EGBA | European Gaming & Betting Association

Memo	**EGBA response to Greek Ministry of Finance consultation on the opening of the online gambling market**
Date	**5 October 2018**
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The Greek Ministry of Finance (MoF) published a draft law and a consultation for the opening of the online gambling market. The **consultation closed on 5 October 2018**. The draft law aims in ending the current temporary licencing scheme and foresees the establishment of permanent licences of 5 years for live casino, live poker and betting, in order to modernise the current legal framework and follow European examples of best practices. The draft law, which partially amends the current law, establishes an extremely high licencing fee of 1m euros for live games and 4m euros for betting. It excludes RNG games such as roulette or black jack, while it foresees additional financial requirements: bank guarantees (500k euros), minimum capital (200k euros) and a fee of 10k euros to participate at the licencing procedure. **EGBA response to the consultation can be found below**.

Licences, Article 7 amending Article 45 of law 4002/20011

We, the European Gaming and Betting Association (EGBA), the association representing the leading online cross-border licensed gaming and betting operators in the European Union welcome the Ministry's intention to open up the market for online gambling and modernise the legal framework for an efficient and workable regime for all consumers, the government and operators.

Today´s digital reality and the right of Greek consumers to premium safe online gambling and related digital entertainment services requires an appropriate legal framework to provide a well-regulated online gambling market that succeeds in channelling the existing consumer demand towards the Greek-licensed offer. EGBA recognises the draft law's stated aim to achieve more transparency, healthy competition, player protection and fight fraud and abuses of the existing framework.

The attractiveness of the local Greek offer, product range, user experience and pricing will determine how many Greek consumers will choose to play within the Greek regulated market and thus, conversely, how many will decide to continue to play outside the licensing regime.

EGBA regrettably notes that the current draft law imposes financial requirements for obtaining a license, which are prohibitively high for many, even large, EU-based gambling operators. The licensing fees are set at EUR 4 million for betting EUR 1 million for live casino.

Overall, the amounts proposed constitute a significant and prohibitive barrier to entry to the market and will deter European operators from applying for a licence. By way of illustration, these amounts are five to ten times larger than what is required in comparable markets, such as Bulgaria and the Czech Republic, as well as higher than the fees requested in much larger ones, such as Spain and Italy.

Product Regulation, Article 7 amending Article 45 of law 4002/20011

The draft law foresees that only two types of licences, one for betting and one for live casino and poker, will be available. Therefore, RNG (random number generator) games like online slot machines, roulette or black jack are excluded. Currently, the temporary licensees offer such games on the Greek market. Excluding RNG games would have two negative consequences: 1. the government would lose the tax revenue being generated from those products and 2. Greek players that are used to playing these games would want to continue doing so and thus be likely to play with black market operators (mainly from outside the EU) who do not comply with the strict licensing requirements and consumer protection rules in place in Greece and generally in other EU Member States. In that regard, EGBA fully supports the Greek government's view that effective consumer protection under Greek law can be achieved to a greater extent if Greek consumption is channelled towards a locally regulated offer. It should be added, however, that the attractiveness of the local Greek offer, product range, user experience and pricing will determine how many Greek consumers will choose to play within the Greek regulated market and thus, conversely, how many will decide to continue to play outside the licensing regime if not all games that they are accustomed to are no longer available.

Financial Requirements, Article 9, amending Article 46 of L. 4002/2011

Licence applicants need a minimum capital of at least EUR 200.000 and a bank guarantee of EUR 500.000. In addition to this, applicants need to pay a fee of EUR 10.000 just to participate in the licencing procedure. Financial obligations must be considered as a whole and not in isolation, therefore, these financial requirements, combined with the extremely high licencing fees, will cumulatively be a further impediment for operators to access the Greek market. This poses the risk that the new licensing regime will not achieve the government's key public policy objectives, i.e. reducing the size of the unregulated market, protecting consumers and raising additional tax revenues.

Finally, we should note that the requirement of a paid-up capital of at least 200.000 Euros, in preventing undertakings with inferior paid-up capital from participating in the tender procedure, constitutes a restriction to the freedom to provide services, established by Article 56 of the Treaty of Functioning of the European Union as also confirmed by the Court of Justice of the European Union, in *Dickinger & Ömer*, C-347/09, para. 77.

Technical Requirements, Article 4, amending Article 30 of L. 4002/2011

EGBA would like to take this opportunity to remind the Ministry that the European Committee for Standardisation (CEN) is working on the creation of a standard on reporting for online gambling. The standard will be created following the European Commission's implementing decision of 4 April 2018[1] and is expected to be created within the next year. The standard will be a voluntary tool to the gambling regulatory authorities, facilitating the flow of information between them and the operators and suppliers, without imposing any obligation for further reporting requirements. Member States may choose to make the standard mandatory in their own legal framework for gambling. The standard will support public policy objectives, such as player protection, addiction prevention and minor protection, through more effective supervision. EGBA considers that the proposed model of monitoring and control is adequate and in line with best practices.

Tax

The draft law does not make any reference to the tax regime, therefore we understand that it would remain at 35%, which is the highest GGR tax rate in Europe.

A 35% GGR tax -which does not apply in any other EU country- would make the newly regulated market unattractive and it would deter operators from applying for a licence. As a result, the government will fail to channel the consumer towards the regulated offer.

[1] M/558, 4.4.2018, C(2018) 1815 final

A study by Copenhagen Economics shows that the ideal tax rate is where the state cannot increase the tax rate without reducing/losing the revenues, meaning that, the lower the channelling, the smaller tax base and the lower tax revenue: "*the maximum tax revenues on the gambling market is attained precisely at the level where the state cannot raise the tax-rate without yielding lower revenues due to the declination of gambling volumes and reduced channelling*". This means that, "*the countries with the highest tax revenue per capita are subject to tax-rates of 15 and 20% respectively. Furthermore, higher tax rates seem to have a negative impact on gambling volumes Higher tax-rates also mean that the channelling rate decreases, which reduces the taxable part of the gambling volumes. The consequence of both these two effects is decreased tax revenues*". As outlined in the recital of the draft law, Greece aims to follow the best practices examples of other Member States, thus, the Greek authorities would be well advised to seek a balance between the tax rate and the level of channelling. For example, Spain recently cut the GGR tax rate for online gambling operators from 25% to 20%, in view of increasing the channelling rate. A high channelling rate leads to both optimal consumer protection, as it directs more Greek consumers towards the regulated market rather than the black market and a more sustainable yearly tax revenue.

EGBA urges the Greek Ministry to reconsider the tax rate, as such high taxation is detrimental for attracting operators to the market and therefore achieving consumer channelling.

Blacklist, Article 9, amending Article 46 of L. 4002/2011.

EGBA advises the Greek Ministry to amend this provision as it would be detrimental to the opening of the market. With the current proposed provision, operators who have been blacklisted during the year before their application for a licence, would not be given the right to get a licence under the new regime. The provision implies that to be able to get a licence, the operator needs to be out of the list for one year. This would restrict the possibility for them to enter the Greek market on a level playing field. Therefore, if the current black list provision is maintained, this would entail an unfair and anti-competitive advantage to the incumbent operators and the operators not added to the black list, rendering the Greek market less attractive for companies willingly to comply with the new rules.