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# Is the Regulatory Environment Finally Moving in the Right Direction?

### PGRI Introduction:

*These are most interesting times for the lottery industry in Europe! After many years in which regulatory change has not always favoured state-authorized lotteries, and illegal operators find new ways to avoid prosecution, there are indications that the tide is turning. EL has always been an outspoken advocate for its members, promoting the importance of integrity and preservation of the traditional lottery model. Now it appears the efforts are starting to yield some promising results. Hansjörg Höltkemeier discusses the meaning and import of some of the events and trends that are impacting the state-authorized lotteries in Europe.*

*Hansjörg Höltkemeier has been a member of the EL Association's Executive Committee since 2009 and the President of EL since 2015. He has also been a member of the Managing Board of the Deutsche Klassenlotterie Berlin since 2005.*



### Paul Jason:

**What is your comment on the recent closure of the infringement cases by the European Commission?**

**Hansjörg Höltkemeier:** With the recent closure of the infringement cases, EL achieved an enormous success. The European Commission stated clearly that the regulation of gambling can be best served on a national level. That is exactly what EL has advocated for many years. But even though this fight may have been won, the battle is still going on. It seems clear that this European Commission considers other issues to be a bigger priority in its agenda in today's political reality. Nevertheless, we have to keep a close eye on secondary legislation and initiatives that can undermine the government lottery model of service to society which EL stands for. And we have to monitor closely the legal cases that arise at the national level. At least for the foreseeable future, the regulatory framework that affects EL members will be decided at the national level.

**What, if anything, are the implications of the recent judgement by the Munich court that supposedly declares lottery monopolies to be "unlawful"?**

**H. Höltkemeier:** It was just one judgement by a lower court in Munich. This decision is not the one that will overhaul the German situation, nor will it change the situation in Europe as a whole. In general, the higher courts are deciding more and more in the favour of their state-authorized Lottery, as the promises of better regulation in private-operator models have failed to come true, and the negative impacts of the multiple-license model are clearly visible. The closure of the EU Commission infringement-cases

provides another push in the right direction. My personal belief is that future regulation will be less dependent on court decisions and driven more by developments in the marketplace and the ability of governments to protect licensed operators as well as players from unregulated and illegal offers.

**Does the licensing of multiple operators for charity lotteries to compete for the lottery business represent an existential threat to "traditional government lotteries"?**

**H. Höltkemeier:** In some countries, the 'EL family' of lotteries is faced with regulatory frameworks that allow all kinds of lotteries



such as small-scale charity lotteries. This seems to work alright as long as those operations live up to EL-lottery values; responsibility, sustainability, and integrity. These are the values that are consistent with the best interests of society. These are the values that ensure players are protected and profits are dedicated to good causes.

The problem is that as the number of legal offers exceeds a critical mass, it becomes difficult for the state to properly monitor and supervise them, and the player is not able to recognize the difference between legal and illegal offers anymore. Therefore, neither the legalization of illegal offers (as called for by

unlicensed operators) nor the licensing of a large number of lottery-operators seems to be a promising strategy for gambling-regulation. Clearly, multiple lottery operators competing with each other is not the best model for promotion of responsible gaming and optimizing funds for good causes. From this perspective, a strict limit of offers makes much more sense, and the monopoly-model chosen by most EU member states shows its real strength.

Without limits to the number of competing operators, and without powerful and effective law enforcement, licensing multiple lottery operators becomes a very real and dangerous threat to traditional government lotteries, as there is no longer a level playing field in the market.

State-Lotteries are market-leaders and highly competitive in the legal market-space. An unwavering drive to innovate, together with a productive partnership with their suppliers, will enable state lotteries to preserve their leadership role in the games-of-chance market-place. And that leadership is now translating to the online sphere as well as the retail environment. Illegal and grey market operators do constitute a threat to traditional government lotteries and the good causes supported by lottery funding. They also constitute a threat to civilized society which depends on the rule of law to protect the consumer, to protect integrity in the market-place, and to protect the financial interests of law-abiding business enterprises.

