

RECOMMENDATIONS

COMMISSION RECOMMENDATION

of 14 July 2014

on principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online

(Text with EEA relevance)

(2014/478/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) In 2011, the Commission held a public consultation on its 'Green Paper on online gambling in the internal market' ⁽¹⁾. It identified common objectives of the Member States regarding the regulation of online gambling services and helped to identify the key priority areas for Union action.
- (2) In its Communication 'Towards a comprehensive European Framework for online gambling' adopted on 23 October 2012 ⁽²⁾, the Commission proposed a series of actions which seek to respond to the regulatory, societal and technical challenges of online gambling. In particular, the Commission announced that it would present Recommendations on the protection of consumers in the area of online gambling services, including the protection of minors, and on responsible commercial communication of online gambling services. This Recommendation is designed to combine both those subject matters and to improve the protection of consumers, players and to prevent minors from gambling online. This Recommendation aims to ensure that gambling remains a source of entertainment, consumers are provided a safe gambling environment and measures are in place to counter the risk of financial or social harm as well as to set out action needed to prevent minors from gambling online.
- (3) In its Resolution of 10 September 2013 on online gambling in the internal market, the European Parliament ⁽³⁾ called on the Commission to explore the possibility of interoperability between national self-exclusion registers, to raise awareness about the risks of gambling addiction and to consider compulsory third-party identification checks. It also called for online gambling operators to be obliged to provide on the gambling website information on regulatory authorities and warnings to minors and the use of self-restrictions. In addition, the European Parliament called for common principles for responsible commercial communications. It recommended that commercial communications should contain clear warnings as to the consequences of compulsive gambling and the risks of gambling addiction. Commercial communications should be neither excessive nor displayed on content specifically targeted at minors or where there is a higher risk of targeting minors.
- (4) The European Economic and Social Committee has also called on the Commission to intervene to improve consumer protection as regards online gambling, and to protect minors ⁽⁴⁾.
- (5) In the absence of harmonisation at Union level, Member States are in principle free to set the objectives of their policy on games of chance and to define the level of protection sought for the purpose of protecting the health of consumers. The Court of Justice of the European Union has provided general guidance on the interpretation of the fundamental freedoms of the internal market in the area of (online) gambling, taking into account the specific

⁽¹⁾ COM (2011) 128 final.

⁽²⁾ COM (2012) 596 final.

⁽³⁾ P7_TA(2013)0348.

⁽⁴⁾ 2012/2322(INI).

nature of gambling activities. While Member States may restrict or limit the cross-border supply of online gambling services on the basis of public interest objectives that they seek to protect, they are nonetheless to demonstrate the suitability and necessity of the measure in question. Member States have a duty to demonstrate that the public interest objectives are being pursued in a consistent and systematic manner ⁽¹⁾.

- (6) The Court of Justice of the European Union has also established ground rules for commercial communications on gambling services and, in particular, for those provided under monopoly conditions. Advertising by the holder of a public monopoly is to be measured and strictly limited to what is necessary in order to channel consumers towards controlled gaming networks. Such advertising cannot aim to encourage consumers' natural propensity to gamble by stimulating their active participation in it, for example by trivialising gambling, or increasing the attractiveness of gambling by means of enticing advertising messages holding out the prospect of major winnings. In particular, a distinction should be drawn between strategies of the holder of a monopoly that are intended solely to inform potential customers of the existence of products and serve to ensure regular access to games of chance by channelling gamblers into controlled circuits, and those which invite and encourage active participation in such games ⁽²⁾.
- (7) Protection of consumers and health are the main public interest objectives of Member States in the context of their national gambling frameworks addressing the prevention of problem gambling and the protection of minors.
- (8) The rules and policies that Member States have introduced to pursue public interest objectives vary considerably. Action at Union level encourages Member States to provide a high level of protection throughout the Union, in particular in light of risks associated with gambling that include the development of a gambling disorder or to other negative personal and social consequences.
- (9) The aim of this Recommendation is to safeguard the health of consumers and players and thus also to minimise eventual economic harm that may result from compulsive or excessive gambling. To that end, it recommends principles for a high level of protection of consumers, players and minors as regards online gambling services. In preparing this Recommendation, the Commission has drawn from good practices in the Member States.
- (10) Online gambling services are widely offered and used. Online gambling is a service activity with annual EU revenues of EUR 10,54 billion in 2012. Technological developments, the increase of internet availability and the convenience of mobile technologies are driving the accessibility and growth of online gambling. However, misinformed choices can be made where information is not sufficiently clear or transparent. In addition, online players look for competing gambling opportunities whenever they perceive a lack of attractive offers.
- (11) A wide range of media contributing to exposure to commercial communications relating to gambling exists, for example print media, direct mail, audiovisual media and outdoor advertising, as well as sponsorship. This may result in vulnerable groups such as minors being attracted to gambling. At the same time, commercial communication of online gambling services can play an important role in directing consumers to an offer which has been allowed and is supervised, for example by showing the identity of the operator and by carrying correct information about gambling including the risks of problem gambling, as well as appropriate warning messages.
- (12) Some individuals who engage in gambling experience problems as a result of their behaviour to a degree which impacts on person or family, others are severely harmed for reasons of pathological gambling. It is estimated that between 0,1-0,8 % of the general adult population suffers from a gambling disorder and an additional 0,1-2,2 % demonstrate potentially problematic gambling involvement. ⁽³⁾ Therefore, a preventive approach is necessary for online gambling services to be offered and promoted in a manner that is socially responsible, in particular to ensure that gambling remains a source of recreational and leisure activity.
- (13) Minors are frequently exposed to gambling as they use the internet and mobile applications and media that display gambling advertising as well as outdoor gambling advertising. They also watch or attend sports competitions sponsored by gambling interests or carrying advertising focused on gambling activities. Therefore, this Recommendation is also intended to prevent minors from being harmed or exploited by gambling.

