



**PGRI Introduction:** The gaming and gambling sector is going through a period of significant national and European regulatory changes, the end-result of which is unknown. The rapid growth in this sector and its highly dynamic and exciting nature offer both challenges and opportunities to all government-gaming stakeholders.

Philippe Vlaemminck and his team have three decades of experience in this sector, and are ideally positioned to provide their clients with strategic and long-term legal support in achieving their objectives. Pharumlegal's gaming and gambling practice consists entirely of expert lawyers who offer unparalleled legal experience, knowledge and understanding of the issues facing the government-gaming sector. The team combines in-depth knowledge of all gaming and gambling issues with a strong EU law as well as comparative legal focus. It's this ability to seamlessly move across EU and national jurisdictions around Europe along with its dedication to the principles of government-gaming that enables Pharumlegal to provide a uniquely strategic approach towards navigating a challenging regulatory landscape.

Pharumlegal advises governments, regulators, and trade associations as well as public and private operators on gambling-related regulatory issues at EU and member-state level, handling litigation (EU Court of Justice, General Court, EFTA Court, national courts), notification procedures, complex multi-jurisdictional contracts, gaming rules and legislation, licensing (including renewal), concession agreements, and public procurement processes for clients.

Philippe Vlaemminck is recognised as an authority on the subject EU regulatory law as it applies to gaming and gambling and has collaborated with government-gaming operators in shaping the regulatory debate.



## Defending the Principles of the Government-Gaming Model

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**Paul Jason:** *Congratulations for the launch of Pharumlegal. Why this change, and why now?*

**Philippe Vlaemminck:** We discussed these questions in detail, and strongly believe that a more focused, flexible, dynamic, and highly specialized team can do better work for our clients. The gaming industry, the political environment, and the legal/regulatory issues are changing. Pharumlegal was formed to serve our mission to provide our clients the most effective legal counsel in these times of change and opportunity for operators of government-gaming.

**Beata Guzik:** The Lottery world is changing, as are other sectors of the economy. Our job is to understand the broader scope of how the EU political and regulatory landscape is evolving. We learn from the different approaches that are applied by other sectors, and how EU institutions are applying the law to other sectors. Think about how climate change (COP21), the Energy market, and the EU circular economy contribute to environmental, social and economic growth; and how the Internet

of Things will impact every day's life. The complexity of the issues, and the diversity in the ways that industries are addressing them, requires a more targeted and specialized approach towards the formulation of legal strategies and action-plans for government-gaming operators.

*Why the name "Pharumlegal?"*

**B. Guzik:** We brought together the word "pharus" (the Latin word for lighthouse), and "forum" (the place where justice took place in Rome during the ancient times). The Forum Romanum was also the most important hub for political discourse. We added the word "legal" because that is our primary skill-set and approach towards the EU institutions. It's just that the rendering of justice in the EU, certainly as it relates the gaming sector, is just as much about politics and public affairs as it is about the law!

*How would you describe the mission or core competency of Pharumlegal?*

**P. Vlaemminck:** Our mission is to provide our clients with guidance and protection. We guide them through the EU labyrinth, the EU Treaties, and the EU secondary legislation as well as the political, administrative, and legal procedures that can affect their business. Our goal is to protect their business and to support their future.

*How does this change improve your ability to serve the cause of defending the European Lottery Principles?*

**P. Vlaemminck:** The future of Lotteries is still an issue. Lotteries play an important and, in our view increasingly important, role in today's society. People want fun, but are also concerned about the non-economic as-

pects of today's society. We look at the Lottery activities but also how Lotteries contribute to society. There are many EU policy areas that are indirectly connected to this societal role. For instance, FDJ put a scratch ticket on the market during the COP 21 negotiations showing their commitment to the climate change debate. The debate on sport and good governance has a lot to do with the integrity question that Lotteries embrace.

**B. Guzik:** In every EU Debate there is something to learn about the relationship between the individual States and the EU institutions. In the EU energy debate, the use of EU recommendations was also an issue, like it is in the gambling sector. Our team has an in-depth understanding of the EU processes and legal interpretations, but some of us are also strongly connected to people in the various institutions and EU social networks.

