



The Future
of Gaming
and Amusement
in Europe

A collection of essays





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A large, faded watermark of the euromat logo is positioned at the bottom of the page. It consists of the word "euromat" in a large, lowercase, sans-serif font, with a semi-circle and stars above it, all in a light blue-grey color.

euromat



Eduardo Antoja, EUROMAT President

It is time for the gaming and amusement sector across the European Union (EU), represented by EUROMAT, to move from traditional coin-operated amusement machines to new forms of entertainment, either with or without cash prizes, as demanded by society in the 21st Century. We are ready to cross over, but the bridges have not yet been built.

As a highly and locally regulated sector, the bridges needed to bring gaming and amusement into the 21st Century will be numerous, complex and difficult to build. They will only be assembled through cooperation between the sector itself, financial institutions and, by no means least, the regulators. Without the close cooperation of these three players, no bridges will be built and the gaming and amusement sector will stay in the 20th Century.

“We will cross that bridge when we get there!”

(anonymous)

This process will not be without its difficulties. On the one hand, some EU Member States appear to require control of all forms of gambling and gaming while others embrace new forms, but only to such an extent as to operate these activities on the basis of state-owned and state-controlled entities. Against this backdrop, the European institutions have been slow to react to developments at Member State level, not only with respect to the regulation of new games (which remains entirely within the remit of Member States), but also in the enforcement of competition law with respect to the behaviour of individual Member States in the gambling and gaming sector.

This book is intended to provide the reader with food for thought, not solutions. Its main purpose is to assist policymakers, regulators, financial institutions and industry leaders to better understand the gaming and amusement sector, and to perhaps allow them perceive as potential opportunities what are now perceived as threats. The waters will undoubtedly remain choppy for some time to come, but bridges must still be built and crossed, as soon and as safely as possible, in order to preserve the legitimate interests of more than 20.000 small and medium enterprises (SMEs). Combined, these SMEs employ nearly 200,000 people, have a total turnover in excess of 20 billion euro, and contribute 4 billion euro in gaming taxes.

On behalf of the entire membership of EUROMAT, I sincerely thank our contributors and invite you to enjoy this book, in the hope that it will serve as a useful tool in your deliberations on the gaming and amusement sector in the European Union.

Eduardo Antoja
EUROMAT President

Mr. Eduardo Antoja has been President of EUROMAT since May 1999 and Director of Corporate Development at CIRSA since 1998, the year when he was also elected President of FACOMARE (Spanish member of EUROMAT). He joined the CIRSA Group in 1990. Mr. Antoja obtained a Masters Degree in Electronic Engineering in 1969 from the Polytechnic University of Catalonia where he worked as an Associate Professor for six years.



Jacques Toubon, MEP

The gaming and amusement sector is an important part of the leisure and entertainment mix in Europe. The initiative taken by EUROMAT to encourage reflection and dialogue on the future of gaming is a welcome one and will undoubtedly contribute to the debate at EU level with respect to the gambling sector as a whole.

In many Member States, the gambling sector, composed of lotteries, sports betting, casinos and gaming and amusement machines, is tightly regulated and, in many cases, is run as a state monopoly. Regulation differs not only from country to country but also from region to region. Government control is viewed in some Member States as necessary to ensure that the gaming sector is run responsibly and that the risk of social harm is mitigated. Furthermore, many consider that gaming can yield economic benefits such as increased GDP and employment. The use of funds raised for “good causes” by lotteries has been another important reason for supporting gambling activities.

The future?

The European Commission has launched many infringement procedures against Member States which they believe discriminate between operators. A recent study by the London Economics Consulting Group highlights the negative impact full liberalisation of the European gaming sector would have. Besides, the European Court has repeatedly recognised the right of Member States to restrict the supply of gaming for social reasons, provided the measures are proportionate to the objectives pursued.

The European Parliament has debated at length the balance which needs to be struck between Member States who want to ensure that gaming is controlled and channelled, and the role of the European Union in ensuring the right environment is created for this sector. For this reason, the European Parliament exempted gambling services from the scope of the draft framework services Directive.

The value of this book is that it allows the reader to look at the gaming and amusement sector from different perspectives and angles – the role of the EU and others in regulating it, the social impact of gambling, and the economics and drivers of the market – all with an eye to the future.

‘The future of gaming and amusement in Europe’ is a comprehensive work to be welcomed, and I urge every policymaker with an interest in this sector to read this collection of articles. I wholeheartedly support the publication of this book by EUROMAT and thank everyone who contributed to it.

“The value of this book is that it allows the reader to look at the gaming and amusement sector from different perspectives and angles”

Jacques Toubon
MEP

Jacques Toubon, MEP, is a member of the European Parliament's Internal Market and Consumer Protection Committee and a substitute member of the Constitutional Affairs Committee. He has tabled several questions to the European Commission on its attempts to regulate the gambling sector, further to the exclusion of gambling from the draft framework services Directive. Mr. Jacques Toubon was elected to the European Parliament in June 2004, for the Île-de-France, and is a member of the UMP party, and the European People's Party. Mr. Toubon has held the offices of Secretary-General of the RPR Party, Minister of Culture and the French Language and Minister for Justice. He was also an advisor to Jacques Chirac, President of France. He began his career as a political appointee in ministerial offices. He was a Paris MP at the Assemblée Nationale and Mayor of the 13th Borough of Paris, and now also holds the office of Paris town councillor.

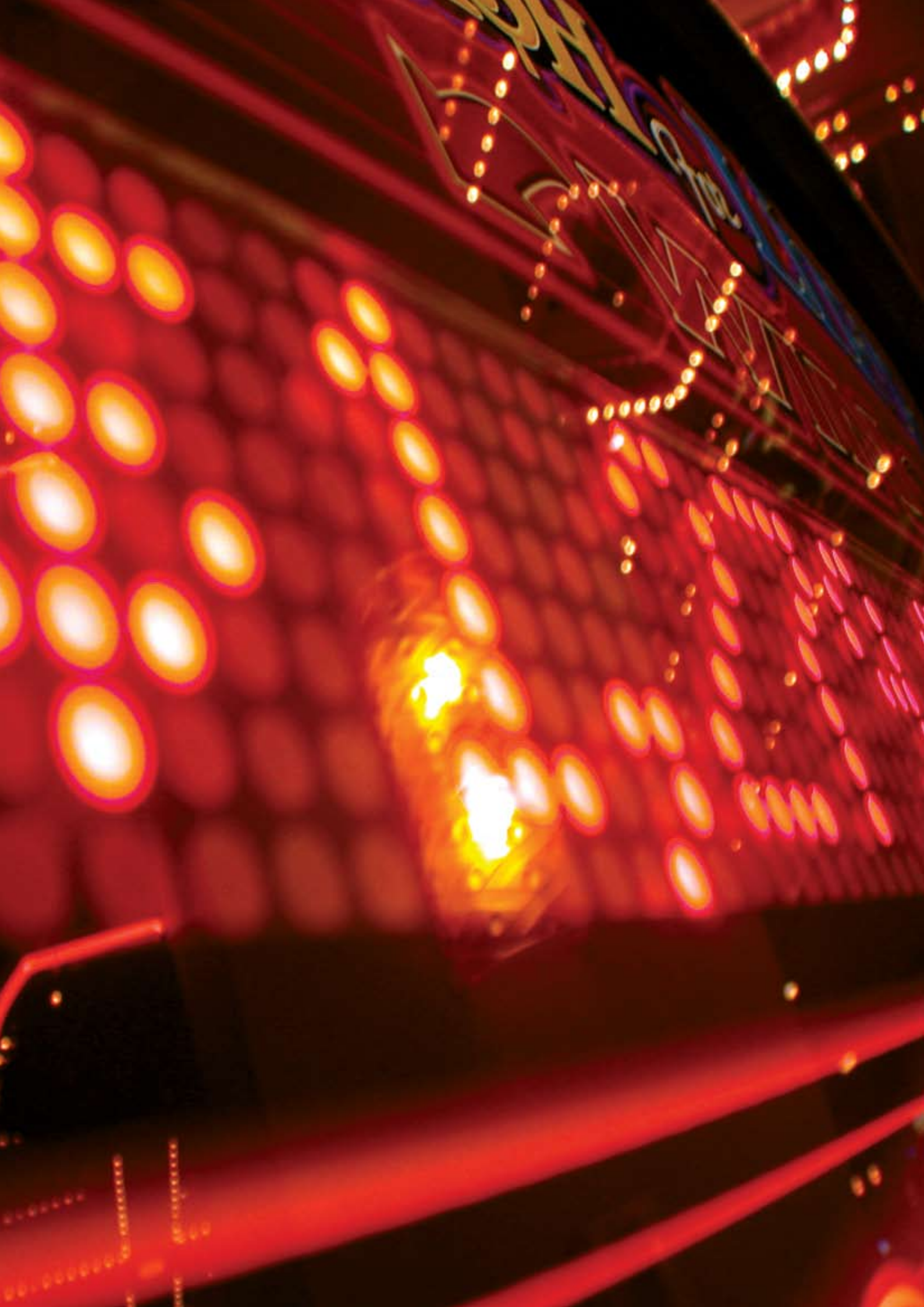




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The Role of the EU in the Regulation of Gambling



