



THE NEW
GAMING ACT
ONE YEAR ON:
Has the bar been
raised?

On 1st August 2018, the new Gaming Act came into force, thus introducing a regulatory framework to further stimulate innovation in the sector on the island while ensuring adherence to international anti-money laundering and de-risking requirements. But, over one year on, did the legislation hit a home run? **Rebecca Anastasi** speaks to three stakeholders to find out.



In 2004, Malta enacted legislation to regulate online gaming, putting the country in pole position – ahead of every other EU member state – to attract a spate of iGaming firms to the island and build an industry based on favourable taxation and corporate conditions. The island was, thus, also able to woo a workforce of thousands looking for good jobs, great weather and a Mediterranean lifestyle, boosting ancillary sectors such as property, hospitality and retail.

But, 14 years on, in 2018, it was evident that the local and international landscapes had changed and there was a need for regulatory reform to allow the sector to continue flourishing. On 1st August last year, the new Gaming Act, ratified by the Maltese Parliament five months earlier, came into force, setting a standard at which the industry could operate over the next few years. The Malta Gaming Authority (MGA), in its report published in July this year, specified that the aim was to establish “objective-oriented standards as opposed to prescriptive requirements, thereby encouraging innovation and development,” and to empower the Authority further, thus strengthening “its activities” so it can “continue being a thought leader for years to come”.

To this end, the legislation allocated more resources to the MGA; prioritised “risk-based” approaches and was, therefore, formed to be “fully in line with concurrent developments relating to AML/CFT”. Moreover, the Act also reworked the role of the Key Official – employed by iGaming firms – into “various key functions within a licensed activity” and shifted from a multi-licensing regime to offering a singular B2B or B2C umbrella licence. The raft of new rules also increased protection standards and responsible gaming measures, and launched a fiscal structure which is more in line with companies’ operations. But have these changes solidified Malta as a leader in the sphere?

“The new law has strengthened the MGA and the value of being licensed by the Authority,” says Enrico Bradamante, Chairman of the industry trade association iGEN, which represents the interests of the iGaming sector. “The regulator is now able to exercise greater functions and, therefore, the value of having a Maltese licence has been strengthened. Indeed, the positives are that the MGA now has more enforcement powers and it is using these enforcement powers,” he asserts. →

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← Mr Bradamante also points to the positive effect the new legislation has had through the introduction of new licence categorisations. “So, there is now this differentiation between B2B and B2C licences which has clarified some of the grey areas, though I don’t think the law itself has dramatically changed the way operators have had to work. I’ve not heard of any major difference, at any rate,” he attests.

So, considering the attention Malta has given to refining the regulations locally, could it take more of a role in creating a framework for the sector supranationally? “Malta has been the pioneer in this sector and has definitely paved the way. The MGA was the first regulatory body of its kind and Malta, as a jurisdiction, remains the one which is driving the industry internationally. There is no other hub like Malta and it is the home of iGaming today. So, the regulator – and Malta as a country – has an interest in driving the agenda forward,” says Mr Bradamante.

Indeed, he notes that one of the biggest issues facing the entire sector at the moment is the lack of harmonised legislative regimes across European states. “In general, the industry itself is over-regulated, in that there are so many different standards set in different countries in Europe where firms from Malta are doing business. So, these iGaming companies need to adhere to these different rules, across countries, which is then being translated into additional costs, such as technical expenses, licensing fees, and so on. Uniformity of regulation is something which the industry would love to see, ideally on a European level,” he notes.

And so, he believes, Malta can spearhead such change, though he warns that he doesn’t see the situation changing anytime soon. “As iGEN, we’ll be meeting with the Maltese MEPs and this is one of the issues we will raise on behalf of the industry. But, as far as I’m aware, there is no programme, no effort, which is being done on a European level to harmonise the regulations of the iGaming industry,”



Photo by Alan Carville

he points out. “The reason is historical. Since every country on the continent has a different background, it’s all contextual and there’s no one size fits all,” he explains, adding that, nonetheless, the changes as a result of the new law, together with the open approach by the authorities, has ensured that this economic sector on the island has a promising future.

