

RESPONSE TO REGULATIONS FOR REMOTE GAMES OF CHANCE

Introduction

Hillside (New Media Malta) Plc, trading as bet365, are pleased to have the opportunity to provide feedback on the draft regulations for remote games of chance during this period of public consultation.

bet365 is a privately owned group of companies which has over 4,600 employees and 45m registered customers in over 150 countries across the world. For 2018, our total online sports and gaming revenue exceeded €3 Billion, which was circa 40% greater than our closest competitor.

bet365 have taken the decision not to accept bets from customers in the Netherlands until a licence becomes available to do so. We remain eager to become a licensee once the market opens, in line with our policy of pursuing licences in regulated markets. The bet365 brand is truly global and is licensed in 15 different jurisdictions. We have extensive experience of working with local licensing, regulatory and reporting bodies and pay substantial duties and licence fees in each of those territories. We are committed to responsible gambling and protecting minors and vulnerable people from the harmful effects of gambling.

Having thoroughly analysed the draft regulations and decree on remote games of chance, we have focussed our input on two key areas:

Sports Integrity

We are fully committed to ensuring that the integrity of every competition is protected, not only in the Netherlands, but around the world. We believe that the best way to protect integrity is to build strong and lasting relationships with all relevant stakeholders and to provide a robust platform where information can be shared and acted upon.

bet365 strive to go above and beyond our legal and regulatory obligations in relation to match-fixing and manipulation. We report all evidence to the relevant authorities, as well as to the International Betting Integrity Association (IBIA, previously ESSA).

The only proven way to collect evidence of match fixing is to ensure that all betting activity takes place on licenced sites. An unintended consequence of banning betting on certain competitions or events could be that betting activity is channelled to illegal operators. Unless the authorities allow operators to offer the widest possible product range, it will become increasingly difficult to capture and report on suspicious betting activity throughout the regulated market.

Advertising

bet365 recognise and support the need for sensible restrictions on gambling advertising. We do however believe that the ability to attract customers to the licensed offering should not be disproportionately restricted. Advertising will play a key role in reducing the illegal offshore market and towards meeting the channelling targets that the Ministry has set.

We believe that newly licensed operators (including those that have not previously accepted bets from customers in the Netherlands) should have an opportunity to build brand awareness without overly exposing the general public to their advertising, whilst protecting revenues generated by media providers from the gambling industry.

Our specific comments on our two focus areas can be found below.

Sports Integrity

Part 1 of Appendix 2 to Articles 3.16 and 3.17 of the Regulations on Remote Games of Chance states:

'Prior identification and analysis as referred to in Article 4.8(2) of the Remote Games of Chance Decree may be omitted with regard to the matches from the following contests and tournaments.'

We remain opposed to the imposition of a definitive whitelist of events that are excluded from prior analysis. We note that the list is almost exclusively confined to competitions organised in the Netherlands, inferring that all other competitions outside of the Netherlands carry a greater risk of manipulation. We recommend that this list should instead be used as a point of reference and that those supervised by comparable governing bodies around the world should also be excluded from prior analysis. For example, the Dutch Basketball League is governed by FIBA (who have a well defined sports integrity policy which covers betting); therefore all other competitions governed by FIBA should be exempt from prior analysis. This approach would reduce the administrative effort required to conduct an analysis for all competitions under the same governing body for both the operator and the Gambling Authority. In addition, this would allow licensed operators to offer a wider range of betting opportunities and help to ensure that the licensed offering remains attractive enough to discourage migration to illegal sites.

The current whitelist has only nine sports included and a great number of professionally organised and hugely popular sports are missing (American Football, Baseball, Boxing, Golf and Motor Sports are just a few examples). We suggest that rather than maintaining a list, a more appropriate measure would be to scrutinise the governing body under which competitions, events and matches are organised. This could be achieved by stipulating that there must be an adequate sports integrity policy included in the rules of the governing body.

We note that the Top Amateur Division (Men and Women) Hockey is excluded from prior analysis, despite the provision in Article 4.8 (1, b) of the Decree which obligates an operator to assess: *'the extent to which the sportspersons involved are paid sufficient amounts and on time.'* Amateur players are not paid at all. We strongly believe that this clause should be removed from the Decree. In addition Article 4.8 (2) of the Decree states: *'the licence holder must inform the relevant contest organiser of the nature of the bet that it is organising'*. This represents an unmanageable administrative burden for the industry and the Gambling Authority. An international operator may offer bets on over 7,000 leagues. Contacting each of these leagues is not practically possible, nor is the supervisory effort that would be required. We would welcome clarification to confirm that, by posting odds on their website, the operator has adequately notified the competition organisers.

