

EPMA SEMINAR – 14 APRIL 2011 - Brussels

Learn from national regulation experiences for the benefits of European gambling markets

Aim for EPMA:

- EPMA wanted that seminar very early in the consultation process of the European Green Paper on online gambling to understand the challenges and to contribute to the debate
- We also wanted few people around the table to have a fruitful exchange
- Tools (ISP blocking, financial blocking, monitoring of illegal offer) and concepts (return to racing and sports, betting rights) implemented at national level are of interest for national and European Institutions – some were detailed during the Seminar
- EPMA wanted to assess that the real challenge of the Green Paper will not be to see if the various national regulatory frameworks can co-exist but more if common principles and values can be drawn from the debate.

40 participants - 15 representatives of Member States – 4 regulators/supervisors authority – 3 Sport representatives – 1 horseracing representative – 3 EPMA Board members (PMU, ATG, Rikstoto) – A Member of the European Parliament – A Member of the European Commission – 5 operators (lotteries and online operators) – complete list at the end of the document.

Background and Introduction

Since the European Services Directive in 2006 excluding the gambling sector from its scope, Member States have adopted legislative framework in the gambling area without following any common guidelines. Today, the Green Paper seems to be out of phase as legislations have been implemented. The document is more asking for an assessment of the current situation in order to see where coherence lies. The seminar is the occasion to understand the legislative frameworks, exchange on efficient tools, and better perceive the constraints.

EPMA was introduced in a few words: 10 Pari Mutuel/Tote operators to promote their business model, the Pari Mutuel system for betting as a vital support for the horse sector in Europe. We argue for the implementation or the preservation of funding mechanisms that secure a proper and regular financial flow to the horseracing industry and we have contributed to the debate by publishing various studies showing the positive economic impact of the sector that goes beyond the sport to horse breeding and rural development. EPMA members cannot approach the debate only by looking at online issues as economic concepts described in the Green Paper and to be discussed in the coming months, need a global thinking and a common coherence

The Green Paper wants to assess and debate on a certain number of public policy issues, EPMA have selected 2 for its Seminar: enforcement of licensing systems and the financing of public interest activities and events on which betting relies.

Session 1 - Francesco Rodano, Head of online gaming at AAMS and Jean-François Vilotte, President of ARJEL, Italian and French regulators described first the transition from strict controlled monopoly situations to opened markets with national and foreign licensed operators and then explained their respective approach of online gambling.

Francesco Rodano provided detailed insights into the Italian case. Since the new law adopted in 2009, and despite strict conditions, 200 gaming providers obtained a licence. As the panellist pointed out, some companies may not be viable.

The Gaming sector in Italy represents €62 billion – representing €10 billion taxation for the government.

AAMS is the biggest Regulation authority in EU with 1400 officers.

Cooperation agreements have been signed recently with Regulation Agencies in FR, UK, DK.

In France, the opening of the online market was not an objective but a way to regulate the market – 50 licenses in 3 gaming segments only (horse betting, sport betting and poker).

3 million players' accounts opened on Internet since June 2010 (2 million are active).

1% of players represent 51% of stakes – 10% of players amount for 76% of stakes

400 legal procedures opened against illegal sites – Many are already unavailable for French players.

ARJEL should implement financial blocking soon.

Jānis Ungurs Director of Law department of the gambling supervisory inspection of the Republic of Latvia briefly shared some insights into possible draft Law requirements. He emphasised that without a strict regulation to support the operation of the market, gambling operators do not apply for a license and prefer to operate illegally. He confirmed that without ISP blocking, licenses have no value.

Mathias Haerynck from the Permanent Representation of Belgium stressed that the Belgian EU presidency in 2010 pursued the reflexion on cooperation between member states initiated in July 2008 under the French Presidency. Since then, the exchange of information, the search for best practices is on the EU council agenda. Nonetheless, Mr. Haerynck conceded that *“we still need to put flesh on the bone”*.

Another essential cooperation should be at the surveillance level – Web investigation has developed recently and some cyber customs services are now responsible for tracking unauthorised gambling. Inspecteur **Kamel Zenati** at Cyberdouane described his work and techniques and how to enhance exchange of information and cooperation at EU level. Cyber Inspectors monitor illegal offer and advertisement. They can monitor by taking a false identity.

