



*cutting through complexity*

KPMG eGaming Summit  
Isle of Man

22 November 2012

## Report



KPMG eGaming  
SUMMIT

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# Introduction

Since becoming one of the world's first jurisdictions to introduce legislation specific to eGaming in 2001, the Isle of Man has established itself as a pioneer in regulatory and licensing initiatives which place public/private sector engagement and consumer protection as central components to its proposition.

Through fostering a tax competitive and responsive commercial environment, coupled with a world leading power and telecommunications infrastructure, the Isle of Man has created an environment of unparalleled growth and innovation which has resulted in it becoming home to many of the industry's most admired operators, hosting and payments providers and software developers. Such has been its success that eGaming is now the Island's second largest contributor to the Island's GDP, with many more non-licensed industries emerging to complement the Island's growing reputation as a global centre of excellence for corporate service provision and eBusiness.

On 22 November 2012, the Mount Murray Hotel played host to the fifth in a series of KPMG eGaming summits which sought to nurture this process by building upon the Island's first-class reputation for multi-sector discourse and public/private collaboration, and provide a forum within which delegates could discuss the future of the eGaming sector, its challenges and opportunities.

Chief Minister, the Hon Allan Bell MHK, kindly opened the day's proceedings with an introductory address which outlined his and the Isle of Man Government's commitment to maintaining close cooperation with the sector and to build upon its successes to grow into new and emerging global markets. The morning session then provided a series of market and sector updates with the afternoon focusing predominantly upon issues of licensing and regulation on both domestic and EU-wide scales. Highlights of the day's proceedings included a presentation by Roger Withers, Chairman of Playtech PLC, on the topic of eGaming within the capital markets as well as a presentation by Pierre Tournier of the

Remote Gambling Association, who provided an update on the European Commission's much anticipated communication concerning a potential future framework for gambling regulation within the EU. A new addition to the Summit format also saw a series of break-out sessions running in parallel to those of the main room, which invited delegates to discuss topics ranging from network licensing and mobile trends, to decision making and company profiling, in a more informal setting.

This report provides a summary of the day's events with a view to expanding upon the ever increasing popularity and insight of the Summit. KPMG would like to take this opportunity to thank speakers and attendees, both of which contributed to its continued success and growing profile.

KPMG employs a number of eGaming industry specialists throughout the world's leading jurisdictions and is committed to cutting through the complexity of this constantly evolving and exciting industry.

## A word from the Sponsors

At Continent 8 Technologies, we recognise that the Isle of Man has been critical to our ability to become the world's leading provider of managed services and hosting solutions to the eGaming sector and beyond.

Supported by a strong, stable and responsive government, a peerless power and telecommunications infrastructure, as well as a number of prominent and diverse cultural attractions, the Isle of Man is the perfect hosting location from which to serve the European and wider global marketplace and is the corporate headquarters and home of Continent 8 Technologies.



We are proud to sponsor this report and we intend to continue demonstrating our commitment to this exciting and dynamic industry in the future.

**Richard Ebbutt**  
Continent 8 Technologies

# Welcome Address

## Hon. Allan Bell MHK

Chief Minister  
Isle of Man Government



**Before his election by Tynwald to the role of Chief Minister in 2011, Allan Bell was the Minister for the newly created Department of Economic Development (DED). Mr Bell has also held the post of Treasury Minister from 2001 to 2010, prior to which he served in ministerial positions with responsibility for Tourism and Leisure, Trade and Industry, and Home Affairs. Mr Bell was first elected to the House of Keys in 1984.**

Before an audience of almost 200 delegates from across the eGaming sector, Mr Bell opened the Summit by outlining the role of the sector in sustaining the Island's position as an international centre for business excellence. "The conference today highlights an outstanding Manx and international success story – the eGaming sector," he said. "On the Isle of Man we now have over 50 licence holders, providing 8 per cent of our GDP and, of course, the industry is still growing. Our expectation for 2012 is that the industry will support nearly 700 jobs, will create £164 million of Isle of Man expenditure and generate nearly £16 million of taxation; a remarkable achievement for an industry that is little more than ten years old."

The Isle of Man today is home to the headquarters of companies in all the sectors of eGaming, including the world's two largest software suppliers to the sector, the leading global hosting centre, a longstanding provider of payment systems, and one of the top providers of online poker services in the world. Mr Bell remarked that the sector's rapid expansion in recent years has helped keep the Isle of Man's economy in positive territory, currently showing 3 percent net growth during a period in which most other countries have been in recession. "The benefits that your industry has brought are of great encouragement to the Manx government in our accelerating drive towards economic development and further diversification," he confirmed. "The Island has enjoyed continuous growth now for the past 28 years, but we need new and dynamic sectors like eGaming to take us forward into the future. As I've said many times, in 2008 our world changed, in particular economic world change, and we have to recognise that and drive for diversification to overcome those problems."

Mr Bell then drew the attention of the Summit to his recent autumn statement to the Manx parliament,

Tynwald, in which he outlined the Government's plan for the next four years. He reassured delegates that growing the economy is at the very top of Government priorities, a goal which is central to Government's other twin ambitions of rebalancing public finances and protecting the vulnerable. "To accomplish this, the Isle of Man Government has a clear ambition to champion enterprise," he remarked. "We are committed to driving investment to the Island, allowing new entrepreneurs to flourish and enabling the whole Island to be seen as an enterprise zone for incubating new business. In short, we are a strong and supportive ally."

Acknowledging that the Isle of Man's economic wellbeing is highly dependent on its relations with other nations, Mr Bell assured the audience that "international consideration is at the heart of our work: protecting and enhancing the Isle of Man's reputation internationally, both political and regulatory, is an essential step in maintaining business confidence in these very challenging times, and as a Government we are very aware of the growing debate around transparency, cooperation, and fairness in tax matters. We will ensure that the Isle of Man will adhere to international

## “The conference today highlights an outstanding Manx and international success story - the eGaming sector.”

applied standards to reassure our business partners and give them confidence to invest in the future.”

As a demonstration of the Government’s commitment to a long-standing policy of positive engagement with international initiatives and regulatory standards, Mr Bell also reiterated that the Island recognises the importance of global cooperation and the need for countries large and small to develop closer working relationships. He explained that this means exploring opportunities and strengthening ties with potential partners in Europe, China, the Middle-East, Russia, and many others, as well as reinforcing the proposition that the Isle of Man has much to offer business through a highly skilled professional workforce, a world-class telecommunications infrastructure, a stable political system, a simple and competitive tax system, and pragmatic regulation.

Mr Bell concluded: “We enjoy an outstanding quality of life with low crime rates, and an excellent environment for raising families and indulging in hobbies. The Isle of Man is an ideal location for doing business, not just at the heart of the British Isles, but also on the doorstep of Europe. So

it is no surprise that, when measured against our competitors in an independent survey of entrepreneurs and intermediaries, the Isle of Man was judged as the easiest location in which to do business.”

“The eGaming sector is a showcase of how a modern and dynamic industry can flourish in the business friendly environment of the Isle of Man. It is a model of success and demonstrates so well what I consider to be the key features of a successful Manx sector. It is highly professional, with an emphasis upon excellence and quality of service that makes it a genuine world leader. It provides proper customer protection, underpinning the reputation of the sector itself and of the Isle of Man, and it is also technically advanced, reflecting and sustaining the Island’s technical infrastructure. Finally, but by no means least, the sector works in partnership with the Isle of Man Government to pave the way for its continued success and I can ensure you that for as long as I remain Chief Minister, you will have my full support in all that you do.”

# Conference Opening

## Russell Kelly

Director, eGaming Services  
KPMG Isle of Man



**Russell joined KPMG Isle of Man in 1993 and has also worked for KPMG in London and Jersey. His client experience encompasses financial services, telecommunications, real estate and eGaming. Russell also undertakes transaction services and corporate finance work, which includes acting for clients with respect to acquisitions, disposals and flotations; in particular, he has advised on flotations on the LSE, AIM, Luxembourg and New York stock exchanges.**

Mr Kelly's presentation opened with a reflection upon the extent to which the eGaming market has changed since the first KPMG eGaming Summit in November 2010. Globally, the eGaming market was then worth between \$21 billion and \$25 billion, with a forecast valuation for 2012 of \$30 billion. Since then, however, the forecast for 2012 has grown to \$40 billion with markets expected to achieve a value of \$50 billion by 2015. "This is truly tremendous growth," he remarked, "and that has been fuelled by tremendous innovation on the part of many here today."

An overview of the market since the 2011 Summit followed, with Mr Kelly remarking that the economic environment in Europe has had a significant influence upon the eGaming sector over the past 12 months. "We see increasing taxes in some jurisdictions, we see changes in regulation with new regulatory regimes opening up, while some of the more established regimes are also looking to change their approach.

"We've seen problems potentially in the French market this year and we've seen the Spanish market open up and start its regulatory process."

Because of the growing regulatory diversity across Europe, Mr Kelly explained that the European Union has started to take a more active interest in how gaming is regulated. This has resulted in its issuing a recent statement following some extensive debate on how better to monitor and regulate gambling and betting in Europe, "and we look forward to seeing, hopefully, some simplification of the regulatory landscape along the road," Mr Kelly remarked. "We are very fortunate in that we have Pierre Tournier from the Remote Gambling Association here with us today as their representative in the European Union. Hopefully Pierre can help to shed some light on where the European regulatory regime is going."

Looking towards the US, Mr Kelly noted that the market is still full of uncertainty concerning how quickly and, indeed, if it will open up. "But then we have seen some tremendous steps forward with regard to the US this year," he reassured the floor. Mr Kelly referred to a recent pronouncement by the Department of Justice (DoJ), stating that the Wire Act is now only applicable to sports betting, "while closer to home, we've seen Pokerstars reach agreements with the DoJ and take on the FullTilt business outside of the US, which is a true success for the Isle of Man and a significant new licence for us to have over here."

Looking at the sector on the Isle of Man, Mr Kelly remarked upon eGaming's fantastic contribution to the Island's GDP, its significant tax contributions, high local spend and creation of greater opportunities for employment. "Once again, we've had great support from all of you and from the industry. Amongst our 200 delegates we have operators, software, payment and hosting providers, banks and corporate service providers. Some take an active interest in this industry while some are maybe here to explore the opportunities eGaming presents for their industry," he suggested. Mr Kelly then took the opportunity to thank the kind sponsors of the Summit, describing them as "a truly diverse range of sponsors but all intimately involved in the eGaming industry."

In closing, Mr Kelly offered the floor an explanation of one of the new innovations for the 2012 Summit, which this year included a breakout room in addition to the main conference hall. This offered a variety of presentations throughout the day, most of which would be repeated for the convenience of the delegates. An outline of the day's proceedings followed, with Mr Kelly explaining that the morning session would focus upon market and sector updates and the afternoon upon tax and regulatory matters. Mr Kelly then introduced the first speaker of the day, the Chairman of Playtech, Mr Roger Withers.



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# Capital Markets and Online Gaming

## Roger Withers

Chairman  
Playtech

“Bricks and mortar are still there but the virtual industry has joined in, and it is the virtual industry that is the really exciting bit.”

Roger has over 30 years’ experience in the leisure and gaming industries. In 1973, Roger joined Ladbrokes where he held a number of senior positions in the bookmaking, casino, lottery and gaming machine divisions.

In 1986, he joined Bass where his roles included acting as Managing Director of BLMS and Coral Racing and Executive Chairman of Bass Leisure South Africa. He retired from Bass in 1998. Since then, he has held a number of other non-executive directorships, including Chairman of Arena Leisure PLC as well as with a number of substantial privately held companies in the property, technology, publishing and exhibitions sectors. He is also currently a Non-Executive Director of Sportech PLC, the pools and tote betting company.

Mr Withers began one of the most widely anticipated presentations of the Summit with allusion to when he first arrived on the Isle of Man in 1999 as Chairman of Littlewoods Leisure to apply for the Island’s first eGaming licence. Despite facing the obstacles typical of the sector at that time, he fondly recalled the warm welcome offered by the Isle of Man Government as well as the significant degree of support that made phase two of the company’s relocation so successful.

He continued with the statement that, despite the preconceptions of many, and indeed his own attempts to prove the contrary for the purposes of his presentation, “the capital markets do in fact treat the eGaming sector reasonably well.” He illustrated that the quoted portion of the eGaming industry on the UK markets is worth nearly £11 billion and that the gambling industry has been part of the London

stock market since 1961. “But more recently, what has happened is the new boys have joined in,” he observed, “bricks and mortar are still there but the virtual industry has joined in, and it is the virtual industry that is the really exciting bit.”

A comparison of eGaming versus other publicly listed industries showed that, although the eGaming market remains relatively small against tech giants such as Vodafone, it fares well when placed alongside more established sectors such as hotels and airlines, both of which are valued at £5.7 billion. “And a lot has been happening in our sector,” explained Mr Withers, “over the last couple of years there have been around £2 billion worth of transactions in the capital markets. That’s some 20% of the sector which has changed hands in the last couple of years, and I think that’s a good thing. The capital markets are actually not so averse to putting in money; €3.6 billion has also been raised in Europe over the last five years and that money is being spread around.”

### Capital Valuations

Drawing the attention of the floor to a series of slides illustrating recent significant equity capital raisings and M&A transactions, Mr Withers then offered Ladbrokes (with a market capital valuation of £1,726 million) and William Hill (£2,363 million) as examples of more active and established listed organisations, and Paddy Power (£2,233 million) and bwin.party Digital Entertainment (£976 million) as examples of the more recent, virtual additions. “So the capital markets certainly like us,” he assured the floor, “and one of the reasons for this is that gaming has gone from black to grey to white, regulated markets. Therefore, the



Roger Withers

quality and consistency of the earnings is good – they’re not going to get any real shocks. We are not, I believe, going to experience another 2006 [Unlawful Internet Gambling Enforcement Act], when the US decided that all of this was illegal.”

