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Identification of online gamblers in the EU: a two-edged sword

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Abstract. Online gambling in Europe is a challenge for all stakeholders – service providers, gamblers, regulators and academic researchers. Despite a lack of harmonization of national gambling-specific legislations and consequent legal uncertainty, online gambling is the most progressive online service in the European Union (EU). Service providers are supposed to promote and implement strategies and measures that ensure an acceptable level of gamblers’ protection and prevention of problem gambling. At the same time, the online environment offers numerous novel opportunities for business development. Data is the central online business focus and, for that reason, it can be used for multi-fold purposes. This paper discusses how data collected for identifying online gamblers could include additional functions, both negative and positive, from the gamblers’ protection perspective. Thus, the paper answers the research question: What are the tensions in gamblers’ protection that derive from the identification of online gamblers in the EU?

Keywords: European Union, identification, online gambling, problem gambling

1 Introduction

Online gambling is a rapidly growing service in the EU. This relatively new form of entertainment has been taken up on a massive scale by European gamblers. However, the current EU regulatory landscape in the gambling domain does not appear to favor business development, nor to facilitate optimal gamblers’ protection.

1.1 The growing popularity of online gambling experiences

Online gambling in Europe is a lucrative reality with a peculiar nature [29]. Statistical data show that this branch of industry is the fastest growing service activity in Europe. Around 6.8 million online players in Europe generate significant economic outcomes.¹ Many reasons account for online gambling’s progress and general popularity,

¹ Annual revenues in 2015 were expected to be about 13 billion EUR. http://ec.europa.eu/growth/sectors/gambling/index_en.htm, accessed 24 February 2016

including the greater acceptance of this new form of gambling among both traditional and new gamblers. The growing popularity of online gambling among European consumers is a consequence of easier and more convenient access to gambling than is the case with traditional, offline gambling [20, p. 1396]. Gamblers have the opportunity to gamble 24/7 without leaving their house or wherever they are. Among the desirable features of this shift are the possibilities to gamble for those who cannot access brick-and-mortar gambling premises, and the accessibility of gambling instructions, manuals and other useful information. In addition, a variety of gambling options, better payout rates, higher odds and a better reward system as consequences of a cheaper online business model all favor online gambling [20, p. 1389]. A combination of these factors creates positive attitudes among consumers regarding online gambling, and subsequently influences industrial progress and potential [20, p. 1397].

1.2 The EU and online gambling

The history of online gambling starts in 1994, when the small Caribbean country of Antigua and Barbuda adopted the Free Trade and Processing Zone Act. The main point of the act was liberal licensing, including the licensing necessary for gambling operations on the Internet. This new situation attracted business opportunity seekers from all over the world. The first online casino, *Interactive Casino Inc.*, was established in August 1995 [26]. In the first decade of operation, the online gambling industry was primarily focused on the American (US) market. However, the US authorities were concerned about the regulation of the industry abroad as well as the risk of money laundering. Therefore, in 2006 the US authorities announced the *Unlawful Internet Gambling Enforcement Act* (UIGEA), as a measure that prevents the use of illegally-gained proceeds for terrorism financing, and banned the realization of financial transactions derived from gambling via the Internet. Taking into consideration that gambling in Europe has been very popular and well developed for a long time (for more information see [31, Ch. 1]), the online gambling industry shifted its focus to Europe.

Today, Europe is the most developed online gambling market worldwide [18]. The EU regulatory institutions are supposed to play an important role in regulating gambling activities; however, EU Member States draw upon different cultural, social, religious and political elements regarding gambling in order to justify regulation on the national level [17]. As a consequence, online gambling is controlled, organized and regulated exclusively by the Member States as a service with distinctive attributes separate from harmonized services. This approach is officially justified by the protection of national policies (e.g. on public health and youth). Several rulings by the Court of Justice of the European Union (CJEU) represent the cornerstones for regulating gambling at the national level. The CJEU case law can be viewed as providing a *carte blanche* for the Member States to regulate gambling in accordance with national policies, going so far as to justify a state monopoly or gambling bans as measures to regulate (online) gambling [25, p. 2]. Consequently the current state of the art in the domain of gambling in the EU can be described as legislatively fragmented (28 Member States with 28 different gambling legislations), diverging from the principle of the

freedom to provide services in the EU. Thus, all 28 Member States require online gambling providers to ensure that their operations comply with national, regional or local legislations, as otherwise service providers are considered to be illegal.

