

(Thursday, March 11, 2010)

Remote gaming - LGA insists EU principles of free movement reign supreme - LGA sponsors World Gambling Briefing in Malta later this month

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There appears to be no uniformity in the opinions on remote gaming passporting delivered by the European Court of Justice and Malta's regulator maintains that the EU principles of provision of the free movement of services and freedom of establishment reign supreme.

The Maltese jurisdiction is self-assured by the superiority of its regime and the international trust it enjoys, Lotteries and Gaming Authority chief executive officer Reuben Portanier told The Times Business.

Paolo Mengozzi, the advocate-general of the European Court of Justice, decreed in an "opinion" a few days ago that European Union member states were not obliged to allow gaming firms to penetrate their territory just because they were licensed in another EU state.

He was releasing his conclusions on seven cases referred by different German regional courts about the compatibility of German gaming rules with EU legislation.

Mr Portanier said the LGA took note of Dr Mengozzi's opinion that "the mutual recognition of national licences for games of chance is not viable as EU law now stands", but pointed out that the AG's opinion was not binding on the court's final decision. The chief executive pointed out that just a few weeks ago, the ECJ's AG Yves Bot opined in the Winner Wetten case that German gaming legislation in one of the country's regions constitutes a restriction to the freedom of movement of services.

"Hence, it would appear that there is no uniformity in the opinion's being delivered," Mr Portanier said. "The LGA will attentively follow developments before commenting and reacting further."

On Monday, AG Mengozzi's opinion was described as a blow to Malta's burgeoning remote gaming sector which adds up to around 10 per cent of the global industry.

Mr Portanier insisted that in the absence of any harmonisation on gaming laws at EU level, "Malta argues that the principles enshrined in the EU treaty, namely the provision of the free movement of services and freedom of establishment, reign supreme. An opinion issued by one of the ECJ's AGs does not have any legislative standing and it cannot be interpreted as being a new legislative development in this area."

Asked for the LGA's view on Dr Mengozzi's opinion that offshore and extraterritorial licences granted by Malta and Gibraltar distorted the mutual trust between member states, Mr Portanier said Malta's remote gaming industry boasted advanced regulation.

"The Remote Gaming Regulations of 2004 ensure that Malta's regulatory regime is based on the provision of gaming services in a fair, responsible, safe and secure manner," he said. "The implementation of this is maintained through robust and comprehensive systems, mechanisms and continuous interventional monitoring. This also ensures the actual compliance with these regulations.

"The LGA seeks to ensure that the three main pillars of gaming are secured: The fair delivery of the game to the player, the protection of minors and vulnerable persons as well as keeping gaming free from fraud and money laundering. Malta's regulatory regime is recognised by the Commission as one of the most advanced in the EU."

The LGA believed that it had adopted the best possible measures to ensure that other member states and their regulatory authorities were able to trust the regulatory regime in place. Mr Portanier pointed out the authority enjoyed very good relations with other European regulators in this field. Information is continuously exchanged on regulatory issues, including best practices. This, Mr Portanier insisted, was clear testimony of the trust other European regulators had in our jurisdiction.

Meanwhile, the LGA is gearing up for the World Gambling Briefing at the Hilton Malta on March 24 and 25, of which it is the lead sponsor.

"The World Gambling Briefing is an important event in the international industry calendar bringing together regulators, operators and service providers discussing topical issues related to the industry," Mr Portanier said.

"This year, in Malta, global leading industry players will not only be discussing matters related to EU issues, regulation, and state protectionism versus open markets, but will also be delving into issues of importance like as responsible gaming."

A long list of experts has confirmed attendance, among them members of European gaming boards and delegates from several associations, and executives from firms including Betfair, Dragonfish, Betsson.com, Stanleybet, Bwin, Interwetten, 888.com, and Ladbrokes. A host of international and Maltese legal experts will also participate. Delegates will be addressed by the LGA chief executive and Finance Minister Tonio Fenech.

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