



Department for
Digital, Culture
Media & Sport

**Consultation Response: Prohibiting
Third Party Betting on Non-UK
EuroMillions Draws**

November 2017

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Executive Summary

In March 2017, Government published a consultation on a proposal to close the regulatory loophole which allows betting on non-UK EuroMillions. The responses that we received indicate broad support for this proposal, noting the importance of National Lottery funding to good causes across the UK, and the anomalous position of non-UK EuroMillions in the law.

We intend to introduce a new licence condition to prohibit consumers in Great Britain from placing bets on EuroMillions games which take place outside the UK. This will ensure that these draws receive the same level of protection in relation to funds for good causes raised by The National Lottery as is the case for UK EuroMillions draws.

We are mindful of the effect on impacted businesses, and will tailor the licence condition to ensure it is in line with our aims to reduce consumer confusion, and protect returns to good causes in the UK. Betting operators will still be able to offer bets on international lotteries.

Background

Betting on the outcome of the National Lottery, including the UK EuroMillions game, is prohibited under section 95 of the Gambling Act 2005. Provisions in the Act replace those introduced when the National Lottery was launched in 1994, which amended the Betting, Gaming and Lotteries Act 1963 so that a bookmaker or betting operator which took a bet on the outcome of the National Lottery lost its licence.

EuroMillions was launched in 2004 and the UK was one of its founding participants, along with France and Spain. Nine countries now participate in EuroMillions, and although each country's game relates back to a single draw held in Paris, the nine games are technically separate. As a result of this technicality, some gambling operators currently offer a bet on the outcome of EuroMillions draws offered abroad (for example, a bet on the outcome of the Spanish EuroMillions draw).

Our view is that this practice runs counter to the spirit and intention of section 95 of the Gambling Act, which seeks to maintain the clear blue water between the National Lottery and commercial gambling products, thereby protecting returns to good causes.

Government ran a consultation from March 6 to May 2 on a proposal to close this regulatory loophole via a licence condition to prohibit betting operators licensed by the Gambling Commission from offering such products.

What we asked:

The consultation asked 27 questions to gauge:

- Stakeholder reaction to the proposal
- Potential for customer confusion
- Impact on Good Cause returns
- Impact on business

The responses:

The Government received 52 responses to the consultation via letter, email, and online survey responses.

Consultation Responses	
52	Total number of emails, letters, and online survey responses received
This included:	

27	Online survey responses
25	Emails and letters
Of which:	
2	Duplicates
6	Letters of general support, rather than direct responses to the consultation.

Respondents included lottery operators, betting operators, organisations from the Voluntary and Community sector, and members of the public. A full list is included at Annex 2.

- **10 lottery operators or lottery representative groups** (e.g. Camelot, or the World Lottery Association). Camelot currently holds the licence to operate The National Lottery until 2023.
- **7 lottery distributors**, including a submission from The Lottery Forum, which represents the 6 largest National Lottery distributors.
- **8 voluntary and community sector organisations**. Such organisations often are the beneficiaries of National Lottery and/or other charity lottery funding.
- **5 retailers or retail groups**. National Lottery retailers receive commission from National Lottery ticket sales.
- **5 betting operators**. We understand that these operators offer betting on EuroMillions products directly, or through owned companies.
 - Lottoland is a prominent online company in the lotto betting sector. It was founded in 2013 as a British start-up based in Gibraltar and is active across four continents.
 - MyLotto24 (formerly Tipp24 UK) has been licensed in Britain since 2007 and acts as a remote bookmaker for customers wishing to place bets on the outcome of non-UK lotteries. The operator does not allow UK customers to place bets on the outcome of any EuroMillions draws.
 - Annexio Limited trades as PlayLottery and World Lottery Club and offers remote betting services through associated websites. It is licensed by the Isle of Man Gambling Supervision Commission, the UK Gambling Commission, and the Republic of Ireland Revenue Commissioners.
 - Jackpot.com offers remote betting and syndicate play. It is owned and operated by Lottomatrix Limited.
 - International Multi Media Entertainments Limited (“IMME”) facilitates entry into State-run traditional lotteries. Its operations include International Multi-Media (“IMM”), LottoExpress, The Lottery Centre JackpotWorld, and Lotteries.com. IMME holds a betting licence for real events in the UK under Lotteries.com and a lottery re-sellers licence in the Isle of Man.

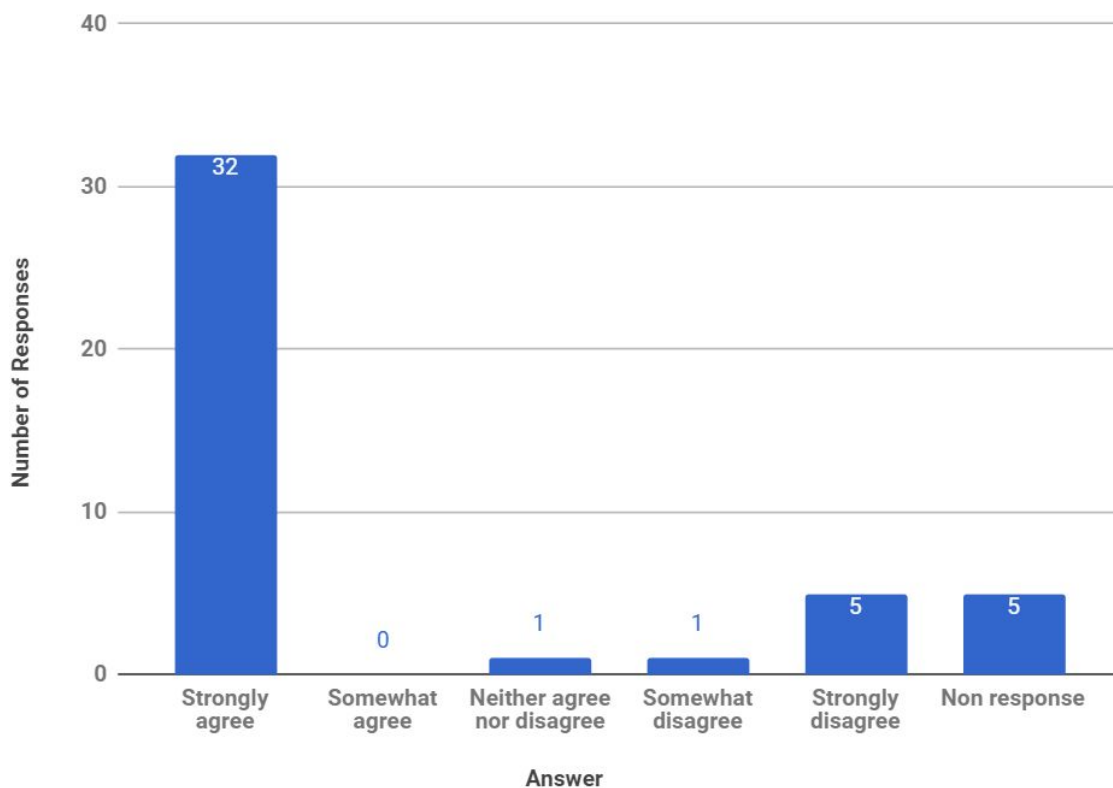
The remaining respondents chose to remain anonymous or are members of the public. The figures below refer to the number of responses which directly responded to a consultation question, and do not include blank or duplicate responses. We also held meetings with Annexio, Lottoland and Lottomatrix to discuss the consultation, at their request.

