

GB operator categories for fund protection

The British Gambling Commission published on 17 November its ratings system enabling operators to disclose to consumers the level of protection of customer funds offered, and its arrangements should operator insolvency occur.

The ratings system is accompanied by an advice note for operators, detailing the system and requiring each operator to assess which of three categories of fund protection it falls into.

The three categories are basic, medium and high. Even the basic category indicates the segregation of customer funds away from business accounts. However, funds held by an operator categorised as 'basic' would be part of the business' assets in the event of insolvency. The 'medium' category means that the operator has arrangements in place to ensure assets in the customer accounts are distributed to customers in the event of insolvency and would include Quistclose accounts and insurance arrangements. The 'high' level category indicates that customer funds are held in an independent trust account.

Operators must disclose to customers, which category of customer fund protection they offer by 31 December 2014.

Romania moves closer to 'unblocking' online gaming

A proposal to amend Romania's online gambling legislation, Emergency Ordinance no. 77/2009, featured in the agenda of the plenary sitting of Romania's Chamber of Deputies on 18 November, which means that should the proposal be approved, the next step will be promulgation of the law by the Romanian President.

The aim of the proposal is to create an effective legal online gambling market in Romania, whilst addressing the EC's concerns regarding the compliance of its gambling legislation with the EU Treaty, through *inter alia* revising the tax rules on winnings, and removing the requirement that offshore operators establish a legal entity in Romania in order to carry out online gambling services.

"Many amendments have been put forward, including: that operators conducting activities related to online

gambling such as those offering management and hosting facilities, payment processors, and manufacturers and distributors of software, are obliged to obtain a licence to operate in Romania; and that mutual betting activities exit the monopoly of the National Company Loteria Romana," explains Ana-Maria Baciu and Oana Albu of NNDK.

Online gambling has been legal in Romania since 2010, however legal online gambling services have never been conducted because the body responsible for issuing licences and supervising the industry has never been allocated. "Another amendment which should unblock the market," adds Baciu "relates to the monitoring and supervision of online gambling, which will be exclusively performed by the National Office for Gambling." "It is worth mentioning

however," adds Cristian Radu, Partner at Tuca Zbârcea & Asociatii, "that not all of the amendments are a reflection of an open minded legislator. For instance, the 'Black List' is maintained, which is intended to deny a licence to all operators that have conducted or offered gambling services in Romania without holding a Romanian licence. Such operators will only be removed from the Black List if they pay all of the taxes owed for this period. If the draft law is not amended in this regard, it may prove to be a deterrent to entering the market since almost all international operators have offered services to Romanian players."

"The draft has the potential to create an attractive legal offering in Romania," concludes Radu, "provided that the 'Black List' is waived and that players' winnings are exempted from taxes completely."

ASA gambling advertising review identifies free bet ad concerns

The UK Advertising Standards Authority (ASA) published on 30 October its review into gambling advertising, part of the four strand review into gambling advertising requested by the UK Government.

"The key objectives were to determine whether the ASA's approach to date in relation to gambling ads has been proportionate, consistent and in line with societal expectations," explains Nick Johnson, Partner at Osborne Clarke.

The ASA commissioned qualitative research, which, it

says, 'revealed that, in nearly all instances, [ASA] decision-making was in line with public opinion.' However, it identified concerns around free bets and other promotions, noting that the majority of gambling ad complaints received between 2007-2013 related to sales promotions. "Going forward these will be subject to greater formal scrutiny," said Johnson. "Informal resolution of challenges in these areas will be less common." The ASA will also investigate issues of children and scheduling, and

whether some ads indirectly connect gambling to prohibited themes such as 'toughness.'

"The rise in the number and proportion of complaints about gambling ads (from 1.3% of all complaints in 2007 to 3.5% in 2013) could be seen by some as indicative of a need for tougher regulation," adds Johnson. "However Ofcom data shows that gambling accounted for 1.7% of all UK TV advertising in 2008 and 4.1% in 2012, suggesting that gambling advertising shouldn't be seen as an area of particular concern."

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