

Online Gambling Regulation in Singapore

By Bryan Tan and Sally Murphy

Singapore is an emerging market for the gambling industry concerned about the potential ethical and criminal implications of allowing unregulated gambling. In particular, Singapore regulators have become concerned about online and mobile gambling as many of the normal stigmas and limits are removed. Therefore, Singapore is taking steps to ban all forms of remote gambling, which includes placing wagers over the Internet using a PC or mobile device, by blocking access to gambling websites. The proposed measures (the subject of a recent public consultation) will also inhibit payments to online gambling operators and make advertising of remote gambling illegal.



HISTORICAL BACKGROUND

Singapore is relatively new to the gambling market but has had extremely fast growth over the last decade. With an estimated physical casino gambling revenue of US\$6 billion, Singapore is now the second largest market in Asia Pacific behind Macau. This estimate does not include revenue generated by the Singapore Pools (Singapore's only legal lottery) or turf club betting which also adds to the total gambling revenue.

In 2005 Singapore permitted a form of restricted physical gambling and two casinos were introduced as part of integrated resorts in Marina Bay Sands and Sentosa. Tourists are permitted to enter the casinos for free although they must pay tax to the state on any winnings. However, Singaporean citizens and permanent residents are required to pay entry fees of S\$100 per day or S\$2,000

per year in a measure designed to discourage local gambling.

Singapore is viewed by many in South East Asia as a "trail blazer" in this sector, and its approach to traditional gambling and online gambling has been closely watched by the rest of Asia, in particular Japan and South Korea.

LAW IN SINGAPORE AS IT STANDS

There are no specific laws to cover online gambling, and the position is uncertain as the relevant legislation was, in the main, drafted pre-Internet. As a result there is comprehensive legal and academic debate regarding whether or not the existing legislation in Singapore covers online gambling activities.

The current legislative approach in Singapore follows the model of a general prohibition with exemptions, akin to the US approach for online gambling and

very different from the UK approach of liberalised regulation. By way of example, the Totalisator Board (also known as the Tote Board) has specific permission to operate horse racing activities through the Singapore Turf Club and various lotteries and sports betting through its wholly-owned subsidiary Singapore Pools.

There are four main pieces of legislation that address gambling in Singapore:

Private Lotteries Act 1952: this Act establishes the controls and taxation regime for private lotteries;

Betting Act 1960: the purpose of this Act is to suppress common betting houses, betting in public places and book-making. Although this does not address online gambling it could be argued that particular provisions are wide enough to prohibit the running of gambling websites in Singapore (unless one of the exemptions applies);

Common Gaming Houses Act 1961: this Act is intended to prohibit the

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Singapore skyline with view of Marina Bay Sands

use or establishment of common gaming houses, public gaming and public lotteries. Under this Act it is unlikely that an individual who uses online gambling sites in private would be committing an offence, but it is possible that an individual who accesses and uses such sites in a public location, for example an Internet cafe, would be in breach of this legislation; and

Casino Control Act 2006: this Act regulates casinos and gaming in casinos, but it does not directly consider or impact online gambling.

Despite the absence of specifically drafted legislation, the general consensus is that operating online gambling services which are specifically targeted at Singapore citizens would be likely to breach the existing laws although there is no express law to that effect. Therefore, there has been a recent drive by Singapore regulators to put new regulation in place that will explicitly deal with the issue of online gambling in Singapore. This commenced with a public consultation which closed on 10 January 2014. The results of this consultation have not yet been made public but early indications suggest that Singapore will imminently introduce legislation

prohibiting online gambling with specific, tightly controlled exemptions. There have been various media reports that Singapore Pools is preparing to launch an online gambling website and is reportedly discussing the matter again with various government agencies, including the National Council on Problem Gambling, in the hope of assuaging the government's concerns regarding the dangers of online gambling.

Proposed regulatory developments

There are broadly two approaches that other jurisdictions have taken to the regulation of online gambling. The United Kingdom, at one end of the spectrum, has one of the world's largest legal online gambling markets and operates a very permissive regulatory regime. On the other hand, the United States has introduced a restrictive approach, banning online gambling with certain exemptions in particular states.

In May 2013 Mr. S. Iswaran, Singapore's second minister for home affairs, trade and industry, gave a speech at a casino regulation symposium where he strongly indicated that Singapore would follow an approach used by other cities, including Hong Kong, that allows a limited form of specifically licensed remote gambling through a regulator¹.

