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iGaming in Ontario – One Year Later

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One year after Ontario became the first Canadian province to launch an open, regulated iGaming market, the provincial regulators iGaming Ontario (iGO) and the Alcohol and Gaming Commission of Ontario (AGCO) have published statistics showing the strength of the Ontario market.[1]

iGO's announcement highlights the success of Ontario's open regulatory approach to iGaming. Prior to the launch of the market, private gaming operators were unregulated, with Ontario Lottery and Gaming (OLG) as the primary regulated option for players. Since the introduction of the regulatory scheme in 2022, iGO and the AGCO have registered 45 operators who are live in Ontario and over 5,000 certified games for use.[2]

According to a survey conducted in March 2023, 85.3% of respondents who gambled online in Ontario in the first quarter of 2023 placed their wagers on regulated sites.[3] This represented a "significant shift from the estimated 70% of online gambling that occurred on unregulated sites before the launch of the market."[4] Players in Ontario are increasingly turning to regulated options given the security and accountability afforded by the regulatory scheme.

Overall, iGO reported approximately $35.6 billion in total wagers and $1.4 billion in total gaming revenue since the launch of the market, which places Ontario among the top five iGaming jurisdictions in North America.[5] As the market continues to grow, more operators will seek registration with the regulators to offer their services.

Here's what to know about Ontario's regulatory approach.

Registration is a Necessity

Previously, when the regulated market was first launched, the AGCO established a transition period during which unregistered operators could continue offering their services while their application for registration was pending.

However, the transition period officially ended on October 31, 2022, with the introduction of Standard 1.22 of the *Registrar's Standards for Internet Gaming* (the Standards).[6] All operators and gaming-related suppliers, as defined in the Standards, cannot carry out any activities that would require registration under Ontario's *Gaming Control Act* if they are unregistered with iGO and the AGCO. This prohibition applies to applicants undergoing the registration process.

Under s. 4(1) of the *Gaming Control Act*, without the transitionary period, an operator cannot carry out any regulated activities unless they are registered as an operator or a gaming-related supplier.[7] The penalty for a corporation convicted of an offence under s. 4(1) is a fine of up to $500,000, and any director or officer of a corporation who caused, authorized, permitted, participated, or acquiesced in the commission of such offence by the corporation is also liable for a fine of up to $50,000 and/or imprisonment of up to one year.[8] Furthermore, If an operator carries out any regulated activities and is not registered with iGO and the AGCO, it risks not having its future registration applications approved.

Registration Process is Confidential

To begin the registration process, the operator must first execute a non-disclosure agreement (NDA) with iGO.[9] This will allow the operator to receive access to a proprietary version of the steps required to join the Ontario market, complete with all departmental emails necessary for the process.

Registration Fees and Other Expenses

To register or to maintain a registration, the operator of a "commercial gaming site"[10] must pay an annual fee of $100,000 per site.[11] Operators can select a one- or two-year term option in their application.

In addition, iGO and the AGCO may also require the operator to pay the reasonable costs of an investigation during the registration process. According to the AGCO's *Internet Gaming Operator Application Guide*, these costs are "levied on an as-required basis, depending on whether additional investigative activities are needed and the intensity and cost of those activities."[12]

Furthermore, the AGCO may also offset the overall cost of regulating iGaming by dividing its costs among registered operators. This can result in additional chargebacks of an unspecified amount, and the AGCO warns that the fees "could be significantly greater than the above-mentioned regulatory fee of $100,000 per gaming site along with investigative charges."[13]

For example, on February 21, 2023, iGO informed operators who had operated before December 31, 2022, that they would be receiving invoices to pay for fees charged by iGO's bank for "the due diligence processes it conducts before Operators can begin to make deposits to iGO bank accounts."[14] These invoice amounts ranged from $25,000 to $150,000.

