

# GLOBAL Gaming Business

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# MORE THAN JUST BINGO

## BRAZIL'S AMAZING POTENTIAL

BY DINO GUILIANO

**I**t's one of the most populous countries in the world with very few gaming options. As the South American gaming industry salivates at the possibility of casinos or even expanded gaming in Brazil, they understand that you have to crawl before you walk.

Clarity regarding the status of bingo and slots in the would-be gaming mecca that is Brazil has to date at best remained a distant hope of industry proponents in the country.

However, due to a series of political events between December 2007 and May 2008, followed by the swift and well-timed maneuvering of over two dozen Brazilian politicians in recent months, a set of congressional decisions to be made this fall—which outwardly center on a controversial health bill proposed by the administration of President Luiz Inacio Lula da Silva—implicitly carry with them substantial potential to enable the immediate and comprehensive regulation of the Brazilian gaming sector. This could then secure the change of direction the historically anti-gaming government has begun cautiously exploring in recent months.

### THE BACKDROP

Brazil is estimated to have offered upwards of 130,000 machines (comprised of both e-bingo and traditional slots) in 1,500 halls that operated throughout the country at its peak in 2006. While the federal government has since 1946 considered bingo halls and gaming parlors to be constitutionally illegal, their existence is the result of a series of on-again-off-again Supreme Court and local court rulings passed in the 1990s through 2002—all of which favored the transition of clan-

destine bingos into the mainstream and attempted to lay the groundwork for their proliferation under such a scenario (for both traditional and video versions).

Any traditional slots in the marketplace have historically operated completely out of the context of the law, and continue to do so. In 2007, hundreds of these halls were forced to shut down and tens of thousands of e-bingo machines were confiscated by local and state authorities when the depth of corruption in the

President Luiz Inacio  
Lula da Silva;  
Bingo protesters



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industry was revealed by the high-profile police sting that year, "Operation Hurricane." The operation also left in its wake judges, attorneys and other public figures, most who were to face prosecution for taking bribes from members of the Brazilian mafia to allow corrupt bingo halls to remain open—thus leaving a gaping wound in the face of an administration that prides itself on a platform of anti-corruption.

Many of those operations that continue to function today (despite a Supreme Court decision last year which effectively vindicated the government's position) legitimately claim that local court injunctions prevent authorities from ever demanding their closure, underlining the broader historical disconnect between state and federal laws governing the activity—a disconnect which ironically both incentivized and enabled the bribery at the local courts to begin with.

In the end, the present legal situation is precarious at best.

Thus, holding jobs that have been in constitutional limbo since a failed 2004 attempt of the Lula administration to eradicate the activity altogether (via a Senate-overturned presidential decree made that year), the sector's estimated 300,000-plus employees have been the loudest proponents of an absolute legal standing for and the comprehensive regulation of the industry—their rallies in the capital numbering in the tens of thousands.

The voice of the masses, representing the crux of Lula's left-wing Worker's Party voting base, in theory, provides muscle to the solicitations of bingo operators and union leaders who have been pressing this administration to introduce stringent regulations governing bingo rather than outright prohibition as a means to clobber the link between organized crime and Brazil's gaming industry, as the government has been loosely pursuing since 2004. Brazilian media reports suggest that the cries may have finally resonated with the Lula administration.

Thus, with clear voter support as well as an undeniable example of the harm brought to the country vis-à-vis legal uncertainty, and the lack of any regulatory framework for the industry (and also following adamant backing by the Brazilian equivalent of the U.S. Consumer Protection Agency as well as its Central Bank this past October), one might not consider it shocking that earlier this year President Lula instructed his secretary of institutional relations to re-commence conversations with the bingo workers to see if some legislative solution can be found.

The Brazilian newspaper *O Globo* reports Lula has authorized the examination of several conflicting proposals to regulate bingo and other gaming proposals currently pending in the Brazilian Chamber of Deputies or the Senate, and to begin negotiations on formulating a consolidated plan toward the license and regulation of the country's bingos.

### SUBTLE REALITIES

While outsiders may view the 180-degree turn of the administration as substantial progress for Brazil's gaming interests, and as a victory for its employee unions, they need only look back to the happenings of 2004 to understand the fragility of the situation. In fact, it was a scandal uncovered at that time—when Lula first initiated the idea of getting behind a federal bingo regulation—that sparked the government outrage preceding the attempt at a ban in the first place.

From the government's perspective, it would seem that subsequent scandals uncovered involving high-ranking politicians, organized crime and the industry over the past three years have not created any more of a hospitable environment for these same considerations to take place today. And yet they are, which makes one wonder, is the outcome likely to be any different from four years ago?

Many in the Brazilian media have framed this as a long battle of a government stubbornly intent on gaming prohibition vs. a country whose populous is 70 percent in favor of the legalization and regulation of the existing bingos (according to public polls).

The story itself as presented above even reads that way. However, to form such a conclusion is to ignore the underlying dynamics of the situation.

In fact, it is the combination of corruption and organized crime that the administration ceaselessly seeks to purge from both the political system and the society at large. The gaming industry has simply gotten caught in the crossfire. That is not at all to say that gaming is just an innocent bystander. Having largely provided the medium for which crime syndicates can clean their illicitly earned funds as well as more than its fair share of related corruption scandals, the government is justified in giving the gaming industry some attention.

