

I-GAMING IN SOUTH AMERICA

HOW TO DEVELOP THE MARKET
FOR ONLINE GAMBLING



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A YOGONET S.A. publication

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The segment of remote bets is one of the biggest growths in the gambling industry. The development of new technologies, the multiplication of Smartphones and tablets all over the world, and the massive use of the Internet in the last decade have torn down the physical limitations of a gaming room, giving players the possibility of betting on the roulette, a slot machine or betting on a sports event or a poker hand at any time and place.

This world phenomenon is not an exception in South America, what is more, it is just the opposite. 'We cannot cover the sun with one finger' says the proverb, and even though the region is in general behind the rest as regards gaming legislation, we should highlight that South America has an ample internet presence and an important gambling culture, which, as a result, give a market estimated in more than 185 million potential players. It is understandable that the interest of the international operators is to have a share of this market which is on the verge of its biggest expansion.

Taking this phenomenon into account, from Yogonet, we have set a goal: to create a release dedicated to the analysis of the potentiality of the region in this new scenario.

For this reason, we have turned to the perspectives of recognized lawyers, technicians and professionals of this area, who in these pages have offered their points of views, and analyzed the present of the gaming industry, the possible legal future of the market and discussed the different alternatives that can pave the way to a more transparent, legal and professional market. We hope our small contribution helps boost a market that requires legal update in accordance with the present times, and that this release turns into a material for reference and debate for regulators, legislators and representatives of political and economic groups, which will define the future of South America in relation to iGaming.

EDITORIAL

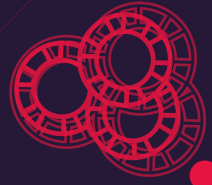
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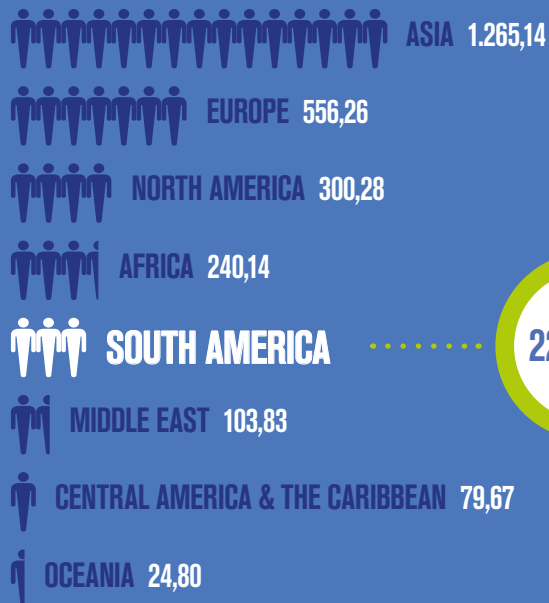
There is no doubt that South America today is one of the most wanted markets by operators of international gaming. Its lack of legislation makes it become a sort of 'grey market', in which the main international web sites find opportunities to reach millions of gamblers, without paying taxes and without returning anything to the society, as it happens in the case of legal gambling.

But in order to understand this phenomenon in an accurate way, it is good to go over some figures, which in some way define the potential of this market that South America offers, either to the operators of international gambling or to the potential local operators of remote betting.

INTERNET CONNECTION

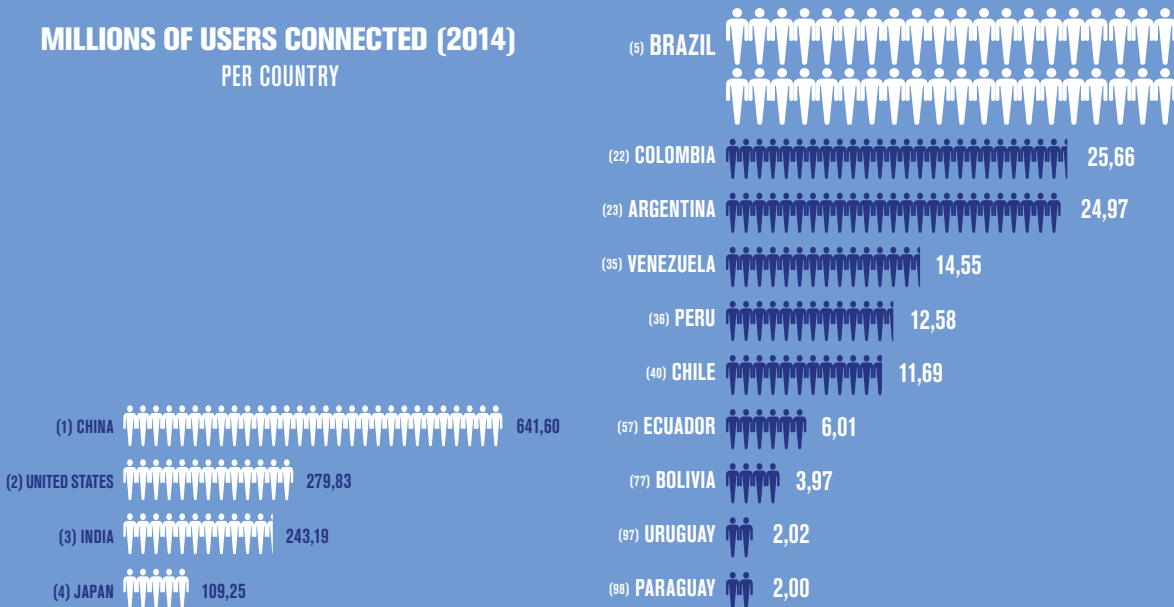
According to a recent study presented by Internet World Stats, South America is the fourth international region in percentage of connections per person (with 54.7%), and the fifth region in the world in number of users connected to the internet, with more than 222 million people online.

MILLIONS OF USERS CONNECTED (2013) PER REGION



(*) According to Internet World Stats.

MILLIONS OF USERS CONNECTED (2014) PER COUNTRY

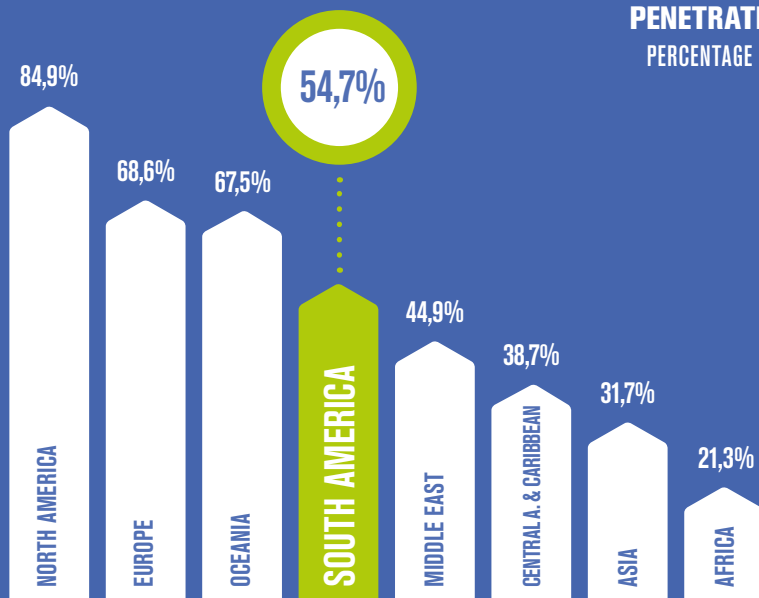


(*) According to Internet Live Stats.

SOUTH AMERICA, A CONNECTED MARKET

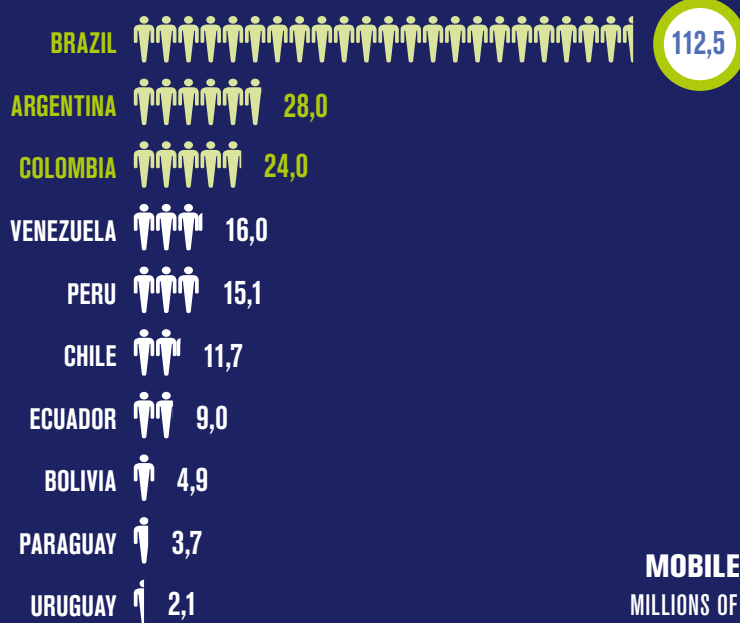
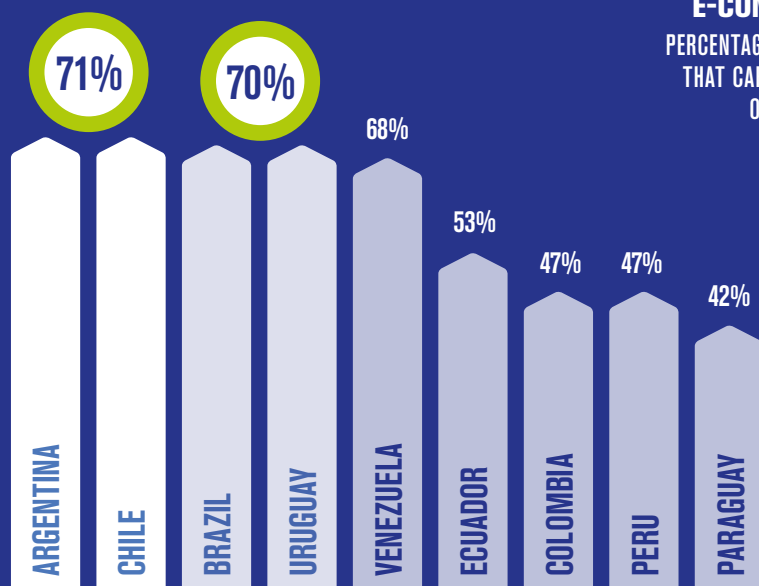
PENETRATION OF THE INTERNET PERCENTAGE OF USER PER CAPITA (2013)

(*) According to Internet World Stats.



E-COMMERCE (2012) PERCENTAGE OF USERS IN THE REGION THAT CARRY OUT TRANSACTIONS ON THE INTERNET

(*) According to Latin Link - US Media Consulting.



(*) According to GSMA Intelligence.

MOBILE TELEPHONY (2013) MILLIONS OF UNIQUES USERS PER COUNTRY



ONLINE GAMING AND SPORTS BETTING AS OPENING MODELS FOR SOUTH AMERICA

Eduardo Morales-Hermo

Lately, sports betting has been growing largely and has the greatest activity load, both in the in-person gaming sector and in the interactive or online channels, representing 40% of the total quantity of bets.

« IN FIGURES »

According to a market research carried out by the international consultancy Gbgc, sports betting profit around the world reached 58,000 million dollars in 2012, which represents 13.8% of the total profit (more than 420,000 million dollars). This sector is in fourth position of the total profit of that period, behind lotteries (28.4%, with 120,000 million dollars), casinos (26.9% with 113,000 million dollars) and slot machines (21.7% of the total, with 91,000 million dollars). The research shows that Europe is the continent where betting occurs the most, with a 41.1% of the total market (23,800 million dollars), followed by Asia with 39.4% (22,800 million dollars), while Latin America barely reaches 6.1%, just above Oceania, with 5.8% and North America with 5.7%.

It is worth mentioning that, at a global scale, online betting represents a third of the total gambling, and the figure is expected to rise slightly in the next years. This phenomenon places the need for more and better legislation on online gaming and sports betting in all Latin America, both in Central American markets and in the booming markets of South America.

2014 Brazil Football World Cupevent created great expectations for online gaming operators, especially for those focused on sports betting, because of the important role of sports, and especially football, in Portuguese and Spanish-speaking countries of the region.

Although online gaming is not currently regulated in most Latin American countries, that does not constitute an impediment to the existence of a great volume of gaming supply and betting as part of the group of illegal and non-regulated markets of the region, whose exponential growth between 2012 and 2013 was estimated in more than 35%.

Moreover, in-person betting is starting to gain relevance, and, though there is more legislation on this channel, this event has been taken advantage of by every analyst who consider this kind of betting as a turning point for this gaming sector in Portuguese and Spanish-speaking countries.

Although online gaming legislation in these markets is limited and scattered, and it poses considerable risks and legal uncertainty – depending on the country-, the nine principal markets (Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, Panama, Peru and Venezuela) actually generate a business profit of approximately 33,000 million dollars per year.

This amount is significant, taking into account that all Latin American and South American countries reach 150,000 million dollars profit in both the legal and illegal gaming business, according to a Research & Markets' report. Only Brazil represents 40% of gaming profits in Latin America, and the same report shows that growth of these markets surpasses United States' growth, for example.

These "new" markets for online gaming represent a lucrative opportunity for operators of this sector, keeping in mind that forecasts for the beginning of 2017 predict 55% of this region population will have access to Internet, and 70% in markets such as Argentina, for instance.

Mobile wideband is likewise growing fast, high above the world average, with 80%, which gets to 469 million people within the region. What is more, the World Bank estimates Latin America has suffered less and is recovering from the international financial and economic crisis in contrast with other regions of the world, except for Asia.

« MARKET MOVEMENTS AND FIRST SIGNS OF CHANGE »

There are regulatory actions in some countries, such as Chile, Peru and Colombia, directed towards making clear and opening the online gaming sector, besides the legislation in force in jurisdictions such as Costa Rica, Panama

and Mexico. On the contrary, there are no such actions in countries where this sector is quite significant, such as Brazil and Argentina. As mentioned above, diffusion of legislation did not constitute an obstacle for online gaming supply to proliferate, and for betting and gaming volume in non-regulated territories to be significant.

What is apparent is that these countries are letting go a big opportunity to regulate an activity which is latent and active in these markets, and with it the possibility to obtain the applicable tax revenue by redirecting the illegal gaming demand to regulated markets. These markets also offer protection and guarantees to gamblers and would avoid unfair competition with in-person gaming operators authorized by law.

In order to better understand the current situation, it is necessary to analyze some key markets in the legislation development of online gaming in South America and Latin America.

« BRAZIL »

After the lucrative bingo and gaming machines, a great business in Brazil, were banned, there have been some attempts to legalize gaming in all its forms, especially in bingos and gaming machines. Among these attempts, it is worth mentioning Act No. 270/2003, which reached the Legislative, but was finally dealt with by the Senate, which did not agree to pass legislation that allowed the opening of gaming in Brazil. This was the end of Lula Da Silva's initiative in his first term of office as president, and who promised to eliminate gaming corruption and to create gaming legislation, as an alleged case of corruption was what triggered a gaming policy change.

The current situation in Brazil regarding gaming legislation is complex, particularly when they attempted to sanction or enforce any rule. For these reasons, the possibility to establish a regulation in the short or medium-term are unpredictable, and even more remote in online gaming.

By means of an Act promoted in 2010, electronic transactions were going to be blocked as a

way of payment for online gaming. The Act was never sanctioned, and the Football World Cup celebration stimulated a Bill proposal (PROFORTE), which is now being discussed in the Legislative and, though the outcome is unknown, it is the only hope in the short-term to handle the gaming legislation seriously in Brazil. Said initiative can only be beneficial for every part, as it considers the needs of the Government, but also those of the gaming operators and its gamblers.

Although online gaming
legislation in these markets
is limited and scattered,
this does not prevent the
existence of an important
volume of offer and bets
as part of the markets that
are not regulated and that
are illegal in the region

All in all, even without gaming legislation, non-regulated gaming volume in Brazil is estimated to be around 5,000 million dollars per year. In 2010 it was already estimated that Brazilians spent approximately 4,000 million dollars in illegal online gaming bets. As reference of the importance of this market, the State lotteries gaming volume reached more than 3,500 million dollars in 2012.

« ARGENTINA »

Popularity of the gaming market in Argentina, and the attitude of the government officers (very much focused on tax return) allowed for the industry to have a less contentious and devious path than Brazil's.

Argentina is a more sophisticated market, with more defined provincial and national gaming legislation –especially in the in-person business– which affects casinos, bingos with gaming machines, betting for mutual organizations, horse racing and lotteries.

Online gaming has also been regulated, although to a more limited extent, with the launch of Casino del Sur (by the Group Casino del Norte in 2002). Also, in the province of Misiones the first online gambling license was granted in 2006 by Víctor Chandler, an authorized operator whose headquarter is in Gibraltar, and Bwin also got a license in 2008 in this province.

Such online gaming licenses were appealed by National Lottery authorities in 2008 on the grounds that these licenses would interfere with the State rights of provincial Lotteries. After years of appeals, judgment resulted in these operators to exit the market, despite having their applicable licenses.

Furthermore, in 2008 a motion was put forward to ban online gaming from foreign operators if they did not pay the applicable taxes, by a blocking order through Internet providers. Possible legalization of online gaming is currently opposed by some important local corporations of in-person gaming, which naturally would not have trouble in supporting the opening of the market if they were the holders of such licenses.

Some of them even pretend to play a similar role to that of Sheldon Adelson, by asserting that online gaming represents a risk of “cannibalization for their in-person gaming business,” and they press for any attempt to regulate this sector to be blocked.

Anyway, there are many illegal or unlicensed online gaming operators which conduct their business in Argentina, which may force the Administration to take action and introduce definitive legislation at any time.

In this sense, ALEA (in Spanish, State Lotteries, Pools and Casinos Association) has announced its intention to implement a regulatory framework based on European Union’s regulated markets, though it is not convenient to create false expectations regarding timing and scope of this initiative, which, though really necessary to tackle the existing illegal online gaming supply, is still in the pipeline.

Also, the Argentinian Football Association (AFA) promotes the legislation on sports betting,

as a modality of *Prode Bancado* (a Sports Lottery System), which has encountered considerable opposition and controversy from different agents who participate in gaming, both from the Management as from the operator corporations.

On the other hand, and because of the structure and competition in matters of provincial gaming, it is necessary to find legislation that covers the entire territory of the Republic or State, extremely important to regulate remote gambling, to allow for cross-border supply – which is essential for success in gaming through interactive channels- and to absorb the majority of the demand into the regulated market.

« MEXICO »

Mexico undergoes a paradoxical situation, as it is a country with large gaming supply “regulated since 1947” in Hispanic America, and it still maintains a clear legislation and operates under free interpretation, which has led to different measures during the last years (2004, 2010, 2012 y recently in October 2013) aimed at limiting the market, by clarifying the scope of the basic legislation from 1947.

What is apparent is that these countries are letting go a big opportunity to regulate an activity which is latent and active in these markets, and with it the possibility to obtain the applicable tax revenue by redirecting the illegal gaming demand to regulated markets

The current objective is eradicating illegal establishments and products, prohibiting transfer of licenses from its original holders, and finally controlling operators and their establishments to impede the access of “undesirable people and corporations,” letting the original definition from the Act of 1947 to

prevail with the constructions tacitly accepted by the legislator.

Paradox gets more complicated on online gaming, as without specific legislation, current rules are interpreted in such a way that the same products with in-person license can be offered via online.

It is not probable that the legislation change that took place on October 2013 is going to affect online supply, and in fact the definition which included the denomination of “symbols” to the one of “numbers” for random draws gaming facilitated the interpretation where “every” gaming can be included in the online supply.

Possible legalization of online gaming is currently opposed by some important local corporations of in-person gaming, which naturally would not have trouble in supporting the opening of the market if they were the holders of such licenses

It is necessary to apply a policy of blocking and prohibition of electronic transactions for illegal operators, so that regulated supply can prevail and not be part of unfair competition, especially considering the high taxes online gaming has to put up with, similar to that of in-person gaming.

