



Responses to the European Commission Green Paper on Online Gambling Public consultation on the Green Paper on on-line gambling in the Internal Market

Questions from the Green Paper on on-line Gambling in the Internal Market

1..... Regulating on-line gambling in the EU: Recent developments and current challenges from the Internal Market standpoint

1.1..... Purpose of the consultation

1.2..... On-line gambling in the EU: current situation

(1) Are you aware of any available data or studies on the EU on-line gambling market that would assist policy-making at EU and national level? If yes, do the data or study include licensed non-EU operators in the EU market?

(2) Are you aware of any available data or studies relating to the nature and size of the black market for on-line gambling services? (Unlicensed operators)

(3) What, if any, is your experience of EU-based on-line gambling operators licensed in one or more Member State and providing and promoting their services in other EU Member States? What are your views on their impact on the corresponding markets and their consumers?

The BupriS has decided to combine its comments and recommendations in relation to questions 3 and 4 into a single response.

1. Our experience of licensed non-EU operators or EU on-line gambling operators licensed in one or more Member States and providing and promoting their services in a or other EU Member States is that it makes it considerably more difficult to ensure that the offers on a Member State's market guarantee the level of consumer protection in place in that Member State and whether the services are properly equipped and tailored so as to prevent

crime and fraud. Gambling operators should be authorized to operate only if they have national licenses of the country in which the games take place and their operations should be based on provisions and obligations established by national legislation.

However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below.

2. We must all cooperate towards a sustainable and secured gambling market. Tackling crime, fraud and issues relating to consumer protection are central in the discussions around gambling. At the same time, it is important that the long-existing authorised land-based operators are in a position to continue evolving in a competitive environment, as they contribute hugely to the high level of employment, source of revenues and wealth of the countries and as they take labour- and cost-intensive player protection measures.

The land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

3. BupriS underlines the fact that the rules regulating various aspects of gambling are different for the operators in each segment of the gambling market. This difference places authorised land-based operators, which are subject to abide by strict rules and obligations, at a competitive disadvantage compared to other operators. Legal licenses of highly regulated and continuously supervised land-based casinos should not be undermined by unlicensed internet operators who have been operating illegally over the years. Land-based casinos have licenses that should be respected, particularly in light of the number of rules they have been abiding to with respect to consumer protection issues, anti-money laundering and taxation.

Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

4. Moreover, on top of the high initial costs required to set up land-based casinos, the real costs engendered by the high level of employment and labour- and cost-intensive player protection measures in the land-based casinos are very often substantially higher than the costs of the internet casino operators. Costs of land-based casinos include employment costs, obligations to have restaurant, hotel, cultural entertainment facilities which create even more employment costs, training of employees, etc. Internet casino operators do not always have these costs. As a result, this increases even more the economic disadvantage of land-based casinos.

5. It is crucial that we strive towards a sustainable competitive market, while at the same time ensuring consumers are well protected. Therefore, the BupriS calls to extend the compliance and the scope of the same rules and obligations set by national legislation to all gambling operators with a view to ensure a level playing field amongst all operators in a given Member State.
 6. Consumers should be in a position to expect legal, fair and safe games. They should be able to expect from a game that it is secured, “fraud-free”, and transparent. This would mean that consumers should expect to receive complete and proper information on the games, on the risks entailed, problem gambling assistance, games to be properly accredited and certified, staff in casinos to be well trained so as to know the players and understand the issues that may arise.
 7. Ensuring the level of guarantees and protection offered in a Member State can only be done if the Member State is able to put in place its own arsenal of preventive and protective measures so as to protect its consumers.
 8. The fact that an operator lawfully offers online gambling services in another Member State, in which it is established and where it is in principle already subject to statutory conditions and controls on the part of the competent authorities in that State, cannot , automatically, be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud, in the light of the difficulties liable to be encountered in such a context by the authorities of the Member State of establishment in assessing the professional qualities and integrity of operators.
 9. BupriS is also concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published. To prevent illegal providers to take advantage of their users, the BupriS believes that casinos should be able to operate if they are properly authorised and controlled. Each Member State is in the best position to fight illegal gambling through their licensing schemes and national requirements.
 10. Gambling operators should therefore be authorized to operate only if they have national licenses of the country in which the games take place and their operations should be based on provisions and obligations established by national legislation.
- However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below.
11. To that end, it is crucial that the Member States in which consumers are playing are in charge of controlling the gambling activities and in doing so, ensure that the moral, ethic, religious and cultural particularities of each country and the social order objectives are met through the control of the offer.

At this point BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities against illegal (online) gambling services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

12. As pointed out above, the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect

very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gambling market, despite a comprehensive ban on Internet), the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

13. For all these reasons listed above, the BupriS believes in the following principles:

BupriS key principles

1. Crime Prevention and Anti-Money Laundering

An effective prevention of and effectively fighting money laundering in accordance with the recommendations of the FATF at national and European level is an especially important concern to BupriS. For this purpose it is essential that the addressed audience of the relevant European and national regulations including the Third Anti-Money Laundering Directive, by definition, is expressly extended to all those gambling providers who meet the criterion front company (easy accessibility, mass market). These are, due to lack of regulation and supervision, in particular gambling halls and online gambling providers.

2. Consumer Protection vs Fraud and Anti-Money Laundering

a. To prevent illegal gambling offers from taking advantage of their users, the BupriS believes that only licensed operators should provide online casino gambling services.

b. Over the years licensed land-based casinos have enabled consumers to operate in a trusted and transparent online gambling market.

c. Currently in an unregulated and uncontrolled online gambling market there is a growing number of unknown and illegal gambling offers

d. As regards player protection mechanisms, preventing that consumers using online gambling services are victims of fraudulent or criminal practices is crucial for land-based casinos. The BupriS is concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published.

e. In this context BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities towards illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

3. Protection of Consumers

In order to ensure the high level of protection to consumers while offering services in a fair competitive environment, BupriS stands by the following principles:

a. Country of Destination: Licensing Requirements, Supervision & Control within the Jurisdiction of the Country of Destination:

- The applicable law must basically be the law of the country where the gambling service is received.

- It is crucial that regulators have a clear picture of the market within their jurisdictions to enable efficient control of the activities.
- Advertising: In order to safeguard fair, legal and regulated advertisement of gambling by all operators, Member States where the services are offered should be able to impose limited and controlled advertising policies.
- However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below.

b. Subsidiarity/ with regard to Cross-Border Online Gambling Uniform EU Legal Framework essential:

- The BupriS basically emphasises the importance of ensuring that the moral, ethic, religious and cultural particularities of each country and the social order and health objectives are met through the control of the offer by each Member State.
- Member States basically must have the discretionary power to set the consumer protection standards they believe are necessary and appropriate to attain the desired level of protection of the consumers within their territory.
- However, the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level, the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

4. Extensive Experience of Licensed Land-Based Casinos

- a. BupriS emphasises the extensive experience of licensed land-based casinos in complying with national rules as well as in cooperating with authorities to help refine the rules to the evolution of the market.
- b. Land-based operators' experience and knowledge in complying with existing rules and national laws related to consumer protection and anti-money laundering as well as the principles for operating responsibly are a major asset.
- c. Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

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Furthermore the land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

d. Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

5. Taxation

a. Because of the ethical characteristics of gambling offers, in BupriS' opinion taxation must be shaped that way, that the revenues are siphoned off for the benefit of the government budgets of the Member States, after deducting operating expenses and a reasonable entrepreneurial profit. Gambling offers are demerit goods. As part of a cost-benefit analysis therefore even when taxing social costs must be minimized and benefits must be increased.

b. Land-based casinos with online services are able to maintain national control of incomes from online gambling activities including general taxation of gambling revenues. This is a very important asset assuming that national governments want to integrate the internet gambling revenues generated through the Internet into their tax framework.

c. Online and land-based casino services are "like" services. Online gambling is just another means of distribution of gambling services.

d. Online casino activities should be a natural extension of land-based distribution channels.

(4) What, if any, is your experience of licensed non-EU on-line gambling operators providing and promoting their services in EU Member States? What are your views on their impact on the EU market and on consumers?

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- a. Because of the ethical characteristics of gambling offers, in BupriS' opinion taxation must be shaped that way, that the revenues are siphoned off for the benefit of the government budgets of the Member States, after deducting operating expenses and a reasonable entrepreneurial profit. Gambling offers are demerit goods. As part of a cost-benefit analysis therefore even when taxing social costs must be minimized and benefits must be increased.
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incomes from online gambling activities including general taxation of gambling revenues. This is a very important asset assuming that national governments want to integrate the internet gambling revenues generated through the Internet into their tax framework.

c. Online and land-based casino services are “like” services. Online gambling is just another means of distribution of gambling services.

d. Online casino activities should be a natural extension of land-based distribution channels.

(5) If any, which are the legal and/or practical problems that arise, in your view, from the jurisprudence of national courts and the CJEU in the field of online gambling? In particular, are there problems of legal certainty on your national and/or the EU market for such services?

1. Over the years the CJEU has responded to a number of questions and clarified many issues in the field of online gambling. The recent jurisprudence has introduced a lot of clarity. With its rulings, the Court has clearly established the core principles of the discretionary power of the EU Member States in the field of gambling.

However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below.

2. So far the CJEU judgements and national judgements have stated again and again that although the general principles of EU law apply, considering the particularities and the sensitivity of the gambling sector, which include health and fraud risks, Member States are best placed to secure a safe regulatory environment for national gambling services, to prevent crime and to defend the consumers against the risks of excessive gambling through the regulation and control of their individual gambling markets. Therefore, so far gambling remains the main competence of the national EU member states, which results in a non-existence of a uniform set of (Internet) gambling rules at the EU level. Gambling is, therefore, so far only regulated at the national level.

3. As pointed out above, the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gambling market, despite a comprehensive ban on Internet), the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

4. National restrictive policies defined along the principles mentioned above have been upheld by the CJEU, stating that it is up to the Member States to regulate and to choose the appropriate gambling policy in their respective countries, as long as these restrictions are proportionate to the aims pursued and applied in a non-discriminatory manner.

5. Given the particularities of the gambling sector, both in the E-Commerce Directive and the Services Directive, gambling has been excluded as normal Internal Market rules do

and cannot work.

6. BupriS strongly welcomed the ruling of the CJEU in the case of the Liga Portuguesa de Futebol Profissional (C-42/07), which upheld the right of EU Member States to maintain restrictions on the provision of online gambling service within their territory in order to safeguard responsible gambling and combat fraud and crime. In this key ruling, the Court confirmed the compatibility of national regulatory regimes limiting the offer of gambling and betting services with EU rules on the freedom to provide services and the freedom of establishment. In doing so, the Court has once again recognised the very specific nature of gambling services and the need to protect European consumers by channelling the demand towards responsible, highly regulated operators. The Court found the fact that a private operator lawfully offers services via the internet in another Member State in which it is established, cannot be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud and crime in the country of destination.

7. The most recent judgments were rendered by the Court on 8 September 2010 in the Markus Stoss and Carmen Media cases, giving clear directions on the way forward for the regulation of games of chance in the Member States and regarding the potential policy options. The Court confirmed that a duty to mutually recognize authorizations issued by the various Member States cannot exist having regard to the current state of EU law, indicating that a clearer regulation in this field is necessary, since the mere application of the Treaty principles regarding the free movement does not suffice to face the challenges posed by the very specific nature of (online) gambling services. The Court gave also clear indications as to the inconsistency of a monopoly (unlimited and revenue-stimulating advertising, authorized private operators exploiting other types of games, tolerated expansion of non-monopoly games which present a higher potential risk of addiction to maximise revenues) but concluded that a monopolistic approach with strict boundaries is nevertheless more likely to tackle the gambling risks and prevent incitement to squander money on gambling and combat addiction more effectively, especially with regard to online games which entail a greater risk to consumer protection than traditional games.

