Online Gambling Legislation

The Portuguese Government adopted recently the Online Gaming and Betting Act ('the Act'), which legalises and regulates online gambling and betting in Portugal. The Act comes into force on 28 June 2015 and will allow companies to request licenses for the provision of online gambling and betting services from that date.

The Portuguese Government expects to issue the first licenses by the last quarter of 2015.

Permitted gambling and betting services

The Act permits a broad range of online gambling and betting services including sports pool betting; pool and pari-mutual horse-race betting; “casino type games” including but not limited to online baccarat, banca francesa, blackjack/21, bingo and slot machines, poker and roulette.

Obtaining a license

To be eligible for a license, an entity must be a public liability company. The Act allows that foreign companies apply for a license provided their head office is either (i) in an European Union Member State or (ii) in an EEA country, provided in any event that such company holds a branch in Portugal.

Foreign online gambling licenses will not be valid in Portugal. The licence must be granted locally by Portuguese authorities.

To obtain a license, a company must demonstrate inter alia a clear tax and social security record; technical and financial capacity; and present an online gaming system incorporating best practices with regard to software and technology architecture and complying with specific requirements.

The Applicant must provide a deposit of 500,000 EUR to guarantee compliance with legal obligations.

A second deposit of 100,000 EUR is required to ensure compliance with the special online gambling tax regime.

A license is issued for a period of three years, renewable.

The issue of licenses is subject to a fee but the amount is yet to be defined.

Obligations and requirements

The Act establishes a number of strict requirements in order to prevent fraud and money laundering and gaming related criminal activities, as well as the protection of minors and more vulnerable persons.

There is an obligation on service-providers to hold a bank account in an EU Member State, through which all transactions related to the online gambling and betting are made. Furthermore, a licensed service provider must keep a register of each player including their full name, date of birth, nationality, profession, ID card or passport number, tax number, email address and bank details.

The service provider is under the obligation to verify the identity of the players using a (i) database provided by the Portuguese Institute of Tourism, (ii) the Portuguese ID card or (iii) through a copy of an ID card which contains a photo and the date of birth of the player.

Control, inspection and regulation

The control, inspection and regulation of online gambling services will be exerted by both the Gaming Commission and the Regulation and Inspection of Games Service of the Institute of Tourism of Portugal (“Institute of Tourism”).
Breaches of the Act

The operation, promotion and organization of online gambling and betting services without the relevant license is punishable by up to 5 years imprisonment.

Fraudulent conduct of online gambling and betting services is punishable by 3 to 8 years imprisonment.

Non-criminal infringements are punishable with a fine of up to 1 million EUR or up to 10% of the turnover of the company in the year prior to the infringement if such percentage represents an amount higher than 1 million EUR.

Special taxation regime

The Act creates a special tax regime for online gambling and betting service providers.

For online ‘casino type’ games, the tax is 15% of gross revenue up to 5 million EUR. For the earnings over 5 million EUR, the tax rate can go up to 30% of the amount of gross revenue above 5 million EUR.

For online ‘sports pool betting’, the tax is 8% of the total betting pool. For a pool higher than 30 million EUR, the tax rate can go up to 16% of the amount of the betting pool above 30 million EUR.
With an experience of almost 20 years, the TMT team of SRS Advogados has acquired a deep knowledge within the telecommunications, media and information technologies sectors, and participated in some of the leading projects within the TMT sector and assisted a wide range of domestic and international clients.

The team is composed of lawyers specialised in all areas of telecommunications law (fixed and mobile networks), media and information technologies, including in the regulation of electronic communications and regulation of contents, Internet sales and e-commerce in general, domain names, as well as licensing, development and distribution of software. We also advise postal services providers in multiple projects.

The lawyers of our team have an extensive experience in the negotiation and drafting of complex contracts within the TMT sector, as well as in the legal assistance of conflicts between operators, disputes with the telecom, media and competition Regulatory Authorities and with the consumers. Our team is also specialised in all matters relating to data protection and privacy and has advised its clients on their domestic and international projects.

Our main purpose is to assure that our client reach theirs intended purposes receiving a high level of service. Considering our sector focus, we aim to understand the business of our clients and anticipate their concerns, in order to find the best solutions for their problems. We, therefore, position ourselves in all our work as our clients' partners.

Our team, due to the experience of its lawyers, has full capacity to coordinate and execute projects with an international dimension. It should be noted that our TMT group offers an integrated solution to its clients, as it works in strict connection with other departments of the firm, whenever deemed necessary such as with matters relating to intellectual property, competition law and public litigation.

**TELECOMMUNICATIONS**
- Regulation of electronic communications, voice and data services, either fixed, nomadic or mobile, regulated offers, matters regarding frequencies and numbering resources, as well as the structuring of new services
- Agreements between operators (MVNO, interconnection, share of infrastructures, leased lines, SLA's, etc.) between operators and consumers and licensing of network infrastructures
- Litigation with the telecommunication and competition Regulatory Authorities

**MEDIA**
- Regulation of contents
- Contracts for the creation, production and distribution of television channels and for the acquisition of contents and issues regarding copyrights and related rights, such as rights of artists
- Litigation with the media and competition Regulatory Authorities

**INFORMATION TECHNOLOGIES**
- Licensing and development of software, supply of hardware and project outsourcing
- Implementation of e-commerce platforms and structuring of sales transactions through the Internet, including the advise in the area of consumer law, labelling and publicity
- Registration of brands and domain names and assistance on the litigation cases, including counterfeit and drafting and support of claims for customs intervention

The curricula of the contacts can be seen in www.srslegal.pt