Very recently, initiatives were put forward by the Mexican Government through the Secretary of State (in Spanish, SEGOB) to try to pass a Law by the Legislative to modernize gaming supply in Mexico altogether, to bring order to the situation created by the several interpretations of the gaming and draws Act of 1947 and its amendments, which were not as effective as their promoters intended.

This may facilitate the legislation of the industry in all its sectors and channels, including online

gaming, where there is significant supply: on the one hand, corporations with in-person gaming licenses that have incorporated the online channel, and, on the other hand, several unlicensed corporation suppliers of uncontrolled online gaming.

« CHILE »

In Chile, some advances have taken place regarding the implementation of other gaming legislation, besides Act 19995, which regulates in-person casinos. To that effect, before the recent legislative elections, an amendment to this Act was introduced in the legislative field, which aim was to grant current holders of in-person casino licenses the right to supply online gaming for the same licensed products. This initiative was unsuccessful, to a large extent because of the elections event in November 2013.

In this sense, there was a legislative initiative by the senators Antonio Hovarth and Ricardo Lagos to establish an opening legislation to regulate the online gaming market in Chile, which necessarily would go through the current holders of in-person casino licenses, and would represent a blow to the main international online gaming operators.

Currently, Chile has not control or express prohibition against illegal online gaming supply, except for the definition of unauthorized gaming banned by default

Apart from the casinos that were bidden under Act 19995, there are other seven licenses granted through provinces or municipalities to several other in-person casinos whose validity is about to expire, and the legislator has the intention to find a solution so that there are not two types of licenses and every casino is within the scope of Act 19995.

Currently, Chile has not control or express prohibition against illegal online gaming supply, except for the definition of unauthorized gaming banned by default. Besides in-person casinos, Chile offers a State gaming supply –through concessions to La Polla Chilena and Lotería de la Concepción- that already offer sports betting and traditional and instant lotteries through Internet, which are pushing for a legislation of online sports betting is developed. This would allow for supply and demand to getsettled and, at the same time, for tax revenues to increase and be used for charitable purposes, which is its objective.

This objective is shared by racetracks, which want to introduce Internet into their betting, now limited to the established points of sale in their facilities.

After last year elections in November, this whole process was temporarily frozen, and now –that the new Government has been established- there is a new reflection on what is going to be the evolution of a legislation on other types of gaming, besides existing provincial in-person casinos and, more specifically, sports betting and online gaming. It is highly desirable that legislators and businessmen of in-person casinos reach to an agreement, as well as institutional supply of lotteries and betting, in order to complete an effective legislation that allows authorized gaming operators to offer products that complement their in-person gaming proposal.

« PERU »

Peru seems to have better opening perspectives in this sector, as online gaming can already be used and there is an emerging but growing supply, and there are several operators with outstanding operators, such as Betsson (with gaming license since 2008), Intralot (which launched sports betting in 2011) and a local brand has joined, Inkabet.

Nowadays, there is not express regulation, though, by default, legislation establishes that gaming activity in all its modalities is authorized, except that which is expressly

prohibited. There is a highly developed gaming market, even to a certain saturation level, and strictly regulated and controlled. In a reduced market, not because of the size of the country, but because the gaming focus is in its main towns, but with a good, professionally and reasonably regulated offer.

Although, it is necessary to establish a specific regulation for remote gambling, given the technical and operational characteristics necessary in this gaming sector (very different from in-person gaming), and a regulation that takes into account local operators with license for in-person gaming and casinos.

« COLOMBIA »

The regulatory process has been recently been implemented, and afterwards licenses were granted to in-person and online sports betting operators in Colombia, which opens this market to some sectors that will gain importance and represent a good opportunity for current in-person gaming operators, taking the low profitability of this market into account.

Colombia, since the creation of Coljuegos, is turning into a more controlled market and, therefore, protected licensed operators against the illegal offer that had proliferated in the market.

It is necessary, however, that online gaming legislation offers a complete supply and, in competitiveness situations, avoids or discourages existing unregulated supply, and this has to be born in mind if local regulation is to succeed, by strictly controlling unlicensed operators.

« FIRST CONCLUSIONS »

The huge online gaming in Portuguese and Spanish-speaking countries in America, which H2 Gambling Capital specialized analysts estimate in more than 1,500 million dollars of (GGR) win, represents a great opportunity despite its significant volatility.

Big markets in Brazil and Argentina, considered ‘gray’ in online gaming terminology, and

Mexico –without specific legislation, but applying the interpretation of in-person regulations by default- are helplessly vulnerable markets because of the coexistence of illegality with legislation. If we contrast the legislation initiatives in some smaller countries and with a lower population level, such as Chile, Colombia, Peru, Panama and Costa Rica, legislation process in those countries, which are important because of their population and economic volume, turn even more expected and necessary.

Within online gaming, sports betting represent the most important part, because of its high volume, reaching between 40% and 50% of Gross Gaming Revenue (GGR) (win) of the total profit in this activity, and they are a vertical axis in gaming showing perfect symbiosis between in-person and remote channels, via Internet and, particularly, with mobile devices, which must be considered in future legislation.

Legislation approach should consider current holders of in-person gaming licenses as access channels for new gaming modalities, such as physical sports betting and online gaming supply altogether, this constituting an ideal option for local operators to take a position in gaming sectors or channels where they are to start from scratch.

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It is important not to waste the opportunity to learn from past mistakes in legislations of some United Nations countries, where illegal

operators can take advantage of them –they have obtained databases and brand recognition from an unregulated supply-, and they constitute an unattainable advantage for local operators.

Despite the fast growth of Internet penetration and the quick incorporation of smartphones and tablets, there is a high level of difficulty in online electronic transactions payments in this region, with less impact in Brazil, Argentina or Chile. However, these difficulties in this sector have to be considered, as well as limitations in access to electronic payment methods and credit cards, the latter being the most popular method of payment in advance. Affiliates who accept payments of gamblers and make deposits and transfers to some Web account or “wallet” (a slow and dangerous method), when there is no Skrill or Neteller e-wallet available, must also be analyzed; this is an important way to generate a big quantity of active gamers and payers necessary in online gaming.

« POSITIONING, THE KEY TO SUCCESS »

Positioning is of utmost importance, because in “emerging” markets, as the ones we are dealing with here, the local factor is essential, as well as being able to capitalize an established local brand, having the strategic local partners or allies, with people and corporations that know the local market in deep, which is important for marketing strategies, and direct their efforts towards attracting gamers to an established local brand instead of an unknown new brand.

Brand image and recognition is essential, a bit different to the approach in some Europe markets, where the product is more significant than the brand. In Latin America, this strategy must be carried out by building trust in the brand. On the other hand, it is also important to be aware that each market is different regarding marketing and commercial actions approaches, for which reason reaching to agreements with local partners and getting advice from experts with enough experience and credibility in the region is indispensable to configure the best business model and proposal, as well as to

promote the brand, the product and the gaming commercial proposal.

These premises are equally applicable to introduce in-person betting and to online gaming and betting. Thus, corporations established in these markets should take advantage of their physical presence and their market knowledge, and of the brand recognition they have, in order to plan these new gaming supply.

In this context, there are renowned international operators (especially from the United Kingdom) who are or want to take a position in the South American market, and who have embarked on an aggressive and expensive marketing and brand image campaign. They do this by means of television broadcasting of football matches, focusing on cable television broadcasting, in order to avoid advertisement and promotion bans, and they have already attained high figures in these markets.

Brand image and recognition is essential, a bit different to the approach in some Europe markets, where the product is more significant than the brand

They have adapted their supply for each objective market, as they did in Europe, and this has allowed them to become the operators of the moment. Corporations such as Bet365 or William Hill have also set these emerging markets as their objectives, bearing the Football World Cup in mind and the later Olympics in Brazil, and they want to take an important position and get a “place in the podium,” by the end of 2014.

BetMotion, with a license from the Netherland Antilles, also has a strong presence in Latin and South American markets, based on technology and gaming contents of Playtech and Sheriff Gaming, supported in Portuguese and Spanish languages. Other operators such as Bwin or 888, among others, are sharpening their supply

with Portuguese and Spanish options, with the clear objective of taking a position in the market similar to their main rivals. Moreover, there are some local operators, such as Caliente or Codere with Greenplay in Mexico, which have reinforced their online gaming supply in a similar way.

Legislation being in the making, potential operators with in-person gaming licenses should consider that a market must allow alliances and represent a competitive supply for these new sectors, taking advantage of its benefits and choose the right strategic approach

Still, there is a market with great opportunities and a large range of marketing channels to build a solid base of gamers and promote acquisition and conversion. Legislation being in the making, potential operators with in-person gaming licenses should consider that a market must allow alliances and represent a competitive supply for these new sectors, taking advantage of its benefits and choose the right strategic approach, well assessed. It is not advisable that solutions be provided by content and services providers, but operators must be the ones to adopt the most suitable model for their own interests.

We should consider vital that in-person gaming corporations be the ones to promote and lead this process in a context where online gaming is not legislated but where in-person gaming corporations are quite relevant, in order to avoid “invasion” of international online gaming corporations (as happened in other legislated markets).

It is operators who must manage the access of these new channels, alone or accompanied by them, as there are examples of legislations (among others, from Belgium, Czech Republic

or, more recently, the states Nevada and New Jersey) where licenses were granted to in-person license holders.

This model greatly changes the effect of a legislation on a market where current businessmen can carry out strategies directed towards capitalizing online gaming for all their in-person gaming. In the meantime, online businessmen benefit from the brand recognition already obtained to get a multichannel comprehensive supply with special relevance of mobile devices, which are particularly significant in South America markets because of the mobile wideband penetration in that region.

Different legislators must bear in mind, besides what was stated above, the clear objective of absorbing the majority of the online gaming demand, for which reason they must acknowledge how important some factors such as taxation and a complete gaming content supply are. This is essential for the legislated market to absorb illegal online gaming demand with a highly competitive proposal that discourages non-legislated dot.com gaming.

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A 45-year experience businessman and having worked as executive in corporation management, product development and, for the last ten years, as advisor and consultant in the gaming industry, both in-person and via interactive channels. He graduated in MANAGEMENT STUDIES; Marketing and organization behavior; Quantitative Methods and Operations Management; Economics and Finance, by Emmanuel College (University of Cambridge); MBA/JD JOIN PROGRAM DEGREE (LMBA) by the University of Maryland, USA; New Technologies applied to Gaming and Entertainment; by the UNLV University of Nevada, Las Vegas, USA. He has more than 15-year experience in online gaming, strategy planning, product and business development, implementation and restructuration of gaming corporations; regulation making for in-person and online gaming via interactive channels. He was CEO, General Director and stockholder of gaming corporations in several European countries, and currently he works as advisor and consultant at Intelligent Gaming Company, and has participated in more than 30 projects.





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HOW TO REGULATE ONLINE GAME?

Carlos A. Fonseca Sarmiento

Internet has many applications related to the game industry. First, it is a way of advertisement for casinos and other physical places that have websites to promote their services and events.

Second, it is a test method to measure the participation of the public in a certain game; for instance, buying a lottery ticket on the Internet. And, last, it is a game resource in itself as any person could participate in a game completely developed on the Internet.

Internet games are, at least, twenty years old. In 1994, a very little State, the Caribbean Island of Antigua and Barbuda, saw in this activity a great opportunity to attract investment and passed its Free Trade & Processing Zone Act, which allowed to grant licenses to exploit online game.

This is an important fact as until today there have been three well-known public policies regarding Internet game: “Regulate”, “Prohibit” and “See and Wait”; and most Latin American countries are in their last stage.

This is why we cannot close our eyes not to see an undisputable reality. Internet gambling exists, whether by law or not; it currently generates gross income for over 30 billion dollars and there is a growing number of countries (in the continents) –and not only offshore jurisdictions- that have opted to have a legalization policy.

Until today there have been three well- known public policies regarding Internet game: “Regulate”, “Prohibit” and “See and Wait”; and most Latin American countries are in their last stage

In 1999, being an officer of my government, I prepared a project to regulate Internet game as it was considered to be a great opportunity to attract foreign investment and to position my country with a high regulatory standard in the control of this type of modality.

At that time and up to today, I still think that in the development of Internet game, there is some competence among States that have legalized it as the user will choose to play in a website that is not only “friendly” and offers attractive and fun products, but it is also a website that is authorized in a jurisdiction that gives protection to their rights and allows to properly claim in case of abuse.

The total prohibition that existed over this game in the United States of America and in the main European countries, gave some advantage to those countries that decided to regulate this activity. Unfortunately, my proposal went to the wrong hands. Congressmen from my country did not show much interest, because of ignorance rather than persuasion as in those times, there already existed specific and detailed laws regarding physical casinos in Peru.

And the well known policy of “*Wait and See*” is unfortunately still current in the countries of the region. The few exceptions of the countries

that decided to pass laws as to this issue were promoted by some visionary Executive Power officers. In terms of laws, must our countries always be followers or can we be leaders?

The well known policy of “*Wait and See*” is unfortunately still current in the countries of the region

In this opportunity, we are going to state some opinions and recommendations of the general guidelines that a law regulating this activity should have in some Latin American countries.

There are many aspects whose inclusion is mandatory in any jurisdiction in the world, but it is also necessary to take into consideration the character of our peoples, the Roman- Germanic legal system that gives grounds to our laws and the typical problems of lack of taxation and informal aspects that affect our societies.

« GAME ON THE INTERNET, GAME WITH THE INTERNET OR INTERNET GAME? »

The first problem that a Law has is its scope of application. The need to have a definition of the law that is clear and precise to prevent someone from taking advantage of the law is the first purpose of the lawmaker.

The starting point is the activity over which the intervention of the State is justified for the sake of the public interest involved: Gambling.

The big mistake made in many Latin American laws is that they focus the subject of regulation on “*gambling*” instead of “*betting*”.

The first would be specific while the second would be general. How many countries–such as Chile and Paraguay, just to mention the clearest examples-have an image of lack of control due to the fact that there are no clear laws; or rather, there are no clear concepts regarding the game they are trying to regulate?

Gambling implies a random event. For instance, the random element in a card game lies in the shuffle and distribution of cards; in slot machines, it lies in its electronic program; in lotteries, it lies in the drawing of number or symbol combinations that participants have. But it becomes increasingly more difficult to determine the level of randomness in gambling. Slot machines -for instance- have always been considered gambling par excellence, as they should not generate game standards, persons should forget what happened in the previous game and they should not know what will happen in the following game without the human factor influencing on the result.

But in a poker video machine, the decision of the gambler to keep or change one of the five cards that the machine initially offers is a decision which, if adopted in an efficient way, it will surely influence on the result with respect to another gambler that makes the worst gambling decisions.

From the point of view of
the State, it is not interesting
to know whether the game
is about gambling or skills,
but money gambled by
persons based on the trust
in these services providers
should be interesting and
subject to control. This is
the value to be protected
by the State: public trust

In many jurisdictions, poker is considered an ability game and even a sport. Games on sports forecasts also require some study and analysis. Nobody could object that forecasting the winner of a male football match between the Brazil national team and the San Marino national team, although it is a future and uncertain event, will give more chances of success to those gamblers who know something about football.

Therefore, as it may be seen from the point of view of the State, it is not interesting to know whether the game is about gambling or skills, but money gambled by persons based on the trust in these services providers should be interesting and subject to control. This is the value to be protected by the State: public trust.

Game on the Internet is the game in which the right to participate, the development of the game and the result of it take place only on the Internet. That is, in order to be qualified as gambling in a different way from previous ones: slot machines, lotteries, board games or sport gambling, among others, it is necessary for us to find a game that is completely different and can only exist because the Internet exists.

This is why Internet game, under this definition, only reaches those games in which there is gambling in a virtually designed casino: for example, gambling in virtual slot machines, virtual Black Jack tables or virtual Poker tables. In all of these situations, the gambler uses a computer through which he or she connects to the Internet to gamble, participates in the game and then observes whether they won or lost.

But laws establish other types of games. Games “with the Internet”. That is, those games in which not all the game components take place on the Internet. Here, we refer, for example to sports or animals betting that take place on the Internet and in which the user uses the Internet to participate but the result of the game is a physical fact that does not happen on the cyberspace: a basketball match, a horse race or any other competition.

These types of game, up to today, are the ones that have grown the most on the Internet and, therefore, if a country intends to pass a Law, this situation has to be taken into consideration.

Thus, if the intention is to include both categories, a proper concept could be “*Internet games*”; that is, those games in which the right to participate, the development of the game and the result take place only on the Internet or if only one of these stages take place with the Internet. As it can be stated from this

definition, it is not interesting whether the result of the game depends exclusively or mainly on gambling or skills.

« BASIC PRINCIPLES OF THE LAW »

There are non-negotiable principles over a regulation of Internet games and they exist due to the natural characteristics of this activity: international and dynamic aspects as well as technology.

We are going to mention only 8 of them:

1) The supplier (usually foreigner) is expressly subject to the law of the country where users reside and where the game license will be granted. This means that, for example, if a company desires to offer Internet games to Colombian residents, it must obtain a license from the Colombian authority and be subject to their regulations.

2) Full identification of the supplier. One of the criteria to identify whether we are in front of eventual e- fraud is when the website where a transaction is intended to be made does not have a reliable and reasonable identification that allows to identify the owner and person responsible for that service. Therefore, it is necessary for the person providing Internet games to include their name, legal address and any data that allow to identify them in their website.

3) Information protection and privacy of clients. Databases and information obtained could not be offered unless there is express authorization of clients. There is the constitutional right to information self determination that is protected by courts by means of the habeas data action. Internet game suppliers must respect this right related to privacy of persons.

4) Advertisement accuracy. In relation with consumer protection laws, false or misleading advertisement must be prohibited.

5) The right of the authority to revise accounting records of the Internet game supplier in its broadest definition. Due to need of transparency in the conduction of these activities and knowing that the server could be in any part of the world, the administrative authority must have the right to verify records of clients, transactions and, in general, any data stored as a result of this activity.

6) Prohibition of access to minors. It is necessary to request reasonable measures or a minimum compulsory standard to be complied with by the Internet game supplier in order to prevent minors from accessing their games. Verification and record of identity documents, the existence of individual accounts and technology support, for example by means of biometric data, are some of the resources that may be established.

7) Money laundering prevention system. As in the case of any game physical activity, it is recommended that these companies have a Compliance Officer, a manual, a record of objective, suspected and unusual transactions as well as external auditing. The famous Latin expression "*Mulier Caesaris non fit suspecta etiam suspicione vacare debet*" (Cesar's wife does not only need to be honoured but also to seem so) is necessary for activities that involve a social risk factor or generate a special sensitiveness in public opinion.

8) Prevention systems for compulsive gambling. Any activity done in excess is not good and as in any physical casino that implements responsible game plans, similar systems are perfectly applicable to Internet game.

« MINIMUM CONTENT TO BE INCLUDED IN THE LAW »

Last, in relation with articles of the Law, we consider that the 10 following topics must be included in a Law regulating gambling in a country in this region: the purpose of the law, the scope of application, the competent authority, procedure for license granting, software technical test, due diligence to those

requesting it, the term of the license, obligations of the license holder, tax provisions, infractions and administrative sanctions.

Nowadays, in Latin America, only Panama, Colombia and Nicaragua have specific provisions regarding Internet game. In some provinces in Argentina, taking into consideration that this is a federal country and game is a competence of the provinces, Internet games are allowed in a very limited, and even absurd, scope as they go against the nature of this game that does not have a space barrier and provincial limits within a State are not in line with these games.

Nowadays, in Latin America, only Panama, Colombia and Nicaragua have specific provisions regarding Internet game

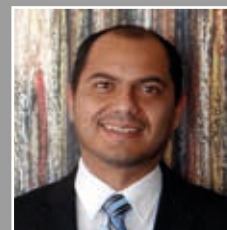
In the Dominican Republic, there is a bill on gambling that includes Internet game but it is at the Executive Power level, while in Chile, there is another bill under discussion of the Senate.

Finally, Peru is the country with a more open regulatory framework for Internet games and any other betting game in general, because, as long as it is not prohibited, everyone is free to develop any type of economic activity based on the constitutional principle of freedom.

