European Casino Association response to European Commission public consultation on EU initiative on restrictions on payments in cash

The European Casino Association (ECA) welcomes the focus of the European Commission on tackling money laundering and would like to use this opportunity to provide further information on a possible EU initiative on the restrictions of cash payments. The ECA represents licensed land-based casinos in Europe, with 26 members from EU and non-EU countries with over 70,000 direct employees. For the ECA and its members, tackling money laundering is not only a legal requirement and a license duty, but also an obligation that is taken very seriously. Anti-money laundering regulation and measures are a fixed part of the compliance management system of licensed land-based casino operations in Europe and have been successful in eliminating such criminal activity in our venues.

It is important to understand that the licensed European casino industry fulfils some very important economic purposes. Most importantly it provides high tax revenues to governments and offers gambling products in a very controlled and safe environment with a focus on customers and prevention of problem gambling, whereby the focus is on optimizing revenues from gambling not maximizing them. It is crucial to understand that casinos are cash-reliant, both from an operational as well as customer experience perspective. Figures show that up to 80% of payments in some casinos are undertaken in cash, which for many customers is still the preferred payment method. The industry acknowledges this as a potential risk and has put in place a number of detailed and effective risk mitigation measures to ensure that licensed land-based casinos cannot be exploited for money laundering. These measures sufficiently deter criminals from using licensed land-based casinos for money laundering through the use of cash.

The ECA does not believe that for the licensed land-based casino industry cash payment restrictions would improve an already high standard of anti-money laundering processes. They would have a disproportionate and negative impact for customers and diminish the positive economic contribution of the industry. The introduction of cash payment restrictions for licensed land-based casinos should therefore be carefully considered to remain in the spirit of the proportionality principle and recognise existing strict measures.

Necessity of cash for the prevention of problem gambling

For the licensed land-based casino industry, responsible gambling is key in conducting business and is taken seriously based on the latest academic research. From a responsible gambling perspective that aims at preventing problem gambling, the use of cash in casinos should also not be unduly restricted. According to academic research in the field, it is likely that cash payment restrictions might even increase the danger and prevalence of problem gambling. The tangibility of cash makes it easier for customers to understand outgoing money than any form of cashless payment. Customers are in fact at times advised to use cash to have a better overview of their expenses by experts in the field of responsible gambling.

Existing mitigation measures

It is important to note that land-based casino operators have long since been obliged entities under the EU Anti-Money Laundering Directive and therefore have in place control measures and limitations on the use of cash in their establishments. Under the fourth Anti-Money Laundering Directive, all land-based casinos will have to apply customer due diligence measures for any transaction amounting to EUR 2 000 or more. Under currently existing anti-money laundering regulations and processes undertaken in properly licensed land-based casino operations, the use of significant amounts of cash is already considered a risk factor that is investigated, registered and could lead to a suspicious activity report (SAR) filed with the Financial Intelligence Unit (FIU). It is indeed already an expectation by regulators in many countries to mitigate against money laundering risks associated with cash, which is regularly examined. Licensed land-based casinos have robust controls in place and trained staff to identify unusually large amounts of cash and instigate the relevant customer due diligence measures. Furthermore, various methods of tracking cash and cash equivalents across all platforms have been put in place to identify potential money laundering incidents.

Detrimental economic effects

The introduction of severe additional restrictions on cash payments (above and beyond the measures already in place) would undoubtedly have a detrimental impact on the land-based casino industry. For many customers, the entertainment aspect of casinos partly stems from the use of cash that would clearly be impacted by a threshold that is too low. Past examples at national level clearly show this: After introduction of a threshold in Italy a decrease in revenue by up to 20% for licensed land-based casinos in the country was seen in all four licensed land-based casinos.

In this regard, it should be recognised that the land-based casino industry is a key contributor to economies and societies across Europe, generating high levels of taxation and funding for good causes, arts, sports, culture and many other fields. Furthermore, the industry provides skilled jobs for many citizens both through direct and indirect employment. It has to be ensured that a balanced approach is chosen in order not to put this positive contribution of the industry at risk.

EUROPEAN CASINO ASSOCIATION
SQUARE DE MEEÛS 38-40 · 1000 BRUSSELS · BELGIUM · PHONE +32 (0)2 401 61 30
WWW.EUROPEANCASINOASSOCIATION.ORG · INFO@EUROPEANCASINOASSOCIATION.ORG

Move towards illegal operators

The introduction of cash payment restrictions could also drive customers to seek unlicensed alternatives in unregulated and often criminal areas of the gambling industry. Such establishments operate without restrictions and equally lack customer protection, which could clearly counteract the aims of the initiative. This would severely increase the risk of money laundering and terrorist financing in an environment that cannot be controlled. Equally worrying is that such illegal operators often do not have responsible gambling measures in place, which could lead to an increase in the overall levels of problem gambling and other serious problems for customers.

Cash declarations

An introduction of a declaration for cash payments should likewise be carefully considered in order to ensure that it does not create undue bureaucracy. It should also be ensured that these do not unnecessarily duplicate existing efforts, such as the SARs that are submitted to the FIUs by obliged entities. A large increase in the amount of such declarations could also lead to an unnecessary burden for the FIUs and other investigating authorities that might overload them with reports. This might increase the workload and strain on resources without improving the quality of the investigation of actual money laundering cases identified.

Final considerations

For these reasons the ECA believes that the specific nature of each sector of industry should be taken into account. Where risks are already sufficiently mitigated through strict anti-money laundering processes, exemptions should be put in place. This is also in line with the recommendations of the Financial Action Task Force (FATF) that advocates a risk-based approach to anti-money laundering policies. It is also in line with the existing experiences of some EU Member States that have introduced cash payment restrictions and exempted certain sectors. For the licensed land-based casino industry, this should be equally considered as the risks related to cash are already sufficiently mitigated.

As outlined above, an unduly low cash payment restriction in the licensed land-based casino industry could have negative effects for consumers and the prevention of problem gambling, as well as lead to undesirable consequences with effects on taxation income, funding for good causes and employment. Any cash payment restriction should therefore be carefully considered and implemented with regard to proportionality.

In addition, the ECA supports an exemption that can then be decided at national level depending on each country's national risk assessment for money laundering, as well as the EU's supranational risk assessment (Directive 2015/849). This would ensure that each country's specificities are appropriately taken into account and ensures a clear application of the principle of subsidiarity and the risk-based approach. Gambling regulation is a competence of the Member States due to the specific moral and cultural differences between Member States, as well as the potential morally and financially harmful consequences for the individual and for society. This has been ruled numerous times by the Court of Justice of the EU. Any EU regulatory initiative should therefore ensure that it does not unduly contravene the Member States' right and possibility to regulate the non-harmonised sector of gambling policy. A measure on cash payments that would drive existing customers away to unregulated illegal alternatives, would not be acceptable.