

ESSA response:  
Netherlands gambling  
regulatory framework  
consultation – Remote  
Games of Chance Decree

November 2018

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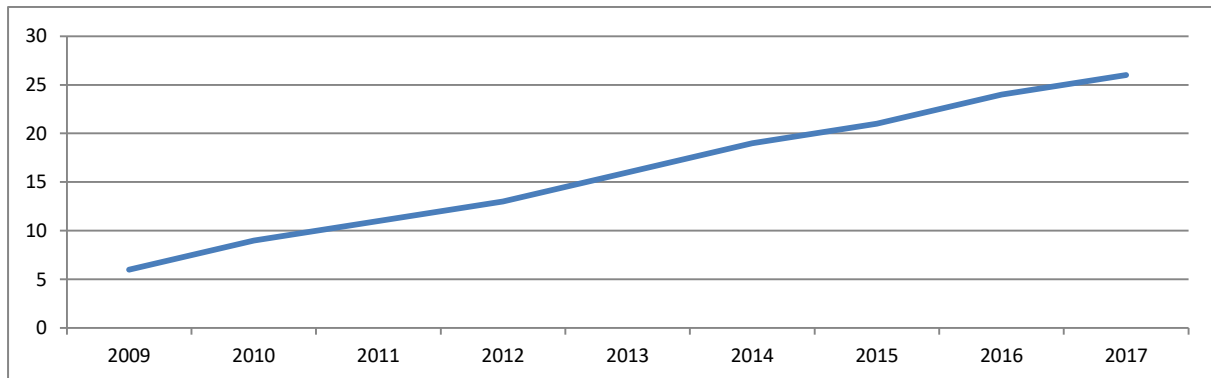
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## Chapter 1: ABOUT ESSA

1. ESSA<sup>1</sup> is an international betting integrity body that represents many of the world's largest regulated sports betting operators and which serve over 40 million consumers in the EU alone.
2. Established in 2005, ESSA has shown continued membership growth which, along with mergers and acquisitions, has seen the global market share of our members' increase significantly.

**Figure 1: ESSA Membership Growth 2009-17**



3. Indeed, those companies are licensed and operate within various regulatory frameworks for gambling around the world; their business operations and focus are truly international.
4. That commercial enterprise is currently conducted through around 60 retail and online/remote betting brands (see Figure 2), including many globally recognised household names.

**Figure 2: ESSA Members' Retail and Online Betting Brands<sup>2</sup>**

32Red sport	Betsafe	Crystalbet	Kroon	Sportingbet	Tonybet
888sport	Betsson	Easybet	Ladbrokes	Sportium	Triobet
Bet365	Betstar.com.au	Eurobet	Ladbrokes.be	Sportsbet	TVG
Betano	BetStars	Europebet	Ladbrokes.com.au	Stanleybet	Unibet
Bet-at-home	BetVictor	Expekt	Nordicbet	Star Casino (sports)	veikkaushuone
Betboo	bkfon.ru	Fanduel	OddsKing.com	Star-Typ Sport	Vernons
Betclic	Bookmaker.com.au	Fonbet	Paddy Power	Stoiximan	William Hill
Betdaq	bwin	Gamebookers	Racebets	Tonybet	William Hill US
Betfair	Cashpoint	Gamesys	Sky Bet	Sportingbet	XTiP
Betfred	Coral	Gioco Digitale	Sporting Index	Sportium	

5. ESSA's principal goal is to protect its members, consumers and partners, such as sports bodies, from fraud caused by the unfair manipulation of sporting events and associated betting.
6. The organisation combats this fraud with evidence-based intelligence, principally obtained from its monitoring and alert system, which identifies suspicious activity on its members' markets.
7. That includes crucial information on consumer identities, locations and other transactional information which is not available via other non-regulatory authority platforms.

<sup>1</sup> <http://www.eu-ssa.org/>

<sup>2</sup> Gamesys and OddsKing sports betting brands are not yet active. List includes new members and brands added in 2018 and is correct as of 8 August 2018.

8. To facilitate this, ESSA has established information sharing arrangements with gambling regulators and sports bodies through which it disseminates information on suspicious betting.
9. The association's members spend over €50 million per year on compliance and internal security systems in order to help combat betting related fraud in sport.
10. That investment has been successful in helping to drive criminals away from regulated betting markets, creating a safe and secure environment for our members' customers and sports.
11. To complement our detection activity, the association engages in mitigating actions with a range of partners, notably a player betting education programme with EU Athletes since 2010.<sup>3</sup>
12. ESSA is currently involved in four European Commission Erasmus+ funded anti-match-fixing projects, namely:
  - Anti Match-Fixing Top Training (AMFTT);<sup>4</sup>
  - Training to Protected Reporting from Professional and Grassroots Sports (T-Preg);<sup>5</sup>
  - Against match fixing - European Research & Education Program;<sup>6</sup> and
  - PROtect Integrity Plus.<sup>7</sup>
13. ESSA is a key player in the fight against betting related match-fixing globally and acts for the regulated betting sector at key national and international match-fixing policy discussion forums.
14. In particular, the association holds seats on betting policy groups run by the International Olympic Committee (IOC), European Commission and the Council of Europe, amongst others.
15. Indeed, the association helped to develop and broadly supports the adoption of the Council of Europe (CoE) Convention on the Manipulation of Sports Competitions<sup>8</sup> and is committed to seeking practical and proportionate solutions to sports betting related integrity issues.
16. As part of our desire to be transparent and to assist the wider understanding of this important issue, ESSA also releases quarterly integrity reports covering its members' betting markets.<sup>9</sup>
17. ESSA therefore has an interest in the development of the Netherlands remote gambling market framework, particularly the regulation of remote sports betting and related integrity issues.<sup>10</sup>
18. The following paragraphs provide ESSA's response to the Remote Games of Chance Decree consultation and the proposed approach to a regulated gambling framework in general.
19. The association is committed to working in partnership with all key stakeholders on issues related to betting integrity and will of course be available to engage in further dialogue with the Netherlands authorities on that issue and the information contained in this document.

<sup>3</sup> [http://www.eu-ssa.org/wp-content/uploads/Eu-Athletes\\_Erasmusfunding\\_2015\\_FINAL.pdf](http://www.eu-ssa.org/wp-content/uploads/Eu-Athletes_Erasmusfunding_2015_FINAL.pdf)

<sup>4</sup> [https://eacea.ec.europa.eu/sites/eacea-site/files/compendia\\_erasmus\\_sport\\_2016.pdf](https://eacea.ec.europa.eu/sites/eacea-site/files/compendia_erasmus_sport_2016.pdf) (pages 248-49)

<sup>5</sup> [https://eacea.ec.europa.eu/sites/eacea-site/files/sport\\_compendium\\_2017.pdf](https://eacea.ec.europa.eu/sites/eacea-site/files/sport_compendium_2017.pdf) (pages 264-265)

<sup>6</sup> [https://eacea.ec.europa.eu/sites/eacea-site/files/sport\\_compendium\\_2017.pdf](https://eacea.ec.europa.eu/sites/eacea-site/files/sport_compendium_2017.pdf) (pages 240-241)

<sup>7</sup> [https://eacea.ec.europa.eu/sites/eacea-site/files/sport\\_compendium\\_2017.pdf](https://eacea.ec.europa.eu/sites/eacea-site/files/sport_compendium_2017.pdf) (pages 234-235)

<sup>8</sup> <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/215>

<sup>9</sup> <http://www.eu-ssa.org/documents/>

<sup>10</sup> <http://www.srij.turismodeportugal.pt/pt/noticias/reavaliacao-do-regime-juridico-dos-jogos-e-apostas-online/>

## Chapter 2:

# EFFECTIVE REGULATORY FRAMEWORK

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20. ESSA (Sports Betting Integrity) welcomes the opportunity to engage in the ongoing development of a regulated remote gambling framework in the Netherlands, notably around sports betting.
21. It is fundamental that any gambling framework is able to adequately cater for, and readily adapt to, new commercial developments and any regulatory challenges that may accompany those.
22. Developing an effective regulatory framework is therefore an important and necessary undertaking in what is an ever-evolving global gambling and technological environment.

### Licensing and Taxation

23. Modern technological advances have opened new global channels of interaction between businesses and consumers; the betting and sporting sectors are no different in that regard.
24. Policymakers must consider their market regulation and structure within that landscape, notably whether to adopt a model that serves to deter or one which attracts and regulates operators.
25. Our experience is that there are clear limitations regarding integrity and related issues such as revenue generation and taxation from a market that restricts or deters betting operators.
26. Evidence shows that imposing a restriction on choice and competition will not sufficiently meet the needs of modern-day consumers who are able to readily access products in other markets.
27. Various attempts to block citizens from accessing operators outside of a regulated market (e.g. ISP<sup>11</sup> and DNS<sup>12</sup> blocking) have not proved to be effective and can be easily circumvented.<sup>13</sup>
28. This customer migration adversely impacts the ability of the regulator to oversee related consumer activity and to have access to important data on the functioning of that market.
29. That includes any fraudulent betting activity (e.g. match-fixing) that may involve persons whose illicit actions may have otherwise been caught within a wider licensed betting market.
30. The adoption of sports betting integrity provisions are therefore invariably weakened by a framework that serves to deter operators from being licensed and regulated in that market.
31. As such, we recommend that all aspects of the market benefit from a licensing system that attracts and allows any number of operators that fulfil the licensing criteria to offer betting.
32. Indeed, the prevailing policy direction in other jurisdictions endorses this licensing method: the UK, Denmark, Malta, Spain and many others attest to the success of this approach.
33. It is also important that, as with the countries listed above, any licence fees are proportionate, and wholly based on, the necessary administrative costs of proper market regulation.

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<sup>11</sup> Internet Service Provider (ISP)

<sup>12</sup> Domain Name System (DNS)

<sup>13</sup> [http://www.rga.eu.com/data/files/PR\\_2016/2016\\_09\\_05\\_Regulation\\_of\\_online\\_betting\\_market\\_in\\_Poland\\_EN\\_4.pdf](http://www.rga.eu.com/data/files/PR_2016/2016_09_05_Regulation_of_online_betting_market_in_Poland_EN_4.pdf) Page 5

34. Licensing fees should not be used as a means to impose an unjustified revenue raising tool, and in effect an additional means of taxation, which would deter operators from seeking a licence.
35. With that in mind, ESSA therefore strongly supports the underlining premise of the licensing system in the Netherlands, which is open and allows any company to apply for an online licence.
36. Aligned with that is the adoption of a taxation model that reflects the international availability and dimension of sports betting products and is not over-burdensome from that perspective.
37. The evidence from European markets shows that a burdensome fiscal framework, notably for online betting and relative to other markets, is counterproductive to market maximisation.
38. The gross gambling revenue (GGR)<sup>14</sup> model has become the standard approach to taxation for online gambling services across much of Europe (see EU-wide betting taxation at Annex B).
39. A turnover tax (on stakes) invariably creates betting products that are less competitive and are unappealing to consumers compared to operators offering the same products taxed on GGR.<sup>15</sup>
40. As with other services, many betting consumers are product and price sensitive and will therefore switch between operators depending on the competitiveness of the betting offer.<sup>16</sup>
41. The type and level of taxation thus significantly influences the size and product availability of the betting market and is an important driver of market growth, structure and consumer attraction.
42. ESSA therefore welcomes the Government's decision to adopt a GGR tax for remote gambling market, but we are concerned about the adverse impact of a comparatively high rate (29%).<sup>17</sup>
43. In particular, the negative impact this will have on consumer challenging and the importance of achieving a suitably high channelling rate as stated in the Decree's Explanatory Memorandum.<sup>18</sup>
44. Indeed, the stated "main aim is to channel the current and future demand for remote games of chance towards the licenced offerings, which are responsible, trustworthy and verifiable."<sup>19</sup>
45. This will "reduce the demand for illegal remote games of chance, as a result of which fewer illegal games of chance will be offered and it will be easier to enforce the law".<sup>20</sup>
46. As such, "Successful channelling provides better safeguards for a safe gaming environment for players. Their gaming behaviour will be actively monitored and intervention methods will be provided for in the event of players demonstrating problematic behaviour."<sup>21</sup>
47. The Decree further highlights that "the licenced offering must not only be appropriate but also sufficiently appealing to be capable of satisfying demand among Dutch players."<sup>22</sup>
48. An assessment of European countries shows that their approach to betting taxation, especially online, directly impacts the rate of consumer activity channelled to their regulated market.

