



The briefing: Netherlands update - secondary legislation and delay in the legislative process



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Younes Moussaoui, associate at Kalff Katz & Franssen attorneys at law, provides the latest on the regulation of remote gaming in the Netherlands

THE Dutch ministry of security and justice ("Ministry") published a proposed bill for consultation to introduce a regulatory framework for the regulation of remote gaming on May 22, 2013. However, many salient practical details are not covered in the proposed bill and the Ministry is currently in the process of establishing secondary legislation that will flesh out such details.

Furthermore, the first step in the legislative process after the consultation process of the proposed remote gaming bill has been delayed.

Secondary legislation

The Dutch gaming authority, Kansspelautoriteit, had organised a roundtable event in June of this year which consisted of various stakeholders from the gaming industry (such as remote gaming operators, incumbent operators and the Ministry). A representative of the Ministry said they would value the input of the industry when preparing secondary legislation.

The Ministry has five key areas it will deal with in secondary legislation during the next few months - until February/March next year - and it has kept its word with regards to industry involvement in this process.

The five areas that will be dealt with in secondary legislation are as follows: (i) responsible gaming, (ii) technical requirements, (iii) management requirements/operations and processes, (iv) types of games and characteristics, and (v) formal aspects of the application process and licence.

Various industry stakeholders have been contacted by the Ministry to attend several workshops planned in the next few months relating to the responsible gaming and technical requirements areas. With regards to the other three areas, it is likely that the Ministry will contact several stakeholders in a less systematic manner, i.e. on an *ad hoc* basis.

In addition to the aforementioned direct involvement of the industry in the process of creating secondary legislation, it is to be expected that the Ministry will hold a public consultation process on the secondary legislation. This consultation will most likely cover all five of the areas discussed.

Even though it remains to be seen what effect the public consultation process will ultimately have on the final version of the remote gaming bill, participating in the consultation process on secondary legislation can be fruitful. The Ministry organised a public consultation process in July 2012 on a draft decree on recruitment, advertising and addiction prevention.

This decree is not applicable to remote gaming operators yet such operators nevertheless contributed to this consultation process in order to avert a number of detrimental requirements that would affect them were the decree to become applicable to future remote gaming licensees. Their contribution led to several favourable changes in the decree as adopted a few months later.

The Ministry aims to organise the public consultation for the secondary legislation at the same time as the remote gaming bill will be discussed in parliament. However, the legislative process has been delayed by a few months.

Delay in the legislative process

The Ministry aims (at least officially) for remote gaming licences to be awarded at the beginning of 2015. However, for this to be achievable it is necessary that there is little to no delay in the legislative process.

Following the consultation process of the proposed remote gaming bill, the Ministry has to digest the received contributions and provide a revised bill for approval to the council of ministers (*Ministerraad*). Afterwards, the revised bill will be sent for advice to the council of state. Once the council of state provides its advice, the bill will then be sent for approval to the house of representatives and thereafter for adoption to the senate. After adoption by the senate, the bill can be published, entered into force and, finally, the gaming authority can begin awarding remote gaming licences.

The aim of the Ministry for remote gaming licences to be awarded at the beginning of 2015 was conditional on the council of ministers receiving the revised bill in November of this year. This schedule has unfortunately not been met and, at the time of writing, it looks like the revised bill will be sent to the council of ministers at some point December 2013 or even January 2014. This delay will naturally have a knock-on effect on the rest of the legislative process, notwithstanding various opportunities for further delay to arise.

It therefore does not seem likely for licences to be awarded at the beginning of 2015. The second or third quarter of 2015 would appear to be a more reasonable estimate.