



Hogan
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You can bet on us

Our international service and
experience in the gaming industry

2020

How we can help you to face challenges in the gaming industry worldwide


We play the game – worldwide

Having success in the gaming industry is not a result of luck, but a result of accurate knowledge of the specific market, of innovative ideas, of effort and of legal expertise. We build long-standing relationships of trust with our clients from the gaming industry and we assist and advise them on every single aspect of their planned projects – we have a deep understanding of your needs and issues.

We help our clients to overcome regulatory and administrative challenges in the domestic market but also advise on market entry strategies and regulatory requirements in other jurisdictions: The gaming market is an area of continuous development and is well known for its heterogeneous regulation all over the world. New market regulations encounter the liberalisation of the gaming market elsewhere in other countries. The legislative institutions try to catch up with technological improvement or show a newly awakened concern for addiction problems and the protection of the youth. All this creates new market opportunities, as well as challenges – we keep you in the game.

We provide high quality advice to corporations, financial institutions and governmental entities across the full spectrum of their critical business and legal issues globally and locally. Bringing together the combined strengths of our predecessor firms, we have over 2,500 lawyers operating out of more than 45 offices in the U.S., Southern America, Europe, the Middle East, Asia and Australia. This includes a global network of lawyers dedicated to the gaming industry as well as competent advisors in nearly every country or region in the world. We know the particular risks and potential difficulties for your gaming business and help you to get advice on your domestic problems and any problems you have in other jurisdiction. Especially in the course of new market access but also during e.g. concession awarding processes local contacts are essential – **you can bet on us.**

Our strengths are our reliable contacts to public authorities and governmental officials. Our team includes former government officials with deep experience in this space. Therefore we are able to guide you in governmental procedures and find solutions even before you realize the problems – **we make your voice heard.**





“Straight talking. Thinking around corners. Understanding and solving the problem before it becomes a problem.

Performing as a team, no matter where we're sitting. Delivering clear and practical advice that gets your job done.”



Recent developments in selected countries and regions

Europe

The law of the European Union is playing an increasingly important role in the area of gambling regulations: gambling, especially sports betting, is offered on the Internet throughout Europe – regardless of national or jurisdictional boundaries. Even so, there is no uniform gambling legislation at the European level.

As a consequence of the absence of harmonization in the field of gambling, there is no mutual recognition of the licensing rules of the various Member States under EU law. The European Court of Justice ("ECJ") has consistently held that it is for each Member State to determine, in accordance with its own scale of values, what is required in order to ensure that the interests in question are protected.

Despite the absence of Community harmonization of the gambling law sector, the regulation of gambling is subject to Union law, especially ECJ case law. The freedom of services and establishment, in particular, are benchmarks for the review of the compatibility of national and Union gambling law. Besides, the fourth Money Laundering Directive of May 20 2015 (EU 2015/849) calls for a number of regulations in order to prevent money laundering in the gambling sector.

Germany

For a number of years, two factors have had a significant impact on the gambling market in Germany: globalisation and the enormous advances in communications technology. Numerous new providers are entering the German market because they have identified it as a growth segment with long-term potential. The main areas affected by this trend are online casinos, sports betting and viewer competitions on television.

In recent years, the law governing sports betting in particular has changed at an extremely fast pace: the procedure for awarding concessions to organize sports betting, which was conducted by the Hessian Ministry of the Interior and Sports (*Hessisches Ministerium des Innern und für Sport*), has significantly increased competitive pressure in Germany. There were more than three times as many applicants for the 20 available concessions. As the award procedure was subject to substantial legal concerns and court challenges and not a single concession has been awarded to date, the minister-presidents of the German federal states agreed at their conference from 26 to 28 October 2016 on a further reform of the German Interstate Treaty on Gambling as the basic set of rules regarding gambling in Germany. However, this reform will not come into force due to the newly elected state parliament of the federal state of Schleswig-Holstein not approving it in September 2017.

Poland

The current regulations for gambling services in Poland can be perceived as restrictive. As a rule, gambling services can only be rendered by locally licensed operators that have to meet a number of requirements.

