

Stakeholders see 2018 as year for progress on German gaming legislation



While a wide consensus has formed across the German gambling industry, political parties, and media and telecommunications associations regarding the future shape of gambling legislation, there are still clear divides on how this should be achieved.

The European Court of Justice's recent ruling on Germany's State Treaty on Gambling has confirmed in everybody's mind that change is inevitable. The 2012 legislation has been dogged by controversy from the outset. After the process to award the country's twenty sports betting licences collapsed amid a flurry of legal challenges, the ECJ pilot process has now paved the way for infringement proceedings to be launched.

This should, and ultimately will, prompt a total overhaul of the laws. At a symposium held in Berlin last week by the German Association of Internet Businesses (eco), it became apparent that most industry representatives, legal experts and stakeholders want the same thing: a liberalised model without any restrictions on product verticals or the number of licences available, and a workable tax rate based on gross gaming revenue, as proposed by Hesse Minister of the Interior Peter Beuth.

This event felt markedly different from a standard gaming industry forum. Operators were not particularly visible, with the majority of participants and speakers being politicians, academics and representatives of the wider media industry.

The German Association of Telecommunications and Media (DVTM) has evolved into a key player in the arduous battle towards liberalising the German market, and it is clear that the country's major communications businesses are watching closely. This includes the partially state-owned Deutsche Telekom, which is already active in the sports betting market via its Tipp3 sports betting brand.

Companies such as Deutsche Telekom are eager to participate in the market, with the term "bettertainment" frequently tossed about to emphasise gambling as a leisure activity.

But despite a clear desire to finally open up the market, divisions remain on how best to achieve this goal. Those expecting a quick resolution to the long-running issue of the State Treaty on Gambling are likely to be disappointed.

The ultimate goal pursued by many industry stakeholders is the system proposed by Hesse's Peter Beuth, in which poker, sports betting and casino games are all permitted. It is based on the model established in Schleswig-Holstein, the northern state that opened its market in 2012 and, crucially, secured European Union approval of its legislation.

This is very much based on the Danish model, which sees operators taxed at 20 per cent of GGR. Denmark is a rare example of a European gambling market opening without a hitch and growing year-on-year.

Yet transplanting this model to Germany is far from simple. Denmark has a population of around 6m people. Germany has a population of 81m. A much smaller state, Denmark is not comprised of federal states with a degree of autonomy like Germany. It also did not have to contend with a gambling monopoly so resistant to market liberalisation. Whereas Denmark's Danske Spil willingly split itself into different divisions to aid the opening of the market, Germany's state lotteries, represented by the DLTB, refuse to even accept that the State Treaty is flawed.

"Sometimes you just need to state the obvious: markets only work if players are spending money on the regulated offering," argued Danish Gaming Association chief Morten Ronde. This is clearly not the case in Germany, where around 90 per cent of tax comes from grey market operators.

Denmark's gambling regulator Birgitte Sand agrees, stating that the size of the illegal market is generally a clear indication of how successful regulation has been. She says that the Danish market has balanced itself, with revenue climbing steadily, new operators applying for licences, and no rampant proliferation of gambling and gambling addiction. A degree of autonomy is crucial in a healthy market, she suggests.

But how this goal will be reached remains the crucial sticking point. Cooperation between German states and the state lotteries ultimately saw liberal proposals rejected in favour of the 2012 State Treaty, with some now arguing in favour of direct engagement with the federal government over the states.

This is the approach recommended by DVTM chief executive Renatus Zille. He said that major telecommunications and media businesses need to show just how strong the consensus

for market regulation is. This may help show that gambling is nothing to be feared, and a potentially lucrative source of tax revenue for the country and individual states.

However, former Minister President of Schleswig Holstein Peter-Harry Carstensen insists that the states have a major role to play. He urges support for the Hesse model, but also believes that the states must take the lead in forming new legislation.

Carstensen, arguably the godfather of liberalised German gaming regulations, may have a point. States and state lotteries will likely resist any proposal that the federal government attempts to force on them. At the same time, Germany's major media companies have grown weary of waiting for the 16 states to establish their own system, and are concerned about a possible patchwork of regulations across the states that would hinder innovation and market development.

Ultimately last week's conference in Berlin left attendees both excited and disappointed. Considering the past few years of painfully slow progress, it was exciting to see such enthusiasm for a liberalised regulatory framework, backed by major media companies, experienced politicians and legal experts. At the same time, it seems Germany still has years of discussion ahead before this becomes a reality.

Hans-Jorn Arp, Parliamentary Secretary of the Christian Democratic Union in Schleswig Holstein and a major critic of the current State Treaty, summed it up by stating: "2016 will be a year of discussion, and 2017 a year of decision."

We can only hope that means 2018 will be a year of action.

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