



RESPONSE TO NORWEGIAN MINISTRY OF CULTURE CONSULTATION ON A POSSIBLE LICENCING SCHEME FOR GAMING

December 2015

Introduction

Founded in 1999, Betfair has grown from a start-up business with a pioneering approach to online gambling into a leading UK and international gambling company offering betting exchange, sportsbook and gaming products to more than 1.7 million active customers.

In 2010, Betfair listed on the London Stock Exchange and today employs over 2,000 people in various locations worldwide. The company currently holds gambling licences in the UK, Ireland, Denmark, Spain, Italy, Bulgaria, Romania, Gibraltar, Malta, and the United States.

In August 2015, Betfair announced it was planning a merger with Paddy Power, an international multi-channel betting and gaming company headquartered in Dublin, Ireland. If the merger completes successfully, the new entity will become one of the largest online betting and gaming companies in the world.

Betfair also takes an active interest in the Nordic online gaming market, and is currently an active board member of both the Danish Online Gambling Association (DOGA) and Branschföreningen för onlinespel (BOS) in Sweden, so we hope our knowledge and experience in this context will be helpful to the Norwegian Government.

Betfair welcomes the opportunity to respond to this consultation.

Consultation questions

Question 1: What level of responsibility do the consultative bodies think should be aimed for in a future Norwegian gaming model?

As a responsible operator, Betfair believes that any future gambling framework in Norway should aim for a high level of social responsibility. As has been proved in several other European jurisdictions, it is possible to strike an appropriate balance between operating a robust and socially responsible regime which is - at the same time - sufficiently commercially attractive that operators wish to apply for a licence.

Using the UK as an example (which has a fully liberalised gambling regime), there is currently a very low level of gambling addiction, which has stayed constant at around 0.4%¹ in recent years despite an increase in the proliferation of online gambling. At the same time, the UK model is perceived as sufficiently attractive that the vast majority of operators active in the UK have sought to take out a licence, resulting in a very small black market and channelling rates of "nearly 100%"². Whilst other factors (such as the tax rate, technical compliance obligations etc.) also have an impact, the reality is that national authorities can impose stringent and effective social responsibility measures on operators, while at the same time successfully capturing a very high proportion of the market.

Indeed, Dr. Mark Griffiths of Nottingham Trent University observes that "*problem gambling prevalence rates observed in Great Britain are similar to rates observed in other European countries, notably Germany, Norway and Switzerland*"³. This would suggest that the UK has a regime in place

¹ <http://abb.uk.com/wp-content/uploads/2014/09/Problem-Gambling-in-Great-Britain-A-Brief-Review.pdf>

² <http://calvinayre.com/2015/07/16/business/ukgc-no-evidence-online-gambling-black-market/>

³ <http://abb.uk.com/wp-content/uploads/2014/09/Problem-Gambling-in-Great-Britain-A-Brief-Review.pdf>

that is as effective as the current regime in Norway in terms of social responsibility, whilst also having the added benefit of channelling a far higher share of the market, as well as all of the benefits that go with this in terms of tax revenues and consumer protection. To illustrate this point, Betfair currently pays circa £60 million a year to the UK Treasury in taxes.

Similarly, in Denmark, the rates of pathological problem gambling are very low (0.1%)⁴ which again reflects that the Danish authorities also have a very successful approach to limiting instances of problem gambling. This includes obligations on online gambling providers to monitor players' consumption of gambling, providing players the possibility of 'cooling off periods', and providing access to a state-controlled Register of Voluntarily Excluded Players (ROFUS).

It is worth adding that there are a multitude of socially responsible gambling measures (both regulatory and self-regulatory) that can and are being employed successfully across Europe. These include, for example: responsible gambling messaging; establishing a centralised self-exclusion register; online customer self-help tools (deposit and loss limits, session time outs); guidelines on advertising; links to support and advice etc.

In the UK, Betfair adheres to all regulatory and self-regulatory measures such as the ones listed above, while constantly looking for new and innovative approaches to promote responsible gambling. We also fund the Responsible Gambling Trust (RGT) which provides treatment for problem gamblers and conducts research into the causes of gambling related harm. Betfair also donates to Gambling Therapy and supports researchers and academics by allowing them to access our betting data for research. In addition, Betfair also supports a wide range of charitable initiatives and donates money to various sports clubs and sporting initiatives, as well as equine and health charities.

When it comes to preventing underage gambling, Betfair has a specialist verification team responsible for identifying and age verifying every customer. Opening an account with Betfair is akin to opening a bank account. All customers must share their full name, contact information and ensure proof of their identity, including age, before they can make any withdrawals. There are also supplementary electronic (e.g. Jumio, Sphonic) and third-party checks (electoral roll, credit databases etc.) used to verify that customers are over 18, with accounts being blocked if these checks are failed.

