

Response to the Consultation ‘Regulating On-line Gambling in the EU: Recent Developments and Current Challenges from the Internal Market Standpoint’

(See:http://ec.europa.eu/internal_market/consultations/docs/2011/online_gambling/com2011_128_en.pdf)

Background

This is a collaborative submission from a group of academics based in the UK with expertise in information technology law and related areas. The preparation of this response has been funded by the Information Technology Think Tank, which is supported by the Arts and Humanities Research Council and led by the SCRIPT/AHRC Centre for Research in Intellectual Property and Technology, University of Edinburgh.

This response has been prepared by Abhilash Nair and Dinusha Mendis.

Abhilash Nair is Senior Lecturer in Law at Sheffield Hallam University, where he teaches internet law and intellectual property law. His principal area of research is internet regulation, with specific reference to children’s rights, censorship and privacy. Abhilash has published a number of articles on internet law and regulation and is a regular speaker at academic institutions and conferences. A solicitor in England and Wales, he is also a Fellow of the Higher Education Academy and member of the Information Society Network at the University of Exeter.

Dr. Dinusha Mendis is a Senior Lecturer in Law at Bournemouth University and attached to the Centre for Intellectual Property Policy and Management (CIPPM). Dinusha’s research interests lie in intellectual property law, intellectual property issues within entertainment law and particularly issues relating to digital copyright. Dinusha has published widely in these areas and has delivered papers at both national and international conferences. Dinusha holds LLB (Hons) from University of Aberdeen; LLM, PhD from University of Edinburgh; and BVC from Nottingham Trent University. Dinusha was called to the Bar of England and Wales in October 2001. She is a member of the Honourable Society of the Middle Temple Inn London and an Associate of the Higher Education Academy.

Introduction

In light of the myriad of regulatory challenges raised by online gambling, this EC Consultation seeks to receive feedback on the existing situation of the EU online gambling market and the key policy issues that the growth of online gambling generates. This response addresses two specific areas within the Consultation-

- 1/ Protection of minors & vulnerable groups, prepared by Abhilash Nair, and
- 2/ Issues related to sports betting, prepared by Dinusha Mendis.

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The response provides an overview of the existing framework, and identifies key issues within these areas from a UK perspective. The response generally contends that although UK law is sufficiently broad and adequate, there should be European and wider international co-operation to address some of the challenges of online gambling. It is also identified that a more holistic approach to address problem gambling is required, especially in light of the available evidence of problem gambling linked to social and demographic factors etc.

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Protection of Minors and other vulnerable groups

Q23. What is the statutory age limit for having access to online gambling services in your Member State? Are existing limits adequate to protect minors?

Those under 18 are not to be allowed to gamble under section 45 of the Gambling Act 2005. It is an offence to "invite, cause, or permit" a child or young person to gamble. A child is anyone under sixteen years of age and young person is anyone between 16-18 years of age. It is also an offence for a young person to gamble.

The current age limit appears to be adequate to protect minors.

Q24. Are online age controls imposed and how do these compare to offline 'face to face' identification

Online age controls are not as straight forward as offline face to face identification and problems remain with respect to effectively verifying the age of customers on the internet. As mentioned above, it is an offence to invite a child or young person to gamble. With regard to offline gambling, it is an offence to invite a child or young person onto the premises. It is also an offence for a young person to enter the premises or provide facilities for gambling to take place. In an offline context, these are not difficult to enforce, but online gambling may be less straight forward, largely because of the anonymity the internet offers.

UK law requires online gambling providers to verify the age of users before they are allowed to gamble. As discussed below in more detail, although online gambling websites in the UK require proof of age for entering and using the sites, they are not always foolproof. This is particularly so when the only method of verifying age is through credit card verification, where the user enters the correct combination of the card number, expiry date and security number for instance, as it is entirely possible for a minor to use someone else's card (a parent's for example) without their knowledge or consent. The issue of children accessing websites through unauthorised use of credit cards is not specific to the UK or EU. This issue has been identified in a recent OECD report as 'a financial threat to parents if minors have access to a credit card or other means of

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payment such as a mobile phone'¹ Recent research published in the UK also highlighted a lack of parental controls on a majority of online gambling sites.² Preventing children from accessing the sites by adopting more measures such as introducing mandatory parental controls is worthy of consideration.

