

Position Paper on Illegal Gambling Services

Illegal gambling is when gambling services or products are offered in a jurisdiction where this activity is not licensed or generally allowed. The European Casino Association (ECA) herein provides key considerations for a more effective approach towards illegal gambling services. The ECA aims to encourage stronger enforcement through increased cooperation between countries and with the support of the EU institutions and relevant international organisations.

What problems are related to illegal gambling operations?

Gambling is a sensitive activity and is embedded in the social, economic and cultural environments specific to each Member State. National gambling regulations respect the different ethical, religious, cultural and historical backgrounds that exist across Europe. A gambling operator that provides cross-border services illegally does not respect these differences. An illegal gambling operator that is not subject to the rules and conditions, nor to the respective controls that have been created to protect the consumer and guarantee public order, as such allows irresponsible business interests to circumvent the public interest. The existence of illegal gambling services in European markets leads to concrete problems, namely

- (1) Illegal gambling operations do not apply adequate responsible gambling measures - common standard today in our industry - to protect minors, vulnerable individuals and those with a problematic gambling behaviour.
- (2) Illegal operators do not pay taxes in the country where the player is located, often seeking out the country with the lowest tax regimes. This leads to an unequal playing field for legal operators who respect all national regulations and requirements and pay high amounts of taxes.
- (3) Customers participating in illegal gambling offers should be aware that such operations are possibly linked to organized crime such as loan-sharking, money laundering, corruption etc. The dangers involved often go beyond the risk of manipulation and winnings not being paid out.

Who are the operators that provide illegal online gambling services?

These are operators that purposefully provide their gambling services without having obtained a license or concession in the country where these services are provided. This is often done cross-border via information-society means (internet). It is not relevant that these operators have obtained a license in their country of origin (or country of establishment). The principle of mutual recognition does not apply for online gambling. This has been repeatedly confirmed by CJEU rulings.

Is there a difference between the “grey” and the “black” or “illegal” gambling market?

For the ECA there is no difference between the so-called “grey” and “illegal” gambling markets. Both do not fulfil the requirements of the applicable legislation.

This wrongful differentiation between “black” and “grey” leads to three outcomes in the ECA’s view:

- (1) It creates a differentiation between “grey” operators based in Europe and “black” operators based outside and as such creates a false image of European-based operators behaving more responsibly than non-European ones. For us, both behave in an irresponsible manner and both disregard existing legislation.
- (2) It permits operators based in Europe to label themselves as non-illegal operators even though they are blatantly circumventing the laws put in place at national level to protect consumers and the general public.
- (3) It wrongly and unfairly suggests that attention should be focused more on operators outside of Europe, whereas it is equally important to focus on illegal operations stemming from within as from outside Europe.

What is the size of the illegal gambling market in the EU countries?

According to H2Gambling, the size of the “grey” gambling markets in the different EU countries varies between 2,5% and 100% of the total online gambling markets. The average share across the European Member States is roughly 50%. The share of illegal gambling has increased disturbingly over the past years and shows no sign of receding.

What tools are necessary to effectively tackle illegal operations?

There are a variety of tools to combat illegal gambling:

- IP blocking of illegal online gambling sites
- Payment blocking: Requiring financial institutions to refuse transactions from and to illegal online gambling operations
- Banning all forms of advertising for illegal gambling operations
- Creating white and blacklists to inform the general public and consumers about those gambling operations that are illegal

Many countries have very successfully fought illegal gambling through clever combinations of these tools.

The creation of “whitelists” and “blacklists” is not only helpful to inform consumers but also banks, media and internet service providers about operations that are licensed and controlled by authorities as opposed to illegal ones. This allows them to recognize whether their customers

provide legal or illegal services and if necessary end their business relationship with such operators. Gambling operators should be sufficiently deterred from providing their illegal services through the criminalisation of these acts and effective enforcement capabilities. Equally, consumers should be aware of the risks and dangers of illegal gambling offers.

Why are more efforts required in the fight against illegal gambling?

Cooperation between the regulators and other relevant authorities, as well as with international organisations such as Europol and Interpol can help identify the culprits, destroy the criminal networks at their roots and in future prevent the proliferation of illegal gambling services. The European Commission together with the Member States should actively support these efforts.

It would also be useful to encourage regulators to compile data and statistics on the size and origin of illegal gambling services. In combination with the experience of the industry, the results would be most valuable as the targets for effective enforcement would be much more easily identified. Some countries have been successful through involving the consumer in tackling illegal gambling. They established websites where people can provide information about illegal gambling activities anonymously.

Continued and even increased action is required to maintain the results from the combat against illegal gambling. Only in this way can Member States ensure that players are sufficiently protected from crime and from the dangers of unbridled gambling behaviour.

What is the ECA doing to reduce the supply of illegal gambling offers?

In February 2016, a cooperation agreement was formed between the American Gaming Association¹ and the ECA grounded on the following principles:

- Enhanced information sharing;
- Reducing the demand and supply of illegal gambling;
- Cooperation and continued training and capacity building for law enforcement; and
- Sustained commitment to call on policy-makers to take action.

The ECA raises public awareness on the issue of illegal gambling and makes it a point to discuss problems related to illegal gambling in all its communications. We continue to foster dialogue with political stakeholders and enforcement agencies to provide strategies to reduce illegal gambling offers, be it online or land-based.

¹ The American Gaming Association is the premier national trade group representing the \$240 billion U.S. casino industry.