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**Is European online gambling regulation adequately addressing in-play
betting advertising?**

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Introduction

In-play betting has arguably become one of the most prevalent forms of sports betting over the last few years. Known as in-play, in-running, or live betting, it is defined as ‘the betting that takes place after an event has started and up to its conclusion’¹. There are several factors contributing to the increasing popularity of in-play betting. First, sports betting is based on the cultural prominence of sport in our societies, making it unnecessary to build a consumer base for an already exciting culturally salient content. Second, due to the increasing amount of television space being devoted to sport², betting operators have found in sport a gambling-friendly environment driven by technological innovation, data production, and entertainment synergies³. Third, in-play betting illustrates the acceleration of media-centred logics⁴, promoting an instant gratification and reward scheme that favours quick and impulsive decision-making⁵ in a globalised market that exponentially multiplies the betting opportunities for the craving consumer. As a consequence, this form of gambling has subverted the traditional episodic nature of sport betting, wherein sport fans would typically place their bets on a match once a week. Hence, some scholars have noted that betting as a discontinuous experience

¹ Betfair. ANNUAL REPORT (2015).

² M.D. Griffiths, *Mind games (A psychosocial overview of in-play betting)*. 44 I-GAMING BUSINESS AFFILIATE June/July. (2012).

³ H. Lopez-Gonzalez, *Quantifying the immeasurable: A reflection on sport, time and media*, 41 JOURNAL OF THE PHILOSOPHY OF SPORT 347–362 (2014). H. Lopez-Gonzalez and C.D. Tulloch, *Enhancing media sport consumption: Online gambling in European football*, 155 MEDIA INTERNATIONAL AUSTRALIA 130–139 (2015).

⁴ B. Hutchins, *The acceleration of media sport culture*, 14 INFORMATION, COMMUNICATION & SOCIETY 237–257 (2011).

⁵ J. Mackillop J, J.D. Miller, E. Fortune, et al., *Multidimensional examination of impulsivity in relation to disordered gambling*, 22 EXPERIMENTAL AND CLINICAL PSYCHOPHARMACOLOGY, 176–185 (2014).

has given way to a continuous form of gambling and which has implications for problem gambling because continuous forms of gambling with high event frequencies are more frequently associated with problem gambling⁶.

This enhanced availability and accessibility of in-play sports betting have a series of concerning implications for consumers in Europe. Among the detriments identified by the European Commission (EC) can be found (1) structural detriments (e.g. legal offer; offshore operators); (2) social detriments (e.g. fraud, minors); and (3) player detriments (e.g. misinformation, inadequate assistance or problem gambling)⁷. Despite its growing importance, live in-play betting has not been individually addressed or developed in the European legislation, nor has in-play sports betting for that matter, and is subsumed within the general online gambling laws. In this latter section regarding player protection, commercial communication and advertising play a pivotal role, a major issue for the socially responsible consumption of betting products.

The intersection between in-play betting and advertising raises more questions than certainties. On the one hand, advertising effects, either short-term or long-term, are essentially difficult to prove and the last few decades of gambling advertising research have based their studies in self-reported perceived effects⁸ and consumption and exposure to advertising volume and

⁶ M.D. Griffiths and M. Auer, *The irrelevancy of game-type in the acquisition, development, and maintenance of problem gambling*, 3 FRONTIERS IN PSYCHOLOGY, 621 (2013).

⁷ European Commission, Impact Assessment 1/2. Accompanying document on Principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online, 14 July 2014, 2014/478/EU (*Hereinafter Principles*).

⁸ J. Derevensky, A. Sklar, R. Gupta, et al., *An empirical study examining the impact of gambling advertisements on adolescent gambling attitudes and behaviors*, 8 INTERNATIONAL JOURNAL OF MENTAL HEALTH AND ADDICTION, 21–34 (2010). Schottler Consulting *The marketing, advertising, and sponsorship of gambling products*

gambling behaviour correlation⁹, with few attempts of establishing causal links between them. On the other hand, in-play betting is a recent technologically-originated development of gambling market and fan consumer culture and, by definition, its evolution and consequences are hard to predict.

The present paper explores how European regulation has been tackling in-play betting commercial communication and will compare how that regulation reflects (or not) the existing empirical knowledge about advertising effects on betting behaviour, especially among adolescents and problem gamblers. Given that online gambling legislation has been handed to each member state of the Union to further develop its initial guidelines, two large European sport markets—the UK and Spain— are examined separately to illustrate the comparison and examine to what extent regulation and empirical evidence go hand-in-hand.

