

**“The new French regulation on gaming:
Anything new in terms of payment?”**

Etienne Wery

Attorney at law at Brussels and Paris Bars

Senior lecturer at university

etienne.wery@ulyss.net

History of the law

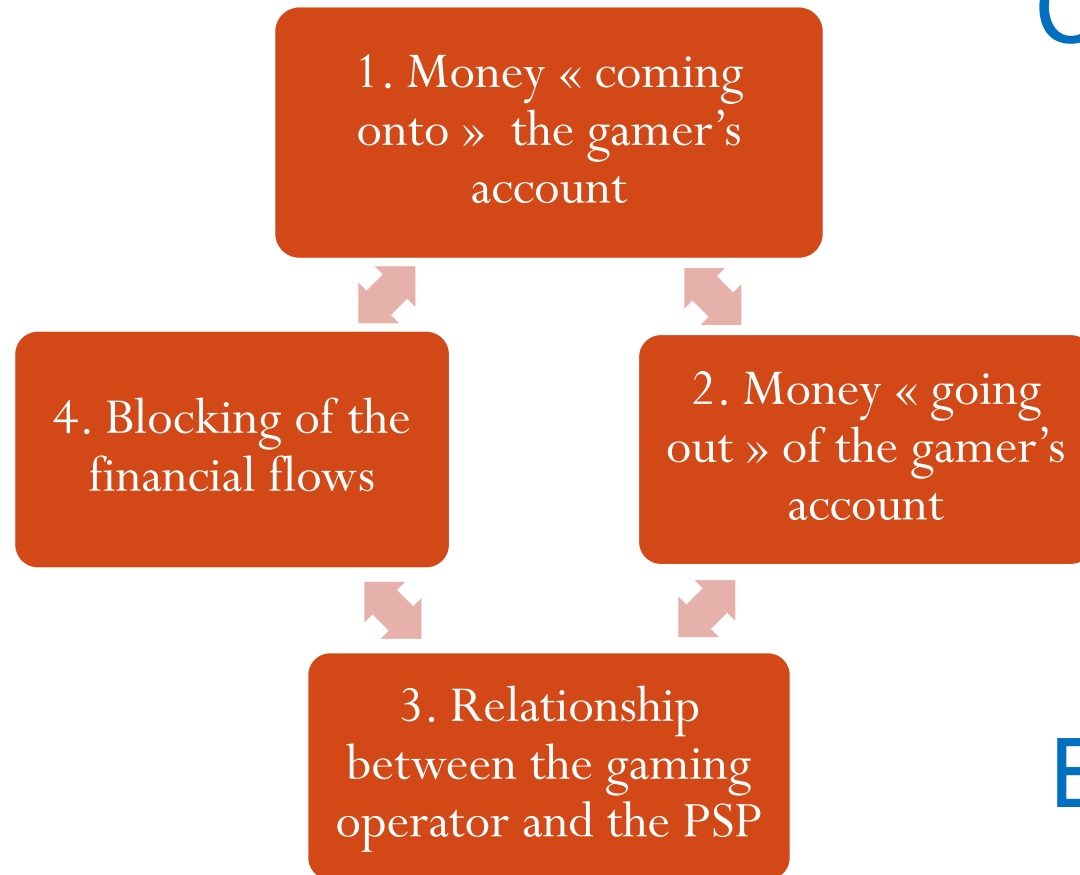
- Gambelli case (and all the others)
- Oct., 13, 2009 : lower chamber
- Feb., 24, 2010 : higher chamber
- April, 6, 2010 : final adoption
- April, 13, 2010 : appeal before the constitutional court
- June, 2010 : Football World Cup

- The October text and the final text are very different when it comes to payment issues.

Four pillars

Identify

Control



Block

Limit

Money coming onto the gamer's account

First pillar

First limit: only PSPs

- Section 17/6 of the law: « *L'approvisionnement d'un compte joueur par son titulaire ne peut être réalisé qu'au moyen d'instruments de paiement mis à disposition par un prestataire de services de paiement (PSP) établi dans un État membre de la Communauté européenne ou un État partie à l'accord sur l'Espace Économique européen ayant conclu avec la France une convention contenant une clause d'assistance administrative en vue de lutter contre la fraude et l'évasion fiscales ».*
- Money of the gamer may arrive onto its gaming account only with means of payment that has been issued by a (French/European) PSP.

PSP?

PSP (521-1 CMF)

“Pure”
payment
institutions

(SEPA list, see
314-1 CMF)

Credit
institutions

Some specific
public sector
institutions

(unlikely to apply in
gaming)

Payment institution?

