

Tribal i-poker agreements in California

The Pechanga Band of Luiseño Indians and the San Manuel Band of Serrano Mission Indians have made agreements on issues surrounding i-gaming in California, including that licensees should operate a maximum of two websites each, following a meeting between both tribes on 15 May. "The agreement on site numbers may let the tribes feel as though they are all on a more equal playing field at the outset," said Christopher Soriano, Special Counsel at Duane Morris.

While the Pechanga and San Manuel bands agree to oppose 'bad actor' companies attaining a future Californian licence, other tribes may disagree. "One possible resolution is the New Jersey model, which did not impose a *per se* rule regarding 'bad actors' but instead gave the NJ Division of Gaming Enforcement the authority to investigate all 'bad actors' and make any recommendations they believe appropriate."

The two tribes will meet for talks again on 27 May; "these continued talks are a positive sign that California is closer than ever to opening its doors to online poker," said Rachel Hirsch, Senior Associate at Ifrah Law.

PoC bill gets Royal Assent as revised LCCP released

The UK Gambling (Licensing and Advertising) bill received Royal Assent on 14 May, meaning that as of 1 September 2014, all operators transacting with or advertising to UK consumers must have a licence from the UK Gambling Commission (GC), with the window for licence applications expected to be open from mid-July to mid-August; the Statutory Instrument providing full clarity on transitional arrangements has yet to be laid before Parliament. Further, the GC published its consolidated, revised Licence Conditions and Codes of Practice (LCCP) on 14 May, to enter into force on 4 August 2014.

"Regulation of remote gambling is going to go deeper under the new regime, with operators subject to tougher obligations, including to use properly regulated payment processors and software suppliers,

to be more transparent and, for poker network operators in particular, to act as quasi-regulators of operators on their networks," said Andrew Danson, Partner at K&L Gates.

The LCCP revisions include *inter alia* a requirement for operators to hold customer funds in separate accounts to other company funds. "For those operators who do not already segregate customer funds, this may present some immediate practical difficulties but it is surprising following the Full Tilt debacle that the GC has set this as the minimum required, rather than, for example, requiring additional protection by means of a Quistclose trust arrangement, insurance and/or an independent trust account," said David Clifton, Director at Clifton Davies Consultancy Ltd.

The GC has also clarified that gambling software operating

licences, which businesses supplying software to UK licensees will be required to obtain, will not be needed for every business within an extended supply chain. The GC will publish further LCCP changes, such as on free bet advertising, in due course.

The implementation of the bill in September seems assured though some commentators predict a judicial review from Gibraltar operators into the legality of the new regime. "I suspect that the Gibraltar Betting & Gaming Association will now consider its prospects of success to have been adversely affected by the tightening up of the LCCP," said Clifton. "However, were such a challenge nevertheless to be made, it would be interesting to see whether any referral to the CJEU would follow, which could conceivably lead to further delays."

Spain introduces new concept regarding 'connected' winnings

Royal Decree 304/2014 was published in Spain's Official National Gazette on 5 May, and clarifies the scope of AML requirements applicable to gambling operators in Spain.

"Gambling operators have been enjoying a regime resulting from a combination of the AML law and Spain's Gambling law. The AML regulation has now endorsed this special regime," said Albert Agustino and Bartolomé Martín of DLA Piper Spain. "The regulation does not include any additional duties for online gambling

operators. It clarifies the scope of a number of requirements."

The new Regulation includes provisions regarding gambling operators: Article 4.1 clarifies that operators must formally identify customers where a player's winnings or prizes are equal to or higher than €2,500 and where the total amount of different 'connected' prizes is equal to or higher than €2,500. Article 21.2 states that the specific criteria to comply with customer identity verification will be determined by the DGOJ during the granting of

licences. Finally, Article 43 states that operators must establish internal control proceedings, including having an AML Manual in place.

"The Regulation does introduce a new concept, that of 'connected operations' referred to regarding the calculation of financial thresholds," adds Ángel Jiménez, Partner at Asensi Abogados. "In our opinion, this concept will need to be clarified since the regulation does not specify how said prizes will be deemed as connected."

UK LCCP changes	03
Belgium Three Royal Decrees on gaming	04
Internet of Things & online gambling	06
Sports Betting	08
Advertising UK ad reviews announced	10
Smart-TVs	12
Switzerland New draft online gambling law	14
Russia Betting	16

worldonlinegamblinglawreport editorial board

KEVIN DE HAAN QC

Francis Taylor Building, London
Kevin is a specialist in licensing. His practice includes all aspects, particularly betting, gaming and lotteries. He has considerable experience of proceedings before various regulatory bodies, appeals and associated judicial reviews, with particular expertise and experience in all aspects of internet gambling.

JUSTIN FRANSSSEN

Kalf Katz & Franssen, Amsterdam
Justin is a partner at Kalf Katz & Franssen. He founded the KPMG European Gaming and Entertainment Services Group and co-founded gaminglaw.eu, the EU portal on gaming law and regulation. Justin is the Dutch General Member of the International Masters of Gaming Law. He is a Board Member for the Research Program on Gambling Law at the University of Leuven.
jf@kalkkatzfranssen.com

JULIAN HARRIS

Harris Hagan
Recognised as a leading expert in national and international gambling and licensing law, Julian Harris is highly regarded both by operators and regulators throughout the world. He and John Hagan are the founding partners of Harris Hagan, the first and only UK law firm specialising exclusively in legal services to the gambling and leisure industries. He, John and other members of the firm have been at the forefront of those advising UK and international operators alike on the opportunities presented by the UK Government's major reform of gambling law. With over 30 years experience of gambling law, Julian has advised some of the world's largest gaming and entertainment industry corporations. He and his team have also advised governments, trade associations and private equity houses in both online and land-based gaming. Julian came to specialise in this area representing the Gaming Board for Great Britain (the then UK regulator) for five years early in his career.
harris@harrishagan.com

KRYSTALLIA IATRIDOU

Karageorgiou and Associates
Krystallia's areas of practice include competition law and gaming law while in the past she has worked for the DG for Competition of the Hellenic Competition Commission. Krystallia has followed the implementation of the Greek gaming law by contributions related to Competition Law and crucial European Law questions arising from the new Greek gaming law.
iatridou.k@kalaw.gr

JEFF IFRAH

Ifrah Law
Jeff Ifrah is the founding partner of Washington, DC based Ifrah Law. He represents many of the largest gaming companies and industry associations, at the intersection of interactive gaming and government regulation. His clients include the online poker sites Full Tilt Poker and PokerStars and the Interactive Gaming Council. In 2012, Jeff was honored as one of Gaming Intelligence Magazine Hot 50 Winners in the

Category of Law and Regulation.
jeff@ifrahlaw.com

JAMIE NETTLETON

Addisons Lawyers, Australia
Jamie is a partner based in the Sydney office. He advises on all legal issues relating to the gambling industry, including strategic issues relating to locating operations and the regulation of gambling in a number of jurisdictions around the world. He is also Chair of the Sports and Gaming Law Committee of the International Bar Association.
jamie.nettleton@addisonslawyers.com.au

MICHAEL LIPTON QC

Dickinson Wright LLP, Canada
Michael has been involved in all aspects of gaming law, including representing and counselling casinos, pari-mutuel operators, racetracks and a large variety of gaming related suppliers throughout Canada. He has lectured extensively and written several papers on business and gaming law including internet gaming. Michael is a founding member of the International Masters of Gaming Law, a member of the International Association of Gaming Attorneys.
mdliponq@aol.com

QUIRINO MANCINI

Sinisi Ceschini Mancini, Italy
Main areas of practice: telecoms, new media, sports & entertainment (film and television distribution & co-production deals; legal counsel to various professional sports clubs & bodies: engagement, sponsorship, and endorsement deals; copyright and image rights).
qmancini@scm-partners.it

VALÉRIE PEANO

EGLA Network, European Gambling Lawyers & Advisors
Valérie is an attorney-at-law and member of the Rome bar and has been active within global law firms both in Italy and in France. Valérie consolidated specialist competence in Italian and EU gaming & gambling law and is acting as a full time adviser to SOGEI the technological partner of the Italian Gambling Authority (Agenzia delle Dogane e dei Monopoli). The team she is now leading assists and advises national and international corporations on all legal and regulatory matters related to the Italian and EU gaming & gambling market from the achievement/purchase of online and land-based Italian licenses and public contracts matters; the compliance proceedings before the regulatory bodies; the drafting, negotiation of agreements, to the counselling on strategic legal issues.
peano@egla.eu

