

Ministry of the Economy and Finance
State Monopoly Administration

Directorate-General

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With reference to the consultation initiated by the Commission via its Communication COM (2003) 718 final on a New Legal Framework for Payments in the Internal Market, the Amministrazione autonoma dei monopoli di Stato (State Monopoly Administration), operating under the Ministry of the Economy and Finance, would like to point out certain important concerns in its capacity as the public body responsible for regulating gaming.

The legal framework outlined in the Communication recognises the advantages of the introduction of the euro and looks to make further progress, in both the technical and the legal field, to enable Community citizens, companies and payment service providers to maximise the benefits of a fully integrated area for non-cash payments.

Non-cash payments, in particular credit card payments, are on the increase and are increasingly likely to concern transactions connected with state gaming. In fact, the various forms of payment are used for all gaming transactions and payments of winnings.

The introduction of rules aimed at promoting the development of payment services in the internal market may, however, have undesired effects on the public gaming sector and in particular on betting, unless appropriate arrangements are put in place.

The gaming sector is governed by a legal framework that exempts it from the principles, enshrined in the Treaty, of freedom of establishment and freedom to provide services, on grounds of pressing reasons of public interest (Articles 45 and 46 of the EC Treaty), i.e. the need to safeguard public order, public safety and, ultimately, to protect those who take part in gaming.

This means that the area to be regulated, though in principle not applying to the gaming sector, must nevertheless take into account the specific problems of gaming so that, when a legal framework for payments is drawn up, the consumer protection measures taken by Member States in the gaming sector are reinforced.

To this end, the State Monopoly Administration believes that those intending to make use of payment services in the European Union should be able to guarantee to meet the following additional requirements:

(a) The exclusion of all illegal gaming operations from payment transactions in order to ensure that an illegal activity does not underlie a legitimate payment transaction.

The purpose of this requirement is to prevent consumers from being confused or, worse, fraudulently induced into using means of payment for activities they believe to be legitimate but which are not, or else to prevent people from concluding, via payment, an activity they know to be illegal but engage in nevertheless.

In Italy, some of the major credit institutions already exclude, on their own initiative, certain categories of operation from the system of agreements on electronic payments, including illegal gaming;¹

(b) The introduction of daily and monthly limits on the use of payment transactions in accordance with the guidelines set out in the code of conduct of the trade association European Lotteries, aimed at preventing individual gaming abuse.

Such restrictions may prevent the spread of real gaming addiction which, in psychologically vulnerable people, can sometimes reach pathological levels.

Also, restricted use of payment systems may make it much more difficult to engage in money laundering or the illegal handling of money which unfortunately often goes with gaming activities, legal and illegal.

To ensure full consumer protection it is important that the future harmonisation text should also provide for:

(a) The establishment of a European monitoring authority to supervise credit card payments relating to gaming transactions, and approved persons.

The establishment and operation of such an authority, coordinated with the various competent authorities for each area in the Member States, could not only improve overall understanding of the gaming market, the relative number of transactions and the number of people participating, directly or indirectly, but also effectively prevent, at international level, all forms of fraudulent and criminal use of gaming and lotteries in the Member States;

(b) Member States' powers to draw up a list of operators not authorised to engage in gaming activities considered illegal in their national territory and to forward this list to international administrators of payment instruments to be taken into account when promoting the service.

¹ The categories excluded are usually the following:

- betting not regulated by the Italian state,
- pornography in all its forms,
- pharmaceutical products subject to special sales restrictions and/or regulations under Italian or European law.

This preventive measure is an attempt to stop the activities of illegal operators in the gaming market from the outset, thanks to operational cooperation among payment instrument administrators.

The Italian State Monopoly Administration believes that these arrangements are essential to ensure the proper operation of an advanced system of payments in the internal market. We remain at your disposal for any further information or clarification.

Gabriella Alemanno

DEPUTY DIRECTOR-GENERAL