

INTERVIEW: JOSEPH CUSCHIERI, EXECUTIVE CHAIRMAN OF THE MALTA GAMING AUTHORITY

The Next Generation of Gaming Regulation

Joseph Cuschieri, Executive Chairman of the Malta Gaming Authority (MGA), is convinced that Malta will remain a top jurisdiction if it manages to successfully reinvent itself. He says the MGA is making good progress in future-proofing Malta's status as a gaming hub of excellence.

Malta has attracted some 270 iGaming operators and is widely regarded as Europe's iGaming capital. How did Malta become the jurisdiction it is today?

Malta started regulating iGaming way back in 2004 at a time when it was a growing, novel economic activity yet nomadic and largely unregulated which required a more specific approach in order to address the risks usually associated with gambling. Our framework was designed to make Malta a remote gaming hub of repute, and we put a lot of effort in promoting Malta internationally. Today we host companies such as Betsson, Unibet, Betfair, Tipico and Bwin amongst many other prestigious names. The gaming sector in Malta currently generates around 10% of our GDP, and we are one of the leading iGaming jurisdictions globally. In 2015, the sector kept on growing, and we issued some 87 new licences. Among the companies seeking a licence were newly set-up companies, but most companies were already licensed in Malta or elsewhere and were expanding their operations, thus seeking additional licences.

When you took over the MGA, you stressed the need for innovation and renewal. What initiatives have you implemented so far?

The iGaming industry is renowned for its speed of innovation and general dynamism. The regulator must keep pace if we do not want to risk a total misfit and failure of our efforts at implementing the national gaming policy. Therefore, innovation and renewal are essential. Malta is a top gaming jurisdiction, but we cannot expect to keep growing at the same pace. The fact that many companies based here are expanding their operations is very positive, and we are seeking to scale up our regulatory performance to keep and sustain the industry in Malta for the future.

In 2015, the MGA initiated a number of policy and legislative reviews that would lead to



the general regulatory overhaul, such as those relating to digital games of skill, cloud solutions for iGaming and other network infrastructure, competence requirements of key officials, and outsourcing to mention the most salient. We have also updated the external and internal guidelines on the fit and propriety assessments, and the general on-boarding processes and will continue to work on our proposed enhanced automated reporting system for both land-based and online segments. Adjacent to these reviews, we launched GamingMalta, which will take over the promotion of Malta as a gaming jurisdiction by mid-2016. We also started working on the Gaming Academy, which will become an educational body for the local and international gaming industry.

Our main focus though has been on the development of a new Gaming Act, which will create a coherent governance and regulatory framework for all forms of gaming based on a set of common principles. The new Gaming Act will provide for the necessary regulatory agility required now and over time to address the ever-changing industry structure, products and consumer behaviour. Our aim is to create more value for the licensees and for the Maltese jurisdiction, while creating an enhanced consumer protection regime in the short and longer term. This is what I mean when I say that our aim is to future-proof Malta's status as a gaming hub of excellence.

What are the core issues that you are seeking to address with this new legislation?

As I indicated in my previous reply, our main aims are coherence and performance of both the industry and the jurisdiction. The measures being foreseen to attain these aims are very wide. Among our priorities is the widening of the scope of competence of the MGA and, indeed, of the regulatory framework. This would allow us to keep under

review, or even to regulate, any gaming activity warranting our intervention due to risks that this activity may pose to society. We are also seeking to streamline our licensing structures under two main categories, namely, Business-to-Business (B2B) and Business-to-Consumer (B2C), in addition to simplifying pre- and post-licensing compliance processes, which will seek to eliminate any duplication of checks and speed up time to market for the operator, depending on the risk profile of the operator, new gaming product and business models. The critical and core issue to be addressed is game and technology neutrality, which will be more evident in the new framework. Coupled with other tailored initiatives, this will serve to foster innovation in the industry, enabling us to regulate other forms of gaming, and generally raise the standards of our service providers and protection levels of players.

The idea of regulating the affiliate sector is also a hot topic at the moment. Can you comment on this?

Affiliates are critical in the gaming supply chain, and regulators cannot ignore their existence and their part in the gaming marketing and offering. To date, and like many other regulators, the MGA has focused its regulatory attention on the licensee who is ultimately responsible under the licence, irrespective of sub-contracted third parties. However, due to the growing dependence on third parties for the provision of various services to the gaming provider, the MGA has set up a joint working group consisting of MGA and industry professionals to propose a set of principles and a policy on outsourcing in remote gaming. I cannot pre-empt the conclusion of their work, which is expected to be concluded in a few weeks' time, but the MGA does not exclude the possibility of including certain third-party providers under its regulatory oversight, especially those that provide critical activities.

