

**CLOSING REMARKS**  
**RESPONSIBLE GAMING DAY 2012**  
**NORBERT TEUFELBERGER, EGBA CHAIRMAN**  
**AND CO-CEO BWIN.PARTY DIGITAL ENTERTAINMENT**

Members of the European Parliament, representatives of the European Commission, Ladies and Gentlemen,

On behalf of the EGBA, I would like to thank you for participating in our Fifth Annual Responsible Gaming Day. Five years is quite a milestone. In today's accelerated online world five years is an age. Looking at our sector in Europe today, it certainly has changed beyond all recognition over this time. As in other sectors of ecommerce, regulation has clearly struggled to keep up.

They say time flies when you are having fun!! Indeed, more and more Europeans are having fun online, are gaming online. They are playing online using licensed and illicit sites, despite the risks related to the latter. Today's discussions, and the recently published Commission Communication, have been focusing on how best to ensure that they can have fun online safely. How to make legal offers attractive to European consumers. To paraphrase Commissioner Barnier - how to make them a "credible alternative" to illicit sites.

History has shown that a failure to meet consumer demand drives markets underground. By failing to create an environment in which legal, responsible operators can innovate and market attractive offers, the only winners will be the illicit black marketeers – based outside the EU. The losers will continue to be European consumers, businesses and ultimately exchequers.

A prerequisite for an attractive legal market is open and fair competition between operators. This means no artificial limits on the number of licenses available to responsible operators in a particular market.

This also means, as accepted by the Commission, that a market should be commercially viable for new entrants in order to supply a legal alternative. A major determinant in this is ensuring that taxation of responsible online operators is not of a level that makes operating run counter to common commercial sense! As we have discussed, and as shown by evidence from around Member States, taxation of Gross Gaming Revenue above a level of around 20% leads to a situation where doing legal business in any given market becomes untenable as taxation is effectively leveled at a “rate of no return”<sup>1</sup>. This is a major barrier against market entry that undermines the availability of choice to consumers and drives them towards illicit operators.

In fact, the imposition of reasonable and proportionate tax rates has proved to be an effective incentive to online operators to apply for a national license for services aimed at a Member State. It is an effective instrument for ensuring the growth of attractive legal offers and – as recognized by the Commission in the Danish gambling tax case – channeling online gambling into a safer controlled environment.

It’s also important to allow operators to offer a full product portfolio. Restricting activities to limited offerings drives consumers into the hands of illicit sites.

Whilst considering how to make offerings more attractive, we cannot ignore the cross-border nature of the sector. The benefits for competition and for increasing the attractiveness of legal offers from operators licensed elsewhere in the EU should not be overlooked. Regulation needs to adapt to this fact.

Whilst licenses clearly in the short-term will remain national, it makes complete sense that requirements, standards and procedures should be harmonized across Europe. This will benefit both operators and consumers by reducing administrative complexity and costs, as well as

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<sup>1</sup> Quote from the EU Commission’s decision in the Danish state aid case, referring to an H2GC report according to which 20% on GGR is the highest rate economically feasible – a higher rate would be the “rate of no return”, i.e. a tax rate that is simply too high for operators to be a valid business case for them to enter the market.

increasing legal certainty. This in itself will lead to more competitive offerings from legal operators.

For example, the continued requirement for age verification on paper and by post in one state is a hassle too far for most consumers. Why bother going through such a cumbersome and time-consuming process when it's much easier to simply visit an illicit site with minimal or no controls and play there! Such outdated administrative burdens are bad for legal business, and put consumers in jeopardy rather than protect them. They should be stopped and adapted to a digital world.

It is also clear to us that allowing the responsible marketing and advertising of offerings is an essential weapon in the war against the illicit operators. It's a source of key competitive advantage for responsible operators that steers consumers to safe sites.

We therefore welcome the Commission's undertaking to bring forward Recommendations on consumer protection, advertising, and match-fixing as an important step forward. We at the EGBA would like to remind the Commission that the CEN agreement from 2010 provides a strong basis on which the Recommendations can be based.

Whilst responsive measures such as blocking and blacklisting can have short-term results such actions clearly do not provide a sustainable answer as they can easily be circumvented. The next offer is always just one easy click away from European consumers.

So how will we know if the measures I have outlined are working? As we have discussed this morning, and as independent studies have shown, there are three clear indicators that can be used to verify this:

1. Has the number of license holders and applications for those licenses risen?
2. What is the size of the illicit market?
3. Do customers get what they expect (in terms of product portfolio or pay-out ratio for which the industry standard is 90% and more?)

These indicators will tell us if the illicit operators are losing out.

The Commission has set itself the goal to reverse the proportion between legal and illegal offers. The future level of licit online gambling activities will be the benchmark against which the Commission will have to measure its success.

Much of this has been discussed and recognized this morning. However we at the EGBA do not believe that a market where sufficiently attractive offers are possible can be created using purely soft law. We believe that only a hard law approach will deliver the concrete results necessary to stop the rapid emergence of 27 mini markets created by a plethora of national licensing requirements that make markets unattractive to both responsible operators and consumers alike. This is how we will win, keep consumers safe, protect responsible European operators, and keep revenues in Europe.

We do however understand the *Realpolitik* of the situation we face, and we therefore view the soft law proposed in the Communication as a welcome and valuable first step towards legislative, hard law action in the future.

At this juncture, the reactivation of infringements and complaints against Member States who flout EU law is an essential step forward. It is essential to achieve all the political goals we have discussed today. We hope this will lead to the removal of unjustified restrictions, ensure legal certainty, and create the necessary conditions for a competitive and attractive market capable of prizing consumers away from the clutches of the illicit operators.

The rapid development of administrative cooperation between the Member States is also a much needed intermittent step forward. The efficiencies that can be added from regulators sharing best practice and learning from each other can accelerate the creation of a dynamic and attractive market. We welcome the Commission's call for cooperation to remove "*unnecessary administrative burdens, in particular in the authorisation process and the supervision of operators authorised in more than one jurisdiction*".<sup>2</sup>

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<sup>2</sup> Quote from the EU Commission's Communication - "Towards a comprehensive European framework for online gambling" COM(2012) 596, p. 8

Despite this, EGBA members feel that an opportunity has been missed insofar as common licensing requirements have been left out of the Communication. Whilst a number of common technical and administrative measures are required by Member State's competent authorities to assess the integrity and safety authorized operators when deciding on gambling license applications, procedural differences create market fragmentation and uncertainty. Again this is a disincentive to market entry and to much needed competition.

Common licensing requirements are therefore key to the development of a genuine Internal Market, and the competition needed to drive the innovation that will make the legal offering in Europe attractive. In the short term, we hope that cooperation between national authorities can go some way to fill this gap. However, in the long-term, we are as convinced that a Single European License or a passporting system is a must. Although, we are aware that this will probably not be before our tenth Responsible Gaming Day in 2017!!

In the meantime, should the steps I have outlined be taken seriously, the action plan provided by the Commission be implemented, and Member States readily bring their laws in line with the EU Treaties, EGBA members are – as ever – committed to working with all stakeholders to provide consumers with the safe yet attractive products needed to ensure that they don't stray from the safety into the clutches of illicit markets.

Thank you

**Brussels, 13<sup>th</sup> November 2012**