



Gambling in the EU: Now is the time for lotteries to show vision and leadership

Philippe Vlaeminck, partner ALTIUS

Delia Orabona, Senior Associate ALTIUS

Beata Guzik , Social Media ALTIUS

Gambling has been the focus of the recent discussions within the different European Union Institutions, including the European Parliament, EU Commission, and the European Economic Social Committee (EESC). While remote gambling is still an important focus, new trends and threats are emerging.

In particular, the Commission expressed the intention to adopt a Communication, to set up a discussion forum with the national regulators, and possibly propose legislative and non-legislative measures. All this is in response to the urgent need for gambling operators to discuss and to explore the possibilities for an appropriate EU regulatory framework and for a sustainable policy for gambling.

The societal impact of gambling (addiction, public order, good cause allocation) has to be analyzed and fully covered under the chapeau of a new regulatory approach.

From its side, the Court of Justice of the EU has, in numerous cases, ruled that online gambling constitutes more than simply a different way of distribution of gambling services. Due to the higher risks which it entails, it requires a specific, well targeted regulatory approach whereby all aspects of consumer protection and public order are adequately taken into consideration.

Currently, there is no clear approach but only institutional initiatives which intend to map the panorama of gambling regulations and the impact of online gambling in the various Member States.

The absence of any regulatory framework is evident by the growing number of preliminary proceedings pending before the Court of Justice of the European Union on the application of the free movement principles in the area of gambling, as well as the pending status of infringement procedures at the EU Commission. The Court of Justice of the EU has given to the Member States the "green light" on how to regulate their gambling market. The EU has affirmed that the member states are free to choose the model, (i.e. that an 'exclusive right' system for the provision of online gambling services can be valid under European law). Even so, many Member States have been subject to the consistency test of their policies.

New national legislation on gambling has to go through the notification procedure, which is not only onerous and long. The legal and political outcomes continue to be unpredictable in many cases. Many technical problems, such as the place and format of a safe IT environment enabling regulators to fully execute their tasks, are still not settled.

Moreover, the EU secondary legislation excludes gambling services from its scope (see the E-commerce, Services Directive, CRD), or regu-

lates it in a fragmented manner (see Anti-Money Laundering Directive, the Unfair Commercial Practices Directive) or unclear manner (the Audio Visual Media Services Directive).

Currently, the European Commission has launched a public consultation on AML (anti-money laundering). In this respect, many gambling operators hope for an extension of the scope of the AML Directive also to forms of gambling other than just casinos.

All of this leaves a lot of questions and even more answers to find.

New threats are also emerging. One can see that operators on Social Media are looking to the remote gambling market for expanding their business. The pressure of the financial markets on social media developments needs to be watched closely. Both the Social Media operators and the investors need to understand the difference between the global environment of social networks and the strict national regulatory environment of gambling activities around the globe. At the same time, the social media networks constitute an environment that Lotteries can and should not ignore. Young adult players have different expectations. In the context of the channelling of gambling desire towards well-controlled and properly regulated low-risk games operated by Lotteries, the social media networks should be embraced by lottery operators. The same reasoning applies to the important regulatory and public affairs approach of Lotteries. Insofar as Social Media networks play a predominant role in political campaigns, both in the USA as in Europe, these networks are important for delivering the message of Lotteries to a larger audience.

In Amsterdam, the European Lotteries held their most recent Industry Days conference. All the above mentioned issues were raised. Lotteries have been discussing and studying the various legal and technical issues, and their impact on market developments, for many years. Issues like Corporate Social Responsibility (CSR), integrity in sports, responsible gaming, etc... were first raised by the Lotteries. Innovative solutions that include the use of the Internet and the creation of coordinated lottery games (providing customers with equal opportunities without violating national rules), are examples of the ability of Lottery operators to meet these challenges. By being united and defending the specific cause of Lotteries and their role for society, Lotteries constitute a powerful source of knowledge and ideas to respond to today's challenges. Lotteries need to use this leadership position for advocating well-reasoned answers to the regulatory threats and problems. More specifically and more importantly, Lotteries must cooperate and work together to find innovative and safe solutions for the future.

Our Altius team is also working on this two dimensional programme of internal and external communication. The idea is to use this in order to deliver our regulatory ideas, solutions and answers to a broader group of stakeholders who would like to depend on us to help them keep informed of these issues. We want to embrace social media and use the vehicles and tools it provides to the benefit of Lotteries and their vital role in society. ♦