In 2017, the amendments to the Polish Gambling Act (which generally entered into force on 1 April 2017), the ("**PGA**"), brought significant changes to the Polish gambling market.

The key changes relevant for the Polish betting market include:

- Blocking of websites of gambling operators which are not licensed locally by internet service providers;
- Extension of the portfolio of online gambling activities – including casino games and lotteries (subject to state monopoly);
- Blocking of payments on sites of gambling operators which are not licensed locally by payment service operators;
- Introduction of responsible gaming regulations by operators.

Russia

In Russia the gaming industry and gambling market has been significantly shaped by legal restrictions introduced back in 2009 to limit the gambling business to four geographical zones within the territory of the Russian Federation. These zones exclude Moscow and Saint Petersburg and embrace the Altai Region in Siberia, the Primorsky Region in the Russian Far East, the Kaliningrad Region in the West along the Baltic Coast and the city of Azov in the South, which will ultimately be transferred to Sochi by 2019. In essence, gambling activities may only be legally carried out in the aforementioned zones.

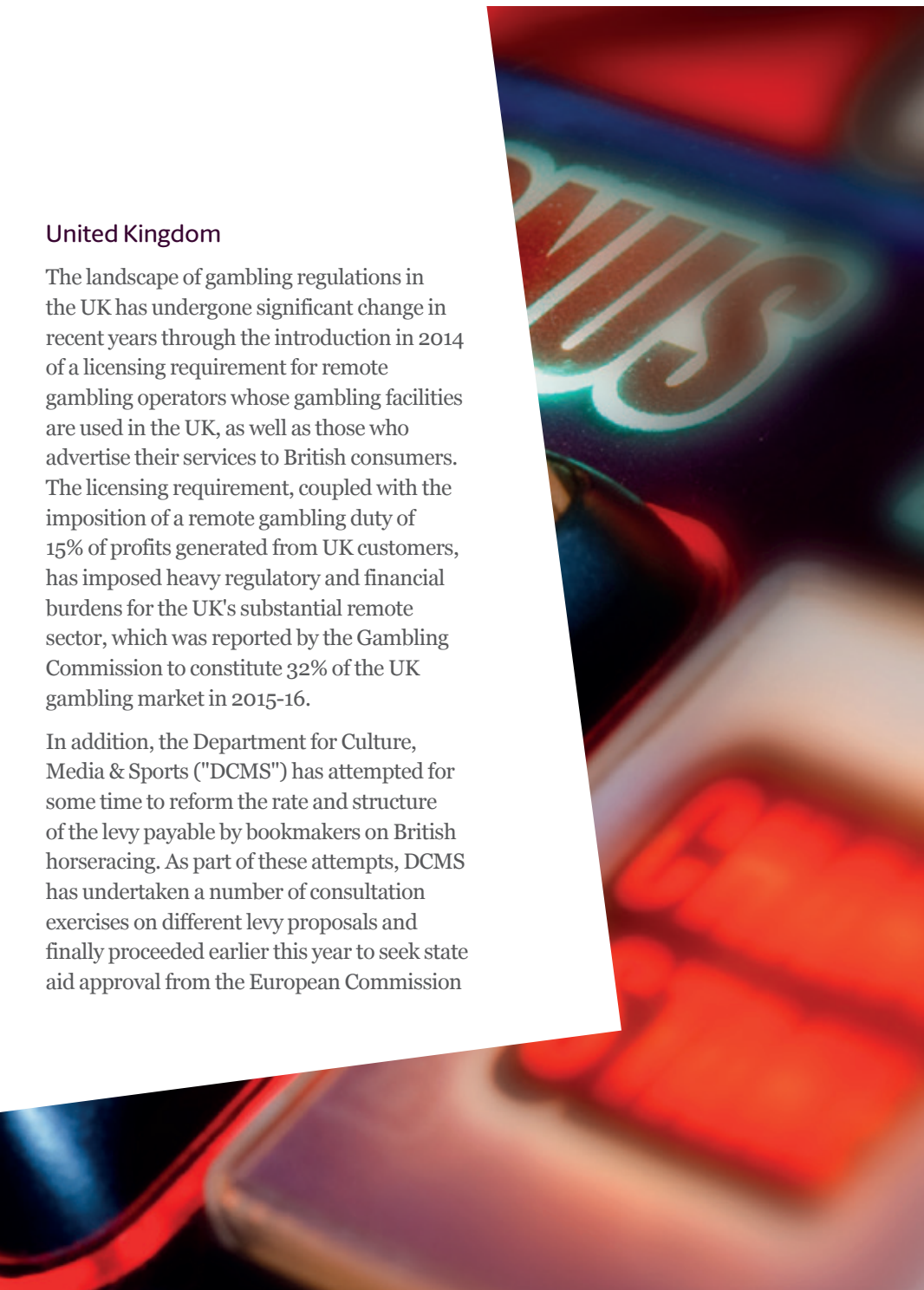
Online gambling has been outlawed since 2009. Since 2015 both websites and apps supporting online casinos have been blocked. Meanwhile, online betting is generally possible but is subject to a number of highly restrictive regulations and, as a consequence, the number of official betting companies in Russia is very low. There is also a draft law under consideration proposed by the Russian State Duma introducing the explicit prohibition of transferring any funds to the "bad players" in the gambling market (companies which violate Russian gambling regulations).