The BupriS explicitly welcomes these most recent judgements.

The current legal situation in both the Federation and the federal states in Germany consists of a contradictory potpourri of monopoly (lotto and sports betting), license system (casinos), ban (online gambling) and freedom of trade (commercial slot game). BupriS advocates a coherent gambling regulation in Germany and a demanding licensing system for all types of gambling.

In BupriS opinion the demanding licensing system for private and state casinos in Germany is a prime example of responsible gambling regulation and a starting point for a comprehensive gambling regulation granting efficient consumer protection in all fields of gambling.

8. With these rulings, the Court has clearly put the responsibility on the Member States to ensure an effective enforcement system and to tackle illegal online gambling. The Court seems to be of the opinion that Member States need to have the possibility to regulate and control the offer of online games very strictly, emphasizing the need for a regulator.

9. This was also supported in the recent opinion of Advocate-general Bot in the Dickinger case where the need for stricter controls and verifications was confirmed. The Advocate-general stated clearly that in case of online gambling, national authorities can require the execution of on-site inspections to ensure the protection of consumers against

fraud and gambling addiction and Member States have the right to require a strict control of compliance with their rules and to apply the necessary policy measures to resist the infringements of these rules.

10. The main problem of existing differences in national regulations is the unwillingness of online providers to behave legally compliant in accordance with the respectively relevant national regulations. At the same time BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities against illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

However, for reasons explained above it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws.

11. BupriS explicitly welcomes the above mentioned CJEU judgements with regard to the right of EU Member States to maintain restrictions on the provision of online gambling service within their territory, the coherence requirements as well as the need for an effective enforcement.

Nor does the BupriS principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gambling market, despite a comprehensive ban on Internet), the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

Not all questions and issues related to online gambling have been put forward to the Court, and a number of concerns and problems of legal uncertainty still remain. The industry needs to have clarity on how to address and deal with issues including those relating to trans-national liquidity, IT solutions for e-identification, server location, limiting access to on-line gambling services or to restrict payment services, limiting advertising or promotional games and enforcement measures.

However, it must not remain that the CJEU needs to ensure legal certainty in this inherently cross-border and economical important market segment online gambling. Currently in each individual case concerning online gambling which is measured by the fundamental freedoms, a concretisation by the CJEU is necessary. Instead, for reasons explained above in the field of online gambling a politically agreed legal framework passed by the European Parliament is essential.

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c. Currently in an unregulated and uncontrolled online gambling market there is a growing number of unknown and illegal gambling offers

d. As regards player protection mechanisms, preventing that consumers using online gambling services are victims of fraudulent or criminal practices is crucial for land-based casinos. The BupriS is concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published.

e. In this context BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities towards illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

3. Protection of Consumers

In order to ensure the high level of protection to consumers while offering services in a fair competitive environment, BupriS stands by the following principles:

a. Country of Destination: Licensing Requirements, Supervision & Control within the Jurisdiction of the Country of Destination:

- The applicable law must basically be the law of the country where the gambling service is received.
- It is crucial that regulators have a clear picture of the market within their jurisdictions to enable efficient control of the activities.
- Advertising: In order to safeguard fair, legal and regulated advertisement of gambling by all operators, Member States where the services are offered should be able to impose limited and controlled advertising policies.
- However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below.

b. Subsidiarity/ with regard to Cross-Border Online Gambling Uniform EU Legal Framework essential:

- The BupriS basically emphasises the importance of ensuring that the moral, ethic, religious and cultural particularities of each country and the social order and health objectives are met through the control of the offer by each Member State.
- Member States basically must have the discretionary power to set the consumer protection standards they believe are necessary and appropriate to attain the desired level of

protection of the consumers within their territory.

- However, the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level, the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

4. Extensive Experience of Licensed Land-Based Casinos

a. BupriS emphasises the extensive experience of licensed land-based casinos in complying with national rules as well as in cooperating with authorities to help refine the rules to the evolution of the market.

b. Land-based operators' experience and knowledge in complying with existing rules and national laws related to consumer protection and anti-money laundering as well as the principles for operating responsibly are a major asset.

c. Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Furthermore the land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

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5. Taxation

a. Because of the ethical characteristics of gambling offers, in BupriS' opinion taxation must be shaped that way, that the revenues are siphoned off for the benefit of the government budgets of the Member States, after deducting operating expenses and a reasonable entrepreneurial profit. Gambling offers are demerit goods. As part of a cost-benefit analysis therefore even when taxing social costs must be minimized and benefits must be increased.

b. Land-based casinos with online services are able to maintain national control of incomes from online gambling activities including general taxation of gambling revenues. This is a very important asset assuming that national governments want to integrate the internet gambling revenues generated through the Internet into their tax framework.

c. Online and land-based casino services are "like" services. Online gambling is just

another means of distribution of gambling services.

d. Online casino activities should be a natural extension of land-based distribution channels.

(6) Do you consider that existing national and EU secondary law applicable to on-line gambling services adequately regulates those services? In particular, do you consider that coherence / consistency is ensured between, on one hand, the public policy objectives pursued by Member States in this field and, on the other hand, the national measures in force and/or the actual behaviour of public or private operators providing on-line gambling services?

Existing national laws are not adequate to regulate all aspects of online gambling services

1. The provision of online gambling services is potentially a transnational service, provided to consumers which are resident in another (EU) Member State. Due to the extensive growth of online gambling, more and more authorized operators are confronted with the provision of illegal online gambling services, from operators who are established in another EU or non-EU state and who are not authorized to provide their services by the national authorities of the Member State of residence of the consumer. These operators do not comply with the national legislation and requirements at stake. The problem with cross-border services is that they create several problems which cannot be efficiently dealt with by the national authorities of the Member State of residence of the consumer including the identification problem of operators established in other (Member) States providing their games without authorization and the lack of guarantees on the integrity of the game.

2. In line with the principle of subsidiarity, several issues related to gambling are dealt with by the national authorities. However, certain issues require a transnational approach in order to ensure a coherent and consistent gambling policy. The power of the Member States in the field of gambling needs thus to be supplemented by EU secondary legislation, which allows them to ensure a coherent gambling policy and to implement and enforce its policy as the existing set of different national legislations in the EU Member States is clearly not adequate to regulate online gambling services.

3. In that regard, enforcement measures in general seem better regulated at EU level.

4. In most member states gambling is restricted as with alcohol consumption and drugs. Besides limiting the number of access points to gambling services (license based system) high taxation is an important means of skimming exorbitant profits that are inherent with gambling offers. Keeping up just and fair national taxation for all gaming services (terrestrial and online) has become a challenging task for authorities when cross-border services enter the market. A level playing field in terms of taxation is vital for land based casino operators to compete with comparably low need for staff and capital outlays of online competitors.

5. The BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gambling market, despite a comprehensive ban on Internet), the BupriS takes in

this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

Existing EU secondary law is not adequate to regulate online gambling services

6. Gambling services are currently not harmonized at EU level, but they do fall within the scope of several EU directives mentioned by the Commission.

7. The existing EU secondary legislation does however not address all the issues such as coordinated rules on consumer protection, advertising and specific online gambling questions like the transnational liquidity, the server location, etc.

8. If the currently existing EU directives do address specific issues related to gambling, they are often not addressed in an adequate manner. For example, the Third Anti-Money Laundering directive does not allow an adequate prevention of money laundering in the field of (online) gambling as it currently only applies to land-based casinos (see article 10 of the Directive) and to their online activities (see recital 14 of the Directive). Therefore, the Directive only provides an adequate prevention of money laundering in land-based casinos and their online activities, and does not even apply to online operators (providing casino and other types of games), who do not have any land-based activities. In order to allow an adequate approach towards anti-money laundering, the scope of the directive should be expanded to operators of all types of games, including operators who only provide their games online and who do not have any land-based activities as well as arcades.

9. An effective prevention of and effectively fighting money laundering in accordance with the recommendations of the FATF at national and European level is an especially important concern to BupriS. For this purpose it is essential that the addressed audience of the relevant European and national regulations, by definition, is expressly extended to all those gambling providers who meet the criterion front company (easy accessibility, mass market). These are, due to lack of regulation and supervision, in particular gambling halls and online gambling providers.

10. BupriS has to point out here that, contrary to the remarks of the Green Paper, online gambling is widely used for money laundering, as Europol has stated in the semi-annual report "EU Organised Crime Threat Assessment" dated 05/04/2011 (Europol EU Organised Crime Threat Assessment (OCTA 2011) dated 04/05/2011).

In its Resolution dated 10/03/2009 (Resolution of the European Parliament dated 10/03/2011 concerning the integrity of Online Gambling (2008/2215(INI)), Official Journal of the European Union 01/04/2010 (2010/C 87 E/08)), the European Parliament had established as for the integrity of online gambling: "The growth of online gambling offers increased opportunities for corrupt practices such as fraud, match-fixing, illegal betting cartels and money laundering, as online gambling can be set up and dismantled very quickly and a wide expansion of offshore operators is recorded."

Consistency between public interest objectives, national measures and the actual behavior of public and private operators

11. Currently, Member States cannot ensure a coherent approach on national level because their national measures taken in the light of public interest objectives are circumvented by illegal operators who provide their games unauthorized in other Member States based on the license obtained in the country of origin while the lack of cooperation between the Member

States does not allow efficient enforcement of the national restrictive legislation. This leads to unfair competition with the licensed casinos.

12. With its recent rulings, the European Court has clearly put the responsibility on the Member States to establish a coherent legislative framework in the light of its restrictive gambling policy and to ensure an effective enforcement system and to tackle illegal online gambling. The Court seems to be of the opinion that Member States need to have the possibility to regulate and control the offer of online games very strictly, emphasizing the need for a regulator. As addressed very recently by Advocate-general Bot in the Dickinger case, there is a need for stricter controls and verifications. In case of online gambling, national authorities can require the execution of on-site inspections to ensure the protection of consumers against fraud and gambling addiction and Member States have the right to require a strict control of compliance with their rules and to apply the necessary policy measures to resist the infringements of these rules.

13. The main problem of existing differences in national regulations is the unwillingness of online providers to behave legally compliant in accordance with the respectively relevant national regulations.

At the same time BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities against illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

14. Therefore the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gambling market, despite a comprehensive ban on Internet), the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

15. At this the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

The land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

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2. Consumer Protection vs Fraud and Anti-Money Laundering

a. To prevent illegal gambling offers from taking advantage of their users, the BupriS believes that only licensed operators should provide online casino gambling services.

b. Over the years licensed land-based casinos have enabled consumers to operate in a trusted and transparent online gambling market.

c. Currently in an unregulated and uncontrolled online gambling market there is a growing number of unknown and illegal gambling offers

d. As regards player protection mechanisms, preventing that consumers using online gambling services are victims of fraudulent or criminal practices is crucial for land-based casinos. The BupriS is concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published.

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- Member States basically must have the discretionary power to set the consumer protection standards they believe are necessary and appropriate to attain the desired level of protection of the consumers within their territory.
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- a. BupriS emphasises the extensive experience of licensed land-based casinos in complying with national rules as well as in cooperating with authorities to help refine the rules to the evolution of the market.
- b. Land-based operators' experience and knowledge in complying with existing rules and national laws related to consumer protection and anti-money laundering as well as the principles for operating responsibly are a major asset.
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Furthermore the land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

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- a. Because of the ethical characteristics of gambling offers, in BupriS' opinion taxation must be shaped that way, that the revenues are siphoned off for the benefit of the government budgets of the Member States, after deducting operating expenses and a reasonable entrepreneurial profit. Gambling offers are demerit goods. As part of a cost-benefit analysis therefore even when taxing social costs must be minimized and benefits must be increased.