It was observed that increased regulation means that eGaming is becoming a more stable industry, resulting in more investors aiming to invest in companies or conduct mergers and acquisitions. “And secondly,” Mr Withers remarked, “the eGaming industry is high-tech; we’re using the routes to market of the future. I firmly believe, for example, that the future of our market is no longer with PCs, it’s with smartphones and tablets, and that our children and their children will have a totally different view of technology. But the eGaming industry is there; that is what we base our industry on.”

“Lastly,” he continued, “ours is an industry of generally smaller companies. When the biggest companies in the sector are worth, let’s say on average just over £1 billion, that gives the capital markets the opportunity for consolidation and for transactions.” Mr Withers explained that the benefit this offers the capital markets is the diminished need to raise vast amounts of capital to conduct mergers or acquisitions, resulting in relatively quick transactions which still offer lucrative administration fees: “So that’s why consolidation can and does work in our industry.”

#### To Close

To close, Mr Withers referred the audience to a table which illustrated the top five institutional shareholders of UK listed stocks in eGaming, noting that each was supported, almost invariably, by some of the world’s most respected fund management organisations. Taking bwin.party as an example, Mr Withers listed fund managers such as Janus Capital Management, SRS Investment Management, Legal and General, UBS Asset Management, and Marathon Asset Management as major contributors. “So the big boys are secured by some of the most respected institutions in this country, and they think that the future of this industry is worth backing,” he reassured the Summit. “In fact, looking at our P/E [price earnings ratio - at 11.7x for eGaming companies] and EV/EBITDA ratios [an enterprise ratio used to determine the value of a company - at 7.7x for eGaming], we’re actually doing better than the FTSE 250 [average P/E 11.6x and average EV / EBITDA 7.2x].”

“So the fact is the capital markets do treat us reasonably well,” Mr Withers concluded. “They do give us a bit of a hard time but for those of you who haven’t done so yet but who are thinking of taking the plunge and becoming public companies – it’s not as terrible as everybody tells you. There are benefits to it and I believe that the public markets are a great training ground for your young people. Your real worth is realisable and you can certainly make some investors very happy - companies in this sector will grow.”

“I firmly believe, for example, that the future of our market is no longer with PCs, it’s with smartphones and tablets, and that our children and their children will have a totally different view of technology.”

## Steve Brennan

Chief Executive  
Isle of Man Gambling  
Supervision Commission



Steve Brennan

Steve Brennan has been the Chief Executive of the Isle of Man Gambling Supervision Commission since 2009. Steve's primary responsibility within the Commission is for the development and maintenance of the regulatory framework to license and supervise all forms of gambling on the Island. Prior to his appointment as Chief Executive (formerly Director), he held senior positions within the Isle of Man Treasury.

Mr Craine opened the Isle of Man sector specific update by emphasising that, although he acts as the promoter and Mr Brennan as regulator, both share an agenda which includes a desire to continue to grow the sector, to attract reputable and well run businesses to the Island, and to develop clear communication channels with the sector in order to understand and respond to its needs as it grows and develops. Mr Brennan then outlined the joint presentation, which was to comprise of a reflection on Government and regulatory developments over the past 12 months, the outlook over the next 12 months, and a forecast of the challenges and opportunities envisioned over the next 12 to 24 months.

From the perspective of the IOM Government, Mr Craine confirmed that the last 12 months have, once again, been a very busy period. The Department of Economic Development, or DED, has continued to support key industry events such as ICE and EIG as well as representing the Island further afield at events such as iGaming Asia, the Asia Gaming and Hospitality Congress (AGHC) in Macau, and the Gaming Executive Summit (GES) in Panama. He also explained that in August of this year the DED had attended a new event, the Gaming

Racing & Wagering Australia (GRWA) conference in Australia, which has resulted in significant new business interest in the Isle of Man. "We've also continued to work very closely with eGaming journalists and, wherever we can, have been putting out articles highlighting our successes and achievements in the sector," Mr Craine added, "and this has served to keep the Island's name and profile very much to the fore."

Mr Brennan continued, explaining that the Isle of Man is part of the Gambling Regulators European Forum as well as the International Association of Gambling Regulators. This demands attendance at two additional annual conferences, "but this is also a fantastic opportunity to meet with other regulatory authorities and to take part in some of the debates and workshops that are going on there," he remarked. "It's about positive engagement with other jurisdictions and we feel that we connect best in this regard at these forums. There aren't many jurisdictions which are as far advanced as the Isle of Man in regulatory matters, so we feel that we can work together to share our knowledge and experience. It is important that we are at the table and able to shape the discussion and its outcomes."

Mr Brennan then drew the attention of the floor to a series of figures illustrating the current status of the Island's eGaming sector. He noted that the Isle of Man is currently home to 45 active licence holders (up from 39 last year) and 10 approved licences, including a very high profile poker licence. The Commission, meanwhile, is also currently considering 4 licence applications which were submitted in the last couple of months.

Looking to the future, however, Mr Craine emphasised that it is important to always be looking "down the pipeline" at how businesses are responding to the Government's efforts. "At the moment, we have 10 qualified enquiries as well as 9 preparing applications, so it's a pretty healthy pipeline," he enthused. "However, although we are pleased, we are not complacent, and we're looking to keep that pipeline fully charged in the future. I would like, again, to emphasise the importance of your sector to the Island; it has come at a time of great structural change within our economy and the figures you can see before you today, in terms of their contribution to the Exchequer, are very important."

## Tim Craine

Head of eGaming  
Isle of Man Government  
Department of Economic  
Development



Tim Craine

Prior to being appointed Head of eGaming, Tim was Director of the Business Development Agency in the Department of Economic Development, a responsibility which included eGaming, eBusiness, space commerce, country strategy, financial services, manufacturing and tourism.

Mr Craine then took a moment to focus on tax and employment figures relating to the industry, noting that although licence fees and duty had generated £1.7million and £2.9 million respectively, 'other taxes' and 'local spend' had made a more significant contribution to the Island's economy, at £13.3 million and £164 million. The eGaming sector had also generated some 688 new employment opportunities on the Island; "a fairly small increase on the 671 last year, although this can be attributed to developments in ICT and to companies putting a cap on the cost of employment in challenging times," Mr Craine assured the Summit. "We hope to see opportunities for employment increase once again with the arrival of new licensees and, indeed, non-licensees."

Looking at the eGaming sector as a percentage of GDP, Mr Craine also observed that the 7.9% figure offered by Treasury equates to £274,418,000 and, when coupled with the ICT sector at 4.4%, amounts to a broader sector contribution of 12.3%. This makes eGaming, combined with eBusiness, the Island's second most important sector, behind insurance at 14.7%.

"To continue with our review of the recent past," added Mr Brennan, "at

the top of the list is obviously 'Black Friday' [April 15th 2011], the date upon which US federal authorities unsealed an indictment against the big three US poker operators, Pokerstars, Full Tilt and Absolute Poker, using legislation based on UIGEA [the Unlawful Internet Gambling Enforcement Act of 2006]. 12 months ago the Department of Justice was taking action and it wasn't the most comfortable of places to be because we had one of our operators embroiled in the case. Moving on 12 months, all players of PokerStars continue to deposit, play and withdraw as they please and have concluded the civil action brought about by the US authorities. Furthermore, FullTilt recently licensed in the Isle of Man and, having fully reimbursed all of its players, quickly re-established as the number two poker site in the world."

Returning to the theme of positive engagement, Mr Brennan reiterated the recent negotiation of an international co-operation agreement with Malta in August of this year. He explained that agreements such as this facilitate engagement between nations and open up a forum within which regulatory bodies can work together to develop common standards for consumer protection as well as decide upon how best to utilise technical infrastructures. Mr Craine then took

this opportunity to touch briefly upon the formation of the eGaming Strategic Advisory Board via the Isle of Man Chamber of Commerce, the primary objective of which is to develop a new eGaming strategy. "We've managed to persuade some key private sector figures to be part of this group and this is a prime example of the excellent working relationship between the public and private sector on the Island," he added.

"We have also recently introduced legislation concerning the hosting of live tournament games on the Island with the Casino Amendment Bill," continued Mr Brennan. "We saw an opportunity to capitalise upon this rapidly growing tournament environment and already have two of the world's largest providers of tournament gaming on the Island. But in order to provide the opportunity to host these tournament games we needed to change the law. Hopefully, when we return to the Summit this time next year, we'll look back and see that we've had one or two successes already in this area. This change in legislation is another example of the ability of Government to react quickly to commercial opportunity."

“There are a number of questions that are still being debated by a public/private internal group on the Isle of Man with the aim that we are in a position to respond accordingly.”

Mr Craine then took over, explaining that the Government had sent invitations to over 300 global casino operators, hotel chains and property developers as well as placing invitations to tender in the Financial Times newspaper, to which seven replies had been received. He iterated that the Council of Ministers was very supportive of the process throughout and that, following the July sitting at Tynwald, discussions with representatives of the one remaining expression were at an advanced stage. “We hope that these discussions will be concluded in the near future,” added Mr Craine.

#### Personnel

Mr Brennan then provided a brief overview of some personnel changes within the Gambling Supervision Commission, noting that former Chairperson Claire Milne finished her term of office in August of this year to be replaced by Ron Spencer. A new vacancy was also recently filled by a previous commissioner, Mr Jerry Carter. “Treasury has also been very supportive over the last 12 months and they are recognising that the sector is growing. We have been given additional funding within the GSC in order to grow. One thing that is very important to me,” emphasised Mr Brennan, “is to ensure that we don’t just take on new licensees without giving some consideration to our ability to regulate them correctly. We are getting near our capacity with the numbers we’ve got and the Government has recognised that and given us additional resource to grow in line with the sector.”

“One of the final things I also wanted to discuss today is how the strategy is shaping up,” continued Mr Craine. He reminded the floor that the GSC had arranged a meeting for December 4th at which it was hoping to finalise the strategy and, in accordance with Government policy, would then seek approval from DED on December 12th. “The strategy is going to be a key determinant of policy in the future,” he explained, “it will provide an agreed agenda for both Government and industry, it will give clarity and focus and it will provide a blueprint for the next two to three years. Its main focus will be on local market development, developing market access for new business, developing our White List status and helping us to continue to negotiate co-operational agreements wherever we can, particularly with EU states. We’re also continuing to focus on non-licensable business on the Island; if we continue to attract only licensed business we render ourselves vulnerable to the march of the tax and regulate model. So we need to attract business such as testing houses, software developers and call centres.”

#### AML

Following a brief overview of the White List Review and of the Gambling Supervision Commission’s efforts to enlist for ‘Third Country’ status as part of the European Commission’s consultation on eGaming, Mr Brennan then touched upon the subject of anti-money laundering. He explained that the sector had recently become subject to the consolidated Anti-Money Laundering Code and the Terrorist Financing Code and that these will be subject to further consultation, which the GSC will issue in the near future.

This led Mr Brennan on to the subject of the Foreign Account Tax Compliance Act (FATCA), which gives rise to the issue of taxation of non-resident US citizens and the potential impact this may have on licence holders. FATCA legislation dictates that the income generated may need to be declared to the IRS, or Internal Revenue Service. “There are a number of questions that are still being debated by a public/private internal group on the Isle of Man with the aim that we are in a position to respond accordingly,” Mr Brennan reassured the Summit.

#### To Close

To conclude, Mr Craine directed the focus of the presentation towards banking, which remains a challenge to the industry. He explained that there is concern amongst the larger banks regarding companies that have involvement in the US whilst others are failing to invest in some of the Island’s newer licensees and start-ups. “The current situation is that Kleinwort-Benson, Standard Bank, Nedbank and Conister are all active in the sector but that none of the ‘big five’ are showing any appetite at the moment due to their US interests,” explained Mr Craine. “Segregated player fund requirements on the Isle of Man remain, although licensees can bank off-Island after Treasury approval if they can’t find on-Island banking. An alternative is to have a bank guarantee or a trust structure. We’re also currently looking at other opportunities to maintain our segregated player fund model, which is one of the advantages of the Island, to see if we can provide other channels through which to satisfy that requirement.”

“Treasury has also been very supportive over the last 12 months and they are recognising that the sector is growing.”

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# Comparing the Jurisdictions

## Nick Nally

Chief Development Officer  
Continent 8 Technologies

**Nick has over 25 years' experience in many sectors of the IT & Telecommunications industry, encompassing senior management, consultancy, sales, carrier relations, engineering, and business development.**

**Nick has been with Continent 8 for six years now and looks after business development and strategy as it relates to the roll-out of offerings to service the eGaming market. Previously, Nick was an advisor and consultant to the Department of Communications within the Irish Government.**

By way of introduction, Mr Nally offered the floor a brief overview of Continent 8's history as a managed services and hosting provider which, for around 14 years, has turned its focus towards the provision and maintenance of infrastructure for online gaming companies. However, up until 2006 the hosting provider ran just one of the many data centres for which it is perhaps now best known. It was at that point that Continent 8 incorporated in the Isle of Man, which became the focal point of a global expansion programme that has since seen Continent 8 become one of the world's most successful organisations of its kind, with data centres as far afield as Singapore, Guernsey, Dublin and Montreal. "So the Isle of Man is our home, our base," Mr Nally was keen to assert, "and we're extremely interested in making sure that this jurisdiction works for us".

### Power Charge Ratios

Mr Nally then outlined his presentation as being, in essence, a comparison of power and telecoms infrastructures across gaming as well as non-gaming jurisdictions, describing them as the "two staple foods of our industry." Taking the Isle of Man as a base value, Mr Nally began by drawing a comparison of power charge ratios in three gaming, or 'tier 1', jurisdictions and two non-gaming, or 'tier 2', cities: "because I believe that's where we should be aiming for," he explained.

