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GERMANY

It's spring time for Schleswig Holstein...

So it's true: size does not matter! On 14 September tiny Schleswig-Holstein passed its first own e-gaming treaty.

The law includes a tax of 20% on gross gambling profits and an unlimited number of licences for poker, casino games (with the exception of roulette) and sports betting.

Operators such as Bwin Party and Jaxx have already indicated their intention to apply for a licence.

However, Schleswig-Holstein had recently announced that breaking away from the other States was not its preferred solution. In fact, Schleswig-Holstein's courageous move may prove to be legally inconsistent and take it into uncharted constitutional waters.

It is therefore no surprise that the long awaited new e-gaming treaty will only come into force on 1 March 2012, and only if (a big "if") the German States cannot reach an agreement by then.

In a way, the move by Schleswig-Holstein can be seen as a political incentive to push the more conservative Southern German states to a more operator and tax friendly legislative regime. At best, the Schleswig-Holstein Treaty represents the opening up of Germany to online gaming on reasonable terms and at worst it will delay the introduction of a more restrictive regime. In addition, legal consensus is growing that any licences issued by Schleswig-Holstein will be similar to Spanish regional licences and would not allow operators to target residents in other German States.

What is clear however is that this small State will not want to go it alone and it is therefore likely that tax rates will be open for discussion once again, thereby leaving online gambling operators exposed to further taxation in the near future.

Will Schleswig-Holstein really go through with this draft law until the bitter end? We strongly doubt it, but at least it has proved one thing: size does not matter after all—if you want to stir things up that is!



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Updates on US Gambling Law

Massachusetts: It has taken almost a year since the veto of a casino resorts bill by the Governor, but after intense negotiations Governor Deval Patrick, House Speaker Robert DeLeo, and Senate President Therese Murray have all signed off on a new bill that would bring three casino resorts and one slot machine only facility to Massachusetts.

Under this bill, casinos developers will have to invest at least \$500M into a resort, pay the casino resort licence fee of \$85M and also pay to the state 25% of the gaming revenue. The bill could be adopted by the end of the year.

On 9 September, one day before the deadline, a State Representative from the Republican Party filed an amendment to the bill which would authorize online poker. 5 licences would be granted under the proposals, with rake set at 10% on each pot with 70% of the rake to be paid to the State. On 14 September, the bill was approved by a large majority of the Massachusetts House.



Nevada: On 24 August the Nevada Gaming Control Board published draft regulations for the licensing of internet poker within Nevada's borders. Nevada-licensed online operators will have to hold all players deposits in a trust and in a Nevada bank account. They would be taxed at the same rate as land-based operators. However, the regulations have not yet been finalized, and may be amended after a public regulatory workshop process.

The State's lawmakers think that their set of regulations should be ready by the end of the year.

If Nevada licensed operators want to offer their website to every American resident, however, they will have to wait for a federal act legalising online gambling in the United States. When this will happen is of course the great unknown, but we share the view of Jim Ryan, CO-CEO of Bwin Party, that "it is a question of when not if". In the meantime, the major Nevada land-based casinos are already looking to enter the race once the market is opened and have started to negotiate and conclude deals with online gambling operators.

California: Unlike its western neighbour, California does not seem motivated to move quickly to adopt online gambling legislation. There has been active lobbying by Indian tribes and commercial businesses to talk up online gambling's benefits for the economy. However, the California Senate's President Darrell Steinberg stated that the Senate will not act on online gambling legislation in 2011 because of a lack of time before the end of legislature for this year.



More encouragingly, Steinberg also indicated in a letter to the California Online Poker Association that he supports online poker and that he plans to call a vote on the subject as soon as January 2012. Just a few months to wait then...



Australia: It is thought that Australia will soon lift what was a major barrier to online sports betting. The development of mobile gambling platforms and smartphones and the growing popularity of sports betting among Australians have pushed the Department of Broadband, Communications, and the Digital Economy (DBCDE) to review the Interactive Gambling Act 2001 in order to authorize in-play betting. Under the 2001 Act sports betting is only legal where the betting occurs prior to the start of the sporting event.

The lifting of this ban is sought by the major sport bodies in Australia, including the AFL and NRL, the two powerful professional leagues of rugby league and Australian football.

Poland: Despite criticism from the European Commission, Poland's amended Gambling Act, which prohibits all forms of online gambling with the exception of betting, entered into force at the end of June. Licensees will be subject to a 12% turnover tax and they will have to operate from a .pl domain. Operators will also need to have a Polish bank account and use a Poland-based gambling server. The tender process for licences has not yet been launched.