In-play betting

Despite the fact that rudimentary offline fixed odds betting was technically possible during the course of the games, it was with the popularization of online betting and the automation of its algorithmic precision that in-play betting started to develop its full potential. Although exact figures about the popularity of online in-play betting are scarce, some indicators provide useful information to calculate its impact. In 2015, the number of matches that

⁹ and services within New Zealand. Auckland. (2012) D. Hanss, R.A. Mentzoni, M.D. Griffiths, and S. Pallesen, *The impact of gambling advertising: Problem gamblers report stronger impacts on involvement, knowledge, and awareness than recreational gamblers*, 29 PSYCHOLOGY OF ADDICTIVE BEHAVIORS, 483–491 (2015).

allowed in-play betting increased by 121% (from when?)¹⁰. Some authoritative voices of the gambling industry in the UK have estimated that live betting reflects around 50% of the betting action in the country¹¹. More reliable data from Spain, where there is a large football market in which betting is not an inherent part of the sporting culture, show a more dominant position of live betting among sport fans. In 2015, the first year the DGOJ (I think you should write the full Spanish name) (the Spanish Gambling Commission) collected and disaggregated in-play bets from general odd-fixed bets, indicated that 73.88% of the money bet online in sports in Spain came from live in-play wagering¹².

In an interview for *eGaming Review*, Alexandru Teodorescu, senior sales manager of *BetBrain*, explained that live in-play betting was becoming the main turnover source for the digital industry, with his company providing online betting operators in excess of 15,000 live events per month¹³. In-play betting has not only grown in terms of event frequency, but also in terms of mini-key events multiplication within each event. Data companies like Opta (Perform Group), the official media data partner of various major football and rugby leagues including the English Premier Football League, supplies a minimum of 880 ‘data points’ per event to bookmakers, which, according to the company, ‘drives engagement and propensity to bet’¹⁴. The adoption in everyday life of mobile media features further facilitates the synergies between sports betting and new communication technologies. Wagering via

¹⁰ BETFAIR. ANNUAL REPORT. (2015).

¹¹ M. Warkentien, *Sports gambling: The source of sports innovation*. SPORTS ANALYTICS CONFERENCE, MIT SLOAN. (2014)

¹² Directorate General for the Regulation of Gambling, *Detailed data on the online gambling market*, (2015).

¹³ Pageant Gaming Media, *eGaming Review Sports Betting 2014*. (2014).

¹⁴ European Gaming and Betting Association, *Sports Betting: Commercial and Integrity Issues*. at 28 (2014).

mobile devices has led to between two-thirds¹⁵ and three-quarters¹⁶ of the total annual revenue of sportsbooks, including horse racing and greyhound racing. In the UK, it has been reported that over 35% of the adults aged 18-34 years that participated in some form of online gambling have placed a live in-play bet¹⁷.

As noted above, these newly designed in-play products have higher event frequencies than traditional betting events, in which the start and finish are separated by no more than three minutes, greatly facilitated by the wider array of possibilities that technological development has enabled, in line with the bet cycles of 150 seconds the industry was predicting a few years ago¹⁸. New developments in the in-play betting market include in-play mini-games, a virtual sport event that offers a combination of the existing live sports data with ‘fast-paced casino game concepts’¹⁹ (Betradar, 2014a). The gamification of the betting experience, along with videogame-like environments and fantasy sport games (popular in the USA), appears to support the argument that in-play betting might be in its way to becoming the hegemonic form of sport betting experience, displacing traditional sports gambling practices such as football pools.

In-play betting advertising in the European regulation

¹⁵ William Hill, *William Hill Annual Report 2015*, (2016).

¹⁶ Paddy Power, *Paddy Power Annual Report (2016)*.

¹⁷ Gambling Commission, *Participation in gambling and rates of problem gambling – 2015*, (2016).

¹⁸ Betradar, *Live sports betting. In-play soccer games. The gamification of your live betting portfolio*, (2014).

¹⁹ Betradar, *A new way of in-play betting - Betradar launches In-Play Minigames*. (2014), available at <https://www.betradar.com/news-archive/a-new-way-of-in-play-betting-betradar-launches-in-play-minigames/>.

While at present the technological evolution of the gambling industry seems unrelenting, there is still little evidence as to what consequences (if any), high prevalence rates of in-play betting might occur, especially regarding harmful outcomes. Given that in-play betting (as well as online sports betting in general) are legal business activities in Europe —in contrast to Australia or the USA— public policy has focused on main two tasks: (i) protecting the integrity of the games threatened by match-fixing syndicates; and (ii) minimising the harm caused to vulnerable groups by excessive gambling. Concerning the latter, the European Commission (EC) 2011 Green Paper on online gambling, developed a number of basic ground rules to homogenise each member state's regulations on the matter. These rules were finalized in the 2014 publication of 'Recommendation on principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online'²⁰, and which will be reassessed by 2017 in the light of the results obtained from each country's domestic implementation.