- b. Land-based casinos with online services are able to maintain national control of incomes from online gambling activities including general taxation of gambling revenues. This is a very important asset assuming that national governments want to integrate the internet gambling revenues generated through the Internet into their tax framework.
- c. Online and land-based casino services are “like” services. Online gambling is just another means of distribution of gambling services.
- d. Online casino activities should be a natural extension of land-based distribution channels.

Other comments on issues raised in section 1

2..... Key policy issues subject to the present consultation

2.1..... Definition and organisation of on-line gambling services

(7) How does the definition of on-line gambling services in the Green Paper differ from definitions at national level?

(8) Are gambling services offered by the media considered as games of chance at national level? Is there a distinction drawn between promotional games and gambling?

(9) Are cross-border on-line gambling services offered in licensed premises dedicated to gambling (e.g. casinos, gambling halls or a bookmaker's shop) at national level?

(10) What are the main advantages/difficulties associated with the coexistence in the EU of differing national systems of, and practices for, the licensing of on-line gambling services?

Advantages:

1. One of the most important values of the EU is to fully respect the social, cultural and economic environments of the Member States.
2. Casinos are embedded in the social, economic and cultural environments specific to each Member State. The gambling cultures and historical backgrounds are considerably different. It is therefore crucial that these differences are respected.
3. For example, in some Member States, casinos are intrinsically linked to entertainment activities and the tourism sector of the country (e.g. Greece), in other Member States, casinos are welcomed in cities (e.g. UK).

4. Each Member State is the best placed to ensure the level of consumer protection and fraud prevention they endeavour, through their own regulation and control of their individual gambling market.

5. As a consequence, the way casinos must be considered and approached is vastly different from one country to another.

6. As national systems are very different from one another, a global approach would be complicated to reach. The gambling cultures and historical backgrounds are too different.

7. To that end, it is crucial that the Member States in which consumers are playing are in charge of controlling the gambling activities and in doing so, ensure that the moral, ethic, religious and cultural particularities of each country and the social order objectives are met through the control of the offer.

Difficulties of the coexistence in the EU of differing national systems of, and practices for, the licensing of on-line gambling services

1. It has led to many judicial cases.

2. Not all questions and issues related to online gambling have been put forward to the Courts, and a number of concerns and problems of legal uncertainty still remain.

3. The industry needs to have clarity on how to address and deal with issues including those relating to trans-national liquidity, server location, IT solutions for e-identification, limiting access to on-line gambling services or to restrict payment services, limiting advertising or promotional games and enforcement measures.

4. The main problem of existing differences in national regulations is the unwillingness of online providers to behave legally compliant in accordance with the respectively relevant national regulations.

This problem can be described as follows: First, gambling offers are qualified as services in terms of art. 56 TFEU and national regulations that restrict market access for these services are qualified as interference that needs to be justified. In the second place there follows a constant questioning of national regulations, citing the fundamental freedoms.

As a consequence there are national enforcement difficulties towards providers with permanent seat in another EU Member state because of the permanent questioning.

5. However, it must not remain that the CJEU needs to ensure legal certainty in this inherently cross-border and economical important market segment online-gambling. Currently in each individual case concerning online gambling which is measured by the fundamental freedoms, a concretisation by the CJEU is necessary. Instead, for reasons explained below in the field of online-gambling a politically agreed legal framework passed by the European Parliament is essential.

Therefore the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gambling market, despite a comprehensive ban on Internet), the BupriS takes in

this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

6. The coexistence of differing national systems of licensing online gambling services has also led to concerns as regards the different measures and levels of consumer protection and crime and fraud prevention, and the negative implications on the fair competitive environment and the need for a sustainable and secured gambling market.

a. Tackling crime, fraud and issues relating to consumer protection are central in the discussions around gambling. At the same time, it is important that the long-existing authorised operators and license-holders are in a position to continue evolving in a competitive environment, as they contribute hugely to the high level of employment, source of revenues and wealth of the countries and as they take labour- and cost-intensive player protection measures. The land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

b. BupriS underlines the fact that the rules regulating various aspects of gambling are different for the operators in each segment of the gambling market. This difference places authorized operators, which are subject to abide by strict rules and obligations, at a competitive disadvantage compared to other operators. Legal licenses of highly regulated land-based casinos should not be undermined by offshore internet operators who have been operating illegally over the years. Land-based casinos have licenses that should be respected, particularly in light of the number of rules they have been abiding to with respect to consumer protection issues, anti-money laundering and taxation.

Therefore BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

c. Moreover, on top of the high initial costs required to set up land-based casinos, the real costs engendered by the high level of employment and by labour- and cost-intensive player protection measures in the land-based casinos are very often substantially higher than the costs of the internet casino operators. Costs of land-based casinos include employment costs, obligations to have restaurant, hotel, cultural entertainment facilities which create even more employment costs, training of employees, etc. Internet casino operators do not always have these costs. As a result, this increases even more the economic disadvantage of land-based casinos.

7. The coexistence in the EU of differing national systems of, and practices for, the licensing of on-line gambling services has also led to concerns as regards the different treatments towards online and land-based operations, for example, for taxation purposes. In BupriS' opinion a lower taxation of online casinos compared to the terrestrial casinos (eg Denmark) is according to EU state aid rules as state aid incompatible with the common market. Treating internet and land-based services differently would undermine the economic and legal market reality of the casino industry. It would have a severe negative impact on casino operators with no gain to the regulating rationale.

8. It is crucial that we strive towards a sustainable competitive market, while at the same time ensuring consumers are well protected. Therefore, the BupriS calls to extend the compliance and the scope of the same rules and obligations set by national legislation to all gambling operators with a view to ensure a level playing field amongst all operators in a given Member State.

In BupriS opinion the demanding licensing system for private and state casinos is a prime example of responsible gambling regulation and a starting point for a comprehensive gambling regulation granting efficient consumer protection in all fields of gambling.

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b. Over the years licensed land-based casinos have enabled consumers to operate in a trusted and transparent online gambling market.

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Other comments on issues raised in section 2.1

For the sake of completeness at this place the BupriS points out that "poker" must be explicitly included in the definition of "online gambling".

2.2..... Related services performed and/or used by on-line gambling services providers

(11) With focus on the categories mentioned in the Green Paper, how are commercial communications for (on-line) gambling services regulated for at national level? Are there specific problems with such cross-border commercial communications?

(12) Are there specific national regulations pertaining to payment systems for on-line gambling services? How do you assess them?

(13) Are players' accounts a necessary requirement for enforcement and player protection reasons?

1. Players' accounts are essential to enable the verification of the identity of the players and the control of the age in order to prevent under-age gambling, and to ensure that responsible gambling and anti-money laundering measures can be implemented accordingly.
2. The essential elements for a regulator to have access concern both the customer account and the financial transaction. Regarding the customer account the following information must be available to the regulator: full name (including maiden name), address, date and place of birth (city, country), additional information such as phone number, ID or passport number, IP address, date of opening of account and e-mail.
3. Online games carry different risks for the public order and consumers like fraud and money laundering than traditional games, as it is virtually impossible to verify, control, and more importantly, assist your customers when they are in trouble, if they are located in another member state.
4. The fact that an operator lawfully offers online gambling services in another Member State, in which it is established and where it is in principle already subject to statutory conditions and controls on the part of the competent authorities in that State, cannot, automatically, be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud, in the light of the difficulties liable to be encountered in such a context by the authorities of the Member State of establishment in assessing the professional qualities and integrity of operators.
5. The physical presence on a Member State's territory allows a more thorough and efficient control of the operator's policy and his online services which would not be possible if the operator would be established in another Member State. A Member State has to be able to carry out on-site inspections and verifications (in line with the anti-money laundering directive) as was confirmed in the opinion of Advocate-general Bot in the Dickinger case .
6. The initial direct contact between consumers and operators is crucial not only to obtain the identity cards, but also to know the players and capture their behavioural attitudes in view of protecting them when necessary.
7. This applies the other way around as well. It is extremely useful for customers to have a direct physical contact with physical casinos. Within land-based casinos, players will have the possibility to have face-to-face meetings and liaison with the casino and be properly informed about the games and the risks they may entail. Being able to contact a physical casino also helps when customers want to complain, or if there is a problem in getting paid.
8. A sustainable gambling market is not possible without a clear, trustworthy and transparent relationship between players and casinos.
9. Because of the lack of direct contact between consumer and operator, games of chance accessible via the internet involve different and more substantial risks of fraud by operators against consumers and money laundering compared with the traditional markets for such games.
10. For all these reasons listed above, BupriS believes in the following principles:

BupriS key principles

1. Crime Prevention and Anti-Money Laundering

An effective prevention of and effectively fighting money laundering in accordance with the recommendations of the FATF at national and European level is an especially important concern to BupriS. For this purpose it is essential that the addressed audience of the relevant European and national regulations including the Third Anti-Money Laundering Directive, by definition, is expressly extended to all those gambling providers who meet the criterion front company (easy accessibility, mass market). These are, due to lack of regulation and supervision, in particular gambling halls and online gambling providers.

2. Consumer Protection vs Fraud and Anti-Money Laundering

a. To prevent illegal gambling offers from taking advantage of their users, the BupriS believes that only licensed operators should provide online casino gambling services.

b. Over the years licensed land-based casinos have enabled consumers to operate in a trusted and transparent online gambling market.

c. Currently in an unregulated and uncontrolled online gambling market there is a growing number of unknown and illegal gambling offers

d. As regards player protection mechanisms, preventing that consumers using online gambling services are victims of fraudulent or criminal practices is crucial for land-based casinos. The BupriS is concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published.

e. In this context BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities towards illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

3. Protection of Consumers

In order to ensure the high level of protection to consumers while offering services in a fair competitive environment, BupriS stands by the following principles:

a. Country of Destination: Licensing Requirements, Supervision & Control within the Jurisdiction of the Country of Destination:

- The applicable law must basically be the law of the country where the gambling service is received.

- It is crucial that regulators have a clear picture of the market within their jurisdictions to enable efficient control of the activities.

- Advertising: In order to safeguard fair, legal and regulated advertisement of gambling by all operators, Member States where the services are offered should be able to impose limited and controlled advertising policies.

- However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the

restrictive national gambling laws, as will be explained in detail below.

b. Subsidiarity/ with regard to Cross-Border Online Gambling Uniform EU Legal Framework essential:

- The BupriS basically emphasises the importance of ensuring that the moral, ethic, religious and cultural particularities of each country and the social order and health objectives are met through the control of the offer by each Member State.
- Member States basically must have the discretionary power to set the consumer protection standards they believe are necessary and appropriate to attain the desired level of protection of the consumers within their territory.
- However, the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level, the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

4. Extensive Experience of Licensed Land-Based Casinos

a. BupriS emphasises the extensive experience of licensed land-based casinos in complying with national rules as well as in cooperating with authorities to help refine the rules to the evolution of the market.

b. Land-based operators' experience and knowledge in complying with existing rules and national laws related to consumer protection and anti-money laundering as well as the principles for operating responsibly are a major asset.

c. Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Furthermore the land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

d. Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

5. Taxation

a. Because of the ethical characteristics of gambling offers, in BupriS' opinion taxation

must be shaped that way, that the revenues are siphoned off for the benefit of the government budgets of the Member States, after deducting operating expenses and a reasonable entrepreneurial profit. Gambling offers are demerit goods. As part of a cost-benefit analysis therefore even when taxing social costs must be minimized and benefits must be increased.

b. Land-based casinos with online services are able to maintain national control of incomes from online gambling activities including general taxation of gambling revenues. This is a very important asset assuming that national governments want to integrate the internet gambling revenues generated through the Internet into their tax framework.

c. Online and land-based casino services are “like” services. Online gambling is just another means of distribution of gambling services.

d. Online casino activities should be a natural extension of land-based distribution channels.