For the future reference of the floor, Mr Nally also emphasised that, rather than signifying the cost of power supply, the term 'power charge ratios' refers in this instance to the cost to Continent 8 of installing a power infrastructure. He also explained the use and importance of the acronym PUE, or Power Usage Effectiveness, a factor that many data centres use as a comparative device.

"The ideal within the industry is to allocate most of your power to a customer's computing," Mr Nally explained, "but if you have half going towards overheads, cooling and infrastructure, then your PUE has a rating of 2. The average across the industry last year, according to the Uptime Institute, was 1.8 to 1.9." Turning the attention of the floor to a slide, Mr Nally then demonstrated that, having taken it at a base value of 1, the Isle of Man compared remarkably well against other gaming jurisdictions - with Alderney demonstrating an average power

charge ratio of 1.16, Malta 2.09, and Gibraltar 1.48. However, Mr Nally then compared the Island against the tier 2 examples of Dublin (0.40 power charge ratio) and London (0.30), noting that each fared remarkably well by contrast. This was attributed to the ready existence of high quality power and telecoms infrastructure in these cities; while Gibraltar's poor power charge ratio could be attributed to the added cost of cooling in data storage centres, for example.

### Telecoms Charges

Moving to a comparison of telecoms charges between the same jurisdictions, Mr Nally then took a base rate of 10 Mbps supply of bandwidth. He explained that Continent 8's charges are a reflection of market rates but that they are also a function or result of online infrastructure: "and it takes a lot of money to get redundant capacity into places like Malta, Gibraltar, Guernsey, and even the Isle of Man". Directing the attention of the floor to a projected graph and again taking the Isle of Man at a base value of 1, Mr Nally then demonstrated that Gibraltar fares significantly poorly by comparison at a cost multiple of about 15.00, Malta too at 2.41, and Alderney at 1.95. Yet in comparison to Dublin and London, at 0.40 and 0.30 respectively, the Isle of Man was described as still being "way out, with the cost per 10 Mbps coming in at over double that of the tier 2 cities," he stated, "this again reflects the infrastructure charges and costs to build into the Isle of Man."

Nick Nally



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“It is hugely important that we get out there to tell our story, to talk to people and to represent the Isle of Man on the international stage wherever we can.”

### Bundled Offering

Taking a typical hosting bundle, which consists of a server rack, 5 kW of power and 10 Mbps bandwidth, Mr Nally again drew a jurisdictional comparison of the Island’s near competitors, this time to provide an overall comparison of their offerings. Again, at a base value of 1, Mr Nally demonstrated that the Isle of Man compares very well against Gibraltar (6.53), Malta (1.75) and Alderney (1.43), and only slightly worse than Dublin and London, at 0.67 and 0.80 respectively.

### Observations: Power and Telecoms

Overall, Mr Nally was keen to emphasise that “without question, the Isle of Man has the best offering in terms of data centre suppliers in the gaming jurisdictions in which Continent 8 operates.” In terms of continuity of supply, he described the Island’s power infrastructure as ‘superb’ while in terms of telecoms infrastructure, the Island’s was described as more trustworthy than most. “We don’t take local IP transit from anybody from any jurisdiction,” Mr Nally explained, “and in jurisdictions like Malta and Gibraltar we had to install our own infrastructure at a huge cost, which is unfortunately reflected in our charges to our customers.”

DDoS, or Distributed Denial of Service, protection (protection against network attacks, which often take place as small, penetrative applications or volumetric flooding) represents another important benchmark of infrastructure quality. Mr Nally explained that, due to the cost of installation and logistics, DDoS infrastructure cannot be placed in most jurisdictions, since a large volumetric attack would cause the infrastructure of most to collapse entirely.

### Licensees by Jurisdiction

Mr Nally then drew the attention of the Summit to a graph illustrating the number of licensees in a cross section of six jurisdictions – the Isle of Man (41 licensees), Alderney (71), Malta (229), Gibraltar (23), France (26), and First Cagayan in the Philippines (39). He noted, however, that quantity alone is not necessarily indicative of quality and that other issues such as brand esteem, the size or market share of an operator, whether or not an operator is publicly listed, operators’ contributions to the economy, and their reputation, must also be taken into account. He explained, for example, that the reputation of existing licensees may discourage others from relocating to a given jurisdiction simply because of the issue of negative association: “so reputation is important for the licensees as well as the regulators themselves, on many fronts.”

To conclude, Mr Nally touched upon the subject of the availability of skills and lifestyle as well as regulation in competing jurisdictions, describing both as a huge issue. “Lifestyle is important,” he continued, “and everybody that I’ve talked to on the Isle of Man loves it here. But I also think that people will move because of those that are already there, so this is a deciding factor in our industry.” Mr Nally described regulation as being equally important, and expressed his opinion that regulators need to regulate in accordance with technical innovation if they are to create a stable and supportive environment in which to operate: “so I think it is important that the Isle of Man continues to achieve this aim.” Finally, Mr Nally raised the subjects of international co-operation and PR as being vital to the continued success of the Island’s eGaming sector, stating that “it is hugely important that we get out there to tell our story, to talk to people and to represent the Isle of Man on the international stage wherever we can.”



# Panel 1: Merits and Opportunities of the Isle of Man as a Home for eGaming

- Chair - Russell Kelly** - Director, eGaming Services - KPMG  
**Hilary Stewart-Jones** - Partner, DLA Piper  
**Roger Raatgever** - CEO, Microgaming  
**Bill Mummery** - CEO, Celton Manx  
**Warwick Bartlett** - Chief Executive, GBGC

## What do you see as the key merits and opportunities for the Isle of Man?

**Roger Raatgever:** Mr Raatgever explained that Microgaming had arrived on the Isle of Man due to existing networks and professional relationships. He explained that the Isle of Man had already cultivated a very positive profile in terms of its eGaming credentials during a period which could be considered 'unchartered territory' concerning use of the internet, regulation and the licensing of technology. He added that another significant benefit was accessibility, both in terms of location and of generating a close and cooperative relationship with Government. "It was a government that actually listened and it was Government that acted for us," he enthused, "and that continues to this day."

**Bill Mummery:** "What distinguished the Isle of Man as a jurisdiction for us was that it demonstrated early on that it understood the Asian business model and embraced it with effective legislation and regulation," explained Mr Mummery. He went on to observe that the Isle of Man also benefits from stable infrastructure as well as a close proximity to the capital markets in London, which helps to propagate eGaming businesses, should they choose to move onto the public markets. Exposure to impediments such as non-recoverable VAT and limited EU access is also limited on

the Isle of Man for an Asian market focused company: "so you have all of the benefits and none of the disbenefits, and if you look at the way the market will go over the next two to five years, you'll see that there remains major opportunity for the Isle of Man in Asia."

## From an external perspective, what do you see as the key attributes of the different jurisdictions, particularly the Isle of Man?

**Hilary Stewart-Jones:** From the perspective of DLA Piper, Ms Stewart-Jones explained that the pros and cons are relative to each jurisdiction. "But I do genuinely think that, both in terms of the scale of the operations here and the number of licensees that you have, the Isle of Man has come into its own," she continued. In terms of the disadvantages of the Island as a jurisdiction, Ms Stewart-Jones referred to the elements of non-refundable VAT, which is important for European facing businesses, as well as the EU argument. However, she went on to say that, in her opinion, the EU argument has become somewhat deflated due to the increasing trend in Europe of each jurisdiction moving towards its own licensing regime. This issue is further compounded by what Ms Stewart-Jones described as a fragmentation of views surrounding the standing of an EU licence in the present day: "As a consequence, I think there will be a number of challenges made, not only by EU operators but also non-EU operators,

as to the validity of those local laws that are being implemented," she observed.

Ms Stewart-Jones added that "in terms of where to get a licence, it cannot be underestimated that in the Isle of Man the regulator does know how these businesses are run, so there is a flexibility, there is a pragmatism and there's also this concept that your business is welcome, and you can't say that about every jurisdiction."

## In relation to the wider online gaming landscape, where do you see the Isle of Man's niche being?

**Warwick Bartlett:** Research shows, Mr Bartlett explained, that the Isle of Man has developed a particular niche for sportsbooks and operators to the Asian market. This is an area which demonstrates tremendous potential opportunity for growth, perhaps more so than Europe. The US, Mr Bartlett anticipated, will regulate only to the benefit of its incumbent operators. "So I think the Island has done extremely well to remain home to companies such as 12Bet, Celton Manx and SBObet," he enthused, "and I think we have to build upon these strengths rather than focus on our weaknesses."

Should we then also be focusing upon areas such as the emergence of social gaming, for example, or is that something that we need to leave for the time being?

**Roger Raatgever:** Social media gaming, in Mr Raatgever's opinion, is an area that is best left alone at present on the Isle of Man. "Social is something that we believe has a huge overhang," he explained, "it has a real smell of 'dot com' to it. The numbers are very romantic and very exciting but when you look at the actual underlying facts they are fighting and fighting to find the next big hit – they have to move so fast just to stand still." He added that the key problems surround monetisation, emphasising that the future for social gaming lies in the conversion of the gambling and social markets, an area in which Microgaming is already very well placed.

**Warwick Bartlett:** "As Roger said, the numbers are fantastic and I see social media as a wonderful opportunity for advertising," continued Mr Bartlett, who also noted that in a previous breakout session the possibility of using social media platforms to provide recommended leads to friends and relatives was examined as a means to enable companies to significantly reduce marketing costs.

**Hilary Stewart-Jones:** "From an industry perspective, I think the gaming industry could learn something from the social media industry and vice versa," Ms Stewart-Jones added. "The problem that regulators have, however, is that at one end of the continuum social media gaming really is gaming and the fact that it is currency, albeit virtual currency, could tip social media into the realms of gambling regulation. Moreover, it is very difficult to obtain average player data because a lot of people are, of course, leading second lives on the internet. The data that we are amassing is therefore probably not that reliable. This is why I think the social gaming industry is moving towards the fact that self-regulation is probably the way to go. So from an Isle of Man perspective it is important that we start to draw the parameters."

Do you see the taxation regime on the Isle of Man as being the key attractor to come to the Island or do you see the wider package as being more influential?

**Bill Mummery:** Mr Mummery remarked that although taxation is important, it is not in itself the sole reason to make the significant decision to relocate to the Island. He explained that, should the economic or external imperative force an increase in taxation, the impact would be less the imposition of the tax itself but rather the negative implication that an increase was the first step in a 'slippery slope' for the domestic eGaming sector. "In terms of the signal it sends out therefore," he added, "I think it is very important."

**Hilary Stewart-Jones:** Ms Stewart-Jones explained that, from the perspective of an advisor, one cannot underestimate the importance of the Island's competitive rate of taxation. "In an industry where margins are being squeezed almost daily, proper tax structuring is going to be a critical driver."

**Warwick Bartlett:** "You can't compete in the internet space and pay 28% corporation tax," emphasised Mr Bartlett. "VAT is, of course, a factor for the Isle and indeed is a major selling point for Alderney but overall I think taxation is very important here."

How does the eGaming sector fit in with this new era of tax morality?

**Roger Raatgever:** "I think what the question is referring to is what is known as 'the Starbucks Syndrome,'" began Mr Raatgever. "Our take is that the Isle of Man needs to start future proofing itself." He explained that from the perspective of Microgaming, it is possible to show that there is economic value on the Island and to demonstrate that "this is where we are and that we are committed to this Island and its future." Mr Raatgever went on to say that, with the EU's policy of country by country reporting, it is becoming increasingly clear that where the economic value lies is important "and this is a fantastic opportunity for the Island and the industry to showcase itself."

**Bill Mummery:** Mr Mummery agreed and added to Mr Raatgever's statement by voicing his opinion that in certain business models, and providing the company is entirely and legitimately incorporated on the Isle of Man, it is also possible to demonstrate that Isle of Man based companies are able to provide the best and most secure service to their customers.

What do you see as the key technological advancements in eGaming today?

**Roger Raatgever:** Mr Raatgever explained that the prevalence of technology in the present day has resulted in added power to the buyer, and forces companies to look further into the future to ensure that the ready availability of information is capitalised upon from both a marketing perspective and in terms of remaining competitive. According to current statistics, 20% of six to 11 year olds in first world countries own mobile phones while 88% of teenagers access the internet for at least 21 hours per week. Choosing Paddy Power as an example, they generate around 70 per cent of revenue via mobile platforms: "That's what Microgaming is looking at and that's what we're looking forward to in the future."

**Bill Mummery:** Building upon Mr Raatgever's statement, Mr Mummery explained that football constitutes 70% of sportsbook betting in Asia and that the vast majority of betting takes place either through mobile or in-play betting. In the run-up to the English premier league, for example, SBObet often processes between 600 and 800 transactions per second and Mr Mummery emphasised that "this could not be achieved without the contribution of mobile." However, he added that from his perspective the financial transaction basis for mobile has yet to mature.

**Roger Raatgever:** Mr Raatgever added that "it took a hundred years to create 100 million adopters of the car and it took the iPod one year. The uptake of technology is accelerating exponentially and the future is coming a lot quicker than we think."

**Have you looked towards other countries such as Africa, for example, where the land based telecoms market has been bypassed?**

**Warwick Bartlett:** Mr Bartlett agreed that in Africa “mobile has bypassed copper” and that the continent is already attracting significant investment from Chinese businesses. He also noted that the market is growing by around 8% per year, “so eventually the African market is going to become very important.”

**In terms of the Isle of Man, is there more that we can do to promote the technology side and start delivering these capabilities to the Asian and African markets?**

**Roger Raatgever:** “Education,” Mr Raatgever emphasised promptly. “The schools on the Island are now engaging with businesses and looking at where the technology is and this is positive because it’s all about education.”

**Warwick Bartlett:** Mr Bartlett added, however, that one of the key problems that the Island has in this respect is that although the education standards are high, retention levels are low for local graduates and this has a detrimental effect upon the skills pool available to Island based technology firms.

