

Q&A: Justin Franssen, Kalff Katz & Franssen



Justin Franssen, partner and head of gaming at Dutch law firm Kalff Katz & Franssen discusses what operators need to be aware of before entering the Dutch market

eGaming Review (eGR): What should operators be doing now if they wish to enter the Dutch market when it opens next year?

Justin Franssen (JF): Operators which are currently accepting Dutch customers should adhere to the enforcement policy based on the prioritisation criteria: i.e. no Dutch language and no dot.nl top level domain name for the remote gaming website and no RTV and print media advertising directed at the Netherlands.

This is important since there is a possibility that operators that fall foul of these criteria will be confronted with enforcement measures, which could have a detrimental effect on a future remote gaming licence application.

Furthermore, it could be worthwhile for operators interested in the Dutch market to get involved in the legislative process so as to ensure the Ministry of Security & Justice is aware of their wishes and concerns. The next opportune moment for such involvement is via the upcoming public consultation of the draft secondary legislation which is expected to take place before the summer of 2014.

eGR: How important will local gaming brands prove to be?

JF: The importance and success of current brands, such as De Lotto and Holland Casino, on the Dutch remote gaming market depends on the exact conditions under which this market will be regulated. Experience in other jurisdictions, such as Denmark, shows that one of the incumbents, i.e. Danske Spil, was able to use its existing client database to cross market its remote products which resulted in a 2/3rd market share on the Danish remote gaming market.

The same could happen in the Netherlands if the market will be regulated under similar conditions as Denmark. However, these conditions are not yet known and it is therefore difficult to assess the full implications.

International gaming brands should not however be underestimated. Research conducted in 2009 shows that approximately 565,000 Dutch customers participated yearly in remote gaming and the international brands are therefore well-known among Dutch customers. It is interesting to see how the

international brands will perform in a regulated remote market with competition from local gaming brands.

eGR: What do the regulations on gambling advertising prescribe in the Netherlands?

JF: The regulations on gambling advertising which are currently in place contain several advertising restrictions. Such restrictions result in a prohibition on tie-in advertising specifically targeted at socially vulnerable people, a prohibition on gaming related advertising on TV between 06:00 and 19:00 and various other restrictive requirements.

These regulations are only applicable to current licensees and it is to be expected that these or similar regulations will also become equally applicable (likely with a few amendments) to future remote gaming licensees. At least one additional restriction for remote gaming operators can be found in the Explanatory Memorandum of the draft remote gaming bill which states that operators will not be allowed to adjust the bonus offering on individual playing behaviour.

eGR: Are there any verticals or markets that are likely to be stand out?

JF: Research from H2 Gambling Capital shows that the market for remote sports betting has grown stronger than other markets such as poker and casino, and has almost doubled in size over the last four years. There is no reason to assume that the impressive growth of remote sports betting in the Netherlands will slow down. Sports betting is expected to take the biggest share in a future regulated Dutch remote gaming market, according to H2 Gambling Capital.

eGR: Just how profitable will the Dutch market be?

JF: The profitability of the Dutch gaming market is difficult to predict, since this depends on many factors which are yet to be determined. There are various costs included in the draft remote gaming bill, such as a gaming levy of 1.5% GGR, a currently unknown contribution to an addiction prevention fund, a currently unknown exploitation fee for the Ministry and possible contribution to good causes or sports.

These costs in addition to a 20% GGR tax rate result in an effective cost burden of approximately 26-27% GGR. It is currently unknown whether these aforementioned costs have all remained in the revised remote gaming bill, which was approved by the Council of Ministers last week, and if so at what level.

Additionally, other elements which affect the cost of operation are of relevance: does the revised bill still contain the requirement that servers in principle have to be located in the Netherlands? How burdensome/business unfriendly will the responsible gaming requirements ultimately be? A better assessment of the profitability can take place once the revised bill and draft secondary legislation is published before the summer of 2014.

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