<sup>14</sup> Gross Gambling Revenue (GGR) = stakes minus winnings

<sup>15</sup> <https://www.rga.eu.com/wp-content/uploads/REPORT-Regulation-of-online-betting-market-in-Poland.pdf> Pages 7, 9 and 10

<sup>16</sup> Ibid. Page 17

<sup>17</sup> <http://www.igamingbusiness.com/analysis/dutch-gaming-bill-finally-adopted-parliament>

<sup>18</sup> Remote Games of Chance consultation version - Explanatory Memorandum: Purpose and positioning of the Decree (Translated from Dutch to English)

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

49. For example, those in the 10-20% GGR range have 'high to very high' levels of channelling of consumers to their regulated operators (as opposed to offshore operators), with the UK (15% GGR) and Denmark (20% GGR) estimated to have consumer channelling rates of 95% and 90%.<sup>23</sup>
50. Whereas channelling rates for those employing a turnover tax is 'low to medium'; Poland (12% turnover tax) is estimated to only have 30% of its consumer activity channelled to its operators and France (9.3% turnover tax) around 60% channelled to its licensed betting operators.<sup>24</sup>
51. Such markets are unattractive to betting operators (especially online) and consumers alike, and invariably suffer from low levels of licence applications and related market competition.
52. To highlight this, in 2016 online gambling licences in the UK numbered over 200, with Spain 51 and Denmark 38 (all have a GGR taxation ranging between 15-25%), whilst France had only 16 licensed operators, with Poland 4 and Portugal 2 (all employing a turnover taxation of 8-16%).<sup>25</sup>
53. Unsurprisingly, French regulator ARJEL has renewed calls for the government to reform the current turnover taxation system to increase the attractiveness of its gambling market.<sup>26</sup>
54. The regulated UK market, on the other hand, has flourished with the retail betting market standing at £9.5 billion in turnover and £1.6 billion in gross gambling yield (GGY) in 2017.<sup>27</sup>
55. Whilst the remote (online) betting market accounted for £18.6 billion in turnover and £2.1 billion in GGY, with football accounting for £7.6 billion in turnover and £620 million in GGY.<sup>28</sup>
56. The UK betting market contributed around £575m in betting duty tax (15% GGR) in 2017/18.<sup>29</sup>
57. In line with this fiscal approach, the Swedish Government has recently determined to set the tax rate of its new licensed remote betting market (operational from January 2019) at 18% GGR.<sup>30</sup>
58. This approach is supported by a report for Copenhagen Economics which determined that "a tax-rate of online gambling which gives both a high channelling rate as well as high (Swe. "goda") tax revenues lies within the range of 15 to 20 percent of the gross gambling revenue (GGR)."<sup>31</sup>
59. The licensing and taxation approach adopted in Sweden has proved successful and has resulted in 60 licence applications being submitted since the licensing process began on 1 August 2018.<sup>32</sup>
60. ESSA does not believe that the comparatively high tax (29% GGR) proposed in the Netherlands will prove as successful in attracting operators or to channelling consumers to that market.
61. As a result, there is a clear danger that many Dutch consumers will consequently be attracted to betting products in more fiscally advantageous markets, negating Dutch regulatory measures.
62. That in turn will serve to create a far more challenging regulatory and integrity environment than would be evident under a more globally representative and fiscally competitive framework.

<sup>23</sup> Ibid. Pages 19,20 and 21.

<sup>24</sup> Ibid. Pages 18, 21 and 24

<sup>25</sup> Ibid. Pages 19,20 and 21

<sup>26</sup> [https://gamblingcompliance.com/premium-content/insights\\_analysis/france%E2%80%99s-arjel-pushes-ggr-tax-illegal-offerings-grow](https://gamblingcompliance.com/premium-content/insights_analysis/france%E2%80%99s-arjel-pushes-ggr-tax-illegal-offerings-grow)

<sup>27</sup> <http://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Statistics/Industry-statistics.aspx>

<sup>28</sup> Ibid. Gross gaming revenue (GGR) or gross gaming yield (GGY) is defined as the gross turnover less the amount paid out to customers as winnings.

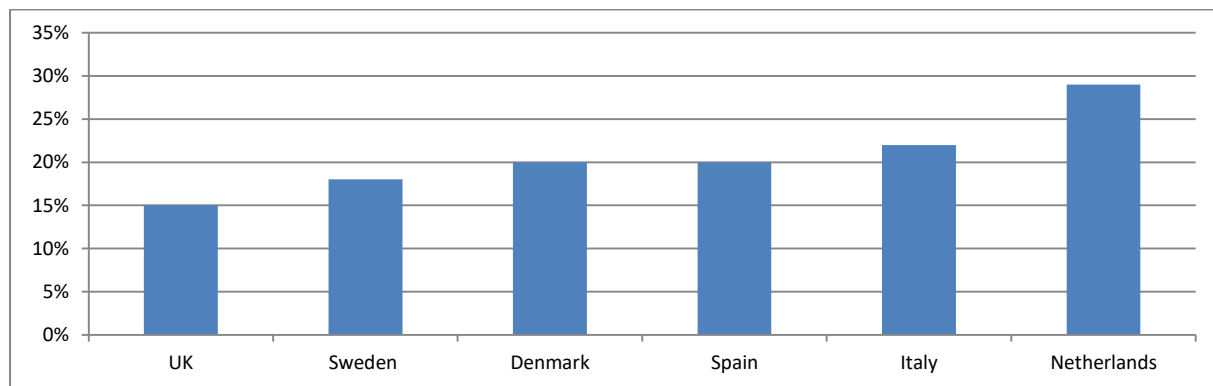
<sup>29</sup> <https://www.uktradeinfo.com/Statistics/Pages/TaxAndDutybulletins.aspx>

<sup>30</sup> <https://www.lotteriinspektionen.se/en/press-contact/notes-archive/information-about-applying-for-a-licence/>

<sup>31</sup> <https://www.copenhageneconomics.com/dyn/resources/Publication/publicationPDF/8/368/1478078895/copenhagen-economics-2016-licensing-system-for-online-gambling.pdf>

<sup>32</sup> Page 4

<sup>32</sup> <http://www.igamingbusiness.com/news/swedish-regulator-issues-licence-warning>

**Figure 3: Existing and Proposed Sports Betting GGR in Major EU States**

63. ESSA members wish to engage in an effective Dutch regulatory and fiscal gambling environment and we contend that further consideration should be given to the GGR rate and its impact.
64. Indeed, we assert that this can be achieved by reverting to the initial approach proposed in the Netherlands of implementing a GGR of 20% for sports betting and other gambling products.<sup>33</sup>
65. That will bring the Netherlands into line with key regulatory models currently in operation in the EU (see Figure 3) and provide a far greater chance of emulating the success of those markets.
66. In summary, a successful betting regulatory framework begins with an interrelated system of licensing and taxation, and which form key drivers to the success of the market.
67. There is clear evidence that an open (unlimited) licensed market and GGR taxation approach represent the two key intertwined elements of successful regulatory models in other markets.
68. This has proven to be the most effective means of maximising the market from a licensing and revenue generating perspective and where both are complementary to the core regulatory aim.
69. That then provides a stable platform from which other important issues such as sports betting integrity factors can be addressed and mitigating actions and sanctions implemented.
70. The available data therefore strongly suggests that to maximise the revenue generating potential of the Dutch market, and to establish an effective licensing and regulatory regime with high levels of consumer channelling, the introduction of a GGR tax of 15-20% is necessary.

### Ability to Determine Bet Types

71. ESSA welcomes the broad premise of the legislation's focus on betting integrity issues and measures to combat match-fixing and the related fraud perpetrated against betting operators.<sup>34</sup>
72. However, the approach places a sizeable number of potential restrictions on betting operators' products and ESSA is concerned about the necessity and adverse impact of those on the market.
73. In particular, restrictions prohibiting betting on sporting events said to be of no importance, negative or easily manipulated, as well as prohibiting betting on sporting contest organised in a country where betting is not permitted because of a supposed risk of manipulation.<sup>35</sup>

<sup>33</sup> <https://www.gamblinginsider.com/in-depth/2093/dutch-eyeing-remote-gaming-regulation-in-2017>

<sup>34</sup> Remote Games of Chance consultation version – Articles 4 & 5 and related sections in the Explanatory Memorandum (Translated from Dutch to English)

<sup>35</sup> Ibid.



74. Whilst some examples are provided in the Explanatory Memorandum, there is little precise detail of what events these provisions extend to, how to apply them across sport as a whole and the inconsistent application by licensed betting operators that may arise as a result.
75. Indeed, the Decree lacks clear definitions and many of the restrictions are of questionable benefit from an integrity perspective, whilst placing significant obstacles to market viability.
76. ESSA thus questions the inclusion of the following paragraphs in Article 4.9 prohibiting bets on:
  - 2b) a contest in which the outcome is of no importance whatsoever for the competition in the sport in question – it is unclear how this will be determined or what integrity value it brings in a global betting market and where betting on all sporting events is widely available;
  - 2c) a contest in which all competing sportspersons do so for free – the scope of the provision can be deemed to capture major events such as the Olympic Games;
  - 2e) a negative event or an event that can be easily manipulated during a contest – the scope of this is unclear and we set out a range of evidence-based arguments challenging assertions regarding supposed integrity issues around in-play betting or side markets below; and
  - 2f) a contest on which no bets are permitted in the country in which that contest is being organised because of the risk of manipulation – this may impact many Dutch clubs playing abroad on which consumers wish to bet, will prove wholly ineffective from an integrity standpoint, is likely to be used as a commercial protectionist measure by other countries and will serve to reduce the attractiveness of the licensed market in the Netherlands.
77. ESSA is aware that a “white list”<sup>36</sup> of prescribed bets is also proposed within the legislation; the association is concerned by the potential limitation of this, added to the restrictions above.
78. It is fundamental to the viability of regulated betting operators and their markets that they are able to offer a wide range of betting products; imposing restrictions invariably leads to consumers seeking banned products through other markets, including unregulated channels.
79. Prescribed lists of available bet types have been introduced in some other countries where protecting the integrity of sporting events has been presented as a reason for this approach.
80. Indeed, some sports bodies and others have pressed for certain types of bets to be prohibited on sporting integrity grounds. They believe that these products, such as in-play betting, are detrimental to the integrity of sport, although no clear evidence has been shown to support this.
81. Indeed, law enforcement bodies such as INTERPOL and Europol have stated that match-fixing is not primarily focused on regulated, but unregulated operators, mainly in based in Asia.<sup>37</sup>
82. Corruptors are also known to focus on the more mainstream traditional betting markets, such as the final result, which have higher levels of liquidity and therefore offer greater opportunity to mask their illicit activities, rather than newer sports betting products e.g. in-play betting.
83. An independent report published by the ASSER Institute, which assessed the integrity risks of certain sports bets on the basis of quantitative empirical evidence, supports this position.<sup>38</sup>
84. Published in January 2015, the report analysed a detailed set of betting data covering football matches likely to have been manipulated for betting purposes over a period of five years (May 2009 - November 2014) to assess the impact of pre-match and in-play betting.

<sup>36</sup> Ibid.

<sup>37</sup> Interpol Match-fixing in Football Training Needs Assessment 2013 (Page 11) & <https://www.europol.europa.eu/content/results-largest-football-match-fixing-investigation-europe>

<sup>38</sup> <http://www.asser.nl/media/2422/the-odds-of-matchfixing-report2015.pdf>

85. The report shows that match-fixers primarily take advantage of high liquidity betting markets and that almost all suspicious betting patterns were observed in the main betting markets, which relate to the final outcome of a match (with only 0.4% in side markets).
86. The report therefore concluded that the evidence does not support the claim that live betting, in comparison to pre-match betting, significantly encourages corruption in sport.
87. Indeed, the study found no correlation between live betting or side betting and possible instances of betting-related match-fixing that would justify a prohibition of these bet types.
88. The assessment of risk and product availability is of course an issue for national legislators and regulatory authorities to ultimately determine, and where all stakeholders should be involved in evidence-based policy discussions regarding the associated betting market framework.
89. The British Gambling Commission has long taken such an approach and, after a detailed consideration of stakeholder positions and market analysis, published its initial position in 2009; it has continually reassessed this important matter and its policy position since that time.
90. The regulator, which has detailed data from one of the largest and mature betting markets in the world, “works on the principle of risk-based regulation and must act in a proportionate manner” and was “not persuaded that there is a sufficient case for restricting types of bets”.<sup>39</sup>
91. It reiterated this stance in September 2013 on in-play betting stating that “any threat to sports betting integrity can be managed without the need to ban what is a very popular activity.”<sup>40</sup>
92. In its subsequent October 2013 position paper, it commented that it is “familiar with methods used in other countries to promote betting integrity such as restricting the types of bets offered or approving sports governing bodies’ rules before allowing betting on those sports.”<sup>41</sup>
93. The British gambling regulatory authority importantly noted that it “has the power to impose such restrictions. However, the Commission does not consider, based on the available evidence, that such intrusive or resource intensive methods are warranted or would be effective”.<sup>42</sup>
94. The Commission reassessed its policy position as recently as September 2016, stating that: “Despite the concerns raised about the risks to integrity from in-play betting there is limited evidence to show that the risks are greater than those associated with pre-event betting.”<sup>43</sup>
95. As such, restrictions on the type of bets regulated betting operators can offer to consumers “are not warranted at this time. Taking such action may also increase the risk that bettors would be driven to seek to place bets via grey and black markets, over which we have no oversight.”<sup>44</sup>
96. As the Gambling Commission notes in its policy paper, it works closely with all stakeholders, and especially its regulated operators, to analyse and manage the risks to sports betting integrity.
97. ESSA welcomes and supports the British Gambling Commission’s evidence-based policy position of allowing its licensed betting operators to offer all types of bets across every sporting event as a means to protecting the integrity of the market and those sporting events.

