

# **MEMORANDUM OF UNDERSTANDING (MoU)**

**Between**  
**Kansspelautoriteit**  
**and**  
**Spelinspektionen (The Swedish Gambling Authority)**

## **1 Objectives**

1. The delivery of online gambling services is increasingly global in nature with operational infrastructure (including cloud and other technology services), management control and other core services increasingly dispersed. This amplifies the need for international regulatory cooperation to match the sophistication of global gambling commercial operations.
2. The parties to this MoU express their willingness, through this MoU to cooperate with each other in the interests of fulfilling their respective regulatory mandates regarding the licensing process, supervision, enforcement and combatting illegal operators of remote gambling. And in case necessary, landbased operators.
3. The Kansspelautoriteit and the Spelinspektionen shall be referred to individually as 'the Authority' and collectively as 'the Authorities' in this MoU.
4. This MoU does not create any legally binding obligations, confer any rights, or supersede domestic laws and regulations.

## **2. Functions and powers of the Kansspelautoriteit**

5. The Ksa is an independent governance body and is the supervisor and regulator of games of chance in the European part of the Kingdom of the Netherlands. The Ksa is funded by the industry through gaming levies. The Authority is governed by the Board of Directors and is managed by the Management Team.

The Ksa has a threefold task:

- protecting and informing consumers;
- prevention of illegal and criminal practices;
- prevention of gambling addiction.

The Minister of Justice and Security bears the political responsibility for gambling policy in the Netherlands.

### 6. Text about the regulation

The Kingdom of the Netherlands consists of four countries, The Netherlands, Aruba, Curacao, and St. Martin. Concerning gambling policy, every country maintains and regulates for itself. The Netherlands Gambling Authority is therefore not responsible for regulation and supervision of the Caribbean part of the Kingdom.

The Remote Gambling act, which is a modernisation of the Betting and Gaming Act, will make it possible for licensed operators to legally offer online gambling and for consumers to gamble online.

The objective is that issuing licences allows for the establishment of stringent conditions for online betting and gaming operators. These conditions, set out in a licence, are intended to protect players, combat gambling addiction and ensure the fairness of the game.

### **3. Functions and powers of Spelinspektionen**

7. Spelinspektionen is a Swedish regulator controlled by the Ministry of Finance and its Board is appointed by the Government. The Authority is responsible for examining applications and issuing permits for gambling according to the Swedish Gambling Act. The Authority also has the overall and independent responsibility for control and supervision of gambling activities in Sweden.
  
8. Gambling licenses may only be granted to those who fulfill the requirements and are suitable according to the Swedish Gambling Act. The overall objectives with the Swedish gambling regulation is that gambling operations shall be appropriate from a public perspective and conducted in a sound and secure manner under public control. This implies, among other things,
  - that the gambling shall have a high level of consumer protection;
  - that the gambling is very secure;
  - that the negative impacts of gambling shall be limited; and
  - that gambling shall not be used to support criminal activities.

### **4 Scope and general provisions**

9. The parties will, where appropriate and on a case by case basis:
  - promote a common understanding of, and co-operation between, both parties in support of their legitimate interests;
  
  - share information effectively in support of their legitimate roles and responsibilities;
  
  - engage on matters of mutual policy and operational interest; and
  
  - provide operational assistance to each other.

10. The Authorities anticipate that cooperation will be primarily achieved through on-going, informal, verbal discussions, supplemented by more in-depth, regular cooperation.

11. The Authorities recognise the importance of close communication concerning remote gambling operators, and on some occasions land based operators, and may communicate on a case by case basis, when appropriate, regarding:

- i. general policy and supervisory issues, including with respect to regulatory, oversight or other program developments;
- ii. issues relevant to the operations, activities, and regulation of applicable remote gambling operators;
- iii. other areas of mutual supervisory interest; such as anti-money laundering (AML) or counter terrorist financing (CTF);
- iv. mutual assistance in obtaining betting, gaming and other transactional data where cross border technical or platform architecture spans more than one jurisdiction or transactional data is based in one jurisdiction or another.

