



4 October 2011

RGA Launches Greek State Aid Complaint

The Remote Gambling Association, representing the largest online gambling operators and software providers in the world, has today lodged a State aid complaint with the European Commission challenging the compatibility of the Greek Government's new gambling law with EU State aid requirements. The complaint focuses on the favourable tax treatment afforded to the part state-owned gambling operator OPAP's land-based services in relation to private online gambling operators.

The complaint follows the recent adoption by the Greek Parliament of the new gambling law which regulates remote gambling. The RGA welcomes the fact that the legislation provides for the licensing of online operators, however it believes that the legislation has been geared towards delivering an unfair economic advantage to the existing monopoly operator OPAP.

In particular, the complaint cites that following the introduction of the new regime for online gambling, OPAP would unjustifiably and favourably be exempt from the 30% gross profits tax on its offline land-based gambling products, a tax which online gambling operators are required to pay under the new law. Furthermore, the law also imposes a 10% withholding tax on all customers' winnings with online operators, whereas the customers of OPAP's land-based services are exempt from any tax on winnings of €100 or less, conferring a further competitive economic advantage on OPAP's land-based gambling operations.

Upon launching the complaint, Clive Hawkswood, Chief Executive of the RGA, said:

"Despite the RGA having had a constructive relationship with the Greek authorities during the development of the new legislation, significant concerns remain about the viability and legality of the market under the terms of the new law.

"Remote operators wish to obtain licences in Greece and to continue to offer Greek consumers competitive and well-regulated products. However the current unjustified fiscal favouritism being afforded to OPAP makes this extremely difficult and we urge the European Commission to investigate the new legislation for being in breach of State aid rules."

The Greek Government owns 34% of OPAP (valued at around €1.17bn), which currently has the exclusive right to offer sports betting and lottery products to Greek consumers. OPAP's land-based service does not pay any form of gambling tax on stakes or gross profits.

Mr Hawkswood added:

"There are concerns that the new law provides tax benefits for OPAP's land-based operation with the aim of increasing its value prior to a proposed sale of the Government's share.

"We are fully aware of the fiscal pressures on the Greek authorities at present, but they do not justify the imposition of anti-competitive tax provisions which benefit the existing monopoly gambling provider over private online operators soon to be licensed in Greece. Not only does such action not conform with EU State aid rules, but if implemented, it will

have a damaging impact on the private sector and associated growth and employment opportunities, as well as curbing competition and consumer choice. As such, we feel compelled to take this action and challenge the Greek authority's favourable tax treatment of the part state-owned gambling operator OPAP."

In lodging this complaint, the RGA wishes to stress that its position is not that online and offline gambling services should necessarily be taxed in the same manner, rather that any differentiation in taxation between offline and online operators should be objectively justified in consideration of the purpose and objectives of the particular tax regime in question.

It should also be noted that, as a recent State aid decision by the European Commission has commented, Member States normally apply a lower duty for online gambling services. As no justification has been made for the Greek tax variation, and given the favourable treatment afforded to the state-owned monopoly operator, in clear contradiction of the tax systems employed in other jurisdictions, a State aid complaint has been launched by the RGA.

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Notes to Editors

1. The RGA is the largest online gambling trade association in the world representing the world's largest licensed and stock market-listed remote gambling operators and software providers. The organisation provides the remote gambling industry with a single voice on all issues of importance to regulators, legislators, and key decision-makers.

2. Its members include: 888; Ash Gaming; bet365; Betfair; Bwin.party; Danoptra; Gamesys; IGT; JAXX, Ladbrokes; Microgaming; Paddy Power; PKR; Playtech; Rank Group; SBOBET; Skybet; Sportingbet; Sportech; Stan James; Stanleybet; Talarius; Unibet; Viaden Gaming; Victor Chandler; Virgin; William Hill; and WMS.

3. The Greek Parliament adopted new gambling legislation in August 2011. This provides that Greek licensed online operators will pay 30% gross profits tax (GPT). Greece is imposing a higher tax regime than many other EU countries such as the UK at 15% GPT, Denmark 20% GPT and Spain 25% GPT, none of which impose a separate player tax.

4. OPAP's land-based gambling services do not pay any form of gambling tax. The new legislation's tax regime, which imposes a 30% gross profits tax on online gambling, will not be applicable to OPAP's offline services. OPAP customers are required to pay a 10% withholding tax but only on winnings over €100. However, the new law states that customers of Greek online operators licensed will be required to pay a withholding tax on all winnings.

5. The Greek Government has provided OPAP with a ten-year extension of its land-based monopoly (11 games altogether – Joker, Lotto, Proto, Protogoal, Number lottery 5 of 35, Super3, Super4, Bingo Lotto and Stoichima (betting)) from 2020-2030 (costing a reported €350m) and involves a 5% GGR on those products during that period (at present no GGR is applicable). An arrangement on Video Lottery Terminals (VLT) has also been agreed.

6. The date of introduction on the new online licences and the details of the regime will be announced by the Ministry of Finance over the coming months. In the meantime, a provision in the law allows EEA licensed private operators to continue to offer services to Greek consumers until the implementation of the new regime only if they immediately and voluntarily place themselves under the tax regime.

7. The Greek Constitution provides that "a tax or any other financial charge may not be imposed by a statute that has effect prior to the fiscal year preceding the imposition of the tax". The retroactive effect of the above provision may therefore go back to 1 January 2010.

8. The European Commission has previously adjudicated on a State aid case alleging that Greece's casino admissions tax regime entails State aid in favour of public (over private) operators. It has concluded that this 'fiscal discrimination entails unlawful incompatible aid' and has ordered its recovery by Greece from its State-owned casinos since 1999.

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9. The Commission has also recently cleared the Danish Government's decision to impose a lower tax rate for online gambling than offline as 'in line with EU state aid rules' because 'the positive effects of the liberalisation of the sector outweigh potential distortions of competition.'

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1048&format=HTML&aged=0&language=EN&guiLanguage=en>

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