⁽¹⁾ Cases C-186/11 and C-209/11 *Stanleybet International*, C-316/07 *Stoss & Others* and case-law cited.

⁽²⁾ Case C-347/09 *Dickinger and Omer* and case-law cited.

⁽³⁾ ALICE-RAP policy paper series: 'Gambling: two sides of the same coin — recreational activity and public health problem'. ALICE RAP is a research project funded under the 7th Framework Programme for research and development (www.alicerap.eu).

- (14) Online gambling operators established in the Union increasingly hold multiple licences across several Member States which have chosen license-based systems in relation to gambling regulation. They could benefit from a more common approach. Furthermore, the multiplication of compliance requirements can create unnecessary duplication of infrastructure and costs, resulting in an unnecessary administrative burden on regulators.
- (15) It is appropriate to invite Member States to put forward rules providing consumers with information about online gambling. Such rules should prevent the development of gambling related disorders and prevent minors from accessing gambling facilities and discourage consumers from availing of offers which are not allowed and therefore potentially harmful.
- (16) Where appropriate, the principles of this Recommendation should not only be addressed to operators but also to third parties, including so-called 'affiliates', who are allowed to promote online gambling services on behalf of the operator.
- (17) It is appropriate to better inform consumers and players about online gambling services which, consistently with Union law, are not allowed according to the law of the Member State where the online gambling service is received and also to act against such services. Within that framework, Member States that do not allow a specific online gambling service should not allow commercial communication for such a service.
- (18) The registration process to open a player account serves the purpose of verifying the identity of the person and enabling the tracking of player behaviour. It is essential that such registration be designed in such a way as to also prevent consumers from dropping out of the registration process and turning to gambling websites that are not regulated.
- (19) Whilst the registration process has been introduced differently across the Member States, at times with offline or manual steps in the verification process, Member States should ensure that the identification details can be effectively checked to facilitate the completion of the registration process.
- (20) It is important that player accounts only be made permanent once the identity details provided by the players are validated. Before the account becomes a permanent one, it is desirable that players be allowed to use temporary accounts. In light of their nature, temporary accounts should be for a fixed nominal value and players should not be able to withdraw deposits or winnings.
- (21) In order to protect players and their funds as well as ensure transparency there should be procedures in place to verify player accounts that have not been active for a determined period, and for closing or suspending a player account. Furthermore, where the person is found to be a minor the player account should be cancelled.
- (22) In respect of information alerts, where appropriate, the option of a timer should be visibly available to the player during a gambling session.
- (23) In respect of player support, in addition to the setting of deposit limits, players could be provided with additional protection measures, such as the possibility to set wager or loss limits.
- (24) In order to prevent the development of a gambling disorder, an operator should also be able, in the event of disconcerting changes in gambling behaviour, to direct the player to take time out or to exclude the player. The operator should, in such circumstances, communicate the reasons to the player, and guide the player to assistance or treatment.
- (25) Operators are significant sponsors of sports teams and events in Europe. In order to improve accountability of sponsorship by online gambling service providers, requirements should be clear that sponsorship is to be transparent and carried out in a responsible manner. In particular, clearer requirements should be set out to prevent sponsorship by gambling operators from adversely affecting or influencing minors.
- (26) It is also necessary to create awareness about the inherent risks of prevailing gambling websites, such as fraud, that are outside any form of control at the level of the Union.