Denmark: In December 2010, a complaint was lodged with the European Commission by one of the six land-based Danish casinos and the Danish slot machine association. Their main argument was that the proposed online gaming tax rate of 20% on gross win, as compared to the 41% they pay, amounts to unfair competition.



The European Commission has delayed its decision as to whether or not the proposed legislation by the Danish government amounts to an illegal form of State Aid, but the decision should be made during September, after their month-long break in August. If the allegations of State Aid are taken seriously by the Commission, it could still take months before reaching a final decision.

Nonetheless, after a few postponements (the market should have opened on 1 January 2011, then before the Summer, then this Autumn), the Danish Gambling Commission is still confident that we will see the law coming into force at the beginning of January 2012 and is preparing for the new regime.

And what about us ?

UK and IOC fight against event fixing and corruption at the Olympics.

The recent match-fixing scandals in cricket and football have increased the fear of further occurrences during Olympic events in London. Olympics Minister Hugh Robertson said in June that the two primary dangers during the event are “doping” and “integrity” and Jacques Rogge, president of the International Olympic Committee, confessed that match-fixing and corruption could threaten the Olympics.

John Penrose, Minister for Tourism & Heritage, will amend the Gambling Act 2005 to add the IOC to the list of sporting bodies (under section 350) with which the Gambling Commission can share information in case of threats to betting integrity.



And what about the Greeks ?

The EC warnings didn't stop them!

The Greeks are stubborn.

The European Commission declared earlier this year that the Greek proposal for review of their online gambling law regime is against EU Law and practices. They considered the proposed regime to be highly protectionist and that it created too many restrictions against foreign operators. Notwithstanding this criticism, the Greek Parliament approved the proposal at the beginning of August, which led the Commission to express its concerns regarding the proposed reforms.

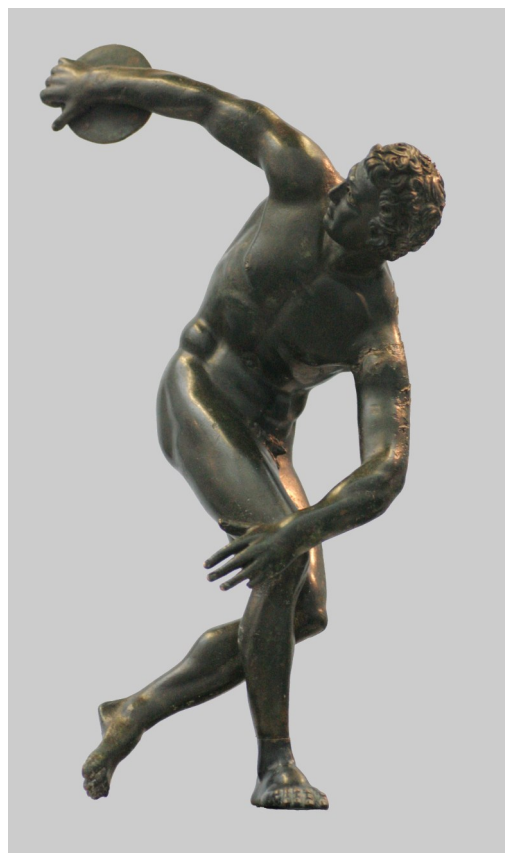
This law legalizes online gambling in Greece. But with the tax rate on gross profits for an EU licensed operator set at 30%, many will be reluctant to enter the market, particularly given recent experiences in France. Furthermore, players will be taxed 10% on their winnings during a 6 month transitional period.

Greece expects to collect at least £615m of taxation and licensing fees. With the current financial issues being faced by Greece, this perhaps explains why the country was eager to pass the review of their law!

However, such an attitude will probably lead Greece to face charges from the European Commission. Indeed, Betfair has already filed a complaint to the Commission due to the fact that betting exchanges are not included in the new legislation.

Greece also intends to sell its full stake of 34.4% in the powerful OPAP (Greek Organisation of Football Prognostics) as part of the Government's plan to raise €5 billion from privatizations in order to replenish the coffers of the country. The value of that stake is £1.03 billion.

According to the Greek finance minister, Evangelos Venizelos, this sale will not occur before the end of 2011.



A little trip to Baltic countries ?



Estonia

Estonia was known for being one of the first EU members to introduce an online gambling licensing regime (on the 1st of January 2010). Nonetheless, due to the requirement of locating their servers on Estonian soil, only a few operators (Pokerstars, Olympic Entertainment, Triobet and Alands Penningautomatforening “PAF”) have taken a licence in the country.