A fundamental part of the EU regulations concerning online gambling deals with the idea that irresponsible commercial communications can trigger irresponsible gambling behaviours, especially among adolescents and other at-risk groups. The potentially harmful role of advertising was identified first in the Green Paper on online gambling, then in the Impact Assessment document²¹ attached to the recommendations, and finally in the 'Recommendation on principles' itself. Historically, rules concerning

²⁰ European Commission, Recommendation on Principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online, 14 July 2014, 2014/478/EU (*Hereinafter Recommendation*).

²¹ Principles, *supra* note 7.

advertising have established the necessity of observing watersheds to protect minors and including responsible gambling information within advertisements, where there is a growing body of literature analysing its effects²².

There is no *ad hoc* regulation about in-play betting in the recommendations of the EC to the member states, and very few allusions to sports betting in general. Sport sponsorship is explicitly cited but no orientation about its messaging is given, only dealing with child protection regarding the conditions—type of events and children's sportswear—under which sponsorship is allowed. Hence, sports betting advertising for online and in-play wagering currently falls into the provisions of general gambling regulation.

Member states have legislated more profoundly the directives of the EC. In the UK, for instance, the interaction of the Gambling Act 2005, the Gambling (Licensing and Advertising) Act 2014, the UK Code of Broadcast Advertising (BCAP), and the UK Code of Non-broadcast Advertising (CAP) guided by the Advertising Standards Authority (ASA), as well as the industry's self-regulatory codes with the supervision of the Gambling Commission and Ofcom, have elaborated a multi-node network of legislation that demarcates the advertising of in-play betting. The most relevant piece of regulation

²² C. Bonnaire, *Internet gambling: what are the risks?* 38 L'ENCÉPHALE, 42–49 (2012). S. Gainsbury, J. Parke and N. Suhonen, *Consumer attitudes towards Internet gambling: Perceptions of responsible gambling policies, consumer protection, and regulation of online gambling sites*, 29 COMPUTERS IN HUMAN BEHAVIOR, 235–245 (2013). L. Lemarié, J.C. Chebat, *Resist or comply: Promoting responsible gambling among youth*, 66 JOURNAL OF BUSINESS RESEARCH, 137–140 (2013). S. Monaghan, *Responsible gambling strategies for Internet gambling: The theoretical and empirical base of using pop-up messages to encourage self-awareness*, 25 COMPUTERS IN HUMAN BEHAVIOR, 202–207 (2009). M. Yani-de-Soriano, U. Javed and S. Yousafzai, *Can an Industry Be Socially Responsible If Its Products Harm Consumers? The Case of Online Gambling*, 110 JOURNAL OF BUSINESS ETHICS, 481–497 (2012).

regarding in-play betting is an exception to the general principle of a 9pm watershed for gambling advertising:

'The exception to this rule was and remains the advertising of sports betting around televised sporting events. The majority of these events take place or begin before 9.00pm and given the direct relationship between the two it would be unreasonable to prevent the advertising of betting opportunities'²³.

However, these advertisements when broadcast during pre-watershed television cannot include sign-up offers targeted at new customers nor mention other gambling products banned under the watershed requirements. Similarly, the Spanish regulation on this issue has also included provisions to allow advertisements during sport events, although a more detailed account (of what is permitted and what is not) has been added. As of Spring 2016, the Spanish law on gambling commercial communications is under debate in the Parliament and only a draft bill is available. According to the first draft, sports betting advertisements are allowed during sport events, even if these happen before the 10pm watershed, as long as they comply with the following requirements:

- a. Advertisements must be in connection with the sport events in play

²³ INDUSTRY GROUP FOR RESPONSIBLE GAMBLING, *Gambling industry code for socially responsible advertising*, at 4 (2015).

- b. Advertisements can only communicate ‘the possibility of betting’, identify the betting operator and the sporting elements of the match upon which betting is possible
- c. Communication about odds or jackpots are not allowed
- d. Commercial communication must be clearly non-integrated in the narration of the commentators²⁴.

