

NewStatesman

Gibraltar: e-gaming and the economy

An industry and a catalyst



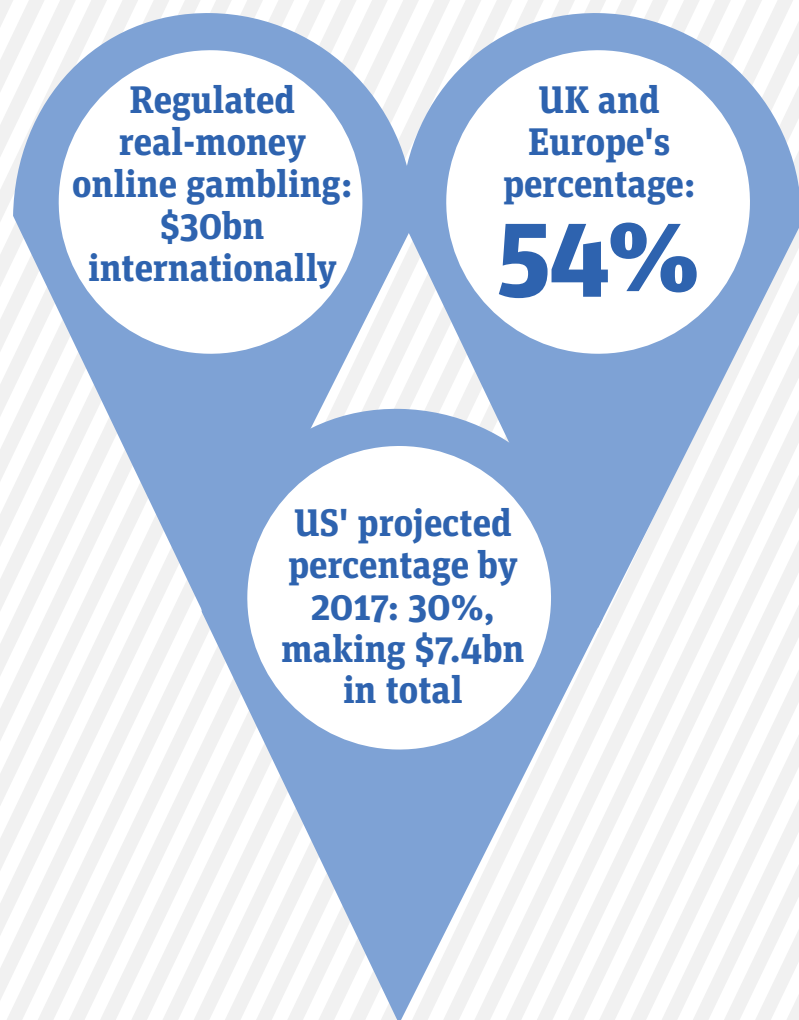
Sponsored by

Gibtelecom

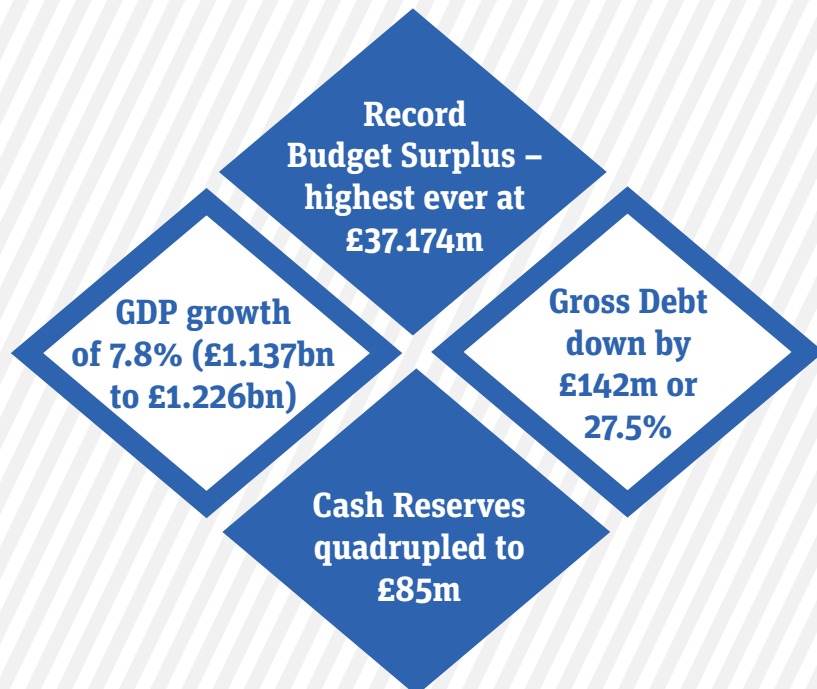
Employment



World market for gambling



Gibraltarian economy overall



New Statesman
7th Floor
John Carpenter House
John Carpenter Street
London EC4Y 0AN
Tel 020 7936 6400
Fax 020 7936 6501
info@newstatesman.co.uk
Subscription enquiries,
reprints and
syndication rights:
Stephen Brasher
sbrasher@
newstatesman.co.uk
0800 731 8496

Supplement Editor
Guy Clapperton
Design & Production
Leon Parks

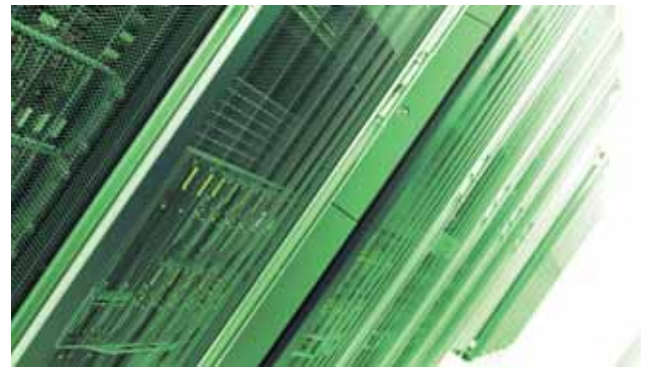
Commercial Director
Peter Coombs
020 7936 6753
Account Director
Eleanor Ng
020 7936 6417



How to regulate e-gaming P4



e-gaming in context P8



e-gaming infrastructure P14

How to fuel an economy

E-gaming is an important industry in Gibraltar and not just because a lot of people enjoy it worldwide. As part of the wider economy it employs 2,000 people. From a total population of 30,000 this is significant.

Those employees mostly live on the Rock and they in turn fuel the other parts of the economy. They buy and rent homes, they shop, they use transport.

