

POKER – BACK TO THE FUTURE

It could be said that online poker's best days ended not only with the US action on Black Friday but additionally from a European perspective with the growth in national licensing, a phenomenon which effectively broke up the liquidity of the poker rooms by a combination of excluding vast swathes of US-based players and the imposition of geographical compartmentalization. In short, the end of co-mingling of players from across the globe.

Pre-Black Friday, PokerStars and Full Tilt Poker dominated the sector in an era when either regulation was non-existent or was arguably (perhaps controversially) open to interpretation, effectively creating a vacuum which allowed the bold a free rein. Taking players without let or hindrance from the US, Europe and further afield and co-mingling them created a dynamic playing environment which was exactly what the players were looking for and which proved extremely lucrative for the industry. However, the burning question on everyone's minds is "can this ever be replicated in a regulated and fractionalized market?"

The answer now rests with the regulators and legislators, most of whom want it to happen (it is, after all, great for tax revenues) and who have, importantly, successfully wrestled the issue into their control. However, it is proving a lot more difficult than first thought.

Regulators on the European side of the Atlantic are looking at co-mingling closely with abundant rumors that Spain, Italy and France are locked in talks. The regulated markets of Europe have struggled with the fractionalization caused by national licensing as, while poker is popular, it is not as popular as it is in the US; Italy, with a population of 60 million, finds it difficult to get the liquidity required for a truly vibrant market whereas California, with 37.7 million inhabitants, would probably find it comparatively easy.

Other than some differences of opinion regarding tax and how and when to collect it (deposit or win), the real stumbling block appears to be the widely varying levels and

quality of existing regulation. In Europe, where you might expect some level of cohesiveness, there are huge differences between regulators; some taking a casual self-regulatory approach while others adopt a much more dynamic and pro-active line. Some regulators care little about player verification; others are obsessive about such checks and balances. Many ignore any requirement for the provision of self-control and exclusion tools for the protection of players; others go much further and impose stringent technical standards and require anti-collusion and anti-bot measures.

Obviously, the US has yet to open up for online gambling including poker, although every day feels like we are a little closer. US regulators are already thinking about the market they are tasked with creating and co-mingling is as big an issue for most states as it is in Europe, despite the difference in numbers. Certainly, California has a chance to make a market all of its own but not many others can, and compacts are probably on the agenda for the future. But, is there a quicker fix?

Those with a view that state-led legislation will win the day feel there may be mileage in states forming compacts with foreign governments – a fix which might sidestep the problems of inter-state activity (but it has to be said that the federalists are strongly opposed to this and do not feel that there is a legal capability for this to happen) which is an interesting legal point.

However, if this were to happen, it complicates matters even further because we will have a situation of US regulators and

European regulators evaluating each other to see whether their regimes shared enough in terms of rigor and standards to work together – my bet is that it would be a hard ask for some on the European side.

The likelihood is that whilst on the face of it regulators exude mutual respect for each other, they are in fact working behind closed doors to exclude those regulators with a lighter touch from the party and with their licensees. So, the lines are being drawn and the industry inevitably will experience an uplift in regulatory controls and oversight and, with the emergence of the US, the bar will be lifted even higher.

Already, we are experiencing a migration from the more loosely controlled jurisdictions to the more highly regulated. Here in Alderney, this has been evident for some time as operators realize that where they are licensed and who they are regulated by is going to count like never before in the future. That migration has no chance of being deflected and will gather pace and with it, the future of the industry will change forever.

My conclusion must be that there is every possibility for a return to a pre-Black Friday business but, in a post Black-Friday world, it will be very different.



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highly successful Business Development Manager was born in Guernsey in the British Channel Islands. Having spent a significant part of his early working life working abroad, Robin returned to the islands in the early 80s. Working in a mixture of finance and start-up projects Robin joined Cable and Wireless in 2000 and during that time assumed responsibility for the islands' growing iGaming community. In 2005, he left C&W to set-up his own consultancy in the sector and was subsequently head-hunted to represent the interests of the Government of Alderney in promoting the island as the leading Jurisdiction in the iGaming sector.