**What would be the key message that the Isle of Man needs to take out to the marketplace?**

**Hilary Stewart-Jones:** Speaking in terms of the tremendous growth in access to the eGaming market, Ms Stewart-Jones remarked that the role of a technology and licensing hub such as the Isle of Man is to create a balance between these merits, social responsibility and consumer protection issues. She emphasised the importance of ensuring that the message exported to the world is not one of exploitation but of the protection of consumers and that a more public commitment to these values would go a long way towards assuaging people’s concerns as to why the Isle of Man is being promoted as an eGaming centre.

**Bill Mummery:** Mr Mummery added that one of the key messages also surrounds brand reputational risk. “It’s about protection of the brand, and on the Isle of Man there are some key stakeholders in that,” he explained. “Ultimately it is the brand itself that has the most to lose, but there is a very definite understanding in how we work together on the Isle of Man that clearly we have an obligation to the Isle of Man as a jurisdiction of license, as a regulator, and to the broader Island community.”

**Roger Raatgever:** “I think that where we fall down is with the softer issues and these include the travel, the hospitality industry and education, in terms of access to independent schools,” Mr Raatgever warned the Summit. “These are the softer issues that people take very seriously. When we were relocating around 50 staff, those were the issues they were looking at. They loved the Island but it’s these softer issues that we have to look at for the future.”

**Warwick Bartlett:** Agreeing with Mr Raatgever, Mr Bartlett also noted that another issue surrounds Government expenditure. Mr Bartlett warned that, if it were to continue at the present rate, this would undermine the credibility of the Island as a reasonable tax jurisdiction with the possibility that taxation levels may increase, which could precipitate a lack of confidence. He added that “zero corporation and capital gains tax is also very important due to the high investment and risks required in setting up a business. A profitable potential exit helps balance those risks.” Referring back to Ms Stewart-Jones’ statement concerning the deflation of concerns around Europe, Mr Bartlett also emphasised that with emerging markets elsewhere, Europe is becoming of less importance to the local sector. “I think we should continue to play to our strengths, not our weaknesses, and I think we have to target industries and companies of a much higher profile but not to the extent that it would raise the Isle of Man as a target for competing jurisdictions. We also have to talk to operators and ask ‘what would it take for you to move?’”

**Question from the floor: Do you think it is a good investment to incur the costs of economic development at government level or do you think it would be better employed in the private sector to empower and incentivise private sector companies such as CSPs to sell the Island on their behalf?**

**Roger Raatgever:** Mr Raatgever explained that, in his opinion, the ideal economic development strategy would incorporate a combination of both. He drew upon the example of Switzerland, in which the Government has a stake in a private entity that is tasked with driving new business, thus incentivising both parties.

**Warwick Bartlett:** Mr Bartlett drew upon a case history, noting that Toyota currently have a manufacturing base in Derby and Nissan in Sunderland because Norman Tebbit “got on a plane to Tokyo, talked to the chief executives of both companies and asked ‘what would it take for you to open factories in the UK?’ They had to give them some money and concessions but Great Britain is now producing more cars than it ever has done because of that.”

**Question from the floor: Archie Watt - Do you think that the Government policy of encouraging low-line education is the right one and, if not, what do you think we should be doing?**

**Roger Raatgever:** Mr Raatgever acknowledged that NEETS, or persons Not in Education, Employment or Training, are a problem on the Island and drew upon the example of Iceland as a potential role model. Mr Raatgever explained that the Icelandic Government has implemented a policy which sees the unemployed and students contribute towards public services for a minimum wage with the result that many emerge with experience and a basic CV. “These people are now employable, so the policy works particularly well.”

**Question from the floor: We've managed a decline in our reliance upon the finance sector through a conscious diversification of our economy and witnessed a growth in eGaming that has surpassed our expectations. How big could this industry be on the Island and might we reach the point where we are becoming overly reliant upon eGaming instead?**

**Bill Mummery:** "My sense is that the description of what we currently call eGaming will morph, change, broaden and deepen, and indeed we are already pursuing the rationale that says 'it's not all about licensees,'" Mr Mummery assured the Summit. "I think that if eGaming goes into decline for whatever socio-economic reasons, for me the key is that we will have used it as a driver to have established offshoot industries. As an industry, eGaming really is an opportunity to broaden the economic base and that's where we should go."

**Roger Raatgever:** Mr Raatgever added that, from the perspective of Microgaming, the bulk of operators come back to the Island because of what he describes as "our back office, our tools and our banking. Bill's right on the money," he continued, "in the future we're not going to be talking about eGaming, we're going to be talking about eBusiness and eCommerce."

**Question from the floor: Martin Humphries, Principle at King Williams College – Does the panel have any views as to how the industry can work with schools to encourage proper engagement with these betting technologies?**

**Roger Raatgever:** Commending Mr Humphries for engaging with the industry so proactively on such matters, Mr Raatgever continued by emphasising that close communication and close cooperation is the key to identifying opportunities in the market. Mr Raatgever then moved on to the concept of 'gamification', or rewards based learning, noting that "all our children are now being gamified; it's becoming part of the lifestyle. So it's about building a strong relationship between the private sector and education to make sure that children

are compelled to do things that they enjoy, and a lot about the future of technology is embracing that entrepreneurial and opportunistic culture."



# Introduction to the Afternoon Session

## Archie Watt

Head of eGaming  
KPMG Isle of Man

Archie joined KPMG Isle of Man in July 2010 from KPMG London, where he was working as an IT Advisory Director in the Information, Communication and Entertainment practice, with a particular focus on online gaming clients. Archie has worked for KPMG since 2006 and he has worked on the public listings of 888, Playtech and PartyGaming, amongst others. Archie co-authored the 2010 KPMG report 'Online Gaming: A Gamble or a Sure Bet?' and regularly writes and speaks on eGaming matters.

Mr Watt introduced the afternoon's session as focusing predominantly upon the theme of taxation and regulation as it relates the eGaming sector globally as well as the Isle of Man: "because regulation is something that is developing around the globe and particularly the EU, which is our closest neighbour after all." He added that it is quickly becoming the case that countries are starting to impose regulation as a means of rescinding competition through taxation, "and the impact of this is something that we hope to explore in further detail this afternoon."

Technical delivery mechanisms, with particular reference to eGaming and the cloud, were also an important subject for discussion and Mr Watt emphasised his desire to explore how the provision of eGaming as well as individual operators have been affected by such innovations in resource delivery. He explained that Panel 2 would provide the Summit with the opportunity to explore the licensing and regulatory issues surrounding information privacy as well as the impact of the cloud upon the competitive environment surrounding the eGaming sector.

With reference to Mr Withers' presentation on 'Gaming and the Capital Markets', Mr Watt observed that it was also "quite interesting to note that the capital markets have been involved with the eGaming sector since about 1961, at around the same time that the UK introduced the Gambling Act, and that the UK had been leading in gambling regulation for quite a number of years." He voiced his hope, however, that the UK retains its progressive stance towards regulation and does not revert to the

protectionist measures that the Point of Consumption Tax appears to be bringing to the sector.

"Many countries have also tried to control gambling by banning it completely," Mr Watt continued. "For example, in India and in many states in the US, gambling is completely illegal. But I think many examples have shown that this does not prevent betting taking place, all that happens is that betting takes place underground or elsewhere. As such, I would suggest that the regulatory model that has been implemented in Singapore is one that many countries would do very well to observe. Historically, Singapore too had banned gambling completely; horse racing was allowed but that was about it. But over the past 5 years, things have changed dramatically. Singapore has opened up, is well regulated and has now overtaken Nevada as a large gaming jurisdiction. The advantage of this model is that it's visible; it's controlled, it's managed and it's happening in a completely self-contained and well understood manner."

Following a brief overview of the afternoon's breakout sessions, and with reference to the first of the afternoon's two panel sessions, Mr Watt then outlined the forthcoming presentation, 'Remote Gambling: regulatory developments, challenges and threats', by David Clifton who he described as "having one of the most interesting client profiles ever heard of." Following Mr Clifton was Pierre Tournier, Brussels based EU advisor to the Remote Gambling Association, whose presentation, Mr Watt explained, would also be of massive importance to the eGaming sector. "This is mostly because countries,

including the UK, are becoming more and more protective of their taxes and are seeking to justify their actions by claiming that regulatory measures are taken in the interests of protecting their consumers. I can certainly assert, however, that the regulatory framework of the Isle of Man is designed and is proven to protect our consumers," Mr Watt continued. "After all, our regulations were tested after Black Friday and were found to be very effective indeed. I ask you to judge for yourselves during this afternoon's discussion."

Finally, and on behalf of KPMG, Mr Watt expressed his gratitude for the high levels of public sector engagement throughout the day's proceedings. He remarked that the presence of Chief Minister Allan Bell MHK and Tim Craine as well as the forthcoming closing words from John Shimmin MHK, Minister for the Department of Economic Development, was testament to the importance of the eGaming sector to the Isle of Man and to the solidarity of the public/private relationship. "It is important to them and it is important to the Isle of Man generally that our sector grows and retains its high regard at a global level. This is something that we hope to maintain through continued co-operation and dialogue, fair and responsive licensing and regulatory regimes, and a sustained emphasis upon protecting the end user."

## Archie Watt

Head of eGaming  
KPMG Isle of Man



KPMG eG  
SUMMIT

# Panel 2: eGaming and the Cloud

Chair - Archie Watt - KPMG, Isle of Man

Owen Cutajar - Intelligence

Steve Heeney - AgI

Mark Rutherford - Isle of Man Gambling Supervision Commission

Steve Ketteley - DLA Piper

## What is 'the cloud' and why is it becoming an issue?

**Owen Cutajar:** Mr Cutajar opened the afternoon's discussions by explaining that firstly, there are many different definitions of cloud computing and many more potential applications for its use. In order to provide a demonstration of the ambiguities surrounding its definition, Mr Cutajar referred to IT advisory firm, Gartner Research, which defines the cloud as: "A style of computing where scalable and elastic IT capabilities are provided as a service to multiple customers using Internet technologies". "But for us, what this really means is that it changes the way in which organisations operate," he reassured the Summit. "Instead of having to come up with the initial outlay to buy a huge bunch of kit that is used sometimes during peak periods but most of the time is sitting idle, it lets companies meter their usage so that for every new player or member of staff they can pay a small additional cost for that extra power." Mr Cutajar drew upon a comparison with electricity usage, noting that it is paid for on a supply only basis. "So we are applying this usage paradigm for different layers of technology, whether it's infrastructure, whether it's a payment service, or whether it's an office application. We used the word 'issue' earlier but I would prefer to use the word 'opportunity' because the cloud is providing more choice in the way organisations are consuming their IT."

**Steve Heeney:** "I'm glad Owen used the word opportunity here because that's the way people are looking at these technologies," began Mr Heeney. "The cloud now gives us a huge amount of flexibility in terms of what you can do. So, when a company is looking to improve its services or go to market, it can say 'I know what my IT can do and what's more, I only pay for the IT that I actually consume to deliver that service.'" Mr Heeney explained that this has significant implications surrounding the calculation of client revenue, due to it now being possible to allocate a definable expense to the provision of services to a single customer. "So the cloud makes businesses more agile, it makes them a lot more responsive, and it makes new markets and new solutions far easier and faster to adopt."

## How is this any different from 'timesharing' on the old mainframes in the 1970s and 80s?

**Steve Heeney:** Hosting and the cloud are concepts which are often mistakenly conflated, noted Mr Heeney. "The clever bit about the cloud, however," he added, "is that you have this bit of software that sits on top and says 'you're only using 30% of these resources so that's what you pay for.'" Taking the retail sector as an example, Mr Heeney demonstrated that companies such as Argos maintain the expense of a large infrastructure all year round because the extra capacity is necessary during the Christmas boom, "and this is not a very efficient way to run a business. Why not just have the stuff you use all year round and pay for the extra when

you need it? It's about scalability, flexibility and business agility."

## Can operators really use the cloud to make cost savings and is there an appetite for them to do so?

**Mark Rutherford:** Providing a regulator's perspective, Mr Rutherford resolved that "the first thing to do would be to point out that most regulators certainly recognise the benefit of the cloud or the opportunity to avail themselves of the cloud whether for infrastructure, platform or software services." From the GSC's point of view, he continued, "we do take an open minded approach and as far as the Isle of Man is concerned we don't necessarily see a clash between the use of the technology and the regulations that we have; however the thing that gets the regulator worried most of the time is the protection of players' personal data."

Mr Rutherford explained that, in terms of the protection of player data, the security and robustness of the cloud and the control the operator maintains over it is the regulator's main concern. He continued: "From the Isle of Man's perspective, a peculiarity exists in the legislation we have that makes it a legal requirement for operators to protect their client funds and that has a knock on to the way player data is stored. If an operator goes to the wall, all we need in order to repatriate player funds are two things – the money from the protection mechanism and the player's data (address, account value, etc). It's because the data is important to us that the data's whereabouts is crucial to us." He was quick to add that, "Isle of Man operators have performed

well in the past even in very challenging circumstances but it's because we've had access to funds and data. If the data was going to be stored off-Island in a cloud, we'd want to be sure that we had access to it." Turning to other regulators, Mr Rutherford asked the Summit to consider European regulators as quite a disparate crowd in the sense that they are all likely to choose their own direction in licensing technological innovation. He explained that in competing with one another each regulator in Europe tended to adopt its own definition of "gambling" and, as a consequence, the role and applicability of certain technologies, which can have a significant impact upon individual legislation concerning player data, its storage and protection. "So there are a number of challenges, but there are also a number of solutions. We remain open minded on the subject and it is one that we hope to address in the near future."

