

APRIL 21, 2022

iGaming (Ontario): Am I Regulated? Three Things to Think About

As with any regulated industry, one of the first questions that anyone interested in starting an internet gaming (“**iGaming**”) business in Ontario must ask is: “Am I regulated?” This update discusses three things to consider for prospective participants in the iGaming marketplace.

1. Am I an iGaming Operator?

A prospective participant that would like to “operate an internet gaming site” must apply to the Alcohol and Gaming Commission of Ontario (the “**AGCO**”) to be registered under the *Gaming Control Act, 1992* (the “**GCA**”).

So, what does it mean to “operate an internet gaming site”? The AGCO recognizes that there are many variations in potential business organization and structure: as such, there is not a specific list of activities that specifies what it means to “operate an internet gaming site”. In general, if a participant is going to have an ongoing responsibility for the iGaming site as a whole and will be responsible for any of the following activities, then the participant will likely be considered an iGaming operator and be regulated:

1. Making key decisions of the iGaming site;
2. Meeting any compliance obligations for the iGaming site; or
3. Retaining any suppliers relating to the iGaming site, including iGaming-related suppliers.

Too Long; Didn't Read (TL;DR): If a prospective participant would like to “operate an internet gaming site”, then they will be regulated by the AGCO.

2. Am I an iGaming-Related Supplier?

A prospective participant that would like to manufacture, provide, install, test, maintain or repair gaming equipment or provide consulting or similar services directly related to the playing of a lottery scheme or the operation of a gaming site is considered a “gaming-related supplier” and will likely be regulated by the AGCO.

The AGCO has provided the following examples regarding the types of business that may require registration under the GCA:

1. Platform providers;
2. Suppliers that manufacture, develop, provide and/or run games and game systems;
3. Customer electronic wallet providers;
4. Odds makers;
5. Sports integrity monitoring organizations; and
6. Independent test labs.

TL;DR: If a prospective participant manufactures, provides, installs, tests, maintains or repairs gaming equipment or provides consulting services to an iGaming site, then they will likely be regulated by the AGCO.

3. Am I a Non-Gaming-Related Supplier?

A non-gaming-related supplier does not need to apply to the AGCO and as a result does not need to register under the GCA to be a part of Ontario's regulated iGaming marketplace. A non-gaming-related supplier is a person or entity that, in the Registrar's opinion, does not provide services directly related to the playing of a lottery scheme or operation of a gaming site. Examples of non-gaming-related suppliers include those that:

1. Provide technology components or services such as internet service providers, COTS hardware, cabling and installation services, cloud server services, payment processing services that do not include a customer wallet function and geo location providers;
2. Provide business consulting or other services that may not be directly related to the playing of a lottery schedule or the operation of a gaming site, such as advisory services related to finances, organizational development and customer service; or
3. Are considered "marketing affiliates" such as websites that send traffic to iGaming operator websites in exchange for a commission or other forms of payments.

TL;DR: If a prospective participant does not provide services directly related to the operation of an iGaming site, it is possible they will not be regulated by the AGCO. Please note that whether an entity is considered to directly provide services to an iGaming site is at the discretion of the Registrar.

The AGCO has noted that it will evaluate each application from a prospective participant on a case-by-case basis to confirm the details of the application to ensure that the prospective participant is seeking the appropriate designation.

For more information about Ontario's regulated iGaming marketplace, please see our previous updates: [The Bets Are In: Ontario's iGaming Marketplace to Launch April 4, 2022](#), [Raising the Stakes: Proposed Changes to Canada's Gambling Industry](#), [Canada Doubles Down on Single-Event Sports Betting](#) and [On the Road to Single-Event Sports Betting and a Regulated iGaming Market in Ontario](#).

If you have any questions with respect to the matters discussed above, please contact Michael Rennie at mrennie@wildlaw.ca, Jeff Bookman at jbookman@wildlaw.ca, Brendan Wu at bwu@wildlaw.ca or any other member of our [Entertainment, Media, \(e\)Sports & Gaming](#) practice group.

This update is intended as a summary only and should not be regarded or relied upon as advice to any specific client or regarding any specific situation.

If you would like further information regarding the issues discussed in this update or if you wish to discuss any aspect of this commentary, please feel free to contact us.

¹ The Registrar is appointed by the board of directors of the AGCO pursuant to the *Alcohol and Gaming Commission of Ontario Act, 2019*.