would also like to point out that according to our information the Act, that as you confirmed in your letter of 13 May 2011 to EGBA contains restrictions that are applicable to the provision of online gambling services, has not been notified in accordance with Directive 98/34/EC. As these restrictions fall within the definition of technical regulations concerning information society services, EU law requires Poland to notify these regulations to the European Commission. As the Commission has recently pointed out in reply to a question of an Honourable Member of the European Parliament, the legal effect of the failure to comply with the notification obligation is the inapplicability of the regulations.⁴

In light of the above, we would welcome a clarification about the issues that we have raised in this letter. As a European Association we have considerable experience and knowledge of regulatory and other developments concerning online gambling in (the Member States of) the EU. We would therefore be keen to continue our dialogue with you and share further our knowledge to ensure an EU compliant and viable gambling offer can be provided to Polish citizens.

Yours sincerely,



Sigrid Ligné
Secretary General

⁴ <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2010-010534&language=EN>