<sup>39</sup> <http://www.gamblingcommission.gov.uk/pdf/Betting%20integrity%20policy%20position%20paper%20-%20March%202009.pdf> Paragraph 3.2 & <http://www.gamblingcommission.gov.uk/pdf/Betting%20integrity%20policy%20position%20paper%20-%20March%202009.pdf> Paragraph 1.5

<sup>40</sup> [http://www.egrmagazine.com/news/gambling\\_commission\\_rejects\\_in-running\\_ban\\_proposal](http://www.egrmagazine.com/news/gambling_commission_rejects_in-running_ban_proposal)

<sup>41</sup> <http://www.gamblingcommission.gov.uk/pdf/Protecting%20betting%20integrity.pdf> Paragraph 3.6

<sup>42</sup> Ibid.

<sup>43</sup> <http://live-gamblecom.cloud.contensis.com/PDF/In-running-betting-position-paper.pdf>

<sup>44</sup> Ibid.

98. ESSA hopes that the authorities in the Netherlands will recognise the important benefits of that approach and will not impose ineffective integrity restrictions that will adversely impact the market and render it unattractive to consumers and commercially unviable for operators.
99. Responsible regulated betting operators are constantly assessing the risk of every market they offer and impose their own betting limits where that is deemed necessary and appropriate.
100. After all, betting operators are the intended victims of sports fraud and have a clear inherent operational business need to ensure the integrity of sports events and related betting products.
101. Those operators are focused on providing a safe and secure environment for all consumers. They employ advanced security systems and are well-versed in guarding against fraudulent activity.
102. Many countries that regulate betting on sporting events do not currently impose significant restrictions on types of bet or events, with regulated operators able to offer a wide range of products and services, whilst employing risk-based security systems to monitor their markets.
103. Significant product restrictions are only enforced in a limited number of jurisdictions and there is no evidence to suggest that the sporting events taking place in these countries are any less susceptible to corruption (e.g. match-fixing), often perpetrated through unregulated channels.
104. Indeed, where such restrictions have been imposed, as in France and Italy, the prevailing policy has been to constantly expand the list of prescribed sports events and types of bets permitted.<sup>45</sup>
105. This has resulted in the Italian market showing significant growth through increased consumer channelling to the regulated offer, benefiting the integrity of the market and sporting events.<sup>46</sup>
106. Portugal's gambling regulation also currently imposes a restriction on its licensees to only offer betting on a prescribed list of sporting events and types of betting products.<sup>47</sup>
107. Like France, the Portuguese market has so far failed to attract operators with only 15 licences awarded to date, of which only seven cover betting,<sup>48</sup> hampering any integrity measures.
108. Spain initially introduced a process whereby the regulatory authority approved and published a catalogue of sports events and the aspects of those events on which conventional and live betting could take place through its licensed operators, but quickly removed this requirement.<sup>49</sup>
109. The Spanish market has since seen significant market growth in sports betting as a result<sup>50</sup> and is far better placed to protect the integrity and commercial aspects of its licensed market.
110. The whole process of restricting betting and providing lists of approved events and bet types, and the constant review and updating of that approach, also invariably involves additional administrative and monitoring burdens on both the regulatory authority and licensed operators.
111. Such policies that restrict the availability of betting markets are however borne of little supporting evidence and are of questionable positive integrity impact given the limitations of any national level approach in a fragmented global market of differing regulatory models.

<sup>45</sup> <http://www.ariel.fr/-A-la-Une-.html> & <http://www.gamingtechlaw.com/2016/03/sportsbetting-liberalization.html> & <http://www.gamingtechlaw.com/2017/07/italian-sportsbetting-rules-improved.html>

<sup>46</sup> <https://calvinayre.com/2018/02/10/business/italy-online-casino-revenue-record/>

<sup>47</sup> <http://www.srii.turismodeportugal.pt/pt/jogo-online/lista-de-modalidades-e-competicoes/>

<sup>48</sup> <http://www.srii.turismodeportugal.pt/pt/jogo-online/entidades-licenciadas/>

<sup>49</sup> <https://www.ordenacionjuego.es/en/ordenes-ministeriales> Article 14: ORDER EHA 3080/2011 & <http://www.boe.es/boe/dias/2013/10/30/pdfs/BOE-A-2013-11335.pdf>

<sup>50</sup> [file:///C:/Users/foleytrain/Downloads/Orden\\_HAP\\_1998\\_2013\\_modificacion\\_OM\\_distintos\\_tipos\\_juego\\_en%20\(1\).pdf](file:///C:/Users/foleytrain/Downloads/Orden_HAP_1998_2013_modificacion_OM_distintos_tipos_juego_en%20(1).pdf)

<sup>50</sup> <http://www.igamingbusiness.com/news/spanish-online-gaming-revenue-hikes-38-q4>

112. It is important to note that other more effective integrity measures are available to regulatory authorities, depending on the legislative framework, including: information sharing, voiding bets, the suspension of betting markets, and the instigation of criminal prosecutions.
113. Moreover, unregulated operators will continue to offer whatever types of products they chose without any regulatory limitation, oversight or possible sanctions, nor is there any requirement on them to engage in responsible preventative actions to protect consumers or sporting events.
114. Imposing bet type restrictions on regulated operators does not therefore make it any less likely that the sporting events in that licensing jurisdiction will be any safer from betting related corruption, which can take place with a multitude of operators around the world.
115. The Decree's provision prohibiting betting on a contest abroad and on which bets are not permitted in the country in which that contest is being organised<sup>51</sup> will likewise prove wholly ineffective from an integrity standpoint and reduce the attractiveness of the licensed market.
116. The proposal that products offered by regulated operators should be restricted on integrity grounds is not a policy generated from any firm evidence base and placing product restrictions on regulated betting operators does not represent a proportionate or effective approach.
117. Directing consumers to licensed sports betting operators that offer globally competitive products, follow prescribed consumer monitoring processes and which report to a regulatory authority will deliver far greater benefits from an integrity and revenue generating perspective.
118. Whilst imposing arbitrary restrictions on licensed operators' products, which are not forced on operators outside of that jurisdiction, can conversely have a significant detrimental impact on the business model of licensed operators and the attractiveness of a regulatory jurisdiction.
119. ESSA therefore recommends that the Netherlands considers adopting a policy that regulates and allows its licensed operators to offer consumers access to all types of betting products (fixed odds, exchange and spread betting) and all types of bets on every aspect of a sporting event.
120. This will serve to channel the maximum number of consumers to licensed and regulated operators and thereby act as the most effective means of both maintaining the viability, and to protecting the integrity, of the Netherlands regulated betting market and sporting sectors alike.
121. As such, it will directly support the policy set out in the Decree's Explanatory Memorandum that "the licenced offering must not only be appropriate but also sufficiently appealing to be capable of satisfying demand among Dutch players" and to maximising that consumer channelling.<sup>52</sup>

## **Sports Betting Right**

122. Another important matter, entwined with the issue of potential restrictions on betting markets, is the flawed and commercially driven assertion that self-regulating sports bodies should have control over the availability of products and markets offered by regulated betting operators.
123. This sports organisers' right (or sports betting right) involves a forced payment by licensed betting operators to national sports bodies for their agreement to allow betting on their events.

<sup>51</sup> Remote Games of Chance consultation version – Article 4.9 paragraph f and related sections in the Explanatory Memorandum (Translated from Dutch to English)

<sup>52</sup> Remote Games of Chance consultation version – Explanatory Memorandum: Purpose and positioning of the Decree (Translated from Dutch to English)

124. Whilst the promotion of a sports organiser's betting right has commercial roots, it has increasingly been presented as an important integrity measure by sports bodies, albeit there is little evidence to support this as a necessary or effective sports betting integrity approach.<sup>53</sup>
125. ESSA supports the Netherlands Government's position, to date, which has not supported the introduction of this flawed concept in favour of a more effective integrity approach and normal commercial arrangements between sporting bodies and licensed betting operators.
126. That policy position is notably supported by a European Commission contracted study to analyse the operation and effectiveness of the sports organisers' right as an integrity measure.<sup>54</sup>
127. The Asser Institute authored report (published in April 2014<sup>55</sup>), which assesses the sports betting right adopted in France and the Australian State of Victoria, is highly critical of the approach as an effective integrity measure and lists numerous practical and legal obstacles.
128. In particular, the study highlights that right to bet model enables sports to control betting and that this "legal monopoly granted to sports organisers might be considered as leading to the creation of a dominant position within the meaning of Article 102 TFEU. Consequently, the marketing of the right to consent bets might give rise to anti-competitive concerns."<sup>56</sup>
129. It also emphasises that "the requirement for betting operators to obtain consent for the organisation of sports bets could impede or render less attractive the free provision of gambling services" and as such could constitute a restriction on the free movement of services.<sup>57</sup>
130. The ASSER report further points out that the right to bet's administrative costs "will always be considerable. This is evident from the experiences with both the French and the Victorian enforcement mechanism" and further questioning its suitability.<sup>58</sup>
131. In addition, the "right to consent to bets enables a sports organiser to effectively control the organisation of bets on its events."<sup>59</sup> Rather than being a positive integrity measure, this presents a clear danger to the integrity of betting markets and sporting events.
132. There must be a significant question as to whether it is appropriate to permit self-regulating sporting bodies any degree of control over regulated betting markets, especially given the on-going commercial issues and conflicts that are inherent in this area.
133. Senior representatives of sporting bodies and clubs around the world have been implicated and/or convicted of involvement in both betting and non-betting (or sporting) related match-fixing, notably in: Italy, Turkey, South Africa and Brazil.<sup>60</sup>
134. Not to mention the wider high-level corruption issues and investigations that have involved FIFA and the IAAF, for example,<sup>61</sup> and where such corruption in sport around the globe was identified and criticised at the UK-hosted international Anti-Corruption Summit in 2016.<sup>62</sup>

<sup>53</sup> [http://www.uefa.org/MultimediaFiles/Download/uefaorg/Clubs/01/93/51/24/1935124\\_DOWNLOAD.pdf](http://www.uefa.org/MultimediaFiles/Download/uefaorg/Clubs/01/93/51/24/1935124_DOWNLOAD.pdf) & <http://www.publications.parliament.uk/pa/cm201314/cmpublic/gambling/memo/gb08.htm>

<sup>54</sup> Open Call for tender EAC/18/2012, Study on sports organisers' rights in the EU Terms of reference

<sup>55</sup> <http://www.ivir.nl/publicaties/download/1353>

<sup>56</sup> Page 151 [http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible\\_en.pdf](http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf)

<sup>57</sup> Page 147 [http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible\\_en.pdf](http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf)

<sup>58</sup> Page 152 & 154 [http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible\\_en.pdf](http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf)

<sup>59</sup> Page 150 [http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible\\_en.pdf](http://ec.europa.eu/sport/news/2014/docs/study-sor2014-final-report-gc-compatible_en.pdf)

<sup>60</sup> <http://news.bbc.co.uk/sport1/hi/football/europe/5215242.stm>, <http://www.bbc.co.uk/news/world-europe-13914118>, <http://www.bbc.co.uk/news/world-europe-18681119>, <http://www.bbc.co.uk/sport/0/football/22042549> & <http://sports.ndtv.com/football/news/169887-brazil-football-chiefs-hit-with-match-fixing-fines>

<sup>61</sup> <http://www.bbc.co.uk/sport/0/athletics/34765444> & <http://www.bbc.co.uk/news/world-europe-32897066>

<sup>62</sup> <https://www.gov.uk/government/topical-events/anti-corruption-summit-london-2016>