It's not just the people either - e-gaming has started pulling through other industries in its wake. One thing utterly crucial in a regulated environment like gambling is a completely

robust technical infrastructure. Gibtelecom has built a powerful communications network partly because the gaming industry has demanded it - and it's now solid enough for financial services to reside on it.

E-gaming used to happen only on desktop computers. In recent years there has been a proliferation of smartphones and tablets, resulting in a fledgling software design industry around the e-gaming partners on the rock. The industry is actually a powerful catalyst for a great deal else - this supplement explores how it works. ●

This supplement, and other policy reports, can be downloaded from the NS website at newstatesman.com/supplements

ARTICLES

- 4 **Regulating by the whites of their eyes**
Be established before setting up a gaming company in Gib, says *Philip Brear*
- 8 **Online gaming - moving obstacles**
New laws may damage the e-gaming infrastructure, says *Archie Watt of KPMG*
- 10 **E-gaming in context**
This is part of the continuum, says *Peter Howitt*
- 13 **Consumed by tax**
New UK legislation could backfire, says Hon. Albert Isola MP
- 14 **An infrastructure issue**
E-gaming needs solid underpinnings, says *Tim Bristow*

First published as a supplement to the New Statesman 4-10 October 2013. © New Statesman Ltd. All rights reserved. Registered as a newspaper in the UK and USA.

The paper in this magazine originates from timber that is sourced from sustainable forests, responsibly managed to strict environmental, social and economic standards. The manufacturing mills have both FSC and PEFC certification and also ISO9001 and ISO14001 accreditation.

Regulate by the whites of their eyes

by Guy Clapperton

Gibraltar has a low tax rate and is known as a centre for e-gaming - but don't think that means you can set up a skeleton presence and make a quick Gibraltarian buck.

Gambling Commissioner Philip Brear explains the rules.

Let's get this straight: tax is low in Gibraltar, particularly if you are a business. VAT is 0 percent. Corporation tax is 10 percent. Locating there for tax is a legitimate aim of many businesses who have set up on the Rock. However, tax haven or a tax dodger's delight it is not. It is strictly regulated.

In no area is this truer than when it comes to e-gaming. The industry has set up on the Rock since its inception about a decade ago, with Ladbrokes being one of the first companies to arrive with a telephone gambling operation. However, anyone thinking they can set up a skeleton operation to avoid paying tax will be disappointed. Philip Brear, Gibraltar gambling commissioner, has strong advice for start-ups wanting to come to the Rock. "We probably wouldn't entertain you," he says. "The Gib licensing policy for 16 years has been only to accept expressions of interest and applications from established and respected businesses – here he breaks into his own words rather than those of the official policy – "who have as much to lose as we have if they get it wrong."

In practice this translates as Brear receiving over 200 applications for gaming licenses on Gibraltar during his six year old incumbency and rejecting 99 percent of them – including in particular the start-up

community. "By definition they're always the highest-risk operation, whether it's sitting in a café or buying equipment. There are always exceptions but our strategy has always been: if you're launching today, please go and prove yourself somewhere else first."

This is why, compared to other tax-advantageous territories, Gibraltar has a low number of e-gaming companies licensed; under 30 are currently operating there. Criteria are stringent and the authorities have a reputation for 'regulating by the whites of your eyes' – if you're not physically avail-

The Gibraltar licensing policy is to accept only established businesses

able on the peninsula, you won't get through. "The Gibraltar model is that you actually exist here as a real entity," explains Brear. "That requires you to establish a technical presence here, which in the case of remote gaming means key servers, plus a significant proportion of management presence and key elements of the operation managed or staffed here." A business may have a huge European footprint, for example, but middle management in Gibraltar.

This has to translate into real people, and this in turn means pumping real money into the local economy. Ladbrokes has 120 staff on the Rock, Victor Chandler 450. By the time you've added up all of the direct staff the total is about a couple of thousand people. Add the ancillary benefits to the territory such as the retail, real estate and other areas they will consume and you realize what a significant part of Gibraltarian life e-gaming comprises when the total population is just under 30,000.

And it can't be overstressed, having a physical presence is an important part of the gaming industry's culture on Gib. "We have to explain that carefully because sadly, in some jurisdictions, they care less where the operator is based," explains Brear. This sounds fine and is feasible technically, but isn't much use when there's an issue to pursue and Brear's team needs to visit a manager. They can be in another jurisdiction completely, making the journey inconvenient and any enforcement impractical. "We like to touch and feel what we're regulating," he says. "Rightly, gambling is a regulated industry, it carries consumer risks. If you're not exercising the right degree of caution, recent history tells us you're inviting problems for the jurisdiction, the consumer and the regulation of the industry," he says.



Gaming on the Rock: a low level of complaints

Licensed companies must keep the authorities up to date on their suppliers as well as their own business. If someone establishes a business in Gib and wants to change partners such as a major software supplier, or a software supplier changes ownership, for example, it has to be reported. As far as possible the authorities keep tabs not only on the companies with licenses but the entire web at whose centre they sit.

Complaints

A means by which the authorities can keep a check on e-gaming companies is through monitoring and investigating customer complaints. The system is open and simple; anyone who is not satisfied about how any Gibraltar operator has dealt with them is welcome to contact the regulator.

The procedure is straightforward; the complaint is received, the member of staff

at the Gambling Complaints Commission evaluates it and sends a response to both parties for feedback. Following feedback he or she sends a final determination letter to both parties, with an assurance that they can engage direct with the gambling commissioner if need be. On the odd occasion Brear has dealt with a case he has mostly found more evidence to support his staff's original conclusion rather than information suggesting it should be overturned.

"What's remarkable," says Brear, "is that we have under 30 licensees, probably 10m customers between them and we actually hear from only about 200-250 customers per year who want to make a complaint." They are offered an advice note which advises that experience has shown that most complaints are as a result of a customer himself or herself breaching terms and conditions. For example, a company might offer £30 worth of free bets to first time play-

ers; existing customers setting up a new email address and attempting to register as a new customer when they already had an account under their old one will fall foul of this. People willing money under false names for whatever reason also find themselves legitimately shut out by legitimate terms and conditions.

Inevitably a handful of the complaints are genuine. "We get about 20-25 a year which have traction but the majority are because the customer has done something more devious than a simple fraud," says Brear. As this supplement went to press, for example, his staff were investigating a situation in which some people in an Eastern European state had found a way of interrupting the information flow between a gaming operator and one of its systems; they won a substantial sum of money as a result and investigations proved the names and the locations given were false. ▶



LADBROKES: the older timer

Steve Buchanan, finance director and head of Gibraltar operations for Ladbrokes, is very clear about why the company set up on the Rock in the first place: “Tax-driven.” It arrived in 1993 along with Victor Chandler and put part of its telephone betting operation there. Mainly football betting, it used only a handful of staff

and truly established itself with the 1994 World Cup. In 1999 it became the second company to move the whole of its phone operation – again following Victor Chandler – with 200 staff.