Leslie MacLeod-Miller and Michael Winkelmüller

This article examines the dynamic between regional, national and European legislators in the gambling sector



Introduction

Recent developments in the regulation of Internet gambling in the US have tended to overshadow the European-wide national tensions that may prove to be the midwives of a new form of gambling regulation which finds a consistent voice across the European Union. While US legislation has tended to focus upon issues of extradition and distinction between betting and other gambling products, local developments throughout Europe are beginning to focus upon policy considerations and federal power. There is no congruence between the EU and US / Australia in the interpretation of the inherent tensions of federalism. Legal developments in the ostensibly chaotic nature of current German regulation throw these issues into stark relief. Whether justifications of public order in consumer protection outweighs the fiscal imperatives and aspirations of individual governments will be a question largely played out in the arena of the European Court of Justice (ECJ). The manner in which these issues are resolved could have long-term implications for the status of European courts in the determination of international gambling policy. The practical effectiveness of these judgments may dictate whether history declares the EU to be a wise elder statesman or the impotent poor cousin of the US in the field of gambling regulation.

Powers of the European Union

The European Commission has no formal locus over gambling, which remains a national competency. However, gambling services are covered by the EC Treaty under the freedom to provide services (Article 49) and the third Anti-Money Laundering Directive (2005/60/EC), but there is no secondary legislation in the field. Whilst gambling is an economic activity, the uniqueness of gambling services have meant that the EU legislators have largely excluded gambling from a broad sweep of horizontal regulation, such as the draft framework services Directive and the electronic commerce Directive (article 18.1(b), 2000/31/EC), among others.

The ECJ is dealing with an increasing number of cases (perhaps most famously the Gambelli case, C-243/01) relating to the restriction by Member States of gambling services provided from other Member States. The Gambelli case continues to cast its shadow over the way in which protection of national monopolies has been justified. The Commission has recently launched infringement proceedings against nine Member States (including France and Germany) for restricting access to gambling markets from other EU States, while promoting their own national gambling operators.

“Whether justifications of public order in consumer protection outweighs the fiscal imperatives and aspirations of individual governments will be a question largely played out in the arena of the European Court of Justice (ECJ)”

Gambling in Europe is largely dominated by state monopolies which are underpinned by restrictive national legislation. Public order is the justification given for the restriction of the provision of gambling services nationally, and most of the legislatures are based on similar objectives to the three licensing objectives in the United Kingdom’s Gambling Act 2005 (c.19) Section 1. These are:

- (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- (b) ensuring that gambling is conducted in a fair and open way; and
- (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.



“Gambling is one of the unique areas where Internal Market rules are put into question”



The European Union, Gambling and Individual Member States

The EU’s approach, founded in trade and acknowledgement of national jurisprudence, displays a more balanced view than that displayed by the recent US movements that, in the opinion of the authors, are underpinned by US revenue aspirations and protectionism. Member States joining the Union agree to provide for the free movement of goods and services across EU Member State borders, but the ECJ has ruled that a Member State can restrict the cross-border provision of gambling services into its own country, i.e. gambling is one of the unique areas where Internal Market rules are put into question.

The ECJ recognises the limitations of the EU legal model in contrast to the federal legislatures of Australia or the US. EU regulation does not operate in the same way as a US federal approach for two primary structural reasons. Firstly, there are only two EU level courts, these being the European Court of Justice and the Court of First Instance, as opposed to a large number of federal courts and federal appeal courts in the US. Secondly, it is more difficult to divide EC law and national law where the hybrid instrument of EU Directives does not have an equivalent in the US.

Recent cases have reaffirmed the right of Member States to decide for themselves how they will handle legal gambling with certain conditions. In the most recent Zenatti gambling case (C-67/98) the ECJ sent the case back to the national court of Italy to verify whether the limited issuing of gambling licences was really intended to achieve social and consumer protection goals, or whether gambling had been legalised merely to raise money for the government.



Case law

The Commission is taking enforcement action against a number of Member States which do not allow sports betting. Firms which offer sports betting services are complaining that these Member States in fact allow gambling domestically through state lotteries and that they are discriminating against foreign service providers.

For many years national monopolies were legitimised by the European Court of Justice. The ECJ had explored whether national rules restricting cross-border provision of gambling services were compatible with the EC Treaty and had concluded that they were justified on the basis of public policy as referred to above. The ECJ seemed to conclude that national regulation was permitted to be governed both in content and extent by the individual member objectives of public policy (e.g. Zenatti, Schindler). However, the mere fact that taxation on such monopolies provided finance for public interest activities was not sufficient grounds for such restriction.



Leslie MacLeod-Miller and Michael Winkelmüller



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In a press release of October 2006 (IP/06/1362) the European Commission stated:

“The Commission decision to inquire into the compatibility of the measures in question is based on complaints made by a number of service providers and on information gathered by the Commission Services. The complaints concern restriction on the provision of sports betting services, including the requirement for a State concession or licence (even where a provider is lawfully licensed in another Member State). In some cases, restrictions also extend to the promotion or advertising of the services and to the participation of nations in the Member State in question in the games. The European Court of Justice has previously stated that any restrictions which seek to protect general interest objectives, such as the protection of consumers, must be “consistent and systematic” in how they seek to limit betting activities. A Member State cannot invoke the need to restrict its citizens’ access to betting services if at the same time it incites and encourages them to participate in state lotteries, games of chance or betting which benefits the state’s Finances.”

Gambelli was the first online gambling case submitted to the ECJ investigating whether Italian rules which reserved rights to companies holding a public concession infringed the freedom to provide services. The ECJ, despite their conclusions regarding a restriction to provide services, stated that the national court was the competent authority to determine upon which grounds rules could be considered to be proportionate. While the ECJ paid lip-service to the necessity to regulate in a manner which is proportionate and non-discriminatory, the content of regulation and its parameters remains cloudy.

There will be increasing attempts to find an objective test which will dictate the boundaries for local regulators. However, the swiftness of the recent US legislative process attacking the financial facilitation



of gambling transactions makes the European process appear to be the grandmother rather than the “grande dame” of regulation. Effective enforcement in Europe which would match the EU’s more sophisticated philosophy with respect to the provision of services across borders seems to be its current challenge. Following developments in Italy, Germany, Denmark and the Netherlands, the European Commission has stated decisive action might be required to prevent distortion of the Internal Market. In the first report on the application of the electronic commerce Directive the Commission considered that the Directive should be broadened to include online gambling as “it will initiate the appropriate action to deal with these complaints and in addition to launch a study to provide the information required to examine the need for and the scope of a possible new community initiative” (IP/03/1580, 21.11.2003). Noble intentions perhaps, but recent developments in Germany highlight the delicate balance which currently eludes regulators.



Developments in Germany and their place in legislative trends

The greatest movement can currently be witnessed in the area of sports betting. In its "Oddset Ruling" handed down on 28 March 2006 (BVerfG, 1BvR 1054/01), the German Federal Constitutional Court held that the state monopoly on the staging of Oddset sports betting was unconstitutional and at the same time called upon lawmakers to reform laws and regulations governing sports betting by 31 December 2007. Lawmakers have two options here: they can either establish a constitutional monopoly which seeks to resolutely combat addiction to betting, or they will have to open the market to private enterprises under similar administrative supervision.

Since the Oddset Ruling, which was hailed as a "comprehensive decision clarifying the legal situation", around 2000 proceedings have been initiated before the administrative courts and a large number before the criminal courts. Above all it is the question of compatibility of "transitional provisions" of the Federal Constitutional Court with EC law which has been raised. The legal situation is complex and, at times, contradictory. A large number of administrative courts have suspended administrative measures taken against the brokerage of betting on sports in the EU. These rulings at the level of first instance have then been overturned by administrative courts of appeal, even though these courts have in some cases openly recognised that German sports betting law violates EC law, forcing the courts to invent a "dispensation" from the priority of EC law. The Cologne Administrative Court was the first administrative court to submit to the ECJ the question of whether German monopoly arrangements can still be applied even though they violate Articles 43 and 49 of the EC Treaty. By way of comparison, the criminal courts, wherever such rulings have been issued so far, have declared efforts to prosecute enterprises which have concessions in other EC Member States under criminal law to be illegal. The strict measures taken by the regulatory authorities and the diverging court decisions

show that there is an urgent need to continue the infringement procedure (2003/4350) initiated against Germany for violation of Article 49 of the EC Treaty by the European Commission on 4 April 2006.