WARREN PHELOPS

K&L Gates LLP
Warren is a partner in the Intellectual Property, Technologies & Sports Department. He heads up the firm's Sports Law practice. He is recognised in Legal Business 2002 as a leading expert in sports legal work and is a director of the Institute of Sport Sponsorship. He has particular experience of advising on sports media rights and betting, gaming and competition issues.

warren.phelops@klgates.com

CARL ROHSLER

Squire Sanders, London
Carl is a partner based in Squire Sanders London office. His practice covers the full range of intellectual property work including patents, trade marks and designs, copyright and confidential information. Although working on both contentious and non-contentious matters, Carl is best known for his work as a litigator, having been involved in a number of leading IP cases since 1995. He is a solicitor advocate (High Court: Civil 2001). Carl is also known as one of the UK's leading experts on gambling law, acting for a number of the leading online and land-based gambling operations in the UK and across the world. In addition to his expertise in IP and gambling regulation, Carl has considerable experience in advertising and marketing regulation, data protection, e-commerce and labeling and packaging law. He is a visiting lecturer at the University of Montpellier, France.
carl.rohsler@squiresanders.com

HILARY STEWART-JONES

DLA Piper, London
Hilary Stewart-Jones is part of the Intellectual Property and Technology Group. She focuses solely on gambling related issues. Having spent five years as in-house head of the gambling division at Ladbrokes, Hilary returned to private practice in 2000. She recognised the need to create a legal service to support all of the needs of gambling clients on a multi-jurisdictional basis, including regulatory issues, general commercial and corporate support (including fund raising) and structural and tax planning. Hilary has played a role in most of the online sector floats/acquisitions since 2000, but continues to advise bricks and mortar businesses from tracks to casinos. She has written legislation and regulations for offshore governments and has drawn up industry codes of practice.
hilary.stewart-jones@dlapiper.com

DAVID ZEFFMAN

Olswang
David has been one of the leading lawyers in the UK media sector for over 25 years and has extensive experience in providing strategic, commercial and regulatory advice to clients in the gambling, sport and television sectors. He has been involved in many of the major transactions that have taken place in these sectors, including the launch of several television channels and the sale of media rights to some of the world's biggest sporting competitions. David has been heavily involved in horseracing over the last 10 years and, in particular, has deployed his knowledge and experience in the gambling and television sectors to help restructure the sport's funding arrangements. He also advised the Government between 2005 and 2007 on the funding of British horseracing. David has been listed by Sport Business International as one of the world's 20 most influential lawyers for each of the last 2 years.
david.zeffman@olswang.com

CECILE PARK PUBLISHING

Managing Editor Lindsey Greig
lindsey.greig@e-comlaw.com
Editor Sophie Cameron
sophie.cameron@e-comlaw.com
Associate Editor Simon Fuller
simon.fuller@e-comlaw.com
Subscriptions Adelaide Pearce
adelaide.pearce@e-comlaw.com
telephone +44 (0)20 7012 1387
Design MadeInEarnest
www.madeinearnest.com

World Online Gambling Law Report is published monthly by Cecile Park Publishing Limited, 17 The Timber Yard, Drysdale Street, London N1 6ND
telephone +44 (0)20 7012 1380
facsimile +44 (0)20 7729 6093
www.e-comlaw.com
© Cecile Park Publishing Limited.

All rights reserved. Publication in whole or in part in any medium, electronic or otherwise, without written permission is strictly prohibited. ISSN 1477-2922

CECILE PARK PUBLICATIONS

E-Commerce Law & Policy
Monthly: launched February 1999
E-Commerce Law & Policy is a unique source of analysis and commentary on global developments in e-business legislation. Nominated for the prestigious British & Irish Association of Law Librarians Serial Publication of the Year Award.
PRICE: £495 (£515 overseas).

E-Commerce Law Reports

Six issues a year: launched May 2001
The reports are authoritative, topical and relevant, the definitive practitioners' guide to e-commerce cases. Each case is summarised, with commentary by practising lawyers from leading firms specialising in e-commerce.
PRICE: £495 (£515 overseas).

E-Finance & Payments Law & Policy

Monthly: launched October 2006
E-Finance & Payments Law & Policy provides all those involved in this fast evolving sector with practical information on legal, regulatory and policy developments.
PRICE £619 (£639 overseas).

eHealth Law & Policy

Monthly: launched November 2013
eHealth Law & Policy delivers razor-sharp analysis and insights on the legal and regulatory developments in eHealth across the globe and on the evolving technological solutions that are transforming healthcare.
PRICE £619 (£639 overseas / £345 Govt).

Data Protection Law & Policy

Monthly: launched February 2004
Data Protection Law & Policy is dedicated to making sure that businesses and public services alike can find their way through the regulatory maze to win the rewards of effective, well-regulated use of data.
PRICE £470 (£490 overseas / £345 Govt).

World Online Gambling Law Report

Monthly: launched April 2002
World Online Gambling Law Report provides up-to-date information and opinion on the key issues confronting the industry.
PRICE £619 (£639 overseas).

World Sports Law Report

Monthly: launched September 2003
World Sports Law Report is designed to address the key legal and business issues that face those involved in the sports industry.
PRICE £619 (£639 overseas).

DataGuidance

The global platform for data protection and privacy compliance.
www.dataguidance.com

An opinion on the revised and consolidated UK LCCP

Parts 2 and 3 of the updated LCCP published in May 2014

The Gambling Commission has now published the 'Consolidated' version of its 'Licence Conditions and Codes of Practice' ('LCCP'). These are the terms that apply to British gambling operating licences, including the operating licences that will be issued to operators who currently do not require British operating licences due to them not having any 'remote gambling equipment' situated in Great Britain. The 'Consolidated' text collates in one document the three separate tranches of 'Responses' by which the Commission responded to the original 'Consultation' on the LCCP of September 2013. It also reformats the rather confusing mis-en-page of the previous May 2012 'Consolidated' text in an attempt to increase user-friendliness and it also provides an enhanced interpretational apparatus comprising re-numeration and an index.

It is all, of course, entirely unnecessary - at least as far as currently unregulated operators are concerned. Commentators too numerous to cite all agree that British consumers are already extremely well protected by the regulatory regimes that apply to them in those places where the vast bulk of them gamble: the Isle of Man, Gibraltar, Malta and Alderney. There is absolutely no need whatsoever to superimpose upon, say, a Gibraltar server run under a Gibraltar remote gambling licence or an Alderney server run under an extensive AGCC ICS document, an additional, parallel and supplementary layer of British regulation, especially as British regulation will not serve to oust the jurisdiction of local regulation. White-list regulators have made it clear that the implementation of British 'point of consumption' ('PoC') regulation will not serve to exempt British players from their jurisdiction. Various tenuous justifications have been advanced for British PoC regulation. The real reason is of course that if the EU is to fragment into individual regulated markets all taking their share of the action, then why should the poor old Brits be excluded from the fiscal divvy-up just because we tried to play according to the free-market rules the first time round?

The Gambling (Licensing and Advertising) Bill has now been passed into law and so the argument is now academic, unless of course the Gibraltar operators with the greatest exposure to the UK market choose to mount a challenge. On a potential Gibraltar challenge, the writer understands that the advice on the matter received by the Gibraltar licensees was both favourable and robust. However opinion varies wildly as to the actual chance of success that any ECJ challenge would attract. The writer's view is although it is as plain as the nose on one's face that the British PoC regime is disproportionate and fiscally motivated, the quality of the fiscal and regulatory regimes in existing EU 'regulated markets' might well make the British regime appear positively idyllic in the eyes of the Strasbourg judges: 15% GPT (gross profit tax), comparatively low licensing costs, no requirement for a land-based nexus or connection of servers to the fiscal authorities. A regime of that sort would

probably appear to the average Francophone fonctionnaire as ridiculously 'light touch' and providing very little justification for a gambling operator to complain.