135. A report for the European Parliament's Special Committee on Organised Crime, Corruption and Money Laundering (CRIM) in 2012 importantly also determined that "strong ties have been detected between the football establishment and criminal organisations".<sup>63</sup>
136. That position has been corroborated by other studies with a report by Sportradar stating that in football the organisation is "aware of at least ten owners/chairmen who are most likely linked to organised crime and their club is also most likely involved in match-fixing."<sup>64</sup>
137. The Indian Premier League (IPL) has encountered its own issues in that regard, with the Supreme Court-appointed Justice Lodha Committee suspending two teams and their owners for two years to protect "the integrity of the game" following an illegal betting and match-fixing probe.<sup>65</sup>
138. Promoting a right to bet model could therefore be deemed questionable from the simple perspective that it potentially gives controlling power over betting markets to those unregulated persons and organisations that might be directly involved in corrupting those markets.
139. The British Gambling Commission has, quite understandably given the issues raised in the previous paragraphs, determined that it "could not delegate a decision to a sport governing body as to the activities on which licensed betting operators could lawfully take bets."<sup>66</sup>
140. As the ASSER report highlights, other countries have quite understandably "opted to obtain the claimed [integrity] benefits of the right to consent to bets through other regulatory means" and which indisputably seek to prevent the manipulation of all sporting events.<sup>67</sup>
141. The Italian and UK models are notable alternate approaches where their regulators' systems are financed via betting operator licence fees, which ensure that there is no "integrity gap" and where only the major sports are funded, as is the case with the French and Australian models.
142. The Italian gambling regulator<sup>68</sup> employs its own sports betting monitoring system with all of its licensed betting operators' servers linked to it so that every bet can be recorded, monitored and validated. Unusual betting patterns are then sent to the respective sports for investigation.<sup>69</sup>
143. Whilst, the British Gambling Commission requires operators to notify and share data with it and the relevant sport of any suspected or attempted betting fraud and breach of a sport's rule.<sup>70</sup>
144. In short, it has been shown that the sports betting right approach is not an effective or safe integrity model and where the legality of the approach has been questioned as potentially both anti-competitive and an unjustified restriction on the free movement of services; more secure, effective integrity-focused methods are in operation in other EU jurisdictions.
145. ESSA is aware that some major Dutch sports bodies have nevertheless proposed a sports betting right and sports-controlled betting restrictions in their response to this consultation.<sup>71</sup>
146. The association encourages the Government to continue to oppose any proposal supporting the introduction of a betting right on integrity or commercial grounds for the reasons set out above.

<sup>63</sup> <http://www.europarl.europa.eu/document/activities/cont/201209/20120925ATT52303/20120925ATT52303EN.pdf>

<sup>64</sup> Page 66 [https://security.sportradar.com/sites/security.sportradar.com/files/Sportradar%20Security%20Services\\_World%20Match-Fixing-The%20Problem%20and%20the%20Solution.pdf](https://security.sportradar.com/sites/security.sportradar.com/files/Sportradar%20Security%20Services_World%20Match-Fixing-The%20Problem%20and%20the%20Solution.pdf)

<sup>65</sup> <http://www.bbc.co.uk/news/world-asia-india-33517583>

<sup>66</sup> Paragraph 4.7 <http://www.gamblingcommission.gov.uk/pdf/integrity%20in%20sports%20betting%20-%20issues%20paper%20-%20consultation%20-%20May%202007.pdf>

<sup>67</sup> Ibid.

<sup>68</sup> <https://www.agenziadoganemonopoli.gov.it/portale/>

<sup>69</sup> Ibid.

<sup>70</sup> British Gambling Commission licensing conditions and codes of practice section 15.1 [http://www.gamblingcommission.gov.uk/gambling\\_sectors/betting/operating\\_licence\\_holders\\_-\\_wh/information\\_that\\_must\\_be\\_provi/reporting\\_suspicious\\_bets\\_to\\_s.aspx](http://www.gamblingcommission.gov.uk/gambling_sectors/betting/operating_licence_holders_-_wh/information_that_must_be_provi/reporting_suspicious_bets_to_s.aspx)

<sup>71</sup> <https://www.internetconsultatie.nl/besluitkansspelenopafstand/reactie/226a4fa6-27cc-45b0-9039-34cf6ef28e06>



## Chapter 3:

# MAINTAINING THE INTEGRITY OF THE BETTING MARKET AND SPORTING EVENTS

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### National Betting Integrity Policy

147. The fundamental basis of any effective integrity framework requires a national level policy approach that involves all of the principal public and private stakeholders and policymakers.
148. This action has been championed by the Council of Europe (CoE) Convention on the Manipulation of Sports Competitions, notably through the establishment of national platforms.<sup>72</sup>
149. The platform's principal purpose being to "co-ordinate the fight against the manipulation of sports competitions" at national level and to "co-operate with all organisations and relevant authorities at national and international levels, including national platforms of other States."<sup>73</sup>
150. ESSA helped to develop the Convention and broadly supports the measures included within it, albeit we oppose to the definition of "Illegal sports betting"<sup>74</sup> contained in the text as a flawed concept, especially in relation to European Union Treaty provisions and case law.<sup>75</sup>
151. We note that the Netherlands signed the Convention when it opened in September 2014 and is an active member of the CoE Network of National Platforms (Group of Copenhagen).<sup>76</sup>
152. The Netherlands has therefore already been proactive in this area and this will be further enhanced by the related national integrity measures contained in the proposed legislation, which also provides a provision for additional detailed rules to be set out by the Government.<sup>77</sup>
153. We welcome that approach and commitment to the Convention and encourage the adoption of the effective measures proposed within it in the Dutch national integrity policy framework.
154. These include: implementation of suitable sports rules; exchange of information; education and awareness raising; protection for whistle-blowers; and reporting suspicious betting, amongst others, and represent best practice drawn from other gambling regulation and legislation.
155. Other transnational bodies are also developing their own betting integrity initiatives, which again focus on promoting national and international policy actions and cooperation.
156. For example, the Netherlands is a member of the European Commission Expert Group on Match-Fixing, which has produced its own report and proposals to address match-fixing.<sup>78</sup>
157. We also await the European Commission's Recommendation<sup>79</sup> in this area and it continues to fund important anti-match-fixing projects (also involving ESSA) on behalf of its Member States.<sup>80</sup>

<sup>72</sup> <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/09000016801cdd7e> Article 13

<sup>73</sup> <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/09000016801cdd7e> Article 13

<sup>74</sup> <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/09000016801cdd7e> Article 3.5 (a).

<sup>75</sup> The freedoms enshrined in the European Treaties, namely free movement of services and freedom of establishment.

Case C-243/01 Gambelli and Others (6 November 2003)

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=48383&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=448951>,

Case C-316/07 Markus Stoß and Others (8 September 2010)

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=80772&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=449163>

& Joint cases C-447/08 and C-448/08: Criminal proceedings against Otto Sjöberg and Anders Gerdin (8 July 2010)

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=83128&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=448335>, amongst others.

<sup>76</sup> [https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/215/signatures?p\\_auth=KD0SXxi4](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/215/signatures?p_auth=KD0SXxi4) & <https://www.coe.int/en/web/sport/network-of-national-platforms-group-of-copenhagen> & <https://rm.coe.int/convention-on-the-manipulation-of-sports-competitions-group-of-copenhagen/168076d463>

<sup>77</sup> Remote Games of Chance consultation version – Article 4.7-4.9 and related sections in the Explanatory Memorandum (Translated from Dutch to English)

<sup>78</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=28471&no=1>

158. The UNESCO MINEPS<sup>81</sup> and IOC International Forum for Sports Integrity (IFSI)<sup>82</sup> also provide platforms for betting integrity discussions and have produced related proposals and guidance.
159. The measures and actions contained in these initiatives are, however, quite understandably often broad-based and ESSA recommends that a more in-depth consideration and analysis of other national actions would be of benefit when considering any future betting integrity policy.
160. The approach and the extent of the integrity measures in place varies greatly from jurisdiction to jurisdiction, however, the model in operation in the United Kingdom (UK) is widely seen as one of the most effective and which ESSA believes is an example of best practice in this area.
161. The Gambling Act 2005<sup>83</sup> (operational since 2007) is one of the earliest legislative models covering the regulation of remote (online) gambling and provides for specific sports betting integrity provisions to counteract attempts to corrupt betting markets and sporting events.
162. This includes the Commission's ability to: issue codes of practice (Section 24); prosecute offences (Section 28); exchange information (Section 30 and Schedule 6); an offence of cheating (Section 42); require the provision of information (Section 88); and void bets (Section 336).
163. To help enforce these provisions and to facilitate cooperation between the various stakeholders, a Sports Betting Intelligence Unit (SBIU)<sup>84</sup> was established within the Gambling Commission.
164. The SBIU works closely with the betting industry and with sports governing bodies to identify and investigate potential threats to the integrity of betting markets and sporting events and is principally financed from the licence fees of that market's regulated betting operators.
165. However, such costs must be justified, proportionate, established on the basis of a thorough risk analysis with stakeholders and kept under review, as they are with the Gambling Commission.<sup>85</sup>
166. It operates under specific terms of reference<sup>86</sup> and its information gathering and investigatory actions are supported by the Commission's Licensing Conditions and Codes of Practice (LCCP).<sup>87</sup>
167. Licensing condition 15.1 requires betting operators to report any suspicious betting to the regulator and sports bodies; this is supplemented by a confidential public intelligence line.<sup>88</sup>
168. To complement this, over the years the regulator has produced and continually reassesses important documentation to help inform stakeholders, notably licensed betting operators, on its policy position and expectations in the fight against betting related corruption e.g. match-fixing.
169. This includes detailed guidance explaining the British Gambling Commission's position and licensed betting operator requirements on: Protecting Betting Integrity (2013)<sup>89</sup>; Misuse of Inside Information (2014)<sup>90</sup>; and its Betting Integrity Decision Making Framework (2017).<sup>91</sup>

<sup>79</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52012DC0596&from=EN>

<sup>80</sup> [https://ec.europa.eu/sport/policy/organisation-of-sport/match-fixing\\_en](https://ec.europa.eu/sport/policy/organisation-of-sport/match-fixing_en)

<sup>81</sup> <http://www.unesco.org/new/en/social-and-human-sciences/themes/physical-education-and-sport/mineps/>

<sup>82</sup> <https://www.olympic.org/news/international-forum-for-sports-integrity-steps-up-action-to-prevent-competition-manipulation-and-corruption-in-sport>

<sup>83</sup> [https://www.unodc.org/documents/corruption/Publications/UNODC-IOC\\_Model\\_Criminal\\_Law\\_Provisions\\_for\\_the\\_Prosecution\\_of\\_Competition\\_Manipulation\\_Booklet.pdf](https://www.unodc.org/documents/corruption/Publications/UNODC-IOC_Model_Criminal_Law_Provisions_for_the_Prosecution_of_Competition_Manipulation_Booklet.pdf) &

<sup>84</sup> <https://www.unodc.org/documents/corruption/Publications/2017/UNODC-IOC-Study.pdf>

<sup>85</sup> [http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga\\_20050019\\_en.pdf](http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga_20050019_en.pdf)

<sup>86</sup> <http://www.gamblingcommission.gov.uk/news-action-and-statistics/Match-fixing-and-sports-integrity/Sports-Betting-Intelligence-Unit.aspx>

<sup>87</sup> <http://www.eu-ssa.org/wp-content/uploads/UK-Gov-and-GC-fees-paper-Sept-2016-FINAL.pdf>

<sup>88</sup> <http://live-gamblecom.cloud.contensis.com/PDF/Sports-Betting-Intelligence-Unit-terms-of-reference.pdf>

<sup>89</sup> <http://live-gamblecom.cloud.contensis.com/PDF/LCCP/Licence-conditions-and-codes-of-practice.pdf>

<sup>90</sup> <http://www.gamblingcommission.gov.uk/news-action-and-statistics/Match-fixing-and-sports-integrity/Confidential-intelligence-line.aspx>

<sup>91</sup> <http://www.gamblingcommission.gov.uk/PDF/Protecting-betting-integrity.pdf>

<sup>92</sup> <http://www.gamblingcommission.gov.uk/PDF/Misuse-of-inside-information.pdf>

<sup>93</sup> <http://live-gamblecom.cloud.contensis.com/PDF/Betting-integrity-decision-making-framework.pdf>