"Lawmakers have two options: either establishing a constitutional monopoly which seeks to resolutely combat addiction to betting, or opening the market to private enterprises under similar administrative supervision"

In the lottery area, the lottery monopolies of the German Länder have been affected by the Oddset Ruling because the unconstitutionality and violation of EC law which these lottery monopolies represent can easily be inferred on the same grounds as the ruling on sports betting. The European Commission is reviewing whether to initiate an infringement procedure for violation of the EC Treaty. There are only a few lawsuits against the lottery monopoly pending to date. The Federal Cartel Office has held that the cooperation between the 16 state-run lottery enterprises in the so-called "Lotto-Toto-Block" constitutes an unlawful cartel. It issued a decision on 23 August 2006 (B10-148/05) which is aimed at allowing commercial gambling agents to begin operating without, however, openly attacking the monopoly. In the meantime, state-run lottery enterprises have been attaining record sales in lotteries since the highest jackpot in German lottery history, at 37 million euro, attracted considerable participation, with German citizens and neighbouring states' citizens spending 143 million euro on lottery tickets in one single weekend.

In the political process aimed at reforming laws and regulations governing sports betting and lotteries



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initiated by the German Länder, there is no final consensus yet on which path should be taken pursuant to the options spelled out by the Federal Constitutional Court - monopoly or liberalisation - in the long run. The conference of Länder Prime Ministers (MPK) voted in favour of a draft new "interstate gambling treaty" (Glücksspiel-Staatsvertrag) governing lotteries, betting and casino games (except minor stake gambling machines), prolonging the monopoly solution for four more years. The final MPK decision is expected on 13 December 2006. As the interstate gambling treaty only contains some cosmetic changes to the monopoly systems and the Länder expect unchanged financial revenues, the legal disputes on whether German gambling law is in conformity with EC law are expected to continue for at least four more years.

Other recent developments in Europe

These are only some examples of a Europe-wide trend in a volatile regulatory environment.

France – On 15 September 2006, the French authorities detained Manfred Bodnere and Norbert Teufelberger, the two Austrian Chief Executives of online gambling operator Bwin. Unlike in America, EU law may yet be the saving grace for Bwin because under the principle of the Gambelli ruling, the raising of public money is not itself deemed to be a legitimate reason to uphold state monopolies. In essence, a Member State cannot claim a public interest offence where it is actively pursuing a policy of expanding betting and gambling activities. The Commission has confirmed that France is to be added to the list of countries being investigated for imposing anti-competitive restrictions.

Italy - The Italian Government has announced its intention to liberalise the betting and gaming sector and licence online gambling by the end of 2006.

The detail still remains uncertain, although there are concerns that this increased regulation may be masked as liberalisation.

Sweden - Despite continuing investigations by the European Commission and favourable reviews on liberalisation of the four Alliance Parties, the National Gaming Board has reported four newspaper editors to the police for publishing overseas gambling advertisements in relation to the World Cup

Swiss Institute of Comparative Law Study

The struggle between certain EU Member States and the European gambling industry has been the foil for the publication by the Swiss Institute of Comparative Law Study describing how different laws regulating offline and online gambling in each Member State currently impact and may in the future impact upon the Internal Market. The announcement of the study and its subsequent debate highlighted the schizophrenia of the industry and its divergent commercial aspirations. Certain groups believed that it could trigger a positive move towards harmonisation of EU legislation enshrining the principle of freedom to provide gambling services, while others perceived the study as the thin edge of the wedge which would herald a tightening of regulation and reduction in local traditional gambling opportunities. While it remains to be seen how the EU will respond to the study, the Institute has admitted that the study is an example of the way in which such an initiative can flounder without broad based support. Only 20% of stakeholders contacted by the Institute responded with details of the statutory and regulatory position in their territory and less than 20% provided the economic and statistical information requested. As only 19 remote gaming operators responded to the survey, the Institute concluded that it had insufficient details to estimate the size of the remote gambling sector.



Conclusion

The tensions and conflicts between prohibition and liberalisation in the gambling sector continue to defy resolution. Inconsistencies and challenges currently exist for many Member States where effective cross-boundary enforcement must develop in parallel with public policy jurisprudence.

*Leslie MacLeod-Miller
Michael Winkel Müller*

Mr. MacLeod-Miller has considerable experience in the gambling regulatory environment in the UK as a negotiator with the Department of Media and Sport and the Gambling Commission regarding policy/secondary legislation drafting and implementation, drafting amendments for the House of Commons and the House of Lords.

He also has considerable experience in negotiating amendments with the DCMS senior Bill team, member of the DCMS Industry Liaison Committee, the Transition Consultation Group, the Gaming Board/BACTA Working Group, the Skills Council Working Group, and a member of the Amusement Devices Safety Council for Britain.

Publications: Co-Author of Paterson’s Licensing Act Guide including the Gambling Act 2005 (Butterworth’s), regular contributor of articles in UK gambling journals and speaker at gaming conferences.

* * *

Mr. Winkel Müller joined the Law firm Redeker Sellner Dahs & Widmaier in 2001.

He specialises in Administrative Law, Constitutional Law, and European Law, particularly focusing on Public Economic Law, regulatory issues and gambling law. Publications: “Cooperation of the administration on the economic supervision in the European Union Single Market.”

The Economics of Gaming and Amusement in Europe



By Hans-Günther Vieweg

This article looks at the economic landscape of gaming and amusement in the European Union and its prospects for growth with respect to current and possible future regulation



Definition of the industry

The gambling and gaming industry provides a broad range of services. They can be merged into the following groups which present the core of the industry:

- Betting services (including horse and dog racing, event betting and pool competitions);
- Bingo services;
- Casino services;
- Gambling services operated by and for the benefit of recognised charities and non-profit making organisations;
- Services related to gaming machines (Amusement-With-Prizes, (AWP)) that can be placed in locations outside of casinos;
- Lottery services;
- Media gambling services (i.e. games in the editorial content of the media);
- Sales promotion services consisting of promotional games;
- Remote and Internet gaming;
- Charity gaming.

Most of these market segments have been investigated in a study commissioned by the European Commission, (the so-called Swiss Institute of Comparative Law study). While the study provides figures for many of the market segments, it does not include quantitative information on media gambling, sales promotion, remote and Internet gaming and charity gaming, and should not be regarded as a definite overview of the gambling sector in the EU. That said, it can be used in concert with other data and information, as a useful reference tool.

Economic importance of the industry

The size of the industry can be measured in gross revenues. They comprise the stakes of the gamblers less their gains. In 2003, this was an amount larger than 50 billion euro EU-wide (Table 1) with an estimated workforce of 520,000 people.

Units	Gambling	Lottery	Casino	Gaming Machines	Betting	Bingo
in millions of €	51,411	22,479	8,151	9,429	8,898	2,453
shares	100.0%	43.7%	15.9%	18.3%	17.3%	4.8%

Source: Swiss Institute of Comparative Law;
Calculations by IFO.

There are no aggregate figures available for the gambling and gaming industry which give insight into the contribution of this sector to the European Gross Domestic Product (GDP). By definition the gambling and gaming revenues are close to the industry's added value (where the value added of an industry is the contribution to GDP of a nation), because the share of intermediary products and services procured from other industries is low. This is why the share of gross revenues as a percentage of the GDP is taken as an indicator of the relative importance of the industry for Member State economies. The share varies between 0.2% and 3.5%. The highest value is for Malta, which is strongly impacted by tourism. To a certain extent tourism is also of importance in some Eastern European Member States such as Hungary and the Czech Republic (Table 2).



