

OPAP once more the central figure in the Greek market

OPAP's monopoly of the Greek market continues

Although no amendment has taken place of the famous Article 45 par. 3 of the Greek Gaming Law 4002/2011 regarding the licensing of online gaming operators, which states that licences shall be provided via an international public tender, the Greek Gaming market has been led, this time, to the establishment of an OPAP quasi-monopoly. With the renewal of OPAP's land based gambling monopoly until 2020 and its eventual extension until 2030, in combination with par. 8 of Article 54 of the Greek Gaming Law, which proclaims that 'the dispositions of the present law do not affect the dispositions related to OPAP SA,' the gaming landscape in Greece has become extremely blurry. On the one hand we have 24 online gaming providers that have opted in to a 'transitional period' alongside the opportunity to them and other EU and international stakeholders to participate in an international bid for the provision of licences that has not come to fruition. On the other hand we have OPAP's exclusive right for the provision of gaming services which has been extended to online gaming based on the convention between OPAP and the Greek State offering a monopoly to OPAP for the provision of gaming services by whatever means.

Within the framework of entrenching the OPAP monopoly, the Greek Gaming Commission ('GGC'), in its decision n. 105/2, has regulated the provision of OPAP's online gaming services. This decision completes the framework for the conduct of fixed odds betting applicable to OPAP SA, in order to protect minors, vulnerable groups and consumers, as well as to prevent addiction to gambling, fraud and other crimes and to maintain social public policy. Players must be over 21 years old and must create a private online account, notifying OPAP of their name, age, address and identity card or passport number. OPAP, within the framework of player protection, is obliged to provide players with functions allowing them to set payment limits, temporarily or permanently exclude themselves from participating in online gambling, the opportunity to participate in self diagnosis addiction tests and provide information on centres to support rehabilitation.

Within this uncertain environment, as OPAP seems to have assured its monopoly until 2030 - excluding online poker games - international 'bidders' are not in a position to communicate fruitfully with the Greek Government. According to news sources, operators have attempted to instigate a licensing procedure outside the dispositions of the related law by filing 'spontaneous' applications to the GGC for the provision of licences. The GGC has explained that it is not competent in the evaluation of operator applications and has referred these directly to the Ministry of Finance, which has ignored all enquiries. The RGA has commented that 'limiting the market without complying with the Treaty and Greek Constitution, the government may have to compensate European licensed companies for damages suffered through having to terminate Greek operations due to the failure of the Greek State to

implement a proper licensing process.'

Meanwhile, during the summer of 2013, the GGC implemented a nationwide online gambling blacklist, which as of July 2014, bans 437 gambling sites in Greece. According to the GGC's decision n. 51/3/26.04.2013, fines and penal sanctions have been multiplied for national ISPs violating the sanctions by not blocking player access to these websites. It should be noted that fines imposed are between €100,000 and €500,000 per violation and the legal representative within the ISP who permits access to illegal gaming providers is subject to imprisonment of at least two years. Moreover and according to paragraph 10 of Article 48, Greek ISPs must immediately following the inclusion of a site on the blacklist transmit to the GGC all related information about the natural or legal person that appears to own or administrate the blacklisted site. They must also provide any information that would facilitate enforcement such as keywords directing customers to the illegal website and relevant domain names. Greek ISPs seem to have met the expectations of the GGC by using DNS filters.

In order to further prevent illegal gaming the Greek Police conducted an investigation into the site administrators of 33 illegal gaming sites and the subdivision for e-crime prosecution is focused on identifying both implicated undertakings and players, as it recently detected foreign online gaming operators illegally operating in Greece approaching Greek ex-players to inform them about software that can be installed on their PCs providing them with access to their blocked sites.

Other evolutions include the constitution of a Commercial Communication Regulation, which provides details on online gambling advertising in Greece. The decision describes as commercial communication any kind of communication for the direct or indirect promotion of goods, services or the image of an undertaking active in the gaming industry. Advertisements must now comply with rules, which, *inter alia*, ensure a high level of protection for consumers, are socially responsible, and direct consumers to regulated gaming networks. Gaming advertising should not be misleading or enhance the natural tendency to gamble. According to the GGC, promotion of illegal online gambling in a way intended to draw the attention of one or more persons will involve a fine of €10,000 per day for the advertiser and €20,000 per day for the non-licensed operator advertised, whereas direct advertising of a non-licensed operator would result in a fine of between €10,000 and €200,000 per violation, depending on the severity, frequency and number of recipients. In addition, the Greek Gaming Law provides for penal sanctions that include imprisonment of at least two years, both for the advertiser and the service advertised.

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