Although responsible gambling messages and the protection of minors have been widely implemented across gambling operators, much less attention has been paid to the messaging of the advertisements, in particular to the extremely ambiguous aspects of its narratives. Advertising can convey persuasive messages embodied in the narrative of commercials and, by portraying specific characters, normalise their existence as well as increase the acceptability of their conduct²⁵. The vast majority of the legislation concerning commercial communication in gambling focuses on external elements of the communication such as the inclusion of awareness messages, helplines, self-exclusion protocols, the absence of misleading or deceitful information, the age of the participants in the commercials, etc. All of these elements are not hard to identify and regulators can unambiguously decide whether operators are complying with the law requirements or not. However, deciding whether the content of the advertisements legally comply is a more challenging issue. In this regard, the EC has proposed in its ‘Recommendation on principle’ a set of general guidelines about how to

²⁴ MINISTRY OF FINANCE AND PUBLIC ADMINISTRATIONS, *Draft Bill on commercial communications of responsible gambling and gambling activities* (23 March 2015).

²⁵ J. Bruner, *Life as narrative*, 54 SOCIAL RESEARCH, 11–32 (1987). A.S. Mattila, *The Role of Narratives in the Advertising of Experiential Services*, 3 JOURNAL OF SERVICE RESEARCH, 35–45, (2000). B.B. Stern, *REPRESENTING CONSUMERS: VOICES, VIEWS, AND VISIONS*. London: Routledge (1998).

shape messages within online gambling commercial communication. Disseminated through the text there are two different sections that offer guidance on the designing of responsible message content: Chapter IV (Minors) and Chapter VIII (Commercial Communication). Briefly, Chapter IV includes several prohibitions to protect minors such as: (i) exploiting their inexperience; (ii) using images appealing to minors; (iii) associating gambling with youth culture; and (iv) marking through gambling the transition from adolescence to adulthood. On the other hand, Chapter VIII bans narratives from depicting: (i) unfounded chances of winning; (ii) suggestions that skill can influence outcome (a major topic in sports betting); (iii) exertion of pressure to gamble or disparage abstention; (iv) portrayals of gambling as socially attractive; (v) celebrities suggesting gambling contributes to social success; (vi) gambling as a solution to problems; and (vii) gambling as an alternative to employment²⁶.

Domestic regulations in the UK and Spain have adopted these recommendations and expanded them into more complex narratives that are summarized in Table 1. This list only includes those specific narrative elements belonging to the story that the authorities consider as potentially damaging and therefore forbidden. It does not include responsible gambling messaging requirements or provisions about the time and place suitable for the commercial communications. Items are not verbatim but extracts of the main concepts from each provision.

Table 1. Banned narratives on commercial communication of gambling in the UK and Spain

²⁶Recommendation, *supra* note 20.

	<i>Guidance on the Rules for gambling Advertisements (CAP & BCAP, UK, 2014)</i>	<i>Draft Bill on Commercial Communications of Responsible Gambling and Gambling Activities (Ministry of Finance and Public Administration, Spain, 2015)</i>
<i>Irresponsible Appeal</i>	Seduction, sexual success and enhanced attractiveness	Personal, professional or social success
	Toughness, resilience, recklessness,	Antisocial or violent behaviour
	Enhanced personal qualities, self-esteem	Social superiority to gamblers or discredit to non-gamblers
	Gain control, superiority, recognition, admiration	Cheapening work, effort and study
	Cultural or traditional beliefs about luck	
	Condonation of irresponsible behaviour	
<i>Problem Gambling Behaviour</i>	Escape from problems such as loneliness and depression	Impulsive, immoderate, disordered gambling as attractive or exciting
	Alternative to employment, solution to financial concerns	Alternative to employment, solution to financial concerns
	Taking priority in life over family, friends or professional and educational commitments	Money loans or access to credit
	Solitary gambling preferable to social gambling	Repetition improves probabilities of winning Skill will wipe out the role of luck
		Famous characters, fictional or real, appealing to youth and especially when they have previously participated in cultural products addressed to them
<i>Children Protection</i>	Peer pressure to gamble or disparagement of abstention	Take advantage of the trust-based relationship of minors with their parents, teachers or other adults
	Gambling as a rite of passage	Gambling as a rite of passage or sign of maturity
	Gambling as part of the youth culture	The voice of a minor or of an adult impersonating a minor
	Contain people who seems under 25 featured gambling or behave in an adolescent way	Arguments, typographies, styles, voices, images or designs associated to youth culture

The EC's 'Recommendations on principles' were based fundamentally on an independent impact assessment carried out by the London School of Economics which conducted two separate studies²⁷. Neither of these studies answered advertising-related research questions, so the commercial communication guidelines had to be supported by the limited number of previous empirical studies, the opinion of the experts, and the theoretical approximations of advertising mechanisms that influence gambling behaviour. Consequently, the following section briefly assesses the scientific evidence on the advertising effects on sports betting behaviour.

