EU Online Gambling Operators File Complaint Against US

Contributed by Thomas Jensen
Thursday, 20 December 2007

A formal complaint filed today by European online gambling operators for claims of discrimination and violation of international trade law by the United States should encourage U.S. lawmakers to regulate Internet gambling. Legislation introduced by Representative Barney Frank (D-MA), the Internet Gambling Regulation and Enforcement Act, would regulate Internet gambling and resolve the pending action by creating a level playing field among domestic and international operators.

"This complaint complements the current legislative initiatives led by Representative Frank,” said Nao Matsukata, formerly Director of Policy Planning for USTR Robert Zoellick and now a Senior Advisor for Alston and Bird LLP. “It is consistent with the effort to establish a non discriminatory market in the United States."

The action was filed under a provision of the European Union’s Trade Barriers Regulation by the Remote Gambling Association (RGA), which represents the largest remote gambling companies in Europe. RGA asserts that the U.S. Department of Justice is in violation of international trade law by threatening and pressing criminal prosecutions, forfeitures and other enforcement actions against foreign online gaming operators while allowing domestic U.S. online gaming operators, primarily horse betting, to flourish.

“We applaud the efforts of the RGA and agree that Congress should take action to end the current discrimination against foreign online gambling operators,” said Jeffrey Sandman, spokesperson for the Safe and Secure Internet Gambling Initiative .

The RGA complaint comes in the context of an increasingly contentious trade dispute over online gaming resulting from Antigua’s World Trade Organization (WTO) victory over the U.S. earlier this year. After the W.T.O. ruled that the U.S. had violated trade rules in barring Antiguan online gaming operators from the U.S. market, the U.S. withdrew its W.T.O. obligations with regard to free trade in the gambling area. Earlier this week, the European Union and several other countries, including Japan, Canada, and Australia, agreed to accept compensation from the U.S. for the withdrawal of market access. However, the trade concessions do not address charges against the U.S. for discriminatory and protectionist practices against foreign online operators that took place before the withdrawal of the commitment.

"The U.S. decision to pursue the compensation negotiations with these countries was unfortunate,” Matsukata said. “This filing by the RGA is a welcome development; it is an effort to restore integrity back into the international trading system."

“It is unfortunate that the Administration has unilaterally acted to resolve the WTO Internet gambling dispute by continuing to block E.U. operators from accessing the U.S. market,” added Sandman. “It is time for the U.S. to end its hypocritical practices that discriminate against foreign online gambling operators, while allowing U.S. gambling operators to accept bets for certain forms of gambling. Regulation of Internet gambling should be supported as a means to resolve this trade dispute.”

A provision of the E.U.’s Trade Barriers Regulation allows any E.U. company or association to complain against obstacles to trade in other countries, which the E.U. must then investigate. After the investigation, the E.U. could pursue discussions with the U.S. to find an appropriate solution to end the discrimination. If the parties cannot settle the matter themselves, the E.U. could bring a case against the U.S. to the WTO on the claims.