Q25. How are commercial communications for gambling services regulated to protect minors at national or EU level? (e.g. limits on promotional games that are designed as online casino games, sports sponsorship, merchandising (e.g. replica jerseys, computer games, etc.) and use of social online networks or video sharing for marketing purposes.

Only those online gambling companies that are licensed in the UK or countries in the EEA are allowed to advertise in the UK. It is an offence under s 331 of the Gambling Act 2005 to advertise non-EEA Gambling. The offence covers advertising of gambling by both remote and non-remote means. However, the Act also makes provisions for other countries to be included in a 'white list', and those countries will be treated like EEA states for the purposes of this section.

As per section 45 of the Gambling Act, a person commits an offence if he invites causes or permits a child or young person to gamble. In this context, 'inviting' includes sending a child or young person any document which advertises gambling, or bringing to the attention of a child or young person information about gambling with a view to encourage them to gamble (s46(3)). This is broadly drafted in order to encompass a range of communications aimed at a child or young person, so this provision appears to be adequate.

However, remote advertising is a problematic area in some respect. For advertising that is broadcast by television, the provisions of Part 16 (Advertising) will only apply if the broadcaster is either under the jurisdiction of the U.K. for the purposes of the Television Without Frontiers Directive (89/552/EEC), or is not under the jurisdiction of an EEA state (if the broadcaster is based in an EEA State outside the UK, it will already be subject to proper regulation in their home country). However, due to the lack of harmonisation in the regulation of online gambling

¹ OECD (2011), "The Protection of Children Online: Risks Faced by Children Online and Policies to Protect Them", *OECD Digital Economy Papers*, No 179, OECD Publishing <http://dx.doi.org/10.1787/5kgcjf71pl28-en> p25.

² Chambers & Willox, Gambling on compliance with the new 2005 Act: Do organisations fulfil new regulations?, *International Review of Law, Computers and Technology*, Vol 23, No.3, 2009 p207

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across the EU, this would result in a situation where a broadcaster based elsewhere in the EEA can abide by their home country's regulation and, in theory, break UK law at the same time.

Similarly, where advertising constitutes an information society service, these provisions only apply where the provider is either established in the United Kingdom or outside the EEA. Therefore, a more uniform approach for advertising at EU level, with a view to harmonise the relevant provisions among EEA states has very clear advantages.

Advertisements are subject to two Codes of Practice in the UK, depending on the medium of advertisement - the CAP Code (UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing), and the BCAP Code (The UK Code of Broadcast Advertising). The Advertising Standards Authority (ASA) administers both the Codes. In light of the substantial growth in digital marketing, especially the significant role of the internet in this, the remit of the ASA to apply the CAP Code was extended to include marketing/advertising information on companies' own websites and other non paid space under their control, with effect from March 2011. This is significant in terms of internet advertising for online gambling providers. However, the limitation of this extension of remit is that it only governs advertisements made on the supplier's own website, or 'other non-paid space under their control', which means that advertisements made on other websites, including social online networks may not be covered. Therefore, it excludes paid advertisements placed on third party websites, including online social networks. Considering that a large number of children and young people use online social networking sites, this limitation is significant, especially in light of past research by Consumer Focus and Childnet International, which found that 9% of the advertisements on websites favoured by children were for online gambling.³

³ Fielder, et al (2007), "Fair game? Assessing commercial activity on children's favourite websites and online environments", available at www.agnesnairn.co.uk/policy_reports/fair_game_final.pdf

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Q26. Which national regulatory provisions on license conditions and commercial communications for online gambling services account for the risks described in the Green Paper and seek to protect vulnerable consumers? How do you assess them?