Research on sports betting advertising effects

Advertising effects on the audience are always difficult to accurately assess, and evidence to support advertising as a predictor variable in subsequent behaviour, especially in long-term effects of advertising messages, is scarce. Binde²⁸ carried out a review of the existing literature concerning gambling advertising only to conclude that (a) the advertising impact on gambling, if any, is small; and (b) although only limited empirical evidence of advertisements affecting behaviour has been found, it appears theoretically plausible to think that there must be some sort of effect²⁹. There are few studies specifically on sports betting advertising effects, and are arguably as inconclusive as those on gambling advertising more generally. Hypothesised

²⁷ Principles, *supra* note 7.

²⁸ Binde, *supra* note 9.

²⁹ *Id.*

effects of betting advertisements include problem gambling promotion, early onset of betting, and normalisation of betting practices.

Problem gambling on sports as a result of commercial communication has not been able yet to establish the causality between advertising stimuli and gambling consequences. Problem gamblers have been found to watch more televised sport than controls, and to have a higher intent to bet within the next six months when exposed to betting promotions³⁰. These same studies also found that advertising rarely recruits new gamblers but maintains and increases the consumption patterns of existing ones. According to problem gamblers' own accounts, promotions do not worsen or impact their betting behaviour in any way³¹. Similarly, among those who watched more sports, their Problem Gambling Severity Index scores were higher as well as the influence from significant others to bet³². Studies with patients seeking help from a pathological gambling unit in a Spanish hospital reported that the incidence of sport betting among online problem gamblers might be increasing up to almost half of the new patients. This makes a compelling case for the impact of live in-play betting, considering the fact that sports betting has been historically a non-issue in problem gambling prevalence in Spain³³. However, it continues to be uncertain whether advertising is a contributory factor in the development of the problem gambling.

³⁰ N. Hing, M. Lamont , P. Vitartas and E. Fink, *Sports bettors' responses to sports-embedded gambling promotions: Implications for compulsive consumption*. 68 JOURNAL OF BUSINESS RESEARCH, 2057–2066 (2015). N. Hing, M. Lamont, P. Vitartas, and E. Fink, *Sports-Embedded Gambling Promotions: A Study of Exposure, Sports Betting Intention and Problem Gambling Amongst Adults*, 13 INTERNATIONAL JOURNAL OF MENTAL HEALTH AND ADDICTION, 115–135 (2015).

³¹ *Id.*

³² N. Hing, P. Vitartas and M. Lamont, *Gambling sponsorship of sport: an exploratory study of links with gambling attitudes and intentions*, 13 INTERNATIONAL GAMBLING STUDIES, 281–301 (2013). N. Hing, A.M. Russell, P. Vitartas and M. Lamont, Demographic, Behavioural and Normative Risk Factors for Gambling Problems Amongst Sports Bettors. JOURNAL OF GAMBLING STUDIES, ahead of print (2015).

³³ S. Jiménez-Murcia, R. Stinchfield, F. Fernández-Aranda F, et al, *Are online pathological gamblers different from*

Sports betting advertisements appear to affect adolescents in different ways. In one study, the researchers described how gambling advertisements improved the fan experience and made watching the games more exciting. Interestingly, even when adolescents watched non-gambling commercials, they thought these concerned gambling products³⁴. In this study both parents and their sons described how the bold colours of the advertisements and the tight bond with sports had an impact in their emotional feelings toward gambling. Similarly, parents were concerned that the elite sportsmen portrayed in the advertisements would make their content more appealing to their children. The impact of sports celebrities in gambling advertising has also been investigated³⁵. Among the main consequences of professional high profile athletes endorsing betting products was the reduction in the level of perceived risk that every gambling operation involves. Fans perceived lower risks in the bets when the celebrity behind the advertisement transmitted values of security and reliability³⁶. Also, this effect was higher when the fans were adolescents, which adds to the idea that celebrity endorsement might further the naturalisation and normalisation processes of betting.

The normalisation of betting behaviour is a hypothetical long-term effect of advertising promotions. Children have been shown to recall sport-sponsored brands more often than non-sport-sponsored brands and to perceive them as

non-online pathological gamblers on demographics, gambling problem severity, psychopathology and personality characteristics? 11 INTERNATIONAL GAMBLING STUDIES, 325–337 (2011).

³⁴ S. Thomas, *Parents and adolescents discuss gambling advertising: A qualitative study*, (Victorian Responsible Gambling Foundation, 2014).

³⁵ S. Monaghan, J. Derevensky and A. Sklar, *Impact of gambling advertisements and marketing on children and adolescents: Policy recommendations to minimise harm*, 22 JOURNAL OF GAMBLING ISSUES, 252–274 (2008).