As it can be seen, there is a lot to be done. We could remind Machado's verses to those regulating game in the countries in the region and conclude that: *"Traveller, there is no path, the path is made by walking. By walking the path is made and when you look back you'll see a road never to be trodden again (...)"*.

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**WHAT IS THE
INFLUENCE OF THE
CHANGING WORLD
ENVIRONMENT ON
THE DEVELOPMENT
OF I-GAMING
REGULATIONS?**

Alfredo Lazcano

About 500 years ago, the empires of the old world that then became countries, such as the United Kingdom, Spain, France, Italy or Germany, started journeys and explorations around the world during which they were able to coin large territories and precious treasures in the whole American continent.

Latin America is a huge region in the world made up of 20 independent countries distributed in a territory of about 22 million square kilometers and with 600 million inhabitants. In order to have a better idea, if we compare our region with the European Union, we can say that there is a similar number of Latin Americans and Europeans (they are 740 million); but the territory of Latin America doubles the European territory (with 10 million square kilometers). Let's imagine, just for a moment, what it means to potentially have in our own region twice as many resources of any type –distributed among half the number of people- than other very important regions in the world economy, as the euro zone undoubtedly is. Perhaps this partially explains why during the last decades, many Latin American countries have turned from being simple “emerging markets” to become strong and stable economies, some of which even comply with adequate investment ratings and are highly reliable for the sustainable development of transnational business.

« THE GAME INDUSTRY IS VOLATILE AND CHANGING »

Economic, social and political prosperity that favors Latin Americans today allows authorities, businessmen and the society in general, to have many tools to learn from successful experiences (or failures) of other jurisdictions. Moreover, in order to develop iGaming or online game regulations, it is necessary to constantly observe world trends and to implement the necessary changes in the domestic and foreign economic policies of each country.

We have to remember that our sector in general is not away from changes but, on the contrary, it is a highly dynamic and volatile niche.

During my professional experience, I have seen unexpected changes, news and even the revision of trends, not only in Latin America, but in the whole world; and especially regarding online game, changes are likely to happen at least every two years or even earlier.

I will now mention some examples from other jurisdictions in the global market that have been through this type of dramatic changes.

« THE ENGLISH CROWN WANTS ITS SHARE »

In mid- 2013, Gibraltar, a British jurisdictional and financial entity located in the south of the Iberian Peninsula and which nowadays represents the mecca of online game and low taxes in Europe, has faced some tax disputes: the United Kingdom.

What was the reason for this dispute? The plan of the English Prime Minister, David Cameron, to impose a 15% tax rate to all British residents who gamble on websites located in Gibraltar; something that Phil Brear, a Game Commissioner in this jurisdiction, considered as “*clearly against the common sense of e-commerce*”, according to an article published in The New York Times on August 2, 2013.

Curiously, the regulator from Gibraltar states in the same article that this tax could lead online gamblers to look for “*less regulated markets in the Caribbean and any other place.*”

At first sight, it calls our attention that being Gibraltar a territorial jurisdiction related to the United Kingdom, there are very different points of view regarding collection aspects as these governmental entities are closely related to each other.

However, what becomes more interesting for any observer is that the crisis in Europe –and, in general, any crisis in any other part of the world- is leading governors to the need to implement some reengineering in economic policies which normally requires enhancing their tax system. It is worth mentioning that the end of this dispute was that Crown overseas territories (Gibraltar, Anguilla, Montserrat, Turks and Caicos Islands, Jersey and Man Island) were obliged to agree to a Multilateral Convention

on Mutual Cooperation in Tax Matters; this was in exchange for not considering them “*tax heavens*” and to acknowledge them as “*responsible financial centers with a simple, clear and competitive tax system*”, according to a news report from the BBC published in September, 2013 in which some statements made by Prime Minister Cameron about this issue were published.

« PARADOX: UNITED STATES, WORLD POWER AND DEVELOPING COUNTRY »

The trend to control online game operations from abroad in order to obtain earnings made is not exclusive from Europe neither is the first time this happens.

We know that the United States of America have been the first country that, by means of what is known as “*Black Friday*”, in 2006 has severely prohibited gambling from US residents through the Unlawful Internet Gambling Enforcement Act (UIGEA).

With the UIGEA, everything seemed to favor the power of companies that owned huge casinos located in the North America to have a share in the huge earnings of online gambling. However, as we will see, the development of iGaming regulations in North America has been –and is still– full of controversies.

In a press release formally issued on December 10, 2010, the American Gambling Association (AGA), as ordered by its CEO, Frank Fahrenkopf Jr., expressed it agreed with the idea of legalizing online poker in the United States.

Since then, AGA has repeated many times its position in favor of it; to such an extent that even in September, 2012, it officially used as bastion the movie *Runner Runner* starred by Ben Affleck and Justin Timberlake, which, in a Hollywood style, tells us about cybernetic risks, corruption and crimes committed from an alleged illegal remote gambling center operated from Costa Rica; all of this with the purpose of trying to justify the need to regulate online business informing that: “*Americans spent US\$2.6 billion in illegal offshore gambling sites,*

generating about 10% of the US\$33 billion that were spent worldwide.”

During the second semester in 2013 and claiming that gambling on the Internet is allegedly dangerous for society and affects the traditional business model of casinos; Sheldon Adelson, President and CEO of Las Vegas Sands Corporation, started a virulent campaign against online gambling, in which he even publicly stated that he was “*willing to spend as much as necessary*” in order to achieve his goal, according to the article published in the Washington Post on November 17, 2013.

Statements made by Adelson are not to be disregarded, we should not forget that he holds the 9th position in the list of Forbes Billionaires (as of June, 2014) and he is usually considered by the media as one of the main donors to US political campaigns.

Adelson’s main competitors, MGM Resorts International and Caesars Entertainment Corporation, immediately showed their disagreement with this and expressed they were in favor of iGaming stating that Internet game could take place in a safe way and could even strengthen the game industry in general. Almost at the same time, by means of a press release issued on December 10, 2013, the current CEO of AGA, Geoff Freeman, still strongly maintained the position in favor of online regulation at the US Congress stating that: “*an online game regulated environment is estimated to create more than 22,000 jobs (in the US) and to generate more than 26 billion dollars in tax earnings.*”

However, the edition of June 22, 2014 of *Yogonet* announced that “*AGA does not promote the regulation of iGaming any more*” due to the “*controversies among different association media*”, which was a surprising announcement. In light of this disagreement, it is clear that the jurisdiction of the US is far from being considered as a mature market, at least as regards the development of regulation of iGaming.

« ON THE OTHER SIDE OF THE WORLD, THE AUSTRALIAN CASE »

The same strategy of the United Kingdom and the United States of America which consisted in prohibiting and punishing foreign companies that rendered gambling services on the Internet has been implemented by other countries.

Australia, for example, since the year 2001, has had an Interactive Gambling Act (IGA), an act that is similar to UIGEA, which was not applied until the beginning of the year 2013, but since then, the Australian administration started to implement coercive procedures against the most important and well-known game operations. Penalties may rise up to 340,000 Australian dollars (the exchange rate is similar to US dollars) per day for individuals and 1.7 million Australian dollars for companies. This is in line with the Internet site of the Department of Broadband, Communications and the Digital Economy of the Australian government.

« TODAY IN LATIN AMERICA »

It is said that past is history, future does not exist and that present is a gift: that is why it is called “present”. There are jurisdictions in our region that are already implementing remote gambling or iGaming in their respective laws. This is the case in Mexico or Panama, countries in which there is an advance process for reform.

Some other countries are not far from this. These are Argentina, Brazil, Bolivia, Colombia, Chile and Peru, among others, which, as we know, are

also working in an active way to revise their laws regarding online game.

In my opinion, all these jurisdictions that are updating themselves regarding iGaming should not disregard the fact that the world trend of governments with more experience, development and knowledge of the market is aimed at sanctioning offshore operations that take gambling from their residents from abroad regardless of the license in the jurisdiction where they are; and also, establishing tax mechanisms necessary to tax this activity.

Punishing in a severe way those who infringe the laws and collecting taxes –fair and equitable taxes- contributes to fighting against illegal game and obliges those online game companies that may be doing business without a license in a certain jurisdiction or without paying taxes (taking advantage of legal gaps) to be legal or transparent in each jurisdiction, which guarantees integrity and promotes the honesty of iGaming business for the benefit of consumers, the government and businessmen. In conclusion, given that most countries in Latin America have achieved economic, social and political stability, it is clear that nowadays we have, in the region, an excellent and superb momentum to promote and develop online game regulations and, as we have seen, we should not forget the international environment, because in spite of the fact that technology is dynamic and in constant change, it is not advisable or productive to “reinvent the wheel” in terms of iGaming regulations, but to take advantage of the world experience and to observe different international market trends.

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SOUTH AMERICA: AN IMPORTANT MARKET FOR SPORTS BETS

Maximiliano De Muro

The history of sports betting goes back to Ancient Greece, where there is evidence of the existence of gamblers willing to bet for the winners of diverse sport disciplines that were practiced at that moment.

However, these sports bets found their own revolution around the 18th and 19th centuries, and have one of their landmarks more precisely in 1780, when England was officially named the first country to bet on the results of horse races.

The first online bookmakers came up over a century later, in the mid 1990s, when they became more popular in Canada and the United States, following the techniques of the first bookmakers, who originally took the bets over the telephone and in person, but using internet support. This trend has expanded all over the world since then, until it became the multi-million business that we know today.

It is calculated that the sports bets business currently moves between 700 billion and 1 trillion per year, 70% of these bets coming from soccer.

Even though bets in Asia are restricted to a limited range, the variety of options in Europe goes beyond the traditional options of winner, looser and draw.

« LATIN AMERICA, LAND OF OPPORTUNITIES »

Latin America offers a wide set of options to educate bettors in sports bets. Many of them only know traditional options, but little by little a new profile is coming up: the ones that bet mathematically, leaving emotions aside.

It is calculated that the sports bets business currently moves between 700 billion and 1 trillion per year

The space to develop new businesses related to online sports betting in South America is huge. However, foreign operators should take into account that the strategies for more attraction and retention of players go together with a highly focused client support, accompanied by promotions that are attractive to the target players.

Internet development in the region and the rapid penetration of the Smartphone are allowing players to have quick access to the odds from any place and at any time of the day, which allows a higher volume of bets and active players. This,

plus the extensive coverage carried out by cable networks, broadcasting soccer games from all over the world, increases the interest and the opportunities in this modality of bets.

Another phenomenon that has taken place at a global level, and which has recently been taken into account by users in Latin America, is the concept of 'in-play betting', or live betting, in which players bet in real time on who will score the following goal, for example. These odds vary according to the evolution of the game.

« SPORTS BETTING, A CHALLENGE COUNTRY BY COUNTRY »

There are business opportunities in different countries of Latin America, being some markets more prominent than others, such as Brazil, Colombia, Argentina, Chile and Peru, together with Mexico within the region of Latin America. Below, we will present a general analysis of the internet market in each country and its potential impact on the sports betting market.

Brazil has 13.5 million people who are online through wide band, and the Government is at this moment actively working on expanding internet access for people who live in areas of the country that are more remote. Another positive piece of information is that the number of cell phones with active lines currently ascends to 260 million and it is expected that by the end of 2016, the country will count with 75 million users of Smartphones with an active internet plan.

More than half of the users of the internet in Brazil bet online, most of them for fun and especially in the segment of 'social games'. This catches the attention of the operators of sports bets, since it is crucial to cut the audience and the strategies of soft conversion into segments, to acquire new players in the right way.

Currently, there are several online operators in Brazil, among which firms such as Betmotion.com and Bet365.com outstand.

Mexico is another huge market in Latin America, and, even though it is statistically

behind Brazil, it has 14.4 million people with internet connection and 9.7 million of internet users through their cell phones, this offers a total of 23 million users with Smartphone.

Playtech already has a presence in this market, and together with the Grupo Caliente, it has launched a specific site for Mexican players. The same may happen with Codere, who has launched Greeplan.mx with the permission of SEGOB (Government Secretary)

Colombia, the most advanced market of the continent as regards regulation in all the territory of online gambling and its spin offs, has over 5 million people that are connected to the Internet. It is estimated that with the online gaming regulation many operators that are not currently operating will start doing so, creating the first successful case in Latin America in terms of regulated gaming.

Currently, in Argentina there are 4.5 million people with a fixed internet connection and 5.3 million users of mobile devices, 24 % of which have a Smartphone. In this country, there are no licenses at a national level, even though there are at a federal one. At present, the Provincial Institute of Lottery and Casinos (IPLYC) grants licenses to operators, the most recognized brand is Spingol.com, the first online bets site of Argentine soccer.

Chile has 2.2 million users that are connected to the internet, and over 3 million users with internet connection in their cell phones (1.8 million have a Smartphone). Sportingbet has already entered the Chilean market.

Peru is a country that is slowly becoming a market which is more than interesting. Statistics show that at present there are 1.42 million people that are connected to the internet, which represents a low penetration ratio. However, it is estimated that it will be over 9 % by the end of 2016, in the same way, it is expected that 61% of the users of mobile telephony in Peru will have a smart phone with internet access. Betsson already has a presence in Peru.

« ADJUSTING THE MODEL »

It is mandatory that any operator who wants to start its operations in any country that was mentioned before should correctly adjust its platform according to each profile of user.

Replicating the American or European models of bets in Latin America can result in a negative experience, since most of the potential bettors in sports of the region are people who need to learn and start from the basis (winner, loser, draw), and they should be closely accompanied through the whole learning process. Eventually, these bettors will be more 'mathematical' and less 'emotional', and they will start betting in a more careful and analyzed way.

In Latin America, soccer is the king of sports, and it is also like that when it comes to bets. The arrival of the World Cup in Brazil is a crucial point to attract potential new gamblers. For the following two years, operators will be able to take advantage of several important events in the continent, such as 'America Cup', 'Libertadores Cup', South American Cup y play-offs for Russia World Cup 2018.

Simultaneously, the three major leagues in Latin America, in terms of volume of investment and followers, are also useful as channels to acquire new users. These are the Bancomer League in Mexico, the Postobon League in Colombia and the Brasileiro in Brazil.

« SOCIAL NETWORKS, KEYS TO A BETTER COMMUNICATION »

The explosion of social networks in South America, specially Facebook and Twitter, has paved the way to achieve a better communication with the user, which is more effective, from the point of view of the support as well as in terms of acquisition.

This is the reason why it is necessary to count on tools of 'soft conversion', as we indicated before, in order to attract the newest gamblers.

Beyond the direct proposal of bets that the operator can present, it is always interesting to count on some kind of related game which is run in parallel, such as the case of a virtual soccer game, virtual horse racing and even slot machines going around the topic of soccer. The Facebook platform, and even the mobile platforms of Apple and Google are excellent channels for distribution and marketing of these.

The sports with the highest number of online bettors with bookmakers in Latin America are soccer, tennis, basketball and volleyball, in that order of importance.

To conclude, in order to start with the right foot in Latin America, the first product that should be introduced is one which can be easy to understand, we should be clear at the moment to communicate promotions and launching marketing campaigns, which should be extremely creative. The opportunity and the space to develop a new business line related to sports bets in the region are still very attractive.

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LEGALITY AND SOVEREIGNTY: KEYS FOR THE REGULATION OF REMOTE GAME

Cristina Romero y J. Ramón Romero

A well regulated and measured game market provides states with income and jobs. Transparency and regulation tend to assure the control of the activity for the benefit of game consumers as well as income gained through tax imposition.

Much has been written about regulation drivers that promote a successful regulation of gambling; but there is no doubt that the key for the effectiveness of any system lies in the possibility of the regulating governments themselves to have the capacity to control the legality of whatever happens within their territory and to use enforcement means that are inherent to the sovereign State powers which represent the key element to be able to apply regulation. Besides this, in the case of remote or online game, it has been verified that the same control methods for gambling, lotteries and betting that were applied in the physical world are not useful for a digital or virtual world, especially the Internet.

Experience shows that
total prohibition of
gambling, whether
developed by physical or
remote/ virtual channels,
is not the best solution

Experience shows that total prohibition of gambling, whether developed by physical or remote/ virtual channels, is not the best solution. Whenever a state prohibits gambling, they are not aware of the reality of a demand so closely related to the intrinsic need of entertainment (let's not forget we are *homo ludens*) that, by definition, cannot be eliminated and, at a certain point in time, it will not gain tax income nor metrics to assess the economic activity generated so it will tend to be forgotten provided there are no conflicts. Consequently, there will be no update of the prohibition regulations that will become old and eroded, while technology advances every day; it will be even difficult to find them in legislation database browsers.

When “forgetting”, there will also be a lack of application of those maladjusted prohibition regulations, that will be perceived as tolerance of illegal game which leads operations and some distracted regulators to talk about “unregulated” game as if this was a legally valid concept. In a legislation based on a closed and integrated system of law sources, it is clear that an activity can only be: I) legal if it is not prohibited, being its development more or less free according to the seriousness of the regulation that may go through a broad scope that may be “completely free” or “extremely subject to laws and regulations of lower level than the law”; or II) illegal if it is prohibited or III) illegal and also an infraction if it exceeds the limits of the laws and regulations and the action or lack of action are considered crimes.

Online game is a phenomenon that has not been dealt with yet or that has not been sufficiently regulated in some countries in Latin America. However, remote game and, especially, Internet game is already with us since many years ago in every country as clearly shown in the advertisement of websites that constantly appears on the media, sports media, etc.

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The advantage these countries have, as it has happened in other areas of the economic activity, such as mobile telephone or green energy, is that they can take the experience of other states and areas of economic activity and they may choose some different regulatory models according to their fiscal needs, consumer protection (including childhood and young people), prevention of fraud, anti- money laundering policies, etc.

They may choose among the most liberal and optimistic versions and the most conservative and control versions, all of these in the charming framework of modernity promoted by the global

.com trend, social networks, servers located few meters or thousands of kilometers away from the Authority, just to mention some of the main regulatory challenges.

There is also some convergence, which is increasingly taking place between the “*land*” or “*physical*” game distribution channel in public access stores (casinos, bingos, game rooms, draw rooms, betting books) and “*remote*” or “*online*” game, primarily supplied to computers, laptops, tablets, mobile phones at the disposal of the users at their homes, offices or streets. Technology tends to converge in both channels and contents, to a great extent, too.

« THE IMPORTANCE OF REMOTE GAME (INTERNET GAMING) »

Facts have shown that the channel of game, gambling and lottery supply seems to be the one that has grown the most (although its market share is still small) and it is estimated to double its current size in five years.

In many countries in Latin America, there is still no regulation nor control and the activity does not generate earnings for the economies or pay taxes as it takes place across borders from off shore territories where there are low taxes (“*tax havens*”).

Its impact on social and economic life of the countries is seen in different aspects: gamblers who open accounts in servers abroad and have huge difficulties to be protected by the authority and courts of their own countries, commission agents called “*affiliates*” who attract gamblers for foreign operators, media that get income for advertisement, intermediaries (Internet service providers, payment and collection service providers, software and hardware providers...), sports organizations and sportsmen who receive income from foreign gambling operators for sponsoring (with the risk, in these cases, of transparency and credibility of competences) and sports events with sports gambling which was in fashion due to the football world cup as well as charities, regulators or medical institutions, among others.

Then, it is clear that any regulation must take into consideration an important series of purposes of general interest, such as the effectiveness of the control by the national authority for the protection of the consumer against fraud, prevention of problematic game, protection of children and vulnerable groups, collection for themselves and, especially, money laundering.

« MAIN RISKS AND PROBLEMS »

Apart from the lack of direct contact between the gambler and the operator, it was possible to verify a serious lack of reliable and real data as it is not a clear market in many countries in Latin America, which makes it difficult for the regulator to carry out an analysis that is not biased since the beginning.

Online game cross border offer and operation cause damage to local markets, cross border operators have unfair competition practices against authorized legal operators and state lotteries that have high costs related to operation, employees, offices, casinos and they are subject to fiscal pressure and users are affected due to the lack of transparency and security and the difficulty to claim for fraud. States have their income reduced and their own power is subject to question.

