



Notification Number: 2014/123/E

Draft Ministerial Order approving the basic regulation of cross betting.

Date received : 18/03/2014

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Message

Message 002

Communication from the Commission - TRIS/(2014) 00779

Directive 98/34/EC

Translation of the message 001

Notification: 2014/0123/E

No abre el plazo - Nezaahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201400779.EN)

1. Structured Information Line

MSG 002 IND 2014 0123 E EN 18-03-2014 E NOTIF

2. Member State

E

3. Department Responsible

Subdirección General de Asuntos Industriales, Energéticos, de Transportes, Comunicaciones y Medio Ambiente.

Dirección General de Coordinación de Políticas Comunes y de Asuntos Generales de la Unión Europea. Secretaría de Estado para la Unión Europea.

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3. Originating Department

Dirección General de Ordenación del Juego.
Ministerio de Hacienda y Administraciones Públicas.

4. Notification Number

2014/0123/E - H10

5. Title

Draft Ministerial Order approving the basic regulation of cross betting.

6. Products Concerned

The draft establishes the basic regulations for the development and operation, at State level, of cross betting.

7. Notification Under Another Act

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8. Main Content

This Ministerial Order is primarily aimed at protecting participants and public interests relating to gambling activities, in particular the protection of minors and dependants, the prevention of gambling addiction and the fulfilment of the provisions of Law 10/2010 of 28 April on the prevention of money laundering and the financing of terrorism.

This Ministerial Order is divided into four chapters, eighteen articles, a transitional provision and five final provisions.

Chapter I contains the general provisions and includes the definitions that are useful for understanding the text. Chapter II refers to the licenses that the operators interested in developing and operating cross betting must hold, establishing that they must obtain a general licence for "Betting", and an individual licence for marketing each of the three types of cross betting. This chapter also establishes that the unique licence will be valid for five years, renewable for periods of an identical length, and empowers the Directorate-General for Gambling to determine the guarantees associated with the aforementioned licences through a resolution.

Chapter III establishes the framework for relations between the operator and participants. It also refers to the procedure for addressing and resolving complaints and grievances implemented by the operator and placed at the disposal of the participants. Moreover, it specifies several obligations on gambling operators in respect of participants, authorises the promotion of gambling under the provisions of article 7 of Law No 13/2011, of 27 May, on gambling, and regulates the channels and means of participation.

Chapter IV establishes the procedure for the development of cross betting and establishes the financial limits for participation. Moreover, this Chapter includes the rules for participation in gambling, in relation to operators and participants, in particular regarding compliance with and confirmation of the betting offer, formalising cross betting, the annulment of events as well as the basic operation of the game and fixing, assigning and paying prizes.

Annex I to the Order approves the limits of the security amounts linked to each individual licence for the operation of each of the types of cross bets, which will be set between 5 and 12% of operators' net income from activity under the individual licence for the preceding year.

This Ministerial Order contains a transitional provision prohibiting the offer of cross betting on horse races, as long as the tax rate applied this type of betting has not been legally determined, and six final provisions. The



first relates to the authorisation of the Directorate-General for the Regulation of Gambling to establish the provisions required for the development and application of this Order, the second, third and fourth amend several ministerial orders approving the basic regulation of various types of gambling, and the fifth relates to its entry into force.

9. Brief Statement of Grounds

The appearance of new channels for distance or remote participation has made it necessary to regulate cross betting under the gambling category of betting under Law No 13/2011, of 27 May, on gambling, hereafter LRJ, to enable its marketing.

Under its Article 3, section c), the LRJ defines cross betting as betting in which the operator acts as the intermediary and guarantor of the amounts bet by third parties, receiving the amounts or percentages previously established by the operator.

As regards the reasons for this regulation, it should firstly be noted that, although there is no requirement to regulate gambling types, the text of the LRJ expresses the legislator's initial intention to regulate this type of gambling, given that cross betting is expressly included in the abovementioned article 3 of the LRJ, which defines the different types of gambling, and in article 48 on the regulation of taxes on gambling activities.