³⁶ M. Lamont, N. Hing and P. Vitartas, *Affective response to gambling promotions during televised sport: A qualitative analysis*. SPORT MANAGEMENT REVIEW, ahead of print (2015).

glamorous³⁷. Sophistication, excitement, power, mateship, wealth, glamorous high stake lifestyle, and personal success were some of the attributes with which actors were characterised in betting advertisements³⁸. Young people also reported that gambling advertising was trying to suggest how odd they were if they were not betting³⁹. Other studies have also found the normative effect of advertising when comparing the most repeated narratives about gambling of participants⁴⁰ sometimes to a point of great awareness and media saturation⁴¹. The pervasiveness of betting advertisements on television has been an upward trend over the past few years⁴², also affecting the overall volume of all types of gambling. The driving force of sport is so attractive that other forms of gambling are capitalising on its sanitising and health attributes, as well as its huge media exposure, to cross-fertilise their own field, resulting in what has been termed the ‘sportification of gambling’⁴³.

Much of the data establishing the link between in-play advertising and betting behaviour comes from Australian samples. For instance, it is known that integrated promotions of gambling —for example, promotions inserted in the broadcast or mentioned in the narration of match commentators— generate a

³⁷ Monaghan, *supra* note 35.

³⁸ Hing, *supra* note 32.

³⁹ J.L. McMullan, D.E. Miller and D.C Perrier, ‘I’ve Seen Them So Much They Are Just There’: Exploring Young People’s Perceptions of Gambling in Advertising, 10 INTERNATIONAL JOURNAL OF MENTAL HEALTH AND ADDICTION, 829–848, (2012).

⁴⁰ L. Milner and E. Nuske, *Laying your cards on the table: representations of gambling in the media*, 39 AUSTRALIAN JOURNAL OF COMMUNICATION, 83-99 (2012).

⁴¹ S. Thomas, S. Lewis, J. Duong et al., *Sports betting marketing during sporting events: a stadium and broadcast census of Australian Football League matches*, 36 AUSTRALIAN AND NEW ZEALAND JOURNAL OF PUBLIC HEALTH, 145–52 (2012). S. Thomas, S. Lewis, C. McLeod C et al., ‘They are working every angle’. A qualitative study of Australian adults’ attitudes towards, and interactions with, gambling industry marketing strategies, 12 INTERNATIONAL GAMBLING STUDIES, 111–127 (2012).

⁴² K. Sproston, C. Hanley, K.Brook, et al. *Marketing of Sports Betting and Racing*, (Gambling Research Australia, 2015).

⁴³ J.L. McMullan and D. Miller, *All in! The commercial advertising of offshore gambling on television*, 22 JOURNAL OF GAMBLING ISSUES, 230-251 (2008).

more meaningful impact on consumers than non-integrated ones. Along these lines, implicit rather than explicit messages are more successful, except for those that provided odds perceived as good value by fans. Also, impulse betting has been correlated to watching sports with significant others⁴⁴. In another experiment with clear implications to in-play betting, Hing⁴⁵ reported some differences between regular and non-regular bettors. Regular bettors placed less bets before the matches and additionally, 53% of them bet during matches whereas only 36% of the non-regular bettors did. Less planned bets were also more closely associated to problem gambling scores. The frequency of sports viewing was also higher in regular bettors and more importantly they showed a higher intention to gamble after being exposed to betting advertisements. The investigators also tried to identify the most persuasive elements in the most engaging betting promotions, and reported that a combination of on-screen display + ease of access + free bet offer + presented by an attractive non-expert, was the most efficient message to promote betting.

Discussion on law and research concerning gambling advertising

Overall, the regulation of gambling advertising appears to cover and protect against many more different situations than empirical research has been able to evaluate to date. The anticipation by the legislator of potentially problematic narratives or characteristics of commercial communication makes the

⁴⁴ Lamont, *supra* note 36.

⁴⁵ N. Hing, P. Vitartas and M. Lamont, *Promotion of gambling and live betting odds during televised sport: Influences on gambling participation and problem gambling*, (Centre for Gambling Education and Research, 2014)

legislation exceedingly conservative as many of the rules have yet to find scientific support to inform that policy. Most of the narratives represent theoretical assumptions about gambling effects that are hard to demonstrate empirically. The difficulty deepens given that advertising campaigns are supposed to navigate between two blurred lines: promoting gambling, the reasonable purpose of any promotion, while not over-promoting it to avoid undesirable effects. Thus, regulation on a legal activity like gambling must allow advertising to be both persuasive and socially responsible. Given the non-specificity of gambling advertising law regarding sports betting, it could be the case that research on protective and risk factors for other forms of gambling promotions could also prove to be effective for sport bettors, although this is just speculation.