- (27) Effective supervision is necessary for the appropriate protection of public interest objectives. Member States should designate competent authorities, lay down clear guidance for operators and provide easily accessible information for consumers, players and vulnerable groups including minors
- (28) Codes of conduct can play an important role in the effective application, and monitoring, of the principles on commercial communication of this Recommendation.
- (29) This Recommendation does not interfere with Directive 2005/29/EC of the European Parliament and of the Council ⁽¹⁾ and Council Directive 93/13/EEC ⁽²⁾.
- (30) Application of the principles laid down in this Recommendation implies the processing of personal data. Directive 95/46/EC of the European Parliament and of the Council ⁽³⁾ and Directive 2002/58/EC of the European Parliament and of the Council ⁽⁴⁾ therefore apply,

HAS ADOPTED THIS RECOMMENDATION:

I. PURPOSE

1. Member States are recommended to achieve a high level of protection for consumers, players and minors through the adoption of principles for online gambling services and for responsible commercial communications of those services, in order to safeguard health and to also minimise the eventual economic harm that may result from compulsive or excessive gambling.
2. This Recommendation does not interfere with the right of Member States to regulate gambling services.

II. DEFINITIONS

3. For the purposes of this Recommendation the following definitions apply:
 - (a) 'online gambling service' means any service which involves wagering a stake with monetary value in games of chance, including those with an element of skill, such as lotteries, casino games, poker games and betting transactions that are provided by any means at a distance, by electronic means or any other technology for facilitating communication, and at the individual request of a recipient of services;
 - (b) 'consumer' means any natural person who is acting outside own trade, business, craft or profession;
 - (c) 'player' means any natural person who holds a player account with the operator and participates in the online gambling service;
 - (d) 'player account' means the account opened by the player in which all transactions with the operator are registered;
 - (e) 'minor' means any person under the minimum age set, in accordance with the applicable national law, for participating in an online gambling service due to age;
 - (f) 'operator' means any natural or any legal person allowed to provide an online gambling service and anyone acting in the name of or on behalf of such person;

⁽¹⁾ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).

⁽²⁾ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in Consumer contracts (OJ L 95, 21.4.1993, p. 29).

⁽³⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

⁽⁴⁾ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002, p. 37).

- (g) 'commercial communication' means any form of communication designed to promote, directly or indirectly, the goods, services, or image of an operator;
- (h) 'sponsorship' means a contractual relationship between an operator and a sponsored party under which the operator provides financing or other support to any sporting or artistic event, organisation, team or individual in order to establish an association between the operator's image, brands or products and a sponsorship property, in return for commercial communications or other benefits.

III. INFORMATION REQUIREMENTS

4. The following information should be displayed prominently on the landing page of the operator's gambling website and be accessible from all pages on the website:
 - (a) the company details, or other means that ensures the operator is identifiable and can be contacted, including:
 - (i) company name;
 - (ii) place of registration;
 - (iii) e-mail address;
 - (b) a 'no underage gambling' sign, which shows the minimum age below which gambling is not permissible;
 - (c) a 'responsible gambling' message, which no more than one click away provides:
 - (i) information that gambling can be harmful if not controlled;
 - (ii) information about the player support measures on the website;
 - (iii) self-assessment tests for the players to check their gambling behaviour;
 - (d) a link to at least one organisation providing information and assistance in respect of gambling disorders.
5. The terms and conditions of the contractual relationship between the operator and the consumer should be provided in a concise and legible manner. They should:
 - (a) contain information at least about timeframes and limits regarding withdrawals from the player account, any charges concerning the player account transactions and a link to the applicable payout percentages for every game;
 - (b) be accepted and confirmed by the consumer during the registration process referred to in Section V;
 - (c) be made available by electronic means in a way that allows the consumer to store and retrieve them, and any changes communicated to the consumer.
6. Member States should ensure that information is available to the consumer about the rules concerning the games and bets available on the operator's gambling website.
7. Member States should ensure that the operator's gambling website displays the details of the gambling regulatory authority to show that the operator is authorised.