« KEY ASPECTS TO BE REGULATED »

Aspects to be regulated are numerous and different and range from the location of game servers and clients’ accounts servers and economic transactions, their characteristics and technical procedures for monitoring and control, types of permitted games, the system for the granting of licenses, requirements to be met by operators, advertisement, technical specifications, certification, approval and system control, supervision and monitoring, rights and obligations of gamblers and operators, the system of infractions and sanctions to be imposed to responsible game policies and, of course, taxation.

« BEST PRACTICES CATALOGUE »

Again, these are numerous and different, but we can mainly highlight the implementation of strong compliance verification systems and a good reputation to obtain authorization, location of servers subject to effective control, granting of licenses related to solvency and a real experience in the operation of game activities, the protection of data and the prohibition of the illegal use of trademarks, restriction to advertisement and sponsoring of sportsmen and competences in which people bet, protection through local domains instead of .com websites, the problem of the so-called international liquidity, the implementation of a “black list” system and a strict control of payment means, Internet providers and the media.

« THE ADVANTAGE OF AUTHORIZATION, THE DISAPPEARANCE OF BORDERS AND THE RECOVERY OF SOVEREIGNTY »

Beyond the regulatory standards and best practices stated, the key lies in the right of States and governments to control the activity of gambling; which, in turn, implies acknowledging that the possibility to offer gambling is a privilege subject to regulation. Therefore, a license or authorization that allows for the legal offer of gambling has a high value and must be protected and respected as this license or authorization is the one that guarantees gamblers a clean and secure game within a regulation scheme with their pertinent taxes, anti-money laundering controls and prevention of fraud.

Until some years ago, the context in which regulation took place was the one where geographical borders existed and location implied the existence of a game operation located in physical and tangible structures over which competent regulators had the immediate capacity to exercise their power and control over their licensees with the possibility to exercise

direct and strong actions over those who did not comply with the regulation.

The key to enforcement, which is an essential element of any regulation system, was more or less guaranteed as the government could express its power through a more or less restrictive regulation and exercise it in a sovereign way (which, in some occasions, may lead to the closure of the store or the insurance of game materials).

Remote game poses a very particular challenge to the traditional concepts of sovereignty, government, regulation, privileged license operation and respect for the laws of a specific territory or State.

Some key characteristics of the activity, such as the importance of technology, the action space which goes beyond geographical borders and its unavoidable relationship with politics and economics, are combined to create a growing illegal market and a trend imposed by entities subject to regulation to show some lack of respect for some government's expressions and sovereignty regarding legality of remote game activities. By means of the use of expressions as “*unregulated*” or “*grey*” to refer to the regulation of a certain territory, game operators create some argument fiction to defend themselves from their obligations to comply with the regulations of said territory.

Remote game poses a very particular challenge to the traditional concepts of sovereignty, government, regulation, privileged license operation and respect for the laws of a specific territory or State

The link between the lack of geographical borders and technology has become a problem of important dimension when implementing effective regulations.

Since the beginning, regulation of remote game has been constant and consistently challenged

by the impossibility to actually exercise sovereign power by authorities and governments that were limited to a certain territory in relation to activities that were generated beyond their borders.

Some measures such as the blocking of IPs or the processing of collection and payment operations are probably the only tools at the disposal of the regulation in absence of a system that supports the respect for mutual regulations at international level.

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The European Union leaves game for the regulation of each member state, there is no European regulation of cross border game. Continuous claims of online operators in almost every European country in which they state their right to freely render this service in the whole territory of the European Union from any jurisdiction of the Union, have slowly created a paradigm round the interaction of regulatory sovereignty of Member States to regulate their game markets (including remote game) and fundamental freedoms, such as movement and service rendering within the domestic market. In fact, almost any national attempt to fight against illegal online game has been translated into claims and issues before the European Union Court of Justice (Germany, Portugal, Spain, the Netherlands, Austria, Italy, Denmark and France, among others) and in permanent challenges to state lotteries, restrictions to

advertisement and sponsoring of sports and the concept of “*game privileged license*”.

Policies such as excessive taxation, ringfencing to local domains instead of .com websites and lack of international liquidity have led, in many occasions, to a transition to illegal offer.

Efforts to apply laws and regulations to illegal operators find some obstacles in territories which, as if they were a sanctuary, cannot or do not want to assist other jurisdictions in said application, that is, enforcement.

Therefore, geography or rather ubiquity driven by technology challenge regulation and sovereignty creating an environment for the lack of application or regulations (these are not “modern”, they do not affect game which, as it is said, is a fact of rendering services as it occurs in Costa Rica, Bahamas, Jersey, Gibraltar).

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When taxes are not collected, there may be a joint sovereign indifference to the lack of cooperation of the international community (countries and small convenient countries where servers and computing centers of these operators are located). This type of situations, of course, finally sanction regulated operators who pay

taxes or those who may decide to opt for a legal offer, users at risk and tax earnings of the states. On the opposite side, the United States of America have carried out a strong enforcement through the Department of Justice, winnowing CEOs and main shareholders of these online companies who were detained, prosecuted or released from criminal prosecution due to the payment of multi-millionaire amounts of money. Some states in the United States have recently started to regulate Internet game in a restricted way only in their own territories instead of doing so at federal level. It is worth mentioning the case of Nevada or New Jersey where it is regulated in connection with the traditional business of casinos.

Latin American jurisdictions have much to do as regards the reimplementation of the concept of privileged license, sovereignty and reinforcement of state power and regulations harmonization, so that those remote game operators who respect or comply with this legitimate regulation schemes to legally operate will, in turn, have the right to protection, reliability and security offered by jurisdictions regulated.

A jurisdiction that has sufficiently regulated remote game will never have losers: gamblers will have fair play security with betting and deposits duly protected, operators may be sure that their investment may generate a return based on a quality game experience and people may still trust the social contract that backs prohibition, authorization, taxes and other legitimate expressions of their own sovereignty.

Geographical borders crisis caused by technology should not mean failure of the concept and respect for sovereignty, but those regulation standards that made it successful “*on the surface*” are the same that must be used to state how and why remote game must be regulated with the stability it deserves. And, accordingly, the respect of sovereign entities to others is essential to help each other with enforcement and to eliminate convenient countries (usually off-shore) that are only used to defeat a legitimate regulation. If this can be achieved, remote game will make an (even) greater step.

A jurisdiction that has sufficiently regulated remote game will never have losers: gamblers will have fair play security with betting and deposits duly protected, operators may be sure that their investment may generate a return based on a quality game experience and people may still trust the social contract that backs prohibition, authorization, taxes and other legitimate expressions of their own sovereignty.

« FIVE ASPECTS »

Apart from the necessary recovery of sovereignty and cooperation among States, being able to reach a proper balance between the development of economic activity of remote gambling and the protection of the gambler implies the following: Knowledge, understanding, cooperation, coherence and, particularly, compliance.

CRISTINA ROMERO DE ALBA · cristina.romero@loyra.com

She got a Licentiate degree in Business Management and Law at Universidad Carlos III of Madrid, she joined LOYRA in 2011 as head of the international area development of the firm. She specialized in Common Law at London School of Economics and Political Science, and has a Master in Public Business Organizations Counsel by the Instituto de Empresa. She is a member of the International Association of Gaming Attorneys (IAGA) and International Masters of Gaming Law (IMGL). She participated as speaker at the most important meetings of the gaming sector, she is coauthor of “EL NUEVO RÉGIMEN JURÍDICO DE LOS JUEGOS DE AZAR - Comentario a la Ley estatal 13/2011, de Regulación del Juego” (“THE NEW LEGAL SYSTEM OF GAMING – Comments to the National Law 13/2011, on Gaming Regulation”), and she acts as the Academic Head of the Master Program “El Sector del Juego” (“The Gaming Sector”).



THE TRANSITION OF THE TECHNICAL FULFILLMENT FROM LAND BASED TO IGAMING

Karen Sierra Hughes

GLI has been at the Forefront of technology in gambling since it was created twenty five years ago, and this is one of the many reasons why we have become the world leaders in services of trial, certification, consulting and audit.

I have been working for GLI for 10 years and I have been in the gambling industry for over 13, including my experience as regulator in Panama; and taking into account the time that has passed and how technology has changed during that time, it also makes me think of how dramatic this change has been in the last 25 years.

Specifically referring to Latin America, and taking as the main reference the industry of land based gaming, we can see that ten years ago the process of introducing new technology was much slower, and we used to be years behind compared to other regions in the world.

This scenario has changed in the last six years, and now, we see jurisdictions that have even been selected by manufacturers to launch their new products. This is directly related to the type of operations and investments that, in a consistent manner, are entering some jurisdictions, which

is also a consequence of the professionalization of the regulations and the maturity that some of these jurisdictions have reached.

I previously referred to the industry of land based gaming because for many regulators in Latin America, the regulation of iGaming is more like a transition from the previous regulations already established in the industry.

Of course, there are still jurisdictions where iGaming is being operated without any kind of control, however, we are not referring to these jurisdictions. At GLI, we are also witnessing the transition that land based gaming manufacturers are going through when they have to adapt their games to become operators in the interactive games arena.

These manufacturers see this transition as a technological revolution which is natural of their products. Also, countries such as Argentina, Chile, Uruguay, Colombia and Mexico have a marked tradition in their companies as regards technological developments of software, and they have been supplying games for the iGaming industry for years, and they see it as a possibility to introduce their content in the future industry of iGaming in Latin America as an excellent business opportunity.

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GLI plays an important role in the regulatory development at a global level; specifically in Latin America we have worked with regulators quite closely when providing technical information which has been helpful in order to translate this information into the regulations of the technical

compliances and that will allow the introduction of new technology in the jurisdiction.

This is in order to fulfill the objectives of supervisors and to effectively control the operations of the games of chance and lotteries, and to allow the sustained growth of the industry, guaranteeing the fair play, transparency and true randomness, as well as the integrity of the industry. We have been playing the same role in the development of the regulations of land base gaming as well as in those of iGaming.

Specifically in Latin America, we have worked in the regulatory development of all the regulators in the region, including Chile, Peru, Argentina, Uruguay, Bolivia, Paraguay, Panama, Mexico, Colombia, Costa Rica, among others. Each jurisdiction has its own reality and needs, and the experiences of the other ones are used as referents. Typically, the regulators in Latin America are seeking to adapt the rules to make sure that they can control and supervise in an effective way and according to the specific needs and abiding by the laws of the different sectors within each jurisdiction. As examples we can mention the existence of local laws related to tax and consumer protection. This makes business models and regulatory developments to be adapted and further modifications to be carried out to comply with the technical regulations that other jurisdictions have widely accepted.

« SOME CONCERNS OF THE LOCAL REGULATORS »

We continue working together with the regulators in these processes, and in the specific case of iGaming, we have been able to identify some points that seem to be common worries among most of the regulators that are analyzing the possibility of establishing some rules that allow the operations of this industry in the jurisdiction:

- Some legal areas within the jurisdiction show their concern as regards the idea that the regulation of online gambling could promote the expansion of pathological gambling. Regulators find themselves at a crossroads: they should

justify the fact that they only want to regulate an existing industry in the jurisdiction which is currently operating without any control.

There are specific requirements in the technical regulations that can be used as methods to support the policies of responsible gambling, such as assistance lines, self-exclusion lists, maximum number of players allowed in a game session, maximum bet during a specific period of time, among others.

- **Risk of underage players:** it is recommended to use methods of verification of identity that are available in the industry, in order to provide the highest level of guarantee for the reduction of risk for under age to be involved in this activity. The process of verification in Spain, which uses the access to the civil register, is one of the examples of existing regulatory controls. We can also mention:

- » **Registration of players:** each player should provide personal information, address, identification and method of payment in order to create their credentials before starting any kind of bet in an online casino. In that case, there seems to be more anonymity in land based games, where players bet in casinos without exceeding the limits of the reported transactions to prevent money laundry, in which case, they are required to identify themselves in most of the jurisdictions of land based gaming.

- » **Authentication of players:** the verification of the identity of the player is continuous, since each time a player logs in to the online casino of a regulated jurisdiction, they should go through of robust process of authentication with at least two types of answers. The objective is to clearly determine with a high level of accuracy who the player is, what he knows and what he has.

- **Effective control in the prohibition of the operation of illegal online casinos:** operators who look for a license in a jurisdiction expect the regulator to establish strong regulatory

controls to prevent illegal gambling. These same controls will serve to protect national players since the possibility of the existence of illegal online casinos will be reduced and just a fair play offer will be available. Manufactures and operators that are interested in operating in one jurisdiction that is regulated expect the regulator to be strict as regards illegal operators and to take measures to go after them and to punish these kinds of operations to make it evident that illegal operations will not be allowed. European jurisdictions recommend the practice of creating close relations with all the suppliers of the industry so that technological partners can also help in the prevention of these operations, for instance, methods of payment, internet suppliers, creation of hot lines to receive claims and complaints. It is important to highlight that apart from the technological tools that are available at present in the industry, such as software for geolocation, geofencing and others, regulators are contemplating the use of the commitment of all the suppliers in the industry to reach the common objective of keeping just the participation of operators and suppliers that are authorized.

- **Regional regulation:** we expect to see a similar behavior in the case of the development of land based gambling. It is probable that there is no possibility of a single regulation to be adopted by the whole Latin American region, instead, we see the possibility of having agreements to establish a common and general base that can be replicated in the different jurisdictions of the region. As we mentioned before, rules as regards taxes, consumer protection and other similar issues make it necessary to have specific regulations in each jurisdiction.

- **Tax model:** regulators are analyzing the financial results and the consequences of the different tax models that were established mainly in the European jurisdictions. At this point, we can foresee that these will differ from one jurisdiction to another. Depending on the main objective of the regulator, this can be to obtain the highest income per online operation that already existed in the jurisdiction by using a high tax rate; or to attract new investments in the jurisdiction to increase the income as a

consequence of the multiplication of operators and actors that participate in the industry.

- **Controls to prevent Money laundry:** there exists the idea that the iGaming industry favors Money laundry operations because of the whole context, however, this possibility is mitigated when there are appropriate controls, like the ones carried out in the jurisdictions that have a legislation. There are several examples of software in the industry that contribute to these controls, among these, we can find the ones mentioned before, such as the register and identification of players to control the underage. There are also programs to identify patterns of behavior related to the amount of money betted that exceed the allowed amount and have to be reported.

- **Process of supervision and control:** taking our interaction with this industry and the regulators around the world into account, one of the central issues that is a big concern is to count on the server of the operator of the jurisdiction. Each jurisdiction deals with this issue in a different way, and some of them are considering the possibility of having mirror servers and/or internal control systems as requirements. Regulators in Latin America understand the importance of using monitoring online systems to supervise operations, significant events and incomes of the land based operations. Most of the regulators look forward to applying the same kind of controls to the concept of iGaming, the reason for which having internal control systems are considered examples of technical requirements and which have already been implemented in the more mature European.

- **Licenses and Certifications:** some jurisdictions are witnessing the need of strengthening the licensing processes, considering the various suppliers that are involved in the context of iGaming. Besides, a possibility that is being analyzed is the one of copying the process of certification that is already mature in the land based gaming industry and to apply these in future rules of online gaming, in such a way that the fair play can be guaranteed, as well the integrity and randomness, also to establish technical requirements related to the games, platforms and the integration of requirements

such as the environment of the gambler, payments, minimum and maximum bets, which are possible to identify following the process of technical fulfillment similar to the one of land based gaming and of course, applying the necessary variations depending on the specific context where each game is being operated.

These are some of the examples of how the Latin American region is analyzing the different regulatory models. It is important to understand that none of these possibilities discussed would be possible if the regulator does not develop technical standards and regulations, setting these requirements so that these methods can be implemented.

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after them and to punish
these kinds of operations

The role of GLI is not to establish public policies, but to introduce the regulator to all the available models in the world, explaining the differences for each of them, the objectives of each requirement, the specific reality of the jurisdiction and why it was decided to adopt a model in particular, how that model can be tried and certified in a sample environment to determine the fulfillment of the technical regulations and the methods of supervision to verify the compliance during the games operations and the platforms in the long run.

Talking about the global industry of iGaming, GLI is the leading company in all kinds of trials, and it is the first laboratory to have tested and certified the systems of interactive games in jurisdictions that are regulated, such as Alderney, Isle of Man, First Cagayan (Philippines) and the United Kingdom. GLI is

also the first one to have certified systems of iGaming in the Canadian provinces of British Columbia and Quebec. Taking this into account and also the fact that we are a qualified testing laboratory, GLI has first hand knowledge of the dangers that usually come together with the attempt of 'reinventing the wheel' when it comes to technical standards.

« GLI 19 AS A BASIS TO DEVELOP THE SECTOR »

One of the ways through which GLI supports regulators around the world is by constantly creating and updating the already known standards such as the '*Series of GLI standards*'. The GLI standards are a collection of rules based on the standards developed by the jurisdictions all over the world, plus the 25 years of experience in trial and certification as an independent testing laboratory.

For the iGaming industry, GLI has developed the GLI standard 19 technical standard for Systems of Interactive Games. The first version of the standard was published in May 2011 as the first set of common standards for the technical regulation of the industry.

As we mentioned before, some concerns were covered in this first version, such as the concern related to the ability to verify the software, age and identity, controls for money laundry, among others. However, technology keeps advancing, as well as the specificity of the operation, the control and the assurance of the fair play, security and auditability.

That was why in February 2013, the 2.0 version of the standard was released. This version includes the best practices established in jurisdictions such as Australia, the United States, Canada and some countries in Europe, which have experienced the great success of having a regulation in iGaming.

The standard is the culmination of the research and the exchange with software developers, operators and regulators all over the world, and the value of its existence precisely relies on that. It was not until many years of experiences

and sound relations that GLI achieved the culmination of the standard following the global best practices for the emerging jurisdictions. The same as what happened with other GLI standards, the GLI standard 19 has been adopted by regulators, as in the case of Delaware State Lottery in the United States. Even the province of Misiones in Argentina used the GLI standard 19 as the basis for the development of their own standard.

The innovations of the 2.0 version of the GLI standard 19 are the following.

- Geolocation, geofencing, system verification, suppliers, among others.
- Alignment of practices in which GLI can work with Remote Game Servers (RGS) / Platforms / Games / Random Number Generator (RNG) / supplier of the service to identify regulations in such a specific way that they apply according to the functionality of the product. It also allows close work with regulators / operators / suppliers in each market case by case.
- The standards cover the four main modules of the iGaming systems: Platforms, Games, RNG and Information Security Systems (ISS). Besides, games such as Peer to Peer, events / sports bets / live dealer, etc are in different appendixes. This structure allows regulators and other actors in the industry to have the possibility of adapting the criteria to their specific needs more easily.
- The functionalities are identified on purpose in the standard (such as the register of players, reports, etc.) avoiding the establishment of specific solutions for the compliance. This makes it easier to be able to make reference to the standard in multiple markets and to allow the establishment of specific and individualized requirements again in each jurisdiction.

The possibility of setting regulations with a common basis to reach an iGaming industry which is well regulated from one jurisdiction to another paves the way for the possibility of having international agreements that benefits liquidity and facilitates the transfer of operations from one jurisdiction to another, among other issues.

Without a regulation with a general basis, conversations of this kind would be possible, since jurisdictions seek to protect the national interests and the integrity of the industry, allowing the operation only to those that can prove the compliance with the basic regulations. From this point of view, the standards clearly benefit software developers and operators that are looking for different markets, maximizing the return on investment when adapting this development to the standard, and reducing the cost of additional adaptations to comply with the set of rules that are completely different from one jurisdiction to another.

