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Regulation of Online poker in other nations

United Kingdom

Licensing regime: Online poker has always been legal in the UK and has been regulated since 2005 through a license system which requires providers to obtain a license from the UK Gambling Commission. Players can check the Commission's online database to ensure that they are playing on a licensed site.¹

There is an application process in place for the owners of online poker sites to apply for a Gambling Commission license. The application approval process takes into account such factors as financial means, "competence", existing criminal records and "integrity", in deciding whether to grant a license or not.

Most companies servicing UK players have been based outside the United Kingdom. This is because off-shore locales such as Gibraltar offer a more tax-friendly business environment than the UK. The UK Gambling Act at the time only required that companies with "key gambling equipment" within the UK needed a license.²

Recognising the loss of tax revenue, the UK government responded by amending the Gambling Act in 2014 to require licenses for operators serving UK consumers (at the point of consumption) rather than simply operators working within the UK (point of origin).³

Monitoring: The Gambling Commission has complete power when it comes to regulating online poker websites that serve UK players. They monitor approved providers regularly to ensure the terms of their license are being met, and have the power to issue penalties and even revoke licenses if the owners of an online casino fail to meet the criteria.

Advertising: The Commission also controls which online casinos can legally advertise in the UK market. Only those with current licenses are allowed to promote themselves to the public, meaning that online poker lovers should be steered solely towards sites that are operating within the requirements.

Software: There are software standards which licensees must meet.⁴ Software must adhere to technical stipulations including those which ensure fairness.

Tax: the U.K.'s taxation rate (15% on gross profits of licensed operators) is at least more reasonable than has been levied in countries like France and Italy, although a little higher than what's being charged in Belgium, which this scheme is similar to.

¹ <https://secure.gamblingcommission.gov.uk/gccustomweb/PublicRegister/PRSearch.aspx>

² <http://www.out-law.com/en/articles/2013/december/what-the-gambling-industry-can-expect-in-2014>

³ Ibid.

⁴ <http://www.gamblingcommission.gov.uk/pdf/Remote-gambling-and-software-technical-standards.pdf>

The tax burden is ultimately borne by consumers who either pay through fees or (more often) through reduced frequent player rewards points. We further note that winnings from online poker and gambling in general are tax-free under UK law.

Sweden

The Swedish government enjoys a monopoly on all gambling in Sweden, including online gambling, through its state-owned Svenska Spel operation. Svenska Spel also offers online poker to Swedes, and it's a site of moderate traffic, currently sitting in 16th place in terms of overall traffic in the world rankings.⁵

Only Svenska Spel is allowed to operate online poker within Sweden. However, a number of Swedish online poker providers continue to attract and elicit Swedish players as well as players from other countries by locating their operations off-shore. For example, Betsson and Unibet.⁶ As a result, Svenska Spel focuses on attracting players by presenting itself as a 'safer' and therefore more trustworthy alternative than these off-shore and foreign providers. The rationale behind the state-monopoly on gambling is that Svenska Spel can mitigate problem gambling by encouraging moderation, providing 24/7 customer service and by providing tools for customers to self-monitor problematic behaviour.⁷ Any profits generated stay with the government and portions have been used to fund research and programs which tackle gambling addiction. We note that in this regard, online poker is not specifically targeted and the relative benefits of online poker compared to other gambling formats more closely associated with problem gambling ought to be recognised (further information available in the joint ATA and MyChoice submission).

Conversely, Swedish players are often drawn to foreign providers as Svenska Spel only offers its services to Swedish players, whereby offshore operators can offer a larger, international player pool.⁸ Though these websites are usually subject to the regulations of the countries they are based in, it is evident that any regulatory paradigm which favours unlicensed and unregulated foreign operators is undesirable from a domestic perspective.

The European Commission is now in the midst of suing the Swedish government over this as Sweden, as a member of the European Union, is subject to its rules and it is held by the Commission that their restrictive gambling laws are in violation of these rules. While the Commission recognizes that a country may apply restrictions on gambling but must be done so systematically and fairly, and the monopoly that the Swedish government is exercising is not seen as being in compliance.⁹

Following the announcement of government plans to liberalise the online gambling market by creating a licensing regime for private companies, a report was made to the Swedish government in March 2017. At the core of the proposal is the suggestion that private companies will at last be able to obtain licenses for online casinos, betting, poker and bingo, as well as land-based horse race betting and sports betting.¹⁰

⁵ <http://www.pokerscout.com/> Online poker rankings

⁶ <http://www.bettingmarket.com/sverige151172.htm>

⁷ https://om.svenskaspel.se/AnnualReport/2015/eng/pdf/SvenskaSpel_AR2015_ENG.pdf Svenska Spel Company Report 2015

⁸ <https://www.gamblingsites.org/laws/sweden/>

⁹ <http://jurist.org/paperchase/2014/10/eu-commission-sues-sweden-for-online-betting-and-poker-laws.php>