Nevertheless, the Internet is a global network where national borders and national legislations are not crucial limiting factors for data transmission. Therefore, insisting on the enforcement of current online gambling legislation is almost meaningless. Despite national governments' activities toward the suppression of illegal gambling activities in their jurisdictions, in the case of online gambling, so-called "gray" [14, Ref 3] and illegal online markets are well-developed due to the co-existence of different Member States regulatory models and various problems related to their enforcement [14]. Illegal online gambling service providers in the EU can be classified as follows:

- Service providers that are not licensed and formally established in any jurisdiction.²
- Service providers that are licensed outside the EU, but whose services are accessible in the EU's Member States.
- Service providers licensed in one or more EU Member States, but whose services are also provided in Member States in which they are not licensed.

The European Commission (EC) and the European Parliament have undertaken an initiative to harmonize gambling and online gambling regulations. The European Parliament adopted two resolutions related to online gambling matters [15; 16]. In addition, the European Commission strengthened public discussion on online gambling in the EU with a Green Paper on on-Line Gambling in the Internal Market [14]. Despite extensive political and public discussions, overall efforts toward harmonizing gambling regulations have so far only resulted in legally non-binding documents. The latest outcome is the EU Commission's "Recommendation on the Principles for the Protection of Consumers and Players of Online Gambling Services and for the Prevention of Minors from Gambling Online" (EC Recommendation) [13]. The EC Recommendation promotes principles that serve to protect online gamblers and encourages Member States to adopt these principles.

2 Contribution of this paper

Gambling-specific legislation is mainly concerned with protecting gamblers from various kinds of risks in order to prevent problem gambling. There are several groups of measures in gambling-specific legislations, including the identification of gamblers. The identification of gamblers is a legal requirement imposed by all EU Member States' gambling legislations. Despite non-harmonized regulations in the field of gambling at the EU level, the purposes of players' identification are not dissimilar in different national legislations. The EC Recommendation proposes the registration

² In 2011 more than 85% of the gambling sites in Europe were operating without any license [13]

process of players with the aim to verify players' identity and track players' behavior [13, Recital 18]. However, there is a lack of empirical knowledge regarding the additional purposes for which providers process gamblers' personal data that are initially collected for players' identification and tracking.

This paper focuses on online gamblers' identification in the EU, and discusses its function as a two-edged sword. The paper addresses the following research question: What are the tensions in gamblers' protection that derive from the identification of online gamblers in the EU? In order to answer this question, three tasks have been undertaken. Firstly, the paper briefly explains the main concerns regarding online gambling and presents the EC Recommendation, particularly the part that recommends rules for the identification of players. Secondly, the paper sheds light on service providers' self-regulation regarding the identification of online gamblers, through a comparative analysis of 11 privacy policies announced by selected online gambling service providers. Thirdly and finally, the paper explains the advantages and disadvantages of gamblers' personal data processing in the context of identification of online gambling and reveals that it is a "two-edged sword". This two-edged sword refers to how personal data processing used for identification purposes can have two completely opposite effects – prevention of problem gambling on the one hand, and causing problem gambling on the other. For the purpose of the analysis, the paper pays special attention to behavioral tracking tools as the instruments for the prevention of problem gambling and to commercial communication as an important provocation of problem gambling.