Turning to the document itself, the revised LCCP is helpful in the sense that it provides an up-to-date consolidated text. Generally, international operators will find the document an easier document to work with than the recension it supersedes. That said, what helpfulness the document may offer is constantly undermined by the wider and deeper problems with British gambling regulation. I refer to the vagueness and difficulty of the core definitions contained in the Gambling Act 2005 which give gambling businesses enormous interpretational problems even before they arrive at the minutiae of regulation. The core statutory definitions that enable a business to identify what it is and what licences it need obtain and what regulation it need observe are in many cases so wide as to make meaningful interpretation impossible. The core concept of providing 'facilities for gambling' is an example. Also notorious for their width and vagueness are the definitions of 'betting intermediary,' 'gambling software' and 'gaming machine.'

In some areas the Commission has provided guidance and advice - notably its pragmatic and helpful March 2008 analysis of what 'remote gambling equipment' situated in Great Britain actually is. The Commission has now received industry feedback on the difficulties inherent in the 2005 Act and is currently working on advice and guidance aimed at providing business certainty in some of the more problematic areas. This is excellent news, but overdue. During the passage of the 2005 Act through Parliament it did not go unnoticed that the bill was drafted in extremely wide terms liable to give rise to confusion, particularly as technology developed in ways divergent to the assumptions of the draftsmen. The Government response was that it would be the role of the new Gambling Commission to regulate in accordance with what are now the Hampton Principles and provide current advice as to the interpretation from time-to-time of the acknowledged vagaries of the bill. In many areas that has not happened and the Commission's principle that 'we do not provide legal advice' will not work going forward, a fact of which the Commission's senior management are well aware. So the LCCP and even the remote technical standards and the test strategy are only part of the regulatory landscape. Of equal importance to operators will be the continued gestation of the Commission from an essentially domestic, land-based regulator into a proactive and responsive international regulator such as, to single out only one instance of conspicuous good practice, the Gambling Supervision Commission in the Isle of Man.

Jason Chess Partner
Wiggin LLP, London
jason.chess@wiggin.co.uk

Three Royal Decrees alter the Belgian gambling landscape

On 22 April the Belgian government notified the European Commission (EC) of three draft Royal Decrees, which aim to further develop Belgium's online gambling regulation. These three separate Royal Decrees establish rules concerning the type of games of chance that may be offered, the monitoring and control of online events and further limitations to the provision of online games of chance, as Peter Naessens, Director at the Belgium Gaming Commission, explains.

Two years ago, the Gaming Commission (GC) submitted the draft Royal Decrees to the Minister of Justice. On 22 April 2014, they were finally notified to the EC by the Belgian government.

List of games of chance (Royal Decree relating to the list of games that may be operated by holders of a supplementary licence, through the use of information society tools)

In the past, the Belgian legislator only clarified that games of the same nature as games in the real world could be offered online in Belgium. Simultaneously, the new Gambling Law established that the regulator had to indicate clearly which games were concerned, as in reality many games of chance with a Random Number Generator are offered online.

The Belgian regulator actually intended to implement a system that appeals to the sense of responsibility of the licensed gambling operator, with the necessary attention to innovation. A gambling operator is authorised to run games offered offline online and only has to seek the advice of

the GC when in doubt. The GC's reply has to be motivated. The other side of the coin is that, if the GC for instance doubts the integrity of a certain game, the gambling operator may no longer accept any further stakes or bets for the suspicious game at the simple request of the regulator.

The new regulation gives special attention to live games or online games which make use of games that are run in the real world (e.g. real croupier or real roulette). Both casinos and gaming halls may offer those games, but only casinos are, as in the real world, authorised to use live persons: a new example of the convergence between online and offline.

It is of note that the Belgian regulator has further developed the difference between the various licensees (casinos, gaming halls and gambling operators). Casinos have the possibility to offer casino games that are popular in the illegal markets and they are the only Belgian licensees that may offer online slot machines. The number of games that gaming halls may offer simultaneously has been limited to 200, but they have the possibility to offer games of chance with the same Random Number Generator as in the real world, which offers them the opportunity to innovate. Moreover, that regulation is a confirmation of the legal character of instant games on the Belgian market. The gambling operators may offer the same type of offline bets online in the same way, but it is notable that the regulator has the option to exclude bets that are susceptible to fraud on the Belgian market.

That regulation is also the first step in regulating the transnational liquidity. A player who participates in a transnational game has to remain connected with the .be website.

Monitoring and control of online events (Royal Decree relating to monitoring and control procedures for games of chance operated via authorised websites)

This Royal Decree provides more details on the way in which the Belgian regulator will control online websites, taking into account that it is advantageous that Belgian legislation has control through the territorial presence of the server and the gambling operator. There is now more clarity about the way in which the player is identified in Belgium based on the web services that manage a unique player key and inhibit the gambling behaviour of the players.

The Belgian regulator provides more insight into the requirements regarding the server localisation obligation. The regulator has the option to accept connections with other servers, even those outside of Europe, if it can exercise the necessary controls in the running of these servers in Belgium. This avoids very expensive investment in Belgium and gives certain companies the opportunity to structure operations in a way that the regulator can keep a finger on the pulse, whilst not depending on the consent of another Member State to control the server.

Mechanisms are implemented to control the integrity of the game by actual output tests.

The regulator often makes use of protocols. Those protocols flesh out the web services and ensure that the regulation does not continually lag behind. The regulator has indicated clearly which points have to be developed in a protocol.

With regard to pure control mechanisms, a preventive control (server control and control of the integration of the web services for the attribution of the licence) and a repressive control (from

adjusting the running of the game to initiating proceedings to penalise an unwilling gambling operator) are provided.

The servers are controlled via transparency requirements applicable to the holder of a supplementary licence. Furthermore, attention has been given to the clarification of the criteria concerning IT security, to the development of criteria for the protection of the integrity and confidentiality of the game, to the archiving of game data, and to the necessity of a qualitative certification of the server.

Separate chapters are dedicated to the control of the game and the website. In those chapters the regulator expresses its concern for the correctness of the information provided by an operator. The regulator can verify whether the information concerning bonuses and return percentages of the games offered is in accordance with the reality.

Limitations to the online running of games of chance (Royal Decree relating to the conditions under which games of chance may be offered through information society tools, concerning at least the registration and identification of the player, verification of the player's age, the games on offer, the rules of the game, the method of payment and the prize distribution method)

The regulator discarded the previous system that it had implemented in the starting period, in which players were subjected to a cool down period when they had lost a certain amount of money. Apparently too many players that should not have been considered as vulnerable were blocked. Instead, the regulator has now opted for a maximum average hourly loss per game (€70 for

It is, however, remarkable that the political world has removed the first steps to regulate social games from the draft decree submitted by the Gaming Commission

casinos and €25 per game for gaming halls). In that way, it is more in line with the evolution in other countries. Therefore, B2B companies do not necessarily have to develop a new computer system to fulfil the legal requirements in Belgium.

There is a theoretical minimum return rate (90% for casinos and 92% for gaming halls).

In addition, a player can play a maximum of three different games simultaneously offered by the holder of a supplementary licence. The Belgian regulator has established maximum winnings (€250,000 for online casinos, €5,000 for online gaming halls) and for various online licensees maximum stakes have been established (€100 for slots and for gaming halls with the exception of interactive poker, €25 for games with a minimum length of three seconds and €150 for roulette and card games). For betting operators, there is a limitation of €1,000 per bet concluded before the event and €150 per bet during the event. The online betting operator can authorise a player for no-limits gambling, but only if the player requests in writing or via electronic means to be exempted from the maximum betting limit.

This Royal Decree also clarifies which system of web services the gambling operators have to implement, in which every player has to be identified through a unique player key.

With regard to the GC's control, online casinos and gaming halls have to report to the Gaming Commission every quarter, to ensure they are adhering to the provisions concerning the maximum average hourly loss. In addition, there are requirements for the data that have to be registered on an operator's computer systems and the accuracy of the reported numbers must be

certified each year.

Bonus credit and progressive jackpots have also been defined. Here too, the difference between the various licensees has been further developed. The gaming halls are limited to a progressive jackpot of maximum €25,000, while casinos are not subject to that limitation.

A few measures can be connected directly to the protection of the player (for instance, the possibility to peruse the rules of the game beforehand, remuneration within three working days, and the specific conditions for the distribution of prizes etc). Moreover, specific rules for the means of payment have been provided.

It is, however, remarkable that the political world has removed the first steps to regulate social games from the draft decree submitted by the Gaming Commission. The subject has to be clarified by the representatives of the Ministers of Economy and Justice. The removed proposal provided more clarity as to which social games should be treated as games of chance.