Tax was a powerful incentive, explains Buchanan. “Betting duty was what we paid in the UK at 9 per cent, and it was 1 per cent in Gibraltar. Also it was capped. So there was a mass exodus of bookmakers to Gib, and in 2000 we launched our first iteration of Ladbrokes.com, at that point called Ladbrokes.co.uk.”

In 2001 Gordon Brown, then chancellor of the exchequer, tried

relocating the bookmakers back on shore by replacing betting duty based on turnover with a gross profits tax, so Ladbrokes’ telephone betting system went back to the UK and headcount in Gibraltar went down to 25 because the Internet was so new.

The business grew in the dotcom boom – “Pubs and bookmakers always seem to weather the storm,” says Buchanan – and has now reached 172 employees. It launched poker in 2002 as a standalone player then in 2009 allowed players to compete with competitors on other networks. “Poker became very competitive when the US shut down as a market – not helped by the fact that online poker itself became less intriguing as it got older,” he says.

Ladbrokes’ traditional market has been in the High Street and it is still putting effort into marketing its online operation. It is using business intelligence and consumer relationship management technology to tell it how its online marketing should work, confirms Buchanan.

Gibraltar remains a good location not only because of the tax but because the regulation is stringent, he says. “There is no brass-plating here. You can look at other jurisdictions where you don’t have the same thing – Gibraltar only wanted high quality, low numbers of people who were going to invest in the infrastructure here.”

► Brear deals with the legitimate cases seriously. Some are down to misunderstandings or staff training. For example a gambler might phone in and asks to be taken off the system. Brear posits a situation in which a customer has been a client for five years, lost £10,000 and wants to be taken off completely. “Technically the manual says if you don’t ask to be ‘self-excluded’, in other words locked out completely for six months, you can just close the account.” However the staff won’t be psychologists and phone calls or Internet chats can be misunderstood. The customer service agent may simply close the account rather than block it, allowing it to be reactivated. “The customer comes back a few days later, sees the account can be reactivated, does so and loses another £150 and complains they should have been locked out,” says Brear. “So we might conclude that the staff should have applied a bit more judgment in that case.”

Self-exclusion as a piece of jargon is a joint agreement between the gambler and the company, with the company understanding that the gambler is likely to try to get back; however, the term tends to get used loosely. “A lot of customers use it just to manage the vast number of accounts they have,” says Brear. It’s not uncommon for people wanting to take advantage of more than one introductory offer or better odds

to join as many as 15 gaming sites. “So when they call [and ask for self-exclusion] they may just mean ‘close my account down’ – it’s a technical term that leads to difficulties.”

Inevitably the bottom line is that the house always wins – a cliché but one that keeps the gaming companies in business. Complaints therefore include the ‘number seven never comes up’ or the ‘this game is fixed so I don’t win’ complaints. These are easily dismissed with a quick examination of how many people actually emerge with more money than they entered. “Our advice is that the customer is not supposed to win – if you’re playing roulette at 10p a spin and someone can win £10,000, you have to lose a lot of 10ps to pay for that guy’s prize.”

Complaints serve the regulators as well as the consumer. “It’s a fantastic way of getting a window into what’s happening in the industry,” comments Brear. If, for example, one company is getting more than the average amount of complaints over a typical issue, it’s probably worth looking into. And if a particular category of complaint becomes common for one operator, it’s probably worth checking the others as well.

Sanctions

At the operational level, when something goes wrong the regulators use recommendations rather than any big stick approach.

“We don’t need to go any further than that. If we recommend that an operator pays the money, or some money, I can confirm that they have never demurred from that recommendation.” In cases where there is something more systemic needing to be done – say a cost around changing processes, or a rubbing point between a promotion and the marketing department, then the regulators will write a stiff letter or revisit the organization to ensure action happens. Theoretically, if an operator were persistently raising regulatory issues, special terms could be inserted into their license (with the agreement of the Minister) – following this suspension of a license and its subsequent withdrawal at renewal time are all possible. This has never happened in practice. “We don’t actually have direct powers to impose a financial penalty, but we haven’t needed one,” says Brear.

Overall the system seems to work pretty well, and Brear gets back to the small number of operators. Licensing fewer than 30 means you’re unlikely to have an avalanche of complaints unlike other territories which might get a considerable number. “If I had 1000 complaints a year I might feel differently – I might let the operators deal with their own complaints and come and pick a couple of samples to look at. Would we have had the PPI crisis if the banks’d had

a proper complaints process? Do you think people weren't complaining for 20 years? People were making complaints which were going into the banks' black hole and nobody was collating them. If someone put in that level of complaints to us, we would see it."

In fact the biggest issue facing the local e-gaming market comes not from Gibraltar but from the UK in the form of the new proposals for tax at the point of consumption. Elsewhere in this supplement Hon. Albert Isola MP puts the case from the politician's point of view; Brear feels more strongly if anything. "Gambling is not a sexy issue, it's not a headline issue, and there's a danger these measures are drifting through the political process without the level of scrutiny they need," he says.

The Point of Consumption proposals, he believes, fundamentally alter licensing arrangements, regulatory arrangements and tax arrangements for the UK and also for the world. "The UK is setting itself up as a potential global hub for online gambling," he says. Which is fine if it has the right skill, wisdom and resources – or if you've grown with the hub and understand how and why it works and where the risk elements fall. There might be fallout for Gibraltar if the UK became a gambling hub but that's not where Brear says his objections are,

He cites elements including the first draft of the Bill, which stipulated that any piece of gaming technology capable of being used by UK citizens had to be licensed and therefore subject to tax. "So if I have an Australian website and a UK consumer can sign up, I've got to get a UK license and pay UK tax?" For ten years, he says, Australian companies have been able to offer betting to UK citizens without even an Australian license. Expecting them to get a license in the UK – even were this enforceable – is optimistic.

Following Brear's input into the select committee in charge of the Bill, that part at least was changed. However, at a meeting between the Gibraltar chief minister and John Penrose, then the Minister in charge of the bill in the UK, it emerged that there was a plan to fast track organisations already licensed in reputable territories such as Gibraltar to UK licensed status. "Afterwards I said, that's just a ridiculous statement." What happens, he asks, to an organisation that has been licensed in one territory but turned down by another?



