

Ruling in favour of unlicensed operators

A recent ruling of the Regional Court of Linz has dismissed claims against bet-at-home in which a customer claimed for reimbursement for losses at online roulette because the operator does not hold an online gambling licence in Austria. The ruling, which was delivered to parties on 15 January, concluded that the regulatory regime in Austria is not in compliance with EU law and as such bet-at-home is entitled to offer its services in Austria without the obligation to reimburse the customer or hold an Austrian licence.

Claus Retschitzegger, Head of Communication and Legal at bet-at-home explains that the ruling is important “because it is a fundamental decision regarding the compliance of Austrian gambling law with EU law and is a positive signal for other operators without an Austrian licence.” Bet-at-home applied for the only online gambling licence available in Austria, which was granted to a state owned company.

“There are positive examples like Denmark or the model in Schleswig-Holstein [of what an attractive regulated Austrian gambling market might look like],” adds Retschitzegger.

GB’s Gambling Commission steps up social responsibility

The Gambling Commission (GC) published amendments to the social responsibility provisions in the Licence Conditions and Codes of Practice (LCCP) and Remote Technical Standards on 6 February, aimed at protecting players and those at risk from gambling related harm. The updated version of the LCCP comes into effect from 8 May with the changes to the Remote Technical Standards coming into force on 31 October.

“Some of the changes will already have been regarded as ‘best practice’ particularly for larger operators,” said Susan Biddle and Audrey Ferrie of Pinsent Masons. “We suspect that the changes will be most significant for smaller operators, and perhaps for those new to the GB market.”

The changes that will impact online operators include: the requirement to provide ‘time-

out’ facilities for customers; the requirement to put into effect policies and procedures for customer interaction where they have concerns that a customer’s behaviour may indicate problem gambling; and measures to ensure marketing and advertising is socially responsible, including that the marketing of ‘free bet’ offers is not misleading.

Social responsibility code provision 3.4.1 regarding the requirement to put into effect policies and procedures for customer interaction where they have concerns that a customer’s behaviour may indicate problem gambling, includes a specific provision for making use of all relevant sources of information to ensure effective decision making, and deliver effective customer interactions. Stephen Kettleley, Partner at DLA Piper, highlights this particular provi-

sion. “The GC is challenging operators to carefully consider how to make the best use of information they generate across the business to ensure they are effectively positioned to interact with the customer. Recent investigations into various operators’ compliance processes have resulted in a clear policy update requiring industry to use data generated and analysed for commercial purposes also to mitigate compliance risk.” Kettleley explains, “Use of data is going to be an ongoing focus - particularly how to use data to minimise the risks associated with gambling.”

The GC has also launched a supplementary consultation on 19 February aimed at gathering views on the proposal to require large operators to provide an annual ‘assurance statement.’ The closing date for responses is 19 April 2015.

Reintroduction of US Wire Act reversal bill prompts scepticism

Rep. Jason Chaffetz reintroduced the Restoration of America’s Wire Act bill (RAWA) to the US Congress on 4 February; the bill would virtually outlaw i-gaming at a federal level through a reversal of the 2011 Department of Justice Opinion that the Wire Act applies only to sports betting.

The bill, which is backed by Las Vegas Sands CEO Sheldon Adelson, has caused concern for some; Pala Interactive CEO Jim Ryan called it “the most significant threat we’ve had post-Black Friday,” while Anthony

Holtzman, Partner at K&L Gates, believes “RAWA will likely garner support from a variety of Republicans, because they are opposed to gambling, because the bill is backed by Adelson (a substantial financial supporter of Republican congressional candidates and causes), or both.”

The bill is set for a hearing at the House Subcommittee on Crime, Terrorism, Homeland Security, and Investigations on 5 March. However, Jeff Ifrah, Founding Member at Ifrah Law, believes that “While it’s true that

having a hearing for the bill will bring it more attention, having a hearing doesn’t make it any more likely to pass or even make it out of committee.”

“While RAWA is the most serious effort against i-gaming in recent years, that is mainly because there have been few if any credible efforts,” said Martin Owens, Attorney-at-Law. “As a general rule they don’t even make it out of committee. Republican-controlled or not, Congress has many more important things on its plate.”

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