

Between a rock and a hard place

The quasi-legal status of Cyprus' online gaming market might cause confusion, but it's also spawned a thriving industry sector

ONLINE GAMING LAW

Although Cyprus is no longer an offshore jurisdiction in the strict sense of the word, its tax regime, location, network of double tax treaties, membership in the EU and stable economy, means the island is an ideal place to locate holding, trading and intermediary companies.

Its taxation regime doesn't stand out particularly among its offshore competitors, but changes to tax legislation in 2002 gave Cyprus the lowest rate of corporate tax in the EU at 10 per cent, which applies to both onshore and offshore companies.

There are, of course, no physical casinos located in southern Cyprus, but gamblers exploited a legal loophole which resulted in online gambling via overseas providers going virtually unregulated. In 2004 a UK law firm began to work with the Cypriot government on a new Internet gambling legislative framework which was started when it was revealed the government was losing around €30m per year in revenue due to untaxed gaming activities. A bill was submitted to parliament in 2006 and rejected. A year later the government imposed stricter standards and two laws were amended - the Collective Bets (Regulation and Taxes) Law and Horseracing Bets and Lotteries Tax Law of 2007. These saw a reduced taxation on collective bets to 10

per cent tax on net turnover and a focus on underage gambling. However it did not regulate online gaming.

Lawyer Olga Georgiades is Director of Lexact Solutions Ltd, a company formed for the purpose of providing practical seminars for professionals on legal and tax issues.

She said: "Since 2006 a number of draft bills have been prepared by the government and presented to the House of Representatives attempting to ban

nearly all forms of online gambling in Cyprus. Until 2010 it has been unsuccessful in its efforts because the draft bills were blocked by the European Commission following a complaint filed by Magneta Technologies, a Cypriot gaming software developer.

"This complaint caused the European Commission's interference due to the fact that the bill was considered to constitute a restriction on the freedom of establishment and the freedom to provide services."



However the current situation is now offering an online gambling free for-all. It is estimated that 95 per cent of electronic gambling services are currently operated illegally because they are provided over the internet. Around 400 locations around the island currently provide the means for online gaming under a 'quasi-legal status' owing to the absence of legislation. If the authorities raid a location and seize equipment the operators merely replace the computers and are back in business as quickly as the following day.

Online gambling in Cyprus currently has an estimated turnover of around €2.5bn per year yielding a gross profit of €400m. By 2012 this turnover is expected to be as high as €5bn with a gross profit of nearly €1bn.

If the ban goes ahead online gaming operators would need to relocate from Cyprus thus taking away jobs and income and some fear the negative consequences this will have on the economy. Reports suggest the government has already initiated action

As online gaming via providers licensed from other EU member states it is technically allowed (or rather not disallowed) and due to an absence of regulation in recent years a number of gaming companies mainly from the UK have provided their online products.

against online gaming companies that are currently operating from Cyprus. These companies had opted for Cyprus because it was convenient and tax-efficient.

Now the Inland Revenue could be investigating and because of the inefficiencies in the tax department many companies in Cyprus, including online gaming companies, get away with tax evasion.

The Cypriot government however now wants to amend the law again and delete online gambling from the permissible betting services from this year and enable them to deal with unlicensed and illegal online gambling sites.

In September last year the government presented a bill, the Betting Law of 2010, with the aim of retaining online sports and horse betting but banning all other forms of online gambling such as roulette, slots and poker.

The bill suggests the following:

- The implementation of a National Betting Authority within three months of the law being introduced which will consist of a chairman and six members. Term of office for the chairman and members is four years which can be renewed for a second period. The position of the authority will be to examine applications for bookmaker licenses and carry out checks and inspections and issue guidelines for the license holders.
- A Bookmaker's Licence must be granted for those wishing to provide betting services. These will be divided into a Class A which authorises betting services apart from horseracing bets and a Class B for online betting (bookmaker's license for online bets) but does not include slot machines, online casino games or horseracing bets.
- The Class A and B licenses will only be submitted where the applicant is a company registered by shares which were incorporated in the Republic or abroad and which has a branch in the Republic for the exclusive purpose of holding bets and a paid up share capital of at least €500,000. The licensees must also have a bank guarantee of €300,000.
- For Class B licenses there is a further requirement that the applicant must install within Cyprus a back up server which must be connected in parallel with the central server and store real data and information.
- Bookmaker licenses are valid for one

CYPRUS: VITAL STATISTICS

Capital: Nicosia
Population: 1,102,677
Land Area: 9,251 sq.km
Median age: 35 years
Languages: Greek and Turkish, English.
Ethnic Groups: Greek (77%), Turkish (18%) and other (5%)
Religions: Greek Ortho (78%), Muslim (18%)
Currency: Euro / Turkish Lira
Government: Republic / Democratic Republic
Chief of State: President Demetris Christofias/
 Irsen Kucu
Head of Government: President Demetris Christofias/
 Irsen Kucu
Cabinet: Council of Ministers appointed jointly by the president and vice-president.
Elections: President elected by popular vote for a five year term. Last election held in 2008 and next due in 2013.