A final important factor to consider in this context is that of sports betting integrity and tackling corruption in sport. The UK leads the way in terms of the infrastructure and systems that it has in place to tackle betting related corruption in sport, and Betfair has for many years played a central role in the development of the UK sporting integrity regime. Betfair is a member of the Sports Betting Integrity Forum⁵ which brings together government, sport, the regulator, law enforcement and betting operators to jointly tackle the threats posed to sporting integrity by corrupt betting.

While the objectives of licensed betting operators and sport are completely aligned when it comes to preventing and reporting match-fixing, the incentive for black market (often Asian-facing) operators is far smaller. In the UK, licensed operators are required as a condition of their licence to share information on suspicious betting activity with a special unit within the Gambling Commission – The Sports Betting Intelligence Unit⁶ - which guarantees that all suspicious activity is reported to the regulatory authorities.

In addition to these regulatory requirements, Betfair also has over 65 voluntary Memoranda of Understanding (MOU) agreements with national and international sporting governing bodies (including IOC, FIFA, UEFA) which enables our dedicated Integrity Team to share information and customer information with sports bodies should they identify suspicious activity or should they be

⁴ <http://abb.uk.com/wp-content/uploads/2014/09/Problem-Gambling-in-Great-Britain-A-Brief-Review.pdf>

⁵ <http://www.gamblingcommission.gov.uk/pdf/SBI-Action-Plan.pdf>

⁶ <http://www.gamblingcommission.gov.uk/Licensing-compliance-enforcement/Intelligence/sbiu.aspx>

requested to provide information by one of its MoU partners. In a similar vein, Betfair tries to cooperate with international regulators and sports bodies and we are currently seeking informal information sharing arrangements in countries where licences are still currently unavailable (e.g. Sweden, Netherlands).

When it comes to ensuring responsibility in the fight against match-fixing in sport, it is clear that a well-functioning licence system enables sport, regulators and operators to share information freely and work cooperatively to tackle the problem. This is another clear responsibility measure made possible by the existence of a workable licencing model.

Question 2: What level of protection do the consultative bodies think will be possible to establish under a licensing model?

Similarly, Betfair is of the view that the Norwegian authorities can achieve a very high level of consumer protection as part of a viable licensing regime. This can be achieved most effectively by ensuring that the Norwegian market channels consumer demand towards reputable, regulated operators which have appropriate consumer protection mechanisms in place.

The current situation in Norway means that many consumers will opt to gamble with non-regulated operators (indeed it has been suggested that almost 60% of Norwegian consumers gamble with non-licensed operators)⁷. The only way to address this imbalance is to provide a regulated alternative to the current monopoly system through an open licence system.

Indeed, high levels of consumer protection have been achieved in other countries in Europe, such as Denmark and the UK, on account of the protection measures that operators are obliged to have in place. This will include safeguards such as security of player funds, providing a means of redress for complaints and disputes, and strict measures to prevent underage and problem gambling.

Question 3: How do the consultative bodies view the idea that revenue can be secured for the voluntary sector from gaming under a licensing scheme, compared with the current monopoly in which Norsk Tipping's surplus goes directly for the purposes?

It is perfectly possible that the additional revenues that the Norwegian Government would receive from licensed operators could be earmarked for the voluntary sector and lead to a higher overall level of funding than is available at present.

Interestingly, the size of the Danish (750m DKK/100m EUR) and Norwegian (859m NOK/93m EUR) betting markets were broadly similar in 2011 prior to the reform of the Danish market.⁸ However, in 2014 the Danish betting market GGR was valued at 239m EUR (139 % increase), while Norsk Tipping's GGR was just 122m EUR (31 % increase).

This comparison suggests that the Norwegian market could have developed in the same way as the Danish market and that the estimations in the report are too conservative. Had it developed in the same way as the Danish market, in 2014 the Norwegian betting market (had there been a similar gambling reform) might have delivered 222m EUR in GGR. Indeed, the Ramboll report says that in its first year Scenario 2A (Danish model) would generate a loss of 66m NOK, but based on the above conclusions it could generate a profit in excess of 100m NOK. This suggests that the conclusion in the report that a regulated market would result in a drop in revenues is flawed.

It is also worth noting that the gambling industry has traditionally been a major investor in sport, through mechanisms such as sponsorship, streaming rights and other commercial deals. For

⁷https://www.regjeringen.no/contentassets/17a0a7aa651c4c669a585d94672e9c1b/rapport_sosialpolitiske_og_kriminalpolitiske_konsekvenser_av_lisensiering_i_det_norske_pengespillmarkedet-lotteritilsynet_mai_2015.pdf

⁸ <http://norsktripping2011.iteragazette.no/vaare-spill/>

example, in 2012 Betfair entered into a five year commercial agreement with British Horseracing which guaranteed horse racing £40m over this period. Indeed, in the UK, the gambling industry has been responsible for a massive upsurge in the amount of money flowing into professional sport, while the premium that operators pay for advertising space has also had a positive impact on the value of sports media rights. These factors should also be considered in this context.

Question 4: In the event of a continuation of the monopoly model, what measures do the consultative bodies think should be implemented in order to ensure that the level of gambling problems continues to be held low, and that Norsk Tipping succeeds in channelling players to regulated games?