“In most EU Member States public and publicly-licensed companies dominate the gambling and gaming market”



Table 2:
Gambling and gaming market by Member State in 2003

Member State	Gambling and gaming as a percentage of		
	GDP	Private consumption	Recreation expenditure
Austria	0.4	0.7	7.5
Belgium	0.2	0.5	4.0
Cyprus	0.6	1.0	9.4
Czech Republic	1.1	2.1	21.7
Denmark	0.5	0.9	11.2
Estonia	0.3	0.5	8.6
Finland	0.9	1.7	17.8
France	0.5	0.8	9.1
Germany	0.4	0.7	9.8
Greece	0.7	1.0	14.5
Hungary	0.8	1.4	17.5
Ireland	0.8	1.8	23.3
Italy	0.5	0.8	11.9
Latvia	0.7	1.1	13.4
Lithuania	0.2	0.2	3.2
Luxembourg	0.4	0.9	8.7
Malta	3.5	5.5	52.3
Netherlands	0.4	0.8	6.9
Poland	0.2	0.3	4.9
Portugal	0.7	1.1	16.3
Slovakia	0.7	1.3	13.7
Slovenia	0.2	0.4	5.1
Spain	0.6	1.1	9.9
Sweden	0.6	1.2	10.1
United Kingdom	0.7	1.1	8.8
EU-25	0.5	0.9	9.2

Source: EUROSTAT; Swiss Institute of Comparative Law; calculations by IFO

The importance of gambling and gaming for the demand side of the market is revealed by its share of private consumption, where much of private income is dedicated for fixed subsistence payments and only a portion is open to consumers' choice. One of the categories in statistics on consumers' spending is "recreation". This category comprises all payments related to leisure time activities, amongst which is 'gambling and gaming'. This sector's revenue as a share of recreation expenditure is used as an indicator to unveil the propensity for gambling and gaming in a Member State. It should be noted that this variable can be affected by tourism, in particular for smaller countries. This is especially true for Malta which once again shows the highest value.

Impact of the regulatory framework

In most EU Member States public and publicly-licensed companies dominate the gambling and gaming market. Companies operate under institutional framework conditions which differ strongly from one country to another. The European market has not yet been harmonised although companies' services are economic activities that fall under the Treaties of Rome and hence some believe that a Single European Market in this sector would be ideal. As far back as 1991, the European Commission commissioned a study to investigate the gambling and gaming market – entitled "Gambling in the Single Market – A Study of the Current Legal and Market Situation" (Luxembourg 1991, p. 3ff.) - which came to the conclusion that there are major differences and a need for harmonisation. Member State governments intervened against harmonisation, arguing the existence of highly different cultural and social environments in each nation. In a press statement of 22 December 1992, the then Internal Market Commissioner, Martin Bangemann, indicated that the Commission concurred with these arguments and agreed that there was no need for harmonisation of the European Market.



Hans-Günther Vieweg

The Economics of Gaming and Amusement in Europe



Many Member States prescriptively consider that gambling is prohibited in their territories, except in so far as exceptions are provided by law. This restrictive policy aims to safeguard the interests of consumers and to prevent fraud, illegal gaming and gambling addiction. It also aims to ensure that the profits derived from the gambling market are devoted to the public's general interest. The pursuit of such objectives is supported by the European Court of Justice (ECJ), but the funding of good causes is not a sufficient reason on its own to justify restricted market access. In any case, the avoidance of a reduction of tax revenue and other fiscal interests are no valid justification for restriction of market access. These criteria are outlined in the ruling of the ECJ in the Gambelli judgement (C-243/01, 6.11.2003). National courts must scrutinise the proportionality of the measures taken. They have to assess if it is adequate to maintain market access barriers and to restrict the freedom of establishment and the freedom to provide services (enshrined in Articles 43 and 49 of the EC Treaties). These principles do not

only concern the application of domestic players for admission to the market, but also service providers from other Member States wishing to access the market of another EU Member State. Although up to now the country of origin principle (enshrined in Article 16 of the EC Treaties) of the draft framework services Directive has not been applied to gambling and gaming, this Directive when adopted will have an impact on cross-border supply.

The national courts have to balance the legal objectives concerned and consider proportionality. Member States should take this into account if a litigator asks for market access. This means that public and publicly-licensed players in the market have to maintain a level of business conduct which is in line with an objective justifying the restrictions. This means that European principles are kept under surveillance by the ECJ and in turn impact on decisions by national courts. In most EU Member States public



and publicly-licensed companies dominate the gambling and gaming market.

In line with the principles set by the ECJ, the Federal Constitutional Court of Germany ruled on a case affecting the regulated market for sports betting. The court criticised the business conduct of the public supplier which was not in accordance with the objective of limiting betting by excluding private companies from the market. The court asked the legislator to create an adequate legal framework to prevent pathological gambling by 31 December 2007 (1BvR 1054/01).

In general, the legislator has two choices: the first is to make sure that the public or publicly-licensed company sticks to the objectives which justify the establishment of market access barriers. This means, in the considered case, business conduct which refrains from aggressive advertisement and other incentives. The second is to provide market access to private companies. In this case, public order and other objectives, currently mentioned as reasons for the exclusion of private companies from the market, can be maintained by the establishment of an adequate institutional framework. Concessions can be offered to those companies which fulfil certain requirements and a watchdog can permanently supervise business conduct.

The legislator's choice of the first alternative will have a negative impact on the market, not only in that private enterprise which currently supplies sports betting in a legal 'no man's land' will have to leave the market (these private enterprises have been highly successful in the recent past. Their supply has been more attractive to the customers because disbursement quotas are much higher than for the public supplier of betting services). These enterprises have been very successful in recent years and consumer preferences will be diminished. It can

be assumed that the market volume will shrink as a result of the changed regulatory framework. The second alternative would mean legalising the current supply of sports betting and providing a trusting environment, not only for the companies but also for clients so that they can trust in enterprises with explicit legal accreditation. As a result, there will be tough competition among all players in the market which will impact on prices and products. It can be assumed that consumer preferences for sports betting will remain high and will grow. There will be a higher consumer surplus than in the status quo ante whereas the second alternative will result in a loss in consumer surplus.

“In most EU Member States public and publicly-licensed companies dominate the gambling and gaming market”

The sports betting case of Germany has been highlighted to illustrate the impact of a strongly regulated gaming and betting market on market volume, welfare and consumer surplus. As a conclusion, the contribution of this market to the EU's GDP and growth is suboptimal from an economic standpoint.

Market potential

The current situation in gambling and gaming is anything but perfect. Most segments can be described as monopolistic or quasi-monopolistic. Even if private enterprise is allowed, as for instance in the market for gaming machines in Germany, Spain etc., there exists strict regulation that limits the freedom of entrepreneurship. The current situation has begun to change because Internet and remote gambling and gaming are expanding the size of the market and increasing their share of it. Competition increases with each new supplier. This will have an



Hans-Günther Vieweg

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impact above all on betting, but also on lotteries. The traditional supplier will lose market share to services supplied via the information and communication networks.

The study on gambling in the EU Internal Market: a critique

The following remarks are based on the study on gambling and gaming carried out for the European Commission in 2006, chapter XI of the so-called SICL study. This is the most recent study available with respect to gaming and gambling in the EU but must be read in the context that stakeholders agree that there are gaps of information in the study. They aim to provide an impression of gambling and gaming in a more liberalised market. The baseline scenario outlined in the study assumes the status quo ante, but takes into account that Internet and remote betting will expand in the years to come. This means that under the current regulatory framework between 2003 and 2010, an average annual growth rate of 2.9% can be expected (approximately the same growth rate as the nominal GDP).

“... innovative and multifaceted products will be of importance for market size and growth potential”

In scenario one, it is assumed that the principles of free and fair trade and proportionality induce changes in the regulatory framework. To a certain extent market access barriers have to be lowered and private companies will be allowed to tap into the market, but no other major changes in the regulation of the gambling and gaming market will take place. There will be no reduction in the institutional conditions which limit the kind and amount of gambling and gaming services supplied. As a result, there will be tougher competition between the players, prices



will be reduced and the supply will become more attractive. The opening up of the market lowers the economic rents of the former monopolies and will have an impact on tax payments and funding of good causes. The better-priced supply will increase consumer surplus and demand will grow. Nevertheless under these assumptions the market expansion will only be slightly higher than in the quo ante scenario, roughly 0.1 percentage point per annum in nominal terms. Price reductions dampen the effects of higher demand.

Scenario two reflects a hypothetical situation driven by court decisions, legislative changes, or new technologies which leads to a considerably more open marketplace for gambling services in the EU. This opening of the gambling and gaming services market would allow for extensive cross-border competition, emergence of destination resort-style casinos, and relatively unconstrained remote gambling offerings. There would be significant relaxations in current constraints on games or wagering opportunities.



In general, if this were to transpire, it would lead to a substantial reduction in economic rents of the former monopolistic suppliers, a substantial increase in consumer surplus and a notable increase in aggregate spending on gambling and gaming services in the Member States of the EU. Based on the experience in other countries, such as the United States, Canada, New Zealand and Australia, the ratio of gross revenues and GDP could be expected to grow and the annual average growth rate could even exceed 6% per annum.

Conclusion

The gambling and gaming industry is a sector dedicated to providing amusement and leisure services. It is linked to leisure time activities and as a result is particularly dependent on the attractiveness of its supply. In this area, the consumer spends money for amusement and pastime. This means that innovative and multifaceted products will be of importance for market size and growth potential. From a theoretical point of view there must be high elasticity, i.e. strong market growth if new and attractive services are to be offered.