The evaluation of the illegal offer is done by monitoring social network, players' blogs and by discussing with legal operators.

Even if he did not approve the frameworks implemented in France and Italy as such, **Antonio Constanzo** from bwin.party admitted that regulated markets are the only way to fight against illegal offer. For operators, it is often a long and costly process but it has the advantage to regulate market and clarify competition. He added that BwinParty has finished with litigation after spending more than €20M on legal issues in the past years.

Bertil Vagnhammar, from the European Commission, said that although the Green Paper focussed on online issues, the Commission needed global facts about the sector. Moreover, even if some issues were not included in the Green Paper, it did not mean that operators or regulators should avoid mentioning all relevant issues in their contribution (for example, not included: Taxation, Virtual horseracing, TV advertisement...)

Session 2 “Fair return”: a concept for a sustainable development of the equine and sport sector in Europe? How to address the issue and build a long term effective framework?

The Green Paper addresses the financing of benevolent and public interest activities as well as events on which online sports betting relies. The Commission wishes to focus further on a possible existence of a principle of return to event organizers.

This chapter is of particular interest for EPMA members, who returned more than € 1.3 billion to the horse sector in 2010. We have demonstrated in a study in 2009 that the horseracing sector’s dynamism was dependent on a coherent legal framework guaranteeing on a long term basis and at a certain level, the return from betting. The sector is of great importance from an economic, ecological and cultural point of view, more than 4% of agricultural lands are dedicated to horses and European Regions fully benefits from activities linked to horses, Basse Normandie, Newmarket...

The Green Paper also addresses the specificity of the horseracing sector for which betting remains the main component of its funding. To go further than the Green Paper, may I add that it represents sometimes more than 12 % of the turnover of the Pari Mutuel company in certain countries. Furthermore, in certain countries the overall horse sector (equestrian teams and sport) benefits from the support of betting companies

In a more general sense, all events creating profits for betting activities should receive a fair return. It is not only a fair principle, it has an economical justification. However, it is a difficult principle to implement particularly if a levy/tax needs to be introduced. Here again, without any harmonisation or even clear recognition of the principle at EU level, Member States have followed national and cultural specificities. Today, such levy or betting right is questioned by the Commission and by stakeholders on the market. How can we imagine a framework of good practices shared by all?

Jean-François Vilotte, at the Head of ARJEL, is responsible for the implementation of the framework in France. He defended the concept of the “betting right” contained in the French gambling regulation adopted in 2010. This innovative legal instrument rules the relationship between organizers of sport events and betting operators and aims at recognizing the rights of sport event’s organizers on their events. Namely, licensed operators must receive an official “approval to proceed” from the organizers. Beyond increasing legal certainty, the “betting right” has been designed to tackle ethical issues. ARJEL insisted on the increasing risk of corruption in sport that goes with the development of online gambling offer. Finally ARJEL presented the tax affected to the horse sector as a natural evolution in so far as the development of the horseracing sector mainly relies on betting

revenue. As the compliance of this tax with the EU law is currently questioned by the European Commission, ARJEL called on an in-depth debate to set a legal ground to support the sector.

Bertil Vagnhammar from the European Commission agrees on approaching the concept through ethical and legal angles although it could be extremely difficult to discuss economic/taxation issues.

Francesco Rodano described the public funding system that has been put in place in Italy to support the sport and horse sectors and to ensure their development. Contrary to France that established a specific tax, Italy made the choice to allocate directly a predetermined funding to these sectors.

EPMA asked participants to complement the issue, by asking a lawyer to detail the legal concept of betting rights, by asking a sport representative to explain why it has become a sport case not only for integrity reasons and by asking a racing representative to describe how the return from betting could benefit more than one event organiser/racing authority.

Hugues Parmentier from Gide Loyrette Nouel investigated the concept of betting rights and its legality. He explained that if the “financial return” principle might no longer be questioned; the debate on the “fair level” of such return is far from over.