3 Gambling-related concerns and the EC Recommendation

3.1 The importance and functions of gamblers' protection

In general, the greatest concerns regarding gambling are the prevention of problem gambling. Notwithstanding the lack of a widely accepted concept of "problem gambling" [11, pp. 20-21], this term refers to a broad spectrum of negative consequences of gambling. Problem gambling may refer to a health disorder, economic problems, various individual harms, to classification of certain groups of gamblers, or to broad social problems [27, p. 5]. Clear boundaries between these categories do not exist, but they are identifiable. It could be said that problem gambling as a health disorder is a foundation for all other forms of problem gambling. The prevention of problem gambling as a health disorder is the main focal point in the protection of gamblers from other gambling-associated risks. Thus, maintaining public order is tightly knit with the prevention of problem gambling. In favor of this claim is the fact that gamblers with a health disorder are more prone to commit crimes than people without this kind of problem [30, pp. 47-52].

A general approach toward the regulation of gambling in Europe follows principles of restrictivism [10, p. 597]. In other words, gambling is not prohibited, but is rather considered to be a service that deserves a special regulatory approach necessary to mitigate gambling-related harms. In line with this approach, the EC Recommendation

encourages EU Member States “to achieve a high level of protection for consumers, players and minors through the adoption of principles for online gambling services and for responsible commercial communication of those services in order to safeguard health and also to minimize a possible economic harm that may result from compulsive or excessive gambling” [13, Art. 1]. Despite Member States’ strong opposition to the harmonization of national gambling-related legislations, the EC Recommendation could be considered as an outline of the very principles for online gambling that already exist in Member States’ national gambling legislations.³ As can be seen, the goal of the national gambling-related legislations is not only to protect human health, but also to minimize the negative effects that problem gambling has on the economy. The legislator sets up a hypothesis that the effective protection of online gamblers, besides preventing individual harm, has a broad societal importance that is reflected in economic impacts.

The EC Recommendation is formally designed “to improve the protection of consumers, players and to prevent minors from gambling online” [13, Recital 2]. This document intends to ensure that gambling remains a source of entertainment and to provide a safe gambling environment. The purpose of the proposed measures is to “counter the risk of financial or social harm as well as to set out action needed to prevent minors from gambling online” [13, Recital 2]. Key measures toward improved gamblers’ protection proposed by the EC Recommendation can be grouped into the following eight categories:

- Information requirements.
- Protection of minors.
- Player account and registration.
- Player funds and activity.
- Time-out and self-exclusion.
- Advertising.
- Sponsorship.
- Education and supervision.

3.2 The EC Recommendation and identification of gamblers

A substantial part of the EC Recommendation that is supposed to enhance online gamblers’ protection relates to gamblers’ personal data processing. Section V of the EC Recommendation sets up norms related to the registration of gamblers and the creation of their gambling accounts. Any person who intends to gamble online has to register and open an account. Therefore, online gambling service providers request several types of personal data for registration purposes. The EC Recommendation, which is in line with Member States’ national legislations, suggests that the following

³ Harrie Temmink, Deputy Head of the Online and Postal unit at DG Internal Market and Services, European Commission, in his speech given at 10th European Conference on Gambling Studies and Policy Issues (Helsinki, Finland; September 2014) stressed the fact that EU Recommendations are a non-legally binding source that outline common principles for online gambling from all Member States’ gambling legislations.

information has to be revealed for the purpose of player registration and gambling account creation: the player's name, address, date of birth, electronic mail address or mobile telephone number. In addition, a unique username and password have to be created [13, Ch. 5]. The email address and telephone number should be validated by the player or verified by the operator [13, Art. 17]. In cases where direct electronic verification is not possible, "Member States are encouraged to facilitate access to national registers, databases or other official documents against which operators should verify identity details" [13, Art. 18]. For that reason, Member States are encouraged to adopt an electronic identification system for the registration purposes [13, Art. 20].

The full registration of a gambler's account is composed of two sets of actions. Gamblers have to provide the requested data and their identity has to be verified afterwards. Considering that the verification of the identity details provided takes some time, service providers should ensure that players have access through temporary accounts [13, Art. 22(a)]. Verification should be done in a reasonable period of time and for that purpose "the registration system allows alternative means to verify identification" [13, Art. 21(b)]. In the case when the identity or age of the person cannot be verified, the registration process should be cancelled. Cancellation includes the suspension of temporary accounts [13, Art. 19]. In practice, this solution allows gambling subsequent to the creation of an account, but before the completion of a registration process. Thus, gamblers may gamble even if their personal data are not verified. However, if they cannot verify their personal data their accounts will be suspended and the situation provokes certain consequences (e.g. the retention of funds without the possibility of withdrawal). The consequences depend on the particular gambling service provider and its related policy.

