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Regulators navigate a landscape of technological change and market disruption

PGRI Introduction:

The GLI® EMEA success strategy has been built upon providing clients with quality testing and certification coupled with great customer service. Utilizing in-house skills has been key to providing clients with up-to-date and concise information to help them through the compliance process. GLI's global scale and network of offices and client base enable GLI to distribute

and accelerate workflow to meet tight regulatory demands and minimize time-to-market. GLI also advises regulators on ways to evolve the framework to address rapidly changing technology and game styles.

The European gaming market is being disrupted by new games that challenge conventional regulatory frameworks and even fundamental definitions of

gambling. GLI's role is to advise on the manner and methods of achieving the desired outcomes to help regulators shape their public and regulatory policy. Martin Britton discusses the ability and limitations of technology to address these issues and helps us understand and assess the options for charting a course to accomplish regulatory objectives.

Paul Jason: What can regulators do to future-proof their frameworks over against the introduction of completely new game styles like Loot boxes and eSports and such?

Martin Britton: Technological innovation, and the number and variety of issues that it introduces, is just going to keep on increasing. The first step is to clarify new definitions of gaming and gambling. The conventional definition of “gambling” is that it must include Wager + Chance + Prize. If it has those three elements, then it is generally classified as gambling. If it does not, then it is not gambling. If we consider new forms of gameplay they do not follow this traditional assessment of gambling, yet we are seeing purchases being made within games to enhance skill or features. So, going forward the view may change to the enticement element of games and what protection is required to manage this. Equally these types of games are played by all age groups so making boundaries is more challenging. So, I think we will see other definitions arising to allow minors

and the vulnerable be protected.

Look at eSports where wagers are being placed based upon player skill. Firstly, there isn't much regulation around eSports and we are seeing instances of game enhancements creeping in where a player has an advantage which then creates unfair play. The key is looking at controls and auditing/assessment to ensure unfair play is prevented.

How would you counsel a lawmaker who wants to know whether to classify Loot boxes as “gambling”?

M. Britton: The thing about games where Loot boxes are available is that first, they may not be classed as gambling and they are played say, at home by all age groups. So, it's a broad audience. The issues raised are about enticement to spend with minors or the vulnerable where they may not have the means to make these purchases. The initial step is to determine if this is a gaming or gambling product, then if it is a gambling product how are minors protected through mechanisms like age restriction, purchase restrictions or monitoring,

The first step is to clarify your public policy objectives. That is the purview of lawmakers and regulators, not GLI. The second step is to formulate a regulatory framework and identify the technologies and testing/auditing processes that accomplish the public and regulatory objectives. That is where GLI can step in to assist and guide. For instance, Loot boxes do not qualify as “gambling” under the conventional definition. But insofar as the public policy objective may be to prevent players from spending more money than they should, insofar as the goal is to prevent irresponsible spending on games-of-chance and to otherwise protect the consumer, then it may be the case that the conventional definition of “gambling” and the objectives of public policy may be revised. That is what the legislators and regulators did in Belgium and that is what others may choose to do. Again, GLI is agnostic as regards to policy because our goal is to focus all our resources on the job of objectively testing the process to ensure

compliance with the policy. Equally, there could be controls that policymakers enforce where GLI could help or assess risk.

Daily Fantasy Sports would appear to qualify as “gambling” according to the traditional definition. Yet many U.S. states have chosen to classify it otherwise, to not classify it as gambling.

M. Britton: As far as GLI is concerned, there is no right or wrong definition of gambling. There is only the statement of public and regulatory policy which is decided by lawmakers and regulators. GLI can then advise legislators and regulators on how to formulate and implement a system of rules and testing mechanisms to determine if a game, or a device that delivers the game, is compliant with the regulation.

Are most current regulatory frameworks in need of updating to effectively address the new games?

M. Britton: Yes, for the simple reason that many of these games were not on the market when current regulatory frameworks were installed. But that will always be the case because new games and new technologies are constantly being introduced into the marketplace.