United Kingdom

The landscape of gambling regulations in the UK has undergone significant change in recent years through the introduction in 2014 of a licensing requirement for remote gambling operators whose gambling facilities are used in the UK, as well as those who advertise their services to British consumers. The licensing requirement, coupled with the imposition of a remote gambling duty of 15% of profits generated from UK customers, has imposed heavy regulatory and financial burdens for the UK's substantial remote sector, which was reported by the Gambling Commission to constitute 32% of the UK gambling market in 2015-16.

In addition, the Department for Culture, Media & Sports ("DCMS") has attempted for some time to reform the rate and structure of the levy payable by bookmakers on British horseracing. As part of these attempts, DCMS has undertaken a number of consultation exercises on different levy proposals and finally proceeded earlier this year to seek state aid approval from the European Commission



“Clients praise the firm's cross-border expertise, stating: “They are exceptional on international work and have a very high level of [...] ability for a vast range of services.” Another client adds that they appreciate their “pragmatic.” .”

Chambers Europe, 2016



on its latest proposal, in respect of which many members and representatives of the gambling industry have expressed concern. These reforms are yet to be fully implemented and several questions remain outstanding as to precisely how the new regime will operate and be enforced.

United States of America

The gaming industry in the United States is diverse. Gaming is regulated at the federal, state, and tribal level, including certain notable restrictions at the national level, particularly in the areas of anti-money laundering and online gaming. The American industry is also changing rather significantly because of competition from other countries (in particular in Asia) and with the presence of multiple markets at the state level and on tribal reservations, with various restrictions and compacted arrangements providing

certain operators market exclusivity.

In 1988, Congress passed the Indian Gaming Regulatory Act, which recognized the inherent authority of American Indian tribes to game on their lands, but required that they enter into compacts with the applicable state. Since then, there has been tremendous growth in this market. According to the 2017 Edition of Casino City's Indian Gaming Industry Report,

"[i]n 2015, Indian gaming on a nationwide basis not only outpaced its 2014 growth rate, but it experienced its sixth straight year of growth and surpassed its pre-recession growth rate for the first time."

In the United States there is also considerable momentum and change related to sports betting. The U.S. Supreme Court in the *Murphy v. NCAA* decision recently struck down a federal law (PASPA) that prohibited states from authorizing sports betting. As a result, several states have passed laws to authorize sports betting and more are likely to do so. Complex issues that will arise from this new market include cross-border gaming issues, the impact of state-tribal gaming compacts, ensuring adequate financial controls are in place to address new gaming volumes, and whether Congress will attempt to regulate this gaming in the future. Experts estimate that approximately US\$150bn to \$500 bn is bet illegally on sports each year in the U.S., thus, there could be significant market potential in this area of gaming.

