

**European Gaming and Betting Association**

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Brussels, 6 May 2020

**Subject: Fi2020/01934/OU - EGBA submission on the Draft Ordinance on temporary responsible gambling measures in connection with the spread of the COVID-19 disease**

Dear Sir/Madam,

We, the European Gaming and Betting Association (EGBA), the association representing the leading online cross-border licensed gaming and betting operators in the European Union ('EU'), would like to bring forward our considerations on the Draft Ordinance on temporary responsible gambling measures in connection with the spread of the COVID-19 disease ('Draft Ordinance'). EGBA is concerned about the counterproductive effect of the proposed Draft Ordinance on consumer protection for Swedish players due to a reduction of the channelling effect of the Swedish online gambling regulation.

The Draft Ordinance aims to protect players and prevent the occurrence of problem gambling by introducing certain restrictions on deposit limits, loss limits, login time and bonuses. However, there is evidence that suggests that the proposed Draft Ordinance will negatively impact consumer protection for Swedish players due to a reduction of the channelling effect of the Swedish online gambling regulation. Additionally, the period during which the measures will be in effect is also arbitrary.

The draft Ordinance introduces maximum loss limit and maximum deposit limit of 5,000 SEK per week, per license holder for online commercial gambling and betting. EGBA considers that the proposed limits, according to a one-size-fits-all model, deny the individuality of each customer as well as their ability to make an informed decision on the basis of the tools offered and promoted to them. From the point of view of player protection, limits set by customers themselves are much more effective than externally set restrictions. Players should therefore be given the opportunity to limit their deposits and losses themselves. Added to this is the player monitoring used by all of our members, which is designed to recognize parameters that indicate problematic gaming behavior and to which the providers can then react in individual cases. In any case, such an approach is preferable to a blanket restriction because the majority of the population has no problems with gambling addiction and can correctly assess their own financial performance. A legally established limitation deprives these

consumers of their freedom to freely decide about their spending on gambling and their gaming activity.

It should also be pointed out again that the maximum loss limit and maximum deposit limit shall apply across all brands of a licence holder. However, there is no mechanism to prevent a player from playing on as many license holders as they wish, thus rendering these limits pointless in reality.

Further, we would like to point out that the requirement for players to mandatorily set a maximum limit of login time per day, week and month can also be detrimental to the channelling objective and burdensome for the players. Most players do not play with regularity and rather their login time fluctuates across time - less one week and more the next - leading to a sort of average that is a guidance number but not an actual picture of the habit of the player. Another issue to consider is that a player may log in, place a bet and then he may not log out. In this case, the login time will continue to be counted, but the player is not being active on the website. Setting these limits will likely just prompt players to set a very high number so as to not bother with the limit further and will not have an actual effect. Information about self-limiting and self-exclusion has been shown to be much more effective at curbing problem behaviour. In addition, the provisions do not make a reference to the Technical Regulations<sup>1</sup> which require the operator's gambling systems to: 1) produce reports with all players who have set log in time limits (chapter 8, § 6 of the Technical Regulations), and 2) offer the functionality to set log in time limits ((chapter 9, § 11). Both these functionalities need to be changed and operators may need to conduct a risk and vulnerability analysis on the updated gambling systems. Thus, the draft Ordinance fails to take into account the Technical Regulations and the proposed changes require substantial changes to the data collection, back-office and front end, all of which will need testing and potentially certification. Moreover, implementing the technical measures to allow players to set said limits for login time, is a process that requires time and it will be very difficult for most operators to have the measures in place in the short timeframe (one month) that separates the publication of the draft Ordinance and the 1<sup>st</sup> of June, considering that a similar implementation would require also time to be tested.

Finally, the draft Ordinance sets the value of bonuses to a maximum of 100 SEK. It has to be considered that the Swedish Gambling Act already allows only the offering of welcome bonuses, and prohibits bonuses for existing customers. First, we consider that the definition of a cap of 100 SEK bonus appears fairly random. It is not clear why this precise amount would increase player protection. Giving bonuses to customers are a key and common element of customer acquisition of most of the gambling operators and thus constitutes a well-established practice within the online gaming industry. Accordingly, the allowance of bonuses leads to the development of more attractive products and healthy competition in order to effectively channel consumers towards the attractive, regulated offer within the Swedish licensing regime while at the same time guaranteeing a high-level of consumer protection.

It has to be also reminded that if Swedish consumers cannot access the locally licensed product then they will decide to gamble with operators based in other jurisdictions, in most cases even outside of the EU, where consumer protection standards are regularly significantly lower than those applicable in Sweden, and where the high standards of responsible gaming and sports integrity, according to the

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<sup>1</sup> [Lotteriinspektionens föreskrifter och allmänna råd om tekniska krav samt ackreditering av organ för den som ska kontrollera, prova och certifiera spelverksamhet.](#)

2014 EC Recommendation on responsible gambling, are not applied. This unnecessarily puts the achievements and objectives of the Swedish online gambling and betting regulation at risk, which would be to the clear detriment of Swedish consumers, the regulator and the regulated industry alike.

This situation is further confirmed by a recent study by Copenhagen Economics<sup>2</sup>, according to which 40% of Sweden's online casino customers and 30% of sports betting customers, either gamble on unlicensed websites or would consider doing so. The study found that unregulated gambling is being driven by customers who believe unregulated websites – which are available, easy to access and visually similar to regulated ones – offer better bonuses or betting odds than regulated websites. The study also showed that the level of licensed gambling decreased following the new regulation and that such channelization level is decreasing at a steady pace. Other recent research showed that due to Sweden's restrictive gambling regulations up to 30% of players are searching online for 'unlicensed casinos' and other black market keywords and suggests that the channelling rate for online casinos is around 70%<sup>3</sup>. The new proposed measures are likely to only increase this negative trend and, even if they are temporary, they may drive away certain customers who are may not come back to the licensed operators when the temporary measures will expire.

With this in mind, applying significant restrictions on the regulated online market makes these unregulated websites even more attractive – because the restrictions only apply to licensed and regulated websites. This will push more gambling activity towards harmful black-market websites which apply none of the restrictions or any other of Sweden's social protection obligations, including adherence to the country's self-exclusion register, like regulated websites must do.

For the reasons mentioned above, EGBA considers that the draft Ordinance contains restrictions that entail the risk of channelling the demand of Swedish players to the unregulated offer and moreover, the use of the emergency notification procedure is improper in this case. We therefore request the Swedish government to take our comments into account and suspend the application of the proposed measures.

We thank you in advance for your consideration of our contribution.

Yours sincerely,



**Maarten Haijer**

Secretary General, European Gaming and Betting Association (EGBA)

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<sup>2</sup> <https://www.egba.eu/uploads/2020/04/Copenhagen-Economics-Study-on-Swedens-online-gambling-market.pdf>

<sup>3</sup> <https://www.bonusfinder.com/about-us/blog/germanys-gambling-legislation-might-create-a-black-market-worth-billions>