20 January 2011: Online betting and gambling

Published on January 21, 2011

The *Autorité de la concurrence* is in favor of an *a priori* regulation of the price for betting rights.

It considers necessary to guarantee equal access to the data necessary to organize betting on horse races.

It issues also recommendations aiming at avoiding any competition distortion between
ex monopolies and new entrants in the sector of online gaming



> *Version française*

The *Autorité de la concurrence* issues today an opinion concerning the competition concerns which appeared with the opening of the online gambling sector to competition. It started the proceedings both at its own initiative and when responding to the European Gaming and Betting Association's request (industry association).

In short, before the law of 12 May 2010, the organization of online gaming and gambling was the realm of operators with exclusive rights – the *Française des Jeux* for lotteries and sports betting, the *PMU* for horse racing betting and casinos for slot machines and board games. The law has allowed new operators to enter the on-line sectors of sports betting, horse racing and poker as well as the regularization of illegal operators.

If effective competition seems to arise between online sports betting and on-line poker operators, the Autorité notes however that on-line horse racing betting is likely to raise competition issues.

The Autorité advocates for an *a priori* regulation of price for betting rights

The opinion analyses the agreements between on-line betting operators and entities organizing sports events (such as sport federations) covering the right to organize betting on the sports events and the price of this right.

Most of the great sporting federations (tennis, football, athletics…) have forwarded to the *Autorité* their draft agreements ; most of them are asking for a betting right equal to 1% of the outlays.

A betting right price that would be too high could weight on the operators' economic viability thus constituting an entry fee that could block their entry on the market. The *Autorité de la concurrence* is of the view that this price should be subject to an ex ante regulation, or of a dispute settlement mechanism at the disposal of the industry regulator, ARJEL[1] , as this is the case within other economic sectors.

The *Autorité* recommends t ARJEL to specify, from now on, in a type document the terms and conditions detailing the process when sporting federations consult betting operators in order to ensure the transparency of the betting right's allocation so as to avoid any discrimination between operators. It advises also ARJEL to release a cost grid so as to guide operators when negotiating the betting right's price.

Access to horse racing data in transparent and non discriminatory conditions

Some alternative operators have complained about the conditions imposed by racing firms to have access to horse racing data (racing listings, departing horses and jockeys, official results…) which are necessary to organize bets. The links between the PMU and the racing firms could be likely to exclude certain competitors from the market.

To prevent this risk, the *Autorité* recommends public authorities to reinforce the already existing legal provisions to guarantee transparent and non-discriminatory access to such data. Hence, it advocates for the drafting of a reference agreement concerning the access to images and data relative to races. This document should specify the nature of information the racing firms are likely to request from the registered operators, in exchange to the access to the necessary information to organize betting on horse races.

The *Autorité* recommends also the setting up of a mechanism that would monitor and sanction the non-respect of these provisions, under the aegis of ARJEL.

Giving alternative operators the possibility of being competitive

The *PMU* and the *Française des Jeux* have a monopoly on the betting offer in counters run from cafés, bars… whereas they are also active in the sector for online gaming and gambling.

The coexistence of both activities may entail risks for competition. *PMU* and *La Française des Jeux* are two famous brands and these firms are using this to enhance their competitiveness on the online market. The Autorité points also out a risk for cross subsidization between monopoly and competing activities.

The *Autorité* recommends the legal and functional separation of monopoly and competing activities, such as it usually does in similar cases.

Finally, it notes a risk of distortion of competition distortion linked to the competitive advantage of the *PMU* who collects huge amounts of bets both over its counters and through its on-line activity. The volume of bets collected permits to offer to winners of complex bets (Quinté Plus, a multiple forecast) higher winnings than those which may be proposed by alternative operators.

On this aspect, the *Autorité* recommends a mechanism of carry forward which would permit alternative operators to propose bets likely to compete with the *PMU* « Quinté plus ». It advises the lawmaker to clarify the current regulations on

that point.

> *Consult the full text of opinion 11-A-02 of 20 January 2011 relative to the online gambling and gaming sector*

[1] *Autorité de régulation des jeux en ligne : the newly created online gaming regulation authority*