Geolocation for Indian Gaming

by Lindsay Kininmonth

The Department of Justice's published opinion on December 23, 2011 greenlights the opening of the U.S. intra-state online gambling market subject to geolocation technology. The letter goes on to imply that states such as Illinois or New York can in fact operate their own online gaming operations as long as "sales [are] restricted by geolocation technology to transactions initiated and received or otherwise made exclusively within the State."

What does this mean and what opportunities exist for tribes?

Now that intra-state gaming is ready to move forward, operators need to determine which geolocation solution provider they are going to use to enable their systems to comply with state and federal laws. Many might think this is just another system on their list to integrate, however the complexity to the solutions out there and their potential impact on both compliance and their bottom line do make it a significant concern for the emerging U.S. online market.

Tribes, in particular along the eastern seaboard, are already aggressively exploring their options to offer online gaming within their borders, and many more from across the U.S. are eager to jump on the bandwagon as well. Geolocation technology is something that may not yet be on their radar, however it will be imperative for them to consider it before going live.

State and federal boundaries aside, tribes may be thinking about the possibility of Internet gaming restricted within their tribal lands. Without having to delve as far as negotiating state compacts over what types of online gaming a tribe could offer the residents of its state, starting with an 'intranet'-styled operation on PCs and/or smartphones, may be another approach tribes may choose with ease. This type of scenario could also run as a test case for a scaled-down solution, where an online offering could be expanded state- or interstate-wide later on down the road.

It could, however, also be very challenging to ensure bets stay within the tribe's respective borders, particularly if the tribal territory is relatively small and/or close to a state border. When gaming is moved from traditional, stationary casino equipment to the player's own device – be it desktop computer, laptop, tablet, or mobile – that loss of control over the gaming device brings certain new challenges. Location is just one (but arguably the most important) challenge to

address in order to stay compliant with applicable laws and regulations, such as the Unlawful Internet Gambling Enforcement Act (UIGEA) of 2006. Various geolocation technologies currently exist to ensure players are only able to game where it is permitted; ensuring that technology is accurate enough for tribal and other small-scale use is the subject of new and emerging technologies.

What are the technology risks for tribes?

Leveraging a robust location technology that is reliable and provides a high level of accuracy, will enable tribal and private operators to successfully offer a full online gaming product range to those who rightfully qualify to play. In Europe, typically players were kept in or out of countries, using the IP address assigned to them by their Internet service provider. However, these technologies are rarely accurate to better than five miles, sometimes off by thousands of miles and easily "spoofed." Good enough for country level blocking in Europe, but more concerning when accuracy to a state level is required and when penalties for non-compliance involve criminal liability.

With inaccurate geolocation technologies the temptation may be to "ramp-up" accessibility criteria such as "border buffer zones" and the banning of popular mobile devices such as iPads and iPhones. This can be like using a sledge-hammer to crack a nut with undesired consequences such as "false negatives" when significant numbers of permitted players are accidentally caught in the net and blocked from accessing gaming sites, resulting in wasted marketing spend, loss of revenue for operators, frustration and customer service issues for legitimate new or existing players.

Currently, 92.1% of Americans are online (U.S. Census 2009) - 80% of Americans living on or near borders (CIA) - and many of those borders are in close proximity to tribal casinos. New York, Connecticut, California, Minnesota, Michigan, Florida, and Washington are all hot spots for tribal gaming that lie quite close to either state or federal borders. Without sophisticated geolocation methods, many operators would have to implement large border buffers to ensure their players were originating from permitted areas with reasonable certainty.

Why are buffer zones relevant?

These large border buffers are what the first geolocation technologies, such as IP address geolocation, would dictate

to protect stakeholders from costly mistakes in location data. Where an IP address could be accurate within miles of one's physical location, greater certainty is often not possible when in close proximity to a border or coming in from corporate ISPs such as AOL. Newer geolocation technologies rely on use of a wider range of tools, some of which have much greater accuracy and "spoof resistence," such as wi-fi and cell-tower access points. By pinpointing one's location down to a much smaller radius and reducing the size of the buffer zones, operators can increase the chances of a positive customer experience from a larger universe of players without any reduction in compliance. Such technologies may also allow the size of buffer zones to be preset to a certain number of yards, which could then be used within sections of a building – such as on the gaming floor but not in the hotel rooms for example.

The best defense is a good offense.

Furthermore, newer geolocation solutions also rely on a number of location data points when determining one's location, to increase the accuracy of results while reducing compliance and legal risk. U.S. regulators have begun to recognize the risks involved in putting their eggs all in one basket, such as relying solely on IP geolocation, and are calling for more extensive technologies that factor in multiple data sets to make a final location ruling for each player and the bets they place online. UIGEA itself demands a "reasonably designed" geolocation solution to accurately screen for non-permitted players based on location, and in this day and age, old technologies just would not stand up on legal grounds any longer.

As Internet gaming continues to roll out across the nation, geolocation will continue to be both a hot topic and a large area of contention that will require diligence and preparation. New technologies and vendor awareness can help address a number of these areas currently faced by the U.S. when it comes to regulating online gaming,

whether from the perspective of a tribe, a lottery, a private operator, or even a regulator. ♣

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