32RED: the newcomer

Ed Ware came over to Gibraltar to set up the telephone operation for Ladbrokes, which morphed into an Internet operation. He started in their retail shops in the UK, became a regional director of operations responsible for 500 betting shops, 20 years younger than his three counterparts. "I got to this stage and they said, would you like to go to Gibraltar." In 2000 he moved his family to the rock, with a reasonably clear understanding that he'd set up the business and return.

He didn't. By 2002 Ladbrokes had a telephone betting centre and an online casino – but the casino wasn't a big part of it. "At the time, if you wanted to play in an online casino in the UK, you had to do it with a bookmaker who's really more interested in sports betting with maybe a little bit of casino gaming later," he explains. He had the idea of turning it around and focusing on people who wanted to play slot machines, blackjack and other casino games. He persuaded his family and some backers and in 2002 he gained his independent license for 32Red. "In our second full year we made a bottom line profit of £1m."

The shareholders had their initial seed back within two years, then in 2005 he floated the business. "It was before the bubble burst and we were completely clear-cut, and we followed Party Gaming and 888. Half way through our roadshow 888 told its market there was no growth left in the market." This would have been a bigger problem if the company had been looking for finance rather than profile. Other issues it faced included a trademark infringement lawsuit against William Hill (32Red won) and an acquisition that nearly finished the business.

Growth has continued and picked back up nonetheless. The company has trebled its size in the last three years and is looking for £10m Earnings Before Interest, Tax, Depreciation and Amortisation (EBITDA) in the coming year. Employing around 70 people, it occupies two buildings on the Rock and sells primarily on service. "The games themselves are commodities," he says. "We wave the customer service flag a lot, we have awards from mystery shoppers and stuff like that," he says.

Currently running a major advertising campaign in the UK, 32Red looks more and more like one of the established gaming companies all the time.

There are currently license holders in licensed jurisdictions who are subject to organized crime investigations from the US Department of Justice and the FBI but as license holders in reputable territories, they could logically be fast tracked into the UK, he suggests. Members of some US gambling sites are still on the run from the FBI, he says; there are Dutch companies under investigation but logically the Minister's brief suggested they would be fast tracked.

That wasn't the only issue. "When we saw this bill, in January this year, it abandoned any notion of a UK licensee requiring a UK presence. This would be to facilitate American interest. But a new UK licensee can have its base elsewhere completely." A number of US operators would fulfill all of the UK license requirements and be thoroughly honest, Brear suggests;

but then the operator in the Philippines, or Moscow, or Costa Rica, can also apply. "If you read the 300-word Bill, it says in simple terms that if you apply for a license you get it unless the records show you're not fit and proper." So, logically, companies in territories where there is no need for a license – and therefore no record against a business for any wrongdoing – could apply and by default start operating in the UK. "There isn't going to be the right information on whether someone is fit and proper," adds Brear. "The FBI isn't going to hand their intelligence over, the UK Government has no right to ask for it. Everything that gambling regulation is supposed to stand for, to make it safer, is undermined by this Act – how do you make it safer by inviting in applications from the other side of the world?"

Online Gaming in Gibraltar – looming obstacles



by Archie Watt, *Head of e-gaming, Gibraltar, KPMG*

Gibraltar's gambling industry employs one in 15 people and fuels the local economy through their role as consumers as well as in its own right. In this article KPMG puts the economy of the Rock into context.

Gibraltar's online gaming presence began in 1989 when British betting operators began online gambling in Gibraltar, taking bets over the telephone and availing themselves of Gibraltar's low level of taxes and betting duty. From these modest beginnings began a phenomenal industry for Gibraltar.

The list of Gibraltar licenceholders includes highly familiar household names from the world of sports betting (Ladbrokes, Victor Chandler, William Hill, Stan James and Gala Coral) and international players who have built their reputations entirely in the online world (Bwin-Party, 32Red, Betfred, 888, Betfair etc). The industry provides significant employment and financial benefit to the Rock, not least in bringing diversity and growth to its economy.

The number of licence holders has grown significantly over the past year under the new political administration – the four latest additions outlined by Phil Brear, the Gambling Commissioner for the Gibraltar Government, at the KPMG eGaming Summit in April 2013 amounted to a 20% increase;

“One was the reconfiguration of the Gala Coral Group, we also opened the Bally Technologies offices, likewise with

Shuffle Master, and finally the introduction of Amaya through their acquisition of Ogame. Each is very different and each is underpinned by a commitment to Gibraltar's values.”

A cloud on the horizon

The approaching challenge for Gibraltar and the eGaming industry as a whole is the UK Government's plans to protect UK consumers by requiring companies who wish to serve the UK market to be licensed

Operators may pass
new taxes on to
their consumers

in the UK (with the small matter of also being liable for UK tax at a rate of 15% at the point of consumption). This has encountered increasingly strong resistance over the last year, particularly in Gibraltar.

That resistance met with recent support from KPMG and the Remote Gambling Association in the form of their report ‘An economic review of the proposed change in UK legislation for online gambling taxation’ on 16 September 2013 (2). The report, which was produced by KPMG's Simon Trussler, Bill Robinson and Adam Rivers,

spells out the dangers of the UK's proposals;

“There is a serious risk of the Government's proposals failing to establish a viable market for UK licensed operators with the consequent danger that the Government's following stated goals will not be achieved: i) protecting UK consumers; ii) levelling the playing field for existing UK based operators; and iii) increasing public revenues. This is because the current proposals for changing the tax regime could well unintentionally distort prices and products on offer in the UK market and, in doing so, result in the creation of a larger black market than the Government has anticipated.

“A number of operators believe that they will be unable to absorb the tax and will be forced to pass the additional cost on to their consumers. Given how price sensitive many customers are this will result, the industry believes, in a large number of customers switching to offshore, duty-avoiding, providers who are able to continue to offer lower priced, more attractive products.”

Whilst the possibility of legal challenges remain, KPMG's report operates on the assumption that the UK Government intends to press ahead with this measure and therefore focuses not on opposing the



The Rock: steady on e-gaming

fact of it, but rather on making two main recommendations, based on objective economic analysis, for achieving the Government's stated goals in a way that will also benefit the tax payer, consumers and the industry:

- Any tax on UK online gambling activity should be on a gross profits basis and not, as appears currently to be suggested in the consultation documents, on gross gaming revenues. This will require gross profits to be defined. In particular, the bonuses and free plays that are a central part of the marketing strategies of online companies and which consumers expect to have should be excluded from tax calculations.

- Whatever the tax structure chosen, in order to meet the Government's fiscal and social objectives the tax rate should not be set at an excessive level. The prudent approach, in terms of the economics of the situation, would be to start with a tax rate of no higher than 10 percent and adapt it over time as the Government gains sufficient experience of this new regime to gauge the revenue-maximising level of tax.