170. Importantly, the Gambling Commission has continually taken a proportionate and evidence-led risk-based approach to protecting betting integrity, in partnership with key stakeholders.
171. The ongoing development of this approach saw the Sports Betting Integrity Forum (SBIF)<sup>92</sup> established in 2012 to develop the UK's policy on protecting sport and betting from corruption.
172. The SBIF has put in place a national Sport and Sports Betting Integrity Action Plan<sup>93</sup> developed by its key members: Gambling Commission, law enforcement, sports bodies and betting operators.
173. It details the expected focus and requirements of those parties in delivering timely and effective actions to identify and control risks associated with match-fixing and sports betting integrity.
174. This strategic cross-sector approach forms part of the UK's wider Anti-Corruption Plan<sup>94</sup> and is a blueprint of good practice and effective detection and enforcement measures to protect sports, consumers and regulated operators from the negative impact of betting related match-fixing.
175. These actions provide a clear deterrent for corrupters, and whilst the UK market is not immune from attempts to corrupt sports betting, the extensive provisions in place mean that it is well-placed to protect consumers, sports, betting operators and the reputation of the market itself.
176. This legislative framework is therefore able to make provision for, and readily adapt to, any new developments and the betting regulatory and integrity challenges that may accompany those.
177. As such, ESSA strongly supports the robust measures put in place in the UK which have been developed in partnership with betting operators and other stakeholders, such as sports bodies.
178. This extensive partnership working and betting industry engagement and consultation is essential if a practical, effective and proportionate set of integrity provisions is to be enacted.
179. As such, we believe that it is essential that regulated operators are involved as key stakeholders in any future discussions regarding any betting integrity provisions in the Netherlands.
180. It is therefore imperative that betting operators and trade association representatives have a position on the national platform along with other key public and private sector bodies.
181. It is also suggested that any national policy consider engaging a wider international audience in its policy discussions, noting that betting related match-fixing is a cross-border global issue.
182. ESSA has information sharing agreements with many gambling regulatory authorities around the world and which allow both parties to engage fully on integrity matters, both in relation to our international alert system and with regard to any national betting policy platforms.
183. To that end, ESSA particularly welcomes the Decree's support for cooperation and engagement with an international collaborative body such as ESSA on the betting integrity issue.<sup>95</sup>
184. In addition, it is also vital that other key stakeholders, notably sports bodies, demonstrate that they are contributing sufficient resources to the protection of the integrity of sporting events.

<sup>92</sup> <http://www.sbif.uk/home.aspx>

<sup>93</sup> <http://www.sbif.uk/images/Documents/SBI-Action-Plan-2017-FINAL.pdf>

<sup>94</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/388894/UKAntiCorruptionPlan.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKAntiCorruptionPlan.pdf)

<sup>95</sup> Remote Games of Chance consultation version – Article 4.7-4.9 and related sections in the Explanatory Memorandum (Translated from Dutch to English)

185. The developmental and enforcement of suitable sports betting rules and player betting education initiatives is particularly important from an integrity perspective; the UK Sport and Sports Betting Integrity Action Plan sets out clear requirements on national sports bodies.<sup>96</sup>
186. There are some good examples of this within the sports sector at national and international levels, including: the English Football Association<sup>97</sup>; International Olympic Committee (IOC)<sup>98</sup>; and the World Professional Billiards and Snooker Association (WPBSA)<sup>99</sup>, amongst others.
187. However, there are also many sports which have not sought to prioritise mitigating actions covering the manipulation of sporting events in same way they would in other areas, e.g. doping.
188. This inactivity and poor governance creates an environment where corruption can flourish.
189. ESSA draws your attention to the FIFPro report 2012<sup>100</sup> which details the impact of poor fiscal practices in sport as a facilitator of match-fixing, endorsed by a separate report in 2016.<sup>101</sup>
190. In addition to such governance and fiscal issues, the 2014 Bangladesh cricket match-fixing tribunal worryingly found that “more often than not, sports regulators do not stop matches or events even where they have information about corruption in the match or event.”<sup>102</sup>
191. Whilst some in the sports sector claim that betting creates risks for them, it should be noted that corrupt sports personnel and poor sports governance actually creates increased risk and associated regulatory costs for betting operators, who are often the focus of sports fraud.
192. After all, betting related match-fixing is fundamentally the product of corrupt sportspeople, either acting alone or colluding with criminal elements, seeking to unfairly manipulate sporting events to financially defraud betting operators (regulated or unregulated) and their consumers.
193. For any national sports betting integrity framework to be effective, it must include requirements on all stakeholders, including the sports sector, and sanctions if those are not implemented.
194. To that end, the Council of Europe Convention on the Manipulation of Sports Competitions proposes that governments “withhold some or all financial or other sport-related support from any sports organisations that do not effectively apply regulations for combating manipulation of sports competitions.”<sup>103</sup> ESSA supports the availability and enforcement of such measures.

## Public Alert and Monitoring Systems

195. Monitoring markets and detecting suspicious betting is the principal means of addressing betting related fraud, most notably linked to the unfair manipulation of sporting events.
196. The focus and action deemed necessary for this activity varies between regulatory authorities (Figure 4), as does whether they deliver this internally and/or through their licensed operators.
197. Where gambling regulatory authorities have adopted a clear betting integrity framework and related alert and monitoring system this has essentially followed two distinct models.

<sup>96</sup> <http://www.sbf.uk/images/Documents/SBI-Action-Plan-2017-FINAL.pdf>

<sup>97</sup> <http://www.thefa.com/football-rules-governance/policies/betting/betting-rules>

<sup>98</sup> <https://www.olympic.org/playfair> & [https://stillmed.olympic.org/Documents/Commissions\\_PDFfiles/Ethics/rio2016\\_rules\\_on\\_the\\_prevention\\_of\\_manipulation-en.pdf](https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Ethics/rio2016_rules_on_the_prevention_of_manipulation-en.pdf)

<sup>99</sup> <http://www.wpbsa.com/governance/monitoring/> & <http://www.wpbsa.com/governance/members-rules/>

<sup>100</sup> <http://www.fifpro.org/en/don-t-fix-it/black-book>

<sup>101</sup> [https://footballmap.fifpro.org/assets/2016\\_FIFPRO\\_GLOBAL\\_EMPLOYMENT\\_REPORT.pdf](https://footballmap.fifpro.org/assets/2016_FIFPRO_GLOBAL_EMPLOYMENT_REPORT.pdf)

<sup>102</sup> <http://www.thedailystar.net/upload/gallery/pdf/bpl-full-verdict-file-.pdf> Paragraph 56 Bangladesh Cricket Board Anti-Corruption Tribunal (Issued 8 June 2014)

<sup>103</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016801cdd7e> Article 8

198. The first, employed by French regulator ARJEL<sup>104</sup> and Italian counterpart ADM<sup>105</sup>, for example, involves an internal central platform with direct access to every transaction conducted through its operators' businesses licensed by that national gambling regulatory authority.
199. This involves real time access to licensed operators' betting and customer transactional data and an internal team of analysts to assess this to detect and determine any suspicious betting.<sup>106</sup>
200. The scope of this approach varies, but for ARJEL: "On a daily basis, there are 2 people in charge of this match fixing betting monitoring"<sup>107</sup> and for ADM: "There are (2 to 4) internal analysts (but generally only from Friday to Sunday, the key point of the football week)."<sup>108</sup>
201. The second model, notably employed by the British Gambling Commission, among others, requires its licensees to monitor and report suspicious behaviour identify on their markets.
202. The regulator has an internal unit that collects this information and develops intelligence about potentially corrupt betting activity, with a strong emphasis on partnership working with key stakeholders (e.g. licensed operators, sports, law enforcement and other regulatory authorities).
203. The European Commission funded Betmonitalert report<sup>109</sup> published in 2017 identifies both of the above approaches as examples of good practice for other gambling regulatory authorities to follow when determining their integrity monitoring and alert policies and practices.

**Figure 4: Betting Regulatory Authorities' Monitoring and Alert Systems (Betmonitalert report)<sup>110</sup>**

Regulator	Monitoring System	Alert System
Belgium	No	Yes (National Platform)
Denmark	No	Yes (National Platform)
Estonia	No	No
France	Yes	Yes
Gibraltar	No	No
Greece	No	No
Italy	Yes	Yes
Isle of Man	No	No
Spain	No	Yes
UK	No	Yes (National Platform)

204. ESSA has information sharing arrangements and a positive working relationship with ARJEL and the British Gambling Commission and respects the differing approaches that they have adopted.
205. However, as highlighted in the Betmonitalert report, the first approach is invariably resource intensive and there "is clearly a lack of human resources for this task" presently employed in both the ARJEL and the ADM variations of this integrity model.<sup>111</sup>
206. This is identified as one of the "weaknesses"<sup>112</sup> of this system, and the level of internal analysts employed at these regulatory authorities, plus the number of additional analysts that might be deemed necessary to bolster this, invariably have a knock-on effect to licensing costs.

<sup>104</sup> <http://www.ariel.fr/>

<sup>105</sup> <https://www.agenziadoganemonopoli.gov.it/portale/>

<sup>106</sup> [http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert\\_Design-NB-DEF-2-06-2017.pdf](http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf) Pages 169 & 172

<sup>107</sup> [http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert\\_Design-NB-DEF-2-06-2017.pdf](http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf) Page 171

<sup>108</sup> [http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert\\_Design-NB-DEF-2-06-2017.pdf](http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf) Page 169

<sup>109</sup> [file:///C:/Users/jfoleytrain/Documents/ESSA/Reports%20and%20Projects/Betmonitalert/Betmonitalert\\_Design-NB-DEF-2-06-2017.pdf](file:///C:/Users/jfoleytrain/Documents/ESSA/Reports%20and%20Projects/Betmonitalert/Betmonitalert_Design-NB-DEF-2-06-2017.pdf)

<sup>110</sup> [http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert\\_Design-NB-DEF-2-06-2017.pdf](http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf) Page 41

<sup>111</sup> [http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert\\_Design-NB-DEF-2-06-2017.pdf](http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf) Pages 169, 170 & 172

<sup>112</sup> [http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert\\_Design-NB-DEF-2-06-2017.pdf](http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf) Pages 170 & 172

207. The model employed by the British Gambling Commission, on the other hand, whilst still employing internal specialists<sup>113</sup>, utilises licensed operators' own sophisticated security systems to detect suspicious betting and is then able to focus its resources on the investigatory aspect.
208. It is important to understand that operators are the intended victims of betting related fraud and invest significant amounts in mechanisms to detect and deter such illicit activity, working in close partnership with regulators and others to protect their business interests.
209. There does not, on that basis and within a robust regulatory structure, appear to be an overriding reason to essentially duplicate that monitoring work within a regulatory authority.
210. We note that the Decree sets out a range of requirements on betting operators to monitor and report suspicious betting activity to relevant stakeholders such as sports and the regulator.<sup>114</sup>
211. The legislation provides for further detailed rules to be set out by the Government<sup>115</sup> and the precise practicalities and impact of these measures on betting operators is not therefore finalised; however, ESSA is in broad agreement with the central tenet of the proposed approach.
212. As such, we strongly encourage the Netherlands to adopt this general approach, as employed by the British Gambling Commission and others, in respect of any future betting alert and monitoring practices that may be employed by the national platform and regulatory authority.

### Private Alert and Monitoring Systems

213. To complement this approach, and the furtherance of the general integrity of the Dutch licensed sports betting market, there is also clear value from operators being part of their own wider international integrity alert and monitoring system and which also feeds data into the regulator.
214. This adds an additional layer of protection both for operators' own business operations and also the Dutch licensed framework and its operational integrity capacity and associated reputation.
215. There are two principal non-regulatory authority operator-run betting alert and monitoring bodies currently in operation: ESSA and the Global Lottery Monitoring System (GLMS).<sup>116</sup>
216. These two internationally recognised systems cover the licensed private sports betting sector (via ESSA) and those lottery operators offering sports betting products (via GLMS).
217. ESSA currently covers around 60 retail and remote betting brands, whilst the GLMS brings together 29 lotteries from 27 countries (those lotteries are restricted to national territories).
218. For the purposes of Dutch licensed and regulated online betting market, ESSA is the principal potential non-regulatory authority alert system which operators could join and feed into.
219. Operators have always had their own internal risk and security protocols, which have evolved overtime as new challenges and threats have emerged, including betting related match-fixing.
220. Many of the largest European-based licensed sports betting operators quickly identified a need to work in partnership to address that issue and share data both within and outside of their network for the common good and to aid the protection of their business platforms.

<sup>113</sup> [http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonialert\\_Design-NB-DEF-2-06-2017.pdf](http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonialert_Design-NB-DEF-2-06-2017.pdf) Page 70

<sup>114</sup> Remote Games of Chance consultation version – Article 4.7-4.9 and related sections in the Explanatory Memorandum (Translated from Dutch to English)

<sup>115</sup> Ibid.