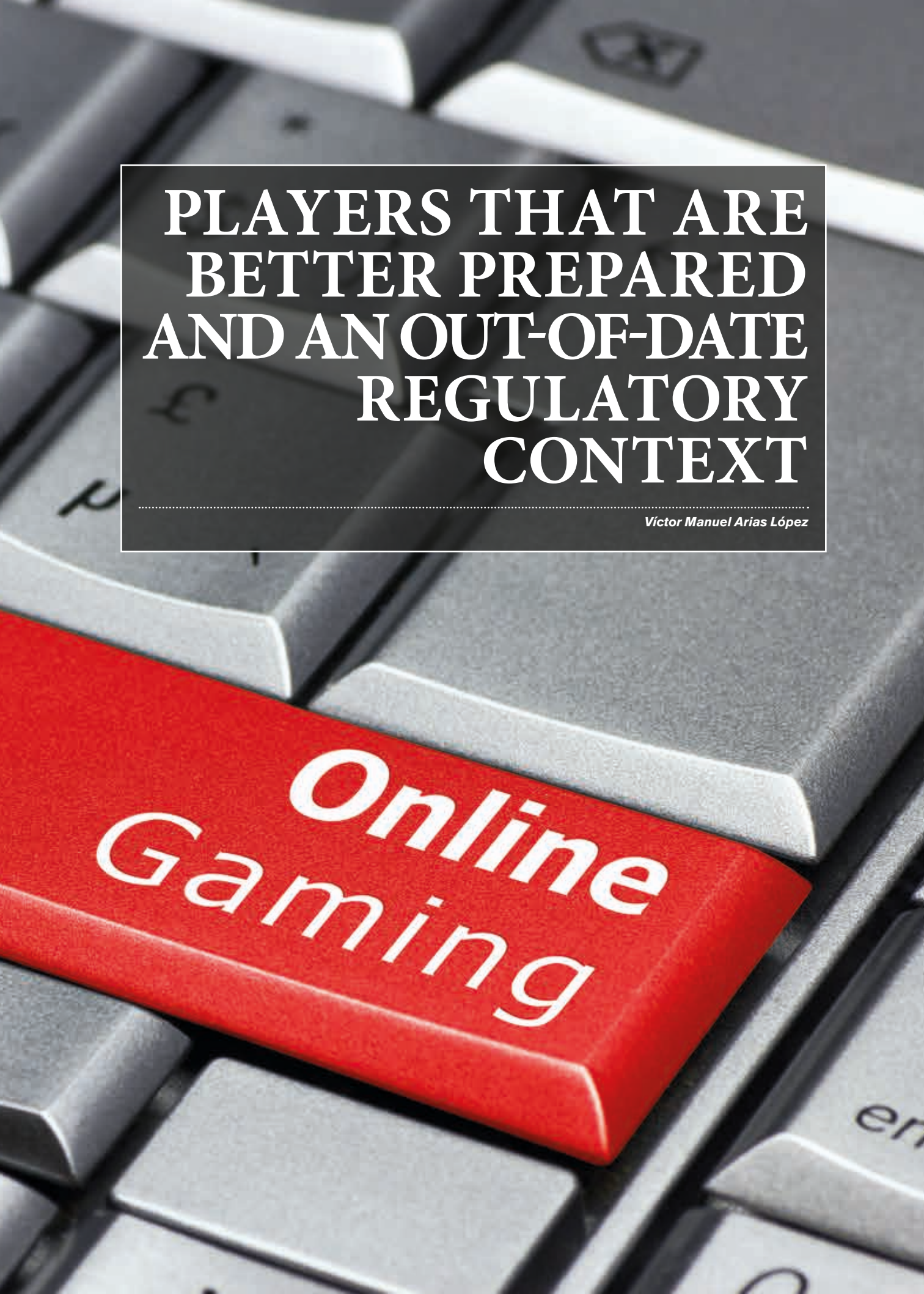
We see how some regulators are considering the use of Bitcoin; the need to regulate the social game or not; the continuous growth of the mobile gaming, among others. As an independent laboratory, GLI does not take sides in these debates, we are aware of our obligation as a reliable consultant.

GLI will continue updating the GLI standard 19, either because there are reasons related to the compliance with the regulators or because of the progress in the industry, the technological advances, or simply because the market requires it. The industry can count on the fact that GLI standard 19 will fulfill the specific needs of all the parties involved. This is not exclusive of the GLI standard 19, it is the nature of the GLI standards, which are available for the benefit of the industry in global gaming. Then, what should we expect in the following months and years? We cannot predict the future, but we can expect to continue witnessing bigger technological developments, and we expect to see the decision of the jurisdictions as regards the regulation or nor of iGaming.

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A close-up photograph of a computer keyboard. The central focus is a large, bright red key with the words "Online Gaming" printed in white, sans-serif font. The key is slightly raised and has a textured surface. Surrounding it are several grey keys, some with faint characters like "P", "F", and "en". The lighting is soft, creating subtle shadows and highlights on the keys' surfaces.

**PLAYERS THAT ARE
BETTER PREPARED
AND AN OUT-OF-DATE
REGULATORY
CONTEXT**

Victor Manuel Arias López

In the year 2007 and ten years after I started in the gambling industry aligned with the United States, Canada and the rest of the world – working for different companies, which had their portfolio of sports bets products and the online casino as their main products, I started the research, the development and practice of different strategies to present and introduce the brands in the Latin American market, which by that moment was a virgin market, dominated just by a couple of well known brands that were famous at a global level, but I was hunger for new things and totally open to know and try a new diversity of products and services.

I think it is important to go back to the moment when I entered the industry, a moment in which companies had as a model of development and growth the use of diverse strategies, such as the use of ‘agents’, who acted as promoters of their brands, these offered gamblers the possibility of playing with a certain amount of credit that was available, which was checked every week and then, by the end of the week, each agent had to settle accounts with their players, and they collected o paid at that moment accordingly.

To put this into other words, this industry was ‘unknown’ in Latin America; governments and regulatory institutions – either tax or legal frameworks – did not see the need of fixing a regulation or law for this kind of economic activity

By that time, this model was very popular in the United States, Canada and some countries in Europe, it was a quick, reliable and direct way of ensuring gambler loyalty and of attracting a huge volume of players at low costs, since they were omitting the high transaction costs brought about by the processing of credit and debit cards, e-money and even the cash transactions from one individual to another through Western Union or Money Gram.

Another advantage to this model of work is the cost in the sector of marketing, since the agent was the one in charge of attracting the clients to play. As a result, he had to work out, with his own means, how to attract his own players. These agents used to work with companies and brands in exchange of a percentage, which could go from 20% to even 50 % of the monthly net profits of each player.

By that time, Latin America was still far behind as regards internet gambling, this was due to many factors such as: low penetration of the internet in the area and the way of thinking of the Latin client (who believed that in order to close a transaction of any kind the presence of both parties was necessary and it had to be closed with a firm handshake, as when any other deal is closed).we also have to take into account the lack of interest operators had in the Latin American market, since the target markets at that time were North America and Europe.

To put this into other words, this industry was ‘unknown’ in Latin America; governments and regulatory institutions – either tax or legal frameworks – did not see the need of fixing a regulation or law for this kind of economic activity. We cannot forget that the gambling industry on the internet used to be in what we call today a ‘grey zone’ in legal matters, that is to say, neither black nor white, neither legal nor illegal.

« LATIN AMERICA, LAND OF GAMBLERS »

It is important to mention that there is a huge interest on the side of the Latin client for bets in the lottery, chance and other state games that imply gambling and betting. The Latin gambler loves action, bets, statistics, risk and most important of all, winning. We have a culture that has the passion for risking and winning running in the blood.

In most Latin American countries we have the lotteries, which can be bought in fractions and whose main prize is ruffled every Sunday. It is interesting to see how clients go out to the street in order to bet on the number of their

preference, and even more on special dates such as Christmas, when prizes are more attractive and when ruffles are different from the regular ones because of the festivities. At that moment, clients are more tempted to buy a fraction, it is an opportunity to win.

Currently, we come across a player who is better prepared for the world of virtual gaming, and besides, this is much more demanding; this obliges companies to double their efforts to offer high quality products and a spotless service

It was seven years ago when I started with this activity and with the research in the Latin American market, and since then, many companies that were already leading ones in America and in Europe decided to re direct their marketing strategies and to set their eyes in Latin America. This phenomenon took place for a number of different reasons, among which I believe the most important one is the overcrowding of the markets I mentioned before, apart from the fact that there is a growing interest of the Latin American player for the use of the internet to bet on their favorite sports, or to try the many casino games that are available in the virtual world nowadays.

Currently, we come across a player who is better prepared for the world of virtual gaming, and besides, this is much more demanding; this obliges companies to double their efforts to offer high quality products and a spotless service. Such is the level of perfection that many of them intend to create a comfortable and complete environment for the 'target client' in any way possible, where the player does not feel the need of leaving the comfort of the home or office in order to find entertainment thanks to the wide variety of products that are offered today. Online betting and gaming activity has always been related to activities with a negative

reputation; as is the case of prostitution, drugs and money laundry, and the Latin player is suspicious in its own nature, as a consequence, one of the biggest challenges operators have is to develop strategies for the creation of an image of prestige and trust. The second big challenge is to offer better methods of deposit of bets and collection of prizes. Players are fond of transactions in cash, bank deposits and, with a growing interest, the use of e-wallets.

« BRAZIL AND ITS LATENT POTENTIAL »

In November 2013, in Rio de Janeiro, Brazil, the first Online Gaming Congress took place, it was called "Brazilian Gaming Congress", where different executive representatives of virtual games companies got together with official representatives of different countries from Latin America, including Brazil, the most interested one to create this forum, and with the objective of discussing various positions as regards a possible regulation of online gambling.

It was normal that the World Cup organized by FIFA could raise the interest to know this industry more closely, and it is no secret that bets during an event like this are massive and the different institutions always want to take advantage of this.

These are some of the figures that represent what online betting means to Brazil: US\$ 4.7 billion accumulated annually in bets in person carried put legally, US\$ 5.2 billion per year in illegal bets in person and US\$ 9 billion betted online illegally. At first sight, and after looking at these figures, we can see that there is not much to explain in order to understand the position of governments as regards regulations.

The negative side of this for the host country is the lack of time to develop, and to put into practice, a legal framework for such an activity; but it is clear that there is an important interest on the side of Brazil to regulate this as soon as possible, and according to the experts in this area, big efforts are being made to have a structured regulation, ready to be applied for the Olympic Games in 2016.

In other countries in Latin America, new regulations are also being developed for online gaming, such is the case of Colombia, Mexico and Panama with sports bets.

« IS IT IMPORTANT TO REGULATE THE INDUSTRY? YES! »

The illegal development of this commercial activity will always be present, in the same way it is present in many other businesses, either online or not. It is practically impossible to control and to eliminate the presence of illegality.

Statistics present and predict the continuous growth of the penetration of the internet in all Latin America, together with the increase of knowledge of the user, as well as the demand, which makes this industry to be even more interested in expanding in this market

The regulation of the activity brings about infinite advantages, some of them are: the protection of the operator, the protection of the client or consumer, having a regulation without the monopoly of the government which at the same time brings about competence, which leads to better products and services. All this, clearly,

goes hand in hand with a tax structure which is fair and attractive to the eye of the operator. As an example of an excellent regulatory structure, I can mention the one elaborated by Denmark, which can be an example to follow by many.

Statistics present and predict the continuous growth of the penetration of the internet in all Latin America, together with the increase of knowledge of the user, as well as the demand, which makes this industry to be even more interested in expanding in this market.

We will continue seeing brands, either existing or new ones, landing in Latin America and betting strongly to become leaders in the market. The different governments, as well as those who are directly involved in the industry, are obliged to be informed and updated day after day with the constant changes and news presented by this industry, one which grows by leaps and bounds and whose objective has not changed: to bring entertainment, action and opportunities to their users, 24 hours a day, every day, from the comfort of the home.

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He has over fifteen years of experience in the online gaming industry, Mr. Arias has developed an extensive network of contacts all over the world, centering his experience in the diverse Latin American markets during the last years. Among the companies in which he has carried out his latest tasks we can mention he was a manager for Latin America in the online bet sites CasinoFantasia.com, ComeOn.com and PokerLoco.com.



IGAMING IN COLOMBIA: BETWEEN STRONG LAWS AND A GROWING MARKET

María Jimena Montoya Acevedo

The permanent development of the entertainment industry and the importance that ongoing technological innovation has for market growth and customer satisfaction worldwide, have led businessmen and different governments to recognize the economic potential of regulations and Internet game addressing by means of a clear and strict state policy.

Colombia is not away from this trend if we take into account that gambling –according to its Political Constitution- is a profitable monopoly of the State. That is, the Colombian State is the one that has the exclusive power for its exploitation, organization, administration, operation and control, among others. Since the creation of the system for gambling stated in Law 643 of the year 2001, the legislator (in their explanatory memorandum¹) recognizes the development of Internet market and supports the ownership of national games; the creation of an entity for the development of new

and localized games and the search for broad legal definitions that allow to set limits for legal game, considering it as the game included in the catalog, requirements and conditions of said law.

« CURRENT LAWS »

Nowadays in Colombia, game on the Internet is legal but its operation is to be regulated pursuant to section 38 of Law 643 of the year 2001 that defines new games as *“any other type of gambling that is different to the one stated in this law.*

New games are, among others, the pre-printed lotto, instant lottery, online lotto in any of its modalities, games that are operated online and have different gambling in events, gambling in virtual casino games, sports gambling and other electronic games, on the Internet, with mobile phones, or any other modality in real time that does not require the presence of the gambler”.

Executive Power Decree 2121 of the year 2004 rules the operation of this type of games through third parties, stating that the operator must be chosen upon procedures established in the General Regulations for Public Administration Hiring; after some study, preparation and approval of rules for each game, which is currently pending. For this reason, there is no authorized operator for the exploitation of this type of game within the Colombian territory. In accordance with the regulations explained, we can conclude that although the legislator desired to facilitate the development of gambling in Colombia through broad concepts that could be taken as a framework for the regulation of the law, they got the opposite because, for this case, (I) the law only allows the Nation to exploit new games through third parties and does not allow to have mixed figures that allow for the participation of the State in earnings and the creation of own businesses as we can find in other countries; (II) the rigidity of contractual rules stated prevent the regulatory entity from establishing, as stated in section 336 of the Political Charter, a hiring system that allows to adopt conditions and features of each of the new games, thus becoming laws that discourage innovation or make it complex as it is necessary to make changes to laws that need to comply with the whole legislative procedure in the Congress of the Republic.

« THE FUTURE »

In order to clarify the future of game on the Internet in Colombia, it is important to review the development of the institutional aspect of new gambling in the country, where we can find that until the issue of Executive Power Decree 175 of the year 2010, the 'Empresa Territorial para la Salud' [Territorial Company for Health] (ETESA, in its Spanish acronym) was the entity responsible for the administration and exploitation of new games upon approval of their rules by the National Gambling Council. When carrying out their responsibilities, ETESA hired four studies on gambling in Colombia, which were published in the year 2003² and in which there is a proposal for the development of the industry and the

resulting increase in earnings for health, the implementation of the so-called "e-gambling" as an own business to be operated on the ETESA website and within which Roulette, Blackjack and Videopoker are mentioned. However, there is no evidence to show the true reasons why the National Gambling Council did not pass said regulations and it was considered that Law 643 of the year 2001 did not allow for direct exploitation of this type of games and that, for this, a reform was necessary.

In light of this situation, during the operation of ETESA, we can only find a successful implementation as regards getting earnings for health and stabilization of the business in the market of Baloto and Super Astro Millonario as new games because other games such as Ganagol, Telebingo, etc..., were not as successful.

It is true that the National Government needs a significant increase in health earnings and that according to studies carried out by ETESA and Coljuegos, regulation of games operated by electronic means (...) It is not only a need of the profitable monopoly of the State (...) but also the opportunity to attract a new market

In 2010, by means of said Executive Power decree, ETESA was wound up upon the order of the National Government stating efficiency and effectiveness reasons that became grounds for the study and support to determine the need to create a new national entity that would take said responsibilities and would create value at institutional level by means of establishing transparency and legal certainty standards for the development of the gambling sector in Colombia. And this is how, by means of Executive Power Decree 4142

dated November 3, 2011, Coljuegos was created as Empresa Industrial y Comercial del Estado [State Industrial and Commercial Company] decentralized from the national level and related to the Ministry of Economics and Public Credit, whose main mission is to increase gambling income for the health of Colombians.

Based on the foregoing, once Coljuegos starts to operate, expectations as to the development of the Colombian gambling market grew at all levels and the statements made by the then president of the company, Rodrigo Vélez Jara, to the media when he assured that before the end of the first semester of 2013, the terms and conditions for the bidding of online game licenses in Colombia, overflowed the expectations of businessmen and generated investment plans and projects as regards online gambling by Colombian young people, multinational companies and even national operators.

However, at some time, pertinent studies were started and it was possible to state the current status of the market, the action plan of the entity decided to start the creation of some other type of games that, according to their studies, could have a better market response and generate a more significant increase in earnings for health. This is how the rules for virtual game and keno were issued and the operator for the exploitation of sports gambling of pari-mutuel type was selected.

On the other side and according to the document including statements of Coljuegos of the year 2013³, within its activities against illegality, the entity carried out a series of actions aiming at identifying mechanisms that could be effective in order to prevent the operation of gambling by electronic means upon definition of rules that authorize it as a legal game option. During this process, meetings were held with the Ministry of Information Technology and Communications (MinTIC), the Computer Crime Unit of the Policía Nacional, Superfinanciera y Asobancaria (National, Financial and Banking Police)⁴ in which it was possible to determine the complexity of the procedure to fight against illegality in its operation and the need to establish guidelines for the control required for the regulation of this type of games.

In spite of the foregoing, it is true that the National Government needs a significant increase in health earnings and that according to studies carried out by ETESA and Coljuegos, regulation of games operated by electronic means, being these the games in which: "it is possible to gamble from a website using a user account and stating how much money is bet, the prize is collected there. It is possible to gamble at any time from any device. The amount bet is defined by the gambler and the prize depends on the type of game and quotas established by the operator. Popular games: sports gambling, poker, blackjack, baccarat, roulette, bingo, etc".⁵ It is not only a need of the profitable monopoly of the State, which, among other responsibilities, is in charge of generating entertainment and leisure opportunities to all citizens aimed at complying with the principles of the own regime law, such as transparency, efficiency, concurrence, prevailing social purpose, economic rationality in the operation and relation of income to health services; but also the opportunity to attract a new market in which users have characteristics that are different from the traditional market in which mostly gamblers determine their lack of technology knowledge and resistance to change as the main factors of suspicion. These factors may be found in more than 80% of the gambling population of mature age.

According to the study carried out by Coljuegos, called "El Perfil del Apostador Colombiano – 2013" [*the Colombian gambler profile 2013*], it can be established that "online game generate less interest and trust (47%) among gamblers surveyed. It focuses on strata 2 and 3, of 35 years old on average, single people (50%), with children (44%), who use the Internet at home (94%)".⁶ However, in the study technical sheet, it can be observed that the population surveyed had frequently went to casinos or gambled during the last three months; that is, it assesses the characteristics of the current traditional gaming market.

The potential game market that includes i-gaming is mainly focused on people between 18 and 45 years old, with an intermediate educational level who, by general rule, are not trying to find in gambling the solution to their economic problems, but some leisure

and entertainment alternatives, these are characteristics of an income level that could be for strata 4, 5 and 6 of the Colombian population. This new market segment, even when it has not been possible to identify a significant growth in the income for health, is in permanent evolution and generates an irreversible trend for social inclusion at international level, which are sufficient reasons to generate proposals that allow for the control of the risks it generates and the obtention of resources that are currently being left aside in light of the operation of games that are widely known by Colombians.

For this, it is enough to observe the media which, in several occasions, have talked about the online poker trend, trends of social networks to virtually bet in the casinos whose names are well known in Colombia, websites that sponsor important sportsmen and that provide with tools to support them by means of online gambling, etc.

In conclusion, the regulation and selection of operators for this type of game in Colombia would allow for a steady growth with easy future estimations in light of the resources for health, secure negotiations and simple systems for the control of money laundering, participation of minors and development of responsible game. Operators of different online games that are nowadays known at international level, see in Colombia an attractive business market

mainly due to the state policy regarding the development of information technology that is connected to the world, a country that has a highly qualified labour force and where the government foresees financial stability with some commitment as to permanent development, which generates trust for investing in the country.

