

Newsletter

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Polish Licensing Issues: The Right to Use Results from Sporting Events in betting

Operators applying for a permit to organize mutual betting games in Poland are required to obtain the consent of the organizers of sports competitions to use their results.

GAMING
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Poland and Europe Gaming Law Newsletter

Additional Fees

Local Sport Federations may use their market position to apply additional fees on gambling operators.

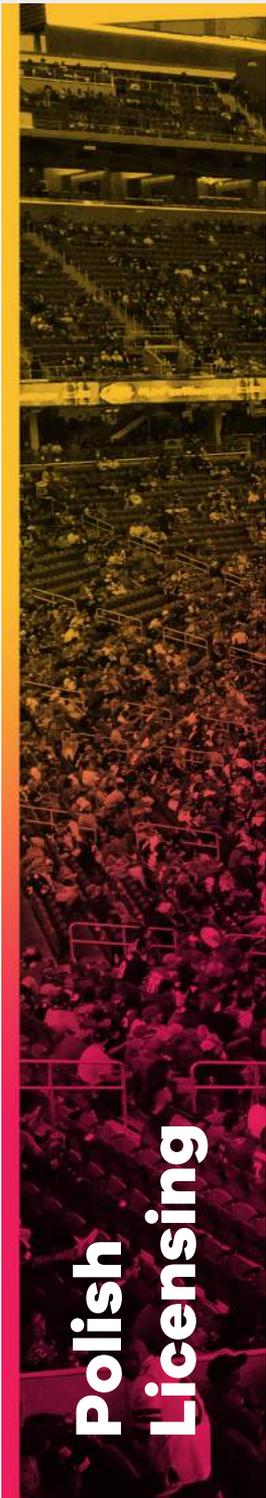
Changes

Office of Competition and Consumer Protection is currently conducting an explanatory proceedings in order to determine whether sport federations have a dominant position on the gambling market.

EU Practice

Apart from Poland, two other Member States, France and Hungary, have legally recognized a right to consent to bets.

The Obligation to Obtain Consent of Local Competition Organizers to Use the Results.



Pursuant to the regulations in effect, an entity holding or applying for a permit to organize mutual sports betting is required to obtain the consent of various sports federations to report competitions' results.

The provisions of the Gambling Act do not provide for any defined payment to the organizers of the sports competitions in question.

How Is It in Practice?

In practice, online gambling operators cannot obtain consent without paying high fees to the organizers of sports competitions.

Thus, these provisions of the Gambling Act represent an additional high financial burden imposed on gambling operators, the beneficiary of which is not the State budget, rather private sports federations.

As the criteria and rules for determining the fees are not set out in the Regulations pursuant to the Gambling Act, local sports competition organizers may use their dominant market position to demand high fees from the operators. Further, different fees for each gambling operator may be applied thus limiting the ability of some entities to be competitive.

Will This Practice Change?

The Office of Competition and Consumer Protection has recently taken on a case dealing with the amounts collected by local sports competition organizers from gambling operators.