Echoing much of Mr Bradamante’s thoughts, Reili Suzi, Senior Compliance Manager at Betsson Group, says that “the Act has also brought about several changes that allow for better clarity as to the expectations of the regulator. In fact, it is a very comprehensive piece of legislation and we now have a single rulebook across the sector.” She also refers to the licensing structure as a positive development, “where you can now make use of common B2C licences across different brands and gaming systems”. →

Moreover, Ms Suzi underlines that the transparency of the new legislation has proven beneficial over the past year. “Player protection is vital in our business and having this level of clarity is a good tool to generate consistencies across the sector,” she states. Further re-asserting Mr Bradamante’s views, the Betsson Compliance Manager notes the strengthening of the MGA, saying that this “is noteworthy, of course,” since it helps Malta keep “up its jurisdictional reputation and ensure that sufficient scrutiny is being carried out.”

“The changes have challenged the operators, given the different layers of regulations and because the spotlight is not only on regulating the core gaming business but also different horizontal aspects of the business – the payment providers, the game providers, and so on,” she explains. Indeed, “the spotlight on regulating and re-regulating various aspects of the business has led to an environment where it has become challenging to get into the swing given there is always a next large-scale change in the pipeline,” she outlines.

As a result, iGaming firms have borne the brunt of additional costs and have had to invest in more human resources. “Our compliance managers, developers, commercial and operations teams have been kept busy. The influx of changes has been sudden and, since it was a rewrite of an older framework, one which we were used to, it took some effort to train personnel within the new way of doing things. There is always something new we have to deal with,” she says.

Looking ahead, it’s essential for the scrutiny to be “evidence-based”, permitting “the right level of agility given that this is such a dynamic industry”. Ms Suzi admits that “more can be done on this front” and “further guidance on the interpretation of some of the requirements would be useful for the operators”, though she underlines that the industry has “already seen some of these coming to the fore slowly”.

Re-affirming these views, Reuben Portanier, Partner at legal firm Afilexion Alliance, says the aim of streamlining licence categories through the B2B and B2C categorisation has simplified compliance, while allowing

“B2C operators to be flexible in their game offerings and, at the same time, allowing for a speedier time-to-market from B2B operators”. As a result, the new law permits B2B operators to “grow their business with speed, without, however, compromising on their compliance requirements”.

Thus, he says that B2B operators may perhaps be the category that mostly saw significant improvements to their business model. “The streamlining of licence categories did not only benefit them directly, in terms of only requiring them to hold one singular B2B licence, but they can now engage with a wider B2C audience given the relatively easier process granted at law for a B2C operator to offer games from B2B platforms,” he explains. ➔



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◀ Moving on to the increased powers allocated to the MGA, Mr Portanier says that the Authority has “continuously demonstrated that it has exercised the responsibility and powers afforded to it effectively”, even prior to the changes in legislation. “I do not solely judge MGA’s supervisory effectiveness based on the number of enforcement actions taken or the number of compliance visits – which have increased – but also on how it is open to educate licensed operators on the importance of compliance and, in this regard, the MGA did a sterling job,” he asserts.

Additionally, obtaining an MGA licence is not at all a walk in the park, Mr Portanier notes. “The requirements imposed on applicants are very high, both from an AML perspective and from a technical and financial perspective. However, as in any regulated industry, a regulator’s challenge is that of recognising how past risks change and new ones come into play. Controls are stringent only if they are effectively addressing the right and current risks,” he underlines, going on to express his belief that “the existing controls are in the main addressing the right risks”.

So, with Malta having been under the spotlight over the past few years – with concerns having been raised in the arena of money-laundering – has the new law improved Malta’s standing? “From a gaming regulatory perspective, Malta was always considered to be a jurisdiction of repute,” Mr Portanier stresses. He notes that Malta was the only EU member state that issued specific guidelines for the gaming industry on “how to apply the risk-based approach in accordance with the 4th EU AML Directive and was the only EU state to issue gaming industry guidelines when Europe’s General Data Protection Regulation (GDPR) came into force in 2018”.

While it is possibly too early to determine which important changes will be required, Mr Portanier states that, with the changing technological developments, new requirements will arise, specifically as a result of Artificial Intelligence (AI) and DLT technology. “Looking into a crystal ball, one may see a not so distant future where SupTech (supervisory technology) and RegTech (Regulatory Technology), both based on Distributed Ledger Technologies and Artificial Intelligence, will become a regulatory requirement for gaming operators so as to allow the MGA to exploit AI coupled with DLT in its supervisory functions,” he concludes. **igC**