



Brussels, August 2005

The revision of the Television Without Frontiers (TVWF) Directive

Observations of the European Casino Association on the issue paper on the scope of the Directive: “Rules applicable to Audiovisual Content Services”

The European Casino Association (ECA) represents the interests of over 800 casinos and approximately 62,000 employees across Europe. Founded in the early 90's as the European Casino Forum, the ECA has gradually grown over the years and today includes Members from the majority of the EU's Member States (Estonia, Luxembourg, Germany, France, the UK, Belgium, the Netherlands, Italy, Portugal, Spain, Slovenia, Poland, Finland, Sweden, Denmark, Austria, the Czech Republic) and from Switzerland.

The ECA has been following discussions on modernising the framework for audiovisual content with great interest. The establishment of a comprehensive framework for any form of electronic delivery of audiovisual content with a two tier system, linear and non-linear audiovisual services, seems a sensible approach. The latter of the two, non-linear services, we understand, “*would cover on-demand services where users/ viewers are able to choose the content they wish at any time, e.g. video-on-demand, web based news services, etc., whatever the delivery platform.*”¹

Due to the narrow definition of “television broadcasting” in Article 1(a) in today's TVWF Directive, gambling services do not fall within the scope of the Directive. However, the aforementioned broad definition of non-linear services would include any on-demand services made available through audiovisual means. This could bring gambling services provided via interactive television (ITV gambling services) into the scope of application of the TVWF Directive.

The ECA supports the proposed two-tier system. However, the association believes that the country-of-origin principle, which is the core of the TVWF Directive, cannot be applied to all non-linear services. The European Court of Justice has confirmed that it is up to the Member States' governments to decide what restrictions to impose on the freedom to provide casino services for the purposes of maintaining the social order and consumer protection.²

To this end, the ECA strongly advocates to take into account the special position the casino sector is put in and therefore to limit either the scope of non-linear services or to limit the application of the country of origin principle within the Directive in order to take into account national restrictions on the provision of casino services.

¹ European Commission, Issue Paper for the Liverpool Conference, Rules Applicable to Audiovisual Content Services

² See the decisions of the European Court of Justice in Schindler, Läärä, Zenatti, Anomar, Gambelli, and Lindman

The ECA is grateful for the opportunity to contribute to this consultation and would be delighted to have an opportunity to explain in more detail its views and concerns in relation to the above.