Therefore, one can conclude that under the current regulatory framework the public and publicly-licensed suppliers are more interested in earning their monopoly rent than providing attractive products. In a competitive market the situation would change and enterprises have to attract customers to gain market share as can be seen by the example of the private enterprises in the sports betting market in Germany. The example of Germany highlights that the regulated gambling and gaming market is underdeveloped and its growth is well below potential.

A less restrictive regulatory framework will contribute to growth of the industry as shown in the different scenarios and thus provide employment

opportunities and consumer surplus to the customers. It is beyond all question that this market needs certain regulation to safeguard the consumer and to prevent dubious operators entering the market, but from an economist's point of view measures to liberalise the market are desirable, although it will be necessary that certain surveillance institutions be installed for consumer protection purposes.

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Gaming and Amusement Activities: the Tension between the Benefits and Harmful Consequences of Leisure Activities



Gerhard Bühringer

This article looks at the social impact of gaming and amusement and provides an in-depth analysis of the tension between the benefits and the harmful consequences of leisure activities



Introduction: Two sides of a coin

Games have always had an important role in human culture. Throughout history, our ancestors have left their mark by playing a broad range of games, including games of skill, games of chance, games for an individual or a group, games with prizes and those without. The prizes for winning could be entertainment, social prestige, desirable objects or money. Games have an important function for children in the transition to adult behaviour. According to representative surveys undertaken in European countries, games are a part of leisure activities that do not have negative consequences for the majority of adults. This general statement is also true of games with two specific characteristics that are of interest to this article: (1) The outcome of a game depends on chance and cannot be influenced by the players (games of chance), and (2) access to the game depends on a stake (usually money), and only one or a few players will win a prize. Players who do not win will lose their stake. Within this broad definition (which includes, among others, casino gambling, amusement machines, lotto, bingo and betting), we will concentrate on coin-operated "Amusement-With-Prize" (AWP) machines.

AWPs, like all other games of chance that involve monetary gains and losses, have a Janus face. They include fun, entertainment and acceptable costs (losses) for most of the players but severe psychological and social problems for a small minority. These two aspects of games have been a topic of debate for years. Should AWP (or "gaming" with state regulation, limited stakes, and wins and losses) be strictly regulated or forbidden altogether? Should casino gambling (with unlimited stakes, gains and losses) be more strongly regulated to reduce the negative consequences or more liberalised to increase public profit (from taxes) and to avoid illegal activities? Should gambling and gaming be placed under a state monopoly or simply regulated by the state within a liberalised market? Such questions

are not new, and public officials have been taking regulatory actions for as long as games have been documented in history. It is obviously not a simple task to limit the freedom of the majority of people for the benefit of a small minority, and social-control concepts fluctuate between extremely tight and very liberal regulations.

Cultural and social context

For clarification in this complex debate, three major topics for discussion should be delineated:

1. Significance of gaming for culture and society

Neglect of cultural interests and social responsibilities, and also positive gaming-related consequences such as support of creativity and technical problem solving (e.g. computer games), are catchwords that are often used in discussions about the pros and cons of these activities. Homo ludens (the gaming human) and homo faber (the working human) are at opposite poles of the debate about the coexistence and development of mankind.

2. Public responsibility for the benefit of individuals

People spend money on many things they don't need in order to survive, including luxury foods, expensive goods or intensive gambling. Most people who gamble will curtail or stop their behaviour if the losses are greater than the positive consequences of winning or if the losses cannot be compensated for by the person's own financial situation. However, some gamblers might run into debt, even though they have no symptoms of a psychological disorder. Society has long debated the thin line between individual freedom and personal responsibility on the one hand, and public fiduciary duties to protect individuals from negative consequences such as severe debt, on the other. In this context, societies do not behave rationally. Being in debt because of excessive speculation in stocks or excessive shopping is judged differently than is debt from gambling.



“According to representative surveys taken in European countries, games are a part of leisure activities that do not have negative consequences for the majority of adults”

3. Prevention of pathological gambling

In the course of regular gaming or gambling, some people develop ‘pathological gambling’. This psychological disorder is characterised by impaired self-regulation. Such people are unable to recognise, accept and modify their problematic gambling behaviour, despite mounting negative consequences. It is the consensus in most societies that the prevention of disorders is both an individual and a social responsibility.



This paper focuses on the last topic, pathological forms of gaming and the role of AWP in the aetiology of this disorder. AWP are found in many

European countries. They differ from classical casino-type gambling in that they are state regulated and have limited stakes, wins and losses. Access to them is easy so that the sites are frequented by many more customers than are traditional casinos. In Europe, governmental regulation of AWP varies widely (see European Commission Report, 2006; EUROMAT Country Reports, www.euromat.org/index.php?page=50&node=50). In the following sections, I briefly present estimates of the prevalence of pathological gambling, describe aetiological mechanisms that might account for why some people are harmed by gaming but others are not, and suggest how gaming-related harmful consequences can be reduced or prevented. Finally, I offer suggestions for governmental regulatory actions based on the limited scientific evidence available.

Characteristics of pathological gamblers

Across time, some gamblers develop an impaired ability to (a) regulate the frequency and duration of their gaming episodes, (b) modify their gaming behaviour following severe losses and the recognition of related problems and (c) take appropriate action to reduce or eliminate their problematic behaviour. Over a long period of time, they are preoccupied with gambling, neglect their social and work problems and family responsibilities, accumulate debt and may also engage in unlawful behaviour to raise money to maintain their habit.

Pathological gambling is defined by the two major classification systems - ICD-10 (International Classification of Diseases, World Health Organisation) and DSM-IV (Diagnostic and Statistical Manual of Mental Disorders, American Psychiatric Association) - as an impulse-control disorder, according to the following criteria:



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ICD-10, F63.0	DSM-IV, 312.31
<p>The disorder consists of frequent, repeated episodes of gambling that dominate the patient's life to the detriment of social, occupational, material, and family values and commitments.</p> <p>Diagnostic criteria:</p> <p>A. Repeated (two or more) episodes of gambling over a period of at least one year.</p> <p>B. No profitable outcome for the person, but continuation despite personal distress and interference with personal functioning.</p> <p>C. Intense urge to gamble, and inability to stop gambling by an effort of will</p> <p>D. The person is preoccupied with thoughts or mental images of the act of gambling.</p>	<p>Persistent and recurrent maladaptive gambling behaviour as indicated by five (or more) of the following:</p> <ol style="list-style-type: none"> (1) is preoccupied with gambling; (2) needs to gamble with increasing amounts of money in order to achieve the desired excitement; (3) has repeated unsuccessful efforts to control, cut back, or stop gambling; (4) is restless or irritable when attempting to cut down or stop gambling; (5) gambles as a way of escaping from problems or of relieving a dysphoric mood; (6) after losing money gambling, often returns another day to get even ("chasing" one's losses); (8) has committed illegal acts; (9) has jeopardized or lost a significant relationship, job, or educational career; (10) relies on others to provide money to relieve a desperate financial situation.

European 12-month prevalence estimates are approximately 0.2%-0.8% in adult populations, but all the problems and restrictions in calculating prevalence rates must be kept in mind. From 0.5% to 2% meet broader definitions of 'problematic gambling', but inclusion criteria vary greatly. These figures usually include all types of games of chance that involve monetary stakes, wins and losses. At present, we do not have adequate figures for specific types of games, nor enough data to calculate trends across time. There is an overall impression, however, that with the increased supply of games of chance in some countries, the amount of problem gambling has also increased. More population studies and monitoring systems are needed to address these issues.

Why do some people develop gaming problems while others do not?

We have only limited knowledge about risk factors and mechanisms of action that might explain why - given the same exposure to experimental and occasional gambling - the vast majority of people are able to regulate their behaviour without negative consequences, while some develop disorders with severe negative consequences for themselves and others.

How many gamblers suffer harmful consequences?

Estimates of prevalence rates of pathological gambling and international comparisons of them are difficult. In population surveys there is an unknown rate of under-reporting as a result of not recognising one's own problematic state. In addition, the available studies use different definitions of pathological gambling. Finally, some research studies have calculated combined rates for all types of gaming, gambling and betting, whereas others have done so only for specific types of gambling.

Several groups of factors have been identified in recent years that are related to a higher risk for pathological gambling:

- **Socioeconomic status**
Adolescent gambling, male gender and low socioeconomic status;
- **Personality traits**
Impulsivity, risk- and sensation-seeking;
- **Co-morbidity with other psychological disorders**
Substance-use disorders, affective disorders (i.e. anxiety and depression), personality disorders and unlawful behaviour;



- **Type of gambling**

Multiple gambling activities, including casino (high risk) and AWP, lotteries and bingo (moderate risk).