(14) What are the existing national rules and practices relating to customer verification, their application to on-line gambling services and their consistency with data protection rules? How do you assess them? Are there specific problems associated with customer verification in a cross-border context?

General BupriS introductory statement

a. We must all cooperate in order to work towards a sustainable and secure gambling market. Tackling crime, fraud, money laundering and issues relating to consumer protection are central in the discussions regarding gambling. At the same time, it is important that the long-existing authorised operators and licence-holders are in a position to continue evolving in a competitive environment, as they make an enormous contribution to the high level of employment, source of revenues and wealth of their respective countries and as they take labour- and cost-intensive player protection measures.

The land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

b. A sustainable gambling market is not possible without a clear, trustworthy and transparent relationship between players and casinos. The fact that an operator lawfully offers online gambling services in another member state, in which it is established and where it is in principle already subject to statutory conditions and controls on the part of the competent authorities in that state, cannot be automatically regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud.

c. Although licensing schemes are clear in certain member states, illegal operators continue to offer their games and/or authorised licensed operators continue to offer games that are not covered by their licences.

d. Because of the lack of direct contact between consumer and operator, games of chance accessible via the internet involve different and more substantial risks of fraud by operators or their employees against consumers and money laundering compared with the traditional markets for such games. It is crucial that member states and regulators have a clear picture of

the integrity of owners, operators and all third parties that are involved in the online operations, whether it be affiliates or game providers. Authorities should be able to trace the number of operators, the scope and supply of services, the operators' assets and the revenue streams in their jurisdiction in order to control business operations and to ensure that consumers play in a transparent and regulated online gambling market.

e. The industry needs to have clarity, and cooperation is necessary on how to address and deal with issues including those relating to transnational liquidity, server location, IT solutions for e-identification, limiting access to online gambling services or restricting payment services, limiting advertising or promotional games, and enforcement measures.

f. However, it must not remain that the CJEU needs to ensure legal certainty in this inherently cross-border and economical important market segment online-gambling. Currently in each individual case concerning online gambling which is measured by the fundamental freedoms, a concretisation by the CJEU is necessary. Instead, for reasons explained below in the field of online-gambling a politically agreed legal framework passed by the European Parliament is essential.

g. Therefore the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gambling market, despite a comprehensive ban on Internet), the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

h. At this BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

i. Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

At this point BupriS points out a particularity of German law beforehand insofar, that the State Treaty on Gambling 2008 provides for a comprehensive ban on online gambling. Therefore, BupriS is able to answering the following questions only to a limited extent.

Specifically, with respect to customer identification processes, the BupriS believes that the following principles should be addressed:

1. As many economic operators have tried to explain over the last few years, the gambling industry cannot effectively regulate itself in relation to such critical issues as

customer identification, player protection, data protection, the protection of vulnerable/underage customers, and the combating of money laundering.

2. Various identification processes have been introduced by legal operators – ie, those that have been granted a licence in the country/countries in which they offer their services. At present, there is no procedure available that it is entirely risk-free. However, one has to bear in mind that technological progress will result in better, more advanced solutions in the coming years: electronic signatures, electronic readable passports and biometrical methods (eg, vein scanners) can all help to ensure that, in future, online customers are correctly identified.

3. Very real dangers are posed by cyber-attacks and hacking. IT systems should be of a high standard (eg, ISO/IEC 27001) and offer the highest level of security possible in order to prevent losses and/or the falsification of data.

4. In the case of larger transactions and/or transactions involving a greater level of risk, the reliability of identification procedures can be enhanced by regular identity verifications.

5. The registration process should not allow for direct access to the online games, in order to prevent impulsive gambling. The registration should provide for secure identification, e.g. by sending in advance copies of ID to the operator.

6. Legislation should include provisions that provide that customers who have misused another person's identity can be prosecuted in accordance with criminal law.

7. It is vitally important for operators to have the possibility of direct physical contact with players and for there to be controls in place should any doubts arise as to the identity of an online casino gambler or in the event that there are other reasons in which direct contact with a customer is deemed to be necessary.

8. The physical presence of the player allows for an easy identification. It is possible to talk directly to the player, as he/she cannot remain anonymous in a bricks-and-mortar casino.

9. Know-your-customer (KYC) checks are performed automatically as part of the identification process in land-based casinos. In certain cases – eg, bank card fraud – the risk for money laundering is substantially higher in online casinos, as the player is not physically present.

10. Unlike online operators, land-based casinos are already familiar with AML regulations and procedures, and are therefore better placed to implement these effectively.

11. Internet protocol checks (IP checks) should help to prevent criminals from using stolen identities in order to open multiple casino accounts from the same computer.

12. Online gambling operators should have clear legal obligations with regard to the safety of customers' personal data. The theft or disclosure of such information by corrupt staff members or the loss of such data through cyber attacks are serious risks that need to be tackled by effective legislation and technical solutions.

BupriS key principles

1. Crime Prevention and Anti-Money Laundering

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recommendations of the FATF at national and European level is an especially important concern to BupriS. For this purpose it is essential that the addressed audience of the relevant European and national regulations including the Third Anti-Money Laundering Directive, by definition, is expressly extended to all those gambling providers who meet the criterion front company (easy accessibility, mass market). These are, due to lack of regulation and supervision, in particular gambling halls and online gambling providers.

2. Consumer Protection vs Fraud and Anti-Money Laundering

a. To prevent illegal gambling offers from taking advantage of their users, the BupriS believes that only licensed operators should provide online casino gambling services.

b. Over the years licensed land-based casinos have enabled consumers to operate in a trusted and transparent online gambling market.

c. Currently in an unregulated and uncontrolled online gambling market there is a growing number of unknown and illegal gambling offers

d. As regards player protection mechanisms, preventing that consumers using online gambling services are victims of fraudulent or criminal practices is crucial for land-based casinos. The BupriS is concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published.

e. In this context BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities towards illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

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In order to ensure the high level of protection to consumers while offering services in a fair competitive environment, BupriS stands by the following principles:

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- The applicable law must basically be the law of the country where the gambling service is received.

- It is crucial that regulators have a clear picture of the market within their jurisdictions to enable efficient control of the activities.

- Advertising: In order to safeguard fair, legal and regulated advertisement of gambling by all operators, Member States where the services are offered should be able to impose limited and controlled advertising policies.

- However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below.

b. Subsidiarity/ with regard to Cross-Border Online Gambling Uniform EU Legal Framework essential:

- The BupriS basically emphasises the importance of ensuring that the moral, ethic, religious and cultural particularities of each country and the social order and health objectives are met through the control of the offer by each Member State.
- Member States basically must have the discretionary power to set the consumer protection standards they believe are necessary and appropriate to attain the desired level of protection of the consumers within their territory.
- However, the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level, the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

4. Extensive Experience of Licensed Land-Based Casinos

- a. BupriS emphasises the extensive experience of licensed land-based casinos in complying with national rules as well as in cooperating with authorities to help refine the rules to the evolution of the market.
- b. Land-based operators' experience and knowledge in complying with existing rules and national laws related to consumer protection and anti-money laundering as well as the principles for operating responsibly are a major asset.
- c. Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Furthermore the land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

- d. Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

5. Taxation

- a. Because of the ethical characteristics of gambling offers, in BupriS' opinion taxation must be shaped that way, that the revenues are siphoned off for the benefit of the government budgets of the Member States, after deducting operating expenses and a reasonable entrepreneurial profit. Gambling offers are demerit goods. As part of a cost-benefit analysis therefore even when taxing social costs must be minimized and benefits must be increased.

- b. Land-based casinos with online services are able to maintain national control of incomes from online gambling activities including general taxation of gambling revenues. This is a very important asset assuming that national governments want to integrate the internet gambling revenues generated through the Internet into their tax framework.
- c. Online and land-based casino services are “like” services. Online gambling is just another means of distribution of gambling services.
- d. Online casino activities should be a natural extension of land-based distribution channels.

Other comments on issues raised in section 2.2

2.3..... Public interest objectives

2.3.1..... Consumer protection

(15) Do you have evidence that the factors listed in the Green Paper are linked to and/or central for the development of problem gambling or excessive use of on-line gambling services? (if possible, please rank them)

(16) Do you have evidence that the instruments listed in the Green Paper are central and/or efficient to prevent or limit problem gambling relating to on-line gambling services? (if possible, please rank them)

(17) Do you have evidence (e.g. studies, statistical data) on the scale of problem gambling at national or EU level?

(18) Are there recognised studies or evidence demonstrating that on-line gambling is likely to be more or less harmful than other forms of gambling for individuals susceptible to develop a pathological gaming pattern?

(19) Is there evidence to suggest which forms of on-line gambling (types of games) are most problematic in this respect?

(20) What is done at national level to prevent problem gambling? (E.g. to ensure early detection)?

(21) Is treatment for gambling addiction available at national level? If so, to what extent do on-line gambling operators contribute to the funding of such preventive

actions and treatment?

(22) What is the required level of due diligence in national regulation in this field? (e.g. recording on-line players' behaviour to determine a probable pathological gambler?).

(23) What is the statutory age limit for having access to on-line gambling services in your Member State? Are existing limits adequate to protect minors?

(24) Are on-line age controls imposed and how do these compare to off-line 'face-to-face' identification?

(25) How are commercial communications for gambling services regulated to protect minors at national or EU level? (e.g. limits on promotional games that are designed as on-line casino games, sports sponsorship, merchandising (e.g. replica jerseys, computer games etc) and use of social on-line networks or video-sharing for marketing purposes.

At this point BupriS points out a particularity of German law beforehand insofar, that the State Treaty on Gambling 2008 provides for a comprehensive ban on online gambling. Therefore, BupriS is able to answering the following questions only to a limited extent.

1. The evolution of the gambling market due to the development of new technologies and the consequent entrance of new operators, including online operators, has led to an increase in the offer of gambling services and games accompanied at the same time by an increased expansion of the advertisement of gambling. Taking into account these recent developments of the gambling market, the BupriS is particularly concerned about the potential negative consequences of an unregulated and uncontrolled expansion of gambling advertising on the consumers, especially on the most vulnerable players.

2. It is therefore crucial that commercial communications and advertisement relating to gambling activities are done through a licensed and regulated system, and the licenses should include the right to advertise.

Member States are in the best position to limit and to control the offer of gambling services on their territory through a regulated licensed system with a view to safeguard public order, to protect the consumers, as well as to tackle crime and problem gambling.

However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below. The fact that an operator lawfully offers online gambling services in another Member State, in which it is established and where it is in principle already subject to statutory conditions and controls on the part of the competent authorities in that State, cannot, automatically, be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud, in the light of the difficulties liable to be encountered in such a context by the authorities of the

Member State of establishment in assessing the professional qualities and integrity of operators.

3. The BupriS believes that acting as responsible and serious operators, land-based casinos, as well as all gambling operators, have the primary responsibility to protect their consumers through a controlled expansion of gambling including the advertising of gambling services. This approach would be beneficial both for gambling operators, which would still be able to advertise their services and games in a regulated and controlled system as well as for consumers.

4. A policy of controlled expansion of gambling advertising is also consistent with the objective of drawing consumers by means of advertising away from illegal and fraudulent gambling operators – with all the negative implications they may have on players – to regulated, and authorized operators.

