



Legal Gaming in Europe Summit

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Insights on a future gambling framework in Europe

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Current legal scenario in Europe

The key issues

- ◆ Increase in gambling supply and distribution channels
- ◆ Fragmentation between monopolies and liberalised gambling domestic markets
- ◆ A recent and important wave of EU SM regulations to open the online gambling market
- ◆ Persistence of black market and different solutions to fight

Where from now?

Current legal challenges in Europe

- ◆ **CJEU rulings:** no harmonisation of gambling legislation at EU level, no mutual recognition but request of coherence for the gaming regulations

- ◆ CJEU tightens restrictions conditions on the freedom to provide services or the freedom of establishment:
 - on grounds of public policy, public security or public health
 - by overriding reasons in the public interest.
 - based on proportionality and non-discrimination.

The Costa Cifone cases (C-72/10 and C-77/10)

- ◆ Restrictive measures imposed by Member States must also ensure full transparency, legal certainty and equal treatment.
- ◆ Even if identification of the objectives in fact pursued by the national legislation is within the jurisdiction of the national court, ECJ provides national legislation interpretation guidelines !

Current legal challenges in Europe

The HIT and HIT Larix case (C-176/11)

- ◆ *“The mere fact that a Member State has opted for a system of protection which differs from that adopted by another Member State cannot affect the assessment of the proportionality of the provisions enacted to that end”*
- ◆ Member State cannot prohibit gambling advertising from another Member State on the mere fact that the protection guaranteed in that Member State is not identical to the domestic rules.

The Latvian Garkalns case (C-470/11)

- ◆ National courts are to ensure that legislation:
 - *“meets the concern to reduce opportunities for gambling and to limit activities in that domain in a consistent and systematic manner”;*
 - *“the criterion of ‘substantial impairment of the interests of the State and of the residents of the administrative area concerned’ is applied without discrimination”.*

The joined Greek cases (C-186/11 and C-209/11)

- ◆ *“Articles 43 EC and 49 EC precludes national legislation which grants the exclusive right to run, manage, organise and operate games of chance to a single entity, where:*
 - *that legislation does not genuinely meet the concern to reduce opportunities for gambling and to limit activities in that domain in a consistent and systematic manner;*
 - *where strict control by the public authorities of the expansion of the sector of games of chance, solely in so far as is necessary to combat criminality linked to those games, is not ensured”.*

The joined Greek cases (C-186/11 and C-209/11)

- ◆ *“It is up to the Member State concerned to liberalise or not the market in games of chance if it finds that such a liberalisation is incompatible with the level of consumer protection and the preservation of order in society”.*
- ◆ *“National authorities may not refrain from considering applications [...] for permission to operate in the sector of games of chance, during a transitional period” .*

The forthcoming Commission soft-law initiatives

- ◆ Recommendation on common standards to protect consumers
- ◆ Recommendation on responsible gambling advertising
- ◆ Recommendation in the prevention of betting related match fixing

A non binding framework tempered by the urgency of a political solution that must prevail over the uncertainty of on-going courts litigation.

Insights of the next legal scenario in Europe



Expert group and EU technical standards on gambling equipment

- ◆ Efficient but reasonable IT and RG measures
- ◆ Digital age and identity verification tools
- ◆ Location of the applicant company or technology
- ◆ Platform certifications
- ◆ Games certifications
- ◆ Common auditing mechanisms

How many times can you reinvent the wheel?

Insights of the next legal scenario in Europe



Let's not wait and see. Stakeholders should:

- ◆ “guide” their gambling authorities
- ◆ solicit EU Parliament follow-up
- ◆ participate to EU stakeholders meetings
- ◆ follow enforcement of the Action Plan and EU Pilots commitments

To the right way forward : an enhanced cooperation

- For a small and more advanced group of SM with common political vision and objectives
- Harmonisation of main administrative and technical burdens within the authorisation/licensing and control processes