It seems that these Royal Decrees, of which it is uncertain as to whether they will be able to enter into force this year, give Belgium the opportunity to be in line once again with the front runners that have opened their markets to online gambling operators without considering the running of online games of chance as a normal economic service.

Peter Naessens Director
Belgium Gaming Commission
Peter.Naessens@gamingcommission.be

The Internet of Everything and the future for online gambling

Mark McGuinness has more than 14 years' experience in digital marketing director roles with both private and public i-gaming operators. He is currently the resident i-Gaming Futurologist for Isle of Man-based Mainstream Marketing & Communications, a digital marketing agency offering business and marketing advice on i-gaming, land based gambling and social gaming. In this article Mark explores the future of online gambling in the wake of the Internet of Everything.

As a former scientist and now a marketer in the digital gambling world, I, like so many of my cohorts, endeavour to keep pace with technological advances in the gaming industry through personal investigation. To that end I have unbridled curiosity as to how technology could impact or change the sector.

The gaming industry, both land based and online, is undergoing transformational change almost on a daily basis it seems. In fact as professionals in the gaming ecosystem supply chain, our digital working lives and private lives are changing so much in regards to how we consume, interpret and act upon information and data. On many occasions, it is fair to say we perhaps don't even know its happening. With the latest software updates on our various smart devices, almost a weekly occurrence, we are so oblivious that we just hit the 'accept' button with only so much as a cursory glance to the terms and conditions. The way in which we connect and communicate with the physical and digital worlds is blurring and has become innate behaviour.

Our sector, like many industries,

is experiencing game changing leaps in technology. Many would say these are scenes depicted in the fantasy world of movies offering a plethora of mesmerising tech wizardry. Science fiction, fantasy and reality are intersecting to become part of our everyday tasks and lives.

Fast forward to the world of 'The Internet of Things' ('IoT') or 'The Internet of Everything' ('IoE'). So what is this IoT? Well the general public usually thinks of connection to the internet as being through physical human interaction such as pushing a power-on button on our desktops, tablets, smartphones or any other connected machine or device. The reality is that the 'network' that we refer to as the internet is always on and is an invisible spider's web of data.

This new era is being coined by many as the Internet of Everything which is an ecosystem in which just about anything can be connected and can communicate not just with ourselves but with other surrounding objects as one vast information data system. It is where machines or everyday machines, appliances and devices can act in harmony and exhibit what is referred to as ambient intelligence. In this Orwellian world, ambient intelligence devices work together to make our everyday mundane tasks easier and simpler - or that's the theory and motivation behind these new products coming to market.

Many analysts concur that IoE is going to be huge and that this could be the breakthrough year. I agree; however IoE has really been serendipitously weaving its way into our lives for some time, perhaps unwittingly.

Examples of IoE are everywhere. Take Colin Angle, the co-founder and CEO of iRobot (not the movie version) of Massachusetts. His company recently launched a

brushless version of the Roomba¹ vacuum which learns to clean your house itself. Over 5 million of these ambient intelligence home cleaning robots have been sold. A further example of this IoE ecosystem is Google Glass, part of the growing sector of wearable computer technology in the form of glasses, which, according to research group Forrester, is being purported to be bigger than the iPhone.

Furthermore Forrester estimates that 21.6 million Americans would buy Google Glass, around 12% of the population, which is a huge number. Some commentators may say that is still way off, but wearable tech devices such as Samsung's Galaxy Gear and Apple's iWatch smart watches, health tech gadgets such as LG Lifeband Touch, Fitbit or Nike's Fuelband, which contain sensors that monitor the wearer's heart rate, speed, and muscle contractions to ultimately improve your end performance or fitness goals, are shifting units at an unbelievable rate, never mind the inexplicable amount of big data these devices provide on us consumers.

Now that we have set the scene, let us indulge our imagination for a moment as to how this combination of IoT and ambient intelligence technologies could combine for context, personalisation, adaptive and anticipatory services in the gaming and gambling sectors.

In a normal scenario, gambling activity one can generally assume or the behaviour thereof is initiated by the gambling company sending a promotional marketing communication like an email about a particular event, offer, or the latest sporting odds to prompt betting activity. Or it's perhaps an advert on the television during a sporting event, radio or newspaper advertisement or online banner, sometimes referred to collectively

as push marketing. In an IoE scenario it's Monday night and there is a live sport such as a football match on the television that you wish to watch and bet on. You've just left the office but are caught in traffic on the motorway. You're in your Ford car, which is IoE enabled and has already connected to your smart home appliances in order to switch on the lights, heating and TV, as it knows - due to your GPS location either from your phone or onboard satellite navigation system - that your journey time until you put your keys in the front door is 40 minutes. The smartphone application, which is connected via Bluetooth for safe driving of course, to the onboard car computer knows through predictive learning that you had bets on Monday night football previously and either announces the latest game odds on the two teams or conveys this on a new state of the art 'smart' billboard which acts as a beacon and pushes the information to your in-car screen display devices.

In the car you initiate your virtual betting companion similar to Apple's Siri using voice recognition software, to select the best priced odds from the fixed odds comparison engine that compares numerous sports books offers on the home team. The application then logs into your account and places the bet. Of course all of this information is duplicated to the cloud to your home appliances, in particular your Smart-TV. On arrival at your home, the lights are on, the house is warm and your Smart-TV is powered up for you to watch the football match, which displays your current pre-match kick-off bets. As the game unfolds, your smart application alerts you both on your phone and TV that your bet is in danger of being a losing one! On screen it presents

We have already witnessed major push back from the land based casino regulators on wearable tech such as Google Glasses as it may provide the player with certain advantages over other players and of course the casino house itself

you with the option to place another series of bets based on a smart ambient intelligence algorithm application for intelligent betting to hedge your current liability or risk or provide arbitrage betting opportunities for a win based on the in-play odds offered by a roster of sports betting companies. This of course is all without any real user initiated interaction in the sense of tapping, pinching, or looking for the power on button on your roster of devices!

But wait there's more: you wish to tell your friends about your bets or just to engage in general socialisation around the football game. You connect to your iBeacon from Apple, an internal piece of iOS technology present in some 170m devices, which is an indoor positioning software using Bluetooth technologies to locate and connect to compatible devices nearby to send notifications of your bets in real-time.

So what about the in-home online casino gaming IoE experience? We have already witnessed major push back from the land based casino regulators on wearable tech such as Google Glasses as it may provide the player with certain advantages over other players and of course the casino house itself. However the same IoE appliances and methodology as in the sports betting scenario could apply to the likes of poker, roulette and baccarat with sensors within the home transmitting fluctuations in heart rate, perspiration or via specific poker style health wearable bracelets that provide 'tells' as to a player's hand, could be an interesting augmentation to the gaming experience, especially if everyone player-wise was on a level playing field during, say, a live televised late night poker show.

Gaming is an ephemeral experience that lasts but for a

moment. Perhaps in some ways an IoT ecosystem can extend that gaming interaction through everyday devices that we shall soon take for granted. The lines are certainly blurring and whether in-the-home or out-of-the-home, gaming consumers will soon be oblivious to how they connect through physical interaction with internet and gaming providers, as it will be all around, all seeing, all learning and always on.

Mark McGuinness i-Gaming
Futurologist
Mainstream Marketing &
Communications
Contact via the editorial team

1. <http://www.irobot.com/us/learn/home/roomba.aspx>

Two EU reports place spotlight on integrity in sports betting

There has been a focus on sports betting integrity issues, as well as commercial issues, this Spring, with the publication of two reports - one on sports betting by Sorbonne University and the International Centre for Sports Security ('ICSS') and the other by the ASSER Institute, on behalf of the European Commission, on sports organisers' rights. Mike O'Kane, Chairman of ESSA, the betting industry's integrity body, provides some analysis of not only the two aforementioned reports but also ESSA's own upcoming integrity report, and makes the argument that sports bodies should focus on addressing governance rather than the betting industry.

There has quite understandably been a significant focus on commercial sports betting issues in the lead up to the World Cup in Brazil, most notably the sizeable turnover that is likely to be generated from this event. However, there have also been a number of important developments on the integrity side that warrant consideration as the European Commission continues to deliberate on the content of its recommendations in this area, whilst the Council of Europe's match-fixing convention is likely to be debated by governments at the end of the year.