Longitudinal studies allow the sequence of moderators (influencing factors) and mediators (processes involved in the development of pathology) to be analysed, but for financial and practical reasons, they are limited to periods of a few years. Therefore, etiologic views about the onset and development of pathological gambling are all based on bits of information from many different research studies. Considering the present state of knowledge and conceptual development, the following factors seem to be of relevance in determining individual risk:



- **(1) Increased vulnerability**

- Neurobiological impairment of the brain's reward system (genetic or acquired dopamine deficiency, caused, for example, by prenatal or early childhood stress, brain injury or birth complications);

- Discrepancy between lower-order automatic brain functions and higher-order cognitive control functions (e.g. high sensation- and risk-seeking, high impulsivity, poor error control, antisocial behaviour).

- **(2) Proximal risk factors**

- Social deficits (e.g. lack of social contacts, rewards and acknowledgements);
- Easy and probably juvenile access to gambling (especially to games of chance of short duration, stakes ranging from low to high, rapid pay-offs and short intervals between games, and unlimited wins and losses);
- Accidental gambling with a series of wins.

Recent neurobiological and neuropsychological research has found evidence that an impairment of the brain's reward system might be relevant for determining vulnerability to a gambling disorder ('reward deficiency hypothesis'). Humans strive for homeostasis. A deficit in the dopamine neurotransmitter (resulting in inadequate rewards) might increase the risk because intensive gambling is supposed to activate dopamine production, thereby promoting homeostasis and improving subjective well-being. Abstinence from gambling will reduce dopamine production, causing an 'urge' to resume gambling. Other neurotransmitters, such as opioid peptides, glutamate and GABA, are also involved in the reward pathway.

If a genetic vulnerability, or one caused by early childhood factors, coincides with more acute problematic factors such as social deficits and early exposure to gambling (with certain high-risk features), the overall risk for the onset of pathological gambling is increased.

Knowledge about these complex Gene X Environment interactions is still scarce, and further research is



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needed to promote understanding and improve prevention and treatment. For example, it would be helpful to know the exact range of concordance and to identify differences in the pathological pathways for impulse-control disorders and substance-use disorders.

The four strategies can be grouped into reduction of supply (1-3) or demand (4), as with other kinds of problematic behaviours (e.g. substance-use disorders).

How to prevent harm?

There are several strategies for preventing or at least reducing the incidence and prevalence of pathological gambling:

- (1) Restrictions on access to gambling
Partial (e.g. for minors) or total (e.g. for casino gambling) prohibition, high costs (taxes) and bans or restrictions on advertisements are examples of such a strategy.
- (2) Regulation of gambling features
National gaming regulations of AWP usually set limits on stakes, a minimum game duration, and maximum wins and losses.
- (3) Legal responsibilities for gaming operators
Examples of these strategies include restricting underage access, providing pamphlets with information about gaming risks, banning entrance for problem gamblers, setting licence preconditions for operators (e.g. attending seminars on the prevention of problematic gambling) and imposing punishment for contraventions.
- (4) Information about games and gambling risks
A typical approach is to provide population-based information as part of parental and school education.



Public regulations under uncertainty

There is a long-standing debate about how public policy should best be divided between demand and supply reduction, as well as a scientific debate on effectiveness. Again, scientific knowledge is limited, and public decisions about the regulation of gambling must be made with uncertainty. However, it is possible to derive some general guidelines:

- (1) Additional gambling opportunities in society will increase the number of gamblers or current gamblers' frequency or duration of gambling, or both (if all other regulations are unchanged);



- (2) Additional gamblers or an increase in the frequency or duration of gambling will increase the number of gambling problems in society (same preconditions);
- (3) Regulation of access to gambling or of gambling features might reduce the correlation between amount of gambling and extent of problems (to an unknown degree);
- (4) Supply reduction in general seems to be more effective than demand reduction, but it will restrict the freedom of the majority of gamblers (those without any problems) more than demand reduction will;
- (5) A strong supply reduction (prohibition) increases the amount of illicit gambling;
- (6) Minors should be totally banned from gambling and playing coin-operated games of chance. Legal enforcement is necessary;
- (7) There are two effective supply-reduction strategies. First, low regulation of gambling characteristics (free stakes, wins and losses) is combined with high regulation of access to gambling facilities (e.g. casinos). Second, high regulation of gambling characteristics is combined with less intensive regulation of access (e.g. gaming such as AWP);
- (8) High-risk gambling facilities need to closely review and monitor admission of individuals with gambling-problem histories and problems with financial solvency;
- (9) Easily accessible but highly regulated gaming (AWPs) should equate average losses with average national expenditure on leisure activities;
- (10) All types of gambling and gaming should implement standardised procedures for early detection of customers with gambling problems.

On the basis of scientific evidence, it is not possible to make exact predictions about the level of future harm for specific combinations of gambling and gaming features and access regulations. In order to enhance early detection of problematic developments, long-term monitoring systems for different types of gambling, gaming and betting are needed. They would regularly collect and analyse data on gambling-related parameters and indicators of problem gambling. They would also provide rapid feedback to public and private stakeholders, allowing early corrections of unwanted consequences.

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Gaming Regulations in the 21st Century: a Former Regulator's Perspective



Amadeu Farré

This article examines the past, present and future role of gambling regulators



In our world, that is to say in Europe, at the turn of the 21st Century, we are surrounded by a vast number of laws resulting from the many “policy making centres” with the capacity to issue such regulations. Such centres are European, state, regional and municipal institutions that do not always apply the same method or the same logic. Member States of the European Union are neither politically nor legally organised in the same way. One of the European Union’s aims is precisely to achieve a community respecting existing differences, which are a great wealth, while arriving at a common denominator. This has in many cases been achieved with great success. To mention just one example, national/state currencies in most Member States have been dispensed with, and we are now using the euro completely normally.

Many more examples could illustrate how successful Europe, or the European Union to be precise, has turned out to be, but we specifically refer here to one of the issues that complicate this process, namely the existence of many extremely productive “law factories” issuing a never-ending stream of regulations. We are by no means being critical of the existence of such institutions, with the authority and capacity to produce regulations, but rather simply pointing out a fact. In Europe, a great many institutions legitimately and democratically pass laws on a daily basis that will affect the way law-abiding citizens conduct themselves. If no logic is applied to making those regulations consistent, with diverse origins and subject matters, these laws can seriously disturb the normal course of trade, and, instead of improving the situation, matters will be made worse and the system unworkable.

This dangerous process may benefit from the fact that there are not always existing European Union laws to which these new regulations must conform. If difficulties arise in the interpretation or application of such European laws, where common European

regulation already exists, and must be observed, one can well imagine what will occur in areas or sectors where no common European regulations exist.

This status quo can be accepted and understood; however, we must be aware that we are in a politically highly complex and technically painstaking process. At the same time we must also be optimistic that major progress is clearly being made, despite some ups and downs. The overall balance is positive and nobody doubts the common objective and, if anything is to be queried, it is the speed of the process rather than the intended goal. But while this lengthy, complex and painstaking process continues the world does not stop and there are situations, indeed realities, that cannot be so understanding and patient. This reality is inescapable and highlights the defects of the system. There are economic sectors that suffer from the process more than others, and that particularly applies to the gaming and amusement industry.

The technological revolution in our society in the late 20th Century, as a result of the widespread use and implementation of information and communication technologies, has changed the way many things function in our society, our lives, the economy, etc., changing the peaceful reality of the past without any discussion whatsoever to define such revolutionary changes. The change in the economic and social structures has been absolute, profound and global in nature. Citizens have changed their ways, businesses are no longer run as they used to be, and those that did not adapt fast enough no longer exist. One industry in which this process has developed at lightning speed is the amusement, gaming and entertainment industry. Users and consumers of these products have changed their habits. The widespread use of communication technologies has brought about radical change. The same products are consumed differently than before and new products are appearing and the public is driving the market for these. Market players feeding



“In the gaming industry, the distance between reality and the many existing regulations is so large that it truly distorts the market, affecting the legal certainty of the public, as consumers or as traders”

this demand, and their suppliers, have had to adapt to the new habits of their customers and potential customers, and while this has been going on at a frantic pace, regulations have failed to keep up.

One need not be a law expert to point out the obvious and conclude that laws usually lag behind the reality that they seek to organise and regulate. However, this is not always so as policymakers have at times taken the initiative in passing laws precisely to pre-empt and endeavour to create potential markets that will affect our lifestyle and actions. The aim is to guide and control the process from its inception in order to guarantee this possible future, establishing public policies that protect the public interest, insuring citizens their rights and at the same time guaranteeing legal certainty so that businesses can weigh up whether to venture into the marketplace in spite of the risks involved.



