

Canada: a Year in Review

A great deal of ferment manifested itself within the last 12 months in Canada concerning the future of iGaming regulated by the provincial governments. The following review canvasses those developments, and gives an outlook on the activity that can be expected within the next 12 months.

Federal

The federal government, by way of a 1985 agreement with the provincial governments, relinquished its right to conduct and manage gaming of all kinds. However, federal legislation (the Criminal Code) determines what forms of gaming and betting can lawfully be conducted and managed, either by the provincial governments or their licensees.

The Criminal Code provides that only provincial governments (or Crown corporations controlled by those governments) may conduct and manage gaming or betting that is operated on or through a computer or video device. Accordingly, the conduct and management of iGaming is restricted to provincial governments. While many provinces have begun to exercise this right, the Criminal Code severely limits the ability of the provinces to conduct and manage sportsbook operations. The Code presently prohibits provinces from offering betting on any "single sport event or athletic

contest", as well as betting on fights or races. Due to this restriction, sportsbetting can only be offered in parlay mode. This restriction would make any online sportsbook conducted by a provincial government highly uncompetitive with offshore operators.

On September 28, 2011, Joe Comartin (a member of the opposition New Democratic Party), reintroduced a private member's bill (Bill C-290) into the federal Parliament that would amend the Code to permit betting on single sport events and athletic contests, as well as fights and races. There are reasons to believe that Bill C-290 has a chance of being seriously considered by the House and, perhaps, even enacted into law.

Bill C-290 has been given an early position in the Order of Precedence that determines what private member's bills will be addressed first. As the current government received a majority mandate in the May 2011 general election, the present Parliament will, in all likelihood, not be dissolved until 2015. This almost guarantees that

Bill C-290 will receive a full consideration on its merits, and will likely be subject to committee hearings. If Mr Comartin can muster support from some of the provincial governments, the bill may obtain the government support it needs for enactment.

Alberta

The CEO of the Alberta Liquor and Gaming Corporation clearly indicated in May 2011 that the province is not presently considering expanding its gaming activities to iGaming. This ended speculation that had been engendered by a statement made by a government official in 2010, following the commencement of iGaming operations in neighbouring British Columbia.

British Columbia

British Columbia was the first Canadian province to initiate large scale iGaming operations in July 2010, with the launch of its PlayNow.com website, at the time available only to British Columbia

residents. After a privacy breach resulted in players' personal information being released (less than 24 hours after the website commenced operations), PlayNow.com was taken offline and was down for over a month. The site is now taking in over C\$34 million per year.

In February 2011, British Columbia entered into an agreement with the province of Québec relating to the Québec iGaming website, EspaceJeux.com, an agreement that launched the Canada Poker Network. Under this agreement, the two provinces allow their residents to participate in iGaming hosted by the other province, thereby, increasing player liquidity and market share.

With the exception of poker, however, games on PlayNow.com are only available to residents of British Columbia who are physically located in the province. Through the Canadian Poker Network, however, poker games played through PlayNow.com may also be accessed by residents of Québec who are physically located in their province.

Manitoba

The minister responsible for gaming has made statements in the last year indicating Manitoba could join the Canada Poker Network. The government may hold a consultation on the issue in 2012 before taking the decision to proceed.

New Brunswick

Many aspects of gaming in the Atlantic provinces (New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland) are conducted and managed jointly by the Atlantic Lottery Corporation (the ALC). The ALC already offers limited online gaming products on its Playsphere.ca platform, with games that are only available to residents of the Atlantic provinces.

In 2010, it was expected that the ALC would join with Québec and British Columbia in the Canadian Poker Network, allowing residents of the Atlantic provinces to play peer-to-peer poker via Playsphere.ca. However, opposition to the project later emerged from the Premiers of Newfoundland and Nova Scotia.

New Brunswick, accordingly, has no immediate options going forward to open its market for true state-conducted iGaming. In the absence of a deal to join the Canadian Poker Network, the ALC is not expanding the offerings on Playsphere.ca to include casino games or poker.

Newfoundland

The Premier of Newfoundland was the first senior politician to block the online expansion of the ALC. Even if other Atlantic provinces eventually

succeed in adding poker and casino games to the Playsphere.ca platform, Newfoundland may well 'opt out' of the project and refuse to allow its residents to participate.

Nova Scotia

While it was the veto of the Premier of Nova Scotia that brought a halt to plans to expand the iGaming offerings on Playsphere.ca, the government of Nova Scotia is still studying the issue. As part of the 2011 Responsible Gaming Strategy study announced in June 2011, the government is to consider existing and emerging research related to iGaming "to better understand the trend and determine best practices and policies with respect to regulation". It remains to be seen whether this study will result in a re-evaluation of the proposed ALC project, whereby Nova Scotia would join with some or all of the other Atlantic provinces to expand iGaming offered through Playsphere.ca or, perhaps, with Nova Scotia acting on its own in the iGaming field.

Prince Edward Island

Prince Edward Island has been attempting to enter the iGaming field in a number of ways since 2000. The government still wishes to expand the ALC's online platform to include casino games and poker, preferably as part of a pan-Canadian effort similar to the Canadian Poker Network.

Ontario

The Premier of Ontario has targeted 2012 for the beginning of iGaming operations. At present, the government is conducting a consultation process to determine which regulatory model to adopt. It is increasingly being speculated that Ontario will not join the Canada Poker Network and, indeed, will not adopt the direct state operation model in place in British Columbia and Québec. Instead, it may allow multiple private operators to provide the day-to-day operating facilities of iGaming in Ontario under contract with the provincial lottery corporation acting, essentially, as agents of the government. The high-level 'conduct and management' of those operations would remain under the direct authority of the Ontario government through the aegis of the provincial lottery corporation.

Québec

As stated, in October 2010, Loto-Québec began offering iGaming through its EspaceJeux.com platform. With the exception of poker, the games on EspaceJeux.com are only available to residents of Québec who are physically located in the province. Through the Canadian Poker Network, peer-to-peer poker played through EspaceJeux.com

may also include players who are residents of British Columbia who are physically located in their province.

Working from Loto-Québec's latest quarterly report, researchers have calculated that profits for the entire EspaceJeux website would be \$1.3 million for its first year of operation. In its launch last year, Loto-Québec announced the objective of generating profits of \$50 million annually after three years of operation. Clearly, there is much work to be done in order to meet that goal.

Saskatchewan

Saskatchewan has a thriving Indian gaming industry, and bands involved in that industry have expressed the desire to expand into iGaming. The ability of the bands to engage in online gaming is dependent on the attitude of the provincial government, which is considering its own options but appears to be open to joining with other provinces in a pan-Canadian approach along the lines of the Canadian Poker Network.

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