According to the EC Recommendation, players' activities have to be monitored. Operators have to be able to inform players and alert them about their winnings and losses and about the duration of play. This sort of information has to be sent on a regular basis [13, Art. 26]. Moreover, operators' policies and procedures should facilitate players' interaction whenever a player's gambling behavior indicates a risk of developing a gambling disorder [13, Art. 30]. Players whose behavior indicates problem gambling should be supported and offered professional assistance [13, Art. 25].

Players themselves can initiate the limitation of their own gambling activities using self-exclusion mechanisms. The self-exclusion mechanism is a voluntary tool that should be at the gamblers' disposal so as to restrict their access to gambling services for a certain period of time. According to the EC Recommendation, any player who excludes himself or herself should not be allowed to gamble for at least for six months from the moment of self-exclusion. In addition, commercial communication should not target players who have excluded themselves from gambling or who have been excluded from receiving online gambling services due to problem gambling [13, Art. 43]. The EC Recommendation encourages Member States to establish a national registry of self-excluded players [13, Art. 37]. Member States should facilitate the access of operators to the national registries of self-excluded players and ensure that operators regularly consult registries in order to prevent self-excluded players from continuing to gamble [13, Art. 38].

4 Identification and personal data processing: business practice

This part of the paper highlights service providers' self-regulation regarding the identification of online gamblers. For the purpose of the analysis, 11 online gambling service providers' privacy policies have been examined. The selection of online gambling service providers operating in Europe was based on their presence in the most developed market – the United Kingdom (UK) – and on their size (large and small providers). Relevant data were taken from the Data Report created by Gambling Compliance [21], a global provider of independent business intelligence to the gambling industry. The five largest online sports betting providers' policies were examined (*Betfair*, *Bet 365*, *William Hill*, *Paddy Power*, and *Ladbrokes*), who together have a UK market share of about 75%. The privacy policies of an additional six operators (*Betfred*, *Stan James*, *Coral*, *BetClick*, *Betwin* and *Bet at Home*) were also assessed, who have from 2.5% to less than a 1% presence on the UK online sports betting market. In total, the market presence of the listed companies was around 84% in UK online sports betting. The privacy policies of these providers have been examined to identify which data they process for gambler identification and for which (other) purposes they allow these data to be used.

Table 1. – Service providers' presence on the UK online sport betting market in 2012

Service provider	Market share
Betfair	22.0 %
Bet 365	19.0 %
William Hill	15.0 %
Paddy Power	12.0 %
Ladbrokes	7.5 %
Betfred	2.5 %
Stan James	2.0 %
Coral	2.5 %
BetClick	<1 %
Betwin	<1 %
Bet at Home	<1 %
Overall	Approx. 84 %

The first step in gambling online is a registration process that a gambler must complete on a chosen service provider's web page. In order to conduct this procedure, a new gambler has to open an account, accept several policies (terms and conditions), verify his/her identity and provide the personal data requested by a service provider. By registering with any of the service providers analyzed here, a gambler accepts its privacy policy and provides consent for further personal data processing. According to *Betfair's* regulations, registering as well as logging onto its website is considered to indicate an explicit consent to processing and disclosing personal information [5].

Other policies consider the first registration to be a sufficient condition for any further personal data processing. A common feature of all policies is that personal data processing is a necessary condition for the registration process.

