



Notification Number: 2011/85/E

Draft Legislation on Gaming Regulations

Date received : 25/02/2011
End of Standstill : 26/05/2011 (27/06/2011)
Issue of comments by : Commission
Issue of detailed opinion by : Malta

Message

Message 002

Communication from the Commission - SG(2011) D/5427

Directive 98/34/EC

Translation of the message 001

Notification: 2011/0085/E

No abre el plazo - Nezaahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201100427.EN)

1. Structured Information Line

MSG 002 IND 2011 0085 E EN 25-02-2011 E NOTIF

2. Member State

E

3. Department Responsible

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3. Originating Department

Ministerio de Economía y Hacienda



Secretaría de Estado de Hacienda y Presupuestos
C/ Alcalá 9 planta primera
Madrid 28071

4. Notification Number

2011/0085/E - H10

5. Title

Draft Legislation on Gaming Regulations

6. Products Concerned

Games of chance refer to lotteries, betting and other similar activities in which quantities of money or any other form of economically valuable objects are gambled against future results or outcomes, which may be transferred between participants, regardless of whether such activities require a certain degree of skill of participants or are based entirely or essentially on luck, wager or chance. The concept of games of chance includes raffles and competitions, in which players participate by way of a financial payment.

7. Notification Under Another Act

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8. Main Content

The aim of this draft is to establish a legal framework for state gaming activity carried out through electronic, computer, telephone and interactive media, in which the participant's presence in-person plays only an accessory role. This legal framework shall create judicial security both for public and private operators and for the users of such services. In essence, the draft law seeks to ensure that the interactive gaming market is transparent, safe and reliable, for which it is fundamental to implement the necessary means to exercise an effective control over gaming operator activity, as referred to specifically in Section IV "Activity Control", as well as to establish an adequate system of penalties against illegal operators (Section VI).

The draft law lays down the minimum technical requirements (subject to further regulatory adaptation) to be satisfied by all technical equipment and systems to be used as part of authorised gaming activity (Articles 16, 17 and 18).

The National Gaming Commission will approve the certification procedure for technical gaming systems, including gaming material approvals, where applicable.

The technical system for the organisation, operation and development of interactive games shall be drawn up by the Central Gaming Unit and the set of technical or telephonic systems and instruments facilitating the organisation, marketing and enjoyment of these games by such means. Both the Central Gaming Unit and the servers or other elements offering access to gaming websites shall be monitored within Spain by the National Gaming Commission.

The technical systems of authorised operators shall have authentication mechanisms that are guaranteed to comply with the legal requirements. Likewise, they shall have a Central Gaming Unit (and a replica thereof) that satisfies the specifications laid down by the National Gaming Commission, and shall implement backup copies and measures for the recovery of lost data. Both the Central Gaming Unit and its replica shall implement secure computer connections that are compatible with the systems of the Spanish National Gaming Commission (CNJ).



Meanwhile, in relation to penalties, Section VI, Article 47 of the draft law refers to measures concerning intermediation service providers, stipulating that the CNJ may adopt precautionary or definitive measures for interrupting gaming activities through Information Society services or for withdrawing any content that constitutes gaming activity carried out without the necessary authorisation. The measures referred to in this article shall be objective, proportionate and non-discriminatory, and shall be adopted in a precautionary fashion or in execution of the corresponding penalty resolutions.

9. Brief Statement of Grounds

State legislation relating to activities involving games of chance has significant shortcomings in its adaptation to the current state of the gaming industry, particularly with the sudden influx of gaming through electronic, computer, telephonic and interactive means.

At present there is no system of control over interactive gaming services which guarantees secure and fair market conditions for operators, nor are there adequate levels of protection safeguarding the rights of participants in the different forms of gaming. As a result of such deficiencies, several collectives have demanded the production of this draft law in order to implement the highest possible level of protection, through compliance with the principles of integrity, security, reliability and transparency in all activities offered in the gaming industry.

This draft law is therefore necessary to regulate the market of state gaming activities through any form of interactive media. At the same time, there is also a need to prevent and mitigate the prejudicial and negative effects of such activities on minors and particularly sensitive groups, as well as to combat fraud and prevent illicit activities.

To ensure that authorised gaming operators comply with all the specifications and requirements pursuant to this draft law, it was necessary to establish an adequate system of control over their activities. To do this, a regulatory body was formed (the CNJ), which has adequate IT and personnel means to determine, in real time or otherwise, each and every one of the gaming operations carried out by the operator and which identifies those players not acting in accordance with the law. Likewise, the draft law contains an effective penalty system which, among other functions, is capable of blocking the infringing operator's website where the law requires it.

A regulatory and independent gaming industry body (CNJ) is fundamental for creating an integral, safe and transparent gaming market in Spain, encouraging competition between gaming operators and doing as much as possible to avert illegal operators. The efficacy of this regulatory body in achieving the objectives of the law shall depend on the operator software control system it establishes and on its capacity to penalise operators that do not comply with the law.

10. Reference Documents - Basic Texts

No basic texts exist

11. Invocation of the Emergency Procedure

No

12. Grounds for the Emergency

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13. Confidentiality



No

14. Fiscal measures

No

15. Impact assessment

Yes

16. TBT and SPS aspects

TBT aspect:

No - The draft is not a technical regulation or a conformity assessment

SPS aspect:

No - the draft is not a sanitary or phytosanitary measure.

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