

EGBA response to the European Commission consultation on “Creative Content in a European Digital Single Market: Challenges for the Future” 5 January 2010

Introduction to EGBA

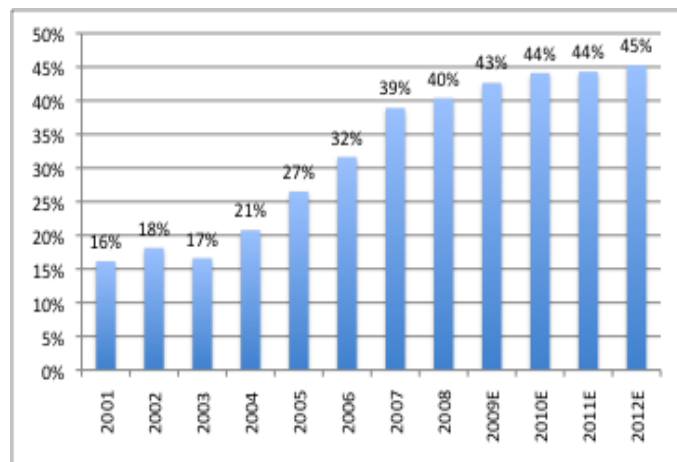
The European Gaming and Betting Association (EGBA)¹ represents the leading online gaming and betting operators established, licensed and regulated within the EU. Our members offer their services exclusively online. All EGBA members follow strict rules in terms of governance and account control. Some of our members are publicly listed companies.

The objective of the EGBA is to promote fair competition for European operators and the possibility for consumers to access EU regulated gaming and betting services. As a quintessential internet sector, the EGBA strives for the online gaming and betting sector to be treated on equal footing with other e-commerce sectors. The transparency and traceability of the internet in a regulated environment allows for a high level of responsible gaming and consumer protection on EU level.

Market background

The European market is today the largest market for online gaming worldwide. Of the €17.1bn of gross win (stakes minus winnings) generated globally in 2008, 43 per cent was attributable to the EU market, up from less than 32 per cent in 2006. This leadership results from the closing down of the US and some Asian markets and the high internet penetration in Europe.

But Europe’s leadership remains uncertain due to the national segmentation of the EU market and the growing economic protectionism of Member States.



European Interactive Gambling as a Percentage of the Global Total Market 2001-2012E (Based on Gross Win)².

Remarks

- EGBA supports the objective of creating in Europe a modern, pro-competitive, and consumer-friendly legal framework for a genuine Single Market for Creative Content Online (Introduction, page 2). Many, if not all, of the issues addressed, and in particular those that result from market fragmentation, are relevant for the online gaming sector.

¹ <http://www.eu-ba.org/en/>

² H2 Gambling Capital, March 2009 (does not include forecast for a US regulated market)

- EGBA member companies provide creative content, via offering games - such as online sports betting, poker, casino and backgammon - and the live streaming of sports events. These games are mostly developed by specialised third party software companies while some are developed in-house. EGBA members have so far not been affected by the illegal use of their software.
- EGBA shares the Commission's views on the efficiency of the current licensing systems and therefore welcomes the suggestion to work at the creation of a streamlined pan-European and/or multi-territory licensing process.
- The challenges of a fragmented market as described in the reflection paper are compounded for the European gaming sector by the lack of harmonisation at EU level. Indeed, many Member States fail to implement effective regulatory frameworks that ensure the sector is properly controlled and regulated within the boundaries of European Law. At a time of rapid e-Commerce expansion and increasing consumer demand for its products and services, our sector has been excluded from two key horizontal legislative proposals, the e-commerce and services directives.
- These conflicting tendencies have resulted in a very particular situation for the European online gaming sector, which as the world's leading and most competitive sector is facing an increasing divergence in national legislation. We agree completely with the assessment in the paper that the response to this challenge should be a European one, instead of being the result of separate and contradictory national initiatives (Introduction, page 3).
- One of the corollaries of this uncoordinated national approach, is that many of the advantages of access to creative content, including the take-up of new technologies, the creation of more choice and diversity for consumers at attractive prices, new business models for commercial users and more sustainable growth for right holders, are not only hampered but in some cases impeded altogether.
- For example, divergent regulation means that some countries allow players to play at international online poker tables (i.e. with players registered from outside that country) while other countries allow players to play at national poker tables only. This market segmentation has many consequences:
 - It clearly affects players' freedom of choice
 - It renders our products less attractive and more costly as each game has to be amended to conform to national requirements
 - It inhibits the development of new games and technology by reducing the potential returns on any investment
- It goes without saying that ISPs play a key role in the provision of digital content in Europe's single market. To ensure access and free circulation, it is crucial that ISPs remain neutral to and not responsible for, the content that is provided.
- Finally, whereas the paper does make a distinction between user-created content and professionally created content (chapter 2, page 3), it does not define what creative

content is. We would agree that the convergence between content and new communications technologies blurs the boundaries between them. A definition of creative content is therefore not desirable. However, it would be useful to clarify the distinction between creative content and content, if any.