The key legislation that regulates gambling in the UK is the Gambling Act 2005. Gambling Commission is the commercial gambling regulatory body, which was set up under the Gambling Act 2005, and it regulates gambling in Great Britain in partnership with other licensing authorities. One of the primary objectives of the Gambling Commission is to protect children and other vulnerable people from the dangers of gambling. The Responsible Gambling Strategy Board (RGSB) was set up in 2008 to advise the Gambling Commission on research, education and treatment programmes needed to support a national responsible gambling strategy and related funding requirements. The Responsible Gambling Fund (RGF), a charity that was set up in June 2009 to provide support for research, educational and treatment services across the gambling field and it distributes funds for the above purposes. The Gambling Commission license operators that provide, inter alia, remote gambling (including betting online, by telephone, or via any other electronic communication device).

Assessment:

Full implementation of the Gambling Act 2005 came into force on 1st September 2007. The British Gambling Prevalence Survey, 2010, which was sponsored by the Gambling Commission, is particularly helpful in assessing the efficacy of the regulatory framework although it is too early to reach a formidable conclusion. This was the third such prevalence survey carried out in the UK (earlier ones being in 1999 and 2007), but the first since the new legislative changes under the Gambling Act 2005. The 2010 Prevalence Survey shows that 5% of the adult population (aged 16 and over) participated in gambling online on poker, bingo, casino and slot machine style games. This shows a 2% rise from a similar survey in 2007.

Interestingly, it was identified in the survey that problem gamblers were more likely to be 'male, younger, have parents who gambled regularly and had experienced problems with their gambling behaviour and be a current cigarette smoker'. There are a few studies that link social and demographic factors to problem gambling. This is just an illustration that reinforces the view that regulatory initiatives need to follow a holistic approach in adopting measures to tackle the

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problems of gambling and protecting vulnerable groups and children rather than just relying on legislation.

As regards remote gambling, the Gambling Commission can only license those operators who use gambling equipment situated in Great Britain (s 67). However, this has the effect that not all gambling websites accessible to the public in Great Britain are regulated by this body; as a large number of websites are based and regulated overseas, so the Act will not really apply to them. Even within the UK, despite the existing safeguards an undercover investigation by the Gambling Commission found 'deficiencies' in more than 33% of bookmaking and casino sites which could allow under-18s to place bets. Debit cards registered to minors were used by investigators to access sites and test their security filtering measures⁴

It is a requirement under s 83 of the Act that if an operators finds out that a child or young person has gambled using their business, their stake must be returned 'as soon as is reasonably possible'. However, the operator cannot demand repayment of any prizes/money that was paid before becoming aware that the participant is a child/young person. This provision has been criticised as a 'possible loophole' (Chambers & Willox, cited above) in the protection of children.

Whilst recognising the fairness issue behind this provision, it is questionable from a purely logical point of view whether providing any sort of incentive for gambling for children serves any purpose. Allowing any form of financial incentives for online gambling for children and young people are counter-productive, so this provision should be subject to reconsideration. It is an offence for a young person to gamble, so it is inconceivable that a young gambling offender should be allowed to keep the prize they won through illegal means.

On a positive note, the confidential intelligence line run by the Gambling Commission (functional from May 2010), which can be used to report illicit gambling, has been regarded as effective with a good number of calls received that have assisted ongoing criminal and regulatory investigations.

⁴"Third of gambling sites open to under 18s", *The Daily Telegraph*, 14 January 2009.

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Other comments on issues raised in this section (2.3.1)

From purely a domestic perspective, the legislation and regulatory framework appear to be adequate and 'fit for purpose' in the U.K. There are, however, strong reasons for European and wider international level co-operation and agreements to address the challenges of online gambling.