Likewise, actions aimed at developing projects by young people as regards information technology and communications have turned the creation of the Colombian company into a significant reference for evolution, design and implementation of new Internet games within the Colombian territory that could not be implemented in a legal manner yet leading to discouragement as to the creation of new companies and their development.

Last, Coljuegos knows the complexity implied in the adaptation of the current laws for the regulation of this type of game and also knows the importance of its development. For this reason, it continues with the development of prior studies for the ruling and preparation of terms and conditions for granting Internet game licenses within the Colombian territory; aiming, according to their statements, at getting a first draft by the end of the year 2014, which would mean that in 2015 it would be possible to say that Colombia is within the iGaming territory.

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1. Congress of the Republic of Colombia, Gazzette 244 of Tuesday August 10, 1999
 2. "Cuatro estudios sobre juegos de suerte y azar en Colombia" July 15, August 8, 15 and 30, 2003; Empresa Territorial para la Salud, ETESA
 3. Management report 2013 Empresa Industrial y Comercial del Estado Administradora del Monopolio Rentístico de los Juegos de Suerte y Azar-COLJUEGOS
 4. Management report 2013 Empresa Industrial y Comercial del Estado Administradora del Monopolio Rentístico de los Juegos de Suerte y Azar-COLJUEGOS, P:30
 5. Colombian gambler profile 2013, Coljuegos
 6. Colombian gambler profile 2013, Coljuegos
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PERU OFFERS A REGULATORY FRAMEWORK FAVOURABLE FOR ONLINE BETTING DEVELOPMENT

Constante Traverso

Next July, Internet is turning twenty three years old in Peru; and we are celebrating this with the great news of counting on around 40,000 public booths that offer this service at a national level; and also, with official statistics of the National Institute of Statistics and Technology – Instituto Nacional de Estadísticas e Informática – INEI (www.inei.gob.pe), which concludes that 38.7 % of the households in Lima, the capital city, has internet access.

The internet was born as a way of network communication that could allow the decrease of the price of computers; and now, without any doubts, it is the main source of information and world entertainment.

Its growth has been outstanding and the development of the technology in mobile telephones will provide, day after day, a higher level of access to the population. The same statistics by INEI reminds us of the fact that in the city of Lima, mobile access in households reaches % 88.8.

With an increasing level of access, the web gives us a unique scenario of entertainment offer through online gambling games. However, in this dynamics, we find important reflections on this regulation.

Doubtlessly, the use of the internet leads to an endless number of conflicts, and these become more evident, as a consequent, it is necessary to deal with different issues, such as how to regulate contents and private information, how to protect copyrights and communications. Therefore, how is it possible to find the balance without falling on totalitarian methods and the controlling vocation of the authorities, who, on many occasions, regulate just for the sake of it?

« NOT CONTROLLING THE UNCONTROLLABLE »

From our point of view, currently, there are not efficient mechanisms to control or regulate. As a consequence, we should refrain from controlling what is uncontrollable. However, we can require and respect the neutrality of the web, this is the

essence of the internet, and, the way we see it, the reason for its successful development.

We should let the user decide, and in spite of the good reasons that can motivate us, we should not regulate a service that, basically, is so difficult to regulate and that probably this attempt to regulate it can even affect its development.

We are facing this new way of communication with the consumer: faster, more direct, more dynamic and less expensive. This reality is not external to the gambling and betting industry; its development and growth have a highly significant potential.

Peru can offer incomparable conditions for the development of online games since we count on a liberal and stable constitutional framework, which is a guarantee for the development of different businesses

In this sense, we are sure that Peru can offer incomparable conditions for the development of online games since we count on a liberal and stable constitutional framework, which is a guarantee for the development of different businesses which will be detailed below. The current political constitution of Peru has regulations that foster the essential principles to guarantee a favorable judicial framework for the development of private investment in general and foreign investment in particular. Among these, we can highlight:

- The free private initiative within a frame of social market economy and pluralism.
- Freedom of work, enterprise, trade and industry.
- The definition of the subsidiary role of the State in the economic activity.

- Free competition and the prohibition of the settlement of monopolies and the fight against the abuse of a dominant position.
- Freedom of hiring.
- The faculty of the State to establish guarantees and grant security through laws.
- The equal treatment for local and foreign investments.
- The possibility of presenting the different controversies in which the State is a party in national and international arbitral tribunals.
- The guarantee of free possession and use of foreign currency,
- The inviolability of property and the implementation of exceptional causes that may give grounds to expropriation upon payment of fair compensation, the application of the principle of equality in terms of taxation and the acknowledgement that no tax may have confiscatory effects.

The current Peruvian Civil Code expressly regulates Gambling and Betting contracts establishing up to three different modalities:

The regulated contract of Gambling and Betting, these are subjected to norms and regulations, as in the cases of Lotteries, Bingos, casino table games, slot machines, horse bets, among others.

The Contract on Prohibited Gambling and Betting, it refers to the games that expressly prohibited by the Peruvian law. This is the case of slot machines for underage.

The Contract on non regulated Gambling and Betting, this includes the activities that do not have any kind of regulation or prohibition, and which as a consequence are allowed.

Finally, those within the legal treatment of investments based on the principle of 'national treatment'. That is to say, foreign investments are allowed without any restrictions in most

of the economic activities, and they do not require previous authorization even because of the condition of being foreign. The acquisition of shares of national investments is completely allowed, either through the stock market as well as through OTC markets.

As regards property, foreigners – either natural or legal persons – are under the same conditions as locals.

Abiding by the commitments assumed by the World Trade Organization - (www.wto.org), of which Peru has been part since January 1st, 1995, no mechanism of selection, or any requirement as regards the results, is applicable or demanded to the foreign investment because of its condition as such.

In the case of the investments that have benefits derived from the subscription of agreements of judicial stability with the state, the requirements are the same as those presents for local investors. Any company has the right to organize and develop its activities in the way that is most convenient. All legal dispositions that fix modalities of production or productivity indexes have been repealed, also those that prohibit or oblige the use of technological resources or processes and, that in general, intervene in the productive processes of the companies according to the type of economic activity they carry out, its capacity, any other similar economic factor, except for the legal dispositions referring to hygiene and industrial security, the conservation of the environment and health.

« PERU AND FOREIGN INVESTMENTS »

Foreign investment can freely take place in any of the following corporate forms acknowledged by the law, and under the following modalities:

- Direct foreign investment, as an injection of equity capital.
- Investment for the development of joint venture contracts.
- Investments with goods and properties located within the national territory.

- Portfolio investments.
- Intangible technological contributions.
- Any other form of investment as long as it represents a development for the country.

Within the legal framework that was previously indicated, we are sure that the development of online gambling will grow in the country. Finally, we should highlight that we are currently going through a period of important economic growth, which has been sustained for over twenty years, at a macroeconomic level we have built an important example for the whole region, however, unfortunately, this growth has not solved the structural problems related to corruption, insecurity, low quality in public education and the generalized deteriorated public services.

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Facing these problems, we expect a soon reform in the State, however, there is an overall consensus to keep the right track in economic issues that was already initiated in the nineties. When Mr. Sheldon Adelson started his campaign to prohibit online gambling in the United States, alleging that he was seeking to protect children and people with low resources, doubtless he was seeking to protect his own businesses.

I am not that sure if he reached his objective or if online gambling is really a threat to traditional gambling; but luckily, in the country, there is no such worry.

On the contrary, in the last six years, the gambling industry has been consolidated, generating over sixty thousand job positions, contributing with important resources through special taxes and fostering local and foreign investments.

The local businessman is far from looking for legal protectionism; we have learnt to compete, to take challenges, and within the frame of the free enterprise, we are sure that online gaming will soon become part of an important offer of entertainment in Peru.

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GAMING IN BRAZIL, AN ISSUE THAT HAS TO BE APPROACHED BY THE STATE AND THE SOCIETY

José Magno

Brazil has a legal status that is not compatible with the new framework of our 'society of information and knowledge', at least when it comes to gambling and money. Just by mentioning that this country is far behind, legally speaking, in the area of gambling compared to the rest of the world.

Lotteries were acknowledged as a public service by decree Number 21,143, in 1932. The decree law Number 3,688, in 1841, transformed the 'Bug Game' (*Jogo do bicho*) into an infringement, and decree law number 9,215, in

1946, prohibited casinos and bets for money in general in all the country. That is to say, that 46 years after the last law, we have not approached the central issue of updating the regulatory framework for this activity.

This long period of prohibition of gambling in Brazil, almost 72 years, led to the wrong labeling of this activity as an issue that has to do with the morale, as is the case of abortion or drugs. Frequently, we are asked about the reasons for this long period of illegality of gambling in Brazil, while this activity is legal

and regulated in almost all the other countries in Latin America. We find it difficult to answer, since there are no clear reasons that justify this, instead, there are a lot of excuses.

To make matters worse, the prohibitive legislation has not changed the status of illegality of gambling in Brazil, which moves more than R\$ 18.9 billion (USD 8.3 billion) per year in clandestine bets: 'Bug Game' (*Juego del Bicho*) (R\$ 12 billion - USD 5.2 billion), bingos (R\$ 1.3 billion - USD 569.4 million), slot machines (R\$ 3.6 billion - USD 1.6 billion), and sports bets, iGaming and online poker (altogether reach R\$ 2 billion - USD 876 million), according to the research carried out by 'Boletim de Notícias Lotéricas' – BNL.

As a consequence, illegal gambling in Brazil moves as twice as much the R\$ 12.1 billion (USD 5.35 billion) that are generated by the official games, resulting from the R\$ 11.4 billion (USD 5.04 billion) of the lotteries of Caixa Econômica Federal, the R\$ 400 (USD 176 million) million of the State Lotteries and the R\$ 300 million (USD 133 million) of horse racing.

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In the whole world, betting and lotteries find their justification in the destiny of the social resources that they generate, and it is the State's competence to regulate and monitor the chance contests and games, as well as to provide the definition of these services. It is the Parliament's responsibility to define the social areas to which the resources will be destined and applied, as is the case of Mexico (education and health); Ireland (culture and sports); Finland (sports, science and arts); Canada (hospital and social issues); Belgium (the handicapped and culture); Germany (culture, social activities, sports and education); Portugal

(health and children welfare); the United States (education and health); Puerto Rico (health); Holland (education); Denmark (education); among others.

« LEGALIZED GAMES ALL OVER THE WORLD »

Of the 193 member countries of the United Nations (UN), 75.52 % have the industry of gambling legalized and regulated, while Brazil is among the 24.48 % that have not legalized this activity yet. And among the 156 countries that make up the World Tourism Organization (UNWTO), 71.16 % have this industry legalized, while among the remaining 28.84 % (made up of 45 countries) that have not regulated this activity, the 75 % belong to the Islam and have religious reasons to prohibit the activity. However, not all Islamic nations prohibit gambling, as in the case of Egypt and Turkey, both countries with an Islamic majority but with legal and regulated gambling.

According to the World Lottery Association (WLA), by the year 2013 the gambling industry had moved U\$ 440 billion. The world market of sports bets billed U\$ 58 billion in 2012, which represents 13.8% of the total billing

Going deeper into this question of georeference, it is worth mentioning that among the 34 countries that make up the Organization for Economic Cooperation and Development (OECD), and also so-called rich or developed countries, only Iceland does not allow gambling in its territory. And also in the perspective of the G20 – group to which Brazil belongs – 93% of the nations have legal gambling in their territories, Brazil being one of the only three countries that do not allow gambling together with Saudi Arabia and Indonesia (these two being Islamic).

According to the World Lottery Association (WLA), by the year 2013 the gambling industry had moved US\$ 440 billion. The world market of sports bets billed US\$ 58 billion in 2012, which represents 13.8% of the total billing.

The global sports betting market would reach US\$ 70 billion in 2016, according to the estimates presented in the elaborated research carried out by Global Betting and Gaming Consultants. In this market, Great Britain outstands with a gross income of US\$ 4.7 billion in 2012, according to the Gambling Commission. The events related to the royal family are among the favorites of gamblers in that country, with bets ranging from the most trivial to the most complex ones. The market of 'live bets' (i.e. sports bets made while the match is taking place) is its peak of growth, the same as 'live casino', which is in expansion, where gamblers follow online the games in real time through cameras and in the presence of a croupier. It is impossible to deny the advance of poker, on the internet as well as in the saloons and clubs in Brazil. It is estimated that only on online sites there are around 2.5 million of registered Brazilians, and that at least 50% of them play on a daily basis. Apart from this figure, we have millions of players that prefer playing poker in person. The first tournaments would receive around 100 applications, today these are events that attract 1,000 to 2,000 participants. The expansion of this phenomenon of poker in the world is due to the institutional work directed to the transformation of it into a mind game and not a game of chance, but the representatives of our government institutions are closing these clubs, just because there are within a fragile legal framework.

« GAMBLING IN VIRTUAL ENVIRONMENTS »

Independent from the Brazilian legislation, specialists are already studying the current operations in the market of online bets in the country. In the study carried out by BNL – Boletim de Notícias Lotéricas, it is calculated that Brazilians bet annually, through different internet sites, near R\$ 2 billion (USD 884 million) in different modalities: bingo, video

bingo, casino, sports bets and poker. This foreign game modality does not offer any financial counterpart to the State, so necessary to afford or develop the sectors that lack resources, as is the case of Health.

This narrow-minded vision of the Government, as regards the potential gambling market, together with the lack of information on the part of the members of Parliament as regards controls and inspections in this sector, political scandals related to illegal operators, among other issues, can help explain the lack of interest to face the treatment of this specific legislation for the sector.

Internet has eliminated the barriers, and it has allowed players to enter virtual casinos and bingo halls, while similar places on 'firm land' are close in Brazil. Virtual casinos are registered in countries where gambling is not prohibited. The operation of these companies is carried out in different points abroad, with legal authorizations of the corresponding local governments.

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Facing the legal requirements that prohibit private gambling with money in the country, an activity carried out through electronic private companies that use an international network of computers as a support can serve the paradigm to approach a new legislation in the sector, that is coherent with the present possibilities in the market.

Brazil lost the World Cup and the chance of regulating sports bets during the event with the highest number of bets all over the world. With the upcoming Olympic Games, the National Congress is now analyzing two proposals: one that is in the House of Representatives, and the other one in the Senate, both deal with the creation of a regulatory framework for the gambling sector.

The ruling of bets before the Olympic Games of 2016 will allow the country to take advantage of this unique opportunity to generate a bigger offer of entertainment and to favor the national economy with the income this will bring about, together with the creation of job positions and the corresponding investments. In spite of the Carnival, the soccer and the *'mulatas'*, Brazil is a conservative country. This applies to members of Parliament that pass laws, and for part of the press media which is always opposing the passing of any bill that advances in the National Congress. Contradictory speeches that use the pathology, money laundry and the absence of control as arguments and part of the lobby of those that expect to keep gambling in the illegality.

It is not true that the State is not qualified to control and inspect these operations. The 'Caixa' controls, online from Brasilia, more than 34,000 terminals that are installed in 12,600 lottery shops in more than 4,500 districts. The Federal Reserve has one of the most sophisticated systems in the world to control income taxes, and the Electoral Justice controls 420,000 electronic ballot boxes and it communicates the results of election within the first five hours. That is to say, with a lot of technology available, the argument that these activities can be a means to carry out money laundry in case they are legalized is not valid at all.

Besides, the pathological behavior is not a privilege in gambling. Researchers estimate that between 1% and 3% of the population have a sick relation with gambling. In Brazil there is no accurate information about the situation because of its illegality, but the global concept of pathological gambling has changed with the introduction of the system of 'self-exclusion', that can be required by the pathological gambler himself or by a relative.

Brazil should outgrow this and face the issue of gambling in a more pragmatic way, without getting questions of morale or religion involved. It is necessary to face the music and approach the issue of legislation of gambling the same as other countries in the region have been doing, as in the cases of Chile, Colombia, Peru and

Panama. Within this proposal, other things should be included, such as bingo halls, video bingos, casinos, and the famous *'Jogo do bicho'*, which can generate a potential income of almost R\$ 45 billion per year.

« THE PRODUCTIVE CHAIN OF GAMBLING »

Apart from 'exporting' our local consumption in the area of gambling, we also lose market opportunities from the productive chain of gambling. During the period in which bingo halls were legal, many companies produced software and machines of video bingo in the Brazilian territory; and the Brazilian government asked the Ministry of Finance to pass several regulations to stop the assembly of these pieces of equipment in the country.

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This vision in the gambling and entertainment industry makes the country lose job positions and dividends in this segment. After the prohibition in gambling, as well as in the manufacturing of this equipment, many companies had to transfer their facilities to other countries, such as the United States, Spain and Mexico, among others. ZITRO (www.zitrogames.com), FBM (www.fbm gaming.com) and SHOCK MACHINE (www.shockmachine.com).

com.br) are some of the Brazilian companies that are very successful in the gambling and entertainment industry abroad. We can even assure that the main bingo halls in the world use video bingo machines with the Brazilian technology DNA.

Brazilian Johnny Ortiz, ZITRO President, is partly responsible for the modernization and growth of bingo and video bingo in Spain. Apart from his equipment and systems, his company was the first operator to promote network electronic bingo among autonomous communities (the equivalent to the States in Brazil), this definitely transformed his company into one of the world leader in video bingo machines.

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As a consequence, it is
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Brazil could learn from the positive experiences of other countries or even blocks of countries, like the experience presented by the German Representative Jürgen Creutzmann before the Commission of the Local Market and Consumer Protection of the European Parliament on

online games. He stated in his study that ‘illegal operators do not pay taxes and, therefore, do not contribute to the society.’

As a consequence, it is compulsory that the society discusses the need to legalize these modalities to take them away from the hands of illegal operators. What is not possible is that the Government, the Parliament and the society overlook the issue of legalizing gambling that is administered by the private sector in the country. It is up to the three powers: Executive, Legislative and Judiciary, to lead the task of debating the possibility of facing the creation of a legal regulatory framework for the activity, taking it for granted that in having the existing demand there is always ‘someone’ who will provide the service.

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GAMBLING AND ONLINE BETTING IN ARGENTINA: SOME OBSERVATIONS TO THE REGULATORY FRAMEWORK

Gonzalo N. Masot

In Argentina there is a strong tradition as regards gambling and betting. During the last years, there has been an important expansion in the offer of new ways of gambling and in the improvement of the existing ones. At the same time, we have been surprised at the novelties as regards technological advances. The penetration of the internet is exponential, as well as the access the different sectors of the population have to the different smart devices that keep them connected to the virtual world.

However, when it comes to bets made through remote devices, there is an excessive delay and an unnecessary intervention of the State. We cannot assure that Argentina is an exception, its public policies on this issue are not precisely the general rule in South America.

This country, as some additional information, has a very particular characteristic. It has the intention to generate a regulation at a national level (which would definitely be much more comfortable) when it comes to online gambling, but this intention crashes with the underlying jurisdictional autonomy, which is firmly defended and respected since the moment of the sanction of the National Constitution.

The case of gambling is one of those in which the power over them has not been delegated to the Governments of the Provinces when these were created. As a consequence, a common regulation can only be achieved with the expressed adhesion of the parts to a unique framework which contemplates the 24 jurisdictions of the country.

The question then is: why is it that when we talk about gambling through remote ways of communication we think of a national regulation different from the rest of the games of chance that are traditionally regulated at a local level?

Mainly, there are two reasons: in the first place, it is because the Internet has proposed an inverse logic in the development of communication. Instead of being born at one point and being expanded to a universal level, it was the other way around: it was born as a free universal rule that had to be put in order and classified according to the person who had access to it, and

taking into account possible censorship and new regulations. This scheme leads us to reason out that its limitations are contrary to its essence. And in our country precisely, there are a lot of jurisdictional limitations.

However, this tool that was originally thought to have an origin that was out of this planet, that was created to provide information from anywhere and anyone, to any person on earth, today has become a universe in itself that can be closely controlled.

The Internet has proposed an inverse logic in the development of communication. This scheme leads us to reason out that its limitations are contrary to its essence. And in our country precisely, there are a lot of jurisdictional limitations

The second reason is associated with a market that was created internationally and that developed exponentially through remote means: sports betting. Different from the case of games of chance in which traditionally the gambler bets, pays and may eventually collect the prize in the same territorial environment where the event took place; in the more traditional way in the case of sports bets, there was at least a telephone.

