

19 October 2015

## **Short summary of the study on behalf of DVTM**

### **„Bettertainment“<sup>1</sup>**

#### **Economic impact and potential compliance with consumer, data and youth protection**

The online gambling market in Germany is characterised by discrepancy between firms, legal uncertainty and issues around consumer, data and youth protection. The regulated gambling market is dominated by state-owned firms, but revenues as well as fiscal revenue from gambling tax has been in decline for some years. A remarkable upswing is instead taking place in the non-regulated market segment, including the online gambling market. Some business activities have been relocated in other countries, both within and outside the EU.

Despite the best efforts of regulators, the desired high standards of consumer, data and youth protection have proven difficult to enforce. In some cases, stakeholders have signed up to agreements, such as the Codex for Telecommunications and Media, but this is the exception rather than the rule.

Recent regulation has not proven to be fully adequate, with markets remaining blocked to private gambling firms. The potential for economic growth, a boost in employment and a jump in tax revenues remains unexploited. Online gambling is part of a converged value-added chain which involves, among others, telecommunication infrastructure, IT, software applications and authentication systems as well as advertising, marketing and sponsorship. These linked areas also suffer from the lack of growth in gambling.

The regulatory framework for online gambling in Germany is currently under scrutiny, e.g. licensing procedure was blocked by the Hessen Administrative Court in Kassel (Hessischer Verwaltungsgerichtshof, VGH Kassel, decision of 10.16.2015) due procedural errors and a lack of transparency. According to the Administrative Court in Kassel, the entire decision-making structure of the “Glücksspielkollegium”, the panel of the 16 federal states which negotiates the gambling regulation, violates the German Constitution. Further decisions, among others of the Court of Justice of the European Union (CJEU), are outstanding. Germany is currently part of a pilot process to provide obligatory data on gambling to the European Commission. It's time for a change in course for gambling regulation and constructive dialogue.

The study asks how gambling regulation in Germany can be improved.

The successful liberalisation of the telecommunication markets is a role model. The former state monopoly was broken down, the markets opened up to private competitors. At the same time, strict regulation was imposed by the Federal Network Agency (BNetzA, formerly RegTP), e.g. with respect to consumer protection. The study choses a market and target oriented regulatory

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<sup>1</sup> „Bettertainment“: Online-Gambling, beinhaltet Sportwetten, Poker, Casino und Lotterien

approach for gambling regulation which aligns with European law. It follows successful liberalisation examples in other countries or markets such as Denmark.

The advantages of the market and target oriented regulation are assessed by comparing them with the continuation of current state-related regulation in a scenario analysis from 2016 until 2020:

- Revenues shift from the non-regulated to the regulated segment of the gambling market.
- The share of non-regulated services would decrease markedly in comparison with the previous situation in sports betting, online casinos and poker, dropping back to 8%.
- In the long run, a market-oriented regulation of the German gambling market, in accordance with the objectives of the State Treaty on Gambling 2012, enables an effective protection of consumers, youth and data.
- Cumulative revenues and the corresponding fiscal revenues are considerably higher in a market and target oriented scenario than in a state oriented scenario:
  - 33 billion Euros more revenue in the regulated gambling market and as a result 8 billion Euro more fiscal revenue.
  - 800 million Euros higher revenue in other areas of the convergent value-added chain and as a result 80 million Euros more fiscal revenue.
  - 3,6 billion Euros more revenue in advertising and marketing sectors and as a result 360 million Euros more fiscal revenue.
- Additional funds for the promotion of sport, which results from a partial earmarking of fiscal revenues in the targeted regulation, would amount to about 30 million Euros by 2020.

The conclusion is clear:

If one follows the example of Denmark, whose regulatory structure influenced Schleswig-Holstein from 2012 until 2013 and aligns with European law, a cumulative additional revenue of 37 billion Euros and addition fiscal revenue of 8.5 billion Euros from 2016 until 2020 compliant with strict consumer, data and youth protection recommend a transition from the current gambling regulation to market and target oriented regulatory framework.