David Folker, CEO of DataCo and member of the Sports Rights Owners Coalition, went further in the justification of the principle, showing the close link with the database issue. He also expressed the strong support of his organization in favour of returning a part of betting revenue to sport. The first country to implement it is France and the example should be followed.

Achille Cassart, Administrator of the racecourse of Wallonia gave an example of the financial solidarity that is implemented this year in Belgium. He put forward the latest development of cross-border betting agreement concluded by the Region of Wallonia with the French PMU and pointed out the mutual benefit for French and Belgium horse racing sectors.

Damien Abad, Member of the European Parliament, praised the Green Paper and announced a hearing on the issue on 26 May or 15 June (TBC) within the committee on Internal Market and Consumer protection of the European Parliament. He argued for a “controlled opening” of the market and recommended three basic principles:

- no mutual approval of national regulations
- An increase in the exchange of best practices
- A recognition of the fair return principle

At the end of the exchange of views, **Peter Staviczky**, heading the Council Working Party on gambling for the Hungarian Presidency, relates how the content of the Green Paper has changed the agenda of the group, and announced a Progress Report for the end of May.

Harald Dorum, in the name of EPMA members, did the main conclusions of the debate and insisted on EPMA position in the future debate.

LIST OF PARTICIPANTS

	First Name	Name	Organisation
1	Damien	Abad	Member of the European Parliament
2	Greta	Agius	Permanent Representation of Malta
3	Antonio	Alegria	Ministry Turismo - Serviço de Inspeção de Jogos - Portugal
4	Laure	Alteirac	Damien Abad Assistant
5	Antonia	Artsanou	Permanent Representation of Greece
6	Ana Paula	Barros	Santa Casa
7	Daniel	Baptista	Permanent Representation of Portugal
8	Paulo	Calado	Santa Casa
9	Achille	Cassart	Hippodrome de Wallonie
10	Katarzyna	Chajec	Permanent Representation of Poland
11	Benoit	Cornu	Pari Mutuel Urbain (PMU)
12	Antonio	Costanzo	bwin.party
13	Harald	Dorum	Norsk Rikstoto
14	Benno	Eliasson	AB Trav och Galopp (ATG)
15	David	Folker	DataCo/Sports Rights Owner Coalition (SROC)
16	Mathieu	Fonteneau	European Olympic Committee (EOC)
18	Florence	Gras	European Pari Mutuel Association
19	Mathias	Haerynck	Permanent Representation of Belgium
20	Philippe	Hendrickx	Pari Mutuel Urbain (PMU)
21	Oana	Hidveghi	Permanent Representation of Romania
22	Rupert	Hornig	European Lotteries
23	Janja	Jereb	Ministry of Finance - Slovenia
24	Sophie	Martin-Lang	Permanent Representation of France
25	Mathieu	Moreuil	Premier League
26	Pierre	Pages	Pari Mutuel Urbain (PMU)
27	Marc	Paoloni	Moderator - Business Bridge Europe
28	Eleonore	Para	Autorité de Régulation des Jeux en Ligne (ARJEL)
29	Hugues	Parmentier	Gide Loyrette Nouel
30	Caroline	Peno	Autorité de Régulation des Jeux en Ligne (ARJEL)
31	Arnaud	Polailon	Fédération Française des Entreprises de Jeux en Ligne (FFEJEL)
32	Joana	Reis Araujo	Permanent Representation of Portugal
33	Francesco	Rodano	Amministrazione Autonoma dei Monopoli di Stato (AAMS)
34	Manuel	Santaella Vallejo	Permanent Representation of Spain
35	Peter	Staviczyk	Permanent Representation of Hungary
36	Janis	Ungurs	Lotteries and gambling supervisory inspection - Latvia
37	Bertil	Vagnhammar	Directorate General Internal Market and Services - European Commission
38	Sven	Vervloet	Commission des jeux de hasard - Belgique
39	Jean-François	Vilotte	Autorité de Régulation des Jeux en Ligne (ARJEL)
40	Kristian	Wellige	Permanent Representation of Germany
41	Andrea	Zahumenska	Permanent Representation of Slovakia
42	Kamel	Zenati	Cyberdouane - France