In Argentina in particular, there are two important reasons to support the idea of a national regulation when it comes to sports bets: the first reason is the existence of model of game which has been widely recognized through time, even though it is almost extinguished today, and this is the PRODE (Sports lottery); the second reason is related to the national passion: soccer. These two (or three) points are the ones that are briefly developed in this work, and through this I expect to make a contribution to the public policies in matters related to gambling through remote means of communication in Argentina.

« ONLINE GAMBLING VS. JURISDICTIONAL LIMITS »

Games of chance, as well as skills games (independent of their proportions) are part of our daily lives, and they help us start thinking and develop our intellectual capacities and in some cases, the physical ones, too.

However, very few games go beyond the legal framework and they are generally part of the thinking matter of a State. Within the typical elements of gambling (or bets), what makes it juridically relevant is the 'existence of an economic activity', either because it is related to the faculty of taking part in it (the bet itself) or with the for-profit activity (prize winning). Among the different factors that are part of any legal definition (participants, chance, skills, randomness, organizers, etc), the existence of the economic activity is the only characteristic that is the condition for the game to deserve a legal treatment.

However, when it comes to gambling through remote means of communication, and most important of all, the internet, we should add some important points as regards the legal treatment, especially because of the different territories and jurisdictions in which the involved factors coexist, and we can describe them as follows: player/client (together with the user interface, either PC or Smartphone), company or organizer (that is to say, the one who offers the game or bet to the user), servers or processing nucleus of bets, random event and economic exchange process (this is also divided between the place of origin and the destination of the bet and the payment of the prize).

All of these may coexist within the same territory, but this is not the usual thing; and it is at this point in which problems at a judicial and legal level come up.

What definitely is part of a more common practice is that certain elements, of the ones mentioned above, may converge in the same space, for example the server and the random event in case of virtual games (that is not the case of sports bets, in which the event generally takes place in a different location).

But it is still the same factor that determines the legal relevance of the activity and the consequent intervention of the State. If there is no economic activity involved, games of chance or skills games are not the object of attention of the State. Many people play poker with a telephone or in a PC even during a break at work, and this does not necessarily mean an economic activity. For example, in the case of the World Cup, there are adults and children giving their opinions about the results of an event, of a part of the game, of the whole tournament or of a single penalty. Even at schools, the results of a match can make a break a bit longer than usual when a group of students guess the results of a match.

When it comes to gambling through remote means of communication, and most important of all, the internet, we should add some important points as regards the legal treatment, especially because of the different territories and jurisdictions in which the involved factors coexist

« THE LOCATION OF THE BETS IS IN THE EYE OF THE STORM »

Once we come across a game with certain relevance for the legal world, the following step is to assess a situation which used to be quite simple to determine in the traditional way: the 'location where the bet took place'.

A lot has been said about this issue and with a wide variety of arguments: if it is limited to the place where the servers are located (which in many cases give the origin to the random event); the location of the company that receives the payment, processes the bet and issues the payment of the prize; or the location of the gambler, operator, etc.

This question is not in vain, on the contrary, its answer is what determines the jurisdiction which is competent either to go after an illegal activity, to tolerate it or to regulate it.

Luckily, the conclusions that have been arrived at have been homogeneous, and, as far as I see it, coherent taking account the consequences. It is the place where the user/client is what determines the framework to apply the powers of the jurisdiction.

It is quite clear that the arguments for the intervention of the State in issues related to gambling have to do with the protection of the player and of the society, and go beyond the money raising consequences. When we analyze the activity carried out by the player or client – taking into account that this activity is through remote means of communication – this also differs from the traditional version as regards the immediacy between the payment of the bet, the gaming action itself (being part in a hand of poker, placing virtual roulette chips or guessing the result of a sports event) and the payment of the prize.

Luckily, the conclusions that have been arrived at have been homogeneous, and, as far as I see it, coherent taking account the consequences. It is the place where the user/client is what determines the framework to apply the powers of the jurisdiction

The obliged question is how the provincial state will be able to intervene in an activity that is carried out a resident in that jurisdiction, who is interacting within the limits of his/her house with hundreds of other sites that offer games for entertainment, which in some cases have a juridical relevance, and come from remote resources (with this concept we also include other provinces of the same country), without entering an eternal conflict of competences,

rights and obligations. The answer can only be found in the economic activity.

As a consequence, the first argument to blur the boundaries is vanished when it comes to the control of payment and collection of prizes. Before intervening online gambling, we should think about the economic transactions derived from this. An online roulette to which we have access through the internet and that comes from a server in a remote country will become a game of chance that is juridically relevant if we charge credits or if we cash a prize.

This is the reason why a regulation is expected to respect the jurisdictional order in Argentina, at least at the beginning, separating the payments and prizes from the ‘action of gambling’ itself, being the latter made remotely

Analyzing this from an inverse perspective, if a player makes a bet / charges credit in a place located in a certain city and cashes a prize in the same place, we could wrongly say that the control organism of that activity is the same site where the server, the PC of the client or the telephone are located, or where the sports event takes place.

This is the reason why a regulation is expected to respect the jurisdictional order in Argentina, at least at the beginning, separating the payments and prizes from the ‘action of gambling’ itself, being the latter made remotely.

« LAW 25,295. SOCCER, SPORTS ASSOCIATIONS AND BETS »

PRODE (the short form of Pronosticos Deportivos – Sports Forecast) has without any doubt been one of the most popular and successful in the country throughout the history, even though today we can say it is a

bit old fashioned, especially for the younger generations. Its commercialization was at a national level and it consisted of a form with thirteen events to be forecast, indicating home team, draw or visitor. In spite of the name of the game, the events or matches were always exclusive of soccer.

Besides, the enforcement of law 19,335 in 1971, established that the money resources, except for the amount of the prize, obtained with PRODE were to be assigned to associations and institutions related to soccer.

Law 24199, revoking the one mentioned before, followed the same path, except for the fact that it assigned a lower percentage for the Sports Secretary of the Nation.

Finally in the year 2000, law 25295 was passed. This law provides an interesting group of arguments to regulate all kinds of games and bets that are made in a sports context, leaving aside horse racing. What should be highlighted is that it contemplates the participation of associations and institutions of different sports disciplines with the objective of coordinating the exploitation of the bets, and it is not only limited to soccer, as it had been the case of previous versions.

At the same time, it also organizes a scheme of distribution of the resources obtained according to the modality, either the type *poceado* (games of type *poceado* are those in which prizes are taken from a percentage of the total amount of Money collected. The prizes, for those who win, are not known *a priori*), or *bancado* (games of type *bancado* are those in which prizes are known *a priori*. A payment quota is established according to the amount of money bet). The persons who bet can previously know how much they will win. Banks secure the payment of betting). It includes the bets made through different technological means. It designates the administration and exploitation to the Loteria Nacional Sociedad del Estado (State National Lottery) as the body which can act together with the Sports Secretary, and it even creates a control body within the context of the latter.

However, I would like to highlight something related to this work: this law has no national reach as regards its enforcement in the whole

territory, but it contemplates the adhesion of those jurisdictions that are willing to abide by that legislation, and eventually, can revoke it.

A proposal for the incorporation of a group of precepts that contemplate the application of these to the exploitation of bets through technological means does not advance on an 'online' version.

In this sense, the framework of the Law of Sports Forecast is comparable, as regards its context of application, to any other local legislation on a game that has been created by a province and later submitted to cross jurisdictional agreements, for the purpose of its distribution and commercialization.

This is not a mere interpretation, but a clear derivation of the will of the legislator when, respecting the local powers, it is mentioned in article 4 that '*the province jurisdictions can take part in the exploitation and commercialization acting as adherent official entities, and to this effect, they should subscribe the corresponding agreement with the State National Lottery*'.

On the other hand, soccer is by far the sport that attracts the biggest number of followers in Argentina, which has direct economic consequences, and it is expected that when we refer to sports bets we are mainly referring to this sport. AFA (Asociacion Argentina de Futbol)– the Argentine Soccer Association, for example, the same as others related to popular sports, goes beyond any limits in this country as well as abroad.

The international experience shows that maximizing controls on sports bets is absolutely necessary for the regular development of this aspect. But even if sports bets are sometimes the target of a portion of the resources generated within the framework of commercialization of bets and mutual collaborators with the regulators, this participation will not be a condition to decide the development of a regulatory framework.

Even with the limitations in the application on the territory that we mentioned before, law 25295 extended its universe of possibilities to use it as a platform of one or more modalities of games or contests that include the rest of the sports and not only soccer.

Besides, nothing prevents the existence of a local design that has as objective the fostering of a specific activity or the support to a specific sports institution.

Conclusions on this second part:

- 1) Each province has the power to generate and regulate its own online system (or offline) to attract sports bets (in fact some have already created its version which is legally regulated, and others are on their way)
- 2) Each province has the possibility to adhere to the framework of law 25295 and on its legal basis, to create a version of online or offline bets (there are provinces that have already adhered to this)
- 3) Each jurisdiction can voluntarily submit an agreement with another jurisdiction with the purpose of applying these rules to a system that attracts bets, either online or offline.
- 4) Sports associations and institutions (without any intention of discrimination) have no regulatory power as regards gambling or bets, even if these are related to sports events.

« CONCLUSION »

The lack of bigger advances as regards online games and bets regulations in Argentina up to this moment is due to the disagreement between the natural means used in this activity – together with other concepts related to sports bets that are rooted – and the political decentralization. Whether it is expected to have an intervention in this area (most of the games that are offered do exist outside the virtual arena) or not is a

decision that exclusively depends on the public powers of each of the 24 jurisdictions, either if it is to prohibit or to regulate, and even if the objective is a game or a modality of sports bet (or even cultural social events). Any intervention should focus on the economic transactions (the method, the moment and, above all, the place) rather than on the means, random event or territorial location of the factors involved.

As long as the market and the management capacity do not evolve, payments and collection of the prizes should be separated from the virtual arena.

As a consequence, the potential inconvenients that may derive from a conflict between the jurisdictions as regards the invasion of powers will be eliminated, taking advantage of the existing resources for commercialization and advertising, and facilitating the creation of agreements between provinces.

These observations expect to lay out a proper framework for the advance of a regulation. Once the decision has been taken, the State will have to pay special attention, first, to the adaptation of the internal norms, so that these contemplate the remote means of communications when it comes to gaming.

Second, it should be assured that this regulatory framework allows the extensive control of the potential negative consequences that may derive from its implementation, since these are linked to the technological means or remote communication devices (no randomness of events, fraud, instability of the systems or platforms, etc), like those that are the same as offline games, but that require a different kind of treatment when virtual (asset laundry, gambling for the underage, pathological gambling).

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ONLINE SPORT BETTING: THE IMPORTANCE OF OFFICIAL REGULATION

Estela S. Varsavsky

Official game is the most efficient tool to fight against illegal game". This statement is an urgent call for regulation regarding online sports betting, not only because of the strong existing demand (that is being used by illegal game), but also because regulation becomes, in turn, a tool to fight against irregular results of sports events.

Huge demand of this type of game is related to the growing access to the Internet. One out of three persons in the world uses the Internet. In Argentina, 68% of the population has access

which turns Latin America into the country with the highest rate of users.

« BACKGROUND »

In Argentina, the traditional game of sports betting is called PRODE –which is the Spanish acronym for Sports Forecasts- and it has a pre-defined chart of 13 matches, mainly local ones, in which there is a forecast for Local, Draw or Visiting-1x2-.This game was once the favorite *poceado*¹ in the 70s and the 80s. Described

as a popular game, it has always had a very accessible cost for the people who bet and its years of greatest popularity, there were very important prizes. It is currently offered through the agencies network of only four Lotteries from Argentina with low earnings.

« “POCEADO” ONLINE BETTING »

In Italy, there is the Totocalcio, in Spain, there is the Quiniela, in France, there is the Loto Foot. These are all games of the type *poceado* 1x2, that have been able to be still current being offered through official websites and having incorporated forecasts during the week and reduced versions, among others.

« “BANCADAS” ONLINE BETTING »

A sport betting of the type *bancado*², which has a huge demand, is nowadays preferred by those people who bet. This report will focus on it. They were initially offered only at physical agencies and included just a few sports (for instance: Oddset in Germany at the end of the 90s). Since the rapid evolution of the Internet, chances for diversity, the permanent change in the game offer and communications that allow to be updated as regards sports in the world makes it possible for it to be offered by online means, from a computer, mobile phone, tablet or interactive TV, among others, and to expand to many other sports in the whole world. The structure of the game is that the person who bets can choose from a broad range of possible forecasts on which and how much they would like to bet. Each forecast indicates what the payment quota will be in case they win. This is not a pre- defined chart, as in the case of *poceados*, as the offer of the game includes a broad variety of charts of different sports. The person chooses on which sport to bet, on which tournament, how much and the way in which they will bet. There are many types of forecasts, although it is possible to bet on the classical 1x2, the offer also includes betting on half time intervals, the

winner of the tournament, the number of goals, who the goal scorer will be, and many other items, and it is also possible to bet during the sports contest –this is live betting–.

The possibility to access the Internet from anywhere makes illegal operators to be able to offer their games worldwide. This is the reason why international agencies permanently request States to become aware of this scourge and to adapt regulations as the necessary way to respond to the demand of the market officially and, thus, fight against illegal game.

Apart from illegal game and mafias of illegal operators, there is the arrangement or ruse of games that concerns the sports world. This is the reason why the highest sports authorities have dealt with the issue acknowledging that the ruse of games is a fact that has always been necessary to control; but it has become greater due to illegal betting and the issue must be addressed together with government areas both at international and national level.

« WHO ARE THE MOST AFFECTED DUE TO THE LACK OF ONLINE GAME REGULATION AND THE ADVANCE OF ILLEGAL GAME? »

For the government, it represents the lack of fiscal resources, the lack of protection to the person who bets, the lack of control regarding the application of measures regarding the prevention of money laundering and the access to betting by vulnerable groups –minors, compulsive gamblers, self- excluded–.

For the operating companies that have licenses for the exploitation of physical game and that comply with the requirements imposed by regulating entities, illegal websites are clearly a sign of unfair competition.

For sports, the lack of regulation implies the loss of genuine resources due to the use of fixtures, and a greater vulnerability in light of the ruse of games by mafias of illegal betting.

For the persons who bet, the lack of support to their betting, the lack of protection in light of an unlawful use of the website, fraud, among others.

« ACTIONS IN FAVOR OF REGULATION »

In a clear response to this reality, during the last years, regulation is being included in the Parliament agenda in many countries and work groups have been created to take care of online sports betting in a regulated and controlled way, both from the point of view of betting itself and the result of the game.

• By the government:

Just to mention what happened in Europe between the years 2009 and 2013, the following countries have adopted official game: Romania, Bulgaria, Estonia, Italy, France, Poland, Greece, Croatia, Slovenia, Serbia, Denmark, Hungary, Montenegro, Spain and Germany while some others – such as Switzerland -, are currently analyzing to regulate it. We can mention the case of Germany which, after many years of defending prohibition as an action to fight against illegal game, has also adopted regulation as the way to proceed.

It is interesting to note that the fact that accelerates the proper adaptation of online sport betting is that the remote way that is being used to bet is just a means to attract it. This means that the result of the event on which there is betting occurs regardless of the means used to bet –this is different from games in which the online platform used to bet is, in itself, a game environment as the result is given by the platform itself, as it happens with, for instance, slot machines–.

In Argentina, the law in force that regulates sports forecasts is Law No. 25295 of the year 2000. As it is a law from the Argentine Congress, it requires to be passed by all jurisdictions to be in force in each of them, as in Argentina, game is a subject reserved to provincial competence. Although it establishes the possibility to implement online game, in order to do so, it actually requires some definitions that could be given by means of regulations that complement it, for which it would be necessary to define the model to be implemented with the jurisdictions that adopted it.

The Asociación de Loterías, Quinielas y Casinos Estatales de Argentina [Association of Lotteries, Pools Coupon and State Casinos] –ALEA, in its

Spanish acronym– is the entity that includes all jurisdictions in the country and has been, for the last two years, focused on the purpose to study the regulations in force and to prepare proposals for the implementation of all online game.

• By sports areas:

From a strictly sports speaking area, on March 1, 2011, the Founding Working Group was created at the core of the International Olympics Committee.

This is a working group to fight against illegal and irregular sports betting composed by representatives of the International Olympics Committee, Ministries of Sports, the International Financing Action Group, INTERPOL, the FBI, FIFA, the United Nations Office on Drugs and Crime (UNODC), and the World Lottery Association (WLA).

Actions of the FWG focus on fighting against illegal betting that corrupt sports and on enhancing the control of money laundering.

In terms of disciplinary controls and actions, in February 2012 the FWG has approved some proposals and modalities as well as their specific follow up, which, in summary, are the following:

Education Area

Use of programs that exist in the sports community to create awareness for athletes, their environment and sports organizations. Development of new means with the collaboration of national authorities and specialized agencies of the United Nations.

Supervision and Exchange of information and intelligence

Network for information exchange among current national sports, betting regulatory authorities with the participation of international entities –such as Interpol- as well as the sports movement during competitions or disciplinary research.

Laws

Encouraging those States that have not done so yet to pass laws that allow to fight the irregular and illegal activity of betting in an efficient way. Encouraging all those involved in sports to update their internal regulations in order to

have an efficient regulation, even in the area of sanctions, in order to fight against all types of fraud related to sports betting.

Determining, in collaboration with the United Nations Office on Drugs and Crime (UNODC), Interpol and other relevant institutions, the proper means for the production of the necessary guidelines for international conventions to be applied to irregular and illegal betting.

Calling up all governments to support the idea that taking illegal and irregular betting should be considered an offense.

In subsequent works carried out regarding each area, the FWG has stated that this fight cannot lie only on the shoulders of sports organizations. It is then necessary for national states to be involved in the implementation of proper legal frameworks for the regulation of betting.

In February, 2012, and in accordance with section 136 of its Disciplinary Code, FIFA, in its turn, has established that, in the case of serious infractions, including the attempt to unlawfully influence the results of matches, member associations, confederations and other organizing sports entities must request FIFA to implement sanctions imposed at international level.

By means of the Early Warning System, FIFA monitors all its events, especially in prevention

areas, repression and research. Ralf Mutschke, FIFA Director of Security, expressed before the beginning of the world cup: *“This is an issue that concerns both amateurs worldwide and FIFA in its role of leading entity. It affects all sports, including football. As football is played all around the world, it is attractive for organized crime. All international tournaments in which there is as much betting as in the World Cup generally run this risk”*.

As regards the work of FIFA to take care of sports, the Director of Security said: *“The group phase is more exposed to this risk than the final. However, we will apply risk management in all matches and our affiliate Early Warning System will be in charge of the follow up of the betting market in real time”*.

« CONCLUSIONS »

Online sport betting is a fact. It is a demand of the market that must be met. It is the responsibility of governments to carry it out and to fight against illegal game.

From the International Olympics Committee, it has been possible to join all sectors involved in the FWG in order for online game to be healthy and responsible and important contributions are being made to all the sports community.

1. Games of type *pocorado* are those in which prizes are taken from a percentage of the total amount of Money collected. The prizes (for those who win) are not known a priori.

2. Games of type *bancado* are those in which prizes are known priori, a payment quota is established according to the amount of money bet. The persons who bet can previously know how much they will win. Banks secure the payment of betting.

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ARGENTINA: A SAFE AND RELIABLE GAME IS POSSIBLE

Lic. Juan Machinandiarena



Online gaming is growing in Argentina, and this is happening at the same rhythm as technologies and social networks are growing. Besides, we should add the increase in e-commerce through different means of communication. According to the figures presented by the Argentina Chamber of e-Commerce, this modality grew %48.5 compared to the previous year, generating USD 2,74 billion dollars.

These data, plus what we see on a daily basis in this industry, impose the need of having a tailor-made regulation, as the existing model law of UNCITRAL – United Nations Commission of International Trade Law.

In this context, we come across online gaming, where transactions are generated on the net, and where the user should have the support of the State as regards the control and the protection of the activity.