<sup>116</sup> <http://glms-sport.org/>

221. ESSA was therefore established in 2005; its monitoring system is different from non-operator commercial integrity platforms, notably employed by some sports bodies, in that it has access to important customer transactional data, which is often vital in advancing related investigations.
222. Privately run non-operator monitoring systems are often limited to observing particular sports betting markets and to primarily following odds movements<sup>117</sup>, whereas ESSA and its members monitor every market across every sporting event that they cover around the world.
223. Unlike unregulated operators, notably in Asia, responsible European regulated betting operators are subject to strict money laundering regulations and are also better placed through detailed record keeping and analysis to detect individuals and events linked to corruption.
224. Such comprehensive customer transaction information and market monitoring is invaluable in the fight against match-fixing and of great benefit to regulatory and law enforcement bodies.
225. ESSA analyses any suspicious betting reports from its members (received within one hour of an alert being raised) to identify evidence of potential corruption requiring further investigation.
226. In addition, ESSA is engaged in various anti-match-fixing programmes and discussion forums on behalf of its members with key policymakers, regulators, law enforcement and sports bodies.
227. This continual engagement with, and on behalf of, our members ensures that integrity matters are a constant focus of attention and interaction, which is clearly of benefit for all concerned.
228. Membership of a recognised and reputable international alert system, such as ESSA, therefore brings with it sizeable advantages and, with a suitable information sharing agreement in place with the national regulator, the ability to considerably enhance the protection of that market.
229. To this end, the Gibraltar Gambling Commissioner actively encourages its licenced betting operators to join a “properly structured and organized information sharing/alert mechanisms for managing suspicious bets” in its Remote Technical and Operating Standards documentation.<sup>118</sup>
230. As a result, 9 of the 11 fixed odds sports betting operators currently licensed in Gibraltar<sup>119</sup> are members of ESSA, either directly or through a parent or subsidiary company, meaning that over 80% of Gibraltar licensed fixed odds sports betting operators are ESSA members.
231. We are optimistic that this number will increase in the very near future and which will further serve to benefit both those operators and the national regulatory authority with which ESSA has an information sharing arrangement covering all of our members’ global betting operations.
232. The European Commission funded Betmonialert report<sup>120</sup> proposes that governments and public gambling authorities should go a step further in the fight against match-fixing.
233. The report, which assessed public and private betting monitoring and alerts systems, views the membership of an alert and monitoring system as a high priority integrity requirement.
234. As such, it strongly recommends that public authorities should oblige all of their licensed sports betting operators to be “part of a betting monitoring system (such as ESSA or GLMS)”.<sup>121</sup>

<sup>117</sup> e.g. <http://www.uefa.com/insideuefa/protecting-the-game/integrity/index.html> The Sportradar run UEFA betting fraud detection system (BFDS) highlights irregular betting movements both pre-match and in-game (live) in all the core betting markets (Asian handicap, Totals and 1X2) from all major European and Asian bookmakers.

<sup>118</sup> [https://www.gibraltar.gov.gi/new/sites/default/files/HMGoG\\_Documents/RTOS%20Final%20Version%201.0.2012.pdf](https://www.gibraltar.gov.gi/new/sites/default/files/HMGoG_Documents/RTOS%20Final%20Version%201.0.2012.pdf) Page 40

<sup>119</sup> <https://www.gibraltar.gov.gi/new/remote-gambling#anc1a7> ESSA members: Ladbrokes, BetVictor, Stan James (through Unibet/Kindred), Bwin, 32 Red (through Unibet/Kindred), 888.com, William Hill, Bet 365, Betfair, Gamesys and Unibet. Non-members: Boylesports, Betfred and lottoland (the latter’s licence does not appear to be active for sports betting).

<sup>120</sup> [http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonialert\\_Design-NB-DEF-2-06-2017.pdf](http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonialert_Design-NB-DEF-2-06-2017.pdf)

235. Whilst ESSA has not advocated that operators should be forced to be a member of a reputable recognised alert system, there are significant advantages from encouraging that approach.
236. As such, the association particularly welcomes the Government's position, as set out in the Decree, that a licensed betting operator must engage with an international integrity body.<sup>122</sup>
237. It is vital that any organisation of that nature be recognised internationally as a responsible and credible integrity body and the specific reference to ESSA is very welcome in that regard.<sup>123</sup>
238. The association looks forward to exploring potential membership of ESSA with sports betting operators who fall outside of our current membership as part of the Dutch licensing process.
239. As such, we believe that there would be potential benefit from discussion between ESSA and the licensing authority, as part of that process, to advise an inform applicants accordingly.

### Criminal and Sporting Sanctions

240. The European Commission Expert Group on Match-Fixing report rightly identified sanctions as playing "a key role in the fight against match-fixing" both as a deterrent and punishment.<sup>124</sup>
241. Penalties for such corruption can, and have, been imposed by sports and/or public authorities.
242. Public authority sanctions can be of "administrative or civil nature or based on criminalization in national legislation", whereas sanctions issued by sports bodies are "based on statutory provisions or regulations adopted by sports organizations or competition organisers".<sup>125</sup>
243. With a view to ensuring an efficient enforcement system, the Council of Europe Convention on the Manipulation of Sports Competitions "considers a broad range of criminal, administrative and disciplinary sanctions" and "that sanctions are effective, proportionate and dissuasive."<sup>126</sup>
244. A report for the European Commission, published in 2012, mapped the criminal law provisions covering match-fixing in Member States; unsurprisingly it found that the "European legal landscape is not uniform" and that provisions differ greatly as regards the act to be criminalised as well as the scope, objective and subjective elements of the offences or relevant sanctions.<sup>127</sup>
245. It also noted that whilst some countries focus on general offences of corruption or fraud, others have implemented sports specific offences, contained either in their criminal codes (Bulgaria, Spain), sports laws (Greece, Cyprus, Poland) or special criminal laws (Italy, Malta, Portugal).<sup>128</sup>
246. Such national law provisions have been employed to positive effect and have resulted in successful match-fixing prosecutions, sometimes involving a range of offences.
247. This is the case in the UK, for example, where the Gambling Act 2005 provides for an offence of cheating<sup>129</sup>, but where other existing criminal offences can also be applied where appropriate.

<sup>121</sup> [http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert\\_Design-NB-DEF-2-06-2017.pdf](http://ethisport.com/wp-content/uploads/sites/28/2017/06/Betmonitalert_Design-NB-DEF-2-06-2017.pdf) Page 7

<sup>122</sup> Remote Games of Chance consultation version – Article 4.7 and related sections in the Explanatory Memorandum (Translated from Dutch to English)

<sup>123</sup> Ibid.

<sup>124</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=28471&no=1> Page 18

<sup>125</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=28471&no=1> Pages 18 & 19

<sup>126</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=28471&no=1> Page 19

<sup>127</sup> [http://www.keanet.eu/docs/study-sports-fraud-final-version\\_en.pdf](http://www.keanet.eu/docs/study-sports-fraud-final-version_en.pdf) Page 2

<sup>128</sup> Ibid.

<sup>129</sup> [http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga\\_20050019\\_en.pdf](http://www.legislation.gov.uk/ukpga/2005/19/pdfs/ukpga_20050019_en.pdf) Section 42

248. The latter was used by the UK judiciary in the Pakistani cricket fixing case, imposing sentences for conspiracy to accept and make corrupt payments that were longer than the maximum two-year sentence that could be imposed under the Gambling Act for cheating at gambling.<sup>130</sup>
249. A number of countries such as Germany<sup>131</sup>, Russia<sup>132</sup>, Ukraine<sup>133</sup>, Latvia<sup>134</sup>, Cyprus<sup>135</sup> and New Zealand<sup>136</sup> have moved to enacted specific match-fixing offences within their criminal legislation.
250. As with other offences, the range of sentences can vary: a maximum of one year (in Denmark) to 10 years imprisonment (in Greece, Australia, and Poland), along with varying fiscal penalties.<sup>137</sup>
251. Whether such explicit additional legislation and offence is necessary, in addition to existing criminal offences, is an issue for each government to determine within its justice framework.
252. What is vitally important is that suitably robust criminal sanctions are available and applied consistently and with due vigour and that any new provisions are developed with key stakeholders in an open and transparent manner, employing an evidence-based approach.
253. The mapping report for the European Commission found that “difficulties in prosecuting match-fixing are more operational than legal”<sup>138</sup> highlighting the importance of establishing clear requirements and obligations on all key stakeholders in identifying and reporting corruption.
254. A detailed report published in 2017 by the UNODC and the IOC, titled “Criminal law provisions for the prosecution of competition manipulation”, provides an extensive legal analysis of 52 national jurisdictions which incriminate match-fixing and best practice models.<sup>139</sup>
255. The report contends that: “Examples of cases involving match-fixing show that, due to the complexity of the crime, it is necessary to employ appropriate tools, such as police expertise, telephone interceptions, formal police interviews, prosecutions and trials.”<sup>140</sup>
256. However, as the British Gambling Commission points out: “Pursuing a criminal sanction will not always be possible, and often will not be the most effective or efficient approach to take.”<sup>141</sup>
257. The European Commission Expert Group highlights that sports governing bodies can prosecute and sanction participants who breach their rules, and that such actions are generally less resource intensive than police investigations and are as such an important tool in this area.<sup>142</sup>
258. Sanctions imposed by sports bodies, which may include: warnings, bans, relegations and penalties, were clarified by the Swiss Federal Tribunal in the Gundel case, which qualified them as statutory sanctions, that is to say a form of contractual sanction and subject to civil law.<sup>143</sup>
259. The standard of proof required for a civil sanction is less than those required for a criminal sanction; action by sports bodies may therefore be a more appropriate and timely deterrent and it does not rule out the possibility of a criminal charge also being brought at a later stage.<sup>144</sup>

<sup>130</sup> <http://www.bbc.co.uk/news/uk-15573463>

<sup>131</sup> <http://www.dw.com/en/german-parliament-passes-law-against-match-fixing/a-37881179>

<sup>132</sup> [http://rapsinews.com/legislation\\_news/20130724/268304784.html](http://rapsinews.com/legislation_news/20130724/268304784.html)

<sup>133</sup> <http://futbolgrad.com/ukraine-passes-anti-corruption-law-to-fight-match-fixing/>

<sup>134</sup> [http://news.xinhuanet.com/english/2015-10/07/c\\_134688098.htm](http://news.xinhuanet.com/english/2015-10/07/c_134688098.htm)

<sup>135</sup> <http://cyprus-mail.com/2017/12/01/match-fixing-bill-voted-law/>

<sup>136</sup> <https://www.baldwins.com/news/new-zealand-enacts-new-law-to-deal-with-match-fixing>

<sup>137</sup> <https://www.unodc.org/documents/corruption/Publications/2017/UNODC-IOC-Study.pdf> Page 43

<sup>138</sup> [http://www.keanet.eu/docs/study-sports-fraud-final-version\\_en.pdf](http://www.keanet.eu/docs/study-sports-fraud-final-version_en.pdf) Page 2

<sup>139</sup> <https://www.unodc.org/documents/corruption/Publications/2017/UNODC-IOC-Study.pdf>

<sup>140</sup> <https://www.unodc.org/documents/corruption/Publications/2017/UNODC-IOC-Study.pdf> Page 7

<sup>141</sup> <http://live-gamblecom.cloud.contensis.com/PDF/Betting-integrity-decision-making-framework.pdf> Page 4 &

<sup>142</sup> <https://www.unodc.org/documents/corruption/Publications/2017/UNODC-IOC-Study.pdf> Page 14

<sup>143</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=28471&no=1> Page 19

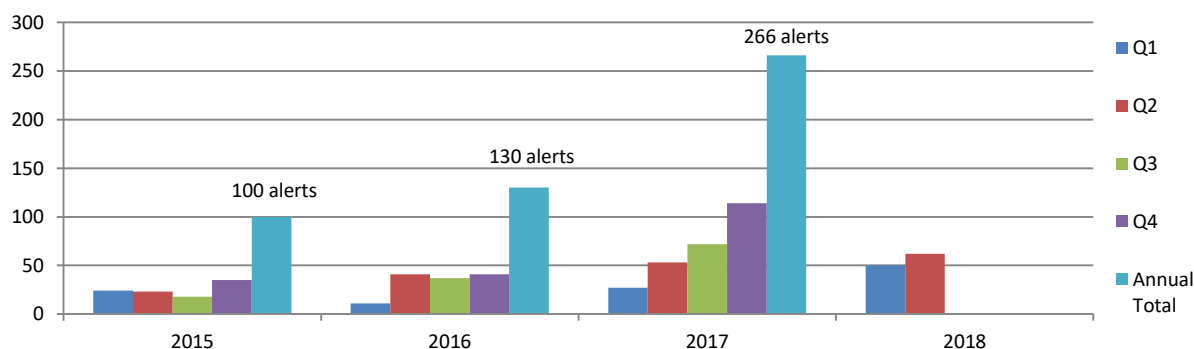
<sup>144</sup> <https://www.unodc.org/documents/corruption/Publications/2017/UNODC-IOC-Study.pdf> Page 14