Article 3.17 of the Regulations states:

1. *'In any event, a negative event as referred to in Article 4.9(2)(e) of the Decree is understood to mean:*
 - a. *the imposition of a disciplinary measure;*
 - b. *the dropping out of a participant in the competition.*

2. *In any event, an event that is easy to manipulate, as referred to in Article 4.9(2)(e) of the Decree, is understood to mean an event, the occurrence of which:*
 - a. *is under the dominant influence of one participant in the competition; and*
 - b. *has no overriding influence on the course or outcome of the contest.*

3. *The licence holder will not organize bets on the events listed in Part 2 of Appendix 2 to this Regulation.'*

Part 2 of Appendix 1 prohibits betting on 'winning or losing individual games or sets' in Tennis. Prohibiting betting on these events could have a detrimental effect on the attractiveness of the licensed offering, to an extent that a customer may migrate to an illegal site that will offer these types of bets. To illustrate this point, we have analysed betting patterns on our site for the 2019 men's final at Wimbledon which shows that a very significant percentage of In-Play bets were placed on the individual game or set markets. This highlights a very strong desire to bet on this type of market and would suggest that the lack of opportunity to do so throughout the licensed market could severely jeopardise channeling rates. A more appropriate measure could be to consider a ban on betting on winning or losing individual points. Winning or losing individual points would be easier to manipulate than an entire game or set and therefore should be included on the list of events prohibited from betting instead of and in place of individual games or sets. We find it difficult to believe that winning individual games or sets at a Grand Slam or ATP event could be easily manipulated. A more proportionate response may be to limit betting on individual points, games or sets at lower level tournaments, such as Challenger and ITF.

The explanatory memorandum for Article 3.17 states:

'Certain final or interim results that do not affect the final classification can also be designated as an event that is easily manipulated, such as a cyclist who deliberately crosses the finish line behind a specific opponent. The offering of bets on such head-to-head results is not permitted, either, for that reason.'

The broadest interpretation of 'head-to-head results' could prohibit betting on a very wide range of events. Using head-to-head markets as an example of easy to manipulate bets is disproportionate and clarification is needed to prevent either, unintended prohibitions and/or operators falling foul of ambiguity in the regulations. For example - in the US Open Golf tournament, Rory McIlroy and Jordan Spieth are drawn to play together on the third day. Although the players are not directly competing against each other, more competing against the entire field, a popular bet would be the head-to-head market between these two players in the given round. Considering that the PGA has its own sports integrity policy and that the two players will be trying to win the tournament outright, organising bets on the head-to-head market poses no risk to the integrity of the competition.

Further to our previous comments, imposing restrictions on the number and type of events and markets that are allowable is counterproductive to creating a successfully regulated environment. According to IBIA in their paper to the Portuguese Regulator of 2018:

"Imposing bet type restrictions on regulated operators does not (therefore) make it any less likely that the sporting events in that licensing jurisdiction will be any safer from betting related corruption, which can take place with a multitude of operators around the world."

We suggest that the only effective way to combat sports integrity issues is to monitor the betting taking place and include a licence requirement that obligates the operator to report suspicious behaviour. This can only be achieved by having as few restrictions on bets as possible.

Advertising

Chapter 5 – Article 4 states:

1. *'The licence holders may not use the services of individual professional athlete in their recruitment and advertising activities.'*

It is crucial to the success of the regulated market that licensed operators can advertise their products. When considering this article in conjunction with the associated articles in the Decree (Chapter 6 - Article 6.2 – C - 4 & 5) the options for a 'good actor' with zero market share to advertise their products are extremely limited.

bet365 suggests that a complete ban on advertising during live sports events as outlined in this article in the Decree is too restrictive and would unfairly penalise those operators that have not previously accepted bets from customers in the Netherlands.

For television, we suggest that broadcast adverts during match play (i.e. when the game is actually being contested) could be prohibited and that the number of adverts allowed before a game, at half time and immediately after a game could be limited. We can also see that advertising content that creates a false sense of urgency - such as "play now", "free spin now" and "bet now" is undesirable.

For online advertising on sites other than the operator's own site we suggest that a total ban during live sports as outlined by Article 6.2 in the Decree is disproportionately excessive. This advertising tends to be at the side of the main site content – headers, footers, banners etc. rather than full screen advertising so is not overly intrusive for the visitor to the website. We suggest limits on the size and placement of adverts and content would be more appropriate rather than a complete ban. We do appreciate that full screen advertising at such sites is undesirable.

Perimeter board sponsorship is very important for creating non-intrusive brand awareness, particularly for those operators who have not previously accepted bets from customers in the Netherlands. We strongly recommend that this is allowed but that the messaging could be controlled by effective regulation – company name only, no mention of bonuses etc.

Thank you once again for the opportunity to submit our comments, which we hope you find useful. We would be delighted to discuss these matters with you in more detail at any point in the future.

For more information or to discuss any of the above, please contact:

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