

Title: Prohibition on Betting on EuroMillions IA No: RPC Reference No: RPC-3538(1)-DCMS Lead department or agency: DCMS Other departments or agencies:	Impact Assessment (IA)			
	Date: 09/12/2016			
	Stage: Consultation			
	Source of intervention: Domestic			
	Type of measure: Secondary legislation			
Contact for enquiries:				
Summary: Intervention and Options				RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
-£3.31m	-£3.30m	£0.4m	Yes	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?

Section 95 of the Gambling Act 2005 prohibits a holder of a betting licence from offering a bet on the outcome of a lottery which forms part of the National Lottery. However, some gambling operators in the UK currently offer a bet on the outcome of EuroMillions draws occurring in other European countries (i.e. bets offered on, for example, the Spanish EuroMillions draw). Government intervention is necessary to close this loophole, clarify the distinction between betting and The National Lottery, and in doing so, take precautionary action to protect returns to good causes.

What are the policy objectives and the intended effects?

We believe that betting on foreign EuroMillions draws is clearly contrary to the spirit of the s.95 provision, which seeks to preserve a distinction between betting and The National Lottery, and poses a potential threat to good cause returns. We therefore recommend that action should be taken on a precautionary basis before the market is able to grow larger. A ban will regularise the position in a way that is consistent with the intention of s.95.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0 (Do nothing): The Gambling Commission have undertaken a number of non-legislative measures to clarify the distinction between gambling products and lotteries, however, there is still some confusion amongst consumers when differentiating between EuroMillions betting products and participating in the EuroMillions game.

Option 1 (Preferred Option): Impose a new licence condition using the power in s.78 of the Gambling Act 2005 to prohibit operators holding a licence from the Gambling Commission from offering bets on EuroMillions games in countries other than the UK. It will not go as far as to reclassify or ban all betting on lotteries.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope?		Micro No	Small No	Medium No	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -3.31	High: -9.80	Best Estimate: -3.31

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.1	0.4	3.3
High	0.1	1.1	9.8
Best Estimate	0.1	0.4	3.3

Description and scale of key monetised costs by 'main affected groups'

The key costs are transition costs (which includes familiarisation with the legislation) for the Gambling Commission (£4,700) and operators (£55,000). Operators will incur costs from updating their websites so that these bets are no longer offered. Operators will also face annual costs (lost profits) with £0.4m being the lower and best estimate, and £1.1m being the upper estimate.

Other key non-monetised costs by 'main affected groups'

N/A

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

N/A

Other key non-monetised benefits by 'main affected groups'

Banning bets on EuroMillions draws occurring outside the UK brings these draws into line with the law for the UK game, as it is illegal to place bets on the UK EuroMillions. Although we do not at present have sufficient evidence to quantify lost returns, the Gambling Commission advise that there is a latent risk that consumer spend may be diverted from true lottery products, resulting in a decline in money to good causes. This measure clarifies the distinction between The National Lottery and gambling products, and may offer some protection to the funds for good causes raised by The National Lottery without significantly impacting on business.

Key assumptions/sensitivities/risks

The biggest sensitivity in the data was monetising the annual costs which are the lost profits to operators from not offering overseas EuroMillions products. The Gambling Commission do not collect sales/profit information from operators broken down by product so they advised us to assume that profits from EuroMillions products are between 5% and 15% of total profits for relevant remote operators which we have carried out sensitivity analysis on. We have also made assumptions on the costs to operators from updating their websites and of additional staff time required during the transitional stage.

Discount rate

3.50

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 0.4	Benefits:	Net: -0.4	

EVIDENCE BASE

PROBLEM UNDER CONSIDERATION

Betting on the outcome of lotteries has been offered legally for many years. In contrast, The National Lottery occupies a unique status, and is protected by Section 95 of the Gambling Act 2005. Section 95 prohibits a holder of a betting licence from offering a bet on the outcome of a lottery which forms part of the National Lottery. This includes the UK EuroMillions.

However, some gambling operators in the UK currently offer a bet on the outcome of EuroMillions draws offered abroad (for example, a bet on the outcome of the Spanish EuroMillions draw). This is because EuroMillions is a lottery run in partnership between several lottery operators in European countries and is, technically, a separate game in each participating country despite being the same draw.

In 2015, Camelot made a series of recommendations to the CMS Select Committee's Enquiry on Society Lotteries which reported in March 2015. They suggested that under s.95 there should be no ability for operators to offer bets on EuroMillions, regardless of whether it is in the UK or abroad. They also proposed that this ban should be extended to all UK licensed lotteries to preserve the distinction between lotteries and gambling or that all such bets should be reclassified as 'lotteries'. The Committee recommended that Camelot's proposals should be examined further.