*How many are on the Pharumlegal team?*

**P. Vlaemminck:** Our team is multidisciplinary and growing. By September we will be seven persons working on EU, national and transnational legal and public affairs matters. Most of our team has an in-depth knowledge of the Lotteries and gambling sector. To that we add a strong legal expertise in EU law, competition law, Data protection and Anti Money Laundering legislation.

*The transition from thinking of our sector as being based on the Lottery "Model" to being based on Lottery "Principles?" What does this mean and how does it reflect a shift in legal strategy?*

**P. Vlaemminck:** There is no real transition of thinking. We have always been defending the 4 regulatory principles (subsidiarity, solidarity, precaution and integrity) whereby the core competence remains with the State. The model (actually the choice between a monopoly, a concession model, licensing, or a combination of those) is the consequence of the application of the 4 principles. Today we need to emphasize more the values that Lotteries represent. I think we are not changing the legal strategy but deepening it further, enriching and promoting it with the strong values, developed by The European Lotteries, that Lotteries share and which distinguish Lotteries from other operators. There is an evolution from a rather defensive approach in the 90's to a more confident leadership today whereby we come to the core values that we need to promote further, and promote together.

*The political/regulatory climate seems to be slowly eroding monopoly protection of government-lotteries. What can you tell us about the way the political and regulatory climate will be changing over the next two or three years?*

**P. Vlaemminck:** It will depend on the Lotteries how they will respond to the challenges of tomorrow. They need to stay vigilant and anticipate even more. I do not believe that monopolies are eroding. I think that in the Lottery sector, the monopoly model is the most modern and responsible way a State can respond to the changing markets. Even the Court of Justice of the EU has recognized this. But governments and Lotteries need to strengthen their cooperation. Lotteries need to be the true partners of the state and advise them on innovation in the gaming sector to stay ahead in the market. We have always been working both with Lotteries and governments.

**B. Guzik:** The Belgian approach, whereby the Lottery cooperates

since the early 90's closely with the government in the EU Courts, is a perfect example of this. We do this work in dialogue between the State and the National Lottery. But it requires a long term vision. Of course, every state decides upon its own policy and the model that will best serve its policy objectives: licenses, concessions, public or private monopoly is only the outcome of what is essentially a political process.

*What legal strategies will you apply to optimize the position of government-lotteries?*

**P. Vlaemminck:** We have defended Lotteries for more than 25 years now and we have been successful in doing so. Over the recent years we developed the EU Public Order strategy, namely the Unity in Diversity approach. We presented our ideas during Smart-Tech in New York (1st stage) and further during the EL Industry Days in Lisbon (global plan).

On the unity side there is the global acceptance that games of chance are a special economic sector, where unbridled competition is undesirable, the societal risks are serious, and the fight against illegal, often offshore, operators, is crucial. Lotteries play a distinct societal role therein.

On the diversity side, it is for the Member States themselves to decide about the structure of their market through a monopoly, a concession and/or licensing model, or any hybrid model combining a monopoly for certain games with licenses for other games, to enforce their laws, to set the level of consumer protection, and to flesh out the connection which is made between games of chance, their proceeds and their goals, all in line with their cultural, ethical and religious, and national public order.

This concept of EU public order emanates from the common constitutional traditions of the Member states, and therefore should be used as the reference in games of chance under European Union Law.

*Can the model being employed by Lottoland and others be stopped? If it is legalized betting in Malta or Gibraltar, and other jurisdictions have no legal recourse to stop them from misrepresenting their product and selling it as a lottery product online, how can they be stopped?*

**P. Vlaemminck:** Lottoland is this typical kind of parasite approach that does not contribute to society. The matter is first of all a political question. Do States want to see these developments undermining their Lottery model? I do not think so. The awareness must be enhanced and, where possible, legal action undertaken to stop them. Lotteries must remain vigilant and confident that they are on the right side. Their claim to be licensed and legal in Malta or Gibraltar is irrelevant. The European Court did deny that those licenses have any value. The offshore matter is an ending story.

**B. Guzik:** We also see it in other areas like taxation—the OECD approach on BEPS and nowadays the Panama papers. Corporate responsibility requires (multi)national companies to respect the societies where they operate. We believe even that it is necessary to go beyond the classic CSR into the shared value approach. To quote Porter & Kramer (Harvard Business Review, Jan/Feb 2011: Creating shared value): “The principle of shared value, which involves creating economic value in a way that also creates value for society by addressing its needs and challenges.” This is exactly what Lotteries do! ■