Online gaming has one advantage as regards the security of the transactions – these are recorded, eliminating the risk of fraud – generating more reliability among the clients. At the same time, national companies count with an easy way of managing local currency, which gives us the possibility of having a faster service and of adapting to the current regulations.

It is an urgent matter to eliminate all negative assumptions as regards online gaming. The existing technology leaves aside the grey zones and the irregularities, as is the case of AFIP – its acronym in Spanish - (Federal Administration of Public Revenue), which has

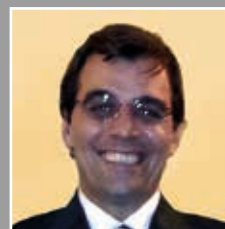
incorporated new technology in the last years. In this sense, it is the responsibility of those who believe in the potential of this industry to contribute to the creation of a modern regulatory framework, which contemplates similar processes abroad, so that it can be adapted to the Argentine idiosyncrasy. In this way, it will be possible to adapt this to our circumstances and to create a synergy with Mercosur and other commercial units.

Nowadays, we are beginning to work on different alternatives, in order to provide a basic framework whose objective is to achieve safe, fair, integral and reliable gaming. Safe, so that the client can feel he is backed in their deposits, payments and collections; fair, as a guarantee of a transparent business abiding by the law; integral, controlling the age and identity of the user to prevent the access of the underage to the system; and reliable, so that the company, as well as the client, knows who is behind the screen and knows how to respond to different circumstances in a clear way.

Only under these conditions will we be able to take advantage of a favorable scenario and to be successful in the challenges imposed by a global context. At the same time, it will possible to demystify certain believes against the reputation of national online gaming companies. We have the tools to do it, and by increasing the controls and by defending the local work, we will be able to take the leap and export our knowledge to other latitudes.

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I-GAMING: HOW DO WE START?

Jorge Diment

The lack of online gaming offer at a local level makes regular gamblers to find foreign sites quite attractive. But these are only available for those who know how international methods of payment work, or for those who have international credit cards. It is at this point that a big portion of the market has a need which is automatically transformed into an unsatisfied demand.

Many leading companies in the world are looking at Latin America as the most attractive emergent market in I-Gaming, also as a complement of a European market which is more mature and highly commoditized.

At the same time, Latin American markets have shown signs of maturity and predisposition, especially with some experiences of I-Gaming in

local currency. Those operators who have gained the loyalty of players through other games or mechanisms today have a huge business at hand. Since, if applying the appropriate technology, they have known how to get over restrictions and how to facilitate the control in the operation which is totally online and in real time, with a minimum effort and maximum efficiency. We have witnessed this phenomenon in our market and we can say it has been successful.

« SOME ASPECTS TO TAKE INTO ACCOUNT »

Technology

The advent of technology and the massive access to the internet have been overwhelming, and they have rapidly conquered all the areas

of human activity. These have grown faster than what we have been able to conceptualize, internalize, innovate and implement in our own business models. At the same time, the proper maturation of the technology makes it easier to have tools that are more reliable and safer to pave the way for such massive use.

Regulated markets

Europe has advanced a lot in the successful development of norms that regulate online gaming, and these are the sound basis from which we should take examples. Without going as far as giving the solution to the main paradigms in online gaming, we intend to share some ideas and tools that can mitigate those in a very important way.

- Control of the underage

At the moment of the registration, the fact that the person is over age and that has a bank account or a credit card should be checked.

- Money laundry

The payment of prizes and collection of money should only be made to and from accounts of players that are already registered. Through this system of alerts, which can be configured, it is possible to detect multiple withdrawals or suspicious amounts of money.

- Pathological gambling

Through the identification number of the registered player, it is possible to control the frequency and duration of the game, and the amount of money betted. Through these configurable alarms, it is possible to warn the player, as well as the casino manager and the authorities of the control body.

- Jurisdiction of the bet

At the moment of the registration, it is possible to check the real address of the player, if this is a local citizen or a foreigner, or any other parameter that defines the tax and legal situation of the individual, so that then the tax framework can be defined for that game (or even if these are accepted or rejected). This also prevents a gambler with tax debts from playing (as is the case of the Spanish legislation, for example)

The market is in a mature condition; suppliers are looking at Latin American markets with interest; technology has achieved a degree of development that offers all the necessary tools to build a proper structure of simple and efficient control. Ladies and gentlemen, we have great news to all of you: controlling online gaming is much easier and more efficient than what is believed. Technology is at our service. The only thing missing is a modern, flexible and intelligent regulation, which allows the State to take part in this new modality of gaming.

During the seminar of the World Lottery Association on 'The new challenges of online gaming and sports forecasts', carried out in Panamericano Hotel in Buenos Aires City in April 2011, an important representative of the Lottery in Finland talked about the experience of online gaming in his country. When he was consulted as regards the modality used in that country to fight global and foreign gaming offer (global sites, with no license in Finland), his answer was clear and direct: *'It is simple, we have an offer of gambling and a service which are much more attractive to our clients, so that they can choose us.'*

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He attended the Program of Managerial Development at IAE Business School (Austral University). He was Director of Operations in several international companies related to the areas of Casinos and Lotteries, and he is the founder and CEO of JSD E-Gaming Solutions (created in 2010), assisting the Latin American market in the development and start up of numerous i-Gaming businesses.



SPANISH ONLINE GAMBLING REACHES THIRD ANNIVERSARY

Blanca Escribano Cañas & Marcos García-Gasco Romero

In May 2014, the much-awaited Spanish Gambling Law 13/2011 (the “Gambling Law”), which legalised online gambling in Spain at national level, celebrated its third anniversary. As we will describe below, there have been many stumbling blocks on the road, however, legislation by and large, is now as it should be, even though many challenges still need to be faced from a gambling legal perspective in order to consolidate this *young* legislation.

« DISPUTES BETWEEN COMPETENT JURISDICTIONS AND LAND-BASED OPPOSITION »

In the late seventies, with the arrival of democracy, gambling was legalised in Spain. Historically, the gambling regime, with the exception of the lottery monopoly, has been overseen by the seventeen Spanish regions (autonomous communities). With the development of the Internet, foreign gambling

operators started exploring the Iberian market. However, although a number of them have, for many years, developed gambling online platforms in the country, before the Gambling Law was introduced, online gambling was banned pursuant to certain provisions contained in the anti-smuggling legislation.

In view of this situation, in 2011 the Spanish government faced with a daunting scenario: dozens of gambling operators exercising their activities in an unlawful manner through the internet in a market with a very fragmented gambling legislation in the hands of the autonomous communities, clearly not appropriate for the eventual regulation of the online sector, with an obvious supra-regional focus.

Determined to confront the situation, Spain adopted the Gambling Law, which rules at a national level, all electronic, interactive and technological gaming operations, including the Internet, TV, mobile phones, and any other interactive communication system where physical features play an ancillary role. Indeed, as stated in its explanatory memorandum, one

of the main goals of the Gambling Law has been to harmonise the regulation of online gambling in Spain, an activity which clearly transcends regional boundaries.

Regardless of the above important reasons, it should not be forgotten that the new gambling regime arrived in Spain at the perfect moment for the government kind to find new sources of income in difficult economic times. The online gambling industry has been greatly stimulated as a result of the economic crisis. Whereas the Gambling Law states that regulation on online gambling is intended to protect users and participants in gambling activities as well the society as a whole from the potential adverse effects of such activities (money laundering, illegal gambling, compulsive pathological gambling), the reality is that the Spanish State, which as mentioned bears powers in relation to online gambling, has been the eventual beneficiary of the significant taxes arising from these activities.

This has been one of the reasons why some autonomous communities supported land-based operators' demands during the public consultation on the draft bill. The regions were intended to provide protection to the traditional activities against the new online competition since, as explained, they continue to have jurisdiction over land-based gambling, and therefore, they are entitled to retain tax revenues. In such context, aggressive campaigns from some land-based operators against online gambling rivals took place in the early stages of the Gambling Law, resulting in many legal disputes. Judgements resulting from these controversies had done little to help solve the problem at hand, as they have been found to be contradictory. In many cases, Spanish Courts rejected the injunctions requested by land-based operators, who argued that the activities of their online competitors represented unfair competition (since they were operating unlicensed and without paying taxes).

However, in other cases Spanish Courts decided even to provisionally close the websites (for instance www.miapuesta.com and www.miapuesta.es from the Sportingbet group), generating a great deal of uncertainty. These

troubles have been already solved, mainly with the issue of the online gambling licenses. Disputes between the State and the Autonomous Communities have been common since the Gambling Law was passed, since the Spanish regions continue to have legislative powers on gambling activities within their respective territories (both on land-based and remote gambling). Another problem arises when gambling activities involve not one but several regions at the same time. According to the Constitutional Court in its Case 35/2012, the State is not competent in these cases due to the fact that the gambling activity, although supra-regional, has no national implications. Thus, Spanish regions are bound to negotiations in those cases in which they would like to share supra regional liquidity without necessarily involved at national level.

« TAXES REGULARISATION »

In addition to the distribution of territorial jurisdiction within the Spanish territory, one of the major and controversial issues to face during the grant of online licenses has been the regularisation tax process. According to the Gambling Law, the award of general licenses was conditional upon operators being up-to-date with the payment of tax obligations. In order to apply this provision, the Spanish tax authority (*Agencia Tributaria*) claimed millions of Euros from the largest gambling operators (most of them based in Gibraltar) who, prior to the adoption of the Gambling Law, had carried out activities in our territory without paying taxes in Spain, even though online gambling was prohibited pursuant to the anti-smuggling legislation (back taxes).

A number of major international operators have locked horns with the government, calling for a reduction in the process of taxes regulation. However, taking into account the attraction for the Spanish market, one of the largest in Europe, with a very high rate of gamblers, most of the online gambling operators have agreed to pay these taxes. Back taxes regulation process, based in a tax legislation from the seventies, was very controversial and some companies even decided not to enter into Spanish market.

Taxation issues not only have affected operators, but also gamblers, especially in the case of professional poker players, who aimed to obtain the best tax treatment. At the beginning, online poker players were taxed on their gross winnings from which they were not entitled to deduct their stakes on losing bets. This fact was crucial since this taxation system may eventually lead to many Spanish players ceasing to participate in this jurisdiction, which would, in turn, result in less buoyant revenue for the public finances. The Gambling watchdog (Dirección General de Ordenación del Juego, DGOJ) declared its willingness to modify the tax system, and currently, gambling players are able to deduct losses from annual revenues in order to declare only their net profit, a gamblers' conquest which deserves to be emphasized.

« LICENSES AND CATALOGUE OF GAMES »

According to the Gambling Law, licenses are a prerequisite to entering the market and are required for the operation of betting games. These licenses are to be granted for ten years, renewable for an additional ten years through an administrative procedure which will be available at least every eighteen months. So far, licenses have only been granted once since the Gambling Law entered into force.

For the purpose of the Law, gambling comprises lotteries, betting, raffles, contests, occasional games and transnational games (including those organized by companies outside Spain but targeted at Spanish residents), as well as any other activity in which amounts of money or other financial consideration may be transferred between the participants, regardless of whether skill or chance is primarily involved. Any kind of gambling not expressly regulated by the Law or by future regulations will remain prohibited.

The DGOJ announced last year that it will authorize online betting exchanges and slots (not expressly regulated in the gambling catalogue, and therefore, banned) with the consent of the Ministry of Finance after a period of public consultation. A couple of months ago, following almost a year of discussions, the DGOJ initiated

the formal procedure in order to authorize these gambling modalities in the Spanish market.

Last March, the Proposal of Ministerial decrees were made available to the public. Although the draft decrees are still under discussion and many questions remain to be solved (e.g. limits on bets amounts, maximum prizes, or the technical type-approval requirements), some other key details of the regulation have been released. The most remarkable issue is the official confirmation of the DGOJ announcing the re-opening of the Spanish market for new operators (the market has remained closed since the issue of the first gambling licenses in June 2012, following the eighteen-months rule set forth in the Gambling Law).

Particularly important has been the support provided by the Spanish Competition authority (CNMC) to the launching phase of these gambling modalities which, in a number of reports recently published, has also backed the market opening to these games, since it promotes competition between legal operators and encourages gamblers' protection.

Despite considerable suspicion of land-based operators, who continue to push the DGOJ for renegotiation of the draft decrees, claiming that they will be detrimental for consolidating the sustainability of the gambling traditional sector, the adoption of both draft decrees is beginning to ripen with an optimistic outlook for the Spanish gambling sector future, since the DGOJ figures suggest the recovery of the gambling sector itself. In spite of the challenging debate that is taking place, regulations are expected to be approved after the summer 2014.

« GAMBLING ADVERTISING »

It is also worth noting important issues in relation to gambling advertising. The Gambling Law established a general prohibition on advertising by non-licensed gambling operators. However, the controversial ninth transitional provision of the Law allowed for a while sports sponsorship by gambling operators up until the issue of the first online gambling license (June, 2012). This legal provision enabled major agreements between important companies to

remain in effect. Despite this, this situation led to the claim in courts by Codere against the gambling group Bwin and the Real Madrid football team for unfair competition, in which Codere claimed that the advertising sponsorship contract between them was unlawful.

The issue of advertising licenses to gambling operators has succeeded in lowering the level of conflicts in this regard. However, we are still far from the long-awaited Advertising Regulation prescribed by the Gambling Law, pending of adoption since 2011.

Until now, gambling advertising has been regulated through self-regulation codes and provisions inserted in third legal text. This being the case, the new Telecommunications Law (Law 9/2014 of 9 May) has introduced new requirements for ad networks in order to strengthen the measures of persecution against illegal online gambling. For the purposes of the law, ad networks are defined as entities that, on behalf of the editors, offer advertisers the use of advertising spaces in information society services, optimizing advertisers' results by targeting ads to the relevant public by products or services.

Fundamentally, the most significant development introduced in connection with the advertising, sponsorship and promotion of gambling activities are the following:

» (i) Ad networks should ensure that operators have an authorization for conducting advertising activities provided by the DGOJ. Otherwise, ad networks are subject to the same liability regime under the Gambling law in relation to the advertising of gambling activities from non-authorized operators.

» (ii) The DGOJ is entitled to specifically require an ad network to cease the advertising of gambling activities of those operators not authorized to offer online gambling services in Spain.

These measures, which directly involve ad networks, represent progress in the fight against impunity for illegal gambling advertising; however, as mentioned, Spain is now waiting for the adoption of the Advertising Regulation as required by the Gambling Law.

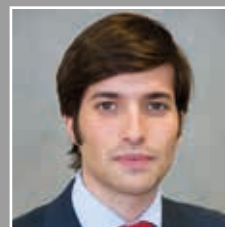
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WHY WORLD-CLASS LIVE CASINO IS TAILOR MADE FOR LATIN AMERICA'S NEW ONLINE GAMBLING MARKETS

Helen Hedgeland

Let me start by setting the scene with three simple facts:

1. Online Live Dealer gaming (or 'Live Casino' as it is often called) is one of the fastest growing verticals in the iGaming market. Unlike RNG (Random Number Generator) games that allow players to compete against a piece of software, Live Casino offers so much more.

It's a video-streamed live game that allows players to play against the live dealer; it includes human interaction and there's a social aspect. Live Casino can also be used as a powerful live marketing and promotions channel by pure-play online operators and by land-based operators too. And just like online sportsbook betting, Live Casino achieves strong results on tablet and smartphone.

2. Latin America is home to the world's fastest growing internet population. Indeed, further huge growth is predicted in desktop and mobile use over the next few years that could see almost 395 million internet users by 2017 (63% penetration). Entertainment, social media and video viewing have been identified as key activities that are driving Latin American consumers online.

3. Latin America is set to go through a similar process of online gaming regulation to Europe. This, of course, creates exciting opportunities. In Europe the process has resulted in a number of top-tier online gaming brands working with Evolution in order to be 'first to market' with online Live Casino services in countries such as Italy, Spain and Denmark.

Add these three facts together and you will begin to understand why I believe Live Casino presents one of the most exciting opportunities ever for Latin America operators.

« LIVE CASINO IS THE PERFECT PRODUCT TO LAUNCH INTO A NEW MARKET »

First and foremost, there's the live video action, the entertainment and the social elements – all the key drivers of internet take-up in Latin America. Live Casino has it all, with games taking place in real time and, at their best, delivering the thrill of playing in a real casino. And, of course, you don't have to be a regular casino visitor to be familiar with games such as Roulette, Blackjack and Baccarat – we've seen them in the movies and experienced the thrill through the camera lens.

Then there's the trust factor. In the Live Casino we deliver for top brands such as William Hill, 888, bwin.party and Betsson Group across Europe, players can communicate with the dealer in real time. Live audio allows players to hear the dealer talk them through the progress of the game, ask them to place their bets and communicate the result.

Players don't play against a faceless computer program – they can interact in a shared and social experience that has a community feel to it. This community feel can be enhanced further with the use of native speaking dealers. In Europe, for example, we deliver 'localised' Live Casinos such as London Roulette, Venezia Roulette and Svensk Roulette. These are all localised tables sited in our Malta studios but staffed by native speaking dealers from the UK, Italy and Sweden respectively. Because of their innate understanding of their own country's culture, native speaking dealers can strike up the strongest rapport with their online players. Also, the actual Live Casino environment we create in the studio reflects the style of a top casino from that particular region. This makes players feel very much at home.

So, by way of example, for Latin America we could create Bogotá Roulette, Lima Roulette and Buenos Aires Roulette. These tables could be offered as shared services (so cost of market entry is minimised for operators) but they can still be branded for each individual operator. Alternatively, as we do for several operators in Europe, we can create dedicated Live Casino environments in our studios exclusively for the use of individual operators.

A dedicated environment opens up further exciting possibilities such as live promotions, which I can see working well in Latin America. With so many of the population passionate about sport, Live Casino would be the perfect cross-sell from sportsbook pages. Our Mini Live Roulette product makes it possible to place a Live Roulette game in a mini window on the sports betting pages. That would be a big draw in its own right, but a football-themed promotion on the Live Roulette table would be an even bigger incentive for sportsbook players to try Live Casino.

We can even create and run online Live Casino studios within land-based casinos. That's what we've done in Spain with our Spanish Roulette service. The Spanish regulator stipulated that any Live Casino service for Spain must be streamed from a licensed land-based casino, so we created our live studio for that market in Casino Rincon de Pepe in Murcia. In Italy,

meanwhile, at the end of June we went live with an 'in-venue' live studio at Casinó Campione d'Italia, one of Europe's largest land-based casinos. In this instance, Casinó Campione d'Italia has chosen to integrate Live Casino within their land-based venue as part of a forward thinking multi-channel strategy in which online and offline work in harmony; there is no actual legal requirement for the Live Casino to be streamed from a location in Italy.

« EUROPEAN REGULATIONS »

The European market overall has seen much re-regulation of markets, with different jurisdictions taking different approaches. It's likely to be the same in Latin America, so Latin American operators could well benefit from working with an experienced partner who has achieved first-to-market advantage elsewhere for both leading international brands and smaller localised brands and concessionaires.

Wherever the live studio is sited, localisation can give operators a key point of differentiation. As discussed many times in recent months with reference to the FIFA World Cup, Latin America has a very special culture. By using Evolution's B2B Live Casino services, operators in Latin America would have the opportunity to serve their markets with flexible solutions that can be tailored specifically for their country or region.

Operators in Latin America will also want to be sure that their Live Casino can be played on multiple devices. Again, that's an area where Evolution excels. Our games can be played on desktop, iPad, iPhone, leading Android tablets and smartphones and even via Live Casino TV

shows where players watch the live game on TV and use their tablets to place bets. We can also stream live games to EGMs (Electronic Gaming Machines).

We've been very careful to optimise our Live Casino to each specific device so that players enjoy the best possible gaming experience. What's more, when we make a game available on mobile we ensure that all of our tables for that game can be accessed on mobile, not just one or two tables. Our strategy is to give players maximum choice on mobile because it is such a vital driver of revenue.

Mobile is a very important part of the Latin American internet growth picture and it could well prove to be the key battlefield for those venturing into new online gambling markets.

For further information:
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