**Steve Heeney:** With reference to the possibility of creating a hybrid form of private cloud network, Mr Heeney confirmed that many industry analysts predict that the cloud is something likely to be adopted by many key players in the eGaming market. He predicted that the use of the term 'the cloud' will itself become redundant as its mechanism becomes the de-facto model for IT services provision and consumption. "But of course there will be some stuff that you do want to keep in-house," he continued: "whether that's because it's incredibly valuable or because legislation says it has to remain onshore or on your premises. From a technical standpoint, there are also lots of good reasons why certain parts of your company may remain on-site and others supplied from the cloud, resulting in this composite model." However, in response to Mr Watt's first question, Mr Heeney emphasised that "cost reduction itself should never be the reason to adopt the cloud; it should first be to create a more agile and responsive business."

**Owen Cutajar:** Mr Cutajar added that it is also important to consider that there are many different data profiles, ranging from player and company

sensitive to administrative and infrastructure information, which could inform a company's decisions surrounding storage in different jurisdictions. He explained that the cloud opens up a significantly wider range of options to a given organisation, each of which adds flexibility, agility and efficiency to their operating framework.

#### **When advising clients as to the regulatory and compliance implications of data storage, do you consider how they might split data up in accordance with these profiles?**

**Steve Ketteley:** Mr Ketteley observed that following the implementation of the Gambling Act in the UK, which resulted in many businesses relocating offshore, legal advisors were often called upon to consider how best to divide up and store their component parts. "In the UK, for example, there are certain regulations surrounding what a piece of equipment actually does, which in turn is defined by the data stored on the equipment," he explained. "So we have to break down these systems and look at them from an efficiency point of view as well as the regulatory laws surrounding them." Mr Ketteley also took the opportunity to remind the floor of the reasons why regulators in given jurisdictions may need access to a licensee's systems as well as the many variations in regulatory approaches to the subject. "But we're seeing an interesting development in Europe at the moment," he continued, "because as things become regulated more and more, we're seeing regulators begin to discuss with one another how best to open up. There's been an increase in co-operation throughout Europe and a cloud strategy cannot really happen without this regulatory alignment."

#### **Is the evolution of gambling regulation around the globe changing the traditional service delivery model?**

**Steve Ketteley:** "The model has changed," Mr Ketteley confirmed. "If you look at regulators in France, Denmark or Italy, for example, their requirements for the location of

equipment are themselves evolving. Some European regulators are listening to the industry, some of them really don't; some require absolutely everything to be within the jurisdiction, some are allowing a degree more flexibility for a variety of reasons. I think we have to understand and appreciate that the reasons for regulation and the ways in which member states approach regulation are not always for the same goal." Mr Ketteley contended that the fact that the Isle of Man allows flexibility concerning externally operated networks in robust jurisdictions is indicative of necessity rather than liberalism. "Whereas some other jurisdictions, France is probably the best example, don't really care about that thing," he explained; "they're presiding over a system that is a monopoly in all but name and the imperative to assist their operators and make them more successful is not really high up on their agenda."

**Mark Rutherford:** Mr Rutherford agreed on the importance of understanding the reasons for a given regulator's approach to the operations over which it presides. "Most regulators in Europe," he explained, "have a background either in law enforcement or Treasury – it's very rarely a technical back ground – so when we're dealing with the cloud it takes regulators time to get to grips with the concept." He explained that one important way for regulators to consider their approaches to technology was to engage in co-operation agreements. These give regulators the opportunity to approach one another and discuss aspects such as social gaming, the cloud, player protection and problem gambling. He added that regulators typically had requirements rather than solutions and that there were always "a number of different solutions for any given requirement, some of which would inevitably enable businesses to take advantage of today's technologies." He reiterated: "The Isle of Man regulator at any rate would be fairly open to technologies and approaches such as the cloud."

“Operators are growing at 18 to 20 per cent per annum, but a lot of analysts are saying that service provision is growing at similar rates – it’s going to be an \$18 billion marketplace by 2015.”



**What could be the future of the cloud to eGaming and how does it link to the rush to mobile?**

**Steve Heeney:** “There’re a couple of areas in which using the cloud as a ‘switch-on switch-off’ utility model works really well – things like big exercises in crunching numbers and deciphering patterns”, enthused Mr Heeney. “It’s what the industry now is calling ‘big insights’ and a lot of gaming providers are looking at doing this all within a cloud environment that they can just switch off afterwards. So they’re a lot more fleet of foot in terms of getting answers.” Equally, Mr Heeney explained, the cloud works very well as a market research tool for sentiment analysis or for gauging the ‘stickiness’ of a recent strategy. “Another big area of growth is in area providers or hosting centres”, Mr Heeney continued, “it was said earlier that operators are growing at 18 to 20 per cent per annum, but a lot of analysts are saying that service provision is growing at similar rates – it’s going to be an \$18 billion marketplace by 2015.” As such, Mr Heeney explained, service providers are now looking at ways in which to use the cloud to offer more client relevant solutions and mobile is a significant part of this evolutionary process.

**Owen Cutajar:** Mr Cutajar agreed, stating that mobile, like many other forms of technology in the past, has experienced unprecedented growth in uptake figures. Mr Cutajar drew upon the example of the Chinese market for smartphones, which last year saw 20 million units sold, this year 200, and next year a predicted 500 million units - double the US market. “So paradigms like cloud computing can really help deal with these peaks as well as troughs if they occur”, he added.

“If we also take a look at the processing requirement of eGaming companies and the technological ecosystem that surrounds them, for example, cloud based office applications provision via mobile offers the agility to move from one place to another. From a taxation point of view it is also possible for companies to show substance in one jurisdiction while showing that they are

performing to regulatory requirements in a different one. So it gives them a lot of agility in terms of where they want to position themselves in their markets, because tomorrow they could always be something else.”

**Steve Heeney:** Whilst observing that the Summit had already touched upon social gaming and gambling, Mr Heeney also noted the importance of taking the blurring of online entertainment into consideration. “We have regulated gambling and non-regulated gaming all available in close proximity and on the same device”, he continued, “and this issue is further compounded by some very interesting figures coming out of the gaming market at the moment.” Mr Heeney referred the Summit to recent figures relating to the Japanese gaming industry, which showed that mobile games businesses Third Degree and DNA both posted \$0.25 billion last October, profits which were generated purely through mobile games. “So lots of these businesses that we are seeing peripherally involved in gambling or straying on the regulatory side of gambling are generating an enormous requirement for cloud based services.”

**Are we at a stage now where hosting providers should be looking at moving away from their traditional services and providing cloud services for activities like number crunching, for example?**

“At the risk of being accused of plugging my own services”, began Mr Heeney, “that is exactly the sort of thing that the industry is doing. IBM, for example, sell a service known as the ‘Cloud Hub’ which helps companies to build a ‘go-to-market’ model.” He explained that within this model the commoditisation model for services has changed to ‘on demand’, which is more sensitive to client requirements and acts as a differentiating factor within the market. “So service providers are now asking themselves ‘how do we differentiate ourselves, how do we focus ourselves, and how do we provide better services to our clients and ultimately add value to our shareholders?’ And the cloud is playing a big part in that.”

Upon Mr Watt's prompting, Mr Heeney also explained that this model helps to bind providers to application developers, to a channel of re-sellers who are granted access to clients and to the vendors who are encouraged to invest in the original product. "So in effect, what you are doing is almost putting the cloud model right back up the supply chain to say to Mr IBM or Mr HP 'I'm not just going to give you a million dollar cheque for your stuff, actually I want to pay as I go on your stuff as I bill my solution out to my clients.'"

**Question from the floor: In the opinions of the panel, is next year's EU Data Protection Directive expected to act as a barrier or as an enabler to embracing the cloud?**

**Stephen Ketteley:** Mr Ketteley explained that one of the consequences of the rapidly regulating European market is that operators have paid relatively little attention to the subject of data protection in the past due to the fact that they have been focusing upon what he described as more serious potential breaches of regulation. "But the more licences they have the more regulations they have to adhere to," he continued, "so I think that the industry is maturing in that respect. They've always been conscious of player security but I think that's more of a commercial than security focused concern." Mr Ketteley reiterated that the cloud creates a variety of challenges to data protection, particularly where the transfer of information to areas outside of the EU is concerned, and turned to his fellow panel members in stating: "one of the questions that I, as a non-technologist, would ask is - what can the suppliers do to satisfy operators, customers or regulators that the use of a cloud strategy within the gaming market is secure?"

**Owen Cutajar:** "There are a number of options around that," Mr Cutajar began in answer, "and if you look at a number of providers, such as Amazon, you are given an option as to where in the world your data is kept - in the US," he continued, "you have a specific Government cloud in which to store information and which has its own regulations. So I see it as more of an opportunity for offshore jurisdictions to

build their own cloud and to have their own regulation, especially when you see the co-operation across different jurisdictions. We could see something evolving here which is owned and regulated by different jurisdictions yet which also has the capacity to conform to the regulatory requirements of other jurisdictions."

**Mark Rutherford:** "I would also like to add that these sorts of discussions are part and parcel of what we are discussing in regulatory forums," stated Mr Rutherford. "While data protection laws in Europe are sensible and could become very useful to the regulation of the cloud, our licensing in the Isle of Man is subject to Isle of Man gambling and data protection laws, and if someone wanted to transact information to the EU or further abroad then they would have to do so subject to the proper regulations of the Isle of Man." Mr Rutherford then speculated as to the future potential of these data protection laws combining with Europe's to provide more stable guidelines concerning the usage of the cloud.

**Steve Heeney:** With reference to Mr Cutajar's statement, Mr Heeney added that part of the rationale when building this ecosystem of service providers is the spectre of the US P.A.T.R.I.O.T Act. "This looms large," he continued, "because it's not completely understood and there hasn't been a single test case of its boundaries, so a lot of companies might avoid this intra-jurisdictional approach at the risk of keeping information with a company that is US owned or resident. So that's why you have to have this eco-system either on-Island, wholly resident or UK resident in order to make sure that you don't fall foul of international regulations."

**The cloud appears to serve social gaming well: where is the overlap and where are the differences with regulated activity?**

**Mark Rutherford:** Mr Rutherford confirmed that there is almost certainly an overlap between the cloud and social gaming, adding that "it is fair to say that, while there are a number of different formats of social games, there is increasingly a trend towards gambling format games on

the 'freemium' model. There is no prize and companies are very keen to avoid any possible monetisation to the extent that companies will never concede that their virtual goods belong to the player."

Mr Rutherford continued, however, by explaining that it is also understood that these companies are monetising rapidly and that this could potentially become an important issue. "So there's a great concern that even though the social media people don't really want regulation, sooner or later, as Nick Hawkins recently suggested, 'it will be the Daily Mail which will make government consider social media regulation.'"

Mr Rutherford added that there are pros and cons surrounding the suggestion that gambling regulation may be the appropriate vehicle for social media. He explained that there are commonalities that can be applied to the regulation of social media "but there are also enough differences to persuade me at this time that it would not be appropriate for a gambling regulator to try to regulate social media. So I'm not sure what the future holds for social media but we definitely see more overlap; it's definitely out there and it's definitely something we need to understand."

**Steve Heeney:** Mr Heeney agreed, stating the "the way in which people interact and are entertained has fundamentally changed over the last few years. But the first question is 'what is gambling?'. He continued by explaining that regulators hold different views surround the definition of gambling as well as virtual currency and that this has been the subject of debate for some time. "But what I think is more interesting is the debate surrounding the way in which these games interact with everybody and the fact that the player is not currently protected at all. So players are going to ask the question 'at what point am I as a consumer, regardless of my age, worthy of some form of protection from the operator?'"

# Remote Gambling: regulatory developments, challenges and threats

## David Clifton

Partner - Licensing and Gambling

Joelson Wilson LLP

David Clifton is the Managing Partner of leading gambling law firm Joelson Wilson LLP, based in London. He has specialised in gambling law for more than 25 years and, in recent years, has been at the forefront in advising clients on the increasing range of opportunities - and the daunting new hurdles - arising in what is an ever-changing regulatory landscape for the international online gambling industry. He is top-ranked in The Legal 500 and in the Chambers & Partners Guide to the UK Legal Profession.

Mr Clifton introduced his presentation as being an exploration of the licensing and regulatory changes afoot in the UK, Europe and beyond, the challenges facing regulators and the threats facing operators. He began with reference to his experiences of the mid-1990s, during which period Mr Clifton started to advise what he described as "that initial brave band of entrepreneurs who could see the opportunities afforded by a combination of gambling and the internet. Yet even by 2001," he continued, "the UK's leading textbook on gambling law, Smith and Monkcom [Law of Betting, Gaming & Lotteries, 2nd Edition], devoted only 17 of its 1,597 pages to remote gambling." What it did say however was that 'at the heart of the internet is chaos, and it is that very chaos which may place it outside the reach of existing legal controls and which, at the least, makes the application of such controls difficult to predict'.

Mr Clifton then furnished the Summit with a brief overview of the rate at which various jurisdictions began to implement initial licensing and regulatory frameworks for online gambling, noting that Antigua and Barbuda were first off the starting blocks in 1994, followed by Kahnawake

in 1996 and, quite soon afterwards, the Isle of Man and Alderney. It was not until September 2007 that the UK introduced the Gambling Act 2005: "so whilst we in the UK were still talking about it, the Isle of Man actually did it."

Mr Clifton reminded the Summit, however, that the UK was not without its ambitions, quoting the Secretary of State for Culture Media & Sport, Tessa Jowell MP, in October 2006 in stating that the UK hoped its regulatory regime would become "a hallmark of quality for those companies that do register in the UK." In an attempt to lure existing operators to Britain, Ms Jowell also stated that one "should not underestimate the reputational advantage that operating within our rules will bring." However, Mr Clifton pointed out that it was not long after that Gordon Brown then introduced an onerous and uncompetitive regime for Remote Gambling Duty which, as one leading commentator accurately foretold at the time "would do nothing to attract the offshore industry onshore and, indeed, may have the opposite effect." "The vast majority of remote gambling operators accessed by British consumers have remained regulated overseas ever since," added Mr Clifton.