Finally, and this is key, the report also considers that there is a need for effective enforcement measures to be introduced against those operators who do not comply with the new legislation once it is in-

troduced.

Both the then-minister for Gaming, The Hon Gilbert Licudi, and the Gambling Commissioner made it clear at the KPMG e-gaming Summit in April 2013 that they expect the growth in Gibraltar licenceholders to continue, with the minister stating;

"It is my expectation that several further licences will be granted over the course of this year for operators that are considered fit to join the selection of incumbent licensees, of which Gibraltar is justly proud." Brear concurred: "we have no fewer than ten companies in different stages of discussions for licensing. Some of these may not complete, although I suspect that around half will over the next 12 months and I expect that, by this time next year, we'll have at least 30 B2B and B2C licences – all readily, if not instantly, recognisable names in remote gambling."

Operator Performance

Whilst much of the public commentary can imply that the news around the online gaming sector is negative, in current performance terms nothing can be further from the truth. William Hill Online continues to go from strength to strength and online bingo operators Tombola and Jackpot Joy continue to produce stellar results.

One of the biggest events since April was of course Bet365's results announcement – operating profits up over 50% to almost £180m, wagers hitting £20bn (up 57%) and all of this achieved from a purely on-line presence licensed in Gibraltar.

Global Performance

A recent report commissioned by Gibraltar licensee Odobo and researched by H2 Gambling Capital ('Opportunities for game developers in regulated real-money online gambling', March 2013) outlined the size of the global regulated online gambling market as follows;

'Regulated real-money online gambling (RMG), excluding lottery and skill-based games, already generates almost \$30bn in gross win internationally, with the UK and Europe accounting for 54% of the market. Recent legislation passed in several US states supports licensing for online gambling and, according to H2, means that by 2017 the US may already represent up to 30% of the global online gaming market and generate gross win just over \$7.4bn, this will continue to grow annually.'

H2 also estimated the pace of convergence between real-money gambling and social casino gambling which, when combined, generated just over \$30bn in 2012 and are, they estimated, forecast to grow to over \$40bn by 2015. So, plenty to play for...

No rest in sight

As this brief overview of both Gibraltar's online gaming market, and the wider global picture, makes clear, this is a sector which experiences constant change and challenge – little wonder that Gibraltar's Hon Gilbert Licudi QC, closed his address at the KPMG eGaming Summit in April 2013 with these words: "You don't need me to tell you that in this industry, no-one in the private sector, and certainly no Government, can ever relax."

With the recent reshuffle of the Cabinet and the appointment of Minister Albert Isola as the new Minister for Gambling and Lotteries, I feel sure that he and his colleagues are equally committed to seeing the sector continue to develop, diversify and grow – and that they too, will not relax for a moment

Archie Watt is Head of eGaming, at KPMG Gibraltar & Isle of Man

Gaming on the Rock



by **Peter Howitt**, *Chief Executive, GBGA*

More e-gaming companies want to set up on Gibraltar than are eventually licensed to do so. The Gibraltar Betting and Gaming Association sets the scene.

Gibraltar's history makes it a unique place to live and work within the EU. Its small population and size and its geographic position on the Southern point of the Iberian peninsular makes it naturally European facing in its business and outlook.

Gibraltar has over 15 years experience in remote betting and gaming. This makes it one of the most stable, experienced and important e-gambling jurisdictions in the world. Likewise the online gaming is crucially important to Gibraltar, since it represents over 20 per cent of its GDP and employs more than 10 per cent of the local workforce. In turn, the industry hugely benefits the economy in both Gibraltar and in the surrounding areas of Southern Spain.

Gibraltar has a population of around 30,000 and there are around 10,000 workers who cross the border from Spain to work there every day. In addition, the Rock has seen a significant increase in mi-

gration by highly skilled and experienced e-commerce workers and executives from around the world. Gibraltar has mini-communities of people from the US, China, Sweden, Denmark, Germany and the UK (to name but a few).

The concentration of operators in Gibraltar, coupled with its highly respected licensing and regulatory regime, has also attracted secondary market gaming suppliers, such as software suppliers and affiliates, who do not necessarily provide gambling services themselves. It has also helped to attract a growing regulated electronic money and payments sector.

Access to employees and commercial advisors who are experienced in European-wide transactions and activities and proximity to many leading gaming operators makes Gibraltar a great choice for other businesses in the e-commerce sector.

In terms of e-business, benefits are significantly based on Gibraltar being part of

Britain and subject to English law. Those who have experience of operating in different territories know the benefits of the business-aware law and regulations and the work ethic that is evident in a British territory. The legal system is virtually the same as that in the UK including a mirrored structure of higher courts with judges from the Court of Appeal presiding in Gibraltar.

Tax Benefits of Gibraltar

Lower taxes and sensible structuring of them are also a significant contributor to economic success. Gibraltar is not alone in the EU in having business friendly taxes. Indeed, the UK is restructuring its tax codes to try to encourage more multi-national businesses to establish their headquarters and their intellectual property portfolios in the UK. Likewise many other member states, e.g. Ireland and the Netherlands, also work hard to encourage



e-Gaming:
The European opportunity





both investment by local and multi-national businesses.

Gibraltar's zero VAT obviously has advantages for businesses. Corporation tax is relatively low at 10 per cent. Gaming and betting duty is 1 per cent of turnover or yield and is capped at £425,000 per annum. In addition, there are no capital gains taxes. However, Gibraltar should not be viewed as a 'tax haven' as local gaming companies must have local offices, taxes are and licensing fees are collected and paid and are invested back into the regulatory regime and for the wider good of Gibraltar. In addition, Gibraltar is a willing participant in the increasing international efforts on exchange of information for tax purposes.

The licensing process, whilst not overly complicated and onerous, is nevertheless thorough and if an operator does not achieve the high standards expected, they will not be licenced. Gibraltar has one of the most effective, well-respected and long-

standing regulatory regimes for online gaming in the world, balancing strict safeguards with a competitive offering for consumers. The reputation of the industry in Gibraltar is closely protected and defended and it is something about which the industry and community is rightly proud.

European Challenges

Online gambling services are, in fact, one of the few areas in which European operators have established themselves as world leaders in the online sector. Despite, therefore, the current economic challenges in Europe, this industry (and to a large extent Gibraltar's economy) has continued to grow and develop with a strong European foothold. Gibraltar now rightly boasts that it has been instrumental in helping to develop a European technology hub which is, in fact, capable of being leveraged and extended to the wider e-commerce sector.