In the gaming industry, the distance between reality and the many existing regulations is so large that it truly distorts the market, affecting the legal certainty of the public, as consumers or as traders. Regulations exist at present within the European Union that are totally obsolete, for technical reasons, because they were passed years ago and were aimed at addressing a reality that, as already explained, no longer exists. The reality that those laws sought to regulate is radically different but these regulations continue to be enforced.

Elsewhere, the existing inconsistency or, gulf between reality and regulation, is due to historic reasons. For example, where in some European Member States for many years all gaming-related activities were considered unlawful, banned and punishable by criminal law, subsequent legalisation resulted in new laws being passed against a background of mistrust of this sector and the regulations that were passed were motivated by a willingness to totally control these activities, in some cases to the extent of policing them.

Some of the laws passed were conceived to control and limit rather than to regulate the activity with the aim of providing legal certainty guaranteeing economic development. A few years on, an established gaming industry exists in these Member States, making, selling and exporting high value-added products. There are many companies that are engaged in this activity in a completely normal way. The contradiction between regulations and realities has become quite clear.

In other cases, the difficulty some jurisdictions find in relinquishing their historic public gaming monopolies leads to surprising situations. Gaming is legal and is therefore just another business activity like so many others, but the tradition whereby it has been exclusively operated by public administrations is restrictive of private operators. It is paradoxical



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that in a free market economy private companies are limited and restrained from operating in a legal business activity.

Member States where public and private gaming coexists are even more remarkable. Public gaming is run directly by the administration or through licensees (private enterprises licensed to operate) with their own regulations which are different to private gaming, indeed so different that whereas for example public gaming may be advertised, private gaming may not.

More examples could be given but these sufficiently illustrate the point. This does not imply that the solution lies in the need for gaming regulation in Europe to be harmonised, i.e. that a common rule should apply to every Member State. Gaming and amusement are affected by many local customs driven by their own patterns of social conduct which

are logically justified. What is highlighted here is the existing contradiction in the fact that an economic activity is pernicious depending on who runs it.

These differences in the appreciation of how a market economy works within a common political and economic area have sparked great controversy. Proof of this is the case law of the European Court of Justice (ECJ). Fortunately, the development of the case law of the Court has highlighted these negative contradictions. In its ruling of 24 March 1994 (the Láärä case, C-124/97), the Court upheld EU law granting a single public body the exclusive rights to handle slot machines. It found that this regulation did not go against the EC Treaties, specifically the principles relating to free provision of services in the EU, basing its decision on the fact that such a restrictive regulation was justified by public interest objectives. In a later judgment of 21 October 1999 (the Zenatti case, C-67/98), regarding the State monopoly's exclusive rights to sports betting,



the Court justified the relevant legislation on the grounds that the intended goal was to curb the harmful effects of betting and that the restrictions were not disproportionate.

This development of case law was subsequently to become more specific in another judgment of the ECJ. In the ruling of 6 November 2003 (the Gambelli case, C-243/01) the Court considered that a national gambling law banning sports betting, when no license is held (since it is the Government itself that is operating a monopoly on betting) constitutes a restriction of the freedom of establishment and free provision of services set out in the EC Treaties. The decision demanded that the courts of the country in question verify whether a restrictive regulation of this kind effectively addressed the aims used to justify it and whether the restrictions that it imposed were not disproportionate to these very aims.

A problem evidently exists due to the many and major economic interests at stake, in particular within jurisdictions with greater monopolistic tradition, not to mention how differently regulation is conceived and indeed how distinctly control or development of these activities is organised by the different jurisdictions with authority over gaming affairs, etc. The difficulties of the entire process are comprehensible and understandable, particularly bearing in mind the matter at hand, gaming. But at the end of the day there is undeniable evidence of the danger of altering the economic model sought as the common goal, due to the far-reaching and serious consequences of the lack of coordination and the gulf between real life and the existing regulations, and certain constructions of these regulations, which can result and in some cases already have resulted in a breach of market rules.

If the market players in this economic sector have adapted to this technological revolution that has changed their business model in order to survive and be competitive in such a complex and regulated market, and have successfully adjusted to the changes required by their customers, amusement product users and consumers, so should the regulatory frameworks. It is the duty of the regulator to put in place a framework which guarantees the rights of citizens and businesses within the economic model that we have chosen, want to keep and improve upon.

As noted above, we are not advocating a common regulation for all Member States. Many believe that the current European Union Treaty suffices and that it is quite simply a matter of applying it or interpreting it in its most genuine sense rather than based on more local and less common interests. In other words, we either believe in the need for the existence of the Single Market within the European Union or we do not. And having arrived at this point it is clear that the duty to invigorate the process lies with those responsible for making, interpreting and applying the requisite essential regulations that allow things to function normally.

Amadeu Farré.

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Drivers of the Gaming and Amusement Sector: the Role of Trade Press and Trade Fairs



Martin Dempsey and Stephanie Norbury

This article looks at the role of trade press and trade fairs and their contribution to the EU gaming and amusement industry



The Gaming and Amusement sector in the European Union is comprised of more than 20,000 small and medium enterprises (SMEs) with a total turnover in excess of 20 billion euro, and which employs an estimated 200,000 people EU-wide. These figures clearly demonstrate a vibrant sector and one which is ultimately driven by consumer demand. But what of other drivers which are internal to the sector? Many of those involved in the provision of gaming and amusement services agree that the sector turns on its own internal axis, driven mostly by trade fairs and the trade press.

Trade fairs are important meeting places for the gaming and amusement industry. As well as the exhibition itself, there are conferences, seminars, business meetings, social gatherings and opportunities for exhibitor-to-exhibitor and visitor-to-visitor sales which all create a certain momentum in the sector. Equally, the role of the trade press in the industry has its own part to play in the development of the sector. The trade press promotes the many positive aspects of the industry, as the public perception of gaming and amusement arcades can sometimes be coloured by lurid articles in the national press, which bear little relation to reality.

In addition to gaming, amusement equipment also plays an important role in the sector and is given a platform through which it can be showcased by both trade fairs and trade press. New games and concepts are being developed on an ongoing basis and new technology plays a role in making equipment more attractive to players. It is very important that the industry finds new products, new locations and new players if it is to survive and prosper, and trade fairs and press are an efficient conduit for this.

Trade press and innovation: a vital role in 'spreading the word'

The gaming and amusement industry has changed a lot in recent years and the trade press reflects these developments. One of the greatest benefits to the industry of the trade press is that it is a shop-front for displaying new products – either through editorial or through advertising. Many of the publications now have a web presence which allows new opportunities for companies to advertise their products and services through the medium of the Internet.



The gaming and amusement industry boasts many high quality publications – ranging from weekly newspapers through to glossy international magazines, which are printed monthly. Most countries have domestic press printed in their own language and sometimes allied to a trade body. These provide an excellent source of in-depth legislative information and company profiles. The international publications tend to be written in English with overseas contributors supplying country reports and news stories.



“...the annual fair is the veritable backbone of each national gaming and amusement sector”



While advertising funds the trade press, it remains important that a degree of independence is retained within the editorial of the publications in order to ensure that the tone is impartial. This is often a difficult balancing act for editors, who must keep advertisers happy in a competitive marketplace. That said, the trade press relies heavily on the supply of press releases and images, and as such the publications do play a key role in informing the market players of developments, particularly with respect to innovation and the growth of specific markets. The trade press has a very important role as a source of information relating to those working within the gaming and amusement sector. It is the most immediate way for people to find out what is going on in the sector. For those companies who want to export products, the magazines and newspapers provide invaluable legislative updates. It is also helpful to know what the trends are in product design and what other companies are launching onto the market.

The trade press occupies a unique position both within and outside the industry. While many of the journalists working today have spent the best part of their lives writing about amusements and gaming, the first industry they joined was that of journalism and as such they are a bridge between the two.

In a sector reliant on innovation, and communication of this innovation, there is little doubt that the position of the trade press as a key driver of the gaming and amusement sector is unlikely to change in the foreseeable future.

Trade fairs: an unlikely driver

The unlikely, unseen driver of the development of the gaming and amusement sector is trade fairs. Each trade show, from the smallest to the largest, has

its own “personality”. Some are small national fairs while others are huge international events, but each one has the same task - bringing together exhibitors and visitors.

Apart from the Amusement-With-Prizes category, trade fairs in each country are different. In some countries there is an affiliation with the vending industry, including co-location of trade fairs, while in others the connection is with the amusement parks industry, the casino industry or the broader entertainment industry. Regardless of the format of the fair or which particular form of equipment it chooses to showcase, the annual fair is the veritable backbone of each national gaming and amusement sector and a country with no fair is most probably a country without a significant gaming and amusement sector. The industry is also helped in its development by the formation of trade associations, many of which are sponsors of trade fairs.