"However, as I'm sure you are all aware, change in remote gambling regulation is now proposed," continued Mr Clifton who then drew the attention of the floor to the UK's proposed new place of consumption regime, whereby all operators selling to the British market at home or abroad will soon be required to hold a UK Gambling Commission licence to enable them to transact with British consumers and advertise in Great Britain. Mr Clifton added that, in his view, the proposed model is likely to be introduced in December 2014 at the earliest. "Once it occurs, however," he warned, "the regime will, of course, have a fundamental impact upon the licensing regime here on this Island and the present white listing system created by the 2005 Gambling Act will be phased out."

Ironically, however, that same white list system could quite conceivably, in Mr Clifton's opinion, have been the most efficient means of creating common standards across borders had the British Government instead required that all overseas operators, including those from within the EU, should obtain a British licence unless already licensed in a white listed jurisdiction. Instead, however, it is proposed that there should be a



David Clifton

transitional period which will entitle or make eligible operators already licensed in the existing white listed jurisdictions and EU member states to an automatic transitional licence to prevent them from having to cease trading. This proposal would, according to John Penrose MP, Minister for Tourism & Heritage at the Department for Culture, Media and Sport, ensure that regulatory good practice is recognised so that overseas based businesses in trusted jurisdictions, such as the white-listed countries, will have a much lighter touch approach and, for example, will not have to duplicate regulatory work. It was also speculated that operators that supply British consumers but which are based in offshore jurisdictions will be required to have a mirror server in the UK for the purposes of information verification.

#### **So what is the real reason for the proposed change?**

Upon analysis of the official government position, Mr Clifton observed that when Minister Penrose first announced the proposed change he described it as an important measure to “help address concerns about problem gambling and to bridge a regulatory gap by ensuring that British consumers will enjoy consistent standards of protection.” These reforms, it was expected, would ensure consistency and create a level playing field as all overseas operators would be subject to the same

regulatory standards and requirements as British-based operators. Mr Penrose then went further in claiming that, such was the extent of technological innovation in and internationalisation of the industry, this was an area in which consumer protection could only get worse if not fixed immediately.

“So that is the British Government’s position”, added Mr Clifton, “but is that the real reason? If so, one might expect the British regulator to be echoing the British Government’s stance, bearing in mind its statutory obligations.” However, Mr Clifton submitted that on the same day as Mr Penrose put forward his claim, Jenny Williams, Chief Executive of the Gambling Commission, was also quoted in stating to the Parliamentary Committee that “the Government is proposing change partly as a result of the ways in which things have been developing in Europe”, meaning the steady move towards individual national approaches regarding the taxation of remote gambling in each member state. “I expect that I am not alone here in suspecting that the principal reason that the British Government has revised its approach to EU Treaty provisions is to enable it to retain revenue that has been disappearing offshore.”

#### **Will the UK have a proper tax structure?**

Mr Clifton explained that in July of this year, the Culture, Media and Sport committee warned that Treasury still needs to work with industry stakeholders to establish correct levels of taxation, taking into account the need for companies to accept UK taxation and regulation and to discourage the formation of a grey market. “This came as no surprise”, he confirmed, “given that taxation levels of 15% on gross profits, which is the proposed level, could result in punters moving towards the grey markets where operators would be able to offer them a better deal.” This is a problem which is recognised throughout the European Commission, which identifies that the development of attractive levels of taxation is also critical to preventing consumers from going on unregulated sites.

#### **The Key Question**

However, the key question as Mr Clifton saw it surrounds the topic of whether or not the British tax rate would be so unattractive that operators presently targeting the UK will take the chance of continuing to advertise to and interact with British consumers without obtaining the required operating licence from the Gambling Commission. He referred to both Jenny Williams and HM Treasury, both of which expect compliance levels with the new remote gambling

“UK customers benefit from the increased competition and in the case of Isle of Man based operators, the innovative competitive behaviour has resulted in the customers receiving extra benefits, for example, through the mandatory segregation and protection of player deposits and winnings.”

taxation regime to be high. “Well certainly the fact that, since the beginning of April, UK licence holders have not had to pay gambling duties on bets placed by non-UK residents will have served to minimise one of the disincentives,” Mr Clifton speculated; “nevertheless there will be adverse financial consequences for operators, including multiple licence fees, increased compliance requirements, and UK corporation tax. KPMG will no doubt be in a position to advise on how being based here on the Isle of Man will serve to mitigate certain of these adverse consequences.”

#### **What will the UK Government and Gambling Commission do to enforce the new regime?**

Mr Clifton observed that the Department of Culture, Media and Sport Committee had concluded that there are numerous difficulties in effectively enforcing regulation in an online market where a large number of suppliers are based in other jurisdictions. It recommended therefore, that it is important that effective measures are put in place to prevent unlicensed companies from operating within the UK, and that this be achieved through increased international co-operation and a common approach. The committee then went on to level criticism against the government, stating that: “It is vital for the Government to recognise that the success of any new regulatory regime for online gambling will rest on the development and implementation of effective enforcement mechanisms for regulation. The Government’s proposals for the regulation of remote gambling remain very unclear particularly with regard to how the Gambling Commission intends either to approve and monitor regulators in other jurisdictions or to directly regulate and licence all the individual companies which operate in the UK.” Mr Clifton

submitted that this criticism is likely to have been inspired partly by Government silence on such matters thus far, adding a statement by Andre Wilsenach, CEO of the Alderney Gambling Commission which noted that “blocking mechanisms don’t work; at best they are defensive mechanisms.”

#### **Will the UK Gambling Commission be nothing other than a regulator without teeth?**

“That would hardly be an encouraging start for the operators who decide early on to submit themselves to the British licensing process,” explained Mr Clifton, who continued by observing that Jenny Williams has acknowledged this same problem. In January 2010, she stated to the Parliamentary Committee that “the Holy Grail, the answer is for us all to agree on common standards and a common way of compliance and enforcement.” However, Mr Clifton acknowledged this option as being “the first step in what I see as a very steep incline of stairs.” He added that the European Commission is proposing a comprehensive set of actions and common principles on consumer protection, responsible gambling, advertising, the prevention of betting match fixing and, importantly from the industry’s perspective, a reduction on unnecessary administrative burdens.

#### **Towards a successful EU policy**

The EC Communication of October 23rd led Mr Clifton on to his next theme, stating as it does that “the EC will take action wherever necessary to enforce the relevant treaty provisions in respect of any national rules not complying with EU law, taking into account the latest case law of the CJEU [or the Court of Justice of the European Union]. Ensuring compliance of national law with the Treaty is therefore a prerequisite of a successful EU policy on online gambling.”





“But how ironic would it be,” observed Mr Clifton, “if the restrictions now proposed by the UK Government to replace its existing liberal and competitive licensing and regulatory regime were found to be incompatible with EU law on the basis that economic grounds do not constitute an overriding reason in the public interest that justifies restricting freedom of establishment?”

Mr Clifton confirmed that there has been speculation that William Hill might institute a legal challenge to the proposed 15% rate of taxation and that, more recently, it has been reported that the Gibraltar Betting and Gaming Association is preparing just such a challenge. “If either is submitted, the UK Government will have to prove that it is necessary to change the existing regime in order to better protect British customers and in the process refute the allegation that the main motivation for change is the desire to increase tax revenues.”

This begs the question of whether or not it can realistically be said that the British consumer will be better protected as a consequence of these changes and Mr Clifton submitted a series of quotations which pointed towards there being no significant issues with consumer protection to date. Most notably, he submitted a statement from the Gambling Commission Online Mystery Shopping Programme Information Note, which stated in July 2009 that: “The vast majority of the largest operators and those with the greatest UK-facing business have sufficient social responsibility measures in place and those with identified weaknesses only accounted for a small percentage of the customer base.”

### Turning to the Isle of Man

In response to alleged inadequacies, Mr Clifton turned the attention of the Summit to a statement provided by the Isle of Man Government to the Culture, Media and Sport committee which stated that, through a series of unique regulatory measures: “UK customers benefit from the increased competition and in the case of Isle of Man based operators, the innovative competitive behaviour has resulted in the customers receiving extra benefits, for example, through the mandatory segregation and protection of player deposits and winnings.”

He then went on to observe that a report of the Culture, Media & Sport Committee in July 2012, entitled “A Bet Worth Taking?,” also noted that: “We have seen no evidence that the existing White Listed jurisdictions pose a greater threat of problem gambling than UK or EU-Based operators.” “It must surely be open very much to question therefore that the UK Government can realistically contend that it has or will have stricter regulatory standards than elsewhere,” Mr Clifton added.

To conclude, Mr Clifton touched upon the subject of social gaming and the ongoing debate surrounding whether or not it can be considered to be a form of gambling which warrants regulation. “Given the increasing blur between gambling and social gaming,” he began, “it was not at all surprising to hear that in June this year, just a few weeks before Facebook introduced its first real money online gaming app ‘Bingo Frenzy’, it was widely reported in the media that the Gambling Commission was commencing an investigation into online gaming with the view to determining whether this sector needed to be better regulated.” He observed that the key question from the perspective of the Gambling

Commission was ‘is it gambling or not?’, adding that the answer must necessarily be informed by Section 6 of the Gambling Act which defines ‘gaming’ as “playing a game of chance for a prize” and ‘prize’ as “money or money’s worth”.

“Those currently operating social gaming sites and accumulating considerable financial reward in the process will no doubt argue that the virtual currency a winner receives is precisely that,” remarked Mr Clifton. “and contractually it cannot be taken out of the game or sold on at all. However, one only has to look at the value that is achieved on Zynga’s virtual poker chips, for example, to appreciate that matters are not all quite as clear cut as that.”

Mr Clifton predicted that as the social gaming world develops, and so too do its profits, it is inevitable that regulators from jurisdictions beyond just the UK will want to consider applications which mimic online gaming even if they do not precisely fit the statutory definition. “This is a fast moving area of activity and it remains to be seen whether regulators are going to be able to play catch-up quickly enough” he added. “Perhaps the EC’s exhortation that ‘all citizens should enjoy a high level of common protection throughout the internal market’ will be the spur. It may yet be that one or two of the smaller jurisdictions decide to seize the moment and, to pick up another phrase from this morning, begin to major on consumer protection and start to regulate social gaming with a view to further bolstering the argument that the UK Government’s proposals for change are challengeable under EU law.”

# The Commission Action Plan: towards an EU regulatory framework for online gambling?

## Pierre Tournier

EU Advisor

Remote Gambling Association (RGA)

Pierre joined the Remote Gambling Association (RGA) in 2010 and has since worked as an advisor on EU legal and policy matters, dealing in particular with issues related to the internal market and competition. He represents the association in all its dealings with the EU institutions and has also worked closely with regulatory authorities at Member State level. Prior to joining the RGA, Pierre worked for a Dublin-based organisation on Justice and Home Affairs matters and trained with the European Consumer Centre Ireland, which is co-sponsored by the European Commission and Ireland Government.

Ushering in the final session of the day was a much anticipated presentation with implications which span the majority of the eGaming sector. Mr Tournier aimed to provide a regulatory update on the key actions laid down in a communication on online gambling that was published by the European Commission in October, 2012. The Commission Action Plan is comprised of a series of initiatives which are to be implemented over the next two years with the aim of clarifying regulatory and licensing practices and encouraging cooperation between Member States to work towards a common regulatory standard. It follows a July announcement from Internal Market and Services Commissioner, Michel Barnier, which called for the promotion of a set of common principles upon which to govern the gambling industry in the European Union. The announcement was prompted by concerns surrounding the diversity of regulatory models adopted by Member States and the potential for bias towards ring-fenced models which contradict legislative guidelines surrounding the free movement of trade and information within the EU. The Action Plan does not call for EU wide legislation but rather suggests a common set of principles and actions surrounding such issues as consumer protection and the transaction of data.

Mr Tournier began by emphasising that the key question surrounding the communication, and one which was no doubt of paramount concern to the floor, was 'is it paving the way towards some form of EU framework for online gambling?' to which he confirmed that, "at first sight, I am sorry to disappoint you in saying that I believe this is not the case." Nevertheless, Mr Tournier continued by explaining that there are some positive elements within the communication which may help towards a future standardised framework. He added, however, that "the Commission's lack of political will might prove problematic at some stage."

### The Remote Gambling Association

Mr Tournier then provided a brief overview of the Remote Gambling Association (RGA) and its role within the eGaming sector. He explained that the RGA is Europe's largest trade association for the online gambling industry and is comprised of 30 members, all of which must be licensed for gambling purposes in Europe and comply with a Social Responsibility Code of Conduct. The RGA promotes high standards of probity and integrity and represents the industry in all Member States as well as in London and Brussels, where Mr Tournier is based. Membership

ranges from operators such as 888, bet365, Paddy Power and William Hill to software providers such as Microgaming and manufacturers such as WMS.

### A Background

In explanation of the events which resulted in the publication of the European Commission's (EC) communication, Mr Tournier then drew the attention of the Summit to a timeline which detailed relevant developments from 2008 to 2014, which will see the end of Commissioner Barnier's incumbency. He demonstrated that between 2006 and 2008 the former Commissioner for the Internal Market, Mr Charlie McCreevy, launched a number of infringement proceedings against Member States which were allegedly non-compliant with EU law. At that time, around ten open infringement proceedings were frozen due to Member States' refusal to attend to various court summons. Mr Tournier also lamented the Commission's reluctance to continue to antagonise national magistrates with further demands for information provision. "There has not been any movement ever since", Mr Tournier reflected; "the Commission had not done anything up until the publication of the communication."



