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E-ENTERTAINMENT (GAMBLING)

PROPOSED REVISION OF THE ONLINE GAMBLING LAW IN PORTUGAL – INTRODUCTION OF LIQUIDITY SHARING MECHANISM AND REVISION OF THE FIXED-ODDS SPORTS BETTING TAX

Last Friday the Portuguese Government submitted to the Parliament the State Budget Proposal for 2018. This proposal includes relevant amendments to the Online Gambling Law (Decree-Law nr. 66/2015, 29 of April), aimed at introducing national and international liquidity sharing in the online gambling market and to revise the allocation of the fixed-odds sports betting tax.

In detail, the Government proposes to change the Online Gambling Law in order to allow licensed operators in Portugal to:

- (i) Share its gambling platform to provide and promote online gambling and betting games to players registered in different PT websites; and
- (ii) Provide online gambling and betting games between players registered in PT websites and players located outside Portugal and registered in non-PT websites performing validly under licences issued in jurisdictions where liquidity sharing is admitted.

These amendments envisage to foster competition in the Portuguese market and address one of the major concerns of online gambling consumers. At this respect, it is noteworthy that on July 6, 2017 the gambling authorities of France, Italy, Spain and Portugal signed an agreement concerning online poker liquidity sharing. However, the changes put forth in the State Budget Proposal apply not only to Poker, but also to other games of chance and even to sports betting.

It is specifically foreseen that these matters must be developed in regulations to be issued by SRIJ (the Portuguese Control, Inspection and Regulatory Entity). This should not be a problem considering that at the beginning of 2017

SRIJ send a proposal of this regulation to the European Commission, which was welcomed by the market and received favourable inputs by this entity.

Operators authorized to implement liquidity sharing mechanisms, will be obliged to comply with new rules, namely:

- Direct to the front-end infrastructure all accesses to the gambling platform established from locations in the Portuguese territory or established by registered players in PT websites, as well as all traffic related to online gambling and betting activity between these players and the platform; and
- Report to the front-end infrastructure traffic related to online gambling activity between players and the gambling platform, if and when accesses to this platform are established from locations outside Portugal or established by players registered in another domains (i.e., other than “.pt”).

According to the State Budget Proposal, failure to comply with these obligations will result in a very serious administrative offence.

Another key amendment included in the State Budget Proposal refers to the special online gambling tax on the fixed-odds sports betting. Although there are no material changes in the highly disputed method of calculating (which continues to be based on stakes and not on GGR) the proposed new legal contested framework impacts in the allocation of the tax. Indeed, the special online gambling tax on fixed-odds sports betting is proposed to be allocated as follows:

- 3.17% for the State (currently 2,28%);
- 48.05% for the ministry responsible for promoting social policies support for family, children and young people at risk, the elderly and the promotion of social inclusion (currently 34,52%)
- 22.88% for the ministry responsible for promoting national health policy measures, of which 1% is earmarked to SICAD [Addictive Behaviour and Dependence Intervention Body] (currently 16,44%);
- 5,24% for the ministry responsible for promoting Home Affairs policies (currently 3,76%);
- 20.66% for the ministry responsible for the national youth and sport policy (currently 1,49%).

Although the State Budget Proposal does not contain other relevant amendments, it is noteworthy that the Online Gambling Law is currently undergoing a comprehensive re-evaluation from SRIJ. This entity must submit to the Government, before May 2018, a report on the application of the Online Gambling Law. Given that Portugal has one of the highest tax in the UE on fixed-odds sports betting and one of the lowest channelization rates, the market is eager for changes on this matter in 2018.

The State Budget Proposal initiate this discussion and paves the way for further changes in the legal and competitive landscape of online gambling in Portugal in 2018. It goes without saying that all stakeholders and interested operators should accompany the ensuing discussions on this matter.