Firstly, ESSA, the regulated betting industry's integrity body, will soon publish its annual integrity report which again details the significant impact that the sophisticated security systems employed by regulated operators have had in protecting betting markets, consumers and sporting events. Secondly, a flurry of reports on sports betting integrity back up

what the regulated sector has been saying for some considerable time now, most notably that it is the illegal markets across the globe which are primarily used by match-fixers and corruptors. All of which clearly show that the allied argument for a sports' betting right is neither a justified nor an efficient integrity mechanism.

ESSA's annual integrity report shows that its members reported 148 unusual betting patterns in 2013, with 30 of these events found to be suspicious and subsequently referred to the relevant sporting and/or regulatory authorities. This is some way below some of the more sensationalist reports that have been presented in the press in recent years. It is interesting to note the low level of action taken on those reports resulting in any follow-up criminal or sporting sanctions being taken, which further questions the validity and evidence supporting such assertions. As with ESSA's own statistics, it is important to note that suspicion does not necessarily equate to a proven case of corruption, but that there is sufficient concern to warrant further investigation by the relevant authorities.

What we can, however, relatively safely surmise is that ESSA's integrity figures continue to demonstrate the value of the detection, deterrent and risk assessment protocols its members employ. ESSA's audit trails clearly highlight the activities of corruptors that seek to affect sporting events and defraud operators and their customers. It is also important to recognise that evidence from law enforcement bodies, such as INTERPOL and Europol, along with independent research, continues to identify criminals colluding with corrupt sportspeople and utilising unregulated betting markets as the

principal danger to the integrity of sporting events, not regulated markets.

ESSA's integrity report also highlights a number of key policy issues that should be considered and addressed by stakeholders if match-fixing is to be tackled in an effective manner. One of the most important of these is to tackle poor governance in sport which is unfortunately facilitating an environment in which corrupters can thrive. Financial issues are at the heart of this and a report by FIFPro¹, the global players' union, in 2012 found that of 3,357 professional footballers surveyed in Eastern Europe, 41.4% did not have their salaries paid on time, 5.5% had to wait more than six months and 2.2% had to wait more than a year to be paid. That situation has undoubtedly contributed to those players being more susceptible to approaches from match-fixers.

FIFPro has since repeatedly complained² that governing bodies are not addressing the difficulties that players are facing as a result of the financial aspect of contracts not being upheld and the integrity danger it presents. At the start of this year it even criticised a FIFA integrity document which 'while emphasising that there would be "zero tolerance" for players caught match-fixing, did not at any point mention the financial difficulties that many footballers face.'³ This issue must be addressed urgently by sport if match-fixing is to be tackled effectively; good sports governance, especially around fiscal issues, is vital but in many cases it appears to be being totally ignored.

Player education of course continues to be another key element in the fight against match-fixing, and the European betting operators have been at the forefront of promoting that issue through the PPF and EU Athletes

programmes.

However, if betting operators and sports are to form effective partnerships there must be a two-way transmission of information and trust. For example, operators that pass information to sports bodies should be made aware of what action those bodies subsequently take, something which regrettably often doesn't happen at present. It is also crucial that sports quickly conduct open and fair investigations with robust rules and sanctions, which continue to vary greatly from sport to sport.

There unfortunately also remains an unsubstantiated and flawed view that match-fixing can be addressed by limiting the betting markets offered by operators, and in particular what are incorrectly termed 'spot bets,' and 'in-play betting.' The reality of modern day match-fixing is that where it has been proved to take place it is conducted across the globe by organised criminal groups who primarily target illegal betting markets. In addition, corrupters actually seek to manipulate the more mainstream markets with higher liquidity to try and mask their illicit behaviour, rather than so-called spot and in-play markets, which have lower levels of liquidity and accepted bet sizes.

A number of independent reports have corroborated this position, but some still nevertheless inexplicably promote restrictions on the types of bets available to consumers. This is the case in the most recent report published by Sorbonne University and the International Centre for Sports Security (ICSS) which proposes bet restrictions and identifies handicap, live betting, betting exchange and spread betting of being of particular risk. Yet the report openly states that it is 'still too early to know whether this

The reality of modern day match-fixing is that where it has been proved to take place it is conducted across the globe by organised criminal groups who primarily target illegal betting markets

road will lead to results by reducing risks linked to sports fraud on the national level,' acknowledging that there is no evidence to impose what would be a restriction on trade based on unsubstantiated integrity grounds. Moreover, it would only impact regulated operators and not the prime conduit for corrupters in unregulated markets.

A more measured response is apparent in the conclusions of the ASSER Institute-authored study for the European Commission on sports organisers' rights, published in April. Contrary to some inaccurate reports of its findings, the study mirrors much of what the regulated betting sector has been advancing since this flawed approach was adopted in France when the online market was opened in 2010. The report is clear that this approach is neither an effective integrity instrument nor financial distribution measure and it is worth pulling out some of the key highlights, in particular:

- The 'costs associated with the administering of the right to consent to bets will always be considerable' and 'there is no evidence for a link between the financial return stemming from a right to consent to bets and the financing of grassroots sport;'

- The adoption of integrity mechanisms is not a prerequisite of the French right and 'there is no guarantee that the income is in fact allocated to fraud prevention and detection;'

- The right to consent to bets 'risks leaving less popular and less visible sports more exposed to integrity risks' as 'for most sports organisers the financial return would be insufficient to cover their own integrity costs;'

- 'It is not evident that safeguarding the integrity of sports events constitutes the principal rationale of the French right to

consent to bets;'

- The conditions required to implement a right to consent to bets are capable of constituting an unjustified restriction on the free movement of services within the EU;

- The right establishes a monopoly for sports 'leading to the creation of a dominant position within the meaning of Article 102 TFEU' and anti-competitive concerns, and

- It highlights that 'amending the [Database] Directive to meet the demands of the sports organisers would bear the risk of creating undesirable information monopolies.'

Whilst sports governing bodies and the French authorities continue to promote a betting right, the report rightly highlights that 'apart from Hungary, no other Member State has adopted legislation similar to that existing in France' and that most other jurisdictions have 'instead opted for alternative mechanisms to collect and allocate revenue derived from gambling to sport.' Moreover, the report shows that sports organisers already have sufficient legal protection and the creation, at EU level, of a French style sports betting right is not justified. This represents a significant setback for those that have supported this approach, but then the argument was always on a questionable footing and it is hoped that a degree of reality will start to pervade their policy position from now on.

Mike O'Kane Chairman
ESSA
Contact via the editorial team

1. <http://www.fifpro.org/img/uploads/file/FIFPro%20Black%20Book%20Easter%20Europe%20WEB%20DOWNLOAD.pdf>
2. <http://www.fifpro.org/en/news/paying-players-can-reduce-match-fixing-threat>
3. Ibid.

The UK Government calls for a gambling advertising review

In April, the UK Government announced that it will review codes and practices relating to gambling advertising. This will include examinations by a number of organisations, among them the Gambling Commission, the Remote Gambling Association and the Advertising Standards Authority, with the Government's goal being to ensure advertising controls 'keep pace with developments in the market, provide adequate protection - especially to children and the vulnerable - and remain consistent with public expectations about gambling advertising.' Nick Johnson and Ben Dunham of Osborne Clarke provide background on the timing of this review and assess what could emerge as a result.

The UK Government announced in April 2014 that it is instigating a review of gambling advertising codes and practices - and with a General Election in the UK set for May 2015, it is perhaps no surprise that it has chosen to do so now.

The liberalisation of gambling regulation under the Gambling Act 2005 may have generated significant economic benefits for the country, not least in the form of increased advertising revenues for media owners and additional monies into the Exchequer's coffers. However, higher levels of promotional activity have led to increasingly febrile media claims about gambling advertising: 'How to turn a middle-class woman into an online gambling addict' reads one recent Daily Mail headline on the subject; 'How betting giants are cashing in on loophole allowing them to deluge teatime slots with commercials' reads another. With

the Election now just around the corner, being seen to take a tough stance on the issue has taken on a new importance.

It cannot be denied that gambling advertising is more prevalent on UK television than ever before. Whether attempting to persuade daytime viewers to download the newest bingo app, or to entice avid sports fans to bet on the next scorer in the Saturday afternoon football kick-off, gambling ads are now commonplace on television and have become part of the fabric of UK media generally. Flick through any newspaper and you are likely to see details of how you can benefit from a bookmaker's newest free bet promotion. Browse the internet and it is not long before you will see banner ads for poker or other gambling sites. There is no doubt that the advertising of gambling has increased significantly in the last few years as operators attempt to make the most of the increasing popularity and social acceptance of gambling, whether online, via apps or on the high street.