Registration Timeline

The timeline for the registration process varies based on the circumstances, including the operator's

preparedness and responsiveness and the number of applications pending with iGO and the AGCO. However, based on the estimates provided by iGO and the AGCO, the entire process will likely take at least three months.[15]

In addition to filling out applications and submissions, the Standards also require a number of actions to be taken as part of the registration process. This includes obtaining Independent Testing Laboratory (ITL) certification for the operator's games and critical gaming systems, implementing compliant control activities for the operation of the services, and setting up regulatory reporting to submit and access regulatory submissions and notifications.[16]

To minimize the number of exchanges with the regulators, and by extension, the timeline for registration, an operator is encouraged to consult legal professionals to ensure that all applications and supporting documents are properly completed before submission.

Ongoing Regulatory Compliance

Once an operator is registered with iGO and the AGCO, it will be listed on iGO's directory[17] and can begin to offer its services to the public. The operator must then comply with ongoing regulations, failing which the operator may be disciplined through monetary penalties, suspensions, and revocations of registration.[18]

Some of the ongoing regulations under the Standards include:

- restrictions on marketing and advertising activities and communications;
- including inducements and bonuses offered to players;
- collection and maintenance of player account information; and
- updates to the information technology (IT) control environment and security protocols to support compliance with the Standards.[19]

In addition to the Standards, operators must also comply with other statutes and regulations, including the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and the *Gaming Control Act*.

Conclusion

The one-year anniversary of Ontario's open, regulated iGaming market highlights the strength and potential of the market. Many operators around the world have, and will continue to, come to the province to compete and offer their services to the public.

While the success of an operator may ultimately depend on its business decisions, registration and ongoing regulatory compliance is a necessary condition for potential success in the iGaming market. Current and prospective operators are encouraged to contact our Regulatory Group and Entertainment & Sports Group for assistance with navigating Ontario's iGaming regulations.

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[1] iGO, "Ontario Emerges as One of North America's Largest iGaming Markets in First Year" (4 April 2023), online: https://www.igamingontario.ca/en/news/ontario-emerges-one-north-americas-largest-igaming-markets-first-year

[2] AGCO, "At One-Year Anniversary of Ontario Internet Gaming Market, New Study Shows over 85 per cent of Players are Playing on Regulated Sites" (4 April 2023), online: https://www.agco.ca/blog/lottery-and-gaming/apr-2023/one-year-anniversary-ontario-internet-gaming-market-new-study-shows

[3] Ibid.

[4] Ibid.

[5] iGO, *supra* note 1.

[6] AGCO, "Information Bulletin: Updates to the Registrar's Standards for Internet Gaming Including Ending Ontario's Transition Period for Unregulated iGaming Operators and Gaming-related Suppliers" (31 October 2022), online: https://www.agco.ca/bulletin/2022/information-bulletin-updates-registrars-standards-internet-gaming-including-ending

[7] *Gaming Control Act, 1992*, SO 1992, c 24, s 4(1).

[8] *Gaming Control Act*, ss 46(2)-(5).

[9] iGO, "Steps to Join the Ontario Market", online: https://www.igamingontario.ca/en/operator/steps-join-ontario-market

[10] "Commercial gaming site" is undefined, but it includes casino operators.

[11] AGCO, "Internet Gaming Operator Application Guide", online: https://www.agco.ca/lottery-and-gaming/guides/internet-gaming-operator-application-guide

[12] Ibid.

[13] Ibid.

[14] Gaming News Canada, "Operators upset with iGaming Ontario over surprise charges" (7 March 2023), online: https://gamingnewscanada.substack.com/p/operators-upset-with-igo-over-unexpected

[15] iGO, *supra* note 7.

[16] Ibid.

[17] iGO, "Operators", online: https://igamingontario.ca/en/operator/operators

[18] AGCO, "Internet Gaming Go-Live Compliance Guide" (17 October 2022), online: https://www.agco.ca/book/export/html/60566

[19] AGCO, "Registrar's Standards for Internet Gaming" (4 April 2023), online: https://www.agco.ca/lottery-and-gaming/guides/registrars-standards-internet-gaming

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