However, as the country's gaming proponents are apt to point out, a clear legal status and regulatory framework for the industry would likely exact the same results as the prohibition-cum-clean-up act, without the mass extinguishment of 300,000 jobs, and all the while yielding new tax in-flows to the state.

As we see time and time again throughout the region, though, the road to transparency is a painful one; and it takes a government of strong will and fabric to make the transition. Previous attempts by this administration to bring some legal/regulatory clarity to the sector have quickly brought to light corruption in its ranks which, in turn, undermined its credibility as the premier anti-corruption force that it claims itself to be and quickly caused it to abandon such direct and ambitious pursuits in regards to gaming.

One could speculate, then, that while the war over bingo has brought to light complex and politically sensitive disputes over state and federal powers, the "interests" of powerful organized crime syndicates and business owners advocating regulation in place of prohibition, as well as a compelling story of the needs of the people,



## CHAMPION AT LAST?

And so we return to the beginning of our story, that of a healthy handful of politicians who utilize due process to inject some bias into the cluelessness of circumstance and outwardly champion the people's and the industry's (and maybe our readers') interests. *Voilà!* What six months ago was an abject bone of contention in Brazilian society could in two months be the focus of the House and Senate.

Well, perhaps... Let's back up.

To make a long story short, Brazil's Senate voted against Lula's House-passed proposal for an extension of the widely despised .38 percent CPMF financial transaction tax last December. Since that time the government cut spending and raised other taxes as it scrambles to fill the \$23 billion revenue void (which in 2007 counted for 6 percent of the federal revenue).

While seemingly unrelated, one such Lula-proposed move was approved by the lower house of Congress by the slimmest of margins in May, and would oblige the government to increase spending on health from 7 percent to 10 percent of its gross income by 2011.

A controversial rider on this bill proposed financing these changes via the creation of a new financial transactions tax of 0.1 percent, called the CSS. According to Senate leader Romero Juca, Brazil's Senate will circle back to vote on the creation of a new financial transactions tax in October or November, after the country's local elections.

With the Brazilian press speculating on a defeat for Lula, the lengthy time lapse before the vote has created space for the bingo industry to propose its own, alternative solution to Brazil's health financing uncertainties.

In early June, over two dozen Brazilian politicians submitted a bill that would license and regulate bingo halls throughout Brazil. Bill 3489 would authorize Brazil's Ministry of Finance to issue two-year licenses to bingo halls with a minimum capacity of 500 people and a minimum of 50 employees.

The bill also establishes a minimum capital requirement for bingo operators, who would be obliged to pay licensing fees in addition to a 15 percent tax on gross revenues (which they estimate could provide upwards of US\$2.9 billion, which could then be put toward the funding of health programs instead of CSS contributions). That tax would be split between federal and state governments, and all halls would be centrally linked to guarantee government oversight over tax payments.

According to its proponents, the successful implementation of the bill could lead to wider regulation of gambling activities in Brazil, although the authors of the bill maintain that President Lula is currently "very reluctant" to consider any possibility of slot machine regulation.

But despite the general movement in favor of bingo regulation, success in due process would appear to rest on the broader health funding debate. If Lula fails to gain approval for his CSS proposal, the prevailing thought is that his administration would come under pressure to declare the bingo bill a matter of "constitutional urgency"—guaranteeing a congressional vote within 90 days. But if the CSS unexpectedly receives Senate approval, thus securing the health funding, bingo could become a forgotten victim of circumstance relegated to the "bottom of the pile."

With everyone's cards on the table, it is now simply a waiting game. The only certainty is that this is surely the closest Brazilians have ever come to finding common ground on the bingo debate in a fashion that is almost politically palatable to everyone's agenda.

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it is not a far reach to conclude that it is the fear which has embedded itself in the collective political mindset that has forced the administration (some might say rather unwillingly) into the half-hearted prohibition stance.

After all, to the individual politico it would be career suicide to risk the faintest hint of affiliation with those of your political colleagues who may eventually be proven entangled in scandalous activities tied to the gaming industry.

And for the collective, the party is already walking on eggshells in the wake of several other unrelated issues. So the thought goes, why open the door to more bludgeoning and potentially render the party impotent on its premier platform issue, the fight against corruption?

Absent an internal champion for the cause, the government has had no choice but to make clear its skepticism of the proponents' case and opt in favor of the prohibition stance it has held since 2004. After nearly four years of outwardly adamant, largely ineffectual support for the prohibition of all gaming in Brazil, depending on his viewpoint one might either find it ironic or about par for the course that the administration's recent policy flip-flop—in which it is slowly and ever cautiously mounting the fence on the issue—comes following the December elimination of a blanket financial transactions tax. The elimination of the tax created a \$23 billion revenue shortfall for the government, thus making mighty attractive the potential \$1.5 billion-\$3 billion annual windfall from placing a tax on those bingos still standing.

Have no doubts, however, that while surely more incentivized than in 2004 to make room for an environment that would enable the collection of \$1.5 billion-\$3 billion in tax revenue, the administration's newfound lukewarm pro-bingo mindset will quickly fail come any new implications of scandal; and it is likely that their stance would once again veer toward the opposition while avoiding direct conflict by keeping the issue "at the bottom of the pile."

Going with that assumption, recent history would present serious doubts as to any real long-term potency in the government's present motions. However, circumstance (and some political maneuvering) may possibly prove history ill-informed.