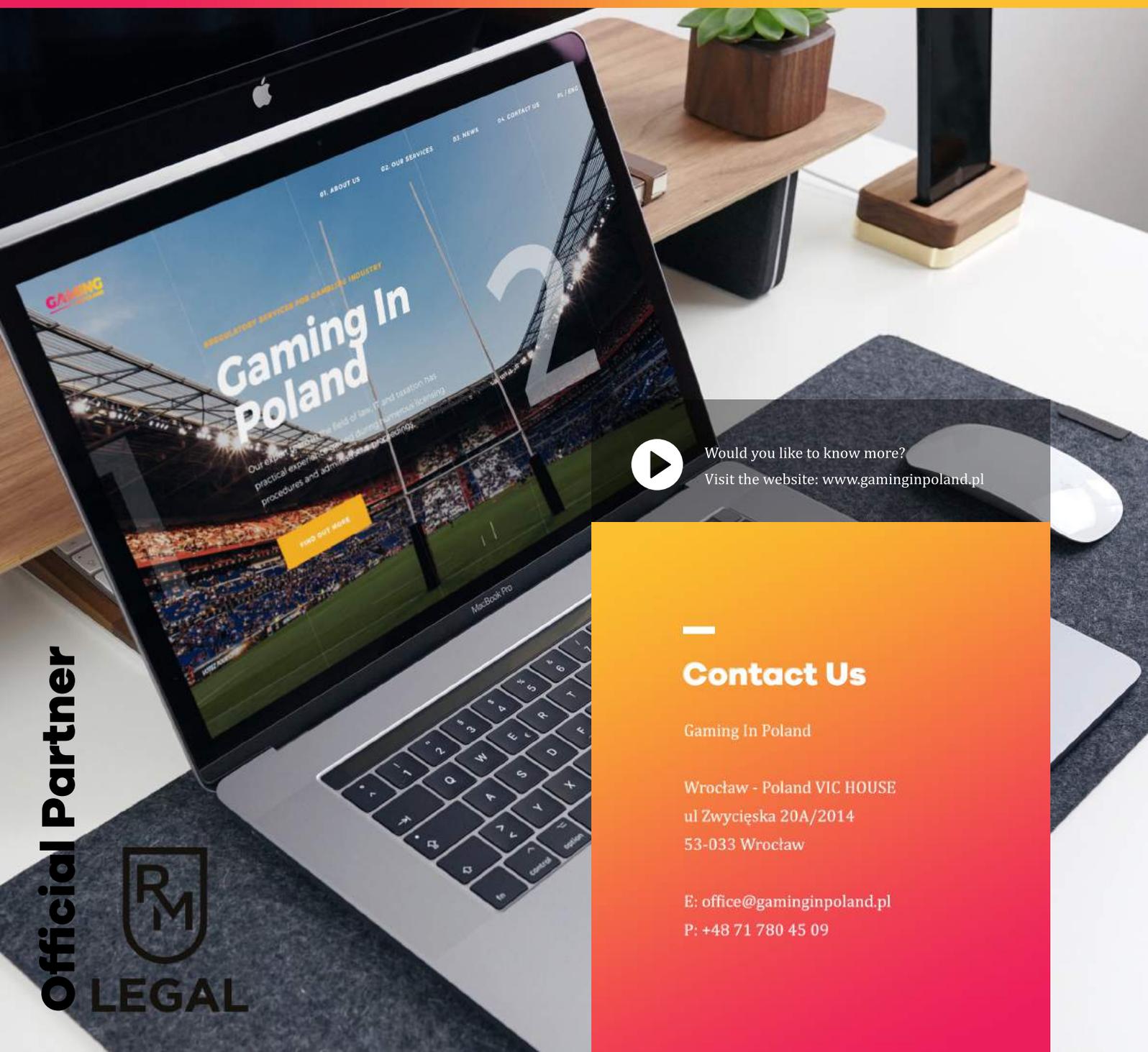
A notice has been posted in April 2019 indicating that a preliminary proceeding was being conducted before the Chairman of the Office of Competition and Consumer Protection in order to determine whether local sports competition organizers/sports federations have a dominant position in the gambling market and use their bargaining power in an unlawful manner. If this enters the next stage, the Office will likely initiate a formal proceeding in the matter. If the Office determines that the practices used by the federations, in fact, limit competition in the gambling market, it may award a financial penalty of up to 10% of each entity's yearly turnover.

Consents of Competition Organizers in Other European Countries.

Apart from Poland, two other Member States, France and Hungary, have legislated the right to consent to bets.

The French legislators have strictly regulated the marketing of the right to consent to bets and have laid down the marketing conditions for this right. It aims to ensure that the right to consent to bets is used in a non-exclusive and nondiscriminatory fashion. In order to market the right to consent to bets, the French Law imposes consultation that must be open to all authorized betting operators ensuring that local sports competition organizers remuneration can be only expressed in a percentage of the volume of bets.

Pursuant to Hungarian Law, sports associations hold the right to exploit the rights to their events that have commercial value. The Hungarian Law specifies that sports rights with commercial value on the licensing of online betting concerning (i) the matches (competitions) of national teams and (ii) the matches of sports tournaments (championships), belong to the respective sports association. The qualification of the right to consent to bets as a right with commercial value that can be licensed to betting operators implies that the consent will be subject to remuneration. However, currently the state-owned operator holds an exclusive license to offer online betting services in Hungary and, as shown above, the sporting events covered by the right to consent to bets comprise only a small fraction of the current online sports betting offered in Hungary.



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Contact Us

Gaming In Poland

Wrocław - Poland VIC HOUSE
ul Zwycięska 20A/2014
53-033 Wrocław

E: office@gaminginpoland.pl

P: +48 71 780 45 09