IV. MINORS

8. No minor should be able to play on a gambling website or hold a player account.
9. Member States should ensure that the operator has procedures in place designed to prevent minors from gambling, including age verification checks during the registration procedure referred to in Section V.
10. To prevent minors from having access to gambling websites, Member States should encourage the display of links to parental control programmes on gambling websites.

11. Member States should ensure that commercial communications for online gambling services do not harm minors or induce them to view gambling as a natural element of their leisure time activities.
12. Commercial communications should carry a clear 'no underage gambling' message indicating the minimum age below which gambling is not permissible.
13. Member States should encourage that commercial communications are not broadcast, displayed or facilitated:
 - (a) in media, or around programmes, where minors are expected to be the main audience;
 - (b) on websites with minors as the audience profile;
 - (c) in close proximity of places where minors normally spend time and are expected to be the main audience including at least schools.
14. Commercial communications should not:
 - (a) exploit the inexperience or lack of knowledge of minors;
 - (b) use images of minors or young persons or campaigns that particularly appeal to minors;
 - (c) appeal to minors, or to young persons by reflecting or associating gambling with youth culture activities;
 - (d) suggest that to gamble marks the transition from adolescence to adulthood.

V. PLAYER REGISTRATION AND ACCOUNT

15. Member States should ensure that a person is only permitted to participate in an online gambling service when registered as a player and holding an account with the operator.
16. The following information should be required in the registration process in order to open a player account:
 - (a) name;
 - (b) address;
 - (c) date of birth;
 - (d) electronic mail address or mobile telephone number.
17. The electronic mail address or mobile telephone number provided should be validated by the player or verified by the operator. These should allow contact and communication between the operator and player in a direct and effective manner.
18. The identity details of the player should be verified. Where direct electronic verification is not possible or in place, Member States are encouraged to facilitate access to national registers, databases or other official documents against which operators should verify the identity details.
19. Member States should ensure that whenever the identity or the age of the person cannot be successfully verified, the registration process to open a player account, including the temporary account, should be cancelled.
20. Member States are encouraged to adopt electronic identification systems in the registration process.
21. Member States should ensure that:
 - (a) the registration process enables identity verification to be completed in a reasonable period and is not unnecessarily burdensome for consumers or for operators;
 - (b) the registration systems allow for alternative means to verify identification, in particular when the consumer does not have a national identification number of that Member State where this is required, or in the event of temporary unavailability of databases.

22. Member States should ensure that players have:
- (a) access to a temporary account with the operator with whom the account is held until the identity verification is successfully completed;
 - (b) a unique identification username and a password or other access security feature with the operator with whom the account is held.
23. Member States should have rules in place:
- (a) to ensure that the players' funds are protected and can only be paid out to the player, and are kept separate from the operator's own funds;
 - (b) to avoid collusion by players and money transfers between them including rules regarding annulment of transfers or recovery of funds from player accounts where collusion or fraud is detected.

VI. PLAYER ACTIVITY AND SUPPORT

24. Member States should ensure that at the registration stage on the operator's gambling website a player can by default set monetary deposit limits, as well as temporal limits.
25. Member States should ensure that a player can at all times easily access the following on the operator's gambling website:
- (a) the balance on the player's account;
 - (b) the player support function concerning responsible gambling via online forms or personal contact including at least live chat or telephone;
 - (c) helplines to information and assistance organisations as referred to in point 4(d).
26. Member States should ensure that on an operator's website, a player can receive by default information alerts at regular intervals about winnings and losses during a game or bet and how long the player has been playing. The player should confirm the information alert and be able to suspend or to continue gambling.
27. Member States should ensure that on the operator's gambling website a player cannot:
- (a) make deposits beyond the monetary deposit limit for the specified time period;
 - (b) participate in gambling unless the player account has the necessary funds to cover the game or bet.
28. Member States should not allow for credit to be provided to the player by the operator.
29. Member States should ensure that on the operator's website a player can:
- (a) reduce the deposit limit, with immediate effect;
 - (b) increase the deposit limit. The request should only come into effect at least twenty-four hours after the player's request;
 - (c) take time out and self-exclude.
30. Member States should ensure that the operator has policies and procedures in place which facilitate interaction with players whenever their gambling behaviour indicates a risk of the development of a gambling disorder.
31. Member States should ensure that the operator keeps a record at least of the deposits and winnings by the player for a determined period of time. These should be made available to the player upon request.