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You were hoping to push some of these suggested changes through quicker. What held up the process, and when do you expect to see them taking effect?

This is true. For instance, we were hoping to have the Gaming Academy already in place, but just developing the right corporate and governance structure proved to be more time-consuming than expected. Considering where we are today, it might take up to two years until the first training sessions will be delivered at the Academy. We had also planned to roll out more regulatory changes ahead of the actual overhaul. However, the inter-dependence of measures with those being totally re-designed by the overhaul mean that they have to be rolled out in one phase in order to avoid any imbalance or undue impact on the industry, even if we have to operate two parallel systems for a transitory period.

Developing a new Gaming Act is also no piece of cake, and we are taking this very seriously. We are consulting with many experts and are thoroughly considering their suggestions. I do not mind if this process takes longer than envisioned if, at the end, we will have developed strong legislation that will serve the industry for the next 10 to 15 years. The draft legislation has just been completed. This year we will reach out to the industry to gain their thoughts and opinions on our suggested changes before entering the legislative process for its enactment by Parliament.

The MGA has increased its staff to more than 100 people to perform the regulatory function more efficiently. Have you had the outcomes that you had projected?

Not yet. We have improved, but we need to continue reducing bureaucracy and instil a more private-sector mind-set. We are aware that time to market is crucial for operators, and we are currently planning the re-engineering of our licensing and additional approval processes. Our current processes are often perceived as too burdensome ex-ante. The first big administrative shift will be the non-duplication of checks that an operator already complies with. The other, which we are approaching very cautiously, is to shift certain checks which today are conducted before an operator goes live with a compliance audit after an operator goes live with a new system. We are also going to introduce the concept of a licensing relationship officer, who would become an operator's single point of contact for any queries and would actually take all the necessary actions to ensure a comprehensive and responsive service.

These shifts will be more pronounced once the new regulatory framework is adopted and implemented. We are very mindful of our primary function to regulate the industry and to protect the consumer. We want to be a business-friendly Authority, and I think we can be more pragmatic in certain cases, but we also need to assess risks and implications properly and ensure a seamless transition.



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One of the other criticisms is that you require more people with specific iGaming experience.

Our senior leadership team is highly competent, but when we have gaps in competencies, we source expertise from external service providers, including the Big 4 firms. When it comes to recruiting new employees, it is difficult for us to compete with the private sector, especially with the iGaming industry whose salary levels are often above average. We need to develop our own people, but this takes time. My plan is to build a strong and robust organisation, which can sustain a highly dynamic environment and future challenges. Perhaps we could be criticised for initiating too many changes in one go, but frankly I do not know what we could have postponed.

We are seeing new forms of gaming emerging such as eSports and Fantasy Sports. What's the MGA's position in this regard?

Under our current licensing system, we are already regulating the betting on eSports, but not eSports itself. We are of the opinion that when it comes to skill games, with no, or a negligible element of chance, regulatory intervention should not go beyond what is necessary to ensure a safe and fair environment for consumers. Our new regulatory framework will account for this, as we believe that this is an exciting growth area for Malta. For instance, digital games are popular in Asia and could be localised. Asia, along with South America, is one of our target markets, and we have already developed good relations there with some of the countries.

How do you expect the gaming industry to develop in Malta in the coming years taking into account the emergence of new licensing regimes in Europe?

The political boundaries in the European Union will remain. The recent push for the harmonisation of technical standards offers a window of opportunity. However, the existence of different licensing regimes is a reality we have learnt to live with. We are encouraged by a number of key trends though: Firstly, the Malta-based industry has continued to register growth in spite of the changes in Europe, and our strategy is to continue to add value, to sustain and foster a more efficient environment for its improved performance in the long term; secondly, the greatest and fastest rates of growth are seen in markets outside of Europe and in non-traditional gambling segments, and we are strategically working to attract a share of that market. Regulation for innovation – this is our roadmap for the future, and I am sure that our new regulatory framework has the potential to become a role model for others. We are also seeking to strengthen the environment for start-ups. My vision is for Malta to be the “Silicon Valley” of iGaming, and we have already done a lot to achieve this vision, but there is much more to do. ■