In November last year, Ofcom, the back-stop regulator which delegates functions to the ASA but ultimately retains overall responsibility for broadcast advertising enforcement, carried out audience research into the volume, scheduling, frequency and exposure of gambling advertising specifically on television in order to assess how it has changed since gambling advertising was liberalised in 2007 in the UK. As might be expected, it found an upward trend in the proportion of gambling ads on commercial TV, from 0.7% in 2006 to 1.7% in 2008 and 4.1% in 2012. In six years, the volume of gambling advertising has increased almost six-fold, meaning that the exposure of the public to such communications is wider than ever before.

It is also clearly the case that gambling products have evolved significantly since the current advertising codes were drafted, with in-play betting and other forms of instantly accessible online gambling now widely available, and an increasing proportion of gambling taking place on mobile devices.

The Government has accordingly announced that it believes it is 'timely that the codes are re-examined to ensure that existing controls keep pace with developments in the market, provide adequate protection - especially to children and the vulnerable - and remain consistent with public expectations about gambling advertising.'

On 30 April 2014, the Department for Culture, Media and Sport ('DCMS') outlined its proposals for a shake-up more generally in gambling protections and controls. The proposed changes are not limited just to gambling advertising. High street gambling may additionally be more directly affected by a requirement for betting shops to submit planning applications to local authorities and through limits on Fixed Odds Betting Terminals.

However, the DCMS statement also cites Per Binde's 2014 report for the RGT, 'Gambling Advertising: A Critical Research Review,' as providing evidence that 'gambling advertising may maintain or exacerbate already existing gambling problems.' It calls on the gambling industry and its regulators to 'carefully reconsider whether the tone, content and volume of gambling adverts is appropriate for general audiences and meets societal expectations, especially where adverts offer financial inducements or encourage 'in play' and other instantly accessible online gambling.'

● The Committee of Advertising Practice ('CAP') and the Broadcast Committee of Advertising Practice ('BCAP'), the bodies responsible in the UK for creating and maintaining the non-broadcast and broadcast advertising codes respectively, have been asked to evaluate the latest evidence underpinning the gambling rules. In particular, they are required to look at gambling advertising and problem gambling to assess if any regulatory implications arise - and whether the codes will need to be updated as a result.

● The Advertising Standards Authority ('ASA'), which enforces the CAP and BCAP Codes, will review the way in which it applies the gambling advertising rules to ensure that they are administered in a proportionate, robust and consistent manner. It has noted that as the amount of gambling ads has increased, so has the number of complaints received. (While it is not clear from its recent announcements whether the ASA regards the incidence of complaints in this sector as disproportionate compared to other sectors - and indeed its most recent market survey showed 96% compliance by gambling advertisers - nevertheless it cites the increased volume of complaints as justifying the importance of monitoring these ads in a way which protects those who are potentially more vulnerable to gambling-related harm).

● The Remote Gambling Association ('RGA'), the trade association representing remote gambling operators and software providers, will be reviewing the industry's voluntary code and will be reporting to the government on any necessary changes. In particular, it will be looking at whether the current 9pm watershed arrangements for

A strict 9pm watershed would have a substantial adverse impact on broadcasters' revenues and would clearly be detrimental to the gambling industry at a time when many operators are already scrambling to adjust their businesses to a new licensing and taxation regime

gambling advertising - including a carve-out for sports betting ads during televised sporting events - remain suitable, and whether ads should carry more/different responsible gambling information.

● Finally, the Gambling Commission has been asked to ensure that its current review of licence conditions ensures that all gambling advertising continues to be carried out compliantly. This will include scrutiny of free bets and bonuses offered by gambling operators - notwithstanding recent moves by CAP/BCAP to address concerns in these areas.

The approach taken in the Government's statement may not be as tough as some may have feared. As recently as March this year, sources close to the then Media Secretary Maria Miller were reported as indicating that some ministers viewed the predicament of gambling advertising as similar to that historically of tobacco advertising (Tobacco ads of course ultimately ended up being banned under a 2002 statute).

However a strict 9pm watershed would have a substantial adverse impact on broadcasters' revenues and would clearly be detrimental to the gambling industry at a time when many operators are already scrambling to adjust their businesses to a new licensing and taxation regime.

The Gambling (Licensing and Advertising) Act 2014, which recently received Royal Assent, will require gambling operators that transact with or advertise to British consumers to obtain a Gambling Commission licence. Whereas operators with a valid licence from a country in the EEA or a 'white-listed' country are currently able to advertise in the UK, any online gambling business wanting to do so in the future, whether based in the UK or overseas, will need to apply to the Gambling

Commission for a British remote operating licence. They will also need to pay British tax on a point-of-consumption basis, expected to take effect from 1 December 2014. In the short term at least this is likely to mean fewer operators targeting the UK, and tighter margins for those who remain active here.

It is worth noting that a complete ban pre-watershed would go far beyond the current scheduling restrictions applicable to alcohol advertising, and would severely limit the potential for bookmakers to promote in-play betting opportunities (bearing in mind that most major sporting events are aired before 9pm).

The RGA's review is expected to be completed by the end of June 2014, with CAP, BCAP and the ASA committed to completing their reviews in Autumn 2014 and implementing any necessary changes before the end of the year. At this stage therefore it is hard to predict the outcome of these reviews and how severely they will impact the industry. That said, the Government's move on this issue is a clear stake in the ground, indicating that it regards gambling advertising as a priority topic. The DCMS has the bit between its teeth and the risk of significant changes cannot at this stage be ruled out.

Nick Johnson Partner
Ben Dunham Associate
Osborne Clarke, London
Nick.Johnson@osborneclarke.com
Ben.Dunham@osborneclarke.com

Smart-TVs: regulation, and the potential for gambling apps

The popularity of TVs equipped with 'smart' technology is increasing by the year, and already there have been a number of attempts to bring gambling apps to Smart-TVs. Although gambling on these devices has not become a huge success as yet, this could eventually change. Julien Whyte, Head of Compliance at interactive TV gaming company NetPlayTV, discusses the emergence of gambling apps on Smart-TVs so far, and examines the legal and regulatory issues gambling on Smart-TVs may give rise to, including what the 'flash point' issues are likely to be.

Sales of Smart-TVs saw a 55% year on year rise in 2013, a figure that represents a 33% share of global sales of flat panel TVs¹, so it's no surprise that this recent addition to the gaming device fraternity is beginning to find itself under the spotlight of legislative scrutiny. Predictions are that this share will rise to over 70% by 2017, which, if accurate, begs the question of how long it will be before Smart-TV technology becomes the default retail option? It seems an inevitability given the instinctual competitiveness of the electronics industry.

But are we really facing an iPhone style renaissance where our domestic TVs are concerned? It's important to remember that the ability to browse the internet using a TV has been around in one form or another for quite some time now, just as IP enabled phones were already commonplace when the iPhone first smashed into the public consciousness in 2007. The iPhone popularised several other game-changers, most notoriously the touchscreen GUI and the

concept of apps on a personal device, but does 'smart' technology really hold the same capacity for revolutionising how we use the humble TV?

In the short time since Smart-TVs have secured a foothold in the consumer market there has been significant investment in Smart-TV apps from a wide cross section of industries, with remote gambling being no exception. Betfair worked with Samsung to bring their betting exchange into IP enabled TVs back in 2010 and Paddy Power launched its betting app in February 2012, yet neither have proved ground-breaking so far. However, much of the success of any IP related software is dependent on market penetration for the operating system that hosts it, which still remains anyone's game where Smart-TVs are concerned, with most manufacturers opting for their own proprietary solution.

So it's understandable as to why the format has so far not been embraced by big name software providers - the required R&D to port games across the varying mobile operating systems is a difficult work stream to maintain without the introduction of separate development for Smart-TVs as well. But for this new medium to become any shade of gambling manna it has to offer real cross-device capabilities, to give the consumer an extension to rather than just a duplicate of their interface. The user experience has got to blend seamlessly across the user's mobile, tablet, laptop and whatever other IP enabled devices he/she might have sitting on their LAN. App stores, shared/social gameplay, true second-screen technology, 'throwing' game pages from device to device, these are all features that tech-savvy operators and gamblers alike would love to see; a truly convergent gaming

experience forming in its wake. Hopefully, Phillips' recent decision to ship Android with its new higher-tier Smart-TVs will go down as an encouraging first step towards progress, but until other manufacturers follow, suit app development is, for the moment, likely to stay within the confines of more bespoke, yet evidently expert, developers like Miomni and Donaco.

