

Swiss to end “obsolete” net gambling rules

Switzerland’s Federal Council announced on 13 February its intention to create a regulatory framework for online gambling, currently prohibited under the Swiss Gaming Act.

“As only the provision of online gambling is prohibited, consumers have always been free to visit any gambling website from non-Swiss operators,” said Dr. Andreas Glarner, Attorney-at-Law at MME Partners. “This made the seclusion of the Swiss market obsolete in the long run.” Dr. Jürg Schneider, Attorney-at-Law at Walder Wyss, adds “insufficient enforcement of the prohibition of online gambling undermines the objectives of Swiss gambling regulation.”

Switzerland has a “big appetite” for online gambling, said Dr. George Häberling, Attorney-at-Law, and adds “it is estimated that unlicensed foreign online gaming operators generate over 120 million CHF annually.”

Dr. Schneider expects “licences to only become available to a small number of operators,” and “more stringent obligations of operators to prevent addiction and increased coordination in enforcement” to be on the framework agenda.

Interstate compacts key as Nevada passes i-poker bill

The US state of Nevada passed on 21 February an online poker Bill, allowing operators to offer online poker to state-based players and players from other states with legal online gaming via implementing interstate compacts. Nevada’s Assembly Bill 114 (AB114) comes as lawmakers in states including New Jersey and Delaware are pushing through online gaming legislation.

“The chance for federal legislation gets slimmer every year,” said Laurie Itkin, Founder of Rouge Government & Public Affairs. “The industry has no choice but to pursue interstate compacts.”

AB114 was rushed through Nevada’s legislative process to enable the realisation of online poker. “While Nevada had authorised intrastate i-poker, the Nevada authorising legislation had made the commencement of i-poker dependent on

federal legislation or word from the US Department of Justice,” said Linda Shorey, Partner at K&L Gates. “Also, Nevada’s authorising legislation did not expressly permit the Governor to enter into arrangements with other states that would allow persons located in those states to participate in i-gaming offered by Nevada operators.”

In New Jersey, Governor Christie conditionally vetoed on 7 February an online gambling Bill, asking for amendments, such as a higher tax rate of 15 percent, to be made before he signs. The Bill would enable Atlantic City casinos to offer online gambling, including to players outside New Jersey via interstate compacts.

“Governor Christie’s decision to issue a conditional veto of the Bill is a reflection of the reality on the ground,” said Rachel Hirsch, Associate at Ifrah Law.

“Christie recognises that introducing offline casinos in New Jersey can pave the way for job creation and revenue that is much needed. Christie has announced there is nothing stopping him approving the Bill if the changes are made.”

This wave of legislative action includes Pennsylvania, where Representative Tina Davis plans to introduce an i-gaming bill for state casinos, though “What reception such legislation will receive is unknown,” said Shorey. Delaware issued on 10 February a request for proposal asking for bids for operating an intrastate online gambling system.

“The true trend is going to start once states begin earning tax revenues from online gaming and use those revenues to close budget gaps,” said Hirsch. “It will then become that much more enticing for other states to follow suit.”

Online gambling “not prone to money laundering” despite 4th AML Directive

The European Commission published the draft 4th AML Directive on 5 February, to reinforce AML rules through the expansion of the legislation to include online gambling.

“A number of studies have shown that online gambling is not prone to money laundering due to the high traceability of transactions and tools operators have put in place to prevent money laundering,” said Martin Lycka, Legal Counsel at Betfair. Dr. Thomas Talos, Partner at Brandl & Talos, agrees, “The EU online gambling industry has

always had considerable self-regulatory AML measures in place.” But what the Directive will do, “is harmonise those provisions at national level.”

The draft Directive takes into account Recommendations from FATF to provide for a more risk-based approach by clarifying customer due diligence rules and strengthening cooperation between national FIUs. “In the financial sector, the risk-based approach has emerged as an interesting solution: applying measures adapted and proportionate to

the risks faced,” said Thibault Verbiest, Partner at Ulys. “The gambling industry should benefit from this approach.”

“This is another step to include online gambling in the scope of applicable EU secondary legislation,” adds Talos. “Online gambling services are still excluded from the scope of the E-Commerce Directive and the Consumer Rights Directive. If consumer protection and fighting fraud are considered crucial, then it is more than logical to include online gambling.”

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