Chapter 1: Proposal to prohibit betting on non-UK EuroMillions draws

In the consultation we noted that betting on non-UK EuroMillions draws is contrary to the intention and spirit of section 95 of the Gambling Act 2005, which seeks to preserve a distinction between betting and The National Lottery to protect returns to good causes and prevent consumer confusion. We therefore proposed introducing a licence condition to prohibit betting operators licensed by the Gambling Commission from offering such products.

In our consultation we asked respondents to what extent they agreed or disagreed with this proposal.

How strongly do you agree or disagree that betting on non-UK EuroMillions draws should be prohibited?



32 respondents **strongly agreed** that betting on the outcome of non-UK EuroMillions games should be prohibited. An additional 6 responses were submitted which supported a prohibition, but did not respond directly to the consultation question. These have not been included in the graph above.

A range of reasons were provided, some of which echoed concerns set out in our consultation document, including the risk of consumer confusion, and the existence of a regulatory loophole.

Other themes included:

- **Protection of National Lottery good cause funding:** Beneficiaries of lottery funding, members of the public, and lottery operators noted the value of lottery grants in supporting projects across the UK, and voiced concerns that the National Lottery's performance could be hampered by growth in the betting on EuroMillions market.
- **Protecting integrity of the National Lottery brand:** The European Lotteries, an umbrella organisation of national lotteries, considered that "that betting operator can be considered to parasitize off the investments made by the lottery operator to put in place a secure and reliable draw (involving the presence of on-site people, IT support, maintenance, development, purchase of material, use of space, etc.)." The Heritage Lottery Fund's research conducted with National Lottery players indicates that there is "strong support for the projects we [HLF] fund but also that increasing the visibility of this funding would encourage them to be positive about purchasing tickets, so maintaining the recognition of the National Lottery and minimising confusion is a consideration."
- **Blurred boundaries:** A number of lottery operators, organisations and beneficiaries repeated concerns raised in the CMS Select Committee Report 2015 that the boundaries between the betting and lottery sector had become blurred. The Association of Charity Lotteries in the European Union (ACLEU), an international non-profit organisation which promotes the charity lottery model, commented that *"Recent years have seen an increasing overlap in the betting and lottery industries across Europe. Concerns have been raised in several Member States (next to the UK, also in Germany and the Czech Republic) that the boundaries between the previously distinct sectors of lotteries and gambling products are becoming blurred. Commercial operators offer bets on the world's most famous lottery draws by copying the lottery formats. For the average consumer it looks like playing the lottery while in reality they are placing a bet. These bets are offered without any obligation to return funds to society and creates an unfair competition situation. This could have a potential negative impact on the returns to society from state and charity lotteries. Therefore, we agree with the proposal to prohibit betting on EuroMillions games."*
- **Loss of retailer commission:** Retail groups raised concerns that the purchase of EuroMillions tickets in store for which they currently receive commission could be replaced by alternative products online: *"ACS Retailers are under significant cost pressures from increased employment costs, business rates, and food price inflation. For convenience stores, footfall is essential to their business mode, with the National Lottery playing an important role to driving footfall. The National Lottery also offers a small commission to retailers on the sales they make to customers. We want to ensure that sales are not undermined by other businesses offering bets on non-UK EuroMillions Games."*

A number of respondents, including The European Lotteries and the ACLEU, called for a blanket ban on betting on any lottery.

5 respondents **strongly disagreed** with the proposed prohibition, considering that a prohibition was disproportionate in the absence of clear evidence that such products were having a negative impact on EuroMillions sales.

Given the comparative sizes of the market it was argued that if any substitution were to occur, it would be negligible.

It was noted that a ban could:

- **reduce consumer choice**. Annexio Ltd commented that “allowing betting on lotteries facilitates competition and an open marketplace, and promotes freedom of choice for consumers.”
- result in a **fall in Exchequer revenues** from taxation.
- **stimulate the unregulated market** of illegal bogus lotteries, or lottery messenger services. Such services re-sell official national lottery tickets to international consumers. One operator considered that lottery messenger services should be permitted in the UK to meet international demand, and raise increased funds for good causes.

One response also indicated that other factors, including advertising spend and changes in other National Lottery games, had greater statistical effect than the presence of EuroMillions betting products, with reference to econometric modelling.

While some respondents argued that betting products parasitized or ‘piggy -backed’ on the back of another product, others claimed that the EuroMillions draw was a well-established ‘real-life event’ on which betting, like betting on the outcome of a sporting match, was a long-established practice.