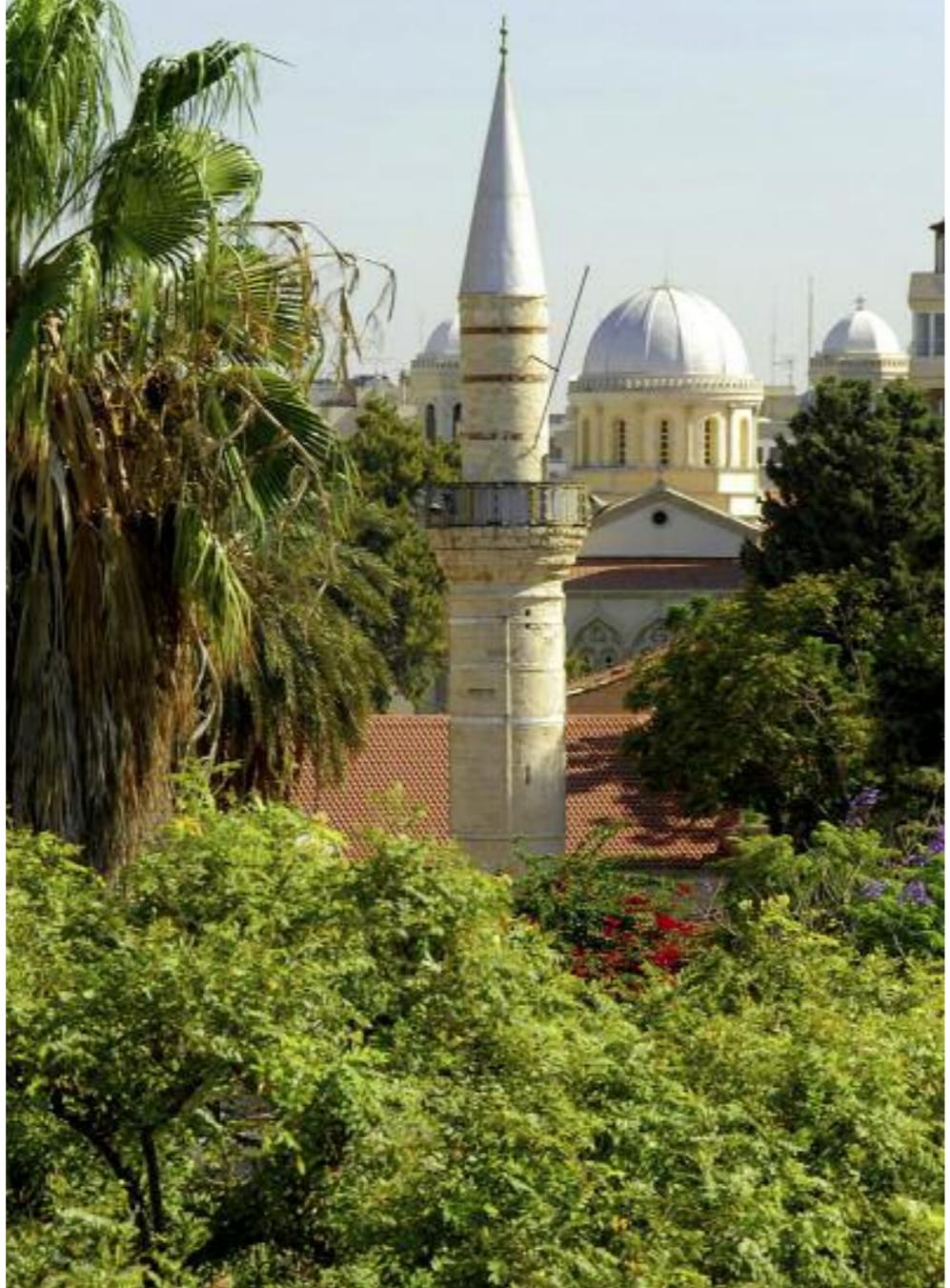
or two years from the date on which it was issued or renewed. Charges for licenses (until regulations are enacted) will be €3,000 for a one year license or €5,500 for a two year license.

- Bookmaker premises must be at least 15 sq.m in size, not directly connected to any other shop, office or premises

- Class B bookmakers must register players whilst no cash is accepted only credit and debit cards and wire transfers. No amount over €350 will be paid into a players account until their identity and age has been ascertained.

