

UK Labour Party's Policy Review: More Sport For All

Introduction

1. ESSA, representing the betting integrity interests of many of the world's leading licensed betting operators, including significant regulated land-based and online sports betting operations focused on the UK, is pleased to provide its views on the UK Labour Party's sports consultation comprising a proposed "levy on betting, including online betting, to fund gambling awareness and support for problem gambling but also to improve community sports facilities and clubs."
2. Whilst the scope of the proposal does not include a specific reference to sporting integrity, ESSA is mindful that the UK sports sector, in particular, has promoted a levy or sports betting right on regulated betting operators on integrity grounds and is likely to again pursue this objective through this consultation. Our response therefore seeks to proactively address this scenario.
3. We hope that the Labour Party will therefore take into account the information contained in this document on this basis in its deliberations on the scope and nature of the proposal, which will no doubt require legislative change, notably in relation to the protection of consumers, sports bodies and regulated betting operators regarding the manipulation of sporting events.
4. As the regulated private betting industry's integrity body, ESSA is of course very happy to participate in any future consultation process; we believe that it is vital that all stakeholders are engaged fully if practical and proportionate cross-sector solutions are to be established.

Background

5. ESSA was established in 2005 by a number of leading regulated betting operators specifically to monitor irregular betting patterns on its members' markets. The organisation's core mandate is to facilitate cross-sector partnerships and to protect its regulated betting operators' business platforms, their customers and sporting bodies from betting related corruption.
6. By coordinating detailed intelligence from its members' customer base to identify, track and trace suspicious bets, ESSA's sophisticated early warning system allows it to immediately alert sporting bodies when suspicious betting activity is identified on its members' regulated markets.
7. To facilitate the smooth transmission of this data, ESSA has signed information sharing agreements, commonly known as Memorandum of Understanding (MoU), with over twenty major sporting bodies, including: FIFA, IOC, English FA, DFB, ATP, ITF and WTA, amongst others.
8. ESSA also has established information sharing arrangements with a number of regulatory authorities, including the British Gambling Commission, Gibraltar Gambling Commissioner, Alderney Gambling Control Commission and the Malta Lotteries and Gaming Authority.
9. ESSA's information network provides transnational coverage and has proved to be highly effective in detecting and deterring betting corruption. The organisation also works closely with a range of national and transnational policy platforms such the European Commission, Council of Europe and the IOC's integrity working groups to seek cross-sector evidence-based solutions.
10. ESSA's members currently include many UK focused operators, including: the Association of British Bookmakers (ABB), Bet365, Bet-at-Home, Betclac, Betsson, BetVictor, bwinparty, Digibet, Expekt, Hong Kong Jockey Club, Interwetten, Ladbrokes, Paddy Power, Stanleybet, Unibet and William Hill. For more information on the organisation and its role go to www.eu-ssa.org.

A sports betting levy or sports right for integrity purposes

11. Legislative provisions to ensure fiscal benefits flow from betting to the horseracing sector are commonplace around the world and recognise a close historical association between the two. Such arrangements can be in the form of a track-based or wider monopoly provision of betting, or through a levy (or deduction) on the associated betting revenues of operators licensed in that jurisdiction as a statutory way of ensuring a dedicated funding stream for the sector.
12. As the recent UK Government's consultation on the future of the British horseracing levy (which includes payments for integrity purposes in that sport) states, any "solution would be bespoke to betting and horseracing. The Government has no plans to create a model that would apply to all sports" thereby recognising the singular relationship between horseracing and betting.
13. As the Labour Party may be aware, France has introduced what has been termed a 'right to bet', or 'betting levy', requiring French licensed online betting operators to pay French sports if they are to be allowed to take bets on the events they oversee. The funds raised from this process are meant to be used for integrity purposes, although there is no evidence that this is happening.
14. Sports have unsurprisingly championed this approach across the EU, and whilst this consultation does not mention sporting integrity, they are likely to do so again through this process. However, very few jurisdictions have to date determined that this is a necessary, justified and appropriate policy approach; it is principally only employed in France and two states in Australia.
15. A report by the Asser Institute for the European Commission has widely criticised the approach adopted in France and Australia, detailing numerous clear practical and operational flaws in the effectiveness of this system, along with a number of important legal obstacles within the EU.
16. The associated contracts agreed in France average 1.1% of bets placed with, in the period June 2010 to June 2012, €2.4 million being paid by online betting operators to sports bodies.¹ In the same period €6.9 million was paid by monopoly land-based operations to the holders of the right to consent to bet with almost all of this income going to football and rugby (93%).²
17. French regulator ARJEL therefore observed that "the amount paid by betting operators for the right to organise bets remains limited. Excluding football, tennis, and rugby, the remuneration is quite small and is unlikely to cover the costs incurred for risk prevention" in other sports.³
18. The reality is that only €75 million (or 21%) of the €362 million in bets placed by French consumers in 2012 involved sporting events covered by the right to bet approach - the rest being on events outside of France and thereby not covered by the system. Moreover, only the major betting events are covered, with French football generating almost half of the total return.⁴
19. ARJEL has also advised that territorial licensing limitations severely undermine the effectiveness of the approach as: "the organiser of the competition can thus only have a partial view of the betting activity performed during its event and consequently, it can only claim a fair return on an exceedingly small proportion of the income generated by betting on its event" worldwide.⁵

¹ Page 142 http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf

² Ibid.

