

# Germany Loophole Creates US-Style Fantasy Sports Climate

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Whereas betting operators believe daily fantasy sports will struggle to replicate US success in the UK and other established markets, Germany's regulatory shortfalls may make it a more accessible target.

Betting executives are sceptical about the [European appeal of daily fantasy sports](#), which has thrived in the US thanks to its carve-out from the Unlawful Internet Gambling Enforcement Act and the absence of regulated sports betting.

Of the large European markets, only Germany has failed to license and regulate sports betting, due to ongoing court disputes three years after the passage of legislation.

It is this chaotic licensing situation, plus a loophole in Germany's Interstate Treaty on gambling, which makes the country an ideal market for fantasy sports, according to Wulf Hambach, a partner at Hambach and Hambach law firm in Munich.

"The Interstate Treaty has focused on specific products and not new games. That's why new skill games and fantasy sport games really have a chance in Germany from a legal perspective," Hambach said.

"Like in the US, there are loopholes for these games. The prospects are very good," he said.

The legality of daily fantasy sports, the fast-paced cousin of traditional contests which has exploded in popularity in the US, is yet to be tested.

However, in a "breakthrough" ruling, Germany's highest administrative court found in 2013 that season-long fantasy football contests are not a "game of chance" under the gambling treaty, according to Hambach.

The court decided that the Super Manager competition, run by German publishing giant Axel Springer, was a "game of entertainment" instead and so did not need a gambling licence, said Hambach, whose firm was involved in the case.

Players paid an €8 entrance fee and could win prizes throughout the season, but the Federal Administrative Court ruled it was not like traditional gambling because of the effects of other players and the customer's own activities.

On the issue of fantasy sports as a "game of skill", the court was silent.

Other European countries are also yet to regulate fantasy sports.

"In Italy, it's not covered by any gaming regulations because it's not considered a gaming offer," said Quirino Mancini, global head of gaming and gambling at Tonucci & Partners.

The launch of online betting by Italy's most popular daily sports paper, Gazzetta dello Sport, shows there is "definitely some convergence", but the real developments in fantasy regulations and popularity are likely to come from the UK, Mancini said.

DraftKings, one of two dominant US daily fantasy sports companies, has **applied for a UK gambling licence**, but betting executives are unconvinced American operators will crack the market.

"There is a possibility that if the big US operators come into the UK, for example, they are going to find it very difficult, because it's a very liberal, mature market with lots of other opportunities," said David O'Reilly, chief operating officer at UK-based Colossus Bets.

"In the US, to some extent it's popular and successful because it's the only game in town," he said.

"It's somewhat of a closed door in the UK to the explosive growth we've seen in the US," agreed Benjie Cherniak, managing director of Nevada-based betting data provider Don Best Sports.

Cherniak said it would be a "tough grind" for fantasy sports to break into an established betting culture with legislation in place.

They were speaking at the recent Gaming Executive Summit in Barcelona, where an audience of mostly European gaming directors argued daily fantasy sports were an inferior offering to in-play betting.

"You can have more betting opportunities on one tennis game than you can have on pretty much a whole day of fantasy. That limits the possibility of it," said Kristian Nylén, chief executive of Stockholm-listed betting supplier Kambi.

Matt Davey, chief executive of NYX Gaming Group, said fantasy sports, like social casino games, are "analogues of the real products, easier to deploy because there's no regulation".

"When regulation supports true wagering you will probably see less of an appetite," Davey said.