5. Given the extensive experience of land-based casinos in complying with strict regulation and obligations at national level as well as in cooperating with authorities to help refine and update the rules to the evolution of the market, the BupriS agrees that the regulation of gambling advertising should include the following requirements:

- Licence to provide gambling advertisement. Considering that in order to be granted and to maintain a licence, casino operators have to abide by certain rules and obligations, the BupriS urges that only licensed operators should be allowed to advertise gambling services and games. The BupriS deems it crucial for the gambling operators to comply with and enforce minimum rules and standards, and calls for the licence status of the operators to be displayed in all gambling advertisements as a guarantee for consumer protection and for the accountability of the operators.
- Regulation at national level. Taking into account that, on the one hand, advertising has an influence on the consumption of gambling services and, on the other hand, Member States have the right to define rules and regulations for their national markets in gambling services including the control of gambling services, the BupriS agrees that the advertising of gambling should be based on provisions and obligations established by national legislation.
- Compliance with the same rules and obligations amongst all gambling operators at national level. The BupriS underlines the fact that the rules regulating gambling advertising are different for the operators in each segment of the gambling market. This difference places land-based casinos, which are subject to abide by strict rules and obligations, at a competitive disadvantage compared to other operators. Therefore, the BupriS calls to extend the compliance and the scope of the same rules and obligations set by national legislation to all gambling operators with a view to ensure a level playing field amongst all operators in a given Member State.

6. We must all cooperate towards a sustainable and secured gambling market. Tackling crime, fraud, money laundering and issues relating to consumer protection are central in the discussions around gambling. At the same time, it is important that the long-existing authorised and very experienced operators and license-holders are in a position to continue evolving in a competitive environment, as they contribute hugely to the high level of employment, source of revenues and wealth of the countries and as they take labour- and cost-intensive player protection measures.

The land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

7. Legal licenses of highly regulated land-based casinos should not be undermined by offshore internet operators who have been operating illegally over the years. Land-based casinos have licenses that should be respected, particularly in light of the number of rules they have been abiding to with respect to consumer protection issues, anti-money laundering and taxation.

Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

8. In the context of the above, the BupriS deems it therefore necessary to regulate gambling advertising on national level imposing on all operators the same rules and obligations. In the BupriS' view, this is the only appropriate measure to safeguard fair, legal and regulated advertisement of gambling by all operators.

9. Notwithstanding the fact that national governments are best placed to regulate advertising within the framework of their licenses, there is a clear need for clarification at EU level on issues relating to limiting advertising or promotional games or free games.

The BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gambling market, despite a comprehensive ban on Internet), the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

10. For all these reasons listed above, the BupriS believes in the following principles:

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An effective prevention of and effectively fighting money laundering in accordance with the recommendations of the FATF at national and European level is an especially important concern to BupriS. For this purpose it is essential that the addressed audience of the relevant European and national regulations including the Third Anti-Money Laundering Directive, by definition, is expressly extended to all those gambling providers who meet the criterion front

company (easy accessibility, mass market). These are, due to lack of regulation and supervision, in particular gambling halls and online gambling providers.

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a. To prevent illegal gambling offers from taking advantage of their users, the BupriS believes that only licensed operators should provide online casino gambling services.

b. Over the years licensed land-based casinos have enabled consumers to operate in a trusted and transparent online gambling market.

c. Currently in an unregulated and uncontrolled online gambling market there is a growing number of unknown and illegal gambling offers

d. As regards player protection mechanisms, preventing that consumers using online gambling services are victims of fraudulent or criminal practices is crucial for land-based casinos. The BupriS is concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published.

e. In this context BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities towards illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

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In order to ensure the high level of protection to consumers while offering services in a fair competitive environment, BupriS stands by the following principles:

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- c. Online and land-based casino services are “like” services. Online gambling is just another means of distribution of gambling services.
- d. Online casino activities should be a natural extension of land-based distribution channels.

(26) Which national regulatory provisions on license conditions and commercial communications for on-line gambling services account for the risks described in the Green Paper and seek to protect vulnerable consumers? How do you assess them?

Other comments on issues raised in section 2.3.1

2.3.2..... Public order

(27) Are you aware of studies and/or statistical data relating to fraud and on-line gambling?

(28) Are there rules regarding the control, standardisation and certification of gambling equipment, random generators or other software in your Member State?

(29) What, in your opinion, are the best practices to prevent various types of fraud (by operators against players, players against operators and players against players) and to assist complaint procedures?

1. The best practices to prevent fraud and to assist complaint procedures must rely on regulated and controlled licenses provided to the operator, as it has the advantage of confining the operation of gambling within controlled channels and of preventing the risk of fraud in the context of such operation.
2. BupriS members agree that gambling operators have the prime responsibility to offer their services in a way that does not encourage behaviours leading to irresponsible gambling both for the benefit of their customers and to the benefit of the casino operators themselves.
3. The fact that an operator lawfully offers online gambling services in another Member State, in which it is established and where it is in principle already subject to statutory conditions and controls on the part of the competent authorities in that State, cannot, automatically, be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud, in the light of the difficulties liable to be encountered in such a context by the authorities of the Member State of establishment in assessing the professional qualities and integrity of operators.
4. The most important thing is to be in a position to know your customers and protect them from other players, operators and more importantly, from themselves, is through the

physical presence of the casino management and employees on the floor who are fully trained so as to identify players in need of help.

5. Because of the lack of direct contact between consumer and operator, online gambling involves different and more substantial risks of fraud by operators against consumers compared with the traditional markets for such games.

6. The initial direct contact between consumers and operators is crucial not only to obtain the identity cards, but also to know the players and capture their behavioural attitudes in view of protecting them when necessary.

7. This applies the other way around as well. It is extremely useful for customers to have a direct physical contact with casinos. Within land-based casinos, players will have the possibility to have face-to-face meetings and liaison with the casino and be properly informed about the games and the risks they may entail.

8. As a consequence, control to prevent fraud is much easier through licensed land-based casinos. Initially land-based casinos have put in place a number of measures to protect consumers. Their years of experience could be transposed to online operations if these online operations were to be extended to land-based casinos.

Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

9. These measures include: ensuring secured and “fraud-free” games by abiding to strict certification and standardization procedures for the homologation of all gambling material, organising a high-level of training of the casino management and employees to learn how to detect suspicious behaviours including money laundering in particular, inviting the problem players to get acquainted with the casinos’ information on responsible gambling, information about the games, the risks they entail, information on how casinos can help problem gamblers, provide remedial actions including information and advice on the help available through counselling services, provide for possibilities to allow for self-limitation and self-exclusion of players, spending limitations, time limitations, age controls, schemes to prevent minors from gambling, promote controlled consumption of alcoholic beverages, training casino management and employees in how to identify and how to deal with irresponsible gambling, control access to gambling facilities with a view to control and prevent access for vulnerable people.

10. We must all cooperate towards a sustainable and secured gambling market. Tackling crime, fraud, money laundering and issues relating to consumer protection are central in the discussions around gambling. At the same time, it is important that the long-existing

authorised operators and license-holders are in a position to continue evolving in a competitive environment, as they contribute hugely to the high level of employment, source of revenues and wealth of the countries and as they take labour- and cost-intensive player protection measures.

The land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

11. BupriS underlines the fact that the rules regulating various aspects of gambling are different for the operators in each segment of the gambling market. This difference places authorised operators, which are subject to abide by strict rules and obligations, at a competitive disadvantage compared to other operators. Legal licenses of highly regulated land-based casinos should not be undermined by offshore internet operators who have been operating illegally over the years. Land-based casinos have licenses that should be respected, particularly in light of the number of rules they have been abiding to with respect to consumer protection issues, anti-money laundering and taxation.

Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

12. Moreover, on top of the high initial costs required to set up land-based casinos, the real costs engendered by the high level of employment and by labour- and cost-intensive player protection measures in the land-based casinos are very often substantially higher than the costs of the internet casino operators. Costs of land-based casinos include employment costs, obligations to have restaurant, hotel, cultural entertainment facilities which create even more employment costs, training of employees, etc. Internet casino operators do not always have these costs. As a result, this increases even more so the economic disadvantage of land-based casinos.

13. For all these reasons listed above, BupriS believes in the following principles:

BupriS key principles

1. Crime Prevention and Anti-Money Laundering

An effective prevention of and effectively fighting money laundering in accordance with the recommendations of the FATF at national and European level is an especially important concern to BupriS. For this purpose it is essential that the addressed audience of the relevant European and national regulations including the Third Anti-Money Laundering Directive, by

definition, is expressly extended to all those gambling providers who meet the criterion front company (easy accessibility, mass market). These are, due to lack of regulation and supervision, in particular gambling halls and online gambling providers.

2. Consumer Protection vs Fraud and Anti-Money Laundering

a. To prevent illegal gambling offers from taking advantage of their users, the BupriS believes that only licensed operators should provide online casino gambling services.

b. Over the years licensed land-based casinos have enabled consumers to operate in a trusted and transparent online gambling market.

c. Currently in an unregulated and uncontrolled online gambling market there is a growing number of unknown and illegal gambling offers

d. As regards player protection mechanisms, preventing that consumers using online gambling services are victims of fraudulent or criminal practices is crucial for land-based casinos. The BupriS is concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published.

e. In this context BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities towards illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

3. Protection of Consumers

In order to ensure the high level of protection to consumers while offering services in a fair competitive environment, BupriS stands by the following principles:

a. Country of Destination: Licensing Requirements, Supervision & Control within the Jurisdiction of the Country of Destination:

- The applicable law must basically be the law of the country where the gambling service is received.
- It is crucial that regulators have a clear picture of the market within their jurisdictions to enable efficient control of the activities.
- Advertising: In order to safeguard fair, legal and regulated advertisement of gambling by all operators, Member States where the services are offered should be able to impose limited and controlled advertising policies.
- However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below.

b. Subsidiarity/ with regard to Cross-Border Online Gambling Uniform EU Legal Framework essential:

- The BupriS basically emphasises the importance of ensuring that the moral, ethic, religious and cultural particularities of each country and the social order and health objectives are met through the control of the offer by each Member State.

- Member States basically must have the discretionary power to set the consumer protection standards they believe are necessary and appropriate to attain the desired level of protection of the consumers within their territory.
- However, the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level, the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

4. Extensive Experience of Licensed Land-Based Casinos

- a. BupriS emphasises the extensive experience of licensed land-based casinos in complying with national rules as well as in cooperating with authorities to help refine the rules to the evolution of the market.
- b. Land-based operators' experience and knowledge in complying with existing rules and national laws related to consumer protection and anti-money laundering as well as the principles for operating responsibly are a major asset.
- c. Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Furthermore the land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

- d. Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

5. Taxation

- a. Because of the ethical characteristics of gambling offers, in BupriS' opinion taxation must be shaped that way, that the revenues are siphoned off for the benefit of the government budgets of the Member States, after deducting operating expenses and a reasonable entrepreneurial profit. Gambling offers are demerit goods. As part of a cost-benefit analysis therefore even when taxing social costs must be minimized and benefits must be increased.
- b. Land-based casinos with online services are able to maintain national control of incomes from online gambling activities including general taxation of gambling revenues. This is a very important asset assuming that national governments want to integrate the internet gambling revenues generated through the Internet into their tax framework.

- c. Online and land-based casino services are “like” services. Online gambling is just another means of distribution of gambling services.
- d. Online casino activities should be a natural extension of land-based distribution channels.

(30) As regards sports betting and outcome fixing - what national regulations are imposed on on-line gambling operators and persons involved in sport events/games to address these issues, in particular to prevent 'conflicts of interest'? Are you aware of any available data or studies relating to the magnitude of this problem?

(31) What issues should in your view be addressed in priority?

(32) What risks are there that a (on-line) sports betting operator, which has entered into a sponsorship agreement with a sports club or an association, will seek to influence the outcome of a sports event directly or indirectly for profitable gain?

