In June 2012, a new legal and regulatory scenario for the online gaming market was launched in Spain. Since that moment, this activity has been gradually refined, amended and improved as a result of the continued cooperation between operators and the Administration.

As licensed companies can only offer those online games that are legally approved, one of the main changes demanded by operators was the approval of a wider offer of games, especially online slots and exchange betting.

After long months of studies, analyses and evaluations performed by the General Directorate for Gambling Regulation (DGOJ), always with the active participation of the different gaming operators and despite the objections of part of the land based sector, in April 2013 the DGOJ published its decision in favor of regulating these two new products and as of today, both regulatory proceedings are already underway.

According to the regulatory process announced by the DGOJ, the first step after the drafting of the relevant Ministerial Orders by the DGOJ and prior to holding a public consultation, was to circulate the drafts among the different autonomous regions in Spain in order to receive their feedback and then, either considering them or not, to publish the draft regulations for public consultation. Unexpectedly, during this first phase the first draft regulations for online slots and exchange betting were improperly leaked and published.

Consequently, from the 13th of February 2014, interested parties had the chance to consider those first drafts, although comments were not at that stage accepted except from the regional authorities.

On the 10th of March 2014, after the meeting held between the DGOJ and the different regional authorities, the draft regulation for online slots and for exchange betting games was officially published by the DGOJ for public consultation for the term of 15 working days. These official versions include just some few changes to the previous versions that were leaked about a month earlier.

Therefore, at the time of writing this article, the drafting process relating to the regulation of these two new products is currently in the public consultation stage. Interested parties are invited to provide comments to the DGOJ by Thursday, 27th March 2014.

In parallel, the draft Ministerial Orders were submitted on the 18th March to the European Commission for its review and also for consultation at European level. Interested parties may provide their comments and arguments in this process by the deadline of 19th June 2014.

Once the European public consultation term finishes, the next stage at federal level will be based on the statement of conformity of the Secretary of State of the Ministry of Treasury followed by the Report from the Ministry of Treasury’s General Technical Secretary. Lastly, once all the corresponding statements and reports have been collected, the regulatory process
will finish. The Ministerial Orders will be signed by the Minister and the regulation for online slots and for exchange betting will be finally approved.

Regarding the content of the draft versions for the regulation of online slots and exchange betting, we must emphasize that most of the fundamental aspects of the regulation are kept at the discretion of the operator. Therefore, in general terms, both texts are quite open-handed.

The draft regulation for online slots entitles the operator to decide about aspects such as prizes that can be obtained by the player, the minimum payout percentage, and the minimum and maximum amounts to bet, with no limitations other than those relating to the limits per gaming session (which in practical terms and according to the definition provided by the draft, should not cause disturbance to the operator nor to the player). Additionally, progressive jackpots are allowed and following the drafting, they can be shared among the different types of each operator's slots machines. Also “autoplay” functionality will be permitted with a maximum number of 25 games.

Regarding exchange betting the draft regulation contains a transitional provision delaying the possibility of organizing exchange horse racing bets until the applicable tax rate is legally defined. In addition, the draft includes several final dispositions, the most relevant being the one that amends and clarifies the regime established for the “live” fixed odds sports bets and other fixed odds bets.

Undoubtedly, one of the main provisions that we consider essential to highlight is the entry into force of the Ministerial Orders approving these two new games. In both cases the regulation will come into force on the same day as a new call for a public tender to apply for General Licences is published. Therefore, the clear intention of the DGOJ is to avoid the competitive advantage that the licensed operators may have over those other unlicensed and to promote the interest of operators to enter into the Spanish market. Consequently, those operators that currently hold a General Licence will be entitled to apply for the relating single licence while those operators without any kind of online licence in Spain will be allowed to apply for the corresponding general and single licence.

In accordance with the foregoing, there is no official timeline published by the DGOJ; however, as explained, the regulatory process is underway and the Spanish market is getting ready for a new call for a public tender for gaming licences and consequently, the provision to players of a wider offer of gaming portals and products.

Both drafts on slots and exchanges have been published together with their respective memo-analysis of regulatory impact, where the social, legal and economic fundamentals that support the inclusion of both regulations within the Spanish market are explained in detail.

In this regard, the memo-analysis related to the draft on online slots has particularly caught our attention. A great part of this work performed by the DGOJ is mainly focused in a comparison with other EU jurisdictions. In particular, Denmark, Italy and UK. Further than the usual figures representing the importance of this gambling product in such markets and the significant growth of GGR/collection of taxes that online slots will generate, the memo covers other aspects like the limits on prizes, the duration of each game, allowance of jackpots, etc. which is primarily done by the Spanish regulator through very clear informative charts. Said aspects are duly addressed in order to tackle key topics like commercial matters and responsible gaming.

Additionally, the memo reflects a study of the potential cannibalisation with respect to the same products commercialized by the land-based sector in hospitality premises, known in Spain as “Class B” slots devices which are regulated by the regions. This has been a hot topic raised by a big part of the terrestrial industry during this regulatory process. Like most aspects of this work, the analysis carried out by the DGOJ with regards to this particular matter is simply brilliant and is treated from different angles (internal market, impact of the online slots with other EU jurisdictions, kinds of players for each type of channels, etc.), mentioning most, if not all, the existent bibliography on this subject.

As expected, the conclusions of this chapter shows the absence of any cannibalisation between the online and the land-based channel, and refute the vague and inconsistence arguments brought, once again, by some interested parties against the online industry.

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