

EPMA CONTRIBUTION FOR THE PROMOTION OF THE INTEGRITY OF SPORT January 2012

The European Pari Mutuel Association supports the approach of the EPAS group of the Council of Europe working on the feasibility of a possible International instrument covering prevention and combat against the manipulation of sport results. Regarding prevention and control, Pari Mutuel/Tote operators have implemented a betting model limiting manipulations. Furthermore, EPMA feels that the recognition of common necessary principles and tools could also favour integrity.

Pari Mutuel operators in Europe ask the Council of Europe to work on prevention by comparing different betting models,

European totalisators suggest the Council of Europe to point out the European values supported by the betting operators.

Work on prevention:

- **The Tote model favours integrity**
- **Efficient tools upstream such as database protection and betting rights recognition should lead to efficient control**

→ The model favours integrity

Pari Mutuel/Tote betting model prevents risks of fraud. When using the Totalisator Model, all players bet in a common pool. If a punter bets a lot on an unexpected result, the winning will lower.

Pari Mutuel is a form of betting with certain internal values which guarantees the integrity of the sport. Indeed, with Pari Mutuel betting, the amounts bet are added together and shared among the winners, after the take-out of the operator which is completely independent of the result of the race. The Pari Mutuel operator has therefore absolutely no interest in the outcome of the race.

In countries with the Tote model for betting, there has been no case of fixed races for years. The last big case in France, more than 35 years ago, has been the occasion for Pari Mutuel betting to put in place rules to prevent and detect atypical stakes. Mutual betting is a way to prevent problem. Moreover, **bets on 'losers' are not allowed, "In running" bets are not allowed.**

Bets are monitored in real time. Large amounts bets are detected (beyond a threshold). Pari Mutuel operators also detect certain combinations where there are a lot of big amounts bets. These combinations are compared with those expected (specialised press, for example) to determine if they are atypical or not. The model also detects easily after the race has been paid if there has been concentrations in winnings.

The different betting models should be listed in a future European Convention on on promotion of the integrity of sport: pari mutuel, fixed-odd, betting exchange. Each betting model has a different impact on public policies such as the prevention of addiction, fraud and match/race fixing,

financing good causes. As a preventive measure, States should compare the various betting types with the possibility to choose one for certain competitions (Pari Mutuel betting only for horse betting in France) and apply a different control to each.

For example, when looking at integrity issues, before talking about surveillance or alert systems such as Early Warning System to watch unusual betting patterns and risk to sport integrity, European Institutions and States should look at different betting models, particularly to study certain types of bet that present higher risk of manipulation. Moreover betting only on successful results should be a prerequisite condition (Gambling Regulation Agencies should agree on a list of competition and types of results on which betting is to be allowed).

Compare with other types of bet:

Betting Exchange has inner risks: The Betting Exchange allows the broader public to act as a bookmaker. This means that individuals can take odds (ie: "back") on the outcome of any event. Equally, they can offer odds "lay" to other participants. The technology automatically matches back and lay bets between various bettors – a percentage of winning bets being taken by the operator. The system makes it possible for individuals to bet on a horse to lose a race.

The Salford University study« Risks to the integrity of sport from betting corruption »(Feb 2008) indicates « an exchange offers new opportunities to cheat...». Researcher have confirmed this opinion in joint IRIS.Salford study on Sport betting and Corruption released on 1st February 2012.

Detection and traceability is difficult as it is difficult to control the various positions and players. Match/Race fixing cases appeared in UK in 2004 and 2006, directly derived from Betting Exchange manipulation (ex : Miles Rodgers & Mercer case ; opération «Crypton» also known as «Fallon » case.)

→ Useful Preventive tools

Protect database

Database protection in the betting sector (sport and racing) is not addressed in the European Green Paper on online gambling – The issue is particularly relevant to clarify looking at the lack of consistency between past ruling and ongoing legal cases (at national and EU level).

Examples:ATG/UNIBET – Database fight since 2007 - Unibet revealed at that time that they are not concerned by the \$36 million lawsuit brought against them by ATG, Swedish Pari Mutuel operator. ATG claims Unibet was not licensed to use their horse racing database, therefore owes 10% of related profits to ATG. In November 2010, during the 3 days of audition, Unibet tried to prove that the data stolen from ATG did not represent the whole database – A judgement late 2011 gave the obligation to Unibet to compensate the use of horse racing data. However the judgment was reversed on 30th January 2012. The use of racing and sport data should be the basis of a common agreement between the sport organiser and the betting operator but this case shows once again that current IPR as it exists in many countries is not appropriate but could be modified to a right of exploitation as it is the case in France.

April 2010 – UK High Court judgement Football Dataco v Brittens and others - The Fixture Lists are protected by database copyright, but not by sui generis database right or any other copyright. A EPMA contribution to sport integrity – January 2012

preliminary question is pending in front of ECJ C-604/10 for legal explanation of the Database protection directive 96/9 linked to sport information (JO C 89 du 19.03.2011). The Opinion of Advocate General Mengozzi was published on 15th December 2011.

In Germany, the racing clubs organize horse races, subject to the provisions of organiser and originator copyright law. The key point to note in this regard is that the TV image produced during the horse racing event is crucial for successful broking of horse bets. Racing clubs are in principle protected by originator and organiser copyright law as regards the use of the images they produce. As already variously submitted by the league associations of other types of sport (DFL, HBL, BBL, DEL) the originator and organiser copyright law in Germany does not have sufficient reach to enforce copyright law beyond civil agreements. Transmissions of sounds and images of horse races are crucial to successful totalisator betting. Better protection of copyrights to these images is therefore essential. So any change in the law of copyright making it easier than before to use civil law to prevent the non-contractual transmission of sounds and images of sporting events would be desirable.

Enforce a betting right

A “competition organiser’s right”, establishes a mechanism for ensuring that betting companies work in partnership with the sports they take bets on.

In **France**, this right has now been codified in Article L333-1 of the Sports Code, which provides that “[t]he sports associations and the organisers of sports events... are the owners of the exploitation rights of the sports events or competitions which they organise”.

These articles confirm that the exclusive right of organisers over the exploitation of events includes the right to consent to the organisation of bets on such events or competitions which they organise. The organisers of sporting events may take payment from online gambling operators for online betting on their events. Organisers also have the capacity to control the conditions under which betting can be carried out and thereby avoid cases of fraud. However, in order to encourage competition between online operators, the rights owner may not grant an exclusive licence to one operator or act in a manner that would result in preferential treatment in favour of one or more operators.

In **UK**, racing is calling on the government to draw up legislation that would force betting operators to pay the industry for the right to take a bet on races, a move it claims would solve the sport’s chronic funding problems. The “betting right” is racing’s key demand in its submission to the government’s consultation on the future of the Horserace Betting Levy, which has been the basis for funding racing for 50 years but which ministers now believe is out of date.

The levy is enshrined in law, requiring betting operators to give up 10 per cent of their profits for the sport’s upkeep. But the levy yield has been in sharp decline in recent years for a combination of reasons, reaching £59.5m for this season (2011/2012), compared with £115.3m three years ago.

UK Racing has long regarded the betting right as a form of intellectual property that would be the basis of a direct commercial relationship with betting operators. It envisages negotiating for those rights collectively on a multi-year basis.