(33) What concrete cases are there that have demonstrated how on-line gambling could be used for money laundering purposes?

(34) Which micro-payments systems require specific regulatory control in view of their use for on-line gambling services?

General BupriS introductory statement

a. We must all cooperate in order to work towards a sustainable and secure gambling market. Tackling crime, fraud, money laundering and issues relating to consumer protection are central in the discussions regarding gambling. At the same time, it is important that the long-existing authorised operators and licence-holders are in a position to continue evolving in a competitive environment, as they make an enormous contribution to the high level of employment, source of revenues and wealth of their respective countries and as they take labour- and cost-intensive player protection measures.

The land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

b. A sustainable gambling market is not possible without a clear, trustworthy and transparent relationship between players and casinos. The fact that an operator lawfully offers online gambling services in another member state, in which it is established and where it is in principle already subject to statutory conditions and controls on the part of the competent authorities in that state, cannot be automatically regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud.

c. Although licensing schemes are clear in certain member states, illegal operators continue to offer their games and/or authorised licensed operators continue to offer games that are not covered by their licences.

d. Because of the lack of direct contact between consumer and operator, games of chance accessible via the internet involve different and more substantial risks of fraud by operators or their employees against consumers compared with the traditional markets for such games. It is crucial that member states and regulators have a clear picture of the integrity of owners, operators and all third parties that are involved in the online operations, whether it be affiliates or game providers. Authorities should be able to trace the number of operators, the scope and supply of services, the operators' assets and the revenue streams in their jurisdiction in order to control business operations and to ensure that consumers play in a transparent and regulated online gambling market.

e. The industry needs to have clarity, and cooperation is necessary on how to address and deal with issues including those relating to transnational liquidity, server location, IT solutions for e-identification, limiting access to online gambling services or restricting payment services, limiting advertising or promotional games, and enforcement measures.

f. However, it must not remain that the CJEU needs to ensure legal certainty in this inherently cross-border and economical important market segment online-gambling. Currently in each individual case concerning online gambling which is measured by the fundamental freedoms, a concretisation by the CJEU is necessary. Instead, for reasons explained below in the field of online-gambling a politically agreed legal framework passed by the European Parliament is essential.

g. The BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gaming market, despite a comprehensive ban on Internet), the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

h. At this BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

i. Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

At this point BupriS points out a particularity of German law beforehand insofar, that the

State Treaty on Gambling 2008 provides for a comprehensive ban on online gambling. Therefore, BupriS is able to answering the following questions only to a limited extent.

With regard to payment systems, the BupriS wishes to make the following comments and recommendations:

1. All transactions should be made to and from the same account, which should be with a licensed financial institution under the control and supervision of the national banking authorities.
2. National gambling legislation should provide for complete identification, and all transactions must be clearly linked to the customer.
3. Online gambling should not be possible with either cash or credit.
4. Only few payment systems can be regarded as invulnerable in relation to fraud and money laundering. These are mainly direct bank-to-bank account transfers with no intermediaries involved, where the beneficiaries can be clearly identified and the purpose of the payment cannot easily be disguised. The banks should of course reside in countries with full jurisdiction and efficient banking control systems in place.
5. Although cheques and banker's drafts allow paper tracking, not all types guarantee that the payer or account holder is identical to the registered gaming customer. Unless reliable procedures are installed to verify the match, this method of payment needs very special attention to prevent money-laundering activities.
6. Major bank cards are usually subject to thorough customer due diligence and can be regarded as secure for personalised gaming activities because they provide two-way payments: debit of bets and credit of winnings. Measures must be taken to detect stolen or cloned bank cards.
7. All payment methods that allow funds to be transferred from possibly anonymous sources who have not necessarily been subject to proper due diligence are to be regarded as unsafe in terms of fraud or money laundering. In particular, these include payments through all types of prepaid cards or direct cash transfers from local shops. Services provided by Western Union are also deemed unsafe, as the payee/recipient cannot repay funds to the original source of the incoming funds. This is a mandatory requirement for the prevention of money laundering.
8. Prepaid cards are set up in many cases by offshore corporations. Such cards are not the best option, as they may be associated with money-laundering activities. Prepaid cards – also referred to as stored-value cards or gift cards – may pose the same risks as cash if they are sold through retail stores to anonymous customers.
9. Personal virtual e-wallets can be easily funded from multiple anonymous sources and thus do not provide sufficient proof of the holder of the account being the beneficial owner of the money transferred for gaming purposes.
10. BupriS recommends that payment methods for online gambling be restricted to well-regulated, established transfer systems such as bank-to-bank account transfers and bank cards.

BupriS key principles

1. Crime Prevention and Anti-Money Laundering

An effective prevention of and effectively fighting money laundering in accordance with the recommendations of the FATF at national and European level is an especially important concern to BupriS. For this purpose it is essential that the addressed audience of the relevant European and national regulations including the Third Anti-Money Laundering Directive, by definition, is expressly extended to all those gambling providers who meet the criterion front company (easy accessibility, mass market). These are, due to lack of regulation and supervision, in particular gambling halls and online gambling providers.

2. Consumer Protection vs Fraud and Anti-Money Laundering

a. To prevent illegal gambling offers from taking advantage of their users, the BupriS believes that only licensed operators should provide online casino gambling services.

b. Over the years licensed land-based casinos have enabled consumers to operate in a trusted and transparent online gambling market.

c. Currently in an unregulated and uncontrolled online gambling market there is a growing number of unknown and illegal gambling offers

d. As regards player protection mechanisms, preventing that consumers using online gambling services are victims of fraudulent or criminal practices is crucial for land-based casinos. The BupriS is concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published.

e. In this context BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities towards illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

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In order to ensure the high level of protection to consumers while offering services in a fair competitive environment, BupriS stands by the following principles:

a. Country of Destination: Licensing Requirements, Supervision & Control within the Jurisdiction of the Country of Destination:

- The applicable law must basically be the law of the country where the gambling service is received.

- It is crucial that regulators have a clear picture of the market within their jurisdictions to enable efficient control of the activities.

- Advertising: In order to safeguard fair, legal and regulated advertisement of gambling by all operators, Member States where the services are offered should be able to impose limited and controlled advertising policies.

- However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below.

b. Subsidiarity/ with regard to Cross-Border Online Gambling Uniform EU Legal Framework essential:

- The BupriS basically emphasises the importance of ensuring that the moral, ethic, religious and cultural particularities of each country and the social order and health objectives are met through the control of the offer by each Member State.
- Member States basically must have the discretionary power to set the consumer protection standards they believe are necessary and appropriate to attain the desired level of protection of the consumers within their territory.
- However, the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level, the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

4. Extensive Experience of Licensed Land-Based Casinos

a. BupriS emphasises the extensive experience of licensed land-based casinos in complying with national rules as well as in cooperating with authorities to help refine the rules to the evolution of the market.

b. Land-based operators' experience and knowledge in complying with existing rules and national laws related to consumer protection and anti-money laundering as well as the principles for operating responsibly are a major asset.

c. Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Furthermore the land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

d. Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

5. Taxation

a. Because of the ethical characteristics of gambling offers, in BupriS' opinion taxation must be shaped that way, that the revenues are siphoned off for the benefit of the government budgets of the Member States, after deducting operating expenses and a reasonable

entrepreneurial profit. Gambling offers are demerit goods. As part of a cost-benefit analysis therefore even when taxing social costs must be minimized and benefits must be increased.

b. Land-based casinos with online services are able to maintain national control of incomes from online gambling activities including general taxation of gambling revenues. This is a very important asset assuming that national governments want to integrate the internet gambling revenues generated through the Internet into their tax framework.

c. Online and land-based casino services are “like” services. Online gambling is just another means of distribution of gambling services.

d. Online casino activities should be a natural extension of land-based distribution channels.

(35) Do you have experience and/or evidence of best practice to detect and prevent money laundering?

1. The BupriS members are committed to tackle and prevent crime, to protect the consumers. The BupriS approach is in line with the current initiative to review the third anti-money laundering Directive and to propose recommendations to combat money laundering and terrorist financing in the gambling sector.

The state-licensed casinos are in Germany the only gambling providers with nearly 20 years of experience with regard to AML, whereas all other gambling providers are so far not subject to any specific obligations provided by the Money Laundering Act and therefore do not have any application experience. This applies to providers of lotteries, sports betting and gambling halls as well as all providers of Internet gambling.

2. The casinos have many measures in place to detect and prevent money laundering:

a. Considering that casinos are covered by the Third Anti-Money Laundering Directive, they are therefore required to comply with strict EU regulation including several requirements and obligations aimed at preventing potential criminal players to perform any kind of money-laundering activities, financing of terrorist actions or other criminal actions. German law does not provide these requirements and obligation for gambling halls.

b. Land-based casinos have put in place measures including: control and verification of games, high-level training of staff to teach them to detect suspicious behaviours, spending limitations, controlling access to casino premises, etc. These measures contribute to preventing money laundering and fraud by players.

c. National authorities have also put into place rules to prevent illegal activities by operators: through the national licensing schemes, land-based casinos are only allowed to provide their gambling services in compliance with the requirements and obligations set by the national legislation.

d. Land-based casinos are for instance required to abide by strict certification and standardization procedures for the homologation of all gambling material

e. Land-based casinos are obliged to report on all purchase or sales of chips above a national established threshold

- f. Land-based casinos are required to report to the police, financial intelligence units or other competent authority on all suspicious operations and they are used to do so.
- g. In land-based casinos, there are regular controls by the national gambling entities and/or other competent authorities.
- h. The control of ownership only applies to land-based casinos, as do all key obligations that fall under the Third Anti-Money Laundering directive. This Directive does not allow an adequate prevention of money laundering in the field of (online) gambling as it currently only applies to land-based casinos (see article 10 of the Directive) and to their online activities (see recital 14 of the Directive). Therefore, the Directive only provides an adequate prevention of money laundering in land-based casinos and their online activities, and does not even apply to online operators (providing casino and other types of games), who do not have any land based activities. In order to allow an adequate approach towards anti-money laundering, the scope of the directive should be expanded to operators of all types of games, including operators who only provide their games online and who do not have any land based activities as well as to gambling halls.
- i. An effective prevention of and effectively fighting money laundering in accordance with the recommendations of the FATF at national and European level is an especially important concern to BupriS. For this purpose it is essential that the addressed audience of the relevant European and national regulations, by definition, is expressly extended to all those gambling providers who meet the criterion front company (easy accessibility, mass market). These are, due to lack of regulation and supervision, in particular gambling halls and online gambling providers.
- j. BupriS has to point out here that, contrary to the remarks of the Green Paper, online gambling is widely used for money laundering, as Europol has stated in the semi-annual report "EU Organised Crime Threat Assessment" dated 05/04/2011 (Europol EU Organised Crime Threat Assessment (OCTA 2011) dated 04/05/2011).

In its Resolution dated 10/03/2009 (Resolution of the European Parliament dated 10/03/2011 concerning the integrity of Online Gambling (2008/2215(INI)), Official Journal of the European Union 01/04/2010 (2010/C 87 E/08)), the European Parliament had established as for the integrity of online gambling: "The growth of online gambling offers increased opportunities for corrupt practices such as fraud, match-fixing, illegal betting cartels and money laundering, as online gambling can be set up and dismantled very quickly and a wide expansion of offshore operators is recorded."

3. These measures make land-based casinos a more secure and safe gambling environment which provides a guarantee for the protection of the consumer and for the accountability of the operators themselves.
4. When it comes to money laundering or suspicious behaviours leading to question the source and/or the destination of the money, the most important thing for an operator is to be in a position to know its customers.
5. Because of the lack of direct contact between consumer and operator, online gambling involves different and more substantial risks of fraud by operators against consumers and money laundering compared with the traditional markets for such games.
6. Considering the development of new online technologies and the consequent increase

of the supply of gambling services, the BupriS agrees that in the case of unlicensed, illegal and non-transparent operators, there is a higher risk to launder money, or to perpetrate illegal and criminal activities.

