

EUROPE - FOR OR AGAINST ONLINE GAMING?

Recent European Union Court of Justice judgment transfers responsibility to national governments



In recent months, there has been much debate in all sectors of the gaming industry as to whether States should regulate Internet gaming, insofar as possible, or give it their explicit, unambiguous backing. In several European countries, judicial rulings have been handed down in this regard. While some maintain that online Casinos are simply another mode of gaming, like land-based Casinos, bingo or slots, others, however, believe that this is only a half-truth, as online operators are not subject to the same economic conditions as the operators of land-based Casinos. We are neither for nor against online Gaming, but we do believe that all companies operating in the gaming sector should do so under equal conditions, with no unfair competition.

How many direct and indirect jobs does a land-based Casino create? How many does an online Casino create? How many millions does a land-based Casino pay in taxes, which are then reinvested in social projects to the benefit of all society? How does an online Casino compare? Why do gaming regulations in almost all countries establish such strict conditions before granting licences for land-based Casinos, when almost anybody can set up an online Casino? How is it that persons who cannot enter a land-based Casino can use an online one? Do land-based and online gamers have the same certainty of collecting their winnings? Do land-based and online gamers enjoy the same guarantees that the games are being played correctly, without cheating? Do governments exercise the same control over companies that operate land-based Casinos and those that operate online Casinos, when in the latter case it is often not even known where they are located?

The answers to these and other similar questions give a very clear picture of the reality of the situation. The Spanish Association for Internet Betting (AEDAPI) has publically admitted that it does not compete "under equal conditions" with other companies licensed to operate in Spain, such as bingos and Casinos, because of the absence of legislation on internet gaming.

Obviously, we can't hold back the tide, but neither can we deny that internet has taken the lid off the box, discovering a range of possibilities, some dangerous, of which a few are taking advantage. Many countries have taken steps to regulate gaming, particularly Internet gaming. The activity has been affected by the explosion of new technologies, and the emergence of online gaming operators who operate under no control whatsoever.

European governments, in general, are quite averse to tackling the matter seriously, although some are now beginning to give signs of their intentions which, in many cases, are influenced only by economic considerations, without taking into account essential aspects such as control and player protection. Even the Gaming Regulators European Forum (GREF) has been discussing the matter for over a decade, without reaching any definite position. However, a recent judgment of the European Union Court of Justice establishes that EU Member States can ban Internet gaming. The Court considers that, "the internet gaming industry has not been the subject of harmonisation within the European Union. A Member State is therefore entitled to take the view that the mere fact that an operator lawfully offers services in the sector via the internet in another Member State cannot be regarded as amounting to sufficient assurance that national consumers will be protected against the risks of fraud and crime."

In Italy the authorities have put an end to the ban on gaming in online Casinos and poker rooms. The new regulation specifies a series of limits on the maximum initial stake: initial stakes and future top-ups may not exceed EUR 1000. In France, in June, the government granted 17 licences to 17 operators. These operators will be lawfully able to offer Internet betting on poker and 15 sports, thus ending the monopoly formerly held by two companies. The new French legislation obliges operators to apply for a licence from the regulators, verifying that the games comply with standards and that the operator identifies petty crime and fights problem gambling. It also prohibits minors from taking part in games of chance and strengthens measures against illegal internet pages. The law homogenises the tax regime for internet gambling with non-virtual gambling, such as Casinos and horse racing. In Portugal, Laurentino Dias, Secretary of State for Sports, has commented that the government intends to regulate online gaming. In Finland, RAY has been granted an online operations licence, effective from August onwards. The question is obvious. How will the French, Italian, Portuguese and Finnish authorities monitor all these aspects to make sure the law is followed? This is the key to this controversial matter. At the moment we are waiting for a response.

It is obvious that we still have a long way to go. The problem is that, in most countries, regulators have no idea which way to turn. This makes it very difficult for them to reach any decision. Perhaps a good solution would be to grant online Casino licences only to the operators of land-based Casinos. This would ensure that players could make their bets with the same security and guarantees as when playing in a real Casino. Will European governments stick their necks out?