As it has been previously indicated, the LRJ specifies that only an individual licence may be requested, whereby gambling operators may only develop and operate types of gambling under previously approved and published regulations.

Another aim of this draft regulation which should be highlighted is the protection of participants and the public interest involved in gambling activities, in particular the protection of minors and dependants, preventing addiction to gambling, and ensuring compliance with the provisions of Law No 10/2010, of 28 April, on the prevention of money laundering and the financing of terrorism

As a result of the lack of regulation for cross betting, a market for this type of gambling operates outside Spanish legislation, and is accessible from our country to Spanish players via certain technological tools and procedures. Regulatory inactivity would strengthen the existence and importance of this illegal market, where both the participants and public interests lack the sufficient or required protection.

Rather than opting to refrain from regulation, regulation would help channel such activity into a regulated supply, strengthening and creating coherence in the remote gambling market, with certain advantages for the public interests that the LRJ tries to protect. In particular, from the perspective of the protection of public health, the regulation will involve:

- Applying the cross-cutting policies and measures for responsible gambling, prevention, awareness raising, intervention and control that are already applied to other types of gambling. Such regulated measures include the obligations of prior participant verification and access control for minors and self-excluded persons, or provisions on the time limits on participants' deposits.
- Reconcile the above with additional corporate social responsibility measures in relation to players' self-control and the detection of disorderly behaviour that the operators may establish individually, thereby maximising their effect.
- Being able to align the regulation of this type of gambling with general provisions in other basic regulations on gambling in relation to responsible gambling, such as the restriction of live payments.
- Alignment with the applicable publicity and commercial communications regime governing other regulated forms of betting, without prejudice to the specificities of other forms of gambling.
- Complement aspects common to all types of gambling with other aspects specifically adapted to cross betting, included in the basic regulation, that allow the specific risks related to that type of gambling to be addressed. An example of this could be the obligation to provide an explanatory tutorial on cross betting for new users. That



tutorial would then be made available to users.

- The regulation will also enable this type of gambling to be brought under any other measures, whether regulatory or not, that may be developed in the future.

In addition, from the wider perspective of the protection of players with a view to the protection of the public order and the proper functioning of the gambling supply, other aspects would be substantially improved. These include:

1. Eliminating unfair, dishonest and corrupt gambling

- The integrity of gambling
- Prohibiting loans to and between players
- Controlling the access of related persons and other subjective prohibitions

2. Improve the security of the players' environment

- Integrity, confidentiality and availability of information
- Guarantees in relation to deposits, prizes and participation restrictions
- In relation to prizes
- In relation to participation limits
- Stronger guarantee of compliance with contract conditions
- Decreased risk of breaches to communication security
- Player identity theft
- Loss of data confidentiality

3. Decreased risk of criminal activities

- Decreased risk of money laundering, as a result of crossing betting offers anonymously according to the order in which they arrive.
- Decreased risk of the fraudulent use of personal information.

4. Decreased market distortions

- Introducing an important product in the gambling supply, providing a more coherent and integrated framework for the operation of and participation in these activities.
- Decreasing unfair competition created by the illegal market
- Promoting effective competition between authorised operators and promoting operators that do not hold a preeminent position

In particular, and without prejudice to the characteristics and provisions of our regulation enabling high traceability of the gambling activities, which help prevent and forestall threats to the public order, such as money laundering, specific measures are provided for cross betting in this regard, for example the requirement that bets for or against are aligned with the market, or the prohibition of revealing the identity of the participants in each bet.

The final outcome in terms of public health derived from undertaking this regulation is clearly positive for social welfare.

10. Reference Documents - Basic Texts

No basic texts available

11. Invocation of the Emergency Procedure



No

12. Grounds for the Emergency

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13. Confidentiality

No

14. Fiscal measures

No

15. Impact assessment

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16. TBT and SPS aspects

TBT aspect

No - the draft is not a technical provision or a conformity assessment procedure

SPS aspect

No - the draft is not a sanitary or phytosanitary measure

European Commission

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