Betfair is of the view that the Norwegian authorities should not continue with the monopoly model and instead move towards a licensing model in line with a number of other jurisdictions in Europe. In countries such as Denmark and the UK, the authorities have maintained a system with high channelling, high responsible gaming but with the added benefit of additional tax revenues, while still preserving levels of funds diverted towards the voluntary sector.

Question 5: How do the consultative bodies view such far-reaching liability instruments?

Whilst a spending cap across all companies could be perceived as a beneficial instrument to promote responsibility, in reality it could be a lot harder to enforce and may encounter legal and technical difficulties.

Moreover, from a consumer perspective it will have a negative impact for some customers' user-experience, particularly high-rollers, professional gamblers and high-volume traders who could easily exceed these limits on a regular basis while still gambling comfortably within their means. This would mean these users look elsewhere outside of the regulated sphere in order to avoid these restrictions. As such, Betfair would not be in favour of such a measure, despite its well-intentioned objectives.

Question 6: Is it feasible to introduce such instruments in a licensing scheme?

Please refer to the answer above. While in theory the instruments could be employed, their effectiveness and desirability are highly questionable. Betfair is not aware of similar restrictions in any other major regulated jurisdiction.

Question 7: Will a licensing scheme with extensive responsibility tools such as the Gaming Authority describes be attractive to possible applicants for a licence?

In principle the Norwegian market is attractive to international operators on account of the relatively affluent, tech-savvy population and high-internet penetration rates. However, any licensing regime must not prove excessively burdensome so as to detract significantly on user-experience and must be combined with a viable tax rate (based on gross profits) and other workable operating conditions.

As such, it is imperative that any such measures deployed in any licence regime are developed in consultation with EU-licensed operators to ensure their viability.

Question 8: What specific measures do the consultative bodies think may not be possible or desirable to implement under a licensing model?

From a responsible gaming point of view, anything that detrimentally impacts user experience to the extent that customers are forced away from regulated offerings. More generally, issues such as product or market restrictions, ring-fenced national liquidity and burdensome technical requirements must be avoided. Crucially, tax must be set at an appropriate level on a gross profits basis rather than on stakes or player winnings. France is an example of a country where an excessively harsh taxation regime has resulted in a large black market and very limited market growth. Notably, Jean-Francois Villotte, President of ARJEL (the French gambling regulator)

concluded that “*regarding taxes, we have now realised that the taxation model where a percentage of stakes is levied does not work*”.⁹

Question 9: What challenges do the consultative bodies think will arise?

The main challenge would appear to be striking the right balance between an appropriate level of social responsibility and consumer protection, whilst at the same time ensuring the regulated offer is sufficiently attractive for operators and consumers alike.

Another challenge will be adopting a balanced view on the merits of market opening in the face of resistance from the incumbent monopoly operators. Similarly, educating key stakeholders (politicians, sports bodies, members of the public etc) about the clear advantages of market liberalisation despite existing prejudices and misconceptions may also be challenging.

Finally there could be legal challenges in order to make any regime compliant with EU/EFTA law (where applicable) and other common market legislation.

Question 10: How do the consultative bodies view this issue?

We feel the Norwegian authorities are best placed to opine on the nuances of Norwegian privacy laws.

However, it may be relevant to note that without our MOU agreements with sports governing bodies, anyone betting for dishonest reasons would be able to hide behind privacy laws. To overcome this, Betfair’s customers waive their rights under those laws when accepting our terms and conditions.

Question 11: How do the consultative bodies view the practicability and desirability of introducing such measures in order to bar unregulated operators from the Norwegian gaming market?

In our experience, Betfair does not find such measures to be effective, nor are they desirable. The focus of the Norwegian authorities should not be on enforcement but rather on channelling demand into the regulated market in order to reap the associated benefits. Moreover, such methods are often disproportionately time-consuming to enforce and costly to implement.

Question 12: The Gaming Authority outlines three different forms of blocking web pages: blocking IP addresses, blocking DNS addresses and DPI-based blocking. How do the consultative bodies view these different forms of blocking as measures for protecting the Norwegian regulated market?

Betfair has no additional comments on this matter beyond our response to question 11.

Conclusion

To conclude, Betfair would urge the Norwegian Government to implement a licensing system taking into account the observations made in this consultation response. We are firmly of the view that the benefits of a well-developed licensing system outweigh those of the current status quo, from the perspective of the Government, Norwegian consumers and other industry stakeholders alike.

Once more we would like to thank the Norwegian Ministry of Culture for the opportunity to respond to this consultation and we very much hope that Betfair’s extensive international gambling regulatory experience and insight will prove useful in this process.

If there are any questions that arise from this consultation response then we would be very happy to follow up in more detail. For more information, please contact David Foster, Public Affairs Manager
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⁹ “*L’objectif de la régulation n’est pas de faire exploser le marché des jeux d’argent en ligne*” Jean-François Vilotte, Le Monde 22 July 2011