We consider that betting on EuroMillions draws occurring abroad should be prohibited, consistent with the position for the UK game, as it could result in customer confusion, and may also risk the amount that can be raised for good causes by The National Lottery. This is particularly pertinent as some bets are offered at a lower price than the current cost of a EuroMillions ticket.

We note that betting on lotteries generally (i.e. including bets on other national lotteries) is a relatively small market, representing just 2% of the Gross Gambling Yield accounted for the betting sector. In view of this, and ongoing work by the Gambling Commission to increase clarity between betting and lottery products, we consider that extending the ban to all lotteries or reclassification would be disproportionate.

RATIONALE FOR INTERVENTION

While there is no evidence that betting on EuroMillions draws abroad currently harms returns to good causes, we believe that it is clearly contrary to the spirit of the s.95 provision which seeks to preserve a distinction between betting and The National Lottery. We therefore recommend that action be taken on a precautionary basis before the market is able to grow. A ban will regularise the position in a way consistent with the intention behind s.95.

We think that it is right to act now because these bets appear to be muddying the 'clear blue water' between betting and The National Lottery. In research conducted in relation to a EuroMillions betting product, only 14% of respondents understood that it was a betting product while 61% thought it was a way of participating in the EuroMillions Lottery.¹

¹ Para 80, Camelot research noted [CMS Select Committee Report Society Lotteries 2015](#)

The current evidence base is not able to support or refute a hypothesis concerning any impact on lottery revenues (and therefore, the returns to good causes) attributable to betting on lotteries.

Of the games in The National Lottery portfolio, Lotto and EuroMillions offer the highest returns to good causes. Lotto returns approximately 30% of sales to good causes through the retail channel and 35% through the non-retail channel. EuroMillions (with a prize pay-out of 50%) currently returns approximately 27% of sales to good causes through the retail channel and 33% through the non-retail channel. In contrast, betting operators can advertise the same jackpots (a key sales driver), at lower prices, without any obligation to return a percentage to good causes.

Were betting on EuroMillions to expand and become widespread amongst other operators, there is a risk that EuroMillions sales, and consequently National Lottery good cause returns, may decrease. Given the lack of available data on probable impact, we cannot conclude that this would be inevitable, however the Gambling Commission see this as a potential growth market for gambling operators. The Gambling Commission note the increased profile of operators offering this product, and we are aware that some operators put considerable resource into marketing their betting on EuroMillions products.

POLICY OBJECTIVE

The policy seeks to prevent the undermining of the clear distinction that s.95 seeks to achieve between the National Lottery and gambling, and prevent potential negative impact on National Lottery good cause returns. The regulation would bring European EuroMillions draws into line with the UK draw. UK operators would no longer be able to offer bets on any National Lottery game, in the UK or abroad. This would not affect offers on other international lotteries.

DESCRIPTION OF OPTIONS CONSIDERED

Option 0 (Do nothing)

The Gambling Commission have taken steps to improve the clarity of marketing between betting, lotteries and The National Lottery, and taken steps to reduce customer confusion between bets on EuroMillions and the EuroMillions game, however, there is still some confusion amongst consumers between the EuroMillions game and EuroMillions betting products.

Distinction between betting, lottery, and National Lottery products

Work by the Gambling Commission has included including issuing a note to industry, and follow-up compliance work. The Gambling Commission have published:

- [advice to operators](#) in relation to openness and transparency i.e. that it must be made clear to consumers what type of gambling they are being offered – in this case, making clear to consumers that the product is a betting product and that they are not entering a lottery;
- [information for consumers](#) to explain the difference between betting on lotteries products and lottery products.

The Gambling Commission have noted changes to how a number of products are promoted as a result of this work. In addition a group of operators have developed a voluntary industry code, although the Gambling Commission note take up has been poor.

Distinction between Betting on EuroMillions, and EuroMillions Lottery Products

In oral evidence to the CMS Select Committee, the CEO of the Gambling Commission at the time considered that the Gambling Commission's existing powers were sufficiently wide to ensure that the licensing objectives (including player protection) were upheld. However she noted that there were difficult areas to address with regard to customer confusion, such as the ability to bet on EuroMillions draws outside the UK².

The Gambling Commission monitor compliance with S95 Gambling Act 2005 to make sure that operators are not offering bets on lotteries which form part of the National Lottery.