Hong Kong

The Hong Kong Government's policy is to maintain a strict control on gaming activities in Hong Kong. The subsidiaries of The Hong Kong Jockey Club (the largest taxpayer and community benefactor and one of the oldest institutions in Hong Kong) are the only licensed betting operators in Hong Kong offering horse race betting, football betting and Mark Six lottery.

Since 2013, a subsidiary of The Hong Kong Jockey Club which is the horse race betting licence holder has implemented inbound commingling transactions with a number of betting operators from different overseas jurisdictions, such as the United Kingdom, Ireland, Australia, New Zealand, South Africa, Singapore, Macau, Isle of Man, Canada and a number of states in the United States to enable overseas bettors to place bets on Hong Kong horse races with authorised overseas betting operators.

Except for the above authorised betting activities, all gambling activities are illegal except games played on a social occasion in private premises or in licensed premises. The definition of "gaming" in the Gambling Ordinance covers either a game of chance or a game of chance and skill combined for winnings in money or other property and whether or not any person playing the game is at risk of losing any money or other property. Hence, the Ordinance has a very wide reach and many activities which do not involve typical betting or wagering will still be caught. Betting is unlawful even for skill-based games unless the bet is made between persons who are not engaging or assisting in bookmaking, or who do not hold out to be soliciting, receiving, negotiating or settling bets by way of trade or business.



In addition, the Ordinance has a wide geographical reach as well and has extra-territorial implications. For instance, the Ordinance prohibits any person from promoting or organizing a lottery conducted or managed outside Hong Kong. Therefore, as long as the proposed game targets bettors in Hong Kong, there is a risk that it will fall foul of the Ordinance.

A person who manages, operates or controls unlawful gambling or lotteries in Hong Kong will be liable for criminal prosecution with maximum penalties of HK\$5,000,000 (~US\$640,000) and imprisonment of 7 years.



Our services and selected focus areas

Our services worldwide

Regulatory, litigation and administrative aspects of the gaming and gambling industry includes:

- Advice on all aspects of gambling law
- Representation in administrative and court proceedings, in particular in approval procedures and proceedings before regulatory authorities as well as in concession award procedures
- Representation in proceedings before award chambers
- Construction of gaming halls, installation of slot machines
- Market entry
- Regulatory and structuring issues
- Lobbying and support in political processes
- Dissemination, publication, commercialization and protection of fixture lists and racing and lottery data
- Rulemaking through drafting of and advising on betting rules for horse races, football and lotteries

IP related advice including

- Online gambling
- Data protection

Finance related advice

- Payment systems for online gambling
- Sports betting
- Money laundering
- Terrorist financing

Corporate (Corporate Actions)

- Mergers & Acquisitions (including public takeovers)
- Cooperation agreements including joint ventures and strategic alliances
- Development and distribution agreements
- Product liability / product safety
- Tax issues

Selected areas of focus

- Online gaming
- Horse racing
- Sports betting
- Gambling halls and Casinos
- Slot machines
- Lottery
- Company raffles





A selection of our experience

Regional focus



Germany

- **Autobahn Tank & Rast GmbH**
on all aspects of gambling law, in particular in connection with the installation of slot machines, the construction of amusement arcades, the running of lotteries and draws
- **Direktorium für Vollblutzucht und Rennen e.V.** on constitutional, European and gambling law issues in connection with negotiations on the Interstate Gambling Treaty 2012 and the amendment of the law on race betting and lotteries
- **German Tote Service & Beteiligungs GmbH** in connection with the prohibition of online gambling
- **Hamburger Renn-Club e.V.**
on all aspects of gambling law, as well as on money laundering compliance; representation in administrative and court proceedings,
- **LÖWEN ENTERTAINMENT GmbH**
on all aspects of gambling and corporate law in relation with the operation of gambling halls in Germany
- **Extra Games Entertainment GmbH and Casino Royal GmbH** on all aspects of gambling law in relation with the installation of slot machines and the operation of gambling halls



