

# PRESS RELEASE



## **EU online gaming industry challenges US with charge of prosecutorial discrimination**

### **Complaint under the EU Trade Barriers Regulation seeks to stop discriminatory practices against European operators**

**Brussels, 20 December, 2007 – The Remote Gambling Association, a leading trade association based in London that represents dozens of European online gaming operators, announced that it is filing a formal complaint against the United States (US) for discrimination based on violations of World Trade Organisation (WTO) rules. The complaint asserts that the US Department of Justice (DOJ) is in violation of international trade law by threatening and pressing criminal prosecutions, forfeitures and other enforcement actions against foreign online gaming operators while allowing domestic US online gaming operators, primarily horse betting, to flourish. Such actions violate WTO rules, enshrined in an international treaty signed by 150 nations, including the US, which prohibit its signatories from engaging in protectionism.**

“We have been left with no choice but to pursue all legal avenues available to challenge the US Department of Justice for its discriminatory enforcement activities against European online gaming operators,” said Clive Hawkswood, the Chief Executive of the Remote Gambling Association.

The filing of the complaint by the Remote Gambling Association opens another front in a growing global trade battle over the discriminatory practices of the US toward online gambling. On Monday, the European Union and several other countries – including Japan, Canada, and Australia – agreed to accept compensation after the US announced earlier this year that it intended to withdraw from its WTO commitments to open its US\$100 billion US gambling services market to international competition. That announcement followed the finding by the WTO that the US had violated these commitments in a separate case brought successfully by Antigua and Barbuda. While Monday’s agreement purports to offer compensation for the withdrawal of market access by the US, it does not address discriminatory and protectionist US practices against European and other foreign online operators in the form of selective prosecution related to trade in gambling services that took place before the withdrawal of the commitment. This is due to the fact that the withdrawal of the commitment, if and when it enters into force, only has effect for the future.

“If the US discrimination continues, a terrible blow will be dealt to free trade worldwide and the WTO process will be weakened to the detriment of all countries,” added Nao Matsukata, a trade analyst with Alston & Bird in Washington, DC, and a former Bush Administration trade official.

The DOJ has repeatedly stated that all forms of online gambling are illegal, yet it continues to enforce this view only in connection with non-US businesses. In October 2006, the US enacted a new law (the “Unlawful Internet Gambling Enforcement Act”, or UIGEA) which effectively criminalised online gaming provided by foreign operators while providing exemptions for protected domestic suppliers. The

UIGEA forced the largest and publicly listed EU online gambling companies out of the lucrative US market, despite the WTO commitment that the US had made to offer access to its own domestic gambling market. The stock market listed EU companies collectively lost billions in market value overnight when the UIGEA took effect, whilst US online gaming companies and unlisted US-facing companies continued to operate unperturbed.

Over and above the substantial monetary losses suffered by their withdrawal from the US market, non-US companies have had to contend with actual or threatened prosecutions, forfeitures and other enforcement actions from US prosecutorial authorities under pre-UIGEA penal laws. As a result, the RGA has asked the EU to investigate the discriminatory enforcement regime as an illegal barrier to trade for EU businesses.

“How would US investors and businessmen feel if they invested in a business in the United Kingdom based on international law commitments, and then suddenly the U.K. not only passed new laws forcing them to shut down their business, but then tried to throw them in jail for past activities while still allowing their domestic competitors to continue on doing the same thing?” Hawkswood asked. “That’s what is happening to our industry in the US,” he added.

In a recent hearing in the US Congress, a Department of Justice representative admitted that there has not been a single prosecution of a domestic online gaming operator, despite repeating the DOJ’s view that all forms of online gambling were illegal.

Testifying at the same hearing, Professor Joseph Weiler, a Professor of Law at New York University and noted expert on international law, said: “The US has been found to have made a commitment and its acts deemed illegal by the very dispute settlement process that the US itself set up and supports. The US has also signed up to complying with the WTO appellate body unconditionally. What is particularly troubling is that these prosecutions for past activity are still continuing. This is wrong and an abuse of the rule of law. To compound it by selecting only non-US targets is even more troubling. To clarify the situation for the future for all is one thing, but that does not seem to be the case here.”

The RGA complaint is filed under a provision of the EU’s *Trade Barriers Regulation*, which enables any EU company or association of companies to complain about obstacles to trade in third countries. The EU now has to investigate allegations in the RGA complaint and decide if it will pursue discussions with the US to find an appropriate solution to ending the discrimination. If such negotiations do not resolve the issue, the EU could later bring a WTO case directly against the US based on these claims.

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#### About the Remote Gambling Association

The RGA represents most of the world’s largest, licensed, and stock market-listed remote gambling companies and provides the industry with a single voice on all the issues of importance to regulators, legislators, and key decision makers around the world. For more information, please visit [www.rga.eu.com](http://www.rga.eu.com).

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