The biggest overall challenge for the on-line gambling operators, which also affects other e-commerce industries such as some players in the financial services sector, is the fact that their businesses naturally cross national borders. This is all very well until the national laws (and often the politics) of a particular territory mean that an operator from another EU territory is not welcome to supply local customers. The EU is a unique construction, seeking to have EU wide laws while allowing member states the necessary freedoms required of countries in such a union. However, laws need to converge so that all member states agree on a similar and sensible approach to managing online businesses that naturally cross borders.

At present, there is a minefield of different laws, regulations and interpretations within the EU and adherence to EU law is no guarantee, at present, that an operator will not fall foul of national laws or political pressure. There are concerns that in Europe, some member states are acting contrary to EU principles and this is unlawfully affecting what operators can do when dealing with customers in certain territories. This has led to a balkanization of the European online market. Germany has been one of the most high-profile states in this respect and its laws are currently under EU review and a decision is eagerly awaited.

To give some wider international perspective to these issues: the United States has overwhelmingly secured the lion's share of the growing and broader online based technology sector (as witnessed by the success of Google, Apple, Amazon, eBay, PayPal, Kickstarter and others). After some reticence, the USA is now clearly moving towards the licensing and regulation of online gambling services. Careful note should be taken of comments earlier this year by an eminent US policy-maker (Mr. Mark Lipparelli – former Chairman of the Nevada State Gaming Control Board) who cites the regulatory approach being adopted by Europe as mistakes that the US must seek to avoid in formulating and implementing its policy in this area. Mr. Lipparelli appears to see the current European balkanisation of online gambling licensing and regulation as yet another US e-commerce opportunity.

As a consequence the GBGA are engaging in an open and constructive dialogue with the EU institutions and with the member states across Europe, with the ob-

jective of ensuring that the delicate balance that currently exists between strict safeguards and a competitive offering for consumers is not damaged.

The GBGA believes that any potential regulatory or public policy changes to e-commerce activity must be justified, proportionate and based upon a sound evidential and legal footing. For example, the recent inclusion of online gaming in the draft 4th Money Laundering Directive is welcome but the 'special treatment' that is being suggested for the sector (without an apparent evidential underpinning) shows that more needs to happen to ensure that online gaming operators are granted the same rights as operators in other sensitive forms of e-commerce such as financial services. Otherwise, the danger is that only EU-wide obligations will be imposed on this sector.

UK Challenge to Gibraltar

The proposed legislation in the UK relating to point of consumption licensing and taxation are causing particular concern at present ('POC measures'). Given the importance of gaming to the local economy and the lack of consumer detriment under the current UK regime, it is hard to avoid the conclusion that the UK has paid little enough attention to the law of unintended consequences for itself and no attention to any impact on Gibraltar when constructing these proposals.

The industry view is that the proposed POC measures will not be recognised by an ever growing number of unlicensed operators and marketing affiliates in poorly regulated jurisdictions that are keen to exploit the UK market whilst sitting beyond the UK authorities' reach.

The UK Government is strongly opposed to the proposed Financial Transactions Tax (FTT). The UK can not sensibly on the one hand advocate going it alone for a POCT for gaming but then claim it will bring a legal challenge for any financial services tax brought in by other Member States if they are not agreed at EU level. EU tax law makes no such distinction between the two sectors and there is a real danger that with a POCT the UK is opening up the imposition of extra-territorial taxes by other European countries against the hugely important UK e-commerce and financial services businesses (and potentially undermining its position in any political or legal challenge against FTT).

Gibraltar operators lawfully supplying the UK market may also face substantial dual or additional regulation, compliance and licensing costs. The unnecessary additional costs, aggressive tax structure and rate and the absence of effective measures to control unlicensed operators and marketing affiliate will be hugely damaging to the regulated sector and UK consumers.

In addition, the proposals appear to allow UK licence holders to base their operations anywhere in the world with no distinction even made between EU operators and those based outside of the EU. We note the real dangers of misuse of UK licensed status by unscrupulous operators that do not share a common EU legal framework (including e.g. for money laundering purposes). The industry would suggest that, for example, extension and modification of the EU passporting model in financial services would be a better, safer and more lawful approach to dealing with any valid UK regulatory concerns.

The Point Of Consumption Tax measures are a poor deal for UK consumers

Ultimately, the proposals are a poor deal for UK consumers as they increase prices whilst diminishing the quality and safety of the UK market. If the legislation is brought in as it is currently drafted, many UK consumers will move to unlicensed or poorly regulated operators outside of the EU.

The GBGA is actively seeking direct discussions with the UK authorities regarding more careful structuring of the proposed POC measures to ensure that Gibraltar can continue to be a competitive online jurisdiction and that the UK does not undermine its own interests or introduce unlawful measures that make matters worse for UK consumers. The UK and Gibraltar are natural allies and should act accordingly.

What about the relationship with Spain?

Gibraltar's relationship with Spain has always been interesting and has been even more tense as a result of the fishing dispute that sparked issues with the border in the summer of 2013. Given the significant levels of Spanish unemployment, the Spanish population close to Gibraltar does

not share the same sentiment as central Government in Madrid - which some say has used the dispute to divert attention away from its many more significant domestic problems.

Despite the significant pressures imposed on people's right to enjoy living and working freely within the EU, without fear of harassment and intimidation, people in Gibraltar continue to remain positive and buoyant. People living and working in Gibraltar are also heartened by the strong support shown by the UK and the fact that senior members of the UK Government are clearly supporters of the Rock:

'We will continue to respect the wishes of the people of Gibraltar and we will adopt any action that is necessary to protect Gibraltar, its people and its economy'. (William Hague.)

Gibraltar recognises the Spanish market e-gambling licence requirements and many Spanish licence-holders (inc. Gibraltar based ones) currently have servers in Spain.

Investment?

Subject to more careful consideration of any proposed changes to the UK gambling laws, there is no reason why the online industry cannot continue to grow and prosper in Gibraltar.

The country is a natural launch pad for investment in Europe. Gibraltar benefits from a significant level of world leading e-commerce expertise to help ensure that Gibraltar remains ahead of the curve in an increasingly fast moving world economy. Efforts are being made at all levels to ensure that more e-commerce related companies see the benefit of being located in Gibraltar. Gibraltar is a well-run and well-regulated place and it is rightly proud of its community values. Its small size allows for agility and means it is easy to work with Government and regulatory bodies in relation to economic concerns, and those concerns are then addressed within the context of respect for the rule of British and EU law. Gibraltar remains a great place to live and invest in.

