

David and goliath case study

Business



Despite the WTO complaining that international trade rules are allowed to override domestic laws and regulations, the US still defied the WTO and adhered to its domestic gambling laws. In a sense it was somewhat justified.

2. In the end, the US has been given a year to comply with the WTO rulings.

It could have done so in two ways. It could have changed its laws to permit cross-border Internet betting or it could have banned all domestic online gambling, specifically horse racing. The US did neither.

Congress defied the WTO by passing the Unlawful Internet Gambling Enforcement Act of 2006 to block bank payments for online bets, with the exception of horse racing bets. So in the end, I do agree with all the decisions that were made. 3.

The WTO seeks to facilitate negotiated agreements between disputants. When mutually acceptable agreements are not reached, member nations take their disagreements to the formal dispute resolution process. After a lengthy semi-judicial process WTO bodies issue a ruling. The WTO has no power to enforce its rulings. It has no police powers and no authority to fine its members.

It can, however, give nations the right to retaliate against other nations that refuse to accept a WTO ruling. Ordinarily, retaliation takes the form of imposing or raising tariffs on products or services. The nation harmed by another nation's use of prohibited trade barriers can impose concessions equal to the damages it has suffered or continues to suffer while the other nation refuses to comply. Argentina sought to impose concessions worth \$3.44 billion a year, an amount it said matched "the level of nullification or

impairment of benefits accruing to Antigen and Barbuda as compensation for lost Internet gambling revenue. This amount was determined in an economic study commissioned by the government of Antigen.

The United States countered that this amount was “ a figure more than three times the size of Antigen’s entire economy’ and was “ patently excessive”

The Antigen figure was based on assumptions that the United States gambling market would have been completely open and that Antigen’s betting businesses would have gained a percentage of that open market equal to their percentage of the world market.

The WTO did not accept these assumptions. It ultimately ruled that the island nation’s lost online gambling revenue was only \$21 million a year, less than 1 percent of what Antigen sought. Ordinarily, a nation authorized to retaliate must seek concessions under the same trade agreement that the nation retaliated against has violated. Since the United States violated its obligations under the General Agreement on Trade in Services (GATES), Antigen could raise tariffs or other barriers on imports of American services.

However, since imports of services into the tiny Antigen economy are so limited, this would not have raised million in annual revenue.

Therefore, the WTO arbitration panel gave Antigen the right to engage in cross-retaliation, that is, to seek concessions under another trade agreement. In this case, Antigen was allowed suspend its obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Specifically, it was authorized to violate the intellectual property

rights of American corporations by duplicating copy written films, music, and software.

Under WTO rules, neither country can appeal this decision. The New York Times reported the decision under the headline “ In Trade Ruling, Antigen Wins a Right to Piracy. ”³ Since the ruling the United States and Antigen have been in talks about its implementation.

U. S. Trade representatives have argued that trademark and copyright infringement will undermine Antigen’s efforts to market itself as a legitimate base for electronic commerce. Antigen has not yet acted. If it does, one way the United States can fight is to question the monetary value of any product duplication.

For example, if Antigen claims that a certain number of copies of a Universal Studios film on DVD are worth \$100, 000, the United States can challenge that amount, claiming the copies are worth more.

Trademark infringement also violates the Berne Convention for the Protection of Literary and Artistic Works, an international treaty protecting copyrights. Both the United States and Antigen are signatories. This treaty exists separately from trade agreements such as GATT and TRIPS. It could complicate matters if Antigen begins to retaliate with copied or counterfeit products.