- All Class A and B licensed bookmakers will pay a betting tax which shall be 10 per cent of the net receipts.

The government had hoped to implement the new bill by January this year however Malta and the UK have expressed their opposition to the Cyprus online gambling ban considering it as being in breach of EU rules. EU directives require that there must be a public consultation and an impact study on possible repercussions before the preparation of any bill and so the ban is now delayed until feedback which was due last month.



"We welcome the introduction of the draft regulation, the main elements of which include fit and proper tests to ensure the legality and integrity of prospective licence holders."

Brian Wade,
 Stanleybet.

Questions put forward include – how customers would pay for any regulated online gaming? Why the numbers of licensees included in the draft are so limited? They also require clarification on some provisions which appear to be discriminatory among providers of these internet services.

One of the contentions in Cyprus is that the Greek lottery and sports betting company OPAP operates in Cyprus and offers its games under a monopolistic basis. OPAP was established in 1958 in Greece. In 2003 the company OPAP (Cyprus) Ltd was set up as a private company to operate all the games of OPAP in Cyprus. The company's turnover in 2009 came to €197m with a gross profit of €14m.

OPAP has been operating its existing range of games such as numerical lottery games like Lotto, Proto, Joker, Super and Extra in Cyprus since 1969. In 2003 it purchased 90 per cent of the shares of Cypriot company Glory Leisure Holdings

– and the company then began to offer fixed odds sports betting games and Kino in Cyprus. Meanwhile OPAP also acquired 20 per cent shares of Glory Technology which provides software technology. Today OPAP has 165 agencies in Cyprus.

Olga Georgiades added: "The bill is considered to affect intra community trade and to be incompatible with the fundamental freedoms of the EC treaty. It violates European Competition Law and recent decisions of the European Court of Justice. Furthermore it imposes certain absolute prohibitions on online gaming which are not reasonably and objectively justified for the following reasons:

"A profit making company (OPAP) has acquired exclusive rights under a concession agreement without the application of a tender. OPAP is now engaged in excessive advertising for the purpose of satisfying its pure profit making purposes. OPAP uses Sports Betting Activities to attract online gaming



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EMBRACING SMARTPHONE TECHNOLOGY DISCOVER; DEVELOP; DELIVER

Monday 16 May, 2011
The Waldorf Hilton Hotel, London



FACT: Experts predict that by 2013 the mobile gambling industry will be worth 27.5 billion

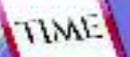
FACT: Smartphone sales will near 500 million units in 2011

FACT: Leading betting firms are experiencing a staggering 10% rise in betting volumes driven purely by utilising smartphone devices & applications

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players inside it shops.

The betting bill does not justify the objective of curbing of gambling addiction. OPAP, the monopolist undertaking, also offers online games, thus creating risks of addiction. OPAP is not subject to state supervision or monitoring for preventing money laundering and its games are also prohibited by the betting bill but this is overlooked without any justification."

As online gaming via providers licensed from other EU member states it is technically allowed (or rather not disallowed) and due to an absence of regulation in recent years a number of gaming companies mainly from the UK and Malta have, of course, provided their online products.

Meanwhile there are a number of bookmaking companies operating in Cyprus including Ladbrokes and Betfair which are some of the most popular online gaming sites in Cyprus.

StanleyBet International has a big presence in southern Cyprus and is governed under its StanleyBet Malta Limited company. The company has a total of 2,000 outlets across Europe and holds licenses in the UK, Croatia, Romania and Malta. StanleyBet is now one of the leading cross border retail sports betting groups with intermediaries in Cyprus, Germany and Italy.

The first Stanleybet shop was established in Cyprus in August 2006 and today the company has 85 shops throughout the island offering a full range of sportsbetting products with a RNG product similar to that offered in the UK licensed betting shops.

Brian Wade of Stanleybet said: "This RNG product offers betting opportunities on graphically displayed football, horseracing, greyhounds and motor racing events.

"Stanleybet welcomes the introduction of the draft regulation the main elements of

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Olga Georgiades , Lexact Solutions Ltd.

which include the introduction of a fit and proper test to ensure the legality and integrity of prospective license holders and a 10 per cent gross profits tax which would effectively exclude customers from tax which would be paid by bookmakers dependent upon the level of their profits. It would also be an offence to possess or operate slot machines or any machines through which online casino services can be provided and would require any individual or company wishing to offer betting services to hold an appropriate license and also a submission to the National Betting Authority of annual audited accounts."

MegaBet is another major bookmaker company in Cyprus which was founded in 1987 and is now owned by the Zenon Group. Megabet has a 40 per cent market share with around 100 betting outlets. There are around 250 betting shops in Cyprus in total and the betting sector is controlled by the Ministry of Finance.