However, where operators are exploiting the loophole which enables bets to be taken on non-UK versions of EuroMillions, the Gambling Commission can only require operators to be transparent with consumers about the nature of the product. This includes asking operators to make clear to consumers that they are offering both offering a bet on a non-UK EuroMillions game, and that they are not entering EuroMillions in the same way as they would by buying a ticket from the National Lottery (retail or online).³

In practice, the Gambling Commission are concerned that the distinctions here are subtle or technical and therefore capable of being lost on the average consumer, (for example, small changes in wording from 'play' to 'bet'). They remain concerned that consumers are being misled, even where operators are technically compliant with the law.

In the case of EuroMillions, the Gambling Commission consider the risk of confusion is arguably greater, given the prominence of the EuroMillions brand and its association with the National Lottery as a game which forms part of the National Lottery portfolio.

Option 1 (Preferred Option): Use powers under s.78 Gambling Act to impose a licence condition prohibiting operators holding a licence from the Gambling Commission offering bets on EuroMillions in countries other than the UK

Based on their assessment of licensed remote betting operators who offer bets on lotteries, the Gambling Commission has estimated the impact of a ban on betting on EuroMillions on UK gambling operators to be relatively low in relation to other betting

² Para 83, pg. 33 Society Lotteries, [CMS Select Committee Report](#)

³ Camelot have noted that one operator's entry mechanic for EuroMillions lottery bets was the same as the normal entry mechanic for lottery EuroMillions game e.g. picking 5 main numbers and two lucky stars.

products. Operators offer bets on a range of international lotteries, such as the Irish Lotto and New York State Lottery, and their ability to do so will remain unfettered.

We have explored two other proposals for wider regulatory action, as per the CMS select Committee recommendations, including:

- Banning all bets on lotteries;
- Reclassifying all 'bets on lotteries' as lotteries. This would mean any bet on a lottery would be subject to the regulatory framework governing society lotteries i.e. a prize cap at £400,000, and a minimum 20% return to good causes.

As lotteries may only be offered by non-commercial societies, commercial companies would need to change the nature of their business, or set up a non-commercial arm to carry out these transactions. Both options would result in effectively prohibiting operators from offering these products, and as a consequence, reduce customer choice.

With the regulatory work already undertaken, and the lack of evidence on returns to good causes, we feel it would be disproportionate to introduce the measures above. This is supported by responses received during the course of the DCMS Call for Evidence (December 2014 - March 2015). The majority of respondents from across the lottery and betting sector supported a clear distinction between society lottery, betting, and National Lottery products. However very few supported an outright ban or reclassification of bets on lotteries as society lotteries, with the exception of a number of lottery beneficiaries, Camelot, and the World Lottery Association. Further details from respondents are available at **Annex A**.

COST BENEFIT ANALYSIS

Option 1 - prohibit betting on EuroMillions outcomes (preferred option)

Market growth in the counterfactual

Under the counterfactual scenario, we are unable to provide a robust estimate of the potential growth in this market for the following reasons:

- The Gambling Commission do not collect data from operators broken down by products offered so we are unable to accurately quantify the proportion of operators' profits that are due to EuroMillions betting products. In the monetised costs section, based on Gambling Commission advice, we have assumed that the best estimate of this proportion is currently 5%.
- We do not have data on how this proportion is likely to change in the next few years.
- If we wanted to assume a constant proportion of 5% over the next few years, we are unable to estimate the growth of the remote market. This is because official remote market statistics are only provided from November 2014 so we are unable to extrapolate what future growth may be due to insufficient historical data.

Transition costs

Gambling Commission

The Gambling Commission provided us with information on transition time and costs outlined below (this also includes familiarisation costs which is the time taken to read and understand the new legislation):

- Remote sector specialist manager grade: 1.5 days per week for 8 weeks to include internal prep, lines, answering direct calls from operators, policy work, guidance notes, internal briefings.
- Communications manager grade: 2 days in terms of preparing lines, updating website etc.
- Licensing Officer grade: 7.5 days in total (across all LOs) in terms of call centre etc.
- Exec director grade: 1 day to cover all exec briefing etc.

To calculate the total cost, we will use the average salary from the Gambling Commission across all roles instead of the actual salary for each of the each of the individual roles for confidentiality reasons (the Gambling Commission have confirmed that this gives us a costing similar to using the actual salary for each of the different roles). This is an hourly rate of £21.66 uplifted by 30 per cent to cover non-labour costs £28.16 per hour or £208 per day.

With a total of 22.5 days, the total transition costs to the Gambling Commission is £4,680.