The Gibraltar Betting and Gaming Association comprises over 20 operators based in Gibraltar, many of whom are the leading names in world online gambling. The GBGA is an active industry association that is also an affiliate member of the EGBA (European Gaming and Betting Association).

Gambling Bill in the UK – an international issue



by Hon. Albert Isola MP

The Minister for Financial Services and Gaming in Gibraltar writes that he wants a fair deal for all countries

Gambling policy is a difficult and troublesome area of every Government's agenda. Over the last 10 years the UK, EU Countries and the United States have wrestled with some or all aspects of gambling policy, not least with remote or 'online' gambling.

By contrast, Gibraltar has had a settled and successful regime for many years. It is anchored very firmly in "hands on", direct regulation to ensure that its consumers are protected, wherever they are in the world, in this global, online market place. To be effective in protecting the consumer the licensing and regulatory regime must be capable of keeping crime out of online gambling, and of protecting consumers in such things as integrity and transparency of the gaming process, security of stakes and winnings, protection of the young and the vulnerable.

This requires that licensees have their important management and operational functions in Gibraltar so that they are accessible to the regulator. So, "Brass plate" operations (as will be permitted by the proposed new UK regime) where operators are licensed in a country but do not have their main operations there are not permitted in Gibraltar, and we also maintain a high standard entry level to ensure that we host only reputable and reliable operators and websites.

The UK is itself now grappling with a new licensing, regulation and taxation regime. The outcome of that is as important to Gibraltar's economy, and to the commercial survival of leading British companies in this sector as it is to contin-

ued protection of UK consumers. In Gibraltar we understand the UK Government's desire to raise tax from this activity, especially in these economically difficult times. But equally, we think that it is important that the UK gets it right, not just so that Gibraltar is not gravely damaged at a time that we are once again under "economic siege" from Spain, but to ensure that the current high levels of protection that UK consumers enjoy is not eroded. We think that both things can be achieved.

The online gaming industry is as global as the Internet itself

How can "getting it wrong" harm both British companies and British consumers? Well, the online gaming industry is by definition as global as the internet itself. British consumers can switch to foreign websites at the click of a mouse. So, if British operators are saddled with excessively high taxes they are rendered uncompetitive with other foreign websites. They cannot offer their customers the same odds or chances of winning in casino games as foreign websites operating in unregulated, untaxed countries. Experience in other European countries has shown that this leads to a "lose, lose, lose" scenario: British consumers will switch to foreign websites in search of better prices, where they have no consumer protection; important and world leading British companies will go out of business in this mar-

ket; and, HMRC will not collect as much tax as it could.

Gibraltar and its regulators and operators are world leaders in this relatively new sector, where rapidly changing technology means ever and fast changing business models and regulatory and consumer protection threats and challenges.

We and our market leading operators want to work closely with the UK to ensure that the new UK regime works well and fairly for all: that it does not undermine Gibraltar: that it raises tax for the Exchequer, and that it preserves rather than undermines UK consumer protection; that it does not lead to UK consumers being penalised on pricing and quality of offering.

There is much to be learned from the past unhappy experience of European countries that have rushed into this complex commercial, legal, technological and consumer protection minefield, if adverse, unintended consequences are to be avoided. Having initially banned (and now permitted) online gaming the USA stands poised to wrestle commercial leadership of this industry, where British companies currently lead, as a result of Europe getting its policy wrong. We in Britain and British Gibraltar can still get it very right.

We think that it is possible to achieve all of these things, and I am delighted that the UK Departments will shortly be meeting with our operators through their association to ensure that the UK regime benefits as much as possible from our knowledge and experience in relation to the issues that I have mentioned.

The connected player



Q and A: **Tim Bristow**

Gibtelecom has been both building block and beneficiary of the explosion of e-gaming on the Rock. Its Chief Executive Officer makes the links.

Gibraltar Telecom has sponsored this supplement on e-gaming but you're a telecoms company. What's the link?

Gibtelecom built a fibre-optic network throughout Gibraltar in the 1990s which, together with the merger with a local international carrier and mobile business, provides the communications backbone for the e-gaming sector in Gibraltar. Meeting the requirements of some of the biggest and best e-gaming companies in the world has influenced our development and made us raise our game. Without the communications infrastructure, online companies could not have come to Gibraltar in the first place. Since then, we have substantially enhanced our national and international networks, and consequently Gibtelecom remains the communications company of choice in the jurisdiction even after competitors entered the scene.

What makes Gibraltar a competitive jurisdiction for e-gaming?

Though e-gaming companies are attracted to Gibraltar as an EU jurisdiction, with a

friendly business environment and competitive fiscal package, they also benefit from a qualified workforce and plenty of ancillary professionals. The online gaming industry is dependent on good telecommunications, and would not be able to thrive here if the industry was not up to speed; it is this all round package that makes Gibraltar competitive.

Although Gibraltar has more than one local telecommunications provider, it is Gibtelecom that is still leading the way locally with resilient fibre optic connectivity, multiple diverse international links (partnering with Telefonica, Interoute and Vodafone amongst others). Gibtelecom has huge amounts of bandwidth readily available for expansion or event bursting.