However, a small but relevant group of the elements of the regulation reflect concerns that gambling advertising research has already tested. There are at least four characteristics of advertising messages that need closer examination. First, integrated betting communications have been found more persuasive than non-integrated ones⁴⁶. This aspect is specifically mentioned in the Spanish draft bill, wherein live broadcast events will not be able to include commercial communications integrated in the flow of the narration. It also mentions the prohibition of reporting the live odds, another driver identified by Lamont et al. The EC recommendations and the UK guidance do not mention it. The implementation of this point could be of most importance during live broadcasts where most of the commercial communication would

⁴⁶ Lamont, *supra* note 36.

be addressed at promoting viewers' in-play betting. Moreover, due to the scarcity of game breaks in European football, compared to American sports, advertisers will find innovative and creative ways to immerse their presence in the game show itself, with commentators featuring as promoters and field sponsorship banners as inherent parts of the sporting stage background.

Second, participants have reported that an attractive non-expert presenter was more likely to promote their betting behaviour⁴⁷. The Spanish and European regulations fail to protect vulnerable consumers against this influence while the British code explicitly mentions 'seduction, sexual success, and enhanced attractiveness' as banned elements of responsible commercial communications. The appearance of an attractive person over, for instance, an expert tipster might seem counterintuitive if betting is considered as an entirely rational action. Nevertheless, sport bettors have been previously found to behave less as investors and more as sensation-seeking consumers⁴⁸. The attractiveness factor could be interpreted in terms of sexual attraction, with female presenters attracting a highly prevalent male bettor population⁴⁹, although no account of the gender of the presenter was disclosed in the study. Furthermore, attractiveness could be also interpreted as a source of credibility⁵⁰.

⁴⁷ Hing, *supra* note 45.

⁴⁸ R.J. Paul and A.P. Weinbach, *The Determinants of Betting Volume for Sports in North America: Evidence of Sports Betting as Consumption in the NBA and NHL*. 5 INTERNATIONAL JOURNAL OF SPORT FINANCE, FITNESS & INFORMATION TECHNOLOGY, 128–140 (2010).

⁴⁹ G. Meyer, T. Hayter and M.D. Griffiths, *Problem Gambling in Europe: Challenges, Prevention, and Interventions*. New York: Springer Science & Business Media (2009).

⁵⁰ J.W. Benoy, *The Credibility of Physically Attractive Communicators: A Review*, 11 JOURNAL OF ADVERTISING, 15–24 (1982).

Third, significant others and peer pressure are covered by all of the three regulations mentioned here. In interview studies, adolescents have highlighted how advertisements made them feel odd if they did not bet⁵¹. Consequently, implementing the EC recommendations is somewhat paradoxical. Sorry but I still don't understand your sentence so I changed it to what I think you meant. If solitary gambling must be avoided in media representations but at the same time collective representations reinforce the idea that non-gamblers are missing out, most importantly when minors have expressed this sentiment, advertisers are in a *cul-de-sac*. In this sense, the UK Guidance tries to clarify this point for advertisers arguing that 'these rules are not intended to prevent the depiction of solitary gambling online: they address concerns about people gambling alone. An advertisement that contrasts solitary gambling favourably with social gambling is likely to fall foul of this rule'⁵². Additionally, sport viewing with significant others was also a predictor of impulsive betting⁵³. In this instance, the normative effect of the in-group conduct could lead to the naturalisation of the betting practice⁵⁴. Anecdotal evidence suggests that television betting commercials more often than not depict individuals being in group situations wherein betting enhances the shared experience of sport fandom.

Fourth, Spanish legislation bans celebrities and famous personalities from promoting gambling products. This provision is based on the EC recommendation that advises against 'endorsements by well-known

⁵¹ McMullan, *supra* note 39.

⁵² CAP and BCAP (2014) *Guidance on the rules for gambling advertisements* at 10

⁵³ Lamont, *supra* note 36.