A number of operators queried the potential territorial scope of a provision, noting that drafting of the provision would determine whether the prohibition was limited to Great British customers, or acted as a global ban. This influenced the extent to which they agreed or disagreed with the proposal.

Some respondents also suggested a longer review period to gather further evidence before a final decision is made.

Government response:

As outlined in the consultation document, we consider that betting on non-UK EuroMillions draws is contrary to the intention and spirit of section 95 of the Gambling Act and the established principle that operators should not be permitted to offer bets on the National Lottery. This provision seeks to preserve a distinction between betting and The National Lottery to protect returns to good causes and prevent consumer confusion. Our position was supported by the majority of consultation respondents.

The prohibition is designed to be consistent with section 95. It addresses existing consumer confusion, and protects against potential future losses to good cause returns. The risk of

consumer confusion and impact on good cause returns is discussed in detail in relevant chapters below.

However, we have noted concerns from operators that the provision as proposed was disproportionately broad. As such, we have tailored the condition to ensure that it applies at the point of consumption, in line with the licensing regime for remote gambling legislation. The intention of the condition is to bring non-UK EuroMillions draws in line with the UK game, therefore it will not apply to other international lotteries, such as the Irish Lottery or New York State Lottery. As these lotteries do not raise funds for UK good causes, operators will remain able to offer bets on them under the Gambling Act 2005. The condition will not apply to any future agreements the National Lottery may enter into with other operators, which will be considered in the future on a case-by-case basis.

As the prohibition is designed to mirror section 95 by extending the existing policy, we do not believe a review period is necessary.

Rise of illegal activity

A number of respondents raised concerns that a prohibition could stimulate a rise in illegal activity, such as illegal bogus lotteries. The Gambling Commission promotes consumer awareness around gambling with licensed operators and has existing powers to regulate to reduce illegal activity.

Legality of offering products to overseas players

Annexio Ltd notes that their products are "...are particularly attractive where foreign players have no means of participating in local national draws." The condition will only apply to operators offering EuroMillions betting products to consumers in GB.

Lottery Messenger Services

The issues of Lottery Messenger Services fell outside of the remit of the consultation. We have passed comments along to the Gambling Commission as it is currently looking at this area, and will consider taking further action if significant issues arrive.

Chapter 2: Impact on Good Causes

Through the consultation we were keen to gain greater evidence on the impact of betting on EuroMillions products on The National Lottery.

Three respondents had conducted research in this area. Of these, one concluded that there was no impact on National Lottery sales, and two stated that there was negative impact on National Lottery sales.

Lottoland submitted econometric analysis alongside their consultation response. Up to the point modelled, this suggests that at present their product has no statistical impact on EuroMillions UK ticket sales. They concluded that *“the estimated effect of the number of “double” bets placed on EuroMillions by Lottoland’s UK customers, Lottoland’s advertising expenditure, the “formal” entry of Lottoland and where Lottoland offers enhanced EuroMillions prizes are all not statistically significant. The lack of statistical significance means the effect of these variables on EuroMillions UK ticket sales are statistically indistinguishable from zero. In turn, this suggests that Lottoland’s presence in the market has had no effect on UK EuroMillions ticket sales.”*

Lottoland also found that the estimated effect of the number of regular bets placed on EuroMillions by Lottoland’s UK customers on EuroMillions UK ticket sales is positive and statistically significant. They suggested there may be some complementarity between the two separate products (i.e. sales of EuroMillions tickets increases sales of betting on EuroMillions products or vice versa).

A number of operators also made the point that as the industry as a whole is small, even if there were to be substitution, the impact on the National Lottery would be minimal.

Camelot noted anecdotal evidence from National Lottery players of switching spend from National Lottery EuroMillions to betting on EuroMillions products.

Government Response:

Lottoland have provided evidence which suggests that at present their product has no statistical impact on EuroMillions UK sales. They also suggested there may be a potential positive correlation between the two products. However, we do not consider that there is sufficient evidence to determine a complementary relationship. The correlation could be due to an external factor which influences sales of both (e.g. more people bet or play lotteries when inflation rates are low, or differences in pricing between products).

We note also that Lottoland, like some other operators which offer this product, is a relatively new entrant to the UK market. We remain concerned that should betting on EuroMillions expand and become widespread amongst other operators, there is a risk that EuroMillions sales, and consequently National Lottery good cause returns, may decrease, as noted in the initial impact assessment.

Given the lack of available data on probable impact, we cannot conclude that this would be

inevitable, however the Gambling Commission has advised this is 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. Indeed, in their response Camelot note the the cost to them of defending key brand terms has risen significantly as a result. Camelot note that these funds could otherwise could have been spent on marketing initiatives to increase good cause revenues.