Poland

- **Paddy Power Betfair plc** on regulatory developments in Poland, including representation before local authorities and decision makers, advising on Polish licence application and commercial business launch in Poland
- **Microsoft** on the voluntary product retrofit of Microsoft's 360 Wireless Racing Wheel, written commercial warranties related to the Xbox, and B2C and B2B products under the Polish regulation
- **Gate Arena** (a trading company dealing with electronic distribution of MMORPGs codes and XBOX Live scratch) concerning VAT taxation (sale of games)

United Kingdom



- **The Gibraltar Gambling Commissioner** in judicial review proceedings concerning the UK's imposition of licensing and regulatory requirements on remote gambling operators
- **Mars** on a wide variety of promotional, marketing and sponsorship activities for numerous brands (across all media, including TV, radio, print, internet), including with respect to the requirements of the Gambling Act and its impact on prize draws and competitions and comparative advertising
- **Sport England** in connection with its decision making and governance process and acting for it in relation to investigations by the Parliamentary Ombudsman
- **Stakis** on the acquisition and disposal of a number of hotels and casinos, including the acquisition of the Metropole Chain for £230m and the sale to Strategic Hotel Capital and leaseback of St Ermins, London
- **M&G Real Estate** on the acquisition of 52 Bingo Halls from a Gala Bingo Limited subsidiary for circa £173m
- **A consortium of PPM Ventures, CSFB and the Royal Bank of Scotland** on the acquisition of the Gala Group, the largest bingo operator in the UK
- **Royal Bank of Scotland** on financing for casinos

Italy



- **Gamesys** in both regulatory and commercial issues related to the provision of gaming services in Italy
- **PokerStars** in connection with regulatory issues regarding the offering of online games in Italy, as well as in IP, unfair competition and misleading advertising disputes with other operators and market players
- **Google** in relation to advertisement on online betting and in all legal matters concerning the services provided in Italy, including drafting of T&Cs and regulatory, commercial, e-commerce, data protection and contentious matters
- **PayPal** in the negotiation of agreements with online betting companies and in relation to all legal issues concerning online payments in the Italian market
- **FLUXX AG** regarding regulatory, marketing and business issues related to gambling and betting websites

The Netherlands



- **Ladbrokes** in Dutch national litigation against De Lotto, about the online offering of gambling and gaming activities in the Netherlands without a Dutch license. This led to a referral to the ECJ (case C-258/08)
- **A Dutch broadcasting channel** on online poker activities
- **A leader for ID identification** on online gaming activities
- **A large German investment fund** on legal aspects of casino and arcade offerings in the Dutch market
- **A global online platform** on online advertising in the Netherlands of online gambling operators
- Negotiation for the French horse race betting company (**Pari Mutuel Urbain**) of its strategic partnerships with Paddy Power on online sports betting when PMU entered the market

Russia



- **Novomatic** on various projects including numerous representations of the client before the Russian courts and Russian PTO in civil and criminal cases relating to infringements of client's IP rights to slot machines and software; securing on behalf of the client blocking of numerous illegal online casinos in Russia as well as assisting the client in protection of copyright and trademark rights in Russia and other CIS countries
- **Various international companies** (including Yoox, Western Union, eBay, AdWatch Isobar, Expedia, World Ventures and many others) on the lottery regulations in Russia in relation to their contests and various online activities
- **Funstage Spielewebseiten Betriebsges. m.b.H and Greentube Internet Entertainment Solutions GmbH** on issued related to ban of online casinos in Russia and unblocking gaming online platform
- **WMS Gaming** in a number of cases relating to infringements of client's IP rights to slot machines, video lottery terminals and software in Russia and other CIS countries