### **What can be done to inspire political leaders to take action and enforce the laws over against operators whose actions are so harmful to society by hijacking revenues that belong to the people?**

**H. Höltkemeier:** One of the most important ways to fight illegal gambling and to avoid the hijacking of revenues, is to focus on the enforcement of existing laws. The problem of illegal lottery operators would be solved if politicians simply gave priority to proper enforcement of existing laws that apply to the field of gambling and lottery. Effective law enforcement requires money, the political will to do the right thing for society instead of special private interest groups, and mechanisms that facilitate the exchange of information between national and international regulators and police forces.

That is why it is so important that the fairy tales being told by unlicensed operators be

exposed for the Fake News that it is. EL works hard in Brussels and in the capitals of the member-states to ensure that legislators and regulators understand the impact that illegal operators have on the stability of the industry, the efficacy of regulatory and taxation frameworks, and the welfare of the good causes supported by state lotteries. Licensing multiple operators creates competition which results in lower margins and less funding for good causes that help society. Private operators also lobby for the reduction of regulatory requirements which results in profoundly negative impacts on society in the form of player addiction, money laundering, and fraud.

I am confident that these realities will be heard and understood by our political leaders. The evidence and real-world examples are numerous and they all point to the conclusion that a strong regulatory framework

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that supports the traditional single-operator lottery model is what serves the best interests of society. The evidence and real-world examples all point to the fact that the multiple operator model with lighter regulations and lax enforcement of existing laws is harmful to the consumer and simply channels profits away from service to society and into the pockets of private shareholders.

Lotteries today are facing what the sports betting sector already experienced in years past. Reacting to a growing illegal market in sports betting, many states decided to liberalise and increase the number of sports betting licenses. They projected that increasing the number of licensed operators who were taxed would increase revenues. They were wrong. The data and numbers are now available, and they clearly show that turnover (i.e. the amount being gambled) increased dramatically, but profits and income to the state in the form of taxes did not. More competition translates into lower margins and taxable income. The result of licensing multiple operators is that gambling

increases but net funds to the state in the form of taxes do not increase. This is the worst of all possible outcomes. Gambling increases, profits flow to private operators, and revenues that go to the service of society decrease. An informed political leadership shouldn't and won't make the same mistake in the lottery-sector.

### **What is EL's opinion on "secondary" lottery operators entering the market?**

**H. Höltkemeier:** Secondary lotteries are even worse than the multiple-licensee model! They do not innovate or create anything on their own. They just copy brands and products and misappropriate trademarks and game pictorials and logos of licensed operators and mislead players to believe they are playing with the licensed operator. The result is terribly damaging to the lottery industry and to society which depends on the funds generated by the state lottery. Why should secondary lotteries, or parasite lotteries as they are also called in some jurisdictions where they operate without license, be allowed to turn funding intended for good causes that benefit society into their own private profit? Thankfully, their activity is finally drawing the attention of regulators and policy-makers. It is vital that action be taken to prevent the model of secondary lotteries from proliferating. As we speak, the model is being replicated as more illegal operators copy the secondary lottery operator model. So it is therefore encouraging that regulators are rethinking the conditions for these secondary lotteries. We are hopeful that the licenses of secondary lotteries are revoked, and that their websites are blocked in jurisdictions where they are not licensed. Several governments are successfully blocking the websites of these secondary operators as being illegal. And some court cases are being decided in the favour of support for licensed government lotteries over these illegal operators. There are lots of encouraging signs that our political and regulatory constituents are attempting to solve this problem.

EL takes very seriously its responsibilities to defend the interests of its members. We work hard to face these issues proactively, to be a positive force for preservation of the state-authorized lottery model which has served society so well for so many decades. EL stands ready to serve at the national and international scale whenever and wherever possible. Our mission continues to be to serve our members, to serve society, and to protect and educate players so they might enjoy the games of their legal operator. 🎲