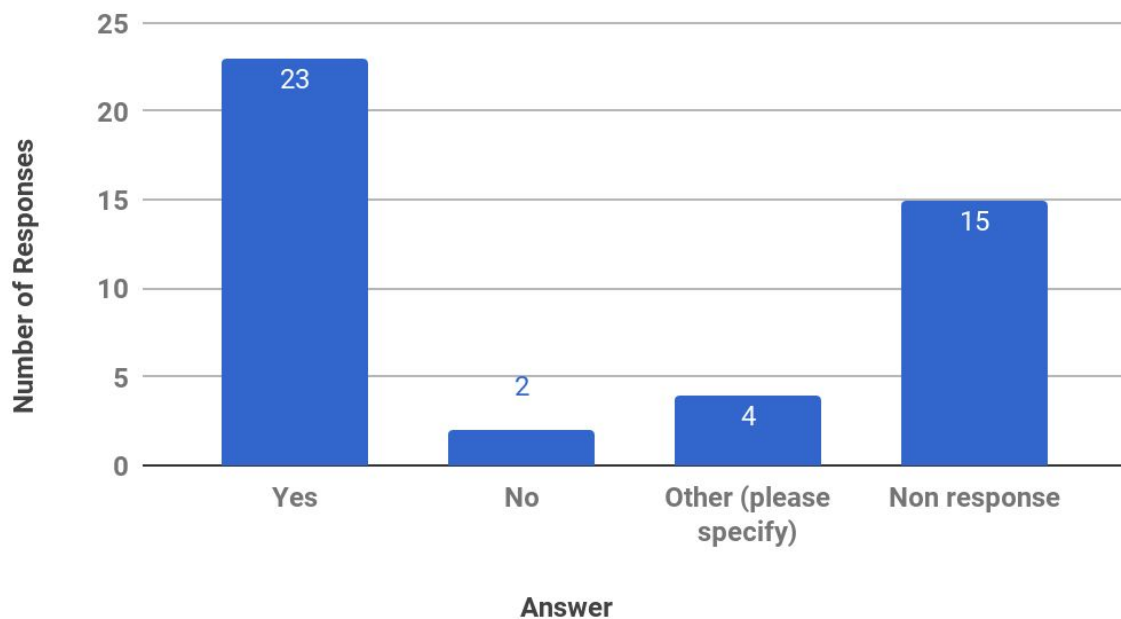
The current evidence base is not conclusive on the future impact on lottery revenues (and therefore the returns to good causes) attributable to betting on lotteries. However, we consider that the imposition of a condition which prevents the holder of a betting operating licence from offering bets on National Lottery outcomes (including a UK EuroMillions draw) is justifiable on both a principled and precautionary basis, and is consistent with the existing ban on EuroMillions UK draw in section 95 of the Gambling Act.

Chapter 3: Consumer Confusion

Research submitted to the CMS Select Committee in 2014 by Camelot found that only 14% of consumers could correctly identify that buying a EuroMillions ticket via a betting operator is actually a bet on EuroMillions in a foreign country – over 60% thought that they were playing EuroMillions in the UK. In the same research, 75% of consumers said that it should be made clear that they are actually placing a bet, and not playing a lottery, on sites operated by gambling operators.¹

We asked respondents whether they considered there was potential for customer confusion between EuroMillions betting and lottery products.

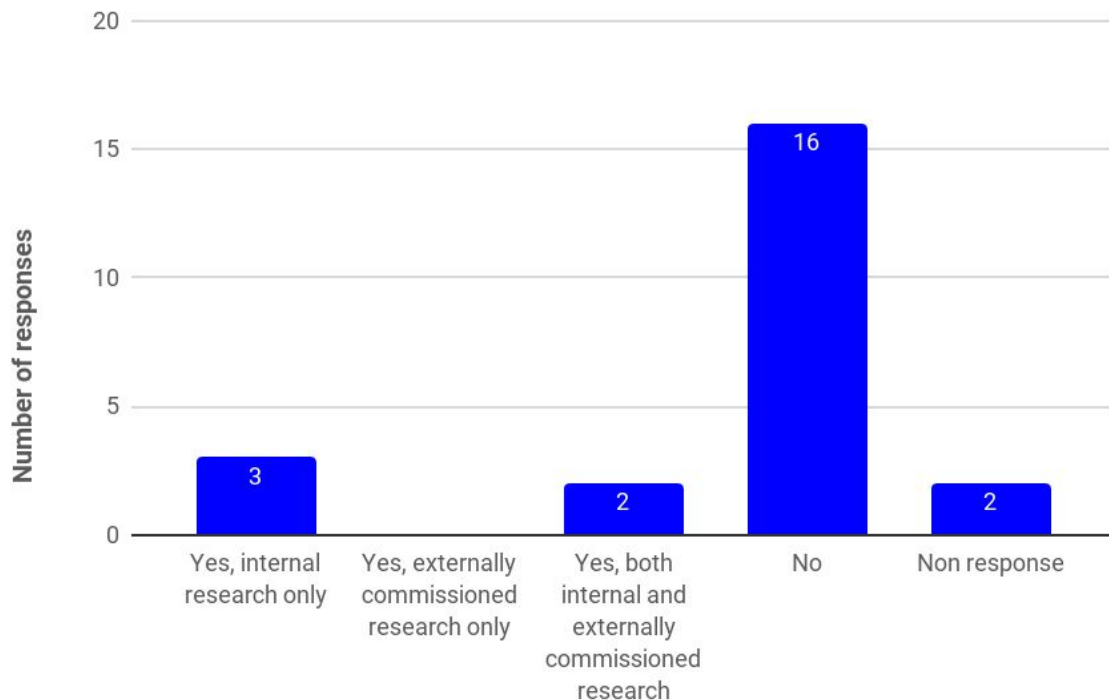
Do you consider that there is the potential for customer confusion between betting on EuroMillions products and playing the UK National Lottery EuroMillions? (n=44)



We were also interested in whether respondents had conducted any research to support their opinion.

¹ Source: ICM, sample size 2049 natrep adults, on 1st – 3rd October 2014

Have you conducted any research into whether there may be customer confusion between betting on EuroMillions products and the UK National Lottery EuroMillions? (n=23)



23 respondents considered that there **is potential for customer confusion** between betting on EuroMillions products and playing the UK National Lottery EuroMillions. Many respondents quoted the research conducted by Camelot, as noted in the consultation, as evidence of customer confusion.

Camelot submitted an additional sample of communications received indicating customer confusion when the EuroMillions ticket price was increased from £2.00 to £2.50 in 2016. Selected quotations are below:

- *'Why am I being charged £2.50 for Euro[Millions] lottery tickets, when it says in the papers and billboards that the price is still £2.00';*
- *'It said on radio still £2.00 and there was a full page in the Sun saying still £2.00 so I'm totally confused';*
- *'I have been asked to enquire, why Lottoland .co.uk can advertise tickets for tonight's £112 million jackpot at £2.00 whilst everyone buying a ticket from a Camelot outlet or on-line via Camelot have to pay £2.50 per ticket. How do you explain this?'*

2 respondents did not believe there was potential for confusion. Lottoland, a betting operator which offers bets on non-UK EuroMillions, commissioned independent polling of 2,000 customers. The results of their survey suggested that 28% of their customers did not believe there was a difference between betting on EuroMillions and playing the EuroMillions lottery². Additional internal research found that 29% of customers did not understand the difference.