VII. TIME OUT AND SELF EXCLUSION

32. Member States should ensure that the player can at any time on the operator's website activate time out or self-exclusion from a specific online gambling service, or from all types of online gambling services.

33. Member States should provide that:
 - (a) time out serves to suspend gambling for at least twenty four hours;
 - (b) self-exclusion with an operator is possible for not less than six months.
34. Member States should ensure that in the case of self-exclusion the player account is closed.
35. Member States should ensure that the re-registration of a player is only possible upon request by the player, in written or electronic form, and in any event only after the self-exclusion period has elapsed.
36. Member States should have rules regarding requests by interested third parties to an operator for player exclusion from a gambling website.
37. Member States are encouraged to establish a national registry of self-excluded players.
38. Where established, Member States should facilitate the access of operators to national registries of self-excluded players and ensure that operators regularly consult these registries so as to prevent self-excluded players from continuing to gamble.

VIII. COMMERCIAL COMMUNICATION

39. Member States should ensure that the operator on whose behalf the commercial communication is made is clearly identifiable.
40. Where appropriate, Member States should ensure that commercial communications of online gambling services carry messages including at least the risks for health of problem gambling, in a practical and transparent manner.
41. Commercial communications should not:
 - (a) make unfounded statements about chances of winning or the return that players can expect from gambling;
 - (b) suggest that skill can influence the outcome of a game, when this is not the case;
 - (c) exert pressure to gamble or disparage abstention through timing, location or nature of the commercial communication;
 - (d) portray gambling as socially attractive or contain endorsements by well-known personalities or celebrities that suggest gambling contributes to social success;
 - (e) suggest that gambling can be a resolution to social, professional or personal problems;
 - (f) suggest that gambling can be an alternative to employment, a solution to financial concerns or a form of financial investment.
42. Member States should ensure that play-for-fun games used in commercial communications are subject to the same rules and technical conditions as the corresponding play-for-money games.
43. Commercial communications should not target vulnerable players in particular by making use of unsolicited commercial communications addressed to players who have self-excluded from gambling or have been excluded from receiving online gambling services on reasons of problem gambling.
44. Member States that permit unsolicited commercial communication by electronic mail should ensure:
 - (a) that such commercial communication is identifiable clearly and unambiguously;
 - (b) that the operator respects the opt-out registers in which natural persons not wishing to receive such commercial communications can register.
45. Member States should ensure that commercial communications take into account the risk potential of the online gambling service promoted.

IX. SPONSORSHIP

46. Member States should ensure that sponsorship by operators is transparent and that the operator is clearly identifiable as the sponsoring party.
47. Sponsorship should not adversely affect or influence minors. Member States are encouraged to ensure that:
- (a) no sponsorship is allowed of events designated for or mainly aimed at minors;
 - (b) promotional material of the sponsoring party is not used in merchandising designed for or mainly aimed at minors.
48. Member States should encourage sponsored parties to verify if the sponsorship is authorised, in accordance with national law, in the Member State where the sponsorship should take effect.

X. EDUCATION AND AWARENESS

49. Member States, where appropriate with consumer organisations and with operators, are invited to organise or promote regular education and public awareness-raising campaigns to raise awareness of consumers and vulnerable groups including minors about online gambling.
50. Member States should ensure that operators and the gambling regulatory authority are required to inform their respective employees working with gambling related activities about the risks associated with online gambling. Employees interacting directly with players should be trained to ensure they understand problem gambling issues and know how to respond to them.

XI. SUPERVISION

51. Member States are invited to designate competent gambling regulatory authorities when applying the principles laid down in this Recommendation to ensure and monitor in an independent manner effective compliance with national measures taken in support of the principles set out in this Recommendation.

XII. REPORTING

52. Member States are invited to notify the Commission of any measures taken pursuant to this Recommendation by 19 January 2016 in order for the Commission to be able to evaluate the implementation of this Recommendation.
53. Member States are invited to collect reliable annual data for statistical purposes on:
- (a) the applicable protection measures in particular the number of player accounts (opened and closed), the number of self-excluded players, those experiencing a gambling disorder and complaints by players;
 - (b) commercial communication by category and by type of breaches of the principles;
- Member States are invited to communicate this information to the Commission, for the first time by 19 July 2016.
54. The Commission should evaluate the implementation of the Recommendation by 19 January 2017.

Done at Brussels, 14 July 2014.

For the Commission
Michel BARNIER
Vice-President