Age verification controls are followed by online gambling service operators in the U.K. However, this is not foolproof. For those websites that only require credit card verification, there is no way of preventing a child/young person using someone else's credit card to make a payment. Additional safeguards in this respect would be, therefore, welcome. In particular, not all remote operators provide parental control facility on their website. This is disappointing considering that children's access of the internet cannot always be supervised or monitored by parents. Furthermore, verification procedures sometimes only see companies request customers' identification documents (passport, driving licence number etc) prior to withdrawal (upon winning) and post wager. This means young people/children could still gamble (but not withdraw). If they lose it is unlikely this information will be requested. Whilst this makes commercial sense for online gambling operators, it does not really protect the young.

Also, on some sites children/young people can play the casino games using play money without registering or logging on. These games often 'pay out' more frequently than real gambling, giving a false sense of the likelihood of winning. There is a possibility that such gambling could perhaps see young people progress to real gambling.

There are also concerns raised regarding the payment systems. While most online gambling operators in the UK provide a secure payment system, this is by no means uniform in that different operators provide different payment systems ranging from bank transfer to credit card payment through the phone, or paypal. It has been suggested that a standard payment site should be used to ensure that transactions are always safe and crime free; or to attribute an online gambling payment mark to all payment systems approved by the Gambling Commission as secure (Chambers & Willox, above). This should also be with a view to enhance existing age verification mechanisms.

The existing remit of the Gambling Act 2005 as applied to online/remote gambling only regulates operators based in Great Britain (or entities using British equipment for providing

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remote gambling services). This means that a large number of websites providing online gambling service are not regulated by the Act. Therefore, the attempts to challenge the violation of gambling law principles by these foreign providers will be subject to many jurisdictional and private international law issues. Clear international agreements/consensus, therefore, is required. In any case, regulation alone cannot solve the problems of gambling. Effective gambling control should involve a holistic approach. Thus, regulation coupled with an equally robust self regulatory approach including awareness campaigns, identifying and providing support for problem gamblers etc. are imperative.

At European level, there are clear merits of EU wide regulation. However, it still remains questionable whether efforts at EU level alone would be effective in the absence of a wider international agreement. Nonetheless, initiatives at EU level as envisaged in the Green Paper can offer a basis for further international co-operation.

Sports betting, system of revenue channelling and possible existence of a principle of return to event organisers

30. As regards sports betting and outcome fixing – what national regulations are imposed on on-line gambling operators and persons involved in sports events/games to address these issues, in particular to prevent ‘conflicts of interest’? Are you aware of any available data or studies relating to the magnitude of this problem?

In UK a number of regulations were put in place by the *Gambling Act 2005*, none more important than the setting up of the Gambling Commission to regulate gambling in partnership with licensing authorities. The regulations which apply generally to remote gambling, also applies to sports and outcome-fixing which will be discussed in more detail below.

The Gambling Commission carries out a rolling programme of ‘mystery shopping exercises’ as part of its ongoing compliance programme. This is done in an attempt to eradicate malpractice such as outcome fixing in sports betting. The programme looks at various aspects of social responsibility and the Commission particularly focuses on betting operators who have previously been found wanting or are suspected of foul play. In May 2009 the Commission carried out an extensive mystery shopping exercise which returned a failure rate which caused concern. The

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exercise covered all the major betting operators, accounting for around 80% of betting shops, and the initial results showed that in 98% of the 100 shops visited a 17 year old was allowed to place a bet at the counter⁵.

Whilst there has been action taken against the operators concerned and the Commission has worked with the Association of British Bookmakers (ABB) to produce an action plan and supplementary code of practice on age verification, it led to questions on the regulation of online gambling and the issues surrounding age verification as discussed above. Whilst this issue continues to be addressed in the UK, the Gambling Commission will continue to conduct mystery shopping exercises at a number of licensed betting operators' premises as part of its compliance programme. These exercise will revisit operators already tested and also test a number of smaller betting operators.