Considering the arguments in favour of permissive approach

Collection of tax revenue

Online gambling has the potential to generate a large amount of income for companies who operate in a jurisdiction where such activity is permitted. The collection of tax revenue for such activity can therefore be quite lucrative for the relevant jurisdiction. For example, in the UK the 15% tax rate on a remote gambling industry estimated at £2 billion is expected to generate tax revenues of approximately £300 million per year.

Enforcement challenges

The experience of the US has shown that implementing measures to block online gambling, for example ISP and transaction blocking techniques, are quite easily circumvented by gambling operators. Singapore is mindful of these challenges. As noted by Minister Iswaran, "We recognise that there are practical challenges to this effort, not least because technological change will render complete eradication difficult."²

However, as there are a limited number of ISPs located in Singapore this enforcement mechanism may be more successful than it has proven to be in the US.

Prohibition leads to a black market

It could be argued that prohibiting online gambling entirely would not eradicate the activity but instead lead to a black market of unregulated sites. This would potentially be more dangerous for consumers as there is a greater risk of such sites being unscrupulous about who their customers are, not implementing strict controls regarding identity verification, protections for problem gamblers or age limits.

If the market is regulated then consumers are more likely to use licensed sites rather than resort to a black market site. This means that the government could focus its attention on ensuring that licensed sites comply strictly with the terms of the licence, for example by strictly monitoring age controls, introducing measures designed to protect problem gamblers, paying the relevant duty and reporting suspicious activity.

Competition drives innovation and better service for consumers

Allowing open competition between online gambling operators encourages a better experience for consumers. This is because there is more pressure for operators to offer new games and introduce better odds for players as well as to provide a better customer service. If Singapore regulators want to retain a competitive model, they may consider allowing the incumbent suppliers to benefit from exemptions.

Considering the arguments in favour of restrictive approach

Problem gambling/addiction

Although Singapore has permitted forms of physical gambling, these measures have been introduced with restrictions in an attempt to protect Singapore citizens and permanent residents from the dangers of problem gambling and addiction. These concerns are arguably even stronger when considering online gambling because a lot of the perceived stigma of being seen to be gambling disappears as it can be done in the privacy of one's own home or even one's own mobile phone.

Because online gambling can be done in a very secretive way, it may be less likely for those suffering from an addiction to be identified and helped by family members, friends or others.

Youth gambling

Online gambling also presents some concerns regarding the ability of young people to bypass age checks. Although this is also a risk with physical gambling, underage gambling is more straightforward to police. In addition, as Minister Iswaran highlighted, "*Remote gambling ... [is] ... ubiquitously and easily accessible through the Internet and mobile applications, especially by a younger and more tech-savvy generation*".³

Criminal uses/money laundering

There are other concerns that Internet gambling may prove easier for organised crime groups to use for money laundering purposes. Such groups would only need to open an online gambling account with a large amount of money, gamble a few times and then close the account, cashing out the money. The money would then appear to be gambling winnings.

LIKELY SINGAPORE APPROACH

The combination of Singapore's existing restrictive regulatory approach and Minister Iswaran's comments regarding the government's current preferred regulatory stance seem to indicate that Singapore will follow the examples of the US and Hong Kong and introduce a model that prohibits online gambling but allows for certain limited regulated exemptions. At this stage, there is little to indicate precisely what exemptions are likely to be considered by regulators, although the reported steps being taken by Singapore Pools suggest that the existing licensed operators consider it likely that they will fall under an exemption.

It will be interesting to see the practical and regulatory steps taken to enforce such legislation, particularly during major sporting events such as the World Cup (assuming the legislation has been implemented by this stage), especially given the challenges that other jurisdictions have encountered in this area. ♣

¹ Taken from a speech at the Casino Regulatory Authority symposium on 10 May 2013 by Mr S Iswaran
http://app.cra.gov.sg/public/www/speech_item.aspx?sid=183

² *Supra* note 1

³ *Supra* note 1

*Bryan Tan (Partner) Pinsent
Masons MPillay, Singapore*

*Bryan is head of Pinsent
Masons MPillay's technology
media and telecommunica-
tions practice in Singapore
and has practised since 1997.
In addition to gambling
regulation and contracts, his
practice also covers media
transactions, IP, outsourcing,
telecommunications and data
protection.*

*Sally Murphy (Solicitor)
Pinsent Masons MPillay,
Singapore*

*Sally is an English law
qualified solicitor in Bryan's
team. She has experience in
gambling regulation,
outsourcing, commercial
contracts and data protection.*