Regardless of the proliferation, or not, of gambling apps, Smart-TVs still have the ability to spark debate around some interesting points. Under technical analysis, the delivery of a gambling product through a Smart-TV is no different to any other IP device; by utilising the same protocols, both are effectively GUIs for the operator's software. So where the direct issue of the legality of using a television to place bets is concerned, regulations across most EU and white-listed jurisdictions should already be in a fit state to deal with technological advancements like this, now and in the future. Competent and comprehensive regulations were already in place when the last great 'smart revolution' hit with the introduction of the iPhone in 2007, and regulators still do not find themselves in the position of having to revise their legislation in order to cope. Perceived unknowns have the ability to prompt pause around accepting any new form of technology, but a more rational position is always to keep focussed on the legislation at hand.

For example, Section 4 of the Gambling Act 2005 of Great Britain defines remote gambling in the following way:

(1) In this Act 'remote gambling' means gambling in which persons participate by the use of remote communication.

(2) In this Act 'remote communication' means

communication using -

- (a) the internet,
- (b) telephone,
- (c) television,
- (d) radio, or
- (e) any other kind of electronic or other technology for facilitating communication.

As can be seen, not only is the medium of television mentioned directly, but 4(2)(e) goes further to expand the definition in an effort to 'future-proof' against unknown future technological advancements. Other jurisdictions across the world deal with this issue in very similar ways, with the common goal of ensuring that their legislation is written and designed in such a way as to offer a 'one size fits all' solution for any electronic equipment used by a consumer when communicating with an operator's products.

Sounds easy, but we mustn't forget technical standards as it's always in secondary legislation that the devilish details present themselves. Major e-gambling jurisdictions, however, are far more likely to employ principle based rules as opposed to prescriptive regulation per device (wherever possible), which in turn allows developers freedom in their approach towards their product, provided the required testing and design requirements are met. So, even when drilling down, there should still be no reason to expect new challenges from Smart-TVs than from any other IP enabled device, provided the regulatory environment is sound and intelligently designed.

Other services, like customer support, KYC, payment processing and AML procedures, all sit 'behind the device' and so generally don't require additional regulatory measures to support a new delivery device. So if technical requirements and administrative controls are not a flash point in regulation for

Given that Smart-TV access controls will act as a partial gatekeeper for data streams both in and out of the user's local area network, they are undoubtedly set to become a critical component for protecting users' e-gambling accounts

Smart-TVs, exactly what is? Any political debate or discussion in general media will surely settle upon the age old discussion of social responsibility - betting in our front rooms, gambling made possible through our trusted friend in the corner, how should we protect children and the vulnerable - but these again are areas where existing e-gambling legislation is strong enough to withstand scrutiny.

A perhaps more relevant concern in this regard lies with security and user access controls. The recent furore over the Heartbreak virus, targeting SSL security certificates, showed that even the most fundamental aspects of internet security can still be compromised by ardent hackers. Given that Smart-TV access controls will act as a partial gatekeeper for data streams both in and out of the user's local area network, they are undoubtedly set to become a critical component for protecting users' e-gambling accounts. Lessons need to be learned from the mobile industry here, for without correct and efficient security protocols the medium could easily become exploited by fraudsters, leading to a breakdown of public trust and highly damaging PR.

So with the exception of security issues, legislation looks relatively rosy for Smart-TVs, but does the regulatory buck stop with gambling? Where standalone products operating on a proprietary OS are concerned it may be fair to say yes. But looking ahead to a convergent utopia, where TV truly blends with mobile and the internet, other complications start to appear. With credit card firms and mobile networks both working towards better micropayment solutions for smartphones, it is inevitable that Smart-TV apps and associated

payments will find their way into scope, and as 'smart' technology grows across other devices, single-wallet solutions will become more and more desirable for the consumer. This certainly is an area that deserves more detailed analysis across the wider regulatory scale but is also an issue that should attract the eyes of proactive e-gambling regulators globally.

While it is apparent that innovations around Smart-TVs may well prompt discussions around e-gambling, there is no doubt that the structure of relevant legislation is already fit for purpose. In fact, over-analysis from any perspective without due consideration of the existing framework could easily prove a negative step - one only needs to look at recent Parliamentary debate around the new Gambling (Licensing and Advertising) Bill to see how easily discussion around one area of legislation can bleed through into others. As the applicable rules are obviously robust, future-proofed and socially responsible, it would seem that the best course of action for all involved from a gambling law perspective is to stand firm in defence of existing legislation while directing sceptics and naysayers towards other, more relevant, regulatory areas.

Julien Whyte Head of Compliance
NetPlayTV Plc
julien.whyte@netplaytv.com

1. Security Analytics, 2013 Smart TV Shipments Grew 55 Percent, January 2014 - <https://www.strategyanalytics.com/default.aspx?mod=press-releaseviewer&a0=5472>

Swiss seek to remove online gambling ban with draft law

The Swiss Federal Council published a draft of its revised gambling law on 30 April. The draft law aims to remove the current complete ban on online gambling in Switzerland and allow for operators with existing territorial casino licences to apply for a licence extension to offer online gambling. Dr. Andreas Glarner and Dr. Luka Mueller of MME Partners analyse the draft law.

On 30 April 2014, the Swiss Federal Council released its draft of a revised gambling law for consultation¹. The main reasons that led to the Swiss Government proposing a revised regulatory regime were the concerns expressed by Switzerland's casino industry. After the Swiss gambling prohibition was lifted in 2000, Switzerland's land-based casino industry started to flourish. However, once internet gambling and other remote gambling applications began to rise in popularity, the industry started to face competition from foreign remote gambling operators providing their services into Switzerland. As Switzerland's regulatory regime fully bans the organisation or operation of online casino games for money², the Swiss casino industry could not match the competitive challenge. In addition, Swiss gamblers may legally access online gaming services provided from abroad.

The current regime thus leaves the Swiss online gambling market in the hands of non-Swiss providers. Consequently, the success of online gambling in Switzerland goes hand-in-hand with substantial gambling revenues leaving the country. Since 2007, the industry suffered a 27% decline in

revenues and even a 34% decline in license payments³; the Swiss Casino Federation has identified foreign online gambling as one of the main reasons that has led to this⁴.

The expectations for the long awaited draft - the release of a new law was originally announced for mid-2013 - were high. Many local and international market participants anticipated that Switzerland would implement a legal framework designed to make Switzerland an attractive domicile for international online gambling operators. Though the Swiss gaming market is limited in size, Switzerland would offer an optimal infrastructural platform for online gambling operators.

Now the curtain has been lifted, this spirit of optimism has been replaced by sobering conclusions that - at least according to the Swiss Federal Council - Switzerland is not on the fast lane to become the next gambling hotspot. However, it is definitely too early to strike the flag: there is still a long way to go before a new law will eventually enter into force.

To a large extent, the proposed law does not change the current control and enforcement practices. From a formal point of view, it does, however, bring one substantial change: Currently, the Swiss regulatory framework distinguishes between two kinds of gaming, i.e. casino games and bets/lotteries. Casinos (terrestrial and online) as well as cash games of chance are governed by the 1998 Federal Gaming Act ('FGA'). Any other games - such as lotteries, bets and bingo - are governed by the Swiss Lottery Act ('SLA'). Skill games and prize competitions (as far as they do not fall under the SLA because participation is combined with a purchase obligation) do not fall under these federal laws but are regulated by cantonal law. Principally, skill

games and such prize competitions may freely be organised subject to certain cantonal restrictions. The proposed bill refers those two decrees into a single federal law aiming to guarantee a coherent gambling regulation in Switzerland.

However, this change is not matched with a new organisation on an institutional level: Casinos still require a concession from, and are supervised by, the federal government. The lotteries, sports betting and skill games will also require a cantonal authorisation and are under the supervision of the cantons. In order to support and improve the cooperation between the authorities of the Federal Government and the cantons on an institutional level, the draft legislation proposes the creation of a coordinating body.