The one thing that most people in the industry agree on is that there are too many trade fairs. The dates are too close and in some cases even overlap! Each country has its own regulations and as a result many feel a need to have their own trade fair. In some cases this is a matter of national pride, while in other instances it is an opportunity to show off the industry to politicians and lawmakers. The very individual approach to these trade fairs by each EU Member State reflects very well the fragmentation in the EU with respect to the regulation of the gaming and amusement sector which is regulated at national, not EU, level, a situation which is supported by the gaming and amusement sector itself.

The annual calendar for fairs in Europe is staggering. As an incomplete demonstration of this, the following are just some of the trade fairs which dot the calendar across the EU: the year starts with IMA in Dusseldorf



Stephanie Norbury and Martin Dempsey

Drivers of the Gaming and Amusement Sector: the Role of Trade Press and Trade Fairs



(Germany), followed by ATEI in London (England). AmEx is held in Dublin (Ireland) in March, followed by ENADA Primavera in Rimini (Italy) and Andalusian Gaming & Gambling Trade Show in Malaga (Spain). World of Entertainment takes place in Prague (Czech Republic) in April, followed by AMUSE UK in Blackpool (England) and finally World Of Games in Moscow (Russia) in June. The autumn schedule starts in September with GAMEXPO in Budapest (Hungary), followed by Entertainment Industry in Kiev (Ukraine), EELEX in Moscow (Russia) and FER-Interazar in Madrid (Spain). October sees Slovak Show in Bratislava (Slovakia), followed by Preview in London (England), ENADA in Rome (Italy), Forbes in Prague (Czech Republic) and, finally, SUREXPO in Warsaw (Poland).

Those involved in the organisation of trade fairs often draw parallels between trade fairs and marketplaces. Indeed, a well known figure in the trade fair world, Mr. Peter Rusbridge, comments "when all is said and done, trade fairs are just marketplaces, places where buyers and sellers meet to exchange news, views and hopefully some product and money as a result". Given the need to communicate in an effective manner, not something which is necessarily always achievable, trade fairs are an important tool for the development of the gaming and amusement industries or indeed any industry.

"I never cease to be amazed at the ability of a group of people to ignore, mishear, misinterpret or misunderstand even the most simple of exchanges. Trying to get six people from the same office, speaking the same language about the same subject to agree on anything is a feat of skill and perseverance. So what is the chance of succeeding in a global market that spans tens of thousands of people, employed by thousands of different companies from hundreds of countries speaking different languages? The answer is



slim, especially when dealing with a subject so complex and tightly bound by the intricacies of national laws and regulations." This is where he believes trade shows are unique and play such a valuable role in any industry. By the time an audience (buyer or seller) reaches the show floor, they have agreed on the purpose of the event, have understood its aim and focus, have established a reason to participate and made a significant commitment by taking exhibit space or travelling thousands of miles to attend. The communication is already well advanced and



whether buyer and seller know each other already, or are meeting for the first time they can get straight to the point – business.

“Good trade shows allow this communication to take place in many different ways at many different levels. As well as putting supplier and client together, they also assemble all stakeholders of the industry - governments, legislators, regulators, lawyers, financiers, designers, builders, buyers, sellers and operators. They gather formally in meetings or seminars, dynamically at presentations and demonstrations on the show floor or socially at the myriad of parties, receptions and functions that take place. And all of this, done in a way that is impossible in any other form of media – FACE TO FACE”. He does not believe that trade shows can lead an industry or answer its problems, the industry must do that for itself, but does believe at the very least that a trade show reflects what is happening in an industry and that at the very best, the event creates the environment in which an industry can carry out its business but also determine its future. “Be it technology, or law or business relationship, trade shows can be the crucible in which the future is forged,” he concludes.

Press and trade fairs: a lasting influence

An important role is played by the gaming and amusement sector in society. With people living longer, working shorter hours, retiring earlier and having more leisure time, the development of gaming and amusement facilities is more important now than ever before. Realistic gaming legislation is the basis for a successful gaming and amusement sector as it encourages investment and job creation and provides a valuable entertainment outlet to European consumers.

The gaming and amusement industry is a very specific sector, driven by the most unlikely elements. The industry will not change dramatically in the short-term but is likely to develop over time into a more sophisticated high-tech industry. Regardless of the change in the provision of these services however, it is extremely likely that both trade press and trade fairs will continue in their roles as catalysts to the promotion and ultimate success of the gaming and amusement sector.

*Martin Dempsey
Stephanie Norbury*

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Stephanie Norbury has been writing about the coin-op amusement and gaming industry for almost a decade. She has edited InterGame and AB Europe and is currently editor of Eurosot. In addition, she has contributed to a number of international journals and runs an industry PR consultancy.

About EUROMAT

The European Gaming and Amusement Federation

The European Gaming and Amusement Federation EUROMAT was established in 1979 to represent the European amusement and gaming industry at EU level, and consists of 16 member national associations from 13 European countries, namely: Austria, Belgium, Denmark, Germany, Great Britain, Hungary, Ireland, Italy, Lithuania, Netherlands, Poland, Romania, and Spain. EUROMAT endeavours to stay abreast of any European policy developments and therefore is run by its Brussels based secretariat.

The overall mission of the Federation is to contribute to the creation of a healthy business and legal environment in the EU for the gaming sector.

- EUROMAT instigates dialogue with the European Union and other pan-European bodies. It hopes to use its position and membership to stimulate debate and awareness.
- EUROMAT monitors and influences the European regulations on legal, commercial and technical aspects of the business to guarantee the best possible future for the industry.
- EUROMAT gives one voice to its members on commercial and legislative matters affecting their business and makes known the views of its members in the debate surrounding issues.
- EUROMAT defends the industry interests by providing continued and accurate information to the citizens, the media and the administrations on the gaming sector.
- EUROMAT supports all member associations in their efforts to adopt, promote and enforce the appropriate code of conduct for themselves and their associates.

For further information on EUROMAT, please visit www.euromat.org.

EUROMAT Members are:

> Austria

Automatenverband.at

> Belgium

[Union Belge de L'Automatique \(UBA\)](http://Union Belge de L'Automatique (UBA))

> Denmark

[Dansk Automat Brancheforening \(DAB\)](http://Dansk Automat Brancheforening (DAB))

> Germany

[Bundesverband Automatenunternehmer e.V. \(BA\)](http://Bundesverband Automatenunternehmer e.V. (BA))
[Deutscher Automaten-Großhandels-Verband e.V. \(DAGV\)](http://Deutscher Automaten-Großhandels-Verband e.V. (DAGV))
[Verband der Deutschen Automatenindustrie e.V. \(VDAI\)](http://Verband der Deutschen Automatenindustrie e.V. (VDAI))

> Hungary

[Magyar Szerencsejáték Szövetség \(MSS\)](http://Magyar Szerencsejáték Szövetség (MSS))

> Great Britain

[British Amusement Catering Trade Association \(BACTA\)](http://British Amusement Catering Trade Association (BACTA))

> Ireland

[The Irish Amusement Equipment Association \(IAEA\)](http://The Irish Amusement Equipment Association (IAEA))

> Italy

[Sezioni Apparecchi per Pubbliche Attrazioni Ricreative \(SAPAR\)](http://Sezioni Apparecchi per Pubbliche Attrazioni Ricreative (SAPAR))

> Lithuania

[Nacionalinė Lošimų ir žaidimų verslo Asociacija \(NGGBA\)](http://Nacionalinė Lošimų ir žaidimų verslo Asociacija (NGGBA))

> Poland

[Izba Gospodarcza – Producentów i Operatorów Urządzeń Rozrywkowych \(IGPOUR\)](http://Izba Gospodarcza – Producentów i Operatorów Urządzeń Rozrywkowych (IGPOUR))

> Netherlands

[AN Speelautomaten Branche-organisatie \(VAN\)](http://AN Speelautomaten Branche-organisatie (VAN))

> Romania

[Asociatia Organiza Torilor si Proucatorilor de Jocuri de Noroc din Romania \(AOPJNR\)](http://Asociatia Organiza Torilor si Proucatorilor de Jocuri de Noroc din Romania (AOPJNR))

> Spain

[Asociación Española de Empresarios de Maquinas Recreativas \(FACOMARE\)](http://Asociación Española de Empresarios de Maquinas Recreativas (FACOMARE))

[Confederación de Asociaciones y Federaciones de Empresarios del Recreativo \(COFAR\)](http://Confederación de Asociaciones y Federaciones de Empresarios del Recreativo (COFAR))

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