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Holding online re-sellers of lottery products to a higher standard

PGRI Introduction:

Re-sellers like theLotter.com and “secondary” (or “synthetic” or “virtual”) lottery operators like Lottoland claim they are legal because they are licensed in one jurisdiction (like the UK, or Malta, or Gibraltar) or maybe even licensed in multiple jurisdictions. But they also sell into jurisdictions where they are not licensed. The community of legally authorized lottery operators abides a higher standard, expecting its distribution partners to operate legally not just in some jurisdictions, but in all jurisdictions. Operate illegally or without proper license in even one jurisdiction and that qualifies the operator as being an illegal operator. And the community of authorized government lotteries should not do business with illegal operators, either by selling to them directly or by selling to retailers who sell to the illegal operators.

Consider the business model of theLotter.com which sells branded lottery tickets like Powerball, EuroMillions, MegaMillions, El Gordo, New York Lotto, and many more. They sell all around the world, and employ agents who buy the lottery tickets from retailers that are willing to sell to them. In that sense, re-sellers like theLotter.com are not as destructive as Lottoland which doesn't even buy the tickets from

the authorized lottery. Lottoland just insures against the liability, places a bet on the outcome of the lottery, and pockets the profit. Lottoland is essentially hijacking the financial benefit from lottery beneficiaries and turning it over to private shareholders. theLotter.com model may not harm the jurisdiction where it is buying the lottery ticket, but it is most definitely harming the jurisdiction where it is selling the ticket.

PGRI and most of our readers are enthusiastic advocates for innovation and embracing a culture of change. But the kinds of change being wrought by “secondary” lotteries like Lottoland, and online re-sellers like theLotter.com who are not respecting the laws of the markets where they are selling – this is not innovation. This is disruption based on evading the enforcement mechanisms of the laws and produces no positive benefit for society. Lotteries, their beneficiaries, and society depend on the enforcement of laws to prevent these kinds of destructive business models from undermining the industry. Lotteries also depend on each other to monitor their distribution partners to make sure they are not violating laws. The call-to-action is for all lotteries everywhere to monitor their retailers to ensure they are not selling to illegal online operators like theLotter.com.

This is an industry that stands for the highest levels of integrity. To sell to retailers which are in turn selling to re-sellers like theLotter.com is to aid and abet an activity that is illegal, harmful to our colleagues, and damaging to the reputation for integrity that the government lottery business has taken decades to build. Further, a globalized market in which all lottery products are sold everywhere does not serve the interests of government lotteries which depend on exclusivity to command high margins and maximize benefit to their beneficiaries. In fact, it could potentially destroy that fundamental business model.

Paul Jason:

Online “secondary” or “synthetic” lotteries that enable the player to bet on the outcome of the lottery, and re-sellers who operate without proper license in each jurisdiction where they operate – these online operators claim they are not damaging lotteries because they comprise only a very small percentage of total lottery sales.

Lynne Roiter: Two things about that. One, their market-share is increasing and amounts to millions of dollars in funding that belongs to the intended recipient of Lottery proceeds. Two, these operators are creating confusion in the market-place, and this confusion is damaging the brand of legitimate Lottery. Governments have assigned Lottery the exclusive responsibility to offer lottery games, to regulate that offer for the benefit of the consumer and Good Causes

that are supported by Lottery funding, and to channel economic benefit away from private shareholders and over to Good Causes. Private companies which operate without proper license are undermining the purpose of laws intended to preserve the exclusivity of Lottery which is so vital to the effective execution of its mission.

“ These operators are creating confusion in the market-place, and this confusion is damaging the brand of legitimate Lottery. ”

Why is it so hard to prevent these private companies from invading markets where they have no license to operate?

L. Roiter: These operators are based in jurisdictions where they do have license to operate, countries like Malta and Gibraltar. These countries charge minimal taxes, as low as 1%. But they are being enriched by the tax proceeds based on revenues from the global market-place. Countries like Canada and others all around the world have no authority in Malta and Gibraltar, and therefore no legal recourse to enforce their own laws against operators who violate those laws.

These online re-sellers operate similarly in countries all around the world. But let's look at Canada as a case-study. Does Canada have explicit statutes that prohibit online third-party "concierge" style re-selling of lottery products?