Horse racing, in particular, has been at the heart of outcome fixing and has been a major attraction for Internet betting exchange gambling with the case of *Kieren Fallon v. MGN* (No. 3) (QBD) 2008 bringing the issue to the forefront. Apart from Horse racing, similar malpractice has also been reported by the Association of Tennis Professionals (ATP). ATP discovered that bets of up to £80,000 were being placed on individual matches with irregular betting patterns being revealed around matches involving players not ranked in the top 100. In the area of cricket, the Test and County Cricket Board (TCCB) states that players should not gamble on matches in which they take part, although, it is not very clear whether the players can gamble in matches in which they are not competing (Gordon above).

As a result of such events, the online betting company *Betfair*, has signed a Memorandum of Understanding (MoU) with several sports bodies including the Jockey Club, Rugby League, Test and County Cricket Board and ATP amongst others. The MoU states that these sporting bodies' security departments will have access to individual identities and betting records of *Betfair* gamblers when a race or match produces unusual betting patterns or competition results. By developing such internal policing relationships with relevant sports governing bodies, *Betfair* remains confident that corruption in sports which includes outcome fixing can be removed as

⁵ G. Gordon, Sports Betting: law and policy – A UK perspective *The International Sports Law Journal* July-Oct (2009) p. 5.

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electronic transactional records will assist investigators to identify those involved in illegal activities thereby creating a ‘safe’ Internet gambling site⁶.

Conflict of interest issue

Whilst a ‘safe’ Internet gambling site is important in any national system, the issue with the present system arises in relation to ‘conflict of interest’ where sports integrity is sacrificed in order to maximise sports related gambling revenues as a result of an exclusive commission being paid to sports governing bodies for recommending that gamblers deal with ‘official’ or ‘approved’ betting exchanges. Striking a balance is difficult particularly in relation to on-line gambling which has to deal with lucrative gambling opportunities and gambling anonymity which can ultimately endanger the integrity of sporting competitions (Gardiner & Gray above).

Furthermore, it is also important that in carrying out this process, customers’ rights are protected. In accordance with the UK *Data Protection Act 1998 (DPA 1998)* customers must be kept informed of any changes which affect the way in which their personal data is used. The betting exchange operators *Betfair* and *Sporting Options* have amended their privacy policies to expressly state that customers’ personal details may be disclosed in limited circumstances to third parties who are concerned with investigating actual or suspected criminal activity, including any demonstrable threat to the integrity of sporting events. They emphasise that non-personal data will be disclosed in place of personal data wherever possible and it will only disclose personal data where it has been assured that such information is necessary. In such cases, personal data such as customers’ names and transaction details which could be used to identify the customer will only be used in relation to the investigative purpose⁷ which is allowed under DPA 1998 for the purpose of the prevention or detection of crime.

Available data and/or studies on this problem are scarce and at the time of responding to this consultation, such information was not available.

⁶ Gardiner S., & Gray J., Can sport control its betting habit? (2004) 89 *Sports Business International*, 55

⁷ Prinsley M. & Johnson S., Betting and protecting the integrity of sports (2003) *World Online Gambling*, pp. 15-16.

39. Is there a specific mechanism, such as a fund, for redistributing revenue from public and commercial on-line gambling services to the benefit of society?

The Betting Levy Board exists for redistributing revenue from horserace gambling to the benefit of society. Under this scheme, gambling operators are required to pay a flat percentage charge of 10.75% on their gross profits. The money which is received is in turn used for upkeep of racecourses; improvement of breeds; veterinary research, training which all benefit society.

The Gambling Commission and the Responsible Gambling Strategy Board also work towards redistributing revenue from on-line gambling to assist with gambling addiction; socially responsible gambling, education and training to name a few.

40. Are funds returned or re-attributed to prevention and treatment of gambling addiction?

Under the *Gambling Act 2005*, all online gambling operators operating from the UK have to be licensed by the Gambling Commission. This will require all gambling operators including on-line gambling operators to pay a licence fee. Apart from the licence fee, gambling operators have to make two further payments. These are:

- (1) A remote gaming and betting duty of 15% of their profits and corporate tax rates up to 30%;
- (2) A requirement to contribute to the treatment of problem gambling which will be taken from the levy paid in by gambling operators.