Apart from this, the major features of the draft are:

Online gambling ban removed

Under the current regulation, organising online real money casino games is illegal⁵. The same applies to internet-based lottery or betting services⁶. However, while no licences for online casino games are available, the cantons may grant licences for online lottery or betting services. As of today, only Swisslos and Loterie Romande have obtained the necessary permissions and allow players to take part in online games. As a result, both of them have made use of their permissions by developing a wide range of online lottery and sports betting services.

According to the proposed Money Gaming Act⁷, the provision of online gambling services within Switzerland based on a concession is allowed. However, the draft does not break new grounds here either, instead attuning the online casino market to the existing legal framework for lottery and sports

betting services: Only a holder of a licence for a terrestrial casino shall qualify to apply for an online licence. Accordingly - and contrary to the draft of the Dutch Remote Gambling Act published around the same time - the draft does not contain the possibility for foreign operators to join the party without partnering with a local terrestrial licence holder. As only a limited number of terrestrial licences may be granted, foreign operators are well advised to enter into early strategic alliances with the Swiss bricks and mortar casino industry to secure their share of the cake.

In its commentarial report the Swiss Federal Council states that other licence schemes have been discussed. The chosen solution was favoured because it corresponds to the existing regulation for online lottery and sports betting and because it ensures that the Swiss casino industry does not have a disadvantage when compared to foreign providers offering their services into Switzerland, who have obtained market know-how.

In order to be able to extend an existing concession with the right to provide online gaming services, the applicant will have to provide proof that he meets the requested concession standards also with regard to its online business. One of the preconditions is a profitability calculation of the intended services. The Swiss Federal Council believes that - because the Swiss market is rather small - only a few platforms for online games will be profitable. Accordingly, it seems likely that the extension of a concession will be dismissed if the commercial viability is not demonstrated.

Blocking of foreign operators

The draft does not aim to prohibit the use of foreign online gambling services in Switzerland. Thus, players will not in the future have

The draft does not aim to prohibit the use of foreign online gambling services in Switzerland

to fear sanctions - that is if they manage to access foreign gambling sites. The Federal Council intends to technically block access to foreign online gaming providers if their services have not been licensed in Switzerland.

The Federal Council argues that such measures are required to protect the Swiss players from unregulated foreign offers. The supervising authorities shall blacklist the relevant operators, and internet access providers ('ISPs') shall have the obligation to block the blacklisted websites.

ISP blocking is an extensive measure which may easily be circumvented. Thus, its suitability and proportionality seems at least questionable. Accordingly, there are strong doubts that the proposal will be able to find itself a supporting majority. This in particular as the foreclosure of the Swiss market has the ancillary effect of protecting the economic interests of the Swiss casino industry - which happened to strongly influence the composition of the draft law.

Other changes

The draft bill provides for a tax exemption for all money games and introduces new guidelines for the charitable use of the incomes from lotteries and sports betting services. The revised act also proposes to strengthen player protection and contains a number of provisions to guarantee secure and transparent gaming operations e.g. measures against the manipulation of sport competitions. In addition, the organisers of lotteries, sports betting and skill games shall become subordinated under the Anti Money Laundering Act.

Missed chances

Under the regulations in force, there is much uncertainty as to

what extent Swiss entities may provide services to foreign online gaming operators (e.g. IT services) and if they may invest in such companies. Interpreting the wording extensively, the authorities regularly take the position that each and every activity that supports, funds or simply facilitates online gambling is illegal. The draft regulation clarifies that the advertising of unauthorised gaming operations is prohibited. Other than this, it completely fails to address this question.

Outlook

The revised legislation proposed by the Swiss Federal Council is now in consultation (until August 2014). The purpose of the consultation is to check the acceptance of the planned revision and conduct amendments prior to releasing it to the Parliament for deliberation. Accordingly, it is not clear yet which system Switzerland will finally adopt. It seems unlikely that a revised law will enter into force prior to 2018.

Dr. Andreas Glarner Partner
Dr. Luka Müller-Studer Partner
MME Partners, Switzerland
andreas.glarner@mmepartners.ch
luka.mueller@mmepartners.ch

1. 'Draft Money Gaming Act' ('dMGA'), for the draft bill see http://www.admin.ch/ch/d/gg/pc/documents/2364/V_Entwurf_Geldspielgesetz.pdf and http://www.admin.ch/ch/d/gg/pc/documents/2364/V_Bericht_Geldspielgesetz.pdf for the associated commentarial report of the Swiss Federal Council.
2. Lottery and sports betting may be provided online by the two licensed operators.
3. <http://www.switzerlandcasinos.ch/98.html?&L=%2Fproc%2Fself%2Fenviro>, visited on 14 May 2014.
4. Ibid.
5. Article 5 FGA.
6. Article 1, 33 and 38 SLA.
7. Article 9 dMGA.

Changes in Russian law to legalise online sports betting

Amendments to law No. 224-FZ will legalise online betting, with companies wanting to obtain a licence facing mandatory membership in the Self-Regulatory Organization of Bookmakers ('SRO'). Following a decision by the government to approve¹ amendments to the law No. 224-FZ and send it to the State Duma, many people began to ask the question: what effect will this law have on the sports betting industry in Russia if passed in its current form? Let's discuss this question from an operator's perspective and elaborate on the most important changes in the new legislation.

An extra insurance payment

The current changes have made it even more difficult for small bookmakers to enter the Russian market. In addition to the 500 million roubles (\$14.3 million) in bank guarantees, a payment on 100 million roubles (\$2.85 million) is needed to join the SRO. For well-established local betting firms and western giants like William Hill, this will not be a stumbling block. It is interesting to point out that William Hill is seriously looking into the possibility of entering the Russian market.

Taxation

Given that the law is being lobbied for by the business industry, it is unlikely that the tax conditions will be unfavourable. Experience shows that the conditions will be very favourable. This view can be backed up by the laws currently requiring payments from betting companies in Russia. You can add things up for yourselves: in order

to get a licence as an operational capital company, a sum of a minimum of one billion roubles (\$28.5 million) as well as the availability of a bank guarantee of no less than 500 million roubles is needed. These betting companies are currently paying just 125 thousand roubles every month (\$3,500) for the betting processing centre, which every company must have one of, as well as 7000 roubles (\$200) for every betting shop.

The creation of a united betting processing centre and single payment system

The betting processing centre needed, from the outset, to be a useful tool to help gather information from the market, with the aim of adapting this information for the future interest of the government, for example. Instead of this, the change in the law looks at creating a single payment system, which would allow commission to be taken, both from the player and the betting company. This could be used as a tool to put pressure on rival companies. The management of the SRO could insert a commission, as a result of which other betting companies would not want to operate in the Russian market and so the SRO could create a monopoly. We do not know exactly how the SRO will use this tool, but the aforementioned cannot be ruled out, if the law is kept in its current state.

Betting sites blocked

Betting sites and sites used by casinos have been blocked by Russian telecommunication

operators. Up until 11 April 2014, this only occurred locally. On 11 April online bookmakers were put on to a government list², which outlaws 219 betting websites³, following which telcos refused to connect to these betting sites in Russia. Very few companies have officially reacted to having their sites blocked. Bet-at-Home decided to stop operating in Russia and closed players' accounts after paying their balance. Betway is likely to follow suit in the near future, while Betfair has already decided to end its affiliate program, but will still allow players in Russia to use its facilities.

Affiliate businesses

On one hand affiliates will have less advertisers because not everyone affiliates work with at the moment will acquire a Russian licence. But on the other hand, those companies that receive a licence will not be worried about investing in the market on a long-term basis and a lack of sponsors will be compensated by large marketing budgets. The thing that is bothering me as the owner of Bookmakers Rating is that companies that will acquire licences may not have a good reputation on the market. And so the decision to use the Rating will be formed on the basis of being the choice of a 'lesser of two evils.'

Paruyr Shahbazyan Founder
Bookmakers Rating, Russia
paruyr@bookmakersrating.ru

1. <http://government.ru/activities/11528>
2. <http://eais.rkn.gov.ru/>
3. <http://bookmakersrating.ru/reshenie-oktyabrskogo-rayonnogo-suda-sankt-peterburga-o-blokirovani-219-igorniyh-saytov/>

SIGN UP FOR FREE EMAIL ALERTS

The World Online Gambling Law Report provides a free email alert service. We send out updates on breaking news, forthcoming events and each month on the day of publication we send out the headlines and a precis of all of the articles in the issue.

To receive these free email alerts, register at www.e-comlaw.com/woglr or email adelaide.pearce@e-comlaw.com