

## France seeking to shut down remote gaming from Malta

Malcolm J. Naudi

A Maltese Internet betting company has filed a complaint against France and one of its betting monopolies before the European Commission, The Sunday Times has learned.

The company, Zeturf Ltd of Valletta, claims that an interim order obtained by the Groupment d'Internet Economique Pari Mutuel Urbain (PMU) from a French tribunal is a threat to Malta's €1 billion Internet gaming industry. It is also appealing the sentence.

A Zeturf spokesman called the interim order, fining the company €15,000 a day unless it ceased to take online bets on horse races organised in France, an unprecedented, abusive attempt to close down a legitimate business operation in another European Union member state.

"Few people realise that it is predicted that within less than five years this industry will turn over €3 billion, creating over 2,000 jobs, commanding high salaries and coming mostly from the IT sector, which makes it the fastest growing business sector in Malta," he told The Sunday Times last week.

Malta has taken this case extremely seriously. Prime Minister Lawrence Gonzi has appointed a task force that includes four senior members of the Cabinet to monitor the situation, with the Ministry of Foreign Affairs being kept fully informed.

Finance Parliamentary Secretary Tonio Fenech said: "The government is studying all possible options - legal, political and diplomatic. This is an issue that involves the French government and the European Commission.

"We are convinced that companies like Zeturf are operating within the right jurisdiction and do not contravene any EU directive. It is our intent to solve this issue as quickly as possible."

The Malta Lotteries and Gaming Authority (LGA) is lending its full support to Zeturf. According to Dr Anthony Axisa, a director of the LGA, Malta's Remote Gaming Regulations are in complete harmony with the principle of freedom of movement of services enshrined in the EC Treaty.

"Zeturf were granted authorisation to operate in cyberspace, and it's a neat operation, entirely based in Malta," he said. "All servers are in Malta and transactions are concluded in Malta. Zeturf have no intermediaries on French territory, nor is its client base exclusively French.

"The Lotteries and Gaming Authority will stand its ground and will do all it takes to see that justice is done and that Malta's jurisdiction is not encroached directly or indirectly. The unstinting efforts by the Authority are being reinforced by the invaluable assistance of the Government.

"Malta's Remote Gaming Regulations (launched in 2004) heralded a new era for remote gaming. We believe that it's only a question of time before all and sundry will realise that now there is no turning back."

Already, according to the Zeturf spokesman, the company is contesting the French tribunal's interim order "on procedural and substantive grounds. Zeturf were not even represented during the hearing, given that the writ was served on the company in Malta a mere two hours before the hearing in France, making it humanly impossible to be present.

"Our fundamental human rights were breached by not having been given the opportunity to prepare a defence and present our case. It is absolutely incredible that in 21st century Europe the most basic of rights, that to defend oneself, has been ignored with complete impunity."

The tribunal's order to stop providing betting services, he added, goes against the EU principle of free provision of services within the EU. "There is very substantive and clear case law within the EU on this very specific subject. We are hopeful about the prospects of our complaint to the EU Commission. The UK Commissioner, Charlie McCreevy, who is responsible for Internal Market and Services, is said to be doing his utmost to have infringement notices issued, based on complaints by remote gaming operators.

"The Commission already has another eight complaints against France and other member states, who are

desperately attempting to hold on to their monopolies. There is a clear wind of change within Europe and a determination on the part of some countries, such as the UK, to liberalise gambling."

Last year PMU drew in to the French state coffers €9 billion in wagers on horse betting. "This has a significance which goes way beyond Zeturf's interests," the spokesman said. "France has a lot to answer to. It is clear that PMU's strategies stem not from a desire to protect French citizens from gambling.

"PMU is among France's top 100 advertisers and heavily promotes gambling activities. PMU does nothing to restrict the amount of money that can be wagered."

He also pointed to a World Trade Organisation ruling last month in favour of Antigua giving the United States until next April to effect changes that would allow full access to the American market to remote gaming companies operating out of Antigua.

"What the WTO has done needs to be repeated here by the EU Commission. It is not a question of if but when, and Zeturf is determined to move the process forward on the fast track.

"Zeturf wants to get its message across that this is not only about our company. If successful, PMU's line of action can be extended against other companies. Other monopolies will take the cue and Malta will be the worst off.

"PMU is doing its utmost to close us down and had no qualms about engaging in a scaremongering campaign to try to persuade the financial institution we work with and our ISP to stop their services to us. We have been under constant attack and harassment, and it is clear that all our service providers are equally being approached and threatened!"

## Chronology of facts

January 7, 2005: Zeturf Ltd, a Maltese-registered company, applies for a Class 2 (Remote Betting) licence to the Malta Lotteries and Gaming Authority (LGA).

June 17: Zeturf Ltd, having been authorised by the LGA, launches its operation.

July 4: a writ by the Groupment d'Internet Economique Pari Mutuel Urbain (PMU) requesting interim proceedings is served on Zeturf Ltd. The writ is served at two addresses in Malta at 1.45 p.m. and 1.57 p.m. The hearing is scheduled, by the Tribunal de Grande Instance of Paris, for the same day at 4 pm. Zeturf Ltd are not represented at the hearing.

July 8: An interim order is issued by the French tribunal in which Zeturf Ltd is ordered "to cease on-line bet taking operations on horse races organised in France".

July 22: Zeturf Ltd files an appeal from the interim order.

September 9: Zeturf Ltd lodges a complaint against France and PMU with the EU Commission.

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