Lottoland also argued that the method of customer journey for their product was distinctly different to that National Lottery customers, resulting in a different 'look and feel'. The operator noted that retail is the largest National Lottery sales channel accounting for around 80% of sales, whereas their "method of interaction is solely online with customers taking an entirely different betting purchase journey to those of Camelot's."

Betting operators also highlighted engagement with the Gambling Commission, and steps taken to reduce potential customer confusion. This has included:

- Changing wording from 'play' to 'bet'
- Including explanatory pages such as '*What is Lotto Betting?*', '*EuroMillions Help & FAQ*' and general FAQs on the website
- Making it clear that betting on lotteries products are 18+
- Clarifying that no part of the stake money is used to support good causes (where this is the case)

MyLotto24 noted that the potential for confusion for UK customers was eliminated as they had limited participation to non-UK customers.

Others considered that the potential for confusion depended on the particular circumstances of the product offer - noting that while it was possible to market a product in an ambiguous manner, this was adequately protected against through trademark and unfair competition laws, and regulatory guidance. Jackpot.com noted that "while there may be customer confusion between betting on EuroMillions and the UK National Lottery EuroMillions, we do not see this as being substantial."

Government response:

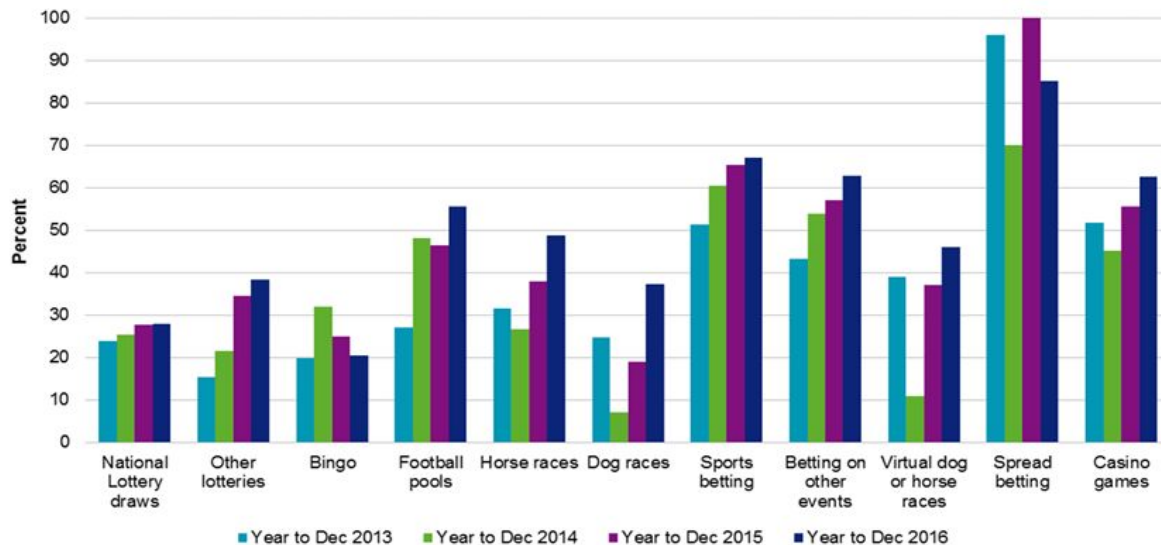
We acknowledge the efforts by betting companies to improve the transparency of their offer, and explain the difference between betting on EuroMillions and playing a lottery game. We note also the survey results provided by Camelot (2014) and by Lottoland (2017) which suggest that levels of consumer confusion at 61% and 28% respectively. Differing methodologies and sample populations mean that the surveys are not comparable. However, both sets of figures suggest that there is a level of customer confusion, with Lottoland's figures suggesting potentially nearly a third of betting customers are unable to distinguish between products, despite steps taken to increase marketing clarity.

While the method of interaction could help distinguish product offer, and it may be easier for consumers on the High Street to distinguish between a lottery ticket (sold widely at retail

² Source: ComRes Online Survey April 26 - 28, sample size 2000 Lottoland users.

stores) and a betting product (restricted to bookmakers), this should be seen in the context of the growing trend for consumers to move to online methods of participation in lotteries, where the distinction may be less clear.

Online participation in the past four weeks by activity³



The Advertising Standards Authority (ASA) upheld a complaint on 1 February 2017 regarding a betting on EuroMillions radio ad, concluding that as the ad implied participants would be playing in a lottery, rather than in a gambling game, it was misleading. The ASA considered that references to “bet” did not make it clear that consumers would be “gambling on the outcome of a lottery rather than actually participating in it, and consequently, did not dispel the impression given by the voice-over’s references at the start of the ad that a lottery was being promoted”⁴. In June 2017, the Gambling Commission fined Lottoland £150,000 in relation to the advert for using ambiguous terminology in their advertising and marketing that was confusing and misleading.

The European Union Trademark Authority has also refused the registration of a betting operator’s EuroMillions logo as a European trademark. When challenged by the S.L.E. (Services aux Loteries en Europe - the administrative arm of EuroMillions), the Board of Appeal of the EU Intellectual Property Office found that due to near identical verbal elements there was likelihood of confusion on the part of the average consumer.

The Government remains concerned that there is potential for customer confusion in this area. Even where proactive steps have been taken, figures provided suggest at least almost a third of consumers remain unable to distinguish between the two products. This suggests that implementation of regulatory guidance, and existing trademark and unfair competition law is not sufficient to overcome the similarity in product look and feel, and confusion resulting from use of the EuroMillions name itself.