³ Page 142 http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf

⁴ Page 143 http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf

⁵ Page 141 http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf

20. The reality is that this model does not provide an effective or efficient approach with revenues predominately going to the major sports bodies and where it is unclear that they are being used for integrity, whilst the costs associated with the administration of this process are considerable.
21. Quite understandably, very few jurisdictions have opted to introduce this flawed mechanism with the majority of government's opting for alternative and more balanced and efficient approaches which indisputably seek to protect integrity, rather than as a commercial substitute.
22. It is therefore clear that the approach lacks any credible wide-spread support as an appropriate integrity mechanism. It is also clear that support for this approach has little to do with integrity and more with trying to establish an unjustified new commercial right in the long-term for wealthy professional sports, which already benefit from a significant investment in the sector from licensed betting operators, notably through commercial sponsorship and advertising deals.
23. The Italian and UK models are notable alternate approaches which ensure that there is no "integrity gap", as an examination of the French and Australian variations has exposed, and where their respective regulators' centralised systems are financed via betting operator licence fees and can be allocated on a risk-based approach and without commercial interference.
24. The Italian regulator, AAMS, employs its own sports betting monitoring system with all of its licensed betting operators' servers linked to it so that every bet can be recorded, monitored and validated. Any unusual betting patterns are sent to the respective sports for investigation.⁶
25. Whilst the British Gambling Commission requires all of its licensees to adhere to a specific betting integrity licensing condition obliging them to notify and share information with sports governing bodies and the regulator of any suspected or attempted betting fraud (e.g. match-fixing) and any breach of a sport's rule (e.g. players banned from betting on their own sport).⁷
26. The British gambling regulatory body, which has established a dedicated Sports Betting Intelligence Unit (SBIU), has the power to share suspicious betting information with appropriate parties, void bets and the power of prosecution. Expenditure on integrity activities, funded via betting operator licence fees, by the Commission totalled £0.75 million during 2012/13.⁸
27. Whilst aspects of the sports sector promote the introduction of an integrity-based betting levy on regulated betting operators, the reality of modern-day match-fixing is that it is conducted on a global scale by sophisticated organized criminal groups who primarily target unregulated betting markets, notably in Asia. This position has been recognised by a range of parties such as the IOC, Council of Europe, European Commission, INTERPOL and Europol.⁹
28. Significant governance issues remain concerning the enforcement of sporting rules and sanctions, corruption within sport itself, along with a widespread lack of player salary payments in some areas which is allowing organised crime to exploit the financial vulnerabilities of players.
29. Such poor governance issues within sport have undoubtedly contributed to players being more vulnerable to approaches from corrupters. Whilst regulated betting operators are actually the potential victims of such fraud, immediately questioning the rationale behind any additional betting levy or integrity focused sports right being imposed on those regulated operators.

⁶ Ibid.

⁷ British Gambling Commission licensing conditions and codes of practice section 15.1 http://www.gamblingcommission.gov.uk/gambling_sectors/betting/operating_licence_holders_-_wh/information_that_must_be_provi/reporting_suspicious_bets_to_s.aspx

⁸ <http://www.gamblingcommission.gov.uk/pdf/Betting%20integrity%20decision%20making%20framework.pdf>, Page 13
<http://www.gamblingcommission.gov.uk/pdf/Gambling%20Commission%20Annual%20report%20and%20accounts%202012-13.pdf>,
http://www.gamblingcommission.gov.uk/licensing_compliance_enfo/intelligence/sbiu.aspx & Page 42

⁹ <http://www.gamblingcommission.gov.uk/pdf/Proposed%20amendments%20to%20LCCP%20for%20all%20operators%20response%20part%20one.pdf>. The legislation received Royal Assent in May 2014.

⁹ <https://www.europol.europa.eu/content/results-largest-football-match-fixing-investigation-europe>

30. In addition, as the Labour Party may be aware, many existing betting levies, such as those in horseracing, were in place prior to the formation of the EU and have not therefore been subject to scrutiny as pre-existing arrangements, but any significant change to those processes or any new levy would need to be notified and assessed by the European Commission.¹⁰
31. The introduction of what would be a new fiscal platform benefiting the wider sports sector, especially one where it is highly questionable that it will actually be used for integrity purposes, either by extending the existing racing levy to other sports, or a sports' betting right, would very likely represent a State aid and one which may not be justifiable or compatible with EU law.¹¹

Conclusion

32. Regulated operators have a clear business need to ensure the integrity of sporting events and their associated products and invest significant sums through licensing fees and sophisticated internal security measures to protect their regulated markets, consumers and sporting events.
33. A recently published independent report for the European Commission has widely criticised the supposedly integrity focused levy or sports betting right approach, adopted in France and parts of Australia, detailing numerous clear practical and operational flaws in the effectiveness of this system, along with a number of important legal obstacles within the EU.
34. Establishing what would in effect be a new fiscal benefit for sport through a levy on regulated betting operators has been shown to be of no clear integrity benefit, especially given that this illicit activity is primarily perpetrated by criminals utilising the unregulated betting market.
35. ESSA contends that any policy development on integrity issues should consider the detailed evidence-based analysis provided by the Asser Institute and also a separate report recently published by the major betting associations on sports betting issues as part of that process.
36. Those documents can be found at: http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf and <http://www.eu-ssa.org/wp-content/uploads/Sports-Betting-Report-FINAL.pdf>.

CONTACT INFORMATION

Khalid Ali,
Secretary General
ESSA - Sports Betting Integrity
ka@eu-ssa.org
www.eu-ssa.org

¹⁰ Column 586 - UK Parliamentary debate 25 January 2013 <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm130125/debtext/130125-0001.htm> , Column GC62 <http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/140114-gc0001.htm> & Column 1249 <http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/131217-0003.htm>

¹¹ Ibid.