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First Paper

The effect of illegal sites on the French online gaming market

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- ◆ **How many players currently visit illegal sites (before the law comes into force)?**
Currently around two million Internet users in France play on illegal sites, a similar number to Germany.
- ◆ **What effect does the current situation have in terms of turnover and loss of tax revenue?**
 - ▶ It is the 'illegal' overseas operators of the sites who reap the economic benefits from the French market; to the tune of **1.5 billion euro**
 - ▶ The French government is unable to collect the related taxes, amounting to around **112 million euro**
- ◆ **What estimate has been put on the number of illegal sites that will set up in France when the market opens up?**
 - ▶ **Number of gaming sites worldwide:**
Between **10,000 and 15,000**, 10% of which provide an interface in French.
 - ▶ **Protocol for estimating the number of illegal sites that will operate in France:**
The most reliable way to estimate the number of sites likely to wish to operate illegally in France is to base the figures on the Italian market. According to official sources, Italy has identified **2007** illegal operator attacks. In France, unlike Italy, casino games are not permitted, nor are certain other types of game, so an additional 35% of illegal sites must be added to the figure of 2007.
 - ▶ **Estimate of the number of illegal sites that will operate in France:**
It can thus be estimated that the number of attacks by illegal sites in France could be in the order of **2,700** (compare this with the assumed number of operator licences to be granted in France - around fifty).
 - ▶ **Other interesting figures concerning the proportion of illegal and legal sites:** For poker in Italy there are **20** legal sites and **300** illegal ones (blacklisted) out of a total of total **600 poker sites** operating worldwide (according to a reliable source)

▶ **The number of illegal sites will increase:**

Unfortunately the figures for potentially illegal sites are going to increase significantly over the next three years, with the opening up of the online gaming market in around thirty countries around the world.

◆ **What measures have been introduced in France to combat illegal sites?**

The system set up by the French legislation is currently the most repressive in the world. It will be run by the Online Gaming Regulation Authority (Arjel) using the following measures:

- ▶ Blocking of illegal sites
- ▶ Criminal penalties: 3 years' imprisonment and 90,000 euro fine, the prison term rising to 7 years and the fine to 300,000 euro in the case of organised gangs.
- ▶ A fine of 100,000 euro for advertising by illegal operators
- ▶ Transfers prohibited between operators' and players' accounts

◆ **What are the ways to circumvent the repressive measures against illegal sites?**

The repressive measures introduced – and this applies **regardless of the country or type of repressive measures** – do not enable illegal sites to be effectively combated, mostly because the Internet is an extremely difficult tool to control.

Here are the main methods of circumvention:

- Blocking of illegal sites:

- ▶ **Blocking the DNS** (*Domain Name System*) blocks the site name, but this can be worked around by downloading a programme available on the gaming sites. The programme dispenses with the need for the domain name by obtaining the IP address directly. In Australia this measure caused blocking of legal sites and slowed down traffic.
- ▶ **Blocking the IP address:**
 - Illegal sites can install a programme that dynamically changes their IP address every second.
 - They can mask their IP address.
- ▶ **Mirror sites:**
These are sites that share DNS and IP addresses and render blocking measures impossible.
- ▶ **In Italy:**
It is only the cover pages that are blocked, and players can simply download software from forums to enable them to play.

- Ban on banks making transactions between illegal sites and players:

- ▶ Ruled unlawful by the European Commission (free circulation of goods and services).
- ▶ This measure is circumvented in the USA by the use of digital wallets.

- Identification of players:

- ▶ Internet users can create an infinite number of email addresses.
- ▶ IP addresses can be made anonymous, by using so-called proxy servers, which prevent the operator from identifying the player. This technique was extensively used in Italy to circumvent the ban on illegal sites on the blacklist.

- Legal proceedings:

Apart from Internet-based circumvention techniques, it is worth mentioning that it will be extremely difficult to prosecute illegal sites, especially those sheltering in tax havens, or who spread their activities over several countries.

◆ **What results have been seen from repressive measures introduced in other countries?**

Every country in the world, whether or not it has opened up its market, has been the victim of attacks by illegal sites and even *the most repressive measures have not made the slightest impact in reversing this trend.*

- ▶ **In the USA:** Procedures introduced in the USA consist of blocking financial transactions; MasterCard and Visa have just introduced the measure, but this has had little effect, as most players have been using eChecks (digital wallets) for several years.
- ▶ **In the UK** where all types of game are permitted and tax is lowered (white list) the phenomenon is less developed.
- ▶ **In Germany:** illegal sites are numerous, used by 2 million players. Germany was brought back into line by the European Commission for the blocking of financial transactions.
- ▶ **In Spain:** there are numerous illegal sites, only administrative measures are being considered.

▶ **In Italy:** the market is structured in a similar way to that in France; site-blocking measures were rapidly circumvented by illegal operators, with the active involvement of players.

◆ **Which players will be tempted to continue playing on illegal sites?**

Players who won't find the **type of games** or the **winnings** they are looking for:

- ▶ First and foremost players of online **casino games** and bingo which are prohibited in France.
- ▶ Players of online **poker**, mainly because they will only be allowed to play in French tournaments.
- ▶ To a lesser extent those who **bet on horses and sporting events**, as certain types of bet are excluded.
- ▶ Players unhappy with the **rate of return** (the amount paid back to players, which is between 80% and 85% in France compared with 95% on illegal sites).

It is probable that the players who will continue to play on illegal sites will mainly be among the 2 million people who do so currently.

◆ **What measures (other than repressive ones) are liable to reduce illegal site attacks?**

It would seem that those based on **tax** and **the range of games permitted** might lower attacks by illegal sites.

- ▶ Reducing the **tax rate** could encourage some operators to obtain licences in France rather than remaining outside the law.
- ▶ The best method to prevent players being tempted to use illegal sites is to enable them to find the **games and types of games they want** on the French market along with the **winnings** they seek. These measures could enable players to return to legal sites and thus benefit from the series of measures introduced in France to protect them.

It should be noted that Italy is in the process of adapting its rules, both from a tax point of view and the types of game permitted.

◆ **To what extent will illegal sites penalise operators with licences in France?**

The disparity in terms of financial costs between legal and illegal sites is vast:

- ▶ **Operators who obtain licences in France:**
will be obliged to comply with the rules laid down by French legislation, the cost for implementation of which is very significant; they will also be subject to high rates of tax and major investment in communication.
- ▶ **Operators of illegal sites:**
Are sometimes based in offshore countries with minimal legislation and derisory tax rates. Economically speaking, they would thus be at an enormous advantage. (This explains why so many of them flout the bans).

◆ **What might the loss in turnover associated with illegal sites cost France?**

▶ **Assessment of loss of turnover due to illegal sites for 2011 (full year):**

1.8 billion euro would have been the turnover for France in 2011 (based on the Italian market, one year after opening up). But the ban on casino games, bingo and some types of betting will account for a loss of turnover of the order of 25% (players will continue to use illegal sites). The loss of turnover for 2011 could thus be in the order of **450 million euro**

▶ **Assessment of the loss of tax revenue for 2011:**

Loss of tax revenue associated with illegal sites could be in the order of **34 million euro** for 2011

▶ **Not all games are impacted in the same way**

It should be stressed that not all games are impacted in the same way, with operators of sports and racing betting the least affected, unlike poker operators. This is for several reasons, including that French players can only play amongst themselves, some variations of poker are excluded, and there is a high rate of taxation.

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