¹⁰ Niall O'Connor (2017) "Sweden and the long road to gambling market liberalisation." Bettingmarket.com <http://www.bettingmarket.com/sverige151172.htm>

Responsible gambling tools and services: (Svenska Spel): One new service is that the customers can take a break from gaming via mobile phones, tablet devices or computers for 3, 6, 12 or 36 months. Another service, Playscan, means that the customers take a break from certain games for a 24-hour period, monitors and notifies customers if they are engaging in risky behaviour and also sets limits on time and money. To make the customers aware of their gaming and healthier gaming habits, customers can access their gaming history, easily and clearly. (NOTE: these tools apply to all gambling formats and not just online poker) 24/7 customer service also facilitates responsible gaming. Customer service provides personal service and advice about risky gaming, responsible gaming tools and referrals for professional help. Svenska Spel's customers can exclude themselves from gaming via all channels. Svenska Spel's customer service employees are trained to hold follow-up dialogues with customers who wish to start gaming again following an exclusion period.¹¹

Marketing regulations: The overriding requirements governing Svenska Spel's marketing is set out in the conditions for the Company's gaming permits and the Swedish Gambling Authority's separate conditions for marketing. The conditions require, among other things, that Svenska Spel's marketing of games to customers should observe particular moderation (in order to avoid incentivising problematic gambling) and that advertising and other marketing efforts are not permitted to be intrusive or aggressive. The Company's internal Ethical Council ensures that marketing is moderate and that it complies with the industry's and the Company's governance documents. To evaluate this part of the mandate, Svenska Spel follows trends including the proportion of Sweden's population that perceive Svenska Spel as market leader in responsible gaming. In addition, Svenska Spel measures the Company's share of total game marketing in Sweden – for all games together and by risk level.¹² This informs future company policy.

United States of America (New Jersey)

New Jersey legalised online poker in 2013 under a licensing regime which requires state-based private operators to secure compliance. Regulations/license conditions include prohibitions on misleading behaviour such as fake players or 'bots', monitoring requirements and consumer fraud protections. The regulations can be viewed [here](#).¹³ A sample is included below:

(q) Unless otherwise authorized by the Division, server-based table game software used to conduct peer-to-peer gaming, such as poker, shall:

1. Be prohibited from utilizing automated computerized patrons to compete with patrons; and
2. Provide a patron the option to be randomly assigned to a table where all patrons have been selected at random.

(r) Unless otherwise authorized by the Division, server-based table games with multiple patrons, where the result is affected by the time to respond to a game event, such as poker or blackjack, shall be designed with a game recall feature which allows the patron to recall the last five game outcomes and

¹¹ https://om.svenskaspel.se/AnnualReport/2015/eng/pdf/SvenskaSpel_AR2015_ENG.pdf Svenska Spel Company Report 2015

¹² https://om.svenskaspel.se/AnnualReport/2015/eng/pdf/SvenskaSpel_AR2015_ENG.pdf Svenska Spel Company Report 2015

¹³ <http://www.nj.gov/oag/ge/docs/Regulations/MergedRegulations110413.pdf> New Jersey government website

associated wagers. The game recall information shall be viewable from the client terminal.

(s) A server-based gaming system utilizing an approved data warehouse shall be designed to securely transmit a copy of all transactions received from a server-based gaming system's primary gaming equipment to the data warehouse. The data stored in the data warehouse shall be owned by the Internet gaming permit holder.

Belgium

Online poker providers offering services to Belgian consumers must obtain a license from the government. Though this license is only available for Belgium-based providers, offshore providers can circumvent this requirement by entering into joint arrangements with local casinos who own a license. For example, the large, international online poker company Pokerstars operates in Belgium through such an arrangement.¹⁴ Unlike Sweden, USA and the UK, it is illegal for even players to play on unlicensed websites.¹⁵

Regulations and licensee compliance requirements are considered 'tight' compared to other European jurisdictions. Licensees must monitor the loss rate of players and report this data to the government, whereby players who exceed an allowable threshold will be 'blacklisted' and excluded from all licensed operators. This requirement is uniquely Belgian and allows the government and its agencies to exercise a significant level of control.¹⁶

Unlike France, Italy and Sweden, Belgium recognises that precluding licensed operators from servicing foreign players would limit the player pool and make unlicensed/offshore operators an attractive choice for players. Licensees are therefore allowed to attract an international player pool.¹⁷

Australia ought to adopt the same approach in this regard as our 22 million-strong population is relatively small compared to major western nations such as the UK, Germany, France and the United States.

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¹⁴ <http://www.pokernews.com/news/2012/02/pokerstars-granted-full-operating-license-in-belgium-11984.htm>

¹⁵ <http://www.pokernews.com/news/2014/03/belgium-to-tackle-players-on-illegal-sites-17797.htm>

¹⁶ <http://www.pokerlaws.org/europe/belgium>

¹⁷ <http://www.pokerlaws.org/europe/belgium>