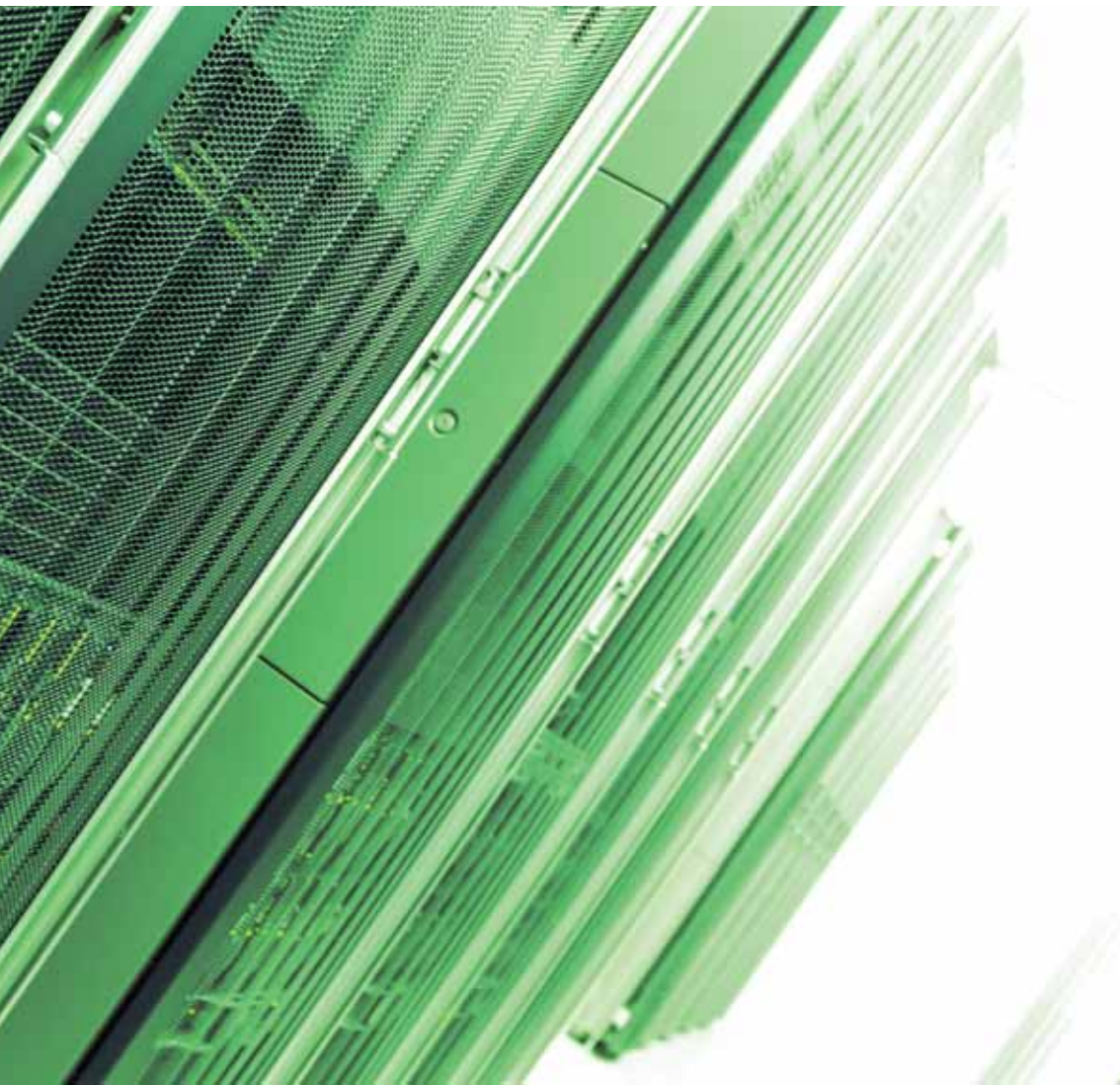
Gibtelecom has been committed to investing in providing robust and diverse national and international fibre-optic routes. Gibtelecom's investment in the state-of-the-art Europe India Gateway (EIG) submarine cable and quality data centres will help keep Gibraltar a top tier business jurisdiction. The EIG high bandwidth fibre-optic system not only complements existing



routes but also provides Gibraltar with an alternative submarine path, without the capacity limitations or the incidence of interruptions that often face land routes.

What does Gibtelecom have to offer and what has it been doing to meet the quality and services required in such a demanding area such as e-gaming?

Gibtelecom prides itself on being in-sync with technology as well as in touch with its customers. Gibraltar is a hub for some of the leading e-gaming companies in the world. The Rock is not just a business friendly environment with a competitive tax regime, it is also well connected and has a stable regulatory framework focused on good corporate governance and customer protection. Indeed, if the communications infrastructure and solutions were not continuously developing then the e-gaming sector couldn't have thrived in the jurisdiction as well as it has. In a world that is increasingly reliant on round-the-clock high speed communications Gibtelecom is at the forefront of de-



veloping the technology to ensure the growing needs of e-commerce and the wider community in Gibraltar are met. At home Gibtelecom is building a next generation network, which can facilitate internet speeds of up to 100 Mbps throughout Gibraltar. Gibtelecom is also an accredited 'recognised for excellence' company by the European Foundation for Quality Management, which is a testament to the high standards the Company has delivered to Gibraltar's e-gaming community.

How has the Company developed its data centre business?

The data centre business as we know it today has changed much since Gibtelecom set up its first hosting environment nearly a decade ago, and as the market needs changed developing this part of the business was a natural move. Gibtelecom's data centre development plans are very much aligned to customers' business and IT strategies, as well as their specific regulatory and industry requirements. For example, the facilities being Payment Card Industry (PCI) compliant is an essential

factor for many of our customers due to the large volumes of financial transactions they process.

Our aim is to be the customer's partner of choice by ensuring that our data centres have the right technical set-up, connectivity, security and environment to meet market requirements.

What challenges does a focus on e-gaming and finance markets create?

Catering for some of the most demanding e-commerce businesses in the world has resulted in Gibtelecom creating a more robust international network from Gibraltar. In a global business environment, hosting facilities need to be paired with seamless and resilient connectivity. This was the impetus for the Company being one of the founding shareholders of the Europe India Gateway (EIG) consortium, a new 15,000km high bandwidth fibre-optic submarine cable spanning from London to Mumbai. The cable system runs across three continents and has thirteen landing points along the way, of which Gibraltar is one. As well as provid-

ing linkages to other international cable systems, the route complements Gibtelecom's other links, connecting to hubs in London, Madrid and Marseilles.

What is Gibtelecom doing to meet the demands of gaming companies with regards to the contracting of hosting services?

Trends in the sector, which Gibtelecom is actively leading, are towards a one-stop-communications-shop, embracing telecommunications, computer hosting and value-added services. Gibtelecom is by far the biggest provider of data hosting services in Gibraltar. We operate several state-of-the-art data centres in a secure location; well above sea level and away from the main centres of business on the Rock. Our data centres employ the latest industry standard technologies, including efficient cooling and standby power, and are Payment Card Industry (PCI) compliant. All Gibtelecom's data centres are supported by an onsite Network Operations Centre, with engineers available 24/7.

Could you explain what the EIG project represents and what does this investment represent to the Company?

The EIG submarine cable not only complements Gibtelecom's extant terrestrial and other sea routes, but has placed the company in a position to seek business opportunities outside Gibraltar. This is an exciting project for us. It means Gibtelecom is now a global carrier and able to provide wholesale bandwidth and carrier services with more routing options and diversity. Gibtelecom set up an international marketing arm in 2011 to develop and seek new offshore growth opportunities, since landing partnerships with telco's headquartered in London, Sydney, New York, Monaco, Johannesburg and Seychelles amongst others. Following the substantial multi-million pound investment in this submarine route, Gibtelecom is looking at expanding its networks further, with plans already underway to increase network diversity via new routes transiting through Monaco and Marseilles into various key communications hubs in Europe. This said, the considerable additional investment has not been endured by the customer. In fact, 2012 saw substantial reductions in IP bandwidth prices of up to 25 percent, and averaging some 14 percent across all e-commerce customers.