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Italy's Budget Law 2018: changes for gambling

Valérie Peano, Attorney-at-Law at European Gambling Lawyers & Advisors, examines forthcoming changes to the gambling sector in Italy included in the Budget Law for 2018. These changes, together with the tender for 120 new online gambling licences published on 10 January 2018, look set to shape the Italian gambling sector for the year ahead.

The Italian Parliament voted through the Budget Law for 2018 on 27 December 2017¹. The Law includes the following provisions relating to the gambling sector: (i) reforms to horseracing betting - notably through the introduction of a profit-based tax regime and a customised program on horseracing fixed odds betting as well as a revision of tote betting products; (ii) the prorogation of land based bingo and betting licences until the publication of the new tender; and (iii) the creation of a national registry for gaming distributors and hall managers. The changes introduced within these provisions have been long awaited. In this article, the most relevant changes to the gambling industry are discussed.

Betting shops and bingo halls tender to launch by 30 September 2018

The Budget Law for 2018 provides for the long awaited publication of the new betting shops and bingo halls tender by 30 September 2018, updating the initial provisions (respectively the Budget Law for 2016 and Budget Law for 2014).

In the past years, the launch of the land based betting tender relating to 10,000 betting shops and 5,000 non-dedicated outlets (so called 'corners') has been continuously postponed. The reason for this is essentially connected to the lack of agreement between the Government and municipalities on the characteristics of shops and corners (notably the time of operation) where

bets are collected and gaming machines installed as well as their distribution criteria in the territory (notably their distance from sensitive locations). Following the agreement reached on 7 September 2017, municipalities must adapt their laws to the new provisions before the launch of the tender.

To this purpose, the Budget Law for 2018 prorogates the current land based betting shop and corner licences until 31 December 2018 against the payment of an annual extension fee of €6,000 per betting shop and €3,500 per betting 'corner.'

A similar prorogation is set forth for bingo halls licences, which expired in the years 2013 to 2018 until the next tender is launched by 30 September 2018 for the issuance of 210 bingo licences. Unexpectedly, the bingo halls licences prorogation fee has been increased with the Budget Law for 2018 (up to a monthly fee of €7,500). The Agency of Customs and Monopolies ('ADM'), acting as the gambling regulator in Italy, published on 8 January 2018 an implementation notice in this regard².

Horseracing betting tax change, customised program and new tote products

The reordering of horseracing betting rules represents at least part of a long awaited reform most recently introduced by Article 15 Law no.154/2016 but not yet implemented by the Government.

GGR taxation for fixed odds horseracing betting

From 1 January 2018, fixed odds horseracing betting has shifted from a turnover-based tax regime to a tax on gross gaming revenues with applicable rates of 43% on retail shops and 47% on online offerings.

These rates are further divided into 33% for taxation and 67% as a specific return to the equestrian industry (prizes and racetracks financing, horse breeding, etc.).

Should these rates appear to be too high, the Budget Law expressly empowers the Ministry of Finance to propose a legislative amendment aimed at the reduction of the latter based on an overview of the previous twelve months.

Customised horseracing betting program

An expansion of the official horseracing program - currently established by the Ministry of Agriculture ('MIPAAF') - with the introduction of new races and fixed odds bets offers is set forth in order to grant Italian punters the opportunity to bet on additional international races and ensure at the same time additional revenues for the equestrian sector.

In practical terms, ADM betting licensees will be authorised to offer a customised betting program for fixed odds horseracing betting - in addition to the official program set up by the MIPAAF - upon compliance with an implementation

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decree to be issued by the ADM by the end of March 2018. However, according to the Budget Law for 2018, this decree will have to regulate the customised horseracing betting program, taking into consideration 'the best integration with the events and horseraces images within the official program.' In light of such obligation, it cannot be said that a full liberalisation of the horseracing program is taking place, unlike in sports betting where there is no official betting program.

Review of tote horse bets

The Budget Law of 2018 sets forth a revision of the tote horserace bets products to align the offering with the two tote systems that currently exist and that are managed by the ADM, introducing new tote games formulas and categories of prizes, including jackpots. This review is more than welcome in order to enhance the attractiveness of tote horse bets. As pointed out in one of my previous contributions to *Online Gambling Lawyer*³, the horseracing betting reform is long overdue because unlike all the other gambling sectors horserace betting has not benefited from the quantitative and qualitative development of its products.

The review shall be set forth through decrees from the Ministry of Finance, upon advice of the MIPAAF. Interestingly, the advice of the MIPAAF does not appear to be binding.

Racetracks to offer horseracing betting

The Budget Law provides for racetracks to execute a specific licence agreement with the ADM in order to operate betting on all horseraces.

Horseracing management reform

Finally, in order to sustain the equestrian industry and improve the management of horseracing, the Budget Law recalls the provisions contained in Art. 15 Law no.154/2016 as regards the assignment of specific ministerial competences and management activities for the equestrian sector to a governing entity that will remain under the MIPAAF's supervision; this will be done through a public tender to be launched by the MIPAAF within 90 days of the date on which the Budget Law begins to be enforced.

National registry of gaming distributors and hall managers

With the aim to combat money laundering

and the financing of terrorism, the Budget Law of 2018 slightly amends Italy's national transposition decree for the Fourth EU Anti-Money Laundering Directive to provide for the setting up of a national registry of gaming distributors and hall managers by the ADM.

Such distributors and managers form part of the retail gambling network and are contracted by the ADM licensee for retail offering such as betting, video lottery terminals ('VLTs'), etc. The registry shall encompass, among other things, their identification data, the kind and modalities of gaming activity, any interruption of the contractual relation between these and the ADM licensee for lack of compliance with requirements and/or serious violation of AML provisions and any suspension proceedings shall be indicated.

In any event, clarifications relating to the access (notably by the ADM licensees) and functioning of this registry are still to be issued by the Ministry of Finance, upon advice of the ADM Director and the Data Protection Authority.

Conclusions

This article provides a snapshot of the main changes introduced by the Budget Law of 2018 that pertain to gambling. There is no doubt that these changes, together with the new tender for 120 online gambling licences published on 10 January 2018, will shape the Italian gambling market in 2018. Besides, it cannot be excluded that other provisions within the Budget Law of 2018 may affect the sector, for example the so-called 'web tax'⁴ of 3% on the value of digital transactions, effective from 2019, the definition of which still needs to be clarified with a decree to be issued by the Ministry of Finance before 30 April 2018. To be noted, as far as revenues generated from licensed gambling in Italy are concerned, ADM licensees are subject to a B2C point of consumption tax (mostly on their gross gaming revenue). As it is currently drafted, the so-called web tax is not likely to affect the tax paid by licensed gambling operators in Italy. However, at this early stage, the impact of this 'web tax' on gambling activities in Italy is still relatively unknown.

1. Article 1 Paragraphs 1047-1049 Provisions on gambling - Law no. 205 dated 27 December 2017.
2. <https://www.agenziadoganemonopoli.gov.it/portale/>
3. 'Long-awaited reforms to transform the Italian horseracing betting sector?', *Online Gambling Lawyer*, Volume: 16 Issue: 3 (March 2017).
4. Article 1, Paragraphs 1011-1019 Fiscal measures for the digital economy.