³Gambling Commission participation statistics
<http://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Levels-of-participation-and-problem-gambling/Gambling-participation-and-problem-gambling.aspx>
⁴ <https://www.asa.org.uk/rulings/eu-lotto-ltd-a16-357523.html>

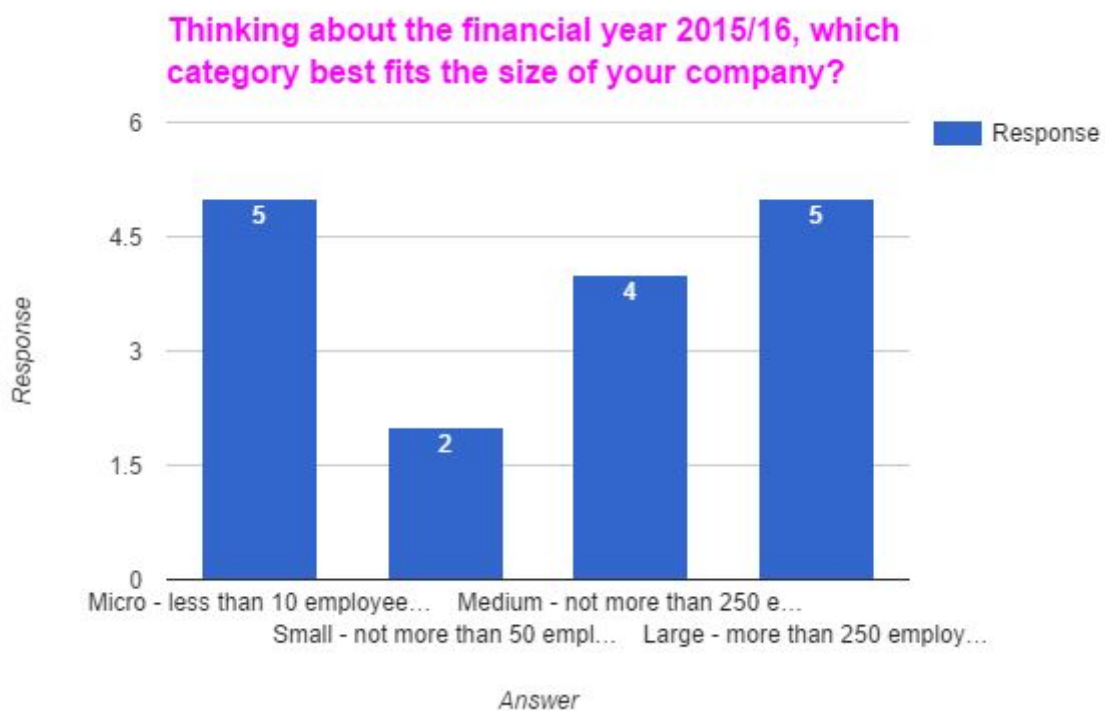
Chapter 4: Business Impact

Through the consultation, we sought to understand potential costs to and impact on business of implementing a prohibition.

Market Impact

We asked organisations whether they considered their business to be:

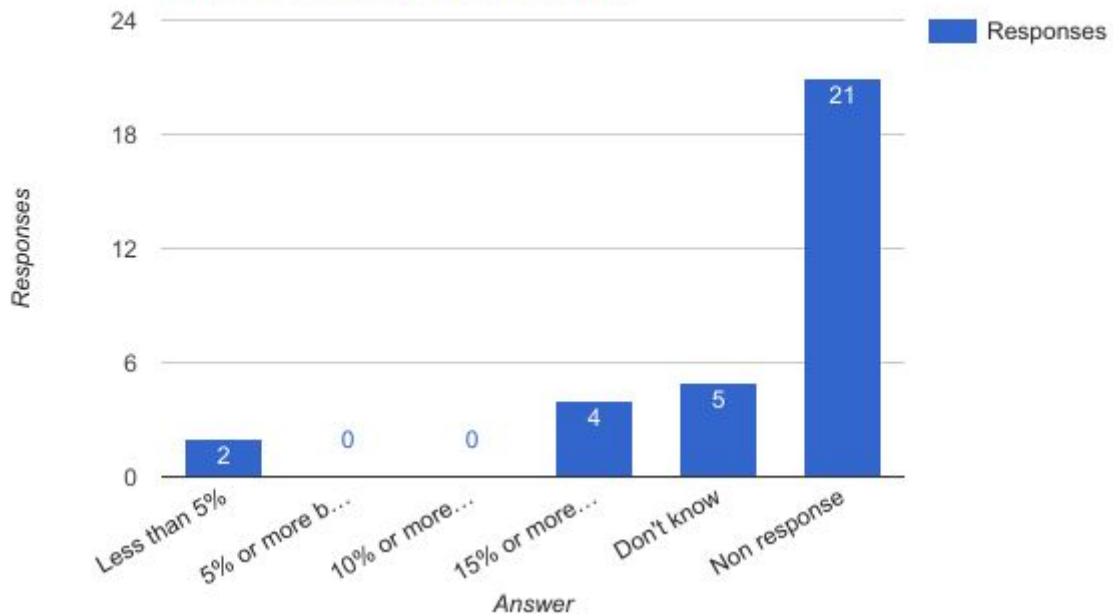
Micro	<i>Less than 10 employees and a turnover of under £2 million</i>
Small	<i>Not more than 50 employees and turnover of not more than £10.2m</i>
Medium	<i>Not more than 250 employees and turnover of not more than £36 million</i>
Large	<i>More than 250 employees and/or turnover greater than £36m</i>



It is our understanding that out of the **16** organisations which answered this question, **5** currently offer betting on EuroMillions products, either directly or through owned companies. Of these, **1** would be categorized as micro, **2** small, and **2** large. In the questions below, we have focused on the responses of these organisations, as their business would be affected should a ban come into force.

We asked businesses what proportion of their profit was due to EuroMillions betting products to better quantify the impact of a ban.