7. The fact that an operator lawfully offers online gambling services in another Member State, in which it is established and where it is in principle already subject to statutory conditions and controls on the part of the competent authorities in that State, cannot, automatically, be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud, in the light of the difficulties liable to be encountered in such a context by the authorities of the Member State of establishment in assessing the professional qualities and integrity of operators.

8. As a consequence, to prevent money laundering and criminal activities in the gambling market, BupriS suggests the following requirements:

a. License status. All legal gambling operators should be required to hold a license which provides a guarantee that they operate in respect of national regulation. Legal licensed operators are also subject to regular controls by national gambling entities and police authorities, which provides for the transparency and the clarity of gambling operators.

b. Compliance with national and EU legislation. Taking into account the nature of gambling services, the BupriS stresses the need to regulate and control the gambling market at national level as a way to protect the consumers and to provide a guarantee for responsible gambling.

c. However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws.

The BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gambling market, despite a comprehensive ban on Internet), the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

9. Tackling crime, fraud and money laundering issues are central in the discussions around gambling (see, for instance, accusation in the USA, where Manhattan U.S. Attorney charges principals of three largest Internet Poker Companies – PokerStars, Full Tilt Poker and Absolute Poker, with bank fraud, illegal gambling offenses and laundering billions in illegal gambling proceeds, U.S. v. Scheinberg et al. (10 Cr. 336)). At the same time, it is important that the long-existing authorised operators and license-holders are in a position to continue evolving in a competitive environment, as they contribute hugely to the high level of employment, source of revenues and wealth of the countries and as they take labour- and cost-intensive player protection measures.

The land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

10. BupriS underlines the fact that the rules regulating anti-money laundering are different for the operators in each segment of the gambling market, including in particular the astonishing fact that in Germany gambling halls are not explicitly addressed by the Money Laundering Act. This difference places authorised operators, which are subject to abide by strict rules and obligations, at a competitive disadvantage compared to other operators. Legal licenses of highly regulated land-based casinos should not be undermined by offshore internet operators who have been operating illegally over the years. Land-based casinos have licenses that should be respected, particularly in light of the number of rules they have been abiding to with respect to consumer protection issues, anti-money laundering and taxation.

11. Therefore BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

12. BupriS calls for the extension of the compliance and scope of the Third Anti-Money laundering Directive to all gambling operators (including lottery, all online operators, and especially gambling halls and sports betting etc.) with a view to impose to all operators the same rules and obligations. The Third Anti-Money Laundering Directive does not allow an adequate prevention of money laundering in the field of (online) gambling as it currently only applies to land-based casinos and to their online activities. An adequate approach towards anti-money laundering can only be achieved by expanding the scope of the directive to operators of all types of games.

13. In the BupriS view, this is the only appropriate measure to protect the gambling market as a whole from money laundering.

14. For all these reasons, the BupriS believes in the following principles:

BupriS key principles

1. Crime Prevention and Anti-Money Laundering

An effective prevention of and effectively fighting money laundering in accordance with the recommendations of the FATF at national and European level is an especially important concern to BupriS. For this purpose it is essential that the addressed audience of the relevant European and national regulations including the Third Anti-Money Laundering Directive, by definition, is expressly extended to all those gambling providers who meet the criterion front company (easy accessibility, mass market). These are, due to lack of regulation and supervision, in particular gambling halls and online gambling providers.

2. Consumer Protection vs Fraud and Anti-Money Laundering

a. To prevent illegal gambling offers from taking advantage of their users, the BupriS

believes that only licensed operators should provide online casino gambling services.

b. Over the years licensed land-based casinos have enabled consumers to operate in a trusted and transparent online gambling market.

c. Currently in an unregulated and uncontrolled online gambling market there is a growing number of unknown and illegal gambling offers

d. As regards player protection mechanisms, preventing that consumers using online gambling services are victims of fraudulent or criminal practices is crucial for land-based casinos. The BupriS is concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published.

e. In this context BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities towards illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

3. Protection of Consumers

In order to ensure the high level of protection to consumers while offering services in a fair competitive environment, BupriS stands by the following principles:

a. Country of Destination: Licensing Requirements, Supervision & Control within the Jurisdiction of the Country of Destination:

- The applicable law must basically be the law of the country where the gambling service is received.
- It is crucial that regulators have a clear picture of the market within their jurisdictions to enable efficient control of the activities.
- Advertising: In order to safeguard fair, legal and regulated advertisement of gambling by all operators, Member States where the services are offered should be able to impose limited and controlled advertising policies.
- However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below.

b. Subsidiarity/ with regard to Cross-Border Online Gambling Uniform EU Legal Framework essential:

- The BupriS basically emphasises the importance of ensuring that the moral, ethic, religious and cultural particularities of each country and the social order and health objectives are met through the control of the offer by each Member State.
- Member States basically must have the discretionary power to set the consumer protection standards they believe are necessary and appropriate to attain the desired level of protection of the consumers within their territory.
- However, the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different

regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level, the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

4. Extensive Experience of Licensed Land-Based Casinos

- a. BupriS emphasises the extensive experience of licensed land-based casinos in complying with national rules as well as in cooperating with authorities to help refine the rules to the evolution of the market.
- b. Land-based operators' experience and knowledge in complying with existing rules and national laws related to consumer protection and anti-money laundering as well as the principles for operating responsibly are a major asset.
- c. Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Furthermore the land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

- d. Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

5. Taxation

- a. Because of the ethical characteristics of gambling offers, in BupriS' opinion taxation must be shaped that way, that the revenues are siphoned off for the benefit of the government budgets of the Member States, after deducting operating expenses and a reasonable entrepreneurial profit. Gambling offers are demerit goods. As part of a cost-benefit analysis therefore even when taxing social costs must be minimized and benefits must be increased.
- b. Land-based casinos with online services are able to maintain national control of incomes from online gambling activities including general taxation of gambling revenues. This is a very important asset assuming that national governments want to integrate the internet gambling revenues generated through the Internet into their tax framework.
- c. Online and land-based casino services are "like" services. Online gambling is just another means of distribution of gambling services.
- d. Online casino activities should be a natural extension of land-based distribution channels.

(36) Is there evidence to demonstrate that the risk of money laundering through on-line gambling is particularly high in the context of such operations set up on social websites?

1. Because of the high yield potential and easy means of manipulating gambling has always attracted persons and institutions with criminal background or criminal intent. Thus gambling activities require particular attention regarding money laundering. Online gambling has to be dealt with in a special regulatory environment because of their peculiar risks and exposure to money laundering attempts.
2. Considering the development of new online technologies and the consequent increase of the supply of gambling services, the BupriS agrees that in the case of unlicensed, illegal and non-transparent operators, there is a higher risk to launder money, or to perpetrate illegal and criminal activities.
3. Because of the lack of direct contact between consumer and operator, naturally online gambling involves different and more substantial risks of money-laundering and fraud. In its revision of the 40 recommendations on anti-money laundering, the FATF considers that the non-face-to-face commercial relationships increases the risks of fraud.
4. National regulators should be in a position to control the activities undertaken in their jurisdiction. In order to enable the national regulator of the Member State of residence of the consumer to control and regulate the offer of online casino games, it is of utmost importance that the regulator has access to the essential elements of a gaming transaction. This will require that operators physically place certain parts of their hardware and software within the territory of the Member State of residence of the consumer, meaning inside the country that has issued the gambling license. This was most recently confirmed by Advocate-general Bot in the Dickinger case.
5. The essential elements for a regulator to have access to, concern both the customer account and the financial transaction. Regarding the customer account the following information must be available to the regulator: full name (including maiden name), address, date and place of birth (city, country), additional information such as phone number, ID or passport number, IP address, date of opening of account and e-mail.
6. Furthermore, the presence on the Member State's territory of data concerning financial activity is strongly recommended. This information includes details of all transactions between the registered player and the operator. This information will be used to demonstrate compliance with anti-money laundering legislation. In addition, session details of wins or losses will be required in order to justify taxation levels.
7. At least this information regarding the customer account and financial activity should be kept within the territory of the Member State of residence of the consumer. In addition, a license provision can be foreseen entitling the national competent authorities of the Member State of residence of the consumer to have access to the equipment and operations of the operator installed in another jurisdiction, from where services are provided within the territory of the Member State.
8. Tackling crime, fraud and money laundering issues are central in the discussions around gambling. At the same time, it is important that the long-existing authorised operators

and license-holders are in a position to continue evolving in a competitive environment, as they contribute hugely to the high level of employment, source of revenues and wealth of the countries and as they take labour- and cost-intensive player protection measures.

The land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

9. BupriS underlines the fact that the rules regulating money laundering are different for the operators in each segment of the gambling market. This difference places authorized operators, which are subject to abide by strict rules and obligations, at a competitive disadvantage compared to other operators. Legal licenses of highly regulated land-based casinos should not be undermined by offshore unlicensed online operators who have been operating illegally over the years. Land-based casinos have licenses that should be respected, particularly in light of the number of rules they have been abiding to with respect to consumer protection issues, anti-money laundering and taxation.

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(37) Are national e-commerce transparency requirements enforced to allow for illegally operated services to be tracked and closed? How do you assess this situation?

Other comments on issues raised in section 2.3.2

2.3.3..... Financing of benevolent and public interest activities as well as events on which on-line sports betting relies

(38) Are there other gambling revenue channeling schemes than those described in the Green Paper for the public interest activities at national or EU level?

(39) Is there a specific mechanism, such as a Fund, for redistributing revenue from public and commercial on-line gambling services to the benefit of society?

(40) Are funds returned or re-attributed to prevention and treatment of gambling addiction?

(41) What are the proportions of on-line gambling revenues from sports betting that are redirected back into sports at national level?

(42) Do all sports disciplines benefit from on-line gambling exploitation rights in a similar manner to horse-racing and, if so, are those rights exploited?

(43) Do on-line gambling exploitation rights that are exclusively dedicated to ensuring integrity exist?

(44) Is there evidence to suggest that the cross-border "free-riding" risk noted in the Green Paper for on-line gambling services is reducing revenues to national public interest activities that depend on channelling of gambling revenues?

(45) Do there exist transparency obligations that allow for gamblers to be made aware of whether and how much gambling service providers are channelling revenues back into public interest activities?

Other comments on issues raised in section 2.3.3

The BupriS regards for necessary, to levy a gambling tax for absorption as part of the government budget. Funding of good causes should then, for reasons of transparency, be

reserved to and exercised by the national parliaments according to their budget law.

2.4..... Enforcement and related matters

(46) Which form of regulatory body exists in your Member State and what are its competences, its scope of action across the on-line gambling services as defined in the Green Paper?

(47) Is there a national register of licensed operators of gambling services? If so, is it publicly accessible? Who is responsible for keeping it up to date?

(48) Which forms of cross-border administrative cooperation are you aware of in the domain of gambling and which specific issues are covered?

(49) Are you aware of enhanced cooperation, educational programmes or early warning systems as described in the Green Paper that are aimed at strengthening integrity in sport and/or increase awareness among other stakeholders?

(50) Are any of the methods mentioned in the Green Paper, or any other technical means, applied at national level to limit access to on-line gambling services or to restrict payment services? Are you aware of any cross-border initiative(s) aimed at enforcing such methods? How do you assess their effectiveness in the field of on-line gambling?