<sup>145</sup> <http://live-gamblecom.cloud.contensis.com/PDF/Betting-integrity-decision-making-framework.pdf> Page 4



260. The IOC and UNODC report concludes that the disciplinary power of national and international sports governing and disciplinary bodies therefore “constitutes a fast and efficient coercive tool against the manipulation of sports competitions.”<sup>145</sup>
261. Such action may also be complementary to criminal action: in the Pakistani cricket fixing case in the UK, in addition to the criminal sentences imposed (up to two and a half years imprisonment), the International Cricket Council (ICC) banned the players involved from cricket for five years.<sup>146</sup>
262. International and national sports bodies are therefore recognised as having an important role to play as key partners of public authorities in combating the manipulation of sports competitions.
263. This includes: gathering information; undertaking investigations into breaches of any rules; and exchanging and receiving such information from national authorities and others.
264. The European Commission Expert Group highlights that “betting operators are also recognized as key partners on prevention and exchange of information of betting-related manipulations.”<sup>147</sup>
265. To be fully effective, any national level legislation or provisions must consider this issue in an international setting, and where organisations such as ESSA can (and do) work closely with sports, regulatory and law enforcement bodies to gather evidence and underpin sanctions.
266. ESSA’s monitoring and alert system supplies sporting and regulatory authorities with detailed data from which to conduct subsequent investigations and which thereby strengthens the integrity and protection of those sporting events, related betting markets and consumers.
267. That system has identified and reported 608 suspicious betting alerts during 2015-Q2 2018 (see Figure 5); further detailed data on ESSA’s alerts can be found in Annex C of this document.

**Figure 5: ESSA members' suspicious betting alerts 2015 to Q2 2018**



268. ESSA therefore welcomes and supports the imposition of robust sanctions against match-fixers who seek to corrupt sporting events to then defraud our members and other betting operators.
269. However, it is only through proactive cooperation and partnership working, both nationally and internationally, that such evidence-led investigations and sanctions can have the desired impact.
270. ESSA would therefore welcome a closer working relationship on integrity issues with the Dutch authorities to exchange related information to protect betting markets and sporting events.

<sup>145</sup> <https://www.unodc.org/documents/corruption/Publications/2017/UNODC-IOC-Study.pdf> Page 14

<sup>146</sup> <http://www.bbc.co.uk/news/uk-15573463>

<sup>147</sup> <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=28471&no=1> Page 19



## Chapter 4:

# CONCLUSIONS

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271. ESSA (Sports Betting Integrity) welcomes the opportunity to engage in the ongoing development of a regulated remote gambling framework in the Netherlands, notably around sports betting.
272. Modern technological advances have opened new global channels of interaction between businesses and consumers; the betting and sports sectors are no different in that regard.
273. As such, it is vital that any new legislative framework is able to adequately cater for, and readily adapt to, new commercial developments and any accompanying regulatory challenges.
274. ESSA therefore welcomes much of the legislation in relation to betting and integrity; the support for the CoE Convention and the betting operator reporting measures are generally positive.
275. We broadly support that approach and the commitment to the Convention, and encourage the adoption of the effective measures proposed within it in the Dutch national integrity policy.
276. The Netherlands has already been proactive in this area and this policy activity will be further enhanced by the related national integrity measures contained in the proposed legislation.
277. Monitoring markets and detecting suspicious betting is the principal means of addressing betting related fraud, most notably linked to the unfair manipulation of sporting events.
278. In that regard, ESSA is particularly supportive of the proposed requirement for operators to engage with a credible and responsible international monitoring organisation such as ESSA.
279. Indeed, proactive cooperation and partnership working, both nationally and internationally, is an essential component of any effective sports betting integrity policy.
280. As such, the fundamental basis of any successful integrity framework requires a national level sports betting integrity policy approach that involves all of the principal stakeholders.
281. It is therefore important that betting operators and trade association representatives have a position on the Dutch national platform along with other key public and private sector bodies.
282. To that end, ESSA would welcome the development of a closer working relationship on sports betting integrity issues and data exchange with the relevant authorities in the Netherlands.
283. Whilst our position on the legislation is primarily positive, we do have some concerns about the impact and application of aspects of the Government's gambling framework policy.
284. It is important to note that we strongly support the underlining premise of the licensing system in the Netherlands, which is open and will allow any company to apply for an online licence.
285. ESSA also welcomes the Government's decision to adopt a GGR tax for sports betting; however, the association is concerned about the adverse impact of a comparatively high GGR rate.
286. In particular, the negative impact this may have on consumer challenging and the importance of achieving a suitably high channelling rate as stated in the Decree's Explanatory Memorandum.

287. There is a clear danger that many Dutch consumers may consequently be attracted to betting products in more fiscally advantageous markets, negating Dutch regulatory measures.
288. That in turn will serve to create a far more challenging regulatory and integrity environment than would be evident under a more globally representative and fiscally competitive framework.
289. The association and its members are also concerned about the necessity and impact of the proposed betting product restrictions, as set out in the legislation, on the viability of the market.
290. ESSA is aware that a “white list” of prescribed bets is also proposed within the legislation; the association is concerned by the potential limitation of this, added to other market restrictions.
291. Indeed, many of the restrictions proposed are of questionable benefit from a global betting market and integrity perspective, whilst placing significant obstacles to market sustainability.
292. Imposing ineffective product restrictions on choice and competition will not adequately cater for the needs of modern consumers who are able to readily access products in other markets.
293. That in turn adversely impacts the ability of the national regulatory authority to oversee that consumer activity and to have access to important data on the functioning of that market.
294. It is vital that operators are permitted to offer a wide range of products and moves to ban certain types of bets often lack supporting evidence and are of questionable integrity benefit.
295. Directing consumers to operators that offer competitive products, and monitor and report to a regulator, will deliver far greater benefits from an integrity and revenue generating perspective.
296. That will serve to channel the maximum number of consumers to licensed operators and act as the most effective means of protecting the integrity of the market and sporting events alike.
297. Thereby supporting the stated policy that “the licenced offering must not only be appropriate but also sufficiently appealing to be capable of satisfying demand among Dutch players.”
298. Entwined with the issue of restrictions on betting is the assertion that sports should have control over the availability of the betting products and markets offered by regulated betting operators.
299. ESSA is aware that this flawed sports organiser’s betting right, as it is often referred and which has commercial roots, has increasingly been presented to policymakers as an integrity measure.
300. However, there little evidence to support this as a practical or proportionate integrity action.
301. A detailed report for the European Commission has shown that this approach is not an effective betting integrity model, is a restriction on the free movement of services and anti-competitive.
302. Understandably, this flawed approach has gained little support; instead, more secure, effective and clear integrity-focused methods are in operation in most jurisdictions that regulate betting.
303. ESSA is aware that some major Dutch sports bodies have nevertheless proposed a sports betting right and sports-controlled betting restrictions in their response to the consultation.
304. The association encourages the Government to continue to oppose any proposal supporting the introduction of a betting right on integrity or commercial grounds for the reasons set out.

## Annex A:

# ADDITIONAL MATERIAL

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1. ESSA has listed, and added links, to a number of key documents for the Netherlands authorities to consider and which provide a more detailed examination of the many of the issues raised above.

### British Gambling Commission Policy Papers

- [In-play \(in-running\) betting: position paper](#)
- [Protecting betting integrity](#)
- [The Gambling Commission's betting integrity decision making framework](#)
- [Misuse of inside information: policy position paper](#)
- [UK Sport and Sports Betting Integrity Action Plan](#)
- [Licence conditions and codes of practice](#)

### ASSER Institute Studies

- [ASSER Institute Study on risk assessment and management in the fight match-fixing](#)
- [ASSER Institute Report on the Integrity risks of certain types of sports bets](#)

### Betting Industry Reports

- [Sports Betting: Legal, Commercial and Integrity issues](#)
- [Sports Betting: Commercial and Integrity issues](#)
- [The Key to Sports Integrity in the United States: Legalized, Regulated Sports Betting](#)

### Other Studies and Reports

- [Council of Europe Convention on the Manipulation of Sports Competitions](#)
- [European Commission Expert Group report: State of Play on the fight against match fixing](#)
- [IOC and UNODC Study on Criminal Law Provisions for the Prosecution of Competition Manipulation](#)
- [KEA Match-Fixing in Sport report: A mapping of criminal law provisions in EU 27](#)
- [Betmonitalert report: The monitoring systems of sports betting and warning mechanisms between public and private actors](#)

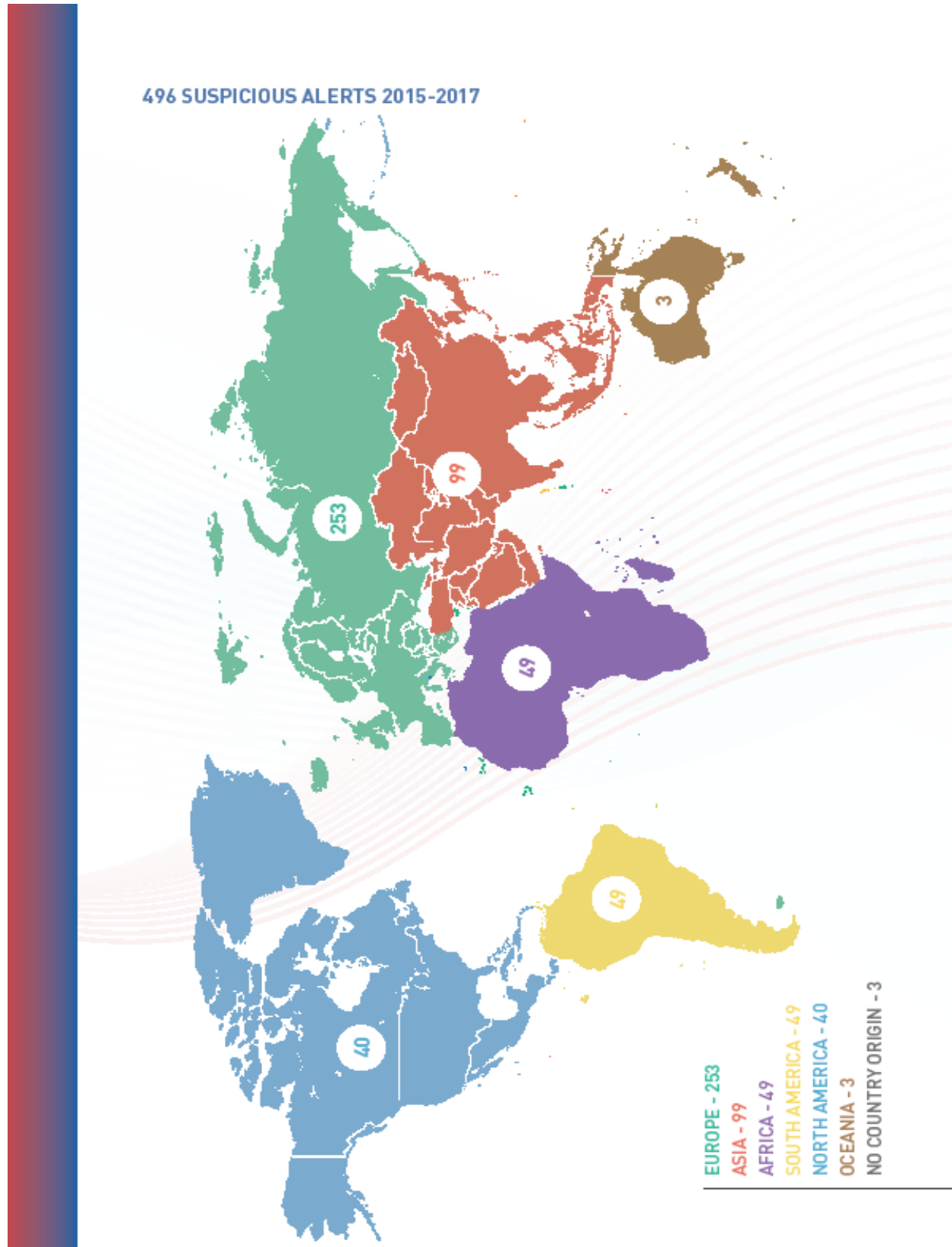
## Annex B:

# BETTING TAXATION REGIMES ACROSS THE EU

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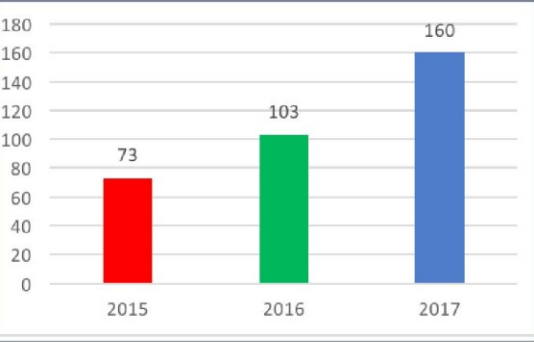
Country	Betting Taxation
Austria	2% on turnover
Belgium	11% on GGR
Bulgaria	20% on GGR
Cyprus	13% on GGR
Czech Republic	23% on GGR
Denmark	20% on GGR
Estonia	5% on GGR
France	9.3% on turnover
Germany	5% on turnover
Gibraltar	1% on turnover with a cap of £465,000 pounds per year
Greece	35% on GGR envisaged
Ireland	1% on turnover (2% from 2019)
Italy	22% on GGR (20% GGR for betting exchange)
Latvia	10% of GGR for online & 15% of GGR for telephone
Malta	0.5% on turnover with a cap of €466,000 per year
Netherlands	29% on GGR
Poland	12% on turnover
Portugal	8-16% turnover for fixed odds and 15% GGR for betting exchanges
Romania	16% on GGR
Slovakia	Planned 23% on GGR
Spain	20% on GGR
Sweden	18% on GGR
UK	15% on GGR

## Annex C: ESSA BETTING ALERT DATA 2015-17

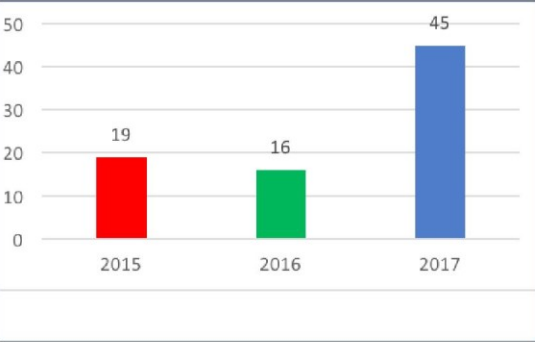


# ESSA ALERTS PER SPORT 2015-2017

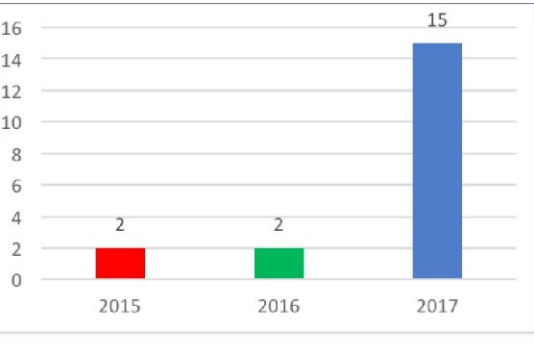
## Tennis



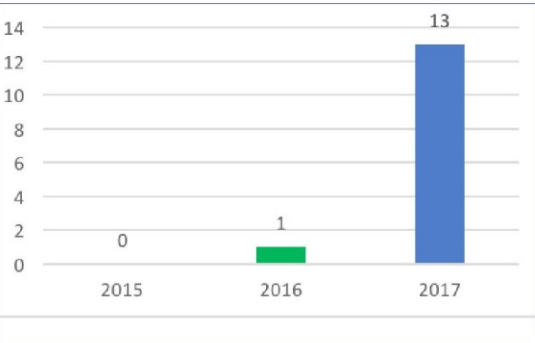
## Football



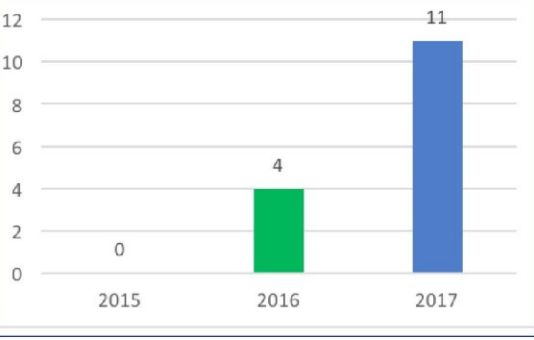
## Table Tennis



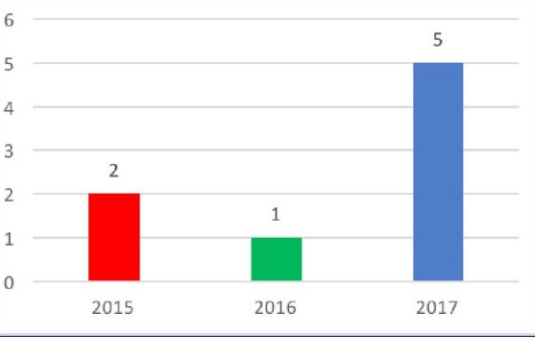
## Basketball



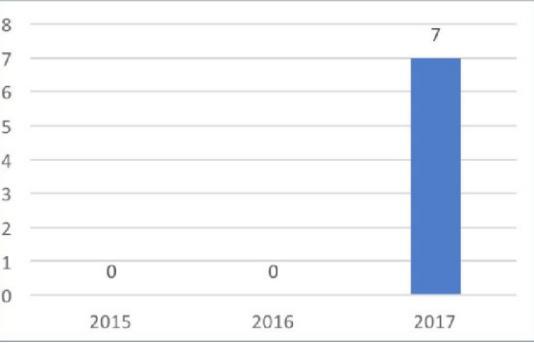
## Volleyball



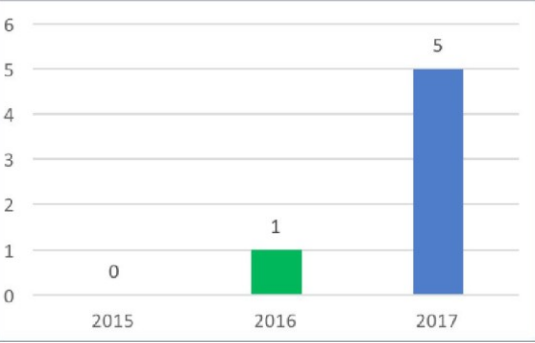
## Snooker



## Badminton

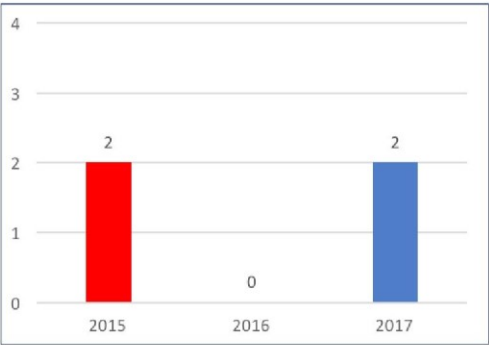


## Handball



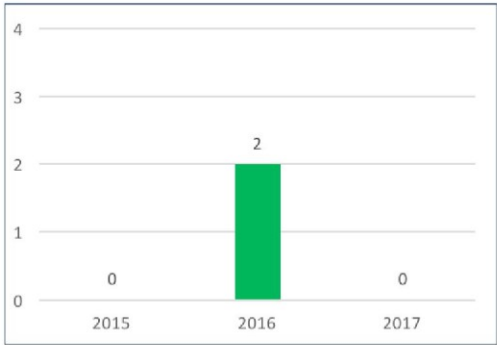
# ESSA ALERTS PER SPORT 2015-2017

## Ice Hockey



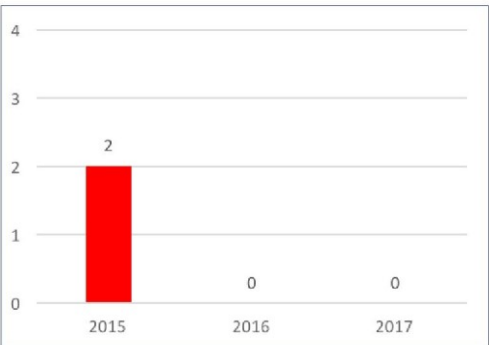
Total alerts:  
**4**

## Beach Volley



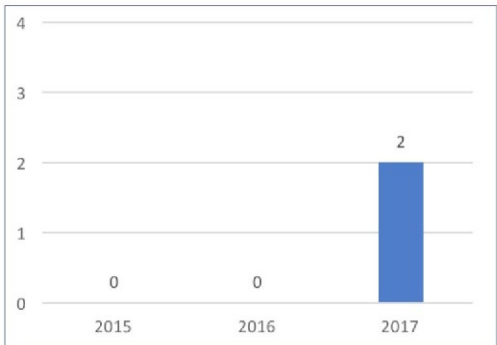
Total alerts:  
**2**

## Greyhounds



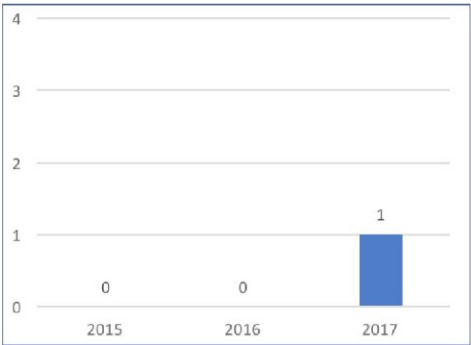
Total alerts:  
**2**

## eSports



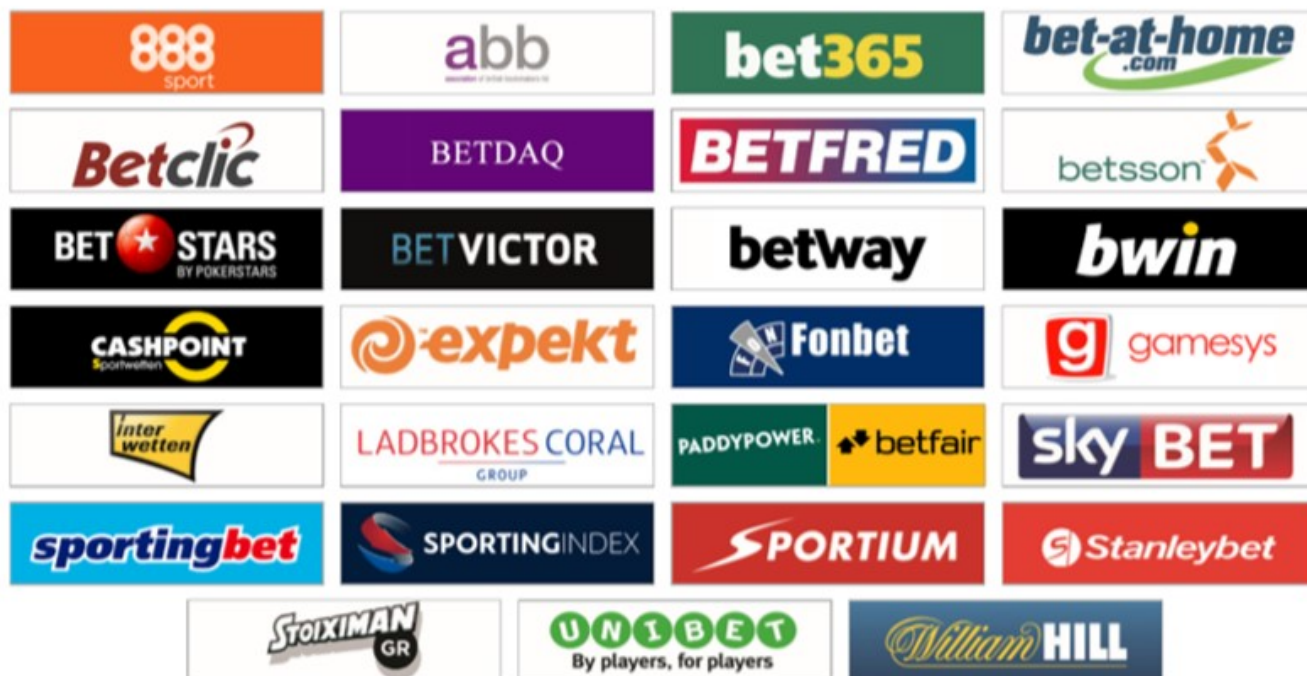
Total alerts:  
**2**

## Boxing



Total alerts:  
**1**

## OUR MEMBERS



## OUR AFFILIATES



## CONTACT INFORMATION

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