Section 123(4) of the 2005 Act states that:

The Commission shall, with the consent of the Treasury and of the Secretary of State, *expend money received by way of levy for purposes related to, or by providing financial assistance for projects related to—*

- (a) *Addiction to gambling,*
- (b) *Other forms of harm or exploitation associated with gambling, or*
- (c) Any of the licensing objectives.

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In order to give effect to this section, the Responsible Gaming Strategy Board (RGSB) was set up in late 2008 to advise the Gambling Commission and the Department for Culture, Media and Sport (DMCS) on research, education and *treatment programmes needed to support a national responsible gambling strategy* and associated funding requirements in England, Scotland and Wales.

The Board is chaired by Baroness Neuberger DBE and is further supported by eight Board members whose expertise amongst others covers socially responsible gambling, preventive education and addiction and counselling services.

In February 2011, the RGSB welcomed the Third British Gambling Prevalence Survey. Professor David Miers, Chair of RGSB, stated that this survey will act as a “useful tool in understanding who gambles and how they gamble and thus aid us in refining our thinking about ways of preventing people affected by gambling-related harm, as well as helping to develop educational and research programmes aimed at tackling the problem”.

There are also several charities and Government run schemes that are available to help gamblers who may have an issue with gambling addiction. These include:

- (1) The Financial Services Authority;
- (2) The British Horse racing Authority;
- (3) The National Lottery Commission;
- (4) The Office of Communications (OFCOM); and
- (5) The Gambling Appeals Tribunal.

The First-tier Tribunal (Gambling) is an independent body set up to hear appeals against the decisions of the Gambling Commission.

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41. What are the proportions of on-line gambling revenues from sports betting that are redirected back into sports at national level?

In the UK, in the area of horse racing, a Betting Levy Board – a public body – exists to raise money for the improvement of horse racing and the advancement of veterinary science and education. It does this through collecting a statutory levy from bookmakers. Levy is collected from bookmakers as a percentage of their gross profits on British horserace betting business. Section 123 of the *Gambling Act 2005* also gives effect to the levy scheme.

The UK horse race betting levy scheme was introduced in 1961 and at present is in its 50th levy scheme. The 49th Levy Scheme established that off-course betting such as telephone and particularly internet betting will be liable to pay a flat percentage charge of 10% without abatement. The levy for on-course betting is charged at a flat fee of £200 only. However on-course bookmakers who use and/or operate a betting exchange are also liable to pay levy at the rate of 10% on their gross profits received from Horse racing Betting Levy Board (HBLB).

According to the 50th Horse race Betting Levy Scheme published in March 2010 and determined by the Government in February 2011, it is submitted that the levy will increase from 10% to 10.75%⁸. This rate will apply to telephone and internet betting operators (including betting exchanges) as well as Licensed Betting Offices.

For financial year 2009/2010 the levy was distributed as follows in the area of horse racing:

	£'000
Horseman (inc prize money)	64,000
Integrity services	25,342
Racecourses	6,638
Administration	3,153
Improvement of breeds	2,056
Veterinary	2,055
Training	1,225
Other	1,135
Bookmakers' Committee	2

⁸ Department for Culture, Media and Sport Government reaches decision on the 50th Levy Scheme – New terms are 'fair deal for racing and bookies' says Jeremy Hunt. Press release (16 February 2011) at http://www.culture.gov.uk/news/media_releases/7859.aspx

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Total	105,865
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Table 1: Horse racing Betting Board Results at <http://www.bblb.org.uk/>

According to the new regulations, gambling operators which are not under a UK licence are not required by law to pay the levy. In view of this, it is interesting to note that *Betfair* the 'biggest online betting company' which moved off shore to Gibraltar at the beginning of 2011 handed over a £6m lump sum to the Horse racing Betting Levy Board in June 2011⁹. This figure is equal to the money that the company would have been required to pay in the terms set out in the 50th Levy Scheme for 2011-12. This is certainly very encouraging for online gambling and fair returns.