Considering the scope of the collected data and the purpose of data processing, the policies mainly regulate these issues in a similar manner. *Paddy Power* collects information about players during the account registration process and during service provision. This information may include, but is not limited to, name, postal address, e-mail address, phone number, credit/debit card details and “any other details” [28, Art. 4.1]. Similarly, *Bet 365* enumerates how and which data could be collected by describing the purposes of the collected data. It emphasizes that data could be used for different purposes, including but not limited to bet processing, account management, complying of legal duties, research and analyses, promotional or monitoring purposes [3]. In the case of *Bet at Home*, “collection or processing of customer data is a necessary condition for the conclusion of contract and is solely for this purpose” [4, Art. 2]. *Ladbrokes* explicitly lists reasons why personal data are collected [24]. *Bwin* collects gamblers’ personal data to deliver the service, to provide customer support, undertake security and identify verification checks, process online transactions, assist participation in third-party promotions, meet certain business requirements, and for any other purpose related to the operation of the service [8]. *Betfair* processes personal data to allow access and use of the website and participation in the services offered, to administer accounts, to maintain accounts and records, to monitor website usage levels and the quality of the service provided, and to share information about products and services it considers interesting for gamblers [5].

Taking into consideration the important role of gambling advertisement in provoking gambling problems (see next section), particular attention was paid in this research to the parts of policies that regulate the use of personal data for commercial communication purposes. All privacy policies allow service providers to send gambling advertisements to players. Players provide consent for various purposes including service providers’ right to send gambling-related advertisements. However, in the case of *Betfair*, if a player does not wish to receive future marketing, promotional or sales material, he/she may notify the company to stop sending further material [5]. In that sense, players can “qualify, vary, modify or limit consent in relation to marketing communications or in circumstances where any processing of personal data is likely to cause damage or distress or such other circumstances as the law allows (...)” [5]. *Bet 365*’s privacy policy prescribes that the information collected about players can be used for “providing information about promotional offers, products and services, where players have consented” [3]. *Ladbrokes*’ policy allows this service provider to provide information about promotional offers to its customers [24]. However, if players do not wish to receive this kind of information they have to opt out of this option in the account registration form. *William Hill*’s privacy policy prescribes that this company is allowed to use players’ personal data for “preparing and displaying appropriate individualized marketing material and content” [32, Art. 3.2.6]. As in the case of *Ladbrokes*, *William Hill*’s customers can opt out from being informed about gambling events, promotions and offers [32, Art. 2.6]. Also, *Paddy Power* uses players’ data to send appropriate marketing material and content via “SMS, email, phone,

post or otherwise” [28, Art. 6.2]. *Coral* uses personal information, such as the email address and telephone number, to send promotional material to players if they agree on that [9, Art. 4.6]. Thus, all privacy policies regulate commercial communication between service providers and their customers in a largely similar manner. Service providers are allowed to use collected data for marketing activities in order to share information regarding offers, promotions and events. However, the majority of policies also include a possibility for players to change their consent given in the part of the website related to advertisements or to later adjust their own preferences related to commercial communication.

All privacy policies contain rules regarding the flow of gamblers’ data. Despite slight differences among policies related to this issue, a common feature in all the policies examined is that gamblers’ data can be transferred to third parties. Very large parts of the policies are devoted to the use of cookies. By registering online and consenting to all the rules in the privacy policies, gamblers accept the use of cookies for different purposes. From the observed privacy policies, it can be concluded that the purpose of cookies is not only to improve the performance of webpage functioning and the facilitation of users’ identification, but also for advertising and analytical purposes.

5 Prevention and provocation of problem gambling – the context of behavioral tracking tools and commercial communication

Gambling-related regulations in the EU Member States govern the monitoring of gamblers’ activities for the sake of finding indications of problematic gambling. Gambling service providers should warn gamblers about their gambling behavior where this is supposed to be risky. Apart from gamblers’ protection measures imposed by gambling-specific legislation, it is up to online gambling service providers to decide whether to use additional protective measures as well as on the kind of measures for gamblers’ protection from gambling-associated risks.