L. Roiter: Like many countries, Canada has a Criminal Code that establishes the legal and regulatory framework for gambling.

Basically, the Canadian Criminal Code strictly prohibits gambling in all forms unless specifically authorized by one of its provisions. With the exception of Charitable organizations that can offer limited lotteries if they are licensed by the concerned provincial Regulator, section 207 of the Criminal Code provides that only the provinces, through their agent corporation, can conduct and manage lottery schemes in accordance to their provincial legislation. If there is "consideration" (Payment to participate in the game), a hope of winning a prize of greater value than the consideration and an element of chance, then it is by the definition of Canadian laws, gambling or a game-of-chance and therefore covered by the Criminal Code provisions. The degree of skill versus chance has no bearing; as long as there is an element of chance, it does not matter what combination of skill

and chance is involved. Consequently, if the game is not explicitly authorized and regulated by the provincial lottery, in accordance to the provincial law, it is illegal for that game to be offered to the residents of the province.

More specifically with regards to Internet gaming, the Criminal Code explic-

itly reserves this activity to the provincial lottery corporation.

Furthermore under section 206 of the Criminal Code, it is not just selling lottery tickets other than by a provincial corporation that is illegal. It is a criminal offense to print, advertise, or publicize any proposal, scheme, or plan involving lottery tickets or any game-of-chance whatsoever, or to assist in the sale of lottery tickets or game-of-chance whatsoever, or to transmit, mail, ship an article used in carrying out any of the above listed activities.

The parent company of theLotto.com has many websites for each country they operate in. So, in addition to theLotto.com, it has a website theLotto.ca which specifically targets Canadian consumers. Is theLotto.ca legal?

L. Roiter: As there is no provincial legislation in any province that authorizes theLotto.ca nor any other theLotto.com affiliates to operate in Canada, the provisions of 206 of the Criminal Code apply.

theLotto.com offers Powerball, Mega Millions, Euromillions, and other branded lottery products to Canadian consumers.

Are any of the profits returned to benefit society or good causes in Canada?

L. Roiter: No. No portion of the moneys paid by Canadian consumers to theLotto.ca goes to pay taxes or benefit the citizens of the jurisdiction where the tickets are bought from theLotto.com by a Canadian resident. theLotto.com or theLotto.ca sells the ticket to a resident of Canada and then buys the ticket from a retailer in the U.S. or Spain or U.K. or wherever the ticket is sold.

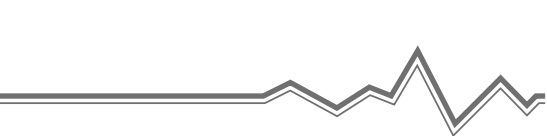
What should be done to stop this method of distribution?

L. Roiter: I believe the remedy is for the lottery organizations to advise their distribution partners that the activities of theLotto.ca and similar companies in Canada are clearly contrary to the provisions of the Canadian Criminal Code and therefore illegal. By not taking measures to impede Ticket Services from purchasing tickets for sale to Canadians, the lottery organization is contributing to the non-respect of Canadian law.

For example, lottery organizations monitor to make sure their retailers are not selling to under-age consumers. If sale patterns appear to be out of the ordinary, the lottery organization investigates to ensure that the retailer is not being used to launder money or engaging in illicit business conduct. Likewise, the lottery organization could ensure their retailers are not selling to re-sellers who are contravening the laws of other jurisdictions. Re-seller operations

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technical standards and best practices. They ensure wagers are accepted in a fair and secure manner so that resultant betting outcomes are in accordance with pre-specified rules. Additionally, GLI's testing assures all wagers placed are correctly resolved and paid based on the correct odds and rules corresponding to the game or event. Moreover, this testing ensures appropriate mechanisms and controls are in place for adherence to technical requirements associated with the handling of wager disruptions and cancellations, abandoned events, and refunds.

In addition, GLI compares the front-end activity with back-end results and confirms that a complete and accurate log of transactions, performance, and payments are available upon request from the system for regulatory, taxation, player dispute, or other purposes.