The response does not focus on the proportions of on-line gambling revenues from other sports as the research did not return a regulated levy system for other sports as it does for horse racing. This is something which other sporting organisations will have to consider and implement.

Other comments on issues raised in this section (2.3.2 - 2.3.3)

In the UK the issue of sports betting and in particular outcome fixing is becoming a significant issue. The Gambling Commission's 'mystery shopping exercise' attempts to deal with these issues, and whilst it has been successful as reflected by the exercise carried out in 2009, its success at a much broader level including issues thrown up by remote gambling, can be questioned. In 2010, outcome fixing allegations during England's Test cricket match against Pakistan was brought to light by a newspaper organisation which alleged that some Pakistan players were at the heart of a match-fixing scandal¹⁰.

In addressing the issue, the Gambling Commission has done the right thing in signing a Memorandum of Understanding with various sports bodies. However paying an exclusive commission to sports governing bodies for recommending that gamblers deal with 'official' or 'approved' betting exchanges gives rise to a conflict of interest. Putting in place a levy fee or a 'return' which is redirected into the development of the sport at national level as discussed above

⁹ Chesters L., *Betfair stumps up £6m for UK betting levy* (19 June 2011) *The Independent*.

¹⁰ Quinn B., *Match-fixing allegations hit England v Pakistan Test at Lord's* (29 August 2010), *The Guardian*.

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is one way of tackling this issue. Whether this issue can be adopted more successfully at European level is to be seen.

Apart from this, giving the sporting bodies' security departments access to individual identities and betting records of gamblers registered with gambling operators, when a race or match produces unusual betting patterns or competition results, can also lead to a conflict of interest. This in turn raises the issue of anonymous gambling particularly in relation to online/remote gambling. Should it be a requirement that an individual registering with a gambling operator be compelled to reveal their true identity? This is an issue to be considered. To deal with the issue of dealing with individual (and true) identities for the purpose of investigating unusual betting patterns, a strict compliance of the Data Protection Act 1998 is important. The problem, however for remote gambling, is that DPA 1998 will only apply to those gambling operators who are licensed in the UK and those gamblers accessing a UK server. For example, *Betfair*, which moved to Gibraltar in early 2011, will not come under the remit of DPA 1998. An agreement at EU level will remove such restrictions particularly in relation to the challenges of online gambling which currently apply at national level.

In the UK there is a fund, for redistributing revenue from public and commercial on-line gambling services to the benefit of society. This exists in the form of a Betting Levy Board (BLB) for horse racing. The money which is received is in turn used for upkeep of racecourses; improvement of breeds; veterinary research, training which all benefit society. For example, the proportions of on-line gambling revenues from horserace betting that is redirected back into horse racing at national level stands at a flat percentage of 10.75% without abatement for off-course betting and similarly 10.75% of gross profits for on-course bookmakers who use and/or operate a betting exchange. This is a rise from 10% which was the levy in 2010. However, not every sport in the UK benefits from such an organised fund or a clear proportion of revenues being redirected into the sport. Whilst horse racing has clear regulations in terms of the BLB, what is needed is a dedicated and clearly regulated fund which will assist both individual and team sports respectively in UK. Maybe an EU-wide framework in this area which takes into account other sports could assist.

In accordance with the *Gambling Act 2005*, the Responsible Gambling Strategy Board (RGSB) was set up to advise the Gambling Commission and the Department for Culture, Media and Sport and work towards redistributing revenue from on-line gambling to assist with gambling

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addiction; socially responsible gambling and education and training for problem gambling. There are also other Government run schemes which exist to help gamblers who may have an issue with gambling addiction as set out at p. 11. However, as identified above, problem gambling is linked to social and demographic factors as evidenced by various studies. As such whilst regulatory initiatives are welcome and whilst the RGSB does significant work in this area, what is also needed is a holistic approach to dealing with problem gambling rather than relying on legislation alone.

End of submission