⁵⁴ D.W. Foster, G. Neighbors, L.M. Rodriguez, et al., *Self-identification as a moderator of the relationship between gambling-related perceived norms and gambling behavior*, 30 JOURNAL OF GAMBLING STUDIES, 125–40 (2014).

personalities or celebrities that suggest gambling contributes to social success⁵⁵. The British law fails to mention or elaborate on this topic. One of the most intriguing findings of betting advertising has been that celebrities tend to lower the perceived risk of betting operations⁵⁶. Inadvertently, celebrity endorsement could be not only effective in producing long-term normalisation effects but also in increasing the perceived levels of skill and illusion of control expressly targeted in the regulations. In particular, portrayal of celebrities could be especially prejudicial for minors and both Spanish and European bills share this belief. The links between celebrity athletes and betting companies expands to parallel industries and constitutes a very complex relationship. Poker sites have employed former sport stars like Ronaldo, Andriy Shevchenko, Alberto Tomba, and active stars like Neymar Jr, Gerard Pique and Rafa Nadal to draw sport fans into other gambling activities. In the opposite direction, online trading, and credit companies like *Unicredit* or *Plus500* have started to invest in sport competitions, evidencing the cross-fertilisation of sport and risk-taking industries as a whole. Athletes in minors' eyes hence represent adventurous risk takers⁵⁷ that end up being successful in their life bets.

Finally, the aforementioned regulations fail to address one major issue that research has identified as problematic. Free bets are a major attraction for gamblers as demonstrated by Australian bettors who favoured advertisements

⁵⁵ Recommendation, *supra* note 20 at 45.

⁵⁶ Lamont, *supra* note 36.

⁵⁷ M.E. Cross, J. Basten, E.M. Hendrick, B. Kristofic and E.J. Schaffer, *Student-Athletes and Gambling: An Analysis of Attitudes Towards Risk-Taking*, 14 JOURNAL OF GAMBLING STUDIES, 431–439 (1998). S. Lindsay, S. Thomas S, S. Lewis, K. Westberg, R. Moodie and S. Jones, *Eat, drink and gamble: marketing messages about 'risky' products in an Australian major sporting series*, 13 BMC PUBLIC HEALTH, 719 (2013).

with free bets offers⁵⁸. In mature markets like the UK, advertising is considered to only impact market share distribution between the operators but not to increase the number of total gamblers in the market or their consumption⁵⁹. However, in immature countries wherein betting is not ingrained in the sporting culture, advertising of free bets, usually for new clients, could arguably have a greater impact. In recent years, free bets have represented a large proportion of the complaints about advertisements consumers submit to authorities, citing deceitful information and unclear conditions of money retrieval⁶⁰. The UK code prohibits sign-up offers during live events but allows free bets if not connected to them. The effects of free bets could theoretically range from unrealistic prediction of winnings to safe investment illusion. The use of the so-called ‘free’ bets could prove to be ethically challenging, notably in the context of the convergence of gambling and gaming industries⁶¹. Playing for free in social games has been identified as a good predictor for adult life gambling⁶². Free bet advertisements could transmit the perception that bettors are still players in a free-to-play game environment, where no financial consequences will follow their decisions.

Conclusion

⁵⁸ Lamont, *supra* note 36.

⁵⁹ P. Binde, *Selling dreams—causing nightmares? On gambling advertising and problem gambling*, 20 JOURNAL OF GAMBLING ISSUES, 167-192 (2007). M.D. Griffiths, *Does gambling advertising contribute to problem gambling?* 3 International Journal of Mental Health & Addiction 15–25 (2005).

⁶⁰ Advertising Standards Authority, *Gambling advertising. Review of the ASA’s application of the UK Advertising Codes* (2014).

⁶¹ R. Cassidy, *Partial convergence. Social gaming and real-money gambling*. In QUALITATIVE RESEARCH ON GAMBLING. EXPLORING THE PRODUCTION AND CONSUMPTION OF RISK, 74–91 (2013). M.D. Griffiths, D. King and P. Delfabbro (2014), *The technological convergence of gambling and gaming practices*. In THE WILEY-BLACKWELL HANDBOOK OF DISORDERED GAMBLING, 327–346 (2014).

⁶² D.L. King, P.H. Delfabbro, D. Kaptis D, and T. Zwaans, *Adolescent simulated gambling via digital and social media: An emerging problem*, 31 COMPUTERS IN HUMAN BEHAVIOR 305–313 (2014).

European regulation has a conservative approach to online gambling advertising that reflects the little that is known about the consequences of new digital gambling experiences, in particular among adolescents. This paper offered an exploratory overview of the regulation-research interaction informing the public debate about in-play betting and the challenges that lie ahead. It is commonly accepted in the betting industry that in-play betting will only strengthen its market position in the near future. As it is the case with technology-driven products, it is likely to continuously transform itself in order to adapt to the realities of the successive markets to come. Regulations concerning such an organic product will struggle to keep up the pace and gamblers (and would-be gamblers) will have to rely, not only on regulators, but on the operators' self-regulatory practices, to feel adequately protected.