United States of America



- **Penn National Gaming, Inc.** on its US\$200m acquisition of assets of Zia Park Partners LLC, namely Zia Park Racetrack and Black Gold Casino
- **The Mohegan Tribal Gaming Authority and other tribes** on various aspects in connection with their gambling business
- **U.S. Supreme Court and appellate litigation** on behalf of gaming tribes in support of their sovereign rights
- **The Mandalay Resort Group in securing Federal Trade Commission (FTC)** clearance for its US\$7.9bn acquisition by MGM Mirage and on its US\$520m sale of the voting securities of Circus Michigan Inc. to Marian Illitch
- **PMU** with competition law advice in relation to an agreement with artyGaming for the development of an online poker activity
- **Trade associations:** Representation of the American Gaming Association and the National Center for Responsible Gaming

Mexico



- Hogan Lovells has been part of study groups on proposed new legislation to substitute the current Federal Gaming Law and Regulations
- Successfully negotiating the operating agreement for the gaming room at Hipódromo de Las Americas, between our client, an important European company, and Corporación Interamericana de Entretenimiento
- **Software developers and equipment manufacturers/suppliers** in their licensing, lease, sale and supply contracts with Mexican casino and online gaming operators and permit holders



Hong Kong



- Assisted the **licensed horse race betting operator in Hong Kong** to successfully lobby the government to change the betting duties to facilitate commingled betting and assisting the operator in rolling out the commingling initiative with overseas betting operators in the United Kingdom, Ireland, Australia, New Zealand, South Africa, Singapore, Macau, Isle of Man, Canada and a number of states in the United States and in handling legality and regulatory issues such as use of betting signals, provision of betting and commingled calculation services, anti-money laundering and terrorist financing and anti-competition issues in those jurisdictions
- Advising on the dissemination, publication, commercialization and protection of fixture lists and racing and lottery data
- Advised on contracts for major IT programmes, development of portable gaming devices, apps, tracking software, calculation engines and interactive betting machines and e-platform for suppliers
- Advised **game developers** on legality issues in Hong Kong



Our team

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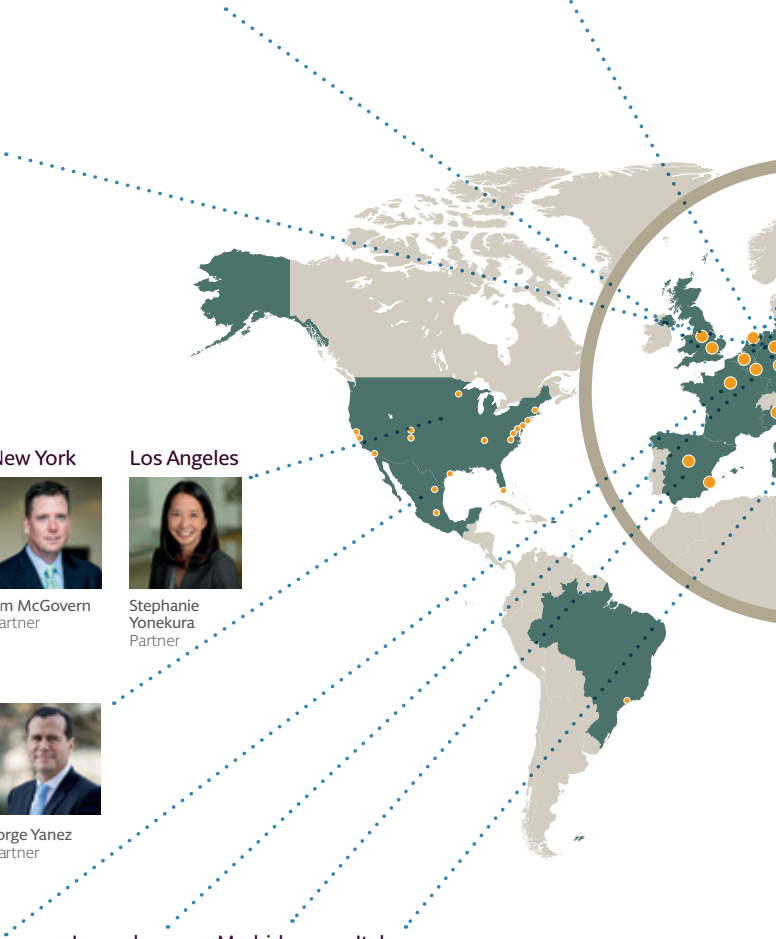
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Munich