AGA Statement on Supreme Court Ruling that the Federal Ban on Sports Betting Found is Unconstitutional:

American Gaming Association (AGA) President and CEO Geoff Freeman: "Today's decision is a victory for the millions of Americans who seek to bet on sports in a safe and regulated manner. According to a Washington Post survey, a solid 55 percent of Americans believe it's time to end the federal ban on sports betting. Today's ruling makes it possible for states and sovereign tribal nations to give Americans what they want: an open, transparent, and responsible market for sports betting. Through smart, efficient regulation this new market will protect consumers, preserve the integrity of the games we love, empower law enforcement to fight illegal gambling, and generate new revenue for states, sporting bodies, broadcasters and many others. The AGA stands ready to work with all stakeholders – states, tribes, sports leagues, and law enforcement – to create a new regulatory environment that capitalizes on this opportunity to engage fans and boost local economies." 


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would be seriously negatively impacted if it was done without the complicit involvement of Lotteries which are supporting the retailers who sell to them. It would certainly be the case by the experience in Canada.

The call-to-action is for the state authorized Lotteries to institute and apply, if they not already do so, monitoring procedures of their retailers so that on-line re-sellers cannot market products into jurisdictions where they are not specifically authorized to do so.

What legal recourse do you have against the operators who are illegally selling lottery tickets into Canada?

L. Roiter: This is a problem throughout the world. It is difficult to stop illegal online operators. For example in Canada, even though they receive revenues from the sales they make to Canadian citizens, the online re-sellers have no physical presence and they post no revenues to tax in Canada. And since they may not be doing anything illegal in the jurisdiction where they are domiciled, and since they do not have a place of business or tangible assets within our country, it is a challenge for us to domesticate a judgement against them, but possibilities do exist.

Lotteries everywhere are strictly regulated, and profits are supposed to go from lottery to designated causes. When commercial operators find creative new ways to impinge upon our ability to do that, and break the law in the process, we owe it to our beneficiaries, and to each other, to try to stop them. Government lottery operators have many ways to monitor the activities of retailers. They already monitor retailers to prevent other kinds of illegality and it is not difficult to add the activity of illegal online re-sellers to the list of things to watch out for. The global community of government lotteries should work together and take measures to ensure that they're not aiding, abetting, assisting, or otherwise cooperating in the purchasing of tickets for resale to a jurisdiction where it's illegal to do that. 

ALA continued from page 32

The seminar began with a welcome speech from Mr Amadou Samba Kane, president of the Association of Africa Lotteries, and was moderated by Mr Christian Kalb, a sports betting expert.

The seminar was divided into 3 parts:

1. The current situation, opportunities and risk management of sports betting

2. Prevention of manipulation of sports competitions and sports betting
3. Concrete and actionable solutions to protect sport integrity

The ALA seminar was also an opportunity to introduce Global Lottery Monitoring System GLMS to all participants. The GLMS is the state lotteries' mutualised monitoring system on sports betting which aims at detecting and analyzing suspicious betting activities that could question the integrity of a sport competition. The GLMS President, Mr Ludovico Calvi, gave an effective presentation under the theme of "GLMS in the service of Lotteries and Sport: Understanding GLMS."


The seminar ended with the declaration of Casablanca, marking the commitment of all lotteries to fight together against illegal betting and to conduct a common policy on sports betting.

ALA organized this seminar in collaboration with WLA, hosted by La Marocaine des Jeux et des Sports, and with the invaluable support of 2 sponsors: INTRALOT and African Innovations.

Please stay tuned to africanlotteries.com for information about upcoming seminars! 

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Our commitment to responsible practices and sustainable growth through consistent efforts has strengthened our overall profile as corporate citizen and member of the UN Global Compact and all the leading associations in our sector around the globe, constantly evolving and adapting to new responsibility standards.

As the online world comes to terms with the need to apply stronger regulation on the internet and social media networks for the purpose of protecting personal data and personal lives we believe that our tradition in strong regulatory frameworks in our industry can be a leader with best practices in the online world. 

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pay a tax? And if the multiple operator license model is implemented, how should the tax be calculated? Lots of questions going forward.

The one certainty is that this Supreme Court decision completely changes the face of gambling in the U.S. 