

To regulate or not to regulate?

***10th European Conference on
Gambling Studies and Policy Issues
9 - 12 September 2014***

***Insights into the future for gambling regulation
in Europe***

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Which future for gambling regulation in Europe?

Overview

- ◆ **A fragmented market: co-existence of national and regional gambling regulations**
- ◆ **A growing interest from the European institutions**
- ◆ **Which way to a sustainable future for online gambling services in Europe?**

Which future for gambling regulation in Europe?

A fragmented market

- ◆ **Coexistence of national gambling regulations between monopolies and liberalised gambling domestic markets**
 - increase in gambling supply and distribution channels
 - an important wave of EU SM regulations to regulate the online gambling market in view of public interest objectives
- ◆ **Coexistence of regional online gambling regulations**
 - the Schleswig-Holstein case

Which future for gambling regulation in Europe?

A fragmented market

- ◆ **Are there successful online gambling national regulatory models? Italy case study:**
 - License holder HQ/Server location in EEA-country
 - One license for a wide range of regulated online games
 - Taxation on turnover/gross profits
 - Identification and registration of players
 - Social responsible limits & follow-up of players' gaming activity
 - Strict regulation of licensees' commercial communications
 - Licensees must prevent Italian residents from accessing their ".com" websites – *license is at stake!*
 - ISP blocking and re-addressing any illegal gambling offer

Which future for gambling regulation in Europe?

The key issues of a fragmented market:

- ◆ **Persistence of black market and different solutions to fight**
- ◆ **EU online gambling operators holding multiple licenses across several Member States**
- ◆ **Pending EU and national complaints for compliance with EU Treaty provisions and legal clarity**

Which future for gambling regulation in Europe?

A growing interest from the European institutions

◆ **The CJEU preliminary rulings :**

- absence of harmonisation at Union level
- freedom of the Member States to set their policy objectives on games of chance and to define the level of protection sought for the purpose of protecting the health of consumers.
- Any national restriction or limitation to the cross-border supply of online gambling services on the basis of public interest objectives to protect, must be demonstrated as suitable, consistent and coherent.

▶ **No mutual recognition ↔ CJEU ground rules**

Which future for gambling regulation in Europe?

A growing interest from the European institutions

◆ 12 June 2014: DIGIBET AND ALBERS

(C-156/13) about German online gambling legislation

- EU Treaty principles does not preclude the co-existence of the gambling licenses of Schleswig Holstein and the so-called 'Inter State Treaty' agreed by the Länder.
- German Treaty's compliance with EU law still open.

◆ 30 April 2014: PFLEGER

(C-390/12) about Austrian gambling legislation

- national restrictive measures on gambling is compliant with EU law only if it is consistent and proportionate.
- Unjustified or disproportionate restriction of the freedom to provide services under Article 56 TFEU is also not permitted under the Charter of Fundamental Rights.

Which future for gambling regulation in Europe?

A growing interest from the European institutions

◆ 12 September 2013 : BIASCI AND RAINONE

(C-660/11 8/12) about Italian offline gambling tender

- Awarding conditions are to be drafted in a clear, precise and unequivocal manner, based on objective criteria.
- The fact that an operator holds, in the Member State in which it is established, an authorisation permitting it to offer gambling does not prevent another Member State, while complying with the requirements of EU law, from making such a provider offering such services to consumers in its territory subject to the holding of an authorisation issued by its own authorities.

◆ 27 March 2014: Telekabel Wien (Case C-314/12)

- It is possible to impose an injunction on ISP to block certain websites, provided that a fair balance is kept between applicable fundamental rights.

Which future for gambling regulation in Europe?

A growing interest from the European institutions

◆ The 2009-2014 European Commission :

- Green Paper consultation
- Action plan "Towards a comprehensive European Framework for Online Gambling"
- Recommendation on online gambling on protecting consumers, players and minors from online gambling

◆ The 2014-2019 European Commission :

- Gambling regulators expert group to continue
- Recommendation on match-fixing
- Work in progress on technical standard on gambling equipment

Which future for gambling regulation in Europe?

A growing interest from the European institutions

◆ **The 2014-2019 European Commission :**

Work in progress on EU standard on gambling equipment

- digital age and identity verification tools
- platform certifications
- games certifications
- common auditing mechanisms

◆ **The current Council Italian presidency**

Strong focus on sport integrity and preventing betting-related match fixing

Which future for gambling regulation in Europe?

Which way to a sustainable future of online gambling services in Europe : which regulation?

Gambling is a service of a special nature

The interests of consumers are best served through regulation from unsafe gambling environments.

- ▶ **National regulations coupled with enhanced cooperation EU soft-laws**
- ▶ **EU sector-specific legislation**

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Thank you for your attention!

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