12. Cooperation may be most useful in, but is not limited to, the following circumstances where issues of common regulatory interest may arise:

- i. The initial application with an Authority for licensing (including the suitability of the applicant). For the avoidance of doubt each Authority will make its own decision on licensing and this agreement does not include arrangements for passporting;
- ii. The on-going supervisory oversight of remote gambling operators; including, but

not limited to: material changes in management, financial standing, changes to business plans and material changes to technology architecture;

- iii. Regulatory approvals or supervisory actions taken in relation to a remote gambling operator by one Authority that may impact the operations of the entity in the other jurisdiction. The Authorities recognise that there will be no fettering of approach or involvement in the regulatory outcome chosen.
- iv. Combatting illegal operators by the exchange of information and in case necessary, and possible, operational assistance.

13. Each Authority will, where such information is known and accessible to the Authority and can be lawfully shared, share information with the other Authority as soon as practicable, and in line with the regulatory process of each Authority, of

- Any known material event that could have a significant adverse impact on a remote gambling operator; and
- Enforcement or regulatory actions or sanctions, including the revocation, suspension or modification of relevant licenses or registration, concerning or related to a remote gambling operator which may have, in its reasonable opinion, material effect on the remote gambling operator.

14. Where confidential material is shared between the parties, it will be marked with the appropriate security classification.

## **5 Dialogue and cross-border on-site visits**

15. The Authorities recognise that there will be considerable areas of mutual interest and opportunities to support better regulation. The Authorities commit to keeping each other sighted on both policy and operational matters through ongoing dialogue. This is of particular relevance in Licensing, Compliance, Enforcement, AML and Betting Integrity when there is regulatory overlap.
16. This dialogue will include discussing individual operators, operational practice and seeking opportunities to enhance compliance and reduce risk.
17. The Authorities will ordinarily inform the other party of intended physical visits to joint licensees and provide relevant information prior to and post visit. The host authority may offer logistical support and will reciprocate with the sharing of relevant information.
18. If a formal request for assistance is made, each Authority will use reasonable efforts to provide assistance to the other, subject to its laws and overall policy to facilitate the conduct of inspections or examinations of gambling operators facilities or equipment.
19. The Authorities also acknowledge that, subject to their respective legislative and procedural arrangements and respecting confidentiality, an investigation, where it concerns suspected breaches of the law of both jurisdictions, may be conducted more effectively by the establishment of a joint investigation involving members from both Authorities:
  - i. The Authority suggesting the joint investigation will advise the other Authority of the background to the request for a joint investigation, and liaise with the other Authority to determine the likely objectives of the joint investigation, the expected resources required and the approximate

duration of the proposed joint investigation. Each Authority will advise the other as soon as possible as to whether it will agree to such an investigation.

- ii. If the Authorities agree to take part in a joint investigation, an agreed initial action plan will be prepared setting out, among other things, the objectives, expected duration, funding, publicity and accountability arrangements, management of the joint investigation, and allocation of responsibilities.

## **5 Confidentiality and use of Information**

20. Each Authority will operate under the principles and specific requirements of the EU General Data Protection Regulations (GDPR) (and relevant domestic law enacting such provisions) with regards to the control and transfer of personal data.
21. This MoU should not be interpreted as imposing a requirement on either party to disclose information in circumstances where doing so would breach their statutory responsibilities. In particular, each party must ensure that any disclosure of personal data pursuant to these arrangements fully complies with GDPR and the relevant domestic law. The MoU sets out the potential legal basis for information sharing, but it is for each party to determine for themselves that any proposed disclosure is compliant with the law.
22. Subject to any legal restrictions on the disclosure of information (whether imposed by statute or otherwise) and at their discretion, the parties agree that they will alert each other to any potential breaches of the relevant data protection legislation, within the context of this relationship, discovered whilst undertaking regulatory duties and provide relevant and necessary supporting information.

The Authorities will comply with the general laws they are subject to, including, but not limited to, local data

protection laws; the maintenance of any prescribed documentation and policies; and comply with any governance requirements in particular relating to security and retention, and process personal data in accordance with the statutory rights of individuals.

