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Brussels, 26 June 2017
Case No: 80568
Document No: 859483

EFTA SURVEILLANCE
AUTHORITY

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Ministry of Culture
PO Box 8030 Dep
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Dear Sir/Madam,

Subject: Complaint regarding the Norwegian Payment Transaction Ban

On 4 April 2017, the EFTA Surveillance Authority (“the Authority”) received a complaint on behalf of the European Gaming and Betting Association and Entercash Ltd against Norway concerning a ban on payment transactions to and from certain EEA licensed payment service providers.

According to the complainants, the Norwegian Gaming Authority (the NGA) has requested Norwegian financial institutions to block all payments to and from certain EEA licensed payment service providers which accept payments to and from gaming companies which are barred from operating in Norway. In the view of the complainant, the request from the NGA would imply an infringement of *Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market*¹ (“Directive 2007/64”) as well as Articles 36 and 40 EEA.

In order for the Authority to examine and assess the complaint, the Norwegian Government is invited to provide the following information, and to comment where deemed necessary:

1. The Norwegian Government is kindly invited to explain the objectives pursued by the request in the letter of 15 June 2015 from the NGA to the Norwegian financial institutions (“the letter”).
2. Could the Norwegian Government please explain the factual basis for the NGA’s statement in the letter² that the 11 payment services providers were used for circumvention of the gambling prohibition?
3. Does the request from the NGA cover all forms of transactions to and from the 11 payment services providers?
4. To what extent do the activities of the payment services providers at issue imply breaches of Norwegian and/or EEA law? Are these payment services providers subject to the Regulation of 19 February 2010 No 184?

¹ Act referred to at points 14, 16e, 23b and 31e of Annex IX to the EEA Agreement

² Page 1, third paragraph

5. Do Norwegian financial institutions have a legal basis to block all forms of payments to and from payment service providers? If affirmative, please refer to the legal basis.
6. In the letter (page 4) it is stated that the list of payment services providers is not exhaustive. Has the NGA sent similar requests to Norwegian financial institutions regarding transactions to and from other payment service providers than those listed in that letter?
7. The complainants allege that the actions of the NGA infringe Articles 10(9), 25, 55 (2), 65(2) and 86 of Directive 2007/64. Does the Norwegian Government have any comment to this allegation?
8. Does the Norwegian Government consider that the request in the letter complies with
 - a) Article 36 EEA concerning the freedom to provide services, and
 - b) Article 40 EEA concerning the free movement of capital?
9. The Regulation of 19 February 2010 No 184 prohibits Norwegian financial institutions or payment services providers to accept in-bound and out-bound transactions for bets and prizes in games of chance provided by gambling companies without a Norwegian gaming license. The Norwegian Government is invited to comment on whether it considers the Regulation to be in line with Article 36 EEA concerning the freedom to provide services.

The Norwegian Government is invited to submit the above information, as well as any other information it deems relevant to the case, so that it reaches the Authority by 28 August 2017. Please enclose copies of any relevant national legislation not already provided with the complaint, including English translations if available.

Yours faithfully,

Gabrielle Somers
Deputy Director
Internal Market Affairs Directorate

This document has been electronically signed by Gabrielle Somers.