Meanwhile, a blacklist has been drawn up of 492 unlicensed sites subject to financial transaction and ISP blocking.

In view of the small market represented by Estonia (just over 1m inhabitants), it is quite understandable that most operators were not willing to invest in expensive equipment to comply with the Estonian rules and decided not to take a licence.

The Estonian Government has now appreciated these difficulties and the Estonian finance ministry has announced that, a “more flexible approach” will be introduced to remote gambling in the country. Under plans sent to the European Commission, it will no longer be a requirement to locate servers on Estonian soil.

Latvia

In Latvia, the Latvian Lotteries & Gambling Supervisory Inspection in conjunction with the Ministry of Finance is in the process of reviewing existing land based and online gambling laws.

Gambling has been legal since 2003 and online gambling is very dynamic in the country despite a 10% interactive betting tax.

Latvian authorities intend to review the law and include the following modifications on online gambling :

- A general gambling licence to operate interactive (online) games.
- Licence requirements and costs include: LVL 1 million (£1.2m) shareholders capital, share of non-EU equity holders cannot exceed 49%, impeccable reputation, general licence entry fee of LVL 300 000 (£370,000) with an annual renewal fee of LVL 25 000 (£31,000)
- ISP ban on unlicensed operators' websites
- Payments ban to unlicensed operators' bank accounts
- 5% gambling tax on gross gaming revenue
- Licensed operators will be permitted to advertise during Olympic games & related events (media & at the venues) provided they are official sponsors of the Latvian Olympic Committee and/or certain sport federations
- Age restriction: Players must be at least 21 (currently it is 18).



With regard to offline gambling, operators will require a general gambling licence and the gambling tax will be 15% on GGR.

The proposed implementation date is set for 1 January 2012 .

Harris Hagan is the only City law firm dedicated exclusively to the provision of legal services to all sectors of the gambling and leisure industry in the UK and internationally.

We offer unparalleled legal experience, knowledge and commercial understanding of the industry. We understand not only the law associated with betting, gaming, licensing and the provision of entertainment facilities, but the business behind it. We aim to provide a full service to the gambling and leisure industry, including specialist regulatory, corporate and commercial advice.

We have advised many of the world's largest gambling and leisure operators. We also advise UK companies in all areas of land-based and online gambling. Our clients include governmental organisations, casinos, hotels, bars, restaurants, event venues, bookmakers, online gambling operators, start up ventures and manufacturers of gambling equipment.

Facebook reviews its advertising guidelines on gambling

Facebook has 750m active users all around the globe, most of them connecting to the social network at least once a day. It is obvious that such a popular website would be a primary target for gambling operators in order to promote their offer and attract new players. Facebook knows that the amount of money spent by such operators is important and would greatly increase their ad revenues, especially as other social networks, such as Google+, are launched.

That's why, at the end of August, Facebook decided to change its advertising guidelines regarding gambling advertising.

The previous guideline, adopted around 18 months ago, was that Facebook adverts cannot contain, facilitate, promote or reference gambling...without authorization from Facebook. The new version states that "Adverts that promote or facilitate online gambling, games of skill or lotteries, including online casinos, sports books, bingo or poker, are only allowed in specific countries with prior authorisation from Facebook."

Although authorisation is still required, the fact that a new version has been adopted signals a change of approach by Facebook, indicating that it is now working from a starting point of accepting gambling advertisements, provided they are targeted at allowed jurisdictions. Facebook originally introduced the restriction on gambling advertisements concurrently with bringing in a 'Facebook credits' currency for use in games within the site. As the currency is not exchangeable for cash, these games are not viewed as gambling. By allowing gambling games to appear on the site, Facebook is effectively creating competition for games using its virtual currency, from which it makes a profit. However Facebook stands to make significant profits from gambling advertisers - a direct sales partnership will be required, with a minimum monthly spend of \$30,000.

By adopting this different approach, Facebook will have to be very careful when it comes to authorising gambling adverts. The company will need to check if the advert is legal or illegal in the country and language in which the operator wishes to target the advert.

Gambling

Julian Harris
harris@harrishagan.com

John Hagan
hagan@harrishagan.com

Melanie Ellis
ellis@harrishagan.com

Liquor & Entertainment

Liz Southorn
southorn@harrishagan.com

Francesca Burnett-Hall
burnett-hall@harrishagan.com

Corporate

David Stevens
stevens@harrishagan.com

Technology, Media & Telecommunications

Marcos Charif
charif@harrishagan.com

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