

New Jersey regulator outlaws black market operators but accepts grey markets

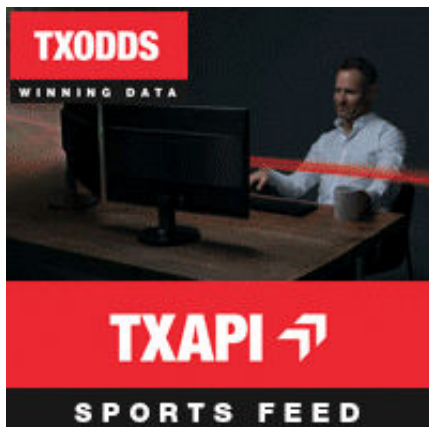


The New Jersey Department of Gaming Enforcement has issued an advisory bulletin stating that any companies operating in black markets will be banned from the state.

Director David Rebuck's note attempts to clarify the regulator's approach to black and grey markets.

"The Division will examine whether or not a jurisdiction has a law that specifically prohibits internet gaming and, if so, whether the jurisdiction has taken affirmative, concrete action to enforce that law," wrote Rebuck.

The bulletin was a result of the DGE's struggle with how to determine the suitability of a licensee when internet gaming companies operate in jurisdictions, where the legality of online gaming is unclear or inconsistent.



“If you operate in a grey market jurisdiction where internet gaming laws are ambiguous - or no affirmative enforcement actions have been taken – you’re probably good to go where NJ licensure is concerned,” commented Ifrah Law gaming lawyer George Calhoun. “But if you operate in a jurisdiction where the relevant authorities have taken affirmative action to prevent internet gaming activity, it will be considered a black market and you may be ineligible for a New Jersey license. Make sure you know what a black market is and stay out!”

Director Rebeck recognized the DGE is in no position to pass judgement on the laws of grey market jurisdictions and therefore opted not to adopt a standard that would have imposed his own views on the laws or actions (or inaction) of other sovereign jurisdictions.

“For practical purposes, this means that New Jersey has adopted a suitability standard of ‘if it’s not prohibited there, you are permitted here’,” continued Calhoun.

With regard to black markets, the DGE listed civil and criminal complaints and the issuance of formal cease and desist letters as examples of affirmative, concrete actions taken that illustrate that internet gambling is illegal. Where a jurisdiction has refrained from taking any affirmative steps to prevent an internet gaming market to develop, the DGE will consider that jurisdiction to be a grey market.

However, Calhoun believes the bulletin leaves substantial ambiguity concerning the area of daily fantasy sports (DFS).