23. The Authority who is being requested to disclose information (the Requested Authority) is entitled to take a view on the necessity, proportionality and objective justification of such a request and the Requested Authority shall have the final decision on the extent of disclosure.
24. The Authority that requests the information (the Requesting Authority) may use non-public information obtained under this MoU solely for the purposes of licensing and supervising gambling operators and seeking to ensure compliance with the laws or regulations of the Requesting Authority, including regulating in the wider public interest to maintain confidence in the online gambling market. Information may also be used if it is required by law.
25. Except for disclosures in accordance with this MoU, each Authority will keep confidential to the extent permitted by law information shared under this MoU, requests made under this MoU, the contents of such requests, and any other matters arising under this MoU. The terms of this MoU are not confidential.
26. To the extent legally permissible, the Requesting Authority will notify the Requested Authority of any legally enforceable demand from a third party for non-public information that has been furnished under this MoU and shall assert all appropriate legal exemptions or privileges with respect to such information as may be available.
27. No notification is required if the non-public information is shared (a) with the parties involved in a legal procedure regarding the issue, denial or revocation of a license and (b) the information has explicitly been requested for the purpose of issuing, denying or revoking license.

28. The Authorities intend that the sharing or disclosure of non-public information, including but not limited to deliberative and consultative materials, pursuant to the terms of this MoU, will not constitute a waiver of privilege or confidentiality of such information.
29. Where confidential material obtained from, or shared by, the Requesting Authority is wrongfully disclosed by the Requested Authority, this party will bring this to the attention of the Requesting Authority without delay. This is in addition to the obligations to report a personal data breach under the GDPR and relevant domestic legislation where personal data is contained in the information disclosed.

## **6. Legal basis for sharing information**

### *Information shared by the Kansspelautoriteit with the Spelinspektionen*

30. Considering article 34m (1), of the Netherlands Draft Bill on Remote Gambling, the Chairman of the Kansspelautoriteit cooperates with other authorities who are entrusted with supervision of the gambling laws in their state or jurisdiction, as far as necessary for fulfilling its task based on the law. Based on article 34m (1) of the Netherlands Draft Bill on Remote Gambling, before mentioned cooperation will take place according to an agreement signed by the Chairman of the Kansspelautoriteit with the state or jurisdiction concerned.
31. Given good, democratic, and transparent management, Dutch citizens have the possibility to request documents from the Kansspelautoriteit based on the *Wet openbaarheid van bestuur (Freedom of Information Act)*. All documents received or dispatched, letters, decisions and reports are in principle public documents and must be made available upon request for anyone to read. Access to public documents is however restricted in some cases. For example, information with regard to the business and

operating conditions of an operator are secret and may not be disclosed if disclosure could harm the person or organization whom it concerns. Also information that could possibly harm the privacy in case of publication will not be provided based on this law.

32. Furthermore the Kansspelautoriteit is obliged to apply the GDPR and must ensure that it has a legal basis to share personal data and that doing so would otherwise be compliant with the data protection principles. GDPR does not prevent the disclosure of documents according to the principle of public access to official documents.
  
33. In order to guarantee an open society with access to information about the work of the Riksdag (Swedish parliament), Government and government agencies, the principle of public access to official documents has been incorporated into one of the fundamental laws in Sweden, the Freedom of the Press Act.
  
34. All documents received or dispatched, letters, decisions and reports are in principle public documents and must on request be made available for anyone to read. Access to public documents is however restricted in some cases according to the Public Access to Information and Secrecy Act. For example, information that Spelinspektionen receives regarding someone's business and operating conditions is secret and may not be disclosed if disclosure could harm whom it concerns.
  
35. One important assignment for Spelinspektionen is to establish agreements about cooperation with Authorities that supervise gambling operators in other countries and too exchange information with those Authorities. This is regulated in the Swedish Gambling Act and in the regulation with instructions from the government regarding how Spelinspektionen should operate.
  
36. Spelinspektionen are obliged to apply the GDPR and must ensure that it has legal basis to share personal data and

that doing so would otherwise be compliant with the data protection principles. GDPR does not prevent the disclosure of documents according to the principle of public access to official documents.

## **7. Review**

37. The Authorities will periodically review the functioning and effectiveness of the cooperation arrangements between themselves. The Authorities will endeavour to notify the other in advance where policy, legal and regulatory changes would, as far as can reasonably be determined, have a material impact in the other jurisdiction or might affect the operation of this MoU.
38. The Authorities will maintain an open dialogue between each other in order to ensure that the MoU remains effective and fit for purpose. They will also seek to identify any difficulties in the working relationship, and proactively seek to minimise the same.

This MoU enters into force on the date of signature of both parties. The MoU will stay in force until further notice or until amended by mutual agreement or terminated in writing by either of the parties.

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Camilla Rosenberg  
Director General  
Spelinspektionen

René Jansen  
Chairman  
Kansspelautoriteit

Date: 2020-10-19

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