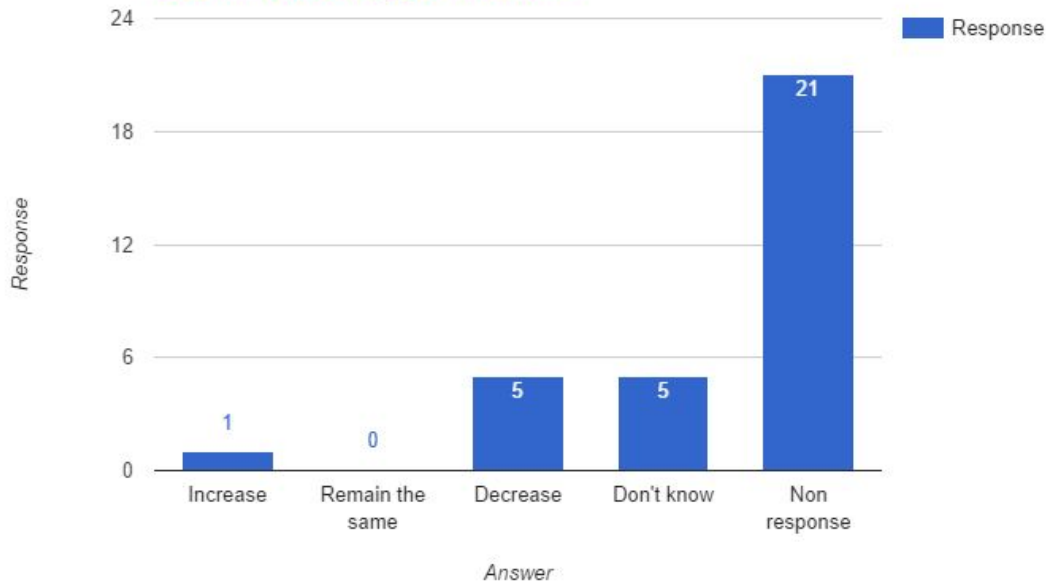
What proportion of your profits are due to EuroMillions betting products?



Of the **5** respondent organisations which we understand currently offer bets on EuroMillions, **3** indicated that 15% or more of their profits were due to EuroMillions products. Where specified this was placed at 25 or 50%. Additionally, **2** specified that 15% or more of their profits derived from EuroMillions products offered to UK customers.

Looking to the next 5 years, **3** of the **5** considered that the proportion of their profits due to betting on EuroMillions would decrease, if betting on EuroMillions games was **not** prohibited as their product offer expanded. **1** operator considered that the proportion of their profits due to betting on EuroMillions products would increase by 3% or more but less than 6%. **1** further operator was unsure of whether profits would increase or decrease over the coming years.

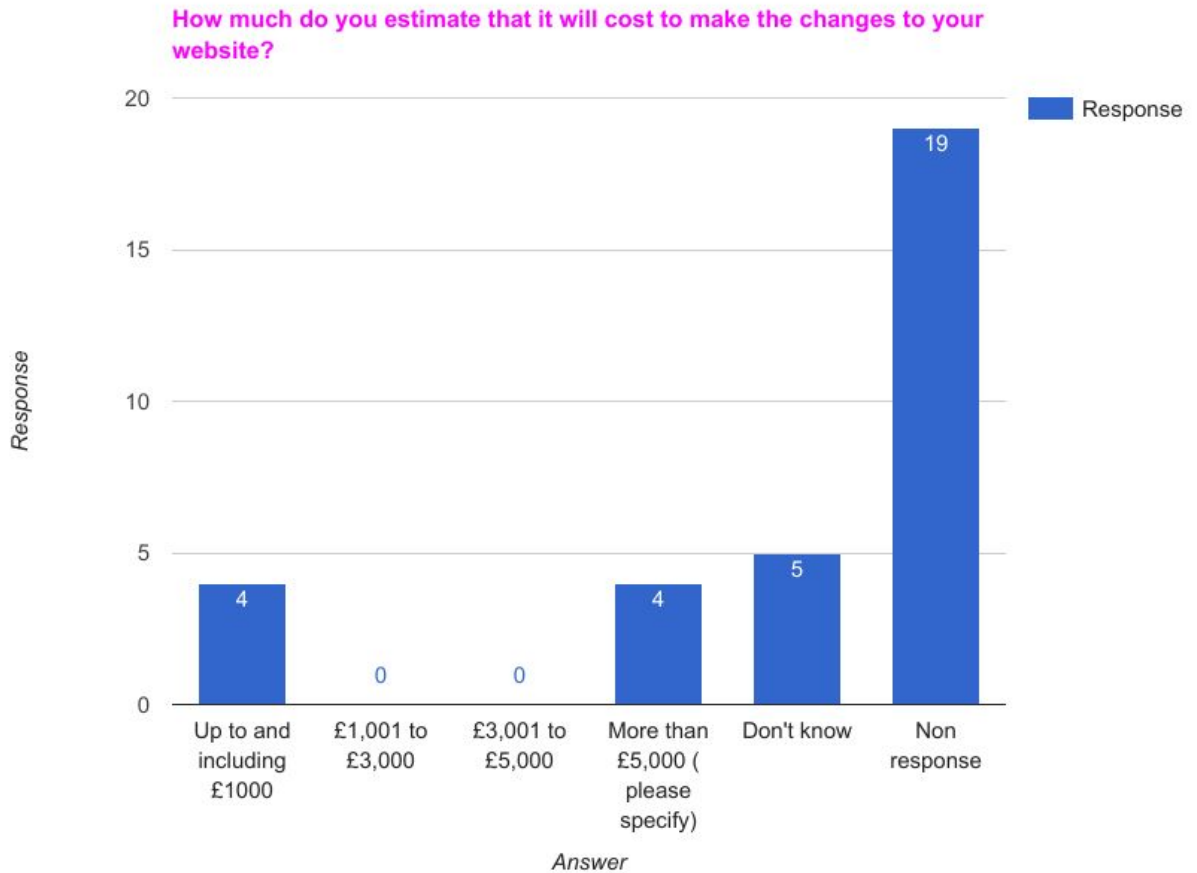
Over the next five years, if betting on EuroMillions games is not prohibited, the proportion of your profits that are due to EuroMillions betting products will:



This suggests that, for the most part, betting on EuroMillions products form part of a broader portfolio. Betting operators will often offer bets on a range of international lotteries.

