

Bulgaria on its way to Opening the Market for Online Gaming

By Nadia Hristova, Member of the Management Board, Bulgarian Gaming Association

Bulgaria is one of the most emerging Eastern European gaming markets. Since 1993, when the first gaming regulation was adopted, the new opportunities of the Balkan region and particularly Bulgaria, have determined the dynamics in the gaming sector. The growth in the leisure industry was supported with the interest of new foreign investments in the entertainment sector. The taxes the industry collected for the state treasury increased, reaching a peak where the tax income from the gaming industry was greater than the taxes collected from the banking and insurance sectors combined.

This trend has been going until the recent years, when technological innovations have provoked a variety of changes in the regulatory and legislative processes for the gaming industry worldwide. Those challenges for Bulgaria, the most important of which was the regulation of online gambling, coupled with and accelerated by global economic stagnation, the serious gaming tax increase on the existing land based gaming operators and the introduction of the smoking ban in the gaming halls and casinos.

So far internet gaming is still not regulated in Bulgaria and is falling through the gaps. It is not within the legal forms of gaming specifically permitted by the Bulgarian gaming law. As a result, the legal business in the country is still only in land based operations and can't offer online solutions for its customers. Conversely, some online gaming operators do not have the opportunity to develop their business in the country

legally and continue nonetheless to approach Bulgarian players and operate on a grey market under no governmental control and without any tax levy.

The discussions for changes in the current gaming law in Bulgaria were taking place almost permanently during the last two years and were supposed to address the pressing needs for regulation to meet the newest technology development in the industry and allow internet and remote gambling solutions. The upcoming changes in the legislation were announced as a way to resolve these issues and open the opportunities for the newest trends in the industry.

While two draft laws have been announced and discussed in the past two years, none of them have been notified to the European Commission and submitted for vote in the Bulgarian Parliament. At the moment the last years' attempts of the Bulgarian government to propose a regulation of online and remote gambling seem to be at one of its last stages.

During mid 2010 the Gaming Board in Bulgaria announced that a new Gaming Law is being prepared. A draft of a new gaming law was published and discussed with the industry in July that year. On the 4th of February 2011 Ministry of Finance published the draft on their website. It was submitted to the European Commission for notification in the middle of March.

Bulgaria has never been closer to the new regulation.

Just on the day when the standstill period was about to elapse – 20th of June this year, the European Commission sent a detailed opinion on the draft to the Bulgarian Government. This canceled the scheduled voting of the draft in the Council of Ministers for the end of June and its submission to the Parliament for final vote. The detailed opinion of the Commission has not been officially communicated with the industry but it is expected that some of the issues it raised are regarding requirements such as: onsite location of the

servers in Bulgaria, performing of the financial transactions through authorized Bulgarian banks and also at least five years of experience of the operator or one of its major shareholders in organizing the games, for which the application is submitted, total prohibition on providing information about the gaming industry. Those requirements also led to a broad discussion among the main European operators, ever since the draft law has been announced a year ago.

Irrespective of the fact that the new draft of the Gaming Law caused a lot of excitement among the business as a desired and positive step in the modernization of the legislation, some of its provisions have been scrutinized by both online and land-based operators, the first seeking more freedom and recognition of existing licenses, the second ones – seeking fair and equal regulation for online and land based operators. Even though still seen as a positive step, the gaming business considers it just as a stepping stone with a lot of work ahead, in order to develop the long-term vision and strategy for the sector in line with new technological opportunities and highest professional standards.

Some of the provisions in the draft, unfortunately, may negatively affect the business and the smooth transition to the new regulation. One example of this is the new provision that does not allow the licensed operators to utilize the full term of their licenses and requires re-licensing 10 months following enactment of the Gaming law, irrespective of the term of the validity of the current licenses, most of which have a validity of 5 to 10 years.

Among the highlights of the draft gaming law that was stressed as a serious issue for the business, is the new requirement for initial investment in assets connected to the specific gaming operation. This provision is pretty restrictive, imposing high thresholds for initial investment for the operators.

The total ban on advertising and information about the business, as imposed by the draft law, except announcement of the results of the games and drawings, and the terms and rules for participation in the games, would lead to completed information block about the industry. The industry immediately raised an argument that it wants to stay a legitimate and transparent as it has always been.

One of the completely new sections in the draft is the proposed regulation on the remote gambling, which includes both online gambling and gambling through other telecommunication devices. The new draft Bulgarian law requires its own licensing for the online operators who want to operate legally in the Bulgarian market and does not validate a license for online operation issued elsewhere within the EU. When the first drafts for online regulation discussed in the recent two years seemed to follow the new Belgian model of regulation, the need for proportionate requirements and conditions in conformity with European Union law has led to some reconsideration of the governmental position in this final version of the new Gaming law. Even with these reconsiderations, it seems that the Commission has still what to criticize.

Last week the Bulgarian government sent its position back to the Commission, which is still not officially announced. Whether some changes in the proposed draft have been made to meet the Commission's criticism and what these changes would be, it is still not clear. Hopefully this two years' process of discussions of the new regulation in Bulgaria will end up soon with the adoption of a regulation, which gives good opportunities both for offline and online gaming business. The law should be flexible enough to create opportunities for a strong, financially stable, competitive gaming environment. The Gaming Law should serve as a tool for the regulator for strict control over the industry, account and follow its development along with the newest technological and players'

protection trends. Whether the new Bulgarian gaming law will accomplish these important requirements will hopefully be answered when we see the final development in the Bulgarian Parliament.

For further information on these developments please contact:
Nadia Hristova, Member of the Management Board

BTAMOGI, Bulgarian Gaming Association, ✕ legal@btagi.org,
+359 2 8129 478

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