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ECA WELCOMES DECISIONS OF EUROPEAN COURT OF JUSTICE AND EFTA COURT ON GAMBLING

The European Casino Association very much welcomes the decisions 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 Norway.

The two rulings are important victories over attempts to deregulate gambling markets and attempts to tear down national rules safeguarding responsible gambling and preventing crime.

The ECA and its members are happy that the ECJ and the EFTA Court in its rulings confirmed national governments right to limit and in doing so to control the offer of gambling services on their territory.

Two Cases – One Clear Message

The two cases were decided upon over the last eight days. The ECJ ruled on the Placanica case on Tuesday 6 March 2007 and the EFTA Court took a decision today marking two crucial decisions for the future of the European gambling market.

Both cases confirmed that EU Member States and Member States of the European Economic Area (EEA) are entitled to have national legislation in place limiting the offer of gambling and that these limitations are compatible with EU rules on the freedom to provide services and the freedom of establishment.

Members of the ECA are pleased to see the Courts take such clear positions in line with previous judgements on the issue of gambling. As Mr Goudsmit, chairman of the ECA put it, *"It is in the public interest, the regulators', and the gambling operators' interest, in other words in all our interests to have such clarity. The European Court of Justice and the EFTA Court have confirmed that national restrictions to protect players and to prevent crime are in line with EU law. We welcome these decisions and support that the principle of subsidiarity continues to be applied to gambling services."*

Placanica

The ECJ on Tuesday last week, 6 March, ruled that EU Member States are permitted to maintain a restrictive gambling policy. A certain number of reasons of overriding general interest have been recognised by the ECJ in this and

previous cases, such as the objectives of consumer protection and the prevention of both fraud and incitement to squander on gaming, as well as the general need to preserve public order.

Importantly, the Court in Placanica for the first time clarified that not only is it legitimate for Member States to have in place rules to control gambling markets, Member States can have a policy of controlled market expansion. *"... in order to achieve that objective, authorised operators must represent a reliable, but at the same time attractive, alternative to a prohibited activity. This may as such necessitate the offer of an extensive range of games, advertising on a certain scale and the use of new distribution techniques".*¹

Norway

The EFTA Court today dismissed that Norway has violated the rules of the EEA agreement on freedom of establishment and freedom to provide services by giving the State-owned company Norsk Tipping the exclusive right to operate gaming machines.

The Court held that national authorities are free to set the objectives of their policy on gambling and to define the level of protection sought. This national freedom the Court further clarified confirming previous judgements by the ECJ, applies for as long as the restrictive measures serve legitimate aims and satisfy the conditions of the proportionality principle.

To this end, *"In the Court's view, it is reasonable to assume that a monopoly operator in the field of gaming machines subject to effective control by the competent public authorities will tend to accommodate legitimate concerns of fighting gambling addiction better than a commercial operator or organisations whose humanitarian or socially beneficial activities partly rely on revenues from gaming machines."*²

Background information

The European Casino Association represents the interests of almost 900 casinos and 76.000 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.

For further information please contact the ECA EU Office (+32 2 777 05 06), ECA Chairman Ron Goudsmit (+31 653 130 335), or ECA Vice-chairman Guido Berghmans (+352 21 301 881).

¹ See paragraph 55 of the judgement. For more information on the case, including the entire Court judgement, please visit the website of the Court <http://curia.europa.eu/>

² See Paragraph 51 of the judgement. The entire judgement can be accessed at <http://www.dinesider.no/customer/770660/archive/files/Decided%20Cases/2006/e%201%2006%20judgment.pdf>, for more information please access the website of the Court <http://www.eftacourt.lu/>