General BupriS Introductory statement

a. We must all cooperate in order to work towards a sustainable and secure gambling market. Tackling crime, fraud, money laundering and issues relating to consumer protection are central in the discussions regarding gambling. At the same time, it is important that the long-existing authorised operators and licence-holders are in a position to continue evolving in a competitive environment, as they make an enormous contribution to the high level of employment, source of revenues and wealth of their respective countries and as they take labour- and cost-intensive player protection measures.

The land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

b. A sustainable gambling market is not possible without a clear, trustworthy and transparent relationship between players and casinos. The fact that an operator lawfully offers online gambling services in another member state, in which it is established and where it is in principle already subject to statutory conditions and controls on the part of the competent authorities in that state, cannot be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud.

c. Although licensing schemes are clear in certain member states, illegal operators continue to offer their games and/or authorised licensed operators continue to offer games that are not covered by their licences.

d. Because of the lack of direct contact between consumer and operator, games of chance accessible via the internet involve different and more substantial risks of fraud by operators or their employees against consumers and money laundering compared with the traditional markets for such games. It is crucial that member states and regulators have a clear picture of the integrity of owners, operators and all third parties that are involved in the online operations, whether it be affiliates or game providers. Authorities should be able to trace the number of operators, the scope and supply of services, the operators' assets and the revenue streams in their jurisdiction in order to control business operations and to ensure that consumers play in a transparent and regulated online gambling market.

e. The industry needs to have clarity, and cooperation is necessary on how to address and deal with issues including those relating to transnational liquidity, server location, IT solutions for e-identification, limiting access to online gambling services or restricting payment services, limiting advertising or promotional games, and enforcement measures.

f. However, it must not remain that the CJEU needs to ensure legal certainty in this inherently cross-border and economical important market segment online-gambling. Currently in each individual case concerning online gambling which is measured by the fundamental freedoms, a concretisation by the CJEU is necessary. Instead, for reasons explained below in the field of online-gambling a politically agreed legal framework passed by the European Parliament is essential.

g. The BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level (for instance, according to the Green Paper Germany is the second largest online gaming market, despite a comprehensive ban on Internet), the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

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In order to assess the different enforcement methods mentioned in the green paper and to

evaluate them in terms of their effectiveness, the BupriS has decided to combine its comments and recommendations in relation to questions 50 and 51 into a single response:

1. Possible enforcement instruments:

- Imposing penalties or fines on illegal operations
- Sanctions against illegal advertising
- Blocking of financial transactions by national banks
- Possible criminal proceedings for users of illegal sites
- Filtering methods such as deep packet inspection (DPI)

2. Payment blocking is certainly a practical solution to prevent transactions to and from illegal operators. One has to bear in mind that internet gambling has become the most important online market. Financial institutions are making a lot of profit by providing their payment solutions. It is not acceptable that financial institutions continue to profit from gambling operations if they are aware that these do not comply with the law. Financial institutions should take responsibility and comply with their obligation to block any transactions they know to be illegal. From a technical point of view, payment blocking is very easy to implement.

3. Due to its complexity, the issue of illegal advertising may also have to be addressed separately – particularly in the case of online advertising space bought by agencies, which is often targeted at internet users according to the jurisdiction in which they reside.

4. It is important to emphasise that taxation laws must be respected.

5. If there are no enforcement measures, there is no advantage in having a licence. Such measures are necessary in order to enable regulators to pursue illegal operators.

At this point BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities against illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

However, for reasons explained above it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws.

6. As the internet continues to evolve, decision-makers/regulators are becoming increasingly keen to take action against illegal operators, with the result that a variety of effective enforcement mechanisms are likely to come to the fore in the coming years.

7. Certain countries are in the process of preparing new legislation that may result in criminal sanctions for individuals who engage in illegal gambling activities.

8. The BupriS believes that some hard- and software parts of the online gambling system and of the data collected, should be accessible on servers installed within the territory of the Member States, where the nationally licensed operator provide their games. This allows the local authorities to effectively control.

9. The essential elements for a regulator to have real-time online and physical access to

all customers' account information, all records on financial transactions and on the details of the gaming sessions (bets, results, wins and losses).

10. This will allow controlling the respect of the national legislation, the taxation level and the compliance with anti-money laundering rules.

11. However, for reasons explained above the BupriS holds that in the field of online gambling a uniform EU legal framework is essential.

12. For all these reasons, the BupriS believes in the following principles:

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(51) What are your views on the relative merits [in terms of suitability and efficiency] of the methods mentioned in the Green Paper as well as any other technical means to limit access to gambling services or payment services?

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Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

i. Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

In order to assess the different enforcement methods mentioned in the green paper and to evaluate them in terms of their effectiveness, the BupriS has decided to combine its comments

and recommendations in relation to questions 50 and 51 into a single response:

1. Possible enforcement instruments:
 - Imposing penalties or fines on illegal operations
 - Sanctions against illegal advertising
 - Blocking of financial transactions by national banks
 - Possible criminal proceedings for users of illegal sites
 - Filtering methods such as deep packet inspection (DPI)
 2. Payment blocking is certainly a practical solution to prevent transactions to and from illegal operators. One has to bear in mind that internet gambling has become the most important online market. Financial institutions are making a lot of profit by providing their payment solutions. It is not acceptable that financial institutions continue to profit from gambling operations if they are aware that these do not comply with the law. Financial institutions should take responsibility and comply with their obligation to block any transactions they know to be illegal. From a technical point of view, payment blocking is very easy to implement.
 3. Due to its complexity, the issue of illegal advertising may also have to be addressed separately – particularly in the case of online advertising space bought by agencies, which is often targeted at internet users according to the jurisdiction in which they reside.
 4. It is important to emphasise that taxation laws must be respected.
 5. If there are no enforcement measures, there is no advantage in having a licence. Such measures are necessary in order to enable regulators to pursue illegal operators.
- At this point BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities against illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.
- However, for reasons explained above it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws.
6. As the internet continues to evolve, decision-makers/regulators are becoming increasingly keen to take action against illegal operators, with the result that a variety of effective enforcement mechanisms are likely to come to the fore in the coming years.
 7. Certain countries are in the process of preparing new legislation that may result in criminal sanctions for individuals who engage in illegal gambling activities.
 8. The BupriS believes that some hard- and software parts of the online gambling system and of the data collected, should be accessible on servers installed within the territory of the Member States, where the nationally licensed operator provide their games. This allows the local authorities to effectively control.
 9. The essential elements for a regulator to have real-time online and physical access to all customers' account information, all records on financial transactions and on the details of

the gaming sessions (bets, results, wins and losses).

10. This will allow controlling the respect of the national legislation, the taxation level and the compliance with anti-money laundering rules.

11. However, for reasons explained above the BupriS holds that in the field of online gambling a uniform EU legal framework is essential.

12. For all these reasons, the BupriS believes in the following principles:

BupriS key principles

1. Crime Prevention and Anti-Money Laundering

An effective prevention of and effectively fighting money laundering in accordance with the recommendations of the FATF at national and European level is an especially important concern to BupriS. For this purpose it is essential that the addressed audience of the relevant European and national regulations including the Third Anti-Money Laundering Directive, by definition, is expressly extended to all those gambling providers who meet the criterion front company (easy accessibility, mass market). These are, due to lack of regulation and supervision, in particular gambling halls and online gambling providers.

2. Consumer Protection vs Fraud and Anti-Money Laundering

a. To prevent illegal gambling offers from taking advantage of their users, the BupriS believes that only licensed operators should provide online casino gambling services.

b. Over the years licensed land-based casinos have enabled consumers to operate in a trusted and transparent online gambling market.

c. Currently in an unregulated and uncontrolled online gambling market there is a growing number of unknown and illegal gambling offers

d. As regards player protection mechanisms, preventing that consumers using online gambling services are victims of fraudulent or criminal practices is crucial for land-based casinos. The BupriS is concerned by the growing number of unregulated and unknown online providers whose “operations” are neither audited nor approved and whose revenues and profits are neither traced nor published.

e. In this context BupriS stresses explicitly the great importance of a consistent policy of enforcement by national authorities towards illegal (online) services, as licensed offers are otherwise devalued. And BupriS urgently appeals to the EU Commission to also formulating these expectations towards the Member States.

3. Protection of Consumers

In order to ensure the high level of protection to consumers while offering services in a fair competitive environment, BupriS stands by the following principles:

a. Country of Destination: Licensing Requirements, Supervision & Control within the Jurisdiction of the Country of Destination:

- The applicable law must basically be the law of the country where the gambling service is received.

- It is crucial that regulators have a clear picture of the market within their jurisdictions to enable efficient control of the activities.
- Advertising: In order to safeguard fair, legal and regulated advertisement of gambling by all operators, Member States where the services are offered should be able to impose limited and controlled advertising policies.
- However, the BupriS holds that it requires a supplementary uniform EU legal framework in the field of cross-border online gambling to ensure effective enforcement of the restrictive national gambling laws, as will be explained in detail below.

b. Subsidiarity/ with regard to Cross-Border Online Gambling Uniform EU Legal Framework essential:

- The BupriS basically emphasises the importance of ensuring that the moral, ethic, religious and cultural particularities of each country and the social order and health objectives are met through the control of the offer by each Member State.
- Member States basically must have the discretionary power to set the consumer protection standards they believe are necessary and appropriate to attain the desired level of protection of the consumers within their territory.
- However, the BupriS does not principally question the principle of subsidiarity. But due to the per se cross-border nature of online gambling and in this respect very different regulations regarding concession and enforcement in the Member States, which lead to much legal uncertainty and considerable practical difficulties for Member State authorities at implementation level, the BupriS takes in this inherently cross-border market segment a uniform EU legal framework that grants legal certainty for indispensable.

4. Extensive Experience of Licensed Land-Based Casinos

- a. BupriS emphasises the extensive experience of licensed land-based casinos in complying with national rules as well as in cooperating with authorities to help refine the rules to the evolution of the market.
- b. Land-based operators' experience and knowledge in complying with existing rules and national laws related to consumer protection and anti-money laundering as well as the principles for operating responsibly are a major asset.
- c. Therefore the BupriS advocates a system of licenses limited in number as well as in terms of content.

Of all the operators of traditional types of games the location-based casinos are the ones with the most comprehensive experience in the checking of and dealing with players who appear conspicuously in respect of fraud, money laundering and gambling addiction. When granting a license, therefore, the location-based casinos seem preferable, as in this way an effective consumer and player protection also on the Internet is guaranteed.

Furthermore the land-based casinos require protection against the devaluation of their labour- and cost-intensive efforts and expenses for the protection of players and the prevention of money laundering, why they need to be enabled to privileged participation in the growth market of online gambling. This is guaranteed by the limited license system favoured by the BupriS.

d. Core competence of the land-based casinos is the creation of comprehensive social concepts for the purpose of player protection. Secondary Community legislation should set what social concepts should provide for the purpose of ensuring an effective player protection and specify the requirements and contents.

5. Taxation

a. Because of the ethical characteristics of gambling offers, in BupriS' opinion taxation must be shaped that way, that the revenues are siphoned off for the benefit of the government budgets of the Member States, after deducting operating expenses and a reasonable entrepreneurial profit. Gambling offers are demerit goods. As part of a cost-benefit analysis therefore even when taxing social costs must be minimized and benefits must be increased.

b. Land-based casinos with online services are able to maintain national control of incomes from online gambling activities including general taxation of gambling revenues. This is a very important asset assuming that national governments want to integrate the internet gambling revenues generated through the Internet into their tax framework.

c. Online and land-based casino services are "like" services. Online gambling is just another means of distribution of gambling services.

d. Online casino activities should be a natural extension of land-based distribution channels.

Other comments on issues raised in section 2.4

Other comments on issues raised in the Green Paper

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