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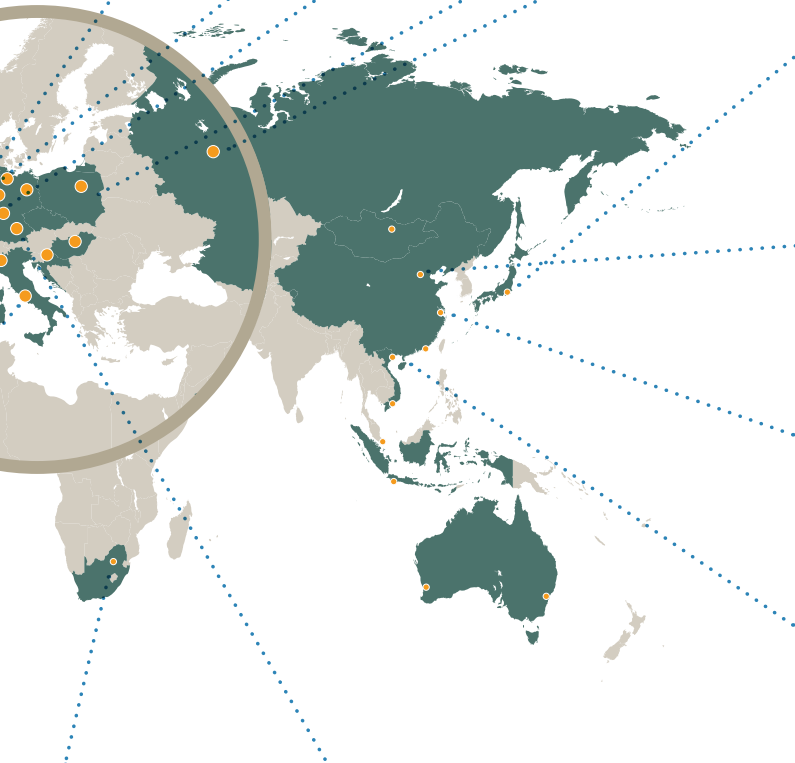
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Eugene Low
Partner



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Counsel



About Hogan Lovells

Why choose Hogan Lovells?

Change is happening faster than ever, and to stay ahead, you need to anticipate what's next

Legal challenges come from all directions. We understand and work together with you to solve the toughest legal issues in major industries and commercial centers around the world. Whether you're expanding into new markets, considering capital from new sources, or dealing with increasingly complex regulation or disputes, we can help. Whether change brings opportunity, risk, or disruption, be ready by working with Hogan Lovells.

Straight talking. Understanding and solving the problem before it becomes one. Delivering clear and practical advice that gets your job done.

Hogan Lovells offers extensive experience and insights gained from working in some of the world's most complex legal environments and markets for corporations, financial institutions and governments. We help you identify and mitigate risk and make the most of opportunities. Our 2,500 lawyers on six continents provide practical legal solutions wherever your work takes you.

A fast-changing and inter-connected world requires fresh thinking combined with proven experience. That's what we provide. Progress starts with ideas. And while imagination helps at every level, our legal solutions are aligned

with your business strategy. Our experience in cross-border and emerging economies gives us the market perspective to be your global partner. We believe that when knowledge travels, opportunities arise.

Our team has a wide range of backgrounds. Diversity of backgrounds and experience delivers a broader perspective. Perspectives which ultimately make for more rounded thinking and better answers for you.

Giving back to communities and society is fundamental to good business. And, it's part of our core. We are advocates of justice, equality, and opportunity. Everyone at Hogan Lovells is asked to volunteer at least 25 hours a year as part of their normal work duties. Around the world, our people are making a difference through pro bono activities, community investment, and social justice.

Why choose Hogan Lovells?

- Deep understanding of your issues
- Straight talking and practical problem solving
- Strong relationships and a collaborative approach

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