

## **RECENT CHANGES IN THE REGULATORY FRAMEWORK FOR GAMES AND CONTINUING DISPUTES WITH THE EUROPEAN COMMISSION**

As OPAP prepares to develop its activities to the Internet and game machines (VLTs), the conflict between the Ministry of Finance and the European Commission is intensified regarding both the exclusive rights held by OPAP and the number of VLTs per shop. The Greek government has promised to OPAP in the past new amendments to the existing law that would increase the maximum number of VLTs per mini casino from 25 (law 4002/2011) to 50.

In the final draft law submitted to parliament last week an amendment was **not** incorporated fulfilling that promise. Previous drafts included the following stipulation: "The game machines can be placed in uniquely specified areas and up to **fifty** gaming machines per shop. The shop cannot be connected internally or bordering another shop of the same use". The government has reportedly dropped the amendment after stiff opposition from certain quarters and the junior partner in the coalition.

It has to be noted that the new amendment on 50 VLTs per shop is generally attracting a lot of fire from the casino operators and other powerful interests in Greece and may develop into a very hot political issue in the next few weeks.

The European Commission has called on the Greek government to estimate the cost of the decision to increase the VLTs per shop to 50 and request payment for any difference over the fee that was paid by OPAP for the original contract of 2011. This agreement was cleared of state aid in October 2012 and therefore any subsequent change in the legal framework may constitute State aid.

Things are even more complicated in terms of the exclusive rights of OPAP in online gambling. EC views on the matter have been expressed officially on February 10, 2014 through a letter signed by the head of unit for state aid in the services sectors. The European Commission has asked the Greek

government to clarify the exact time OPAP has acquired the exclusive rights to online games for the 2000-2020 period and the amount paid for them.

The preliminary answer given by the Greek side, on the 12<sup>th</sup> of March 2014, states that these rights were transferred to OPAP back in 2000. The letter sent by the Central Unit for State Aid of the Finance Ministry says that from November 2013 "The Greek authorities have shown that OPAP has acquired exclusive rights to certain games (online and terrestrial) that have been subject to the contract concluded between the Greek government and OPAP on December 15, 2000".

The Greek side's position rests on the interpretation of the letter of the law with which the contract was ratified and which states that the exclusive right will apply to all "alternative appropriate means and modes of conduct. Furthermore the State claims that "the online rights to the 13 games of OPAP allocated in 2000 were paid under that contract". The counterargument however, developed by competitors of OPAP and the European Commission is that "since the monopoly of OPAP was in force for 11 years why the company has not taken advantage of it". A secondary, but no less powerful argument is the assignment -albeit temporary- of licenses on Internet gambling for 24 providers at the end of 2011 by the state. The Greek side was expected to submit a definitive and detailed answer to the European commission letter by April 8, 2014.

The government in an effort to diffuse opposition to the exclusive right on internet based games has also included in the **earlier versions** of the amendment regulations regarding the granting of licenses for a number of internet based games. The new draft law specifies that: "License for gambling via the internet shall be granted until October 12, 2020, for the following games, which are carried and transmitted to the players in real time (live):

- Tournament poker and its variant, in which individuals participate
- Blackjack, twenty-one, baccarat, Banco-Punto etc, involving individuals,
- Roulette, operated by an employee of the licensee,
- Dice games, operated by an employee of the licensee".

This amendment was also **dropped** from the text submitted to parliament on the 11<sup>th</sup> of April.

The amendment as it has been finally drafted is concentrating on the functioning of the Gaming Commission. Penalties for the unlicensed operators are heavy and the banks involved in the transfer of fees to these operators also face stiff penalties.

During Mr. Almunia's visit to Greece certain issues regarding the internet based monopoly rights of OPAP were raised and the government has decided not to specifically legislate on these matters during the current legislative initiative and until the European Commission services express their opinion.

**S. Travlos 14/4/2014**