Pierre Tournier

Of the ten original infringement proceedings, Mr Tournier explained that three were subsequently closed against Denmark, France and Italy, while the remaining seven are still open. Moreover, he continued, there occurred the submission of the Schaldemose Report to the European Parliament in 2009, which Mr Tournier summarised as “giving Member States a free hand to regulate the online gaming industry however they want; there were no EU rules, no treaty rules, and no treaty provision”

This was soon followed by the entrance of Commissioner Barnier which, Mr Tournier explained, did not at first inspire much confidence from within the sector. Generally speaking, Commissioner Barnier was not known to be a great proponent of the free or internal market and has never proven himself to be ‘pro-online gambling’. Since taking office in 2010, his strategy has been to move slowly and softly, preferring to seek the guidance of key industry stakeholders in policy matters.

2011 saw the subsequent launch of the Green Paper public consultation on online gambling which, for three months, invited stakeholders to give their opinion on the best way in which to proceed to regulate the online gambling industry at EU level. The Green Paper consisted of around 50 questions and stakeholders were consulted on a wide range of issues such as anti-money laundering, consumer protection, sporting integrity and technical requirements. Mr Tournier added, however, that there was some concern at that time as to

whether the findings of the Green Paper were likely to be followed by any real action at EU level.

Following the Green Paper was the publication of the Creutzmann Report in late 2011. This was created by German politician MDEP Jürgen Creutzmann and was described by Mr Tournier as “quite promising and consensual: it tried to find some form of agreement across the European Parliament, realised the need for EU action and that current measures are unacceptable.” The imperative to implement a European Commission examination and communication was largely as a result of the concerns voiced by the report.

#### Existing and New Licensing Regimes

Mr Tournier then drew the attention of the floor towards a colour coded map illustrating the regulatory status of EU Member States ranging from those which, as of October 2012, either had no multi-licensing regime, were expecting to implement a licensing regime or had already adopted a licensing regime. He explained that over the past few years there has been a consistent trend towards the licensing of online gambling amongst EU states, although this does not necessarily mean that said regimes are of a high standard. “This has been one of the driving forces for the EU to go forward in its action plan”, Mr Tournier assured the floor. Portugal, Greece, Cyprus, Belgium, Ireland, the Netherlands, Sweden and Lithuania were all marked as expecting licensing regimes while Finland and Norway

currently hold no multi-licensing regimes.

#### The Communication

An overview of the Communication found that 27 actions had been raised although Mr Tournier expressed his regret that these should be considered as mostly soft measures in terms of their future impact on regulatory cohesion. Equally, he remarked, the potential for future EU wide legislation could also be described as disappointing. Rather than a predominant proposal, Mr Tournier identified two small proposals, the first being a proposed extension of the scope of the Anti-Money Laundering Directive to include all gambling products, regardless of whether they are offered online or offline. It is believed that this proposal will be announced in January 2013. The second small proposal concerns Article 14 of the e-Commerce Directive and surrounds notification and action procedure against illegal online content. “This is a rather roaring element”, Mr Tournier observed; “the Commission has yet to clarify its aims and explain to us exactly what it wants us to do.” A review of all 27 actions listed is expected to take place in two years’ time at which point it will be decided whether or not there is a need for further clarification or a sector specific evaluation. It is to be noted that two years’ time also signals the end of Commissioner Barnier’s term in office and Mr Tournier emphasised that “unless we get the support of the new Commissioner it may have a negative effect on the market.”



*cutting through complexity*





### Positive Elements: Enforcement

Despite the Communication proposing mostly soft measures which are unlikely to lead to any great change in the very near future, Mr Tournier identified two potentially positive elements within the proposed list. The first demonstrates the Commission's commitment to re-opening the remaining infringement proceedings which were frozen in 2008 as well as to investigating all outstanding complaints regarding the breach of EU law, of which there are currently around 30. This is indicative of a positive development in EU wide sentiment and cohesion concerning the enforcement of EU law.

The first step that the Commission expects to take is the issuing of information requests to magistrates of the Member States implicated which asks them to justify their positions and their restriction of the free provision of services. Mr Tournier explained that the European Court has developed a very rich case law clarifying the legal tests for magistrates deemed to be restricting the free provision of services for gambling, including tests of consistency, tests of proportionality, and tests of transparency, all of which are required to be carried out when scrutinising international laws. "However," Mr Tournier continued, "we do not believe that Member States will be called to court if they do not appropriately reply or that the court will sanction Member States' provision of gambling; we simply do not think the Commission has enough political will."

Concerning the investigation of outstanding complaints, Mr Tournier also explained that these will be carried out through the EU Pilot procedure, which demands formal action within 20 weeks of an information request being issued – ten weeks for the magistrate to reply and ten weeks for the commission to take action. "However the problem is that this means it will take the Commission another six months to take action, further delaying the enforcement of EU law in Member States," Mr Tournier added.

### The Expert Group

The second element, which Mr Tournier noted could lead to a form of EU framework, is the creation of the Expert Group; a collective comprised solely of Member State regulators at this stage, with the potential to invite industry experts in the future. Similarly, 'Third Countries' such as the Isle of Man and Alderney are, for the time being, also not invited, although there may be cause for inclusion in the future. Mr Tournier reiterated that the first meeting of the Expert Group was due to be held on the 5th December 2012, is likely to meet on a monthly or bi-monthly basis, and that the industry has "some expectations for this group even though its objectives remain somewhat non-committal and, in a way, quite vague."

Most importantly, however, these key objectives include the identification of best practices and the adoption of minimum standards, which Mr Tournier reassured the Summit could serve to build trust between regulators and Member States. This could in turn lead to long term mutual recognition, particularly concerning issues such as administrative co-operation and the reduction of the administrative burden through the creation and adoption of Memoranda of Understanding (MOUs). Mr Tournier acknowledged the Isle of Man's recent establishment of a Memorandum of Understanding with Malta whilst also pointing out that Belgium had also been very active in this respect, with MOUs established with Gibraltar, Malta, France, Italy and the Isle of Man. France had also established MOUs with the UK, Spain and Italy, and Italy with Spain. "I believe that a great number of MOUs are expected in the year to come," Mr Tournier predicted.

### Conclusion

To close, Mr Tournier reiterated his belief that no EU wide legislation is to be expected within the next two years and that harmonisation within the EU is to be considered a long-term strategy. "I believe that Commissioner Barnier will leave the Commission without having implemented any legislation on online gambling," he stressed to the Summit. "However, it is also not clear whether or not the industry actually needs legislation - at the moment the industry needs better enforcement of EU law. As such, I believe that harmonisation will start from the bottom: the trend of Member States adopting more and more licensing regimes will see others wish to base themselves upon good pieces of regulation. Again, using Denmark as an example, these members will pave the way towards a more workable licensing regime across the EU.

Member State de-facto-harmonisation is, again, a long term goal. However, I do not believe that this will have as much short term impact as EU-wide legislation could."

# Panel 3: Taxation and Regulation

**Chair - Greg Jones** - Tax Director, KPMG, Isle of Man

**Peter Wilson** - Peter Wilson, Legal LLP

**Pierre Tournier** - EU Advisor - Remote Gambling Association

**Bill Robinson** - Head of Economics - KPMG London

## Who benefits from regulation in the eGaming sector - why do we have it?

**Peter Wilson:** "I genuinely think it's the consumer", Mr Wilson began. "If I went to a website that wasn't regulated and deposited funds, there's a good chance I might not be able to get them back out again, not just because it's a dummy or a phishing site but because they might simply decide not to fulfil the services that they're offering - they might even decide to send me a present in the form of malware. I might also go to a proper gaming site but one that's not operating very fairly because nobody's checking or certifying their software", he continued. "I might give them my credit card details and not have any assurance or one of my children might be able to play on that site because they don't have proper age verification measures. There may not even be anywhere to complain or anybody I can identify as owning that site. So there's a hundred reasons why gambling should be regulated and I would be surprised if anyone in this room disagrees with me."

**Bill Robinson:** Speaking in favour of the lightest possible touch, Mr Robinson added that it is also important to consider the importance of regulation in mitigating the risk of gambling services being used to launder money or have an impact upon sports rigging. He remarked, however, that one area upon which people take divergent views surrounds problem and underage gambling and that this should be taken into account in discussions about the efficacy of stringent regulatory practices.

**Pierre Tournier:** "Ultimately," Mr Tournier agreed, "regulation should be about protecting consumers. However I am very concerned that, in many cases, countries don't see it that way." Mr Tournier explained that many countries regulate the eGaming industry not to protect consumers but in order to raise revenues, "so it is not regulation itself that is the problem but the way it is conceived."

## What about the regulation of social gaming?

**Peter Wilson:** Mr Wilson expressed his opinion that social gaming itself has a limited shelf-life in its current format due to the likelihood that virtual currency will be deemed to have a value at some point in the near future. "Apparently you can buy Facebook credits in shops and garages in the US now," he added, "so it's going to come to the point where somebody says 'actually, this has value', putting the whole of social gaming in a completely different light that makes it look like unregulated gambling."

## What can we do to ensure that the European Commission's Expert Group engages with relevant and important countries such as the Isle of Man?

**Pierre Tournier:** "Firstly, it must be said that EU and Commission officials are well aware of the need to address issues of collaboration with Third Countries, particularly Alderney and the Isle of Man," Mr Tournier emphasised. "I believe that, at the first step, it was difficult for the Commission to go directly to the option to collaborate with Third

Countries; they needed to convince regulators within the Expert Group first. However, I do believe that they will address the need to find some sort of framework to collaborate on these terms. There has to be a constant dialogue between the regulators, the Third Countries, the key jurisdictions and the Commission in order to ensure that the Commission tackles this issue properly."

## How far away are we from a pan-European licensing/regulatory regime?

**Pierre Tournier:** Mr Tournier explained that there may never be a single pan-European regulatory regime, noting that he was unsure about whether that would ultimately be the right solution. "I believe that there is a need for the enforcement of EU law but a single regime might not be the right way of achieving this." Mr Tournier continued in stating that if European law and the free provision of services are properly enforced by the European Courts and the Commission, an EU licensing and regulatory regime might not be necessary.

**Peter Wilson:** Mr Wilson added that it is also important to reconsider the justification for a specific pan-European gambling regime due to the fact that gambling services are already covered by the Data Protection Directive as well as other directives which regulate aspects such as the cloud. He added, however, that "they are not covered by the Services Directive or the E-Commerce Directive and therefore they are not regulated in the same way as other consumer orientated and Information Society services.

“Regulation should be about protecting consumers. However I am very concerned that, in many cases, countries don’t see it that way.”

But if they were,” he continued, “then why would they have to be treated differently? They could just be treated as another consumer service with a whole range of restrictions protecting the consumer under European law.”

**Pierre Tournier:** “I think you’re absolutely right”, agreed Mr Tournier, who also submitted the option of removing the provision which currently excludes gambling from the Service Directive. This would serve to regulate gambling to some extent within the EU without the need for a specific pan-European licensing regime, he explained. “You could simply have a system in which you are licensed in one member state and you benefit from the free provision of services, and that very licence is enough to offer your services everywhere else.”

**Bill Robinson:** Mr Robinson added that the Forensic Practice at KPMG monitors a lot of regulatory activity across a variety of industries ranging from lotteries and energy to telecoms and has not encountered a pan-European licensing regime in any of them. “In each of these industries there are of course regulations, but they are usually national and it seems to work ok.”

**Many EU countries levy different rates of tax for different types of betting activity: is there a ‘state-aid’ issue here?**

**Pierre Tournier:** “We know that, as a matter of principle, the EU has no competencies in taxation matters”, Mr Tournier explained. “The Member States are free to decide upon their fiscal policies, and fortunately so. There are certain arrangements with VAT but, again, Member States are free to decide upon their levels and design.” Mr Tournier remarked, however, that competition law, and more specifically state aid laws, are areas of particular interest to the RGA. This body of laws provides that, fiscally speaking, every

product and service that is legally and factually placed in a similar position should be taxed in the same way, which could have significant implications concerning the justification of state-aid rulings against national regulatory policies.

**Looking at tax rather than regulation, more specifically the recent issues of tax morality: how likely is it that we are going to see some concerted effort by HM Revenue and Customs in the eGaming sphere?**

**Peter Wilson:** “I actually think it has been overdue for some time”, Mr Wilson observed, “because, over the years HMRC has implemented targeted campaigns to pursue individual sectors such as offshore bank accounts, discretionary trusts, the gold industry, the import car market, and recently even plumbers and electricians. Eventually it was going to go for the gaming industry and I think the main area is going to be under the central management of control test because there are so many eGaming companies that have corporate service directors or a foreign registered company. Now there’s nothing wrong with that, but if you are directing decisions from the UK then HMRC would consider that foreign registered company’s revenue as being taxed under British tax law. So I do think they are going to focus on it and the reason why they haven’t so far, in my experience, is because they don’t yet understand the industry or the business models.”

**Specifically to Bill Robinson: Please enlighten us as to the case for Gross Profits Tax.**

**Bill Robinson:** Mr Robinson first explained that, in his opinion, the best way of collecting tax is from a small number of producers rather than a large number of consumers, “and if we look at the gross profits of the

gambling companies, which is stakes less prizes, then it is better to tax them.” The alternative, Mr Robinson observed, is a tax on stakes. However, a complication arises if you take any form of high frequency, high stakes gambling in which the stakes are very high but companies make their money from high frequency playing such as is found with roulette or sports betting. Under these circumstances, a tax on stakes would not work. “So one justification for gross profits taxation is that you can tax the gross profits of any gambling activity regardless of whether it is high or low frequency.”

“But the most important argument for a GPT”, Mr Robinson continued, “is that if you leave gambling companies to their own devices they will find the price (which we know is the prize/payout ratio or the expected loss of the gambler) that maximises their revenues. Now if you introduced into that nicely profit maximised gambling activity a tax on stakes, companies would have to re-optimize and put up the price, thereby reducing the amount they sell. In this sense, everybody is worse off; the government gets less revenue and the gambler gets a poorer price.”

