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Gambling Advertising

A Working Paper by the European Casino Association

In the context of the ongoing discussion at national and EU level on the advertisement of gambling, the ECA wants to address the issue of gambling advertising with a view to outline the ECA's position on the need to promote the advertisement of gambling activities through a licensed and regulated system.

In this context, it is foremost important to understand what is meant by the concept of "gambling advertising" and the implication that an uncontrolled system of gambling advertising might have on the gambling market as well as for the consumers. On the basis of this approach, and in line with the promotion of responsible gambling and the protection of the consumers, the ECA arrives to the conclusion that the advertising of gambling is key to promote a controlled and secure use of gambling services.

Rules on advertising

Based on its Members' extensive experience in operating in the gambling market, the ECA works with the following definition: gambling advertising is the promotion of gambling by casinos, lotteries, bookmakers or other gaming operators that provide the opportunity to either make bets, or just advertise their games, services, and facilities. Under this definition, gambling can be advertised through a variety of media, from traditional ones (such as the TV, the radio, and or newspapers) to new remote technologies (such as the Internet), as well as through sponsorship deals.

New demands, new rules?

The evolution of the gambling market due to the development of new technologies and the consequent entrance of new operators, such as remote operators, has led to an increase in the offer of gambling services and games accompanied at the same time by an increased expansion of the advertisement of gambling. Taking into account these recent developments of the gambling market, the ECA is particularly concerned about the potential negative consequences of an unregulated and uncontrolled expansion of gambling advertising on the consumers, especially on the most vulnerable players.

Indeed, advertising of gambling services without a license or without complying with certain legal obligations and requirements entails the risk to reach out to a wider public in an uncontrolled way. Taking into account the particular nature of gambling services, the ECA warns therefore that an unregulated system of

gambling advertising could increase the risk of delivering false messages regarding gambling services, of fraud, and of carelessness about responsible gambling.

Concerned by these risks, the ECA believes that acting as responsible and serious operators land-based casinos, as well as all gambling operators, have the primary responsibility to protect their consumers through a controlled expansion of gambling including the advertising of gambling services. This approach would be beneficial both for gambling operators, which would still be able to advertise their services and games in a regulated and controlled system as well as for consumers.

In a broader context, this approach based on a controlled expansion of gambling activities is in line with the recent judgements of the European Court of Justice (ECJ) and the Court of the European Free Trade Association (EFTA) in the so-called Placanica case and the case of the EFTA Surveillance Authority (ESA) against Norway¹. The ECA welcomes that the ECJ and the EFTA Court in its rulings confirmed national governments the right to limit and to control the offer of gambling services on their territory through a regulated licensed system with a view to safeguard public order, to protect the consumers, as well as to tackle crime and problem gambling.

To this aim, the ECA agrees that a policy of controlled expansion of gambling advertising is consistent with the objective of drawing consumers by means of advertising away from illegal and fraudulent gambling operators – with all the negative implications they may have on players – to regulated, and authorized operators.

What new rules?

Given the extensive experience of land-based casinos in complying with strict regulation and obligations at national level as well as in cooperating with authorities to help refine and update the rules to the evolution of the market, the ECA agrees that the regulation of gambling advertising should include the following requirements:

- **Licence to provide gambling advertisement.** Considering that in order to be granted and to maintain a licence casino operators have to abide by certain rules and obligations, the ECA urges that only licensed operators should be allowed to advertise gambling services and games. The ECA deems it crucial for the gambling operators to comply with and enforce minimum rules and standards, and calls for the licence status of the operators to be displayed in all gambling advertisements as a guarantee for consumer protection and for the accountability of the operators.

¹ The Placanica judgement can be accessed at:
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-338/04>

The EFTA judgement can be accessed at:
<http://www.dinesider.no/customer/770660/archive/files/Decided%20Cases/2006/e%201%2006%20judgment.pdf>

- **Regulation at national level.** Taking into account that, on the one hand, advertising has an influence on the consumption of gambling services. And, on the other hand, Member States have the right to define rules and regulations for their national markets in gambling services including the control of gambling services, the ECA agrees that the advertising of gambling should be based on provisions and obligations established by national legislation.
- **Compliance with the same rules and obligations amongst all gambling operators at national level** The ECA underlines the fact that the rules regulating gambling advertising are different for the operators in each segment of the gambling market. This difference places land-based casinos, which are subject to abide by strict rules and obligations, at a competitive disadvantage compared to other operators. Therefore, the ECA calls to extend the compliance and the scope of the same rules and obligations set by national legislation to all gambling operators with a view to ensure a level playing field amongst all operators in a given Member State.

In the context of the above, the ECA deems it therefore necessary to regulate gambling advertising imposing on all operators the same rules and obligations. In the ECA's view, this is the only appropriate measure to safeguard fair, legal and regulated advertisement of gambling by all operators.

A handwritten signature in black ink, appearing to read 'Goudsmit'.

Ron Goudsmit
Chairman, ECA

A handwritten signature in black ink, appearing to read 'Berghmans'.

Guido Berghmans
Vice-chairman, ECA

The ECA represents the interests of almost 900 casinos and approximately 80,000 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 and from Switzerland.

The ECA's members in 2008 include Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Luxembourg, the Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Sweden, Switzerland, and the UK.

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