Cost of Implementation

We asked organisations about the cost and time required to implement practical changes, should a prohibition come into force. As outlined in our initial impact assessment, we assumed the primary transitional costs would arise from familiarisation with the legislation, and making changes to the website.



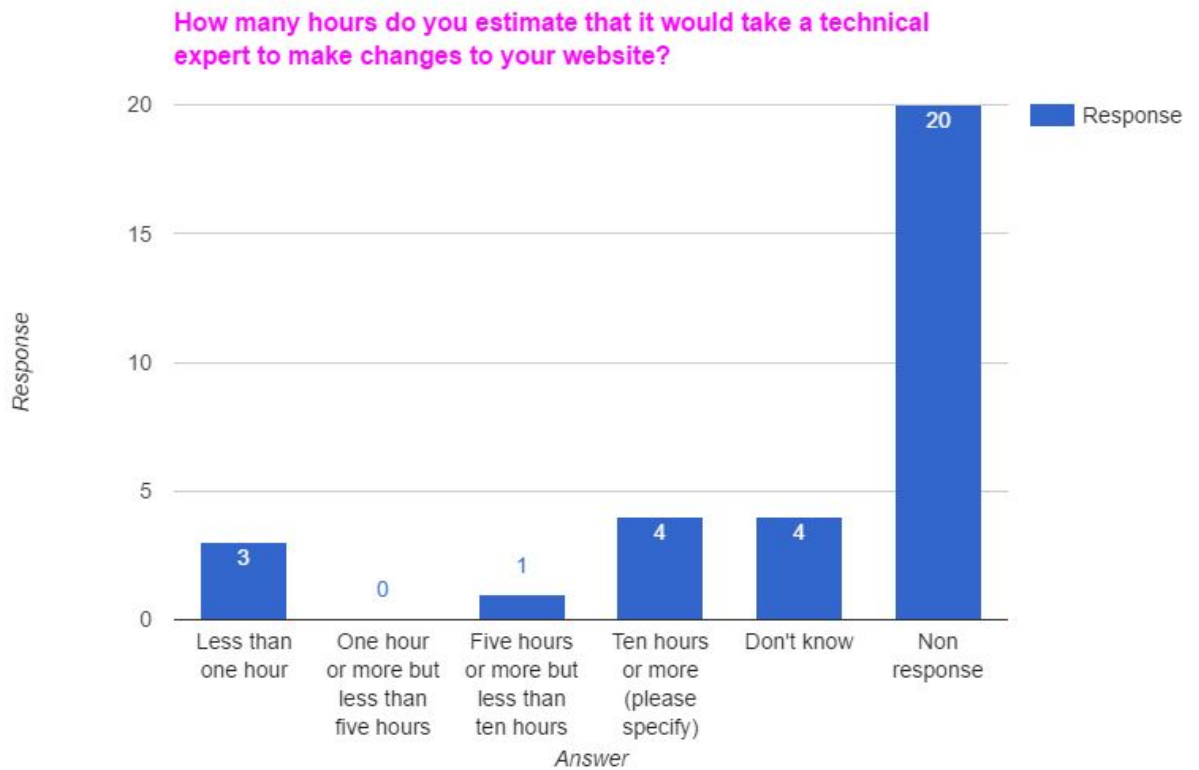
The indicative cost of making requisite changes to websites ranged from £875 - £50,000 where specified.

Of the 5 respondent organisation which currently offer bets on EuroMillions, 4 suggested that the cost of making changes to their websites would exceed £5001, with estimated costs ranging from £16-18,000 to £50,000. Only one betting operator considered that the costs would fall below £1000.

Respondents took into account a range of factors, including the cost of:

- Changes to the website
- Web design and engineering costs
- Software changes
- Need to engage customers to inform them of the changes.
- Customer relationship management
- Customer service training
- Marketing
- Monetary value of time spent on making technical changes
- Time lost on making technical changes versus other areas of focus
- Abandoned marketing and PR strategies and cancellation of certain third party contracts alongside new marketing materials

We also asked how long it would take to make these changes.



Of the 5, one operator considered the time taken would be 5 hours or more but less than 10. The remaining 4 organisations considered that changes to the website would require 10 or more hours. Where specified, this ranged from 20 hours to a few weeks work.

Government Response:

The cost of the regulatory proposal to business is £4.5m to £5.8 per year, with our best estimate at £5m. This includes transition costs of £0.2m in the first year.

An Impact Assessment is published alongside this consultation response.

Annex 1: List of Respondents

Annexio Ltd
Arts Council Northern Ireland
Association of Charity Lotteries in the European Union (ACLEU)
Association of Convenience Stores
Beach Wheelchairs
Big Lottery Fund
British Film Institute
Camelot
Camelot Corporate Responsibility Advisory Group
Ceolas Uibhist
Churches Conservation Trust
COOP
Grayling
Heritage Lottery Fund
Historic Houses Association (HHA)
Hull 2017 UK City of Culture
International Multi-Media Entertainments Ltd.
Jackpot.com
Key to the Door (TOYS Project)
Lottoland
McColl's Retail Group
Multi-State Lottery Association
MyLotto24
National Council for Voluntary Organisations
National Federation of Retail Newsagents (NRFN)
People's Postcode Lottery
Scottish Council for Voluntary Organisations
Services aux Loteries en Europe SCRL (Ten operators of EuroMillions)
Sport England
The Camelot Retailer Forum
The European Lotteries Association
The Lottery Forum
UK Sport
World Lottery Association