As we have been discussing, the current environment is challenging because it is not as black and white as it used to be. The conventional definition served us quite well for a long time! The issue with some of the new games is that even though they may not involve a conventional wager or prize element, they entice the player to spend money in ways that some policymakers feel should be regulated to protect the consumer from overspending. So now, without an objective and universally accepted definition for gambling, some legislators will rule to classify Loot boxes as gambling and some will not. Likewise, eSports, skill-based games, and Daily Fantasy Sports. And artificial intelligence is poised to unleash entirely new game styles that will further complicate the business of clarifying definitions and formulating and implementing a regulatory framework.

How challenging will it be to construct regulatory frameworks without the benefit of common definitions?

M. Britton: That is precisely the issue that GLI endeavors to solve. For instance, I think the word enticement is going to become relevant to the business of describing the nature of a game, the

degree to which it resembles the play-style of gambling, and how it should be regulated.

Even without definitions, there are expedient, easily implemented solutions. Even self-serve devices or kiosks can be age-restricted, right?

M. Britton: Yes, and GLI can assist with procedures, testing/ auditing to ensure compliance. To your point, the fact that current definitions may make it difficult to classify games like Loot boxes, skill-based, eSports, DFS and others – this does not prevent the regulator/lawmaker from deciding that the games could be age-restricted and implement technical standards to support that regulatory requirement post haste.

How effective is IP blocking? Are the unlicensed online gambling operators able to get around it by creating multiple sites and such?

M. Britton: Every system or infrastructure has the risk of being broken. But there are effective systems to prevent illegality and IP Blocking is very effective at preventing unlicensed operators from penetrating markets where their IP’s are blocked. Are there ways to circumvent the block and enable a player who is determined to play on an unlicensed online gambling website that is not regulated, monitored for integrity, or held accountable to ensure against fraud? Maybe, but jurisdictions that implement IP Blocking have in fact minimized the problem of illegal online gambling.

What is to prevent an operator from deploying blockchain to create an entire alternate ecosystem that operates outside of any and all regulatory laws?

M. Britton: New technologies like blockchain/distributed ledgers would seem to represent the potential for positive developments, but they also represent some challenges for regulators. The regulatory solutions will involve an effective global collaboration to develop enforcement methods that are applied internationally. National European regulatory agencies are already forging cooperative relationships as we speak. They work together, sharing information and providing support to accomplish the mutually desirable objectives to prevent illegality. It is not easy, though, because regulatory frameworks are national, not international, and directly tied to public policy objectives which vary from jurisdiction to jurisdiction. Necessity being the mother of invention, as the need to strengthen the international enforcement mechanisms increases, the willingness of ju-

risdictional regulatory agents to get creative and find ways to implement international solutions will increase.

There is evidence that the efforts to move the players from the unregulated marketplace to the regulated marketplace are working. The will of policymakers to enact laws and impose fines and consequence for violating laws, and the ability of regulators to enforce those laws, is increasing. “Gray” market operators are responding by trying to revise their methods to comply with jurisdictional laws where they operate.

What is the purpose of standards and what is GLI’s role in establishing standards?

M. Britton: Standard terminology and definitions must be established in order to have a baseline for testing, reviewing, and reporting on gaming devices and systems to determine compliance. GLI has established standards that facilitate the process. Each jurisdiction has the authority to set their own standards; however, many use our base standards as a starting point in developing their regulations for gaming devices and systems. It started off with the GLI-11 standard for slots some 20 years ago. The base standards are flexible to adapt to the particular needs of each individual jurisdiction. But the base GLI-11 standard for slots is now almost universally applied across the globe. GLI-19 does the same for iGaming and GLI-33 for sports wagering. The aim is to provide a robust regulatory framework for technical standards that allow product features and functionality to be tested and compliance verified. We think this baseline standard helps the industry in a big way as it enables a jump-start past all the standards that are common to all jurisdictions and immediate focus on those that apply to the unique needs of the individual jurisdiction. The resulting jurisdictional-specific standard is almost always comprised of more than 80% GLI base standards. Then 10% to 20% are adapted to the particular needs of the individual jurisdiction.

In conclusion, there is no 100% solution for future-proofing against changes in technology and new game styles. There are ways, though, to build into the framework the flexibility needed to quickly evolve and adapt the regulations to meet emerging challenges as they present themselves. It does require attention and multi-jurisdictional collaboration and proactive planning. And GLI is pleased to assist in that process! 🎲