

INTERNET PROVIDERS MAY BLOCK UP THE ACCESS TO ONLINE GAMING

Pursuant to the new Act on Gaming, which was adopted by the Danish Parliament last year and which will come into force on 1 January 2012, foreign online gaming sites have the right to offer gambling in Denmark if a license for the purpose has been obtained. If a gaming provider does not have the required license, Danish internet providers may be forced to block up the access to websites from which gaming is offered.

According to the provisions of the Act on Gaming, the Gaming Authority may suggest to the internet provider which internet domains provide illegal gambling services in the Gaming Authority's opinion. Subsequently, the internet provider may block up the access to the domains in question. If the internet provider does not respond to the suggestion made by the Gambling Authority, the latter may seek to have the suggestion enforced by means of an injunction.

At first, it is thus up to the internet provider to decide if they wish to respond to the suggestion made by the Gambling Authority. If the provider does not respond to the suggestion, the provider firstly risks a prohibition case and, secondly, a criminal sanction according to the provisions of the gaming act.

According to the gaming act, internet providers who intentionally or with gross negligence provide gambling without authorisation are punished with a fine. In aggravating circumstances, especially in cases of subsequent offences, or in cases of extensive character, the provider may be sentenced to one year in prison. In such cases, it will be the persons who have participated in the tort who will liable to punishment.

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The suggestion from the Gaming Authority only serves the purpose of informing the internet providers of which internet domains provide unlawful gaming systems according to the gambling authorities. The internet providers are not obligated to keep up-to-date on which internet sites provide gaming without a license.

The provisions only encompass internet providers who provide internet to a large group of customers. Businesses which provide internet to a limited number or a closed circle of people, e.g. hotels, restaurants, educational institutions etc., are not encompassed.

The access to order internet providers to block up certain domains is not a new invention in Danish law. As a consequence of an amendment of the medical law, which came into force on 1 July 2011, internet providers in Denmark are banned from providing access to websites offering medicine to Danes in contravention of the Medicines Act. Formerly, internet providers have also been ordered to block up the access to internet domains based on the Copyright Act, the so-called Allofmp3 and Piratebay cases.

If you have any questions or require additional information on the act on gaming and internet block up, please contact Claus Molbech Bendtsen (cmb@mwblaw.dk), Attorney Henrik Syskind Pedersen (hsp@mwblaw.dk) or junior associate Kim David Lexner (kdl@mwblaw.dk).

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