The beauty of the gross profits tax is that, by definition, it is a tax on profits and once companies have found the optimal level of profits a tax can be placed upon them that doesn’t change the equilibrium. It is for that fundamental reason that I think the gross profits model is preferable to any other form of taxation”

Mr Robinson added that, due to the possibility of companies moving to jurisdictions where the price payout ratio is better because they pay less tax, there is now a very strong incentive for Governments to seriously consider their position before imposing a high rate of tax. There remains, however, the risk that governments may think that a tax on gambling is



“The UK is actually a very beneficial tax regime for professional gamblers, such as poker players, because professional gambling is not generally considered to be operating a trade.”

beneficial, due to the risk posed to some problem participants, and use taxation as a regulatory device. This will drive gamblers out of the regulated jurisdictions and into the online world that is neither regulated nor taxed, “and if they do that then governments lose in every direction.”

**Peter Wilson:** “On a positive note”, added Mr Wilson, “the UK is actually a very beneficial tax regime for professional gamblers, such as poker players, because professional gambling is not generally considered to be operating a trade.”

**From the floor – With reference to the UK’s Bribery and Corruption Act, to what extent might a non-UK company have responsibility for the actions of its affiliates and agents?**

**Peter Wilson:** “The problem is that the British Government has not put any noticeable resource behind its [the Bribery and Corruption Act] enforcement yet. I think it is looking for a big headline case. I don’t think it will be in the gambling industry because the business models are too obscure and there are much more obvious candidates in other business sectors.”

**Greg Jones:** “Concerning the issue of location: it’s the distinction between doing business in and doing business from, I guess”, added Mr Jones.

**Bill Robinson:** Turning briefly to the subject of the basis for place of consumption, Mr Robinson observed that it makes economic sense and, in theory, is well conceived. “The point of consumption is based on economic territory and you should be taxed in accordance with that territory. Again, it’s quite a practical proposal because the tax is collected from providers and it speaks to my passion because they are going to tax on a gross profits basis. So what’s not to like?”

“Well I have two answers, I think”, Mr Robinson continued. “The first is that, in the virtual world, how do you know who the gambler is? I don’t think it would be terribly difficult for the gambler to appear to be gambling from somewhere other than where he or she actually is. The second reason, the fundamental one, is to do with the jurisdiction of tax authorities: the UK has jurisdiction over me and I pay income tax but if the UK tax authorities approached an operator in, shall we say, India, and requested information about a suspected UK resident’s gambling activities, how likely is the operator to comply and what sanctions does the UK Government have if they don’t? This does seem to be a wonderful idea that could never work.”

# Closing Words

## Hon John Shimmin MHK

Minister for the Department of Economic Development  
Isle of Man Government

“We have gained a highly respected position within the gaming sector globally because we are not prepared to compromise.”

Speaking on behalf of the Department of Economic Development and the Isle of Man Government as a whole, Mr Shimmin expressed his gratitude to KPMG for being invited to close the day's proceedings. He explained that he had spent the majority of the day in the company of the Council of Ministers, which Mr Shimmin described as an amazingly rewarding experience due to the day's agenda concerning the formation of the Island's economic strategy over the coming four years. “And I hope that the achievements of today have helped us get a clearer direction for all of us involved in eGaming”, he added.

Mr Shimmin continued in remarking that the Isle of Man continues to face a challenge in the global market place: “But our economy on the Isle of Man continues to grow and that is, in no small part, due to the eGaming sector, with a significant percentage of the GDP now being supported and generated by your companies. I can say beyond doubt that myself, my Department and the Government are committed to supporting and continuing to grow the sector.”

“One of our key strengths is the relationship between Government and our industries”, Mr Shimmin observed, noting that the public/private relationship works especially well with eGaming, to which the success of the KPMG Summit is testament. “Our eGaming team is engaged with every level of the industry to understand the market and its future needs. The formation of the eGaming Strategic Advisory Board has provided an extra level of expertise and is committed to the development of a new three year strategy”, Mr Shimmin continued, “and although it is too early to discuss at present, I am pleased with the proposal and the new initiatives which are contained within it. What I can say at this stage, however, is that player protection and pragmatic regulation will remain a central component of our proposition.”

“We have gained a highly respected position within the gaming sector globally because we are not prepared to compromise”, Mr Shimmin assured the Summit, “and indeed we have not experienced the same problems that have beset our competitors. We are determined to keep the Island as a trusted and respected jurisdiction and to achieve further success and growth we have a packed events programme, which I am delighted to say the industry is keen to attend with us.”

Mr Shimmin described it as being also encouraging that a number of businesses choose to travel with the Department of Economic Development team and that many express the desire to join the Isle of Man's growing sector. While some of these are not licensed operators, they nevertheless form a cluster of eGaming related activities, which has a number of benefits to existing businesses as well as potential new ventures.

“But although we have plenty to be satisfied with, we know we mustn't stand still”, Mr Shimmin forewarned. “Our network licence, launched in 2011, has proved popular but we will conduct a review to ensure that it still meets the needs of the market. We will be consulting the industry's stakeholders to identify where the opportunities lie and how we should remain 'best in class'. The feedback from the DED's eGaming team is that new clients are impressed by our “can do” attitude and this willingness to work together fits perfectly with the Government's view of the Isle of Man as a jurisdiction where you can.”

In an exclusive statement, Mr Shimmin then expressed his delight in being able to announce for the first time the DED and Department of Education's partnered launch in January 2013 of a fully accredited, formal higher level qualification in eGaming, available at post-graduate level. “This qualification will be accredited by the University of Chester”, Mr Shimmin enthused, “and we believe that we will be the first country in the world to be able to offer a bespoke, accredited qualification in eGaming, demonstrating again that the Isle of Man is establishing itself as a centre of excellence in this industry.”

In summary, Mr Shimmin explained that the year's successes should be celebrated but that there is yet much more to be done: “we have set clear objectives which have been met proactively and positively so that at next year's event I hope to be celebrating that the eGaming sector has enjoyed continued success. I would like to assure the Summit that I, the Chief Minister, and all members of the Government and Tynwald, are committed to supporting further growth and that I will take whatever steps necessary from my Department to assist you in your endeavours to benefit the Isle of Man.”

# Breakout Sessions

**Rory Anderson**  
CEO, 12BET

## 12BET – The First 2 ½ Years

Mr Anderson's charting of the growth of 12Bet opened with an overview of the key challenges met upon introduction to the market, which Mr Anderson identified as predominantly surrounding un-commercial regulatory conditions, a harsh economic headwind and the consistent demand to remain abreast of technological advancements and the licensing implications.

The European climate he described as not displaying any signs of regulatory harmonisation, an issue which was further compounded by a lack of understanding concerning the gambling space coupled with economically unviable taxation frameworks. From a macro-economic perspective, the Eurozone crisis had resulted in an overall lack of confidence from both customer and business alike and Mr Anderson noted that there remains no opportunity to plan ahead due to the expectation of further significant economic tumult.

Similarly, keeping up with technological advancements was also identified as an issue which could not be forecast with any certainty. However, Mr Anderson identified mobile and tablet as being, undoubtedly, the next step for eGaming and service provision, with the cloud also providing a possible answer to reducing IT as well as research and development expenditure. An overview of the present and future of gaming with relation to social media and the internet more generally found that, while the internet has certainly changed forever the ways in which the world interacts, so too has it changed the gaming landscape. As such, discussions focused upon the integrality of social media to 12Bet's offering to its customers, with the announcement that 12Bet was considering a series of product enhancements in order to sustain its position as one of the industry's most influential operators.

**Ben Wightman**  
Latitude Digital Marketing

## Mobile PPC Trends During UK Sports Events

Mr Wightman began with the observation that there are currently over 32 million smartphone owners in the UK alone. 75% of 18-29 year olds in the UK own a smartphone while 30-49 year olds demonstrate a 69% rate of ownership. 56% of smartphone owners also profess to having performed a mobile search having witnessed an advert, a statistic which led Mr Wightman to then illustrate to the seminar the allocation of advertising across different media – 51% television, 46% shop and business, 41% magazines and 34% posters and billboards.

Drawing the attention of the seminar to a series of graphs, Mr Wightman then charted the correlation of PPC search numbers over mobile, desktop and tablet platforms during

various national sporting events such as Cheltenham and the 2012 London Olympic Games. While desktop access numbers were still significantly higher than tablet and mobile throughout 2011/12, an interesting correlation was noted for October 2012, which showed that as desktop numbers decreased by around 15%, tablet numbers increased by around 20% over the same period.

An analysis of search trends identified specific brand terminology as well as targeted key words and in-play offers as the most popular items while the most popular advertising techniques in terms of conversion rates showed that money back specials and free bets remain the most sought after promotions. As such, top tips from Mr Wightman surrounded the segmentation of mobile advertising campaigns from desktop and tablet, the close monitoring of sporting events calendars with a view to sustaining agility within the marketplace and the co-ordination of mobile coverage with televised weekend and evening programming. Mr Wightman also emphasised the importance of 'ditching' the generic advertisement creative aspect in favour of creating event and platform specific campaigns to encourage click-through rates, this includes optimising website layouts and copy as well as delivering appropriate and compelling calls to action.

**Ben Wightman**  
Latitude Digital Marketing

## PPC Tips for Sportsbook Advertisers in Spain

An introduction to the Spanish eGaming market showed that it opened in June 2012 yet is expected to double in size and revenue by 2014. Of the total online gambling market, sports betting constitutes an estimated 76% and Spanish operators are required to hold a '.es.' domain suffix in order to become licensed by the Spanish Gambling Authority. Mr Wightman deemed it important to note that Google Adwords allows PPC activity in Spain for those that hold a remote gambling licence however live in-play betting remains a grey area, with the majority of bets placed in advance of fixtures. In terms of seasonality and geo-targeted advertising campaigns, leading football fixtures such as 'El Classico', the Copa Del Rey Final and the European Championships were found to generate the highest amount of interaction from customers located predominantly in major cities such as Madrid, Vitoria, Bilbao and Zaragoza.

20% of online impressions were generated from mobile over the course of 2012 while mobile advertising remains 5% cheaper due to a continued lack of competition in the marketplace. Mr Wightman noted that desktop still delivers the majority of deposits following conversion, however, mobile is quickly becoming the platform of choice for sports betters. An overview of penetration statistics showed that mobile ownership equates to 124% of the Spanish population, meaning there are now more handsets in circulation than people, while smartphone or tablet covers around 44%. General handset browsing remains by far the



largest market at \$1,134 million followed by games and applications at \$266 million and social networking at \$192 million. A 143% year-on-year growth in volume for top sports betting search terms illustrated the growing importance of the Spanish market for sportsbook operators.

As such, Mr Wightman's 'top tips' for attendees were to remain considerate of the fact that Spanish bets are placed further in advance than in the UK, making it important to monitor bet placement earlier. The segregation of mobile from other betting platforms of targeted advertising was also identified as good practise and Mr Wightman reminded the floor to target Spanish, English and Catalan speaking audiences separately. Due to the variety of kick-off times for football fixtures it remains crucial to develop an agile bidding and advertising strategy that responds in advance to fixtures listings rather than in-play.

**Garth Kimber**  
Director, Xela Holdings

### Network Licensing from an Operator's Perspective

An introductory overview outlining the various steps necessary to achieve an Isle of Man OGRA network services licence for both business-to-business and business-to-customer platforms led Mr Kimber into further discussion concerning the key points relating to networking practise on the Isle of Man.

As well as the facilitation of real business-to-business interaction and information provision for foreign operators, one of the key benefits identified was that the Isle of Man's is a framework which, due to its flexibility in allowing hybrid business models, is particularly well suited for those wishing to engage with non-EU businesses. These hybrid models include affiliate and third-party as well as white label, sub licensed and business-to-business services.

Mr Kimber then furnished attendees with an overview of the Island's licensing fee structure, noting a charge of £50,000 per operator per year with an additional £5,000 incurred per operator added to the network. Key benefits identified by both Mr Kimber and the floor during further discussion included the fact that a single licence covers a variety of forms of operation, which opens up new opportunities in terms of new and complementary business areas for the Isle of Man. This also allows for different game suppliers to be added to the individual and national product portfolio.

**Jon McGowan**  
MAC Group  
and  
**Steven Burnhope**  
Gallaghers

### eGaming: the risks of being a decision maker

An opening meditation on the reality of corporate risk as it relates to inter alia fraud and dishonesty (both internal and external), customer claims, regulatory actions, and enquiries and investigations led Mr McGowan and Mr Burnhope into further discussion surrounding risks to the individual. Mismanagement of the business and subsequent shareholder action, directorial liability, extradition and detention, regulatory actions and their cost, were each explored as issues which are often overlooked yet which could also have a detrimental effect upon corporate practise. This was noted as being particularly pertinent within the eGaming industry, which is acutely sensitive to reputational risk and, in certain subsectors, places a high value on individual reputation.

The speakers then touched upon the topic of insurance 'small print' risk, emphasising their opinion that not all policies live up to their title with the phrase 'what the large print gives, the small takes away'. Particular problem areas relating to the eGaming sector were identified as allegations of dishonesty as well as external severability, coverage and allocation, extradition proceedings and proceedings against retired directors. The latter in particular led to further exploration of the topic of Personal Insurance claims compared to Directors and Officers claims and the merits of employing bespoke corporate insurance products which can be tailored to suit the operational and management framework of diverse eGaming concerns. The impact of the Department of Justice's recent actions within the eGaming sphere was referenced as a key motivation for adopting a well suited corporate and personal insurance framework after which the seminar continued with discussions focusing upon mitigating the risks associated with a changing geo-political and regulatory landscape.





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