- Section 314-1 CMF follows Annex I of the 2007/64 “SEPA” directive:
 1. Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
 2. Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
 3. Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
 4. Execution of payment transactions where the funds are covered by a credit line for a payment service user:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
 5. Issuing and/or acquiring of payment instruments.
 6. Money remittance.
 7. Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services

French / European PSP

- PSP must be either accredited by the French banking authority to operate in France,
- Or, it must be accredited in another State and legally provides services in France under the Treaty.

Second limit: means of payment

- Section 17/7 of the law: « *Seuls peuvent être utilisés les instruments de paiement mentionnés au chapitre III du titre III du livre I^{er} du code monétaire et financier.* »
- Only the means of payment ruled by the CMF are accepted.
- Compare with the initial position of the government: only means of payment
 - *linked* with
 - an *identified* gaming account,
may be used.
- The situation of prepaid cards.

Money Going out of the gamer's account

Second pillar

Only to one payment account

- Section 17/7 of the law: « *Les avoirs du joueur auprès de l'opérateur ne peuvent être reversés que sur un seul compte de paiement ouvert par le joueur auprès d'un prestataire de services de paiement (...).* » *Le reversement de ces avoirs ne peut être réalisé que par virement vers ce compte de paiement* ».
- Money going out of the gamer's account may only go to a payment account open in the book of a French/European PSP.
- Money may only be wired to this account.
- This account must be used exclusively: only to *one* payment account

Prior identificiation of the account

- Section 17/7 of the law: « *Le joueur communique à l'opérateur les références de ce compte de paiement lors de l'ouverture de son compte joueur* »
- The gamer must provide the reference of his payment account at the opening of his gaming account.
- Section 17/1 of the law: « *L'entreprise sollicitant l'agrément précise (...) les moyens lui permettant de s'assurer de (...) l'identification du compte de paiement sur le quel sont reversés les avoirs* ».
- The gaming operator who ask a licence in France must provide the gaming authority with details on how he will verify the payment account of its gamers.

Clarification expected

- Decrees are expected.
- The gaming authority has some power to assess a detailed situation when issuing a licence.
- Examples:
 - How can someone *verify the identification* of a payment account? The French “RIB”.
 - How will this apply in a situation where the money came in through a *rechargeable* instrument, while the gamer declared its bank account as the exclusive payback account? Isn't it quite incompatible with the essence of rechargeable instruments?

French RIB



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Banque	Indicatif	Numéro de compte	Clé RIB	Domiciliation
30002	01800	0000156476C	30	CL BORDEAUX (01800)

IDENTIFICATION INTERNATIONALE :

IBAN	FR94 3000 2018 0000 0015 6476 C30
Code B.I.C.	CRLYFRPP

TITULAIRE DU COMPTE : **MONSIEUR ROMAIN DARRIERE**

Relationship between the gaming operator and the PSP

Third pillar

One exclusive account

- Section 18 of the law: « *[L'entreprise qui sollicite l'agrément] justifie de la disposition d'un compte ouvert dans un établissement de crédit (...), sur lequel sont exclusivement réalisées les opérations d'encaissement et de paiement liées aux jeux et paris qu'elle propose légalement en France* ».
- The gaming operator who ask a licence in France must hold an account in a French/European credit institution.
- All operations related to all gamers accounts must be exclusively realized on this account.
- The reference of this account must be provided to the gaming authority.
- As a consequence:
 - Credit institutions play alone on this market;
 - Operators who have activities outside of France will probably have to segregate French financial flows.

Blocking the financial flows

Fourth pillar

Actual situation – The law

- Section L 563-1 CMF already states that the ministry of Finance may put on a blacklist illegal gaming operators, for a (renewable) period of 6 months, and ask all credit institutions to block all financial flows with this operator.
- State is responsible for “bad decisions” provided that the credit institution can prove its good faith.

Actual situation – Does it work?

- MCC 7995 code stands for *Betting (including Lottery Tickets), Casino Gaming Chips, Off-Track Betting and Wagers*). It does not make any difference between a legal and an illegal merchant.
- Technology is quicker than the prohibition (new means of payment, e-money, e-purse, prepaid (rechargeable) cards, Gift cards, e-vouchers, etc.).
- Law is not always in favour of such restrictions :Free movement of capital under EU law. Similar restrictions apply under both GATS and WTO laws
- It is, for sure, not a bullet-proofed measure. States usually don't see this as a reason not to try it, because purpose is to put pressure in order to dry the market. It is seen as one measure, amongst others, to reach this goal.

New situation – The law

- The payment account of each gamer is identified and known.
- No payback on another payment account than the account declared by the gamer when he opened its gaming account.
- The law provides for an extension of the actual law: the minister may block all financial flows towards the payment account of the gamers.

Question time

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