In recent years, the online gambling industry introduced behavioral tracking tools that alert gamblers to their problematic gambling behavior while they are playing (these are called “in-play” notifications) or after gambling. New intelligent real-time systems combine gamblers’ personal data and their gambling behavior in order to recognize patterns of problematic gambling. Sophisticated technological tools can calculate gambling trends from the processed data and thus generate personalized feedback.⁴ Despite the fact that the use of the above-described technology is still non-mandatory, initial scientific findings have demonstrated that the use of this kind of technology is beneficial for the prevention of problem gambling [1; 2; 19].

⁴ Some of the examples used by the online gambling industry are software *Playscan* (<http://playscan.com/>, accessed on 24 February 2016), and *Mentor* (developed by Neccton Ltd, see <http://www.neccton.com/en/about-mentor-en.html>, accessed on 24 February 2016).

The concept of problem gambling as a health disorder is a challenge not only for practical prevention, but also in the scientific domain. Despite various opinions and findings, scientific studies support claims that problem gambling as a health disorder (i.e., addiction) can be observed in many contexts [22]. Earlier, Blaszczynski and Nower tried to outline common features of gambling addiction in their “pathway model of gambling addiction” [6]. They agreed on environmental factors as important stimulants of a gambling addiction. The notion of “environmental factors” refers to activities and components that increase the availability and accessibility of a rewarding activity. Advertising, for example, is considered to be an important environmental factor.

Advertising is an inseparable part of today’s business development. However, measuring the impact of advertising is very complex. Different types of advertising strategies, target groups of consumers, market features, as well as different advertising effects lead to a variety of methodological problems for assessing advertising effects. Although there is a relative paucity of scientific research about the influence of advertising on problem gambling, so far studies have shown causal relations between the advertising of gambling-related content and problem gambling. Gambling advertising does not have the same impact on everyone within the overall gambling population. However, certain groups of gamblers who are affected by gambling advertising are triggered to gamble above a constant level [7]. Derevensky et al. found that gambling advertising has a particularly strong influence on adolescents. Among this group of consumers, advertising is suitable to attract new gamblers as well as to maintain already created gambling behavior [12]. Hing et al. conducted a study about the contribution of advertising to the increased consumption of online gambling [23]. The authors’ findings confirm that “the role of advertising and promotions of online gambling in attracting new users” is limited [23, p. 404]. However, advertising and promotions of online gambling increase gambling among the current population of gamblers, especially among online gamblers and particularly among gamblers who have been treated for addiction. Gambling-related advertisements tempt gamblers who try to leave or to limit the scope of gambling [23, p. 405]. In addition, the largest population of the researched sample agreed that promotion and advertising cause longer time spent on gambling [23, p. 404].

6 Discussion

The preceding findings reveal a number of problems regarding gambling-related regulation in the EU. In addition, certain relations between the encouragement of problem gambling and gamblers’ data processing have been indicated. This section of the paper analyses these issues and discusses the presented findings. Firstly, observations on the protection of online gamblers in the EU are made. Secondly, some controversies regarding online gamblers’ data processing are discussed. Finally, attempting a balance between business needs and problem gambling is addressed.

6.1 Protection of online gamblers in the EU

The development of online gambling imposed a need for higher consumer protection and better prevention of problematic gambling, especially in Europe. Gambling legislation in Europe is fragmented and is limited by national borders. Mandatory gambling legislations in the EU Member States tally with broad societal interests of gamblers' protection. However, the enforcement of the law with conventional standards that should be applied in the online context is not ideal. Considering non-harmonized regulations at the EU level as well as the lack of enforceable regulations in the domain of online gambling, service providers' activities can be easily operate beyond the legal zone into the "gray" or illegal zone.