Operators

Operators will need to familiarise themselves with the legislation and make changes to their products. Around 10 remote operators accept bets on the outcome of overseas EuroMillions draws (no non-remote operators offer bets on this product).

We think this will be a relatively straightforward change for the remote operators as they would just need to update their website. Based on information from the Gambling Commission through their data collection processes from operators, we estimate that it will cost each operator £5,000 to change their website. We assume that it will take two days' time for a manager to familiarise themselves with the new legislation and oversee the changes and four hours' time for a tech expert to make the changes. During the consultation, we will gather more evidence from operators to gain a better understanding of these costs.

Data from the Annual Survey of Hours and Earnings 2015 shows that the median hourly wage for a corporate manager and director is £21.00 uplifted by 30 per cent to cover non-labour costs £27.30. If we assume one working day is eight hours, two working days will cost £436.80.

The median hourly wage for an Information technology and telecommunications professional is £20.46 uplifted by 30 per cent to cover non-labour costs £26.60. Therefore, four hours will cost £106.39.

Total cost per operator: £5,543

As there are 10 operators who will be affected by this, total cost to all operators is **£55,432**

Total transitional costs: costs to Gambling Commission + costs to operators
 =£4,680 + £55,432 = £60,112

Annual costs

By prohibiting operators from offering bets on the outcome of EuroMillions products, operators will see a decrease in their gross gambling yield (GGY) which we will use as a proxy for profit. We do not know the size of the remote market (non-remote operators do not offer this product so will not be affected) for betting on EuroMillions as there is no regulatory data available on the proportion of operators' sales and profits that result from products on EuroMillions outcomes. The Gambling Commission have advised us that the only meaningful participants within this market are those that offer betting on the outcome of lotteries as their primary business model.

Data on 2015 GB turnover and GGY for these businesses are available, but not split out by individual product. We were advised by the Gambling Commission that betting on the outcome of EuroMillions accounts for a small portion of the businesses in question. Below is a table showing a spread based on values between 5% and 15% and the Gambling Commission have advised us that 5% is likely to be the more realistic scenario so we will use this assumption to form our lower and best estimate, with the 15% assumption forming our upper estimate.

GB customers	5%	15%
Sales (staked)	£528,171	£1,584,513
Profits (GGY)	£376,993	£1,130,980

Sensitivity analysis has been carried out below to see the effect of varying the assumption of operators' profits that contribute to EuroMillions.

Proportion of business due to EuroMillions betting (%)	Total Annual Cost (GGY) (£)	EANDCB (£m)	Business NPV (£m)	Total NPV (£m)
5	376,993	0.4	-3.30	-3.31
15	1,130,980	1.1	-9.79	-9.80

Non-monetised benefits

Banning bets on EuroMillions outcomes abroad brings those draws into line with UK draws on which it is illegal to place bets under s.95 of the Gambling Act 2005. This will maintain the distinction between National Lottery products and betting products in the manner intended by the Act, and will reduce customer confusion in this area.

We do not currently have sufficient evidence to quantify lost returns and are seeking further evidence through the consultation process. However, the Gambling

Commission advise that there is a latent risk that consumer spend may be diverted from true lottery products, resulting in a decline in money to good causes.

Betting operators can offer bets on EuroMillions that can exploit the 'life-changing' prize levels offered by The National Lottery, without necessarily returning funds to good causes. This measure may therefore offer some protection to the funds for good causes raised by The National Lottery, without significantly impacting on business. We are currently unable to monetise the benefits of the avoidance of future loss of good cause returns to these bets due to insufficient evidence.

Proportionality

We consulted the Gambling Commission on the transition costs to their organisation and the operators, the number of operators that will be affected, and the annual costs to operators. On the annual costs to operators under the preferred option, we made assumptions on the proportion of operators' profits that are due to EuroMillions betting products as the Gambling Commission do not collect information from operators on a product by product basis. We felt it would be overly burdensome to contact each individual operator to find out this information as the overall proportion of EuroMillions betting was not significant in magnitude. During the consultation, we will ask operators for details on the costs they will face which will give us a better evidence base to draw from in the final stage IA.

Risks and assumptions

- Proportion of businesses who are offering bets on EuroMillions products - we did some sensitivity analysis on this which forms the low and high estimates
- Assumptions made on cost to operators - cost of updating website, time taken for staff to update these changes
- Time taken for Gambling Commission staff through the transition stage

Small and Micro Business Assessment (SaMBA)

Under our preferred option, the Gambling Commission have advised that only large scale remote operators are currently offering bets on overseas EuroMillions to UK customers. Betting on EuroMillions forms a small part of these operator's portfolios. Small and medium sized businesses may offer bets on lotteries generally (such as betting on the Irish lottery) but do not offer bets on EuroMillions, and therefore will not be affected under our preferred option.