It is a widely held view that risk is a part and parcel of gambling. Personal health, personal wealth, personal relations, health policy, youth policy, public policy, economy and public finances could be disrupted by undesirable harms deriving from gambling. Taking into consideration the progressive growth of the online gambling industry, it can be assumed that gambling-related problems will continue to occur more frequently. Thus, the EC Recommendation for the stronger protection of online gamblers is quite a desirable document. The proposed regulation regarding the identification of gamblers would tend to decrease the possibilities for vulnerable groups of people (e.g. under-aged and problem gamblers) to gamble. However, the enforcement of the EC Recommendation regarding the identification of players occurs at the expense of personal data protection. The EC Recommendation involves the processing of a large volume of gamblers data both by service providers and states. However, pro-privacy oriented policy makers and researchers argue that such extensive personal data processing jeopardizes the privacy of data subjects. Despite these claims, which are not incorrect in themselves, processing online gamblers' data is an essential means that can also be used for their own protection. Thus, it can be reasonably concluded that one of the main challenges regarding gamblers' protection will be to reach a proper balance between the protection of gamblers' privacy on the one hand and the prevention of gambling-related problems on the other.

6.2 Treatment of online gamblers' personal data

From the previous findings, it can be concluded that the online gambling industry processes a broad range of gamblers' data. Privacy policies usually do not limit service providers' opportunities to request different personal data. They enumerate different purposes (including the identification of players), but they always leave room for collecting data that may serve additional purposes. In addition, policies assert a long period of data retention (in case of *Labrokes*, a data retention period lasts seven years) or do not even mention how long they retain data (e.g. *Paddy Power*).

All privacy policies impose commercial communications. The gambling registration system relies on a "take it or leave it" approach. In other words, gamblers have to accept policies, including an obligation to receive promotional material about further games. Practically speaking, advertising is an "option" that is included in the same gambling package. This default option could be turned off through self-exclusion

from certain lists by consumers not wishing to receive certain promotional materials. Nevertheless, it is questionable how effective the opportunities are to stop receiving gambling-related advertisements. On the one hand, privacy policies contain rules that allow gamblers to change their consent related to receiving promotional material, offers and information about events. On the other hand, these rules are explained in one or two sentences that are usually integrated in very exhaustive lists of rules that compose the privacy policies. Moreover, responsible gambling policies that explain the use of responsible gambling tools are usually presented separately from privacy policies and they do not contain manuals on how to stop or limit gambling advertisements.

Intertwined aspects of the gambling business thus create possibilities that identification data can be used for other purposes. Different activities overlap throughout the process of online gambling (e.g. transfer of funds cannot be initiated without player identification; commercial communication cannot be realized without player registration). Therefore, it is difficult to clearly delineate the purpose of processing particular data. In any case, it is without doubt that online gambling service providers can process huge amounts of gamblers' data. Online gambling service providers have to process a large volume of gamblers' personal data in order to comply with mandatory legal requirements, but they can use that data processing also for commercial reasons.

Finally, collecting and processing personal data for various reasons without the explicit delineation of the scope of the collected data and the purpose of data processing are not unusual in the online environment. Service providers, including those in the e-commerce sector, often do not limit themselves in terms of their possibilities for data collection and data processing. However, it has to be recalled that gambling is not an ordinary service. It is a service that deserves special regulatory treatment aimed toward, inter alia, the prevention of problem gambling.

6.3 Balance between business and problem gambling concerns

With the wide variety of purposes for which gamblers' personal data processing occurs, data could be used for advertising as well as for the indication of risky ways of gambling and the prevention of problem gambling. Advertising gambling content and related commercial communication are not prohibited. The EC Recommendation proposes the organization of commercial communication so as to be socially responsible [13, recital 12]. Although it is beyond this paper's scope to discuss relevant academic studies on social responsibility in the marketing and advertising industries, it could be argued that personal data is the most valuable source of online commercial communication. The online environment is a quite desirable playground for sophisticated advertising strategies and personalized commercial communications. The consensus view from the domain of gambling studies seems to be that advertising influences the consumption of gambling [7, 12, 23]. In addition, the increased consumption of gambling leads toward risky gambling and health disorders. In contrast, behavioral tracking techniques could detect problem gambling and prevent further harm. Gamblers' personal data serves to support both online gambling commercial commu-

nication and behavioral tracking tools. In this context, personal data processing turns out to be a means for decreased as well as increased levels of gamblers' protection.

Therefore, it is in the scope and modes of gamblers' personal data processing that business, public interests and private interests will have to be balanced. However, the use of behavioral tracking tools for gamblers' protection purposes is not mandatory. It seems that the business sector has the discretion to decide whether and to what extent these different interests should be balanced. Thus, it appears that this industrial sector holds a two-edged sword in its hands: an expression that refers to a very sharp tool that can be used precisely to separate wrong from right. But can we leave it up to the industry to decide for themselves how to wield this sword? The online gambling business industry has its own interests that are legitimate from a business perspective. Its interests do not, however, fully coincide with more general public interests. From the above-mentioned examples of concerns, it can be concluded that the business sector may use gambling advertisements as tools that could injure gamblers by opening them up to the serious consequences provoked by a health disorder. Therefore, advertising as a powerful encouragement of problem gambling deserves further attention both from both regulators and researchers.

7 Conclusion

Gamblers' personal data processing for identification purposes can be used for various goals. Data processing can be practiced for both gambling purposes that are beneficial for the protection of gamblers and as a business model that is not necessarily in favor of gamblers' protection. Data processing is used for commercial communication purposes which is just one, but a very important, factor that may increase the impetus for additional gambling and may provoke problematic gambling. In contrast, gamblers' personal data could also be analyzed for signs of risky gambling, such as an increased amount of time or money spent, and any loss chasing or increased tolerance of losses. However, it appears that the gambling industry favors a particular approach in regard of its own interests, which is not surprising given the lack of harmonized mandatory legislation stipulating measures to prevent problem gambling. As a consequence, gambler protection can be easily put in danger.

From the gamblers' protection perspective, it would be beneficial to have an obligation imposed by Member States' gambling legislations that includes limitations to or the exclusion of gambling advertisement in relevant gambling policies. Easier exclusion (i.e., an opt-out) from receiving gambling related advertisements would probably decrease the risks of new problem gambling. If Member States develop national registers of self-excluded gamblers in accordance with the EC Recommendation, it can be conceivably believed that gamblers' protection will be strengthened. The EC Recommendation prescribes that self-exclusion from gambling should include an opt-out from gambling-related commercial communication (which is not currently a regular business practice). Furthermore, the development of national registers of self-excluded players and the use of electronic identification systems could also be pro-consumer-oriented. Despite potential polemics that could be provoked by developing

centralized systems for collecting large amounts of gamblers' personal data (especially from the part of pro-privacy-oriented researchers and policy makers responsible for high levels of personal data protection), it is likely that the use of such an electronic identification system could shorten the period between gamblers' identification and verification. In such a case, the possibilities for manipulating temporary accounts and gambling by minors would be decreased.

Service providers have at their disposal tools that can influence gamblers' protection. Working on the prevention of problem gambling does not necessarily decrease business opportunities. Gamblers' personal data processing can contribute to the prevention or mitigation of gambling-related harms: these are beneficial not only for gamblers, but also for society at large. In doing so, online gambling service providers can improve their own reputation. As a result of this, they can present themselves as being corporate socially responsible companies, a feature which could be particularly appreciated by the public sector and certain groups of consumers, and which can make the industry more sustainable in the long run.

Finally, scientific research should be used to avoid assumption-based solutions and regulations. To date, there has been little evidence provided about the status or use of online gamblers' personal data processing. There is a lack of knowledge how data are processed by service providers, regulatory bodies or third parties. As in many other online services, data processing provides the foundation for the functioning of the online gambling market. Notwithstanding the variety of opinions and findings, there is now a consensus view that a causal relation exists between the provision of gambling opportunities and problem gambling. In addition, it is likely that the ways in which gamblers' personal data are processed for different purposes influence how online gambling is provided and consumed, and thus also affects – for better or for worse – problem gamblers. Therefore, for the sake of preventing and mitigating problem gambling, further in-depth research is needed to better understand the practices of online gamblers' personal data processing and how these influence gamblers' behavior. Such empirical knowledge can help to assess the ethical and legal dimensions of online gambling business practices, and thus help regulators to take measures that ensure that providers wield the two-edged sword of gamblers' data processing in a balanced way.

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