SUMMARY AND PREFERED OPTION WITH DESCRIPTION OF IMPLEMENTATION PLAN

We propose imposing a licence condition prohibiting betting on EuroMillions draws in other European countries, using the power in section 78 of the Gambling Act. The intention is that this condition will mirror s.95 of the Gambling Act 2005 which prohibits betting on the outcome of the National Lottery. This includes EuroMillions UK draws.

We intend that this be extended to include betting on all EuroMillions draws including those held in other European countries. Consistent with s.95 the condition will apply to:

- a general betting operating licence;
- a pool betting licence; and
- a betting intermediary licence.

In drafting the prohibition one option is to adapt the existing wording in article 6 of the National Lottery (Annual Licence Fees) Regulations 2010.

Under this approach the prohibition would likely be along the following lines: “Nothing could be done in reliance on the licence in relation to a bet on the outcome of a lottery promoted by lottery promoters in other countries pursuant to an agreement between the holder of a licence under section 6 of the National Lottery Act and those promoters, under which lotteries falling within the agreement share a common game structure and prizes.”

DCMS Lotteries Call for Evidence December 2014 - March 2015

The DCMS Call for Evidence 2014 explored the distinction between The National Lottery, society lotteries, and betting products, and whether there was sufficient clarity to distinguish between these products. A number of betting and lottery operators and wider stakeholders responded. The resounding viewpoint was that it was important that products were clearly marketed, and that consumers knew what they were purchasing. Few operators commented on the size and scale of their business, other than the Association of British Bookmakers. We will seek to collect more of this type of information through the consultation.

Betting Operators/ Industry Representatives

The RGA Remote Gambling Association (largest online gambling trade association in the world) noted that “domestic licensing of all online betting in Great Britain means that no gambling on the UK National Lottery is now permitted”. The RGA did not consider that there was any evidence that numbers based betting products were damaging to the National Lottery, but did feel it was important that “Consumers ... understand the product that they are gambling on”. The RGA noted that while betting customers must understand they are betting, not participating in The National Lottery, that this also extended to National Lottery customers, who must understand they were not gambling (noting in particular the presence of a Bingo style product on the TNL website.)

This position was supported by **The Bingo Association** who stated that “such a distinction [between a lottery and a betting product] should be made transparent and is a principle of the licensing objectives.” The Association noted “differences between National Lottery products and other forms of commercial gambling are increasingly indistinguishable to the customer.” - and considered this detrimental to their commercial gambling offer.

The **Association of British Bookmakers (ABB)** is a trade association for licensed betting offices in the UK. Members include major operators William Hill, Ladbrokes, Coral and Paddy Power, along with around 100 smaller independent bookmakers.

The ABB highlighted the importance of the environment in which bets on lotteries are played, and disagreed with the idea that there was customer confusion “as to whether betting in a lottery in a bookmakers is the same or different to playing in a lottery.” They noted that “betting shops provide a safe environment in which people can bet on a range of products, and although lottery products make up only a small proportion of most shops’ turnover, they play an important part in allowing shops to offer customers variety and choice.”

MyLotto24, an operator which offers bets on lotteries submitted separate written evidence to the CMS Select Committee. This operator offers bets on lotteries, with varying percentages returned to selected charities. Betting on EuroMillions forms a

part of its portfolio, however this is not made available to UK customers. In their submission, the organisation did not consider itself to be a competitor to The National Lottery or other lotteries, and felt their model was a valid fundraising tool.

Lottery Operators/ Industry Representatives

Lotteries Council: The Lotteries Council (an industry body whose stated aim is to present unified voice for lottery fundraising) believed that it should remain illegal for betting products to allow bets on National Lottery numbers, to best protect and maximise the income of the National Lottery brand. The Council saw no reason to intervene to prevent betting on other Lottery draws, other than to ensure a “clear demarcation of a product that is profit driven and a Society Lottery product that is prohibited from seeking commercial gain.”

World Lottery Association: The WLA recommended that “the UK Government takes appropriate measures to clarify the lottery marketplace and to restore the clear and traditional distinctions between the National Lottery, society lotteries, and the for-profit gaming sector. Possible measures could include retaining current limits on draws and prizes for society lotteries; and prohibiting bets on all lotteries under UK law.”

Lottery Beneficiaries

A number of lottery funded bodies supported Camelot’s recommendation to ban all bets on lotteries, or subject them to the same regime as society lotteries.