

Interview questions for Uwe Christiansen (German vice president of Euromat) On the situation of the commercial gaming in Germany

+Question:+ In 2011 radical political measures were introduced in Germany. Their aim is to restrict commercial gaming.

What is the current economic situation of the gaming and amusement machine industry in Germany?

+Uwe Christiansen:+ The First Amendment of the Interstate Treaty on Gambling in Germany (“Erster Glücksspieländerungsstaatsvertrag”) came into force in mid-2012. In the meantime, all German federal states (“Länder”) have introduced provisions targeting amusement arcades, in order to limit commercial amusement arcades. It has become almost impossible to open new arcades now.

In 2013 all three economic levels of the gaming and amusement machine industry made a joint loss in turnover of 2.6%. Wholesalers made a loss of 8% and machine manufactures made a loss of 12.7%. In terms of operating coin-operated amusement with prizes (awp)-machines, the transition period which is still in place from the 2012 Interstate Treaty on Gambling as well as the state-level legislative provisions provide a five year protection period for amusement arcades already in existence. That is why the turnover from awp-machines only decreased slightly.

*+Question:+ Because of these legislative measures, the International Trade Fair for Amusement and Vending Machines

(IMA) which was originally planned for January 2013 was cancelled. This year the Trade Fair took place once again.*

How was business at the IMA 2014?

+Uwe Christiansen:+ The 32nd IMA which took place from 14 to 17 January in Düsseldorf was well-attended in spite of the existing legislative restrictions. At 9,156 visitors, attendance was slightly lower than during the 2012 fair. Due to the restrictive state provisions targeting amusement arcades, no more expansions are taking place – quality assurance and replacement investments at best. This meant that ordering activity was very mixed. There was a definite trend towards sports betting. The 33rd IMA is scheduled to take place from 13 to 16 January 2015 in Düsseldorf.

+Question:+ The state legislation targeting amusement arcades has placed a ban on so-called multiple-concessions and calls for a minimum distance between amusement arcades.

How do you view this?

+Uwe Christiansen:+ Multiple-concession refers to the operation of one amusement arcade in a space that is shared with other amusement arcades, specifically a joint building or complex of buildings. In 1984, the Federal Administrative Court (“Bundesverwaltungsgericht”) ruled that the operation of multiple-concessions was admissible. According to the federal states, due to the alleged particular attraction of several amusement arcades in one place, only one amusement arcade should be allowed in a given space in future, with a maximum of 12 awp-machines.

This ban does not take into account that large amusement complexes fulfil the citizens’ desire for a large variety of leisure activities. When offering these leisure activities, the legal provisions for commercial gaming as well as voluntary restrictions and agreements are strictly adhered to. The federal states’ aim in the matter is obvious: Small amusement arcades present very minor competition for the large

gambling halls of the state-run casinos, which generally contain well over 100 slot machines.

The question our industry is facing, however, is not the distinction between large and small but between good and bad. The good will survive! A certificate for amusement arcades is supposed to help with this and it can be a valuable tool when it comes to separating the "wheat and the chaff".

The minimum distances between individual amusement arcades which have also been requested vary between 100 and 500 meters depending on the federal state. According to many experts in constitutional law, this type of rule falls outside the ambit of state competency. This is another case of the states defending their interests: securing the state's monopoly on gambling and the financial gain that comes with it. Players' protection is obviously a mere pretext. The Federal Administrative Court confirmed this in its ruling dated 20 June 2013.

+Question:+ The Reform of the Federal System I ("Föderalismusreform I") in 2006 transferred the legislative competency for amusement arcades to the states.

What does this mean in practice?

+Uwe Christiansen:+ Since the early 1950s the gaming industry operated on the basis of stable, nationally applicable, commercial rules decided by the federal government. The Reform of the Federal System I was meant to achieve local, factual rules in various areas of economic activity – including in the area of amusement arcades. The result however has been different: Due to the specific provisions of the federal states on amusement arcades, which came into force in early 2011, the rules on commercial gaming are no longer cast from the same mould. Now only a part of the rules is being decided by the federal states. Unlimited commercial and construction permits which were granted for amusement arcades will generally be worthless five years after the implementation of

the 2012 Interstate Treaty on Gambling, i.e. in mid-2017, and the arcade structure as we know it today will be destroyed, for instance through the ban on multiple-concessions. The aim pursued by the Reform of the Federal System I was therefore not reached. In legal publications one even speaks of “caprice of the Federal System”.

+Question:+ More often, legal publications in German journals speak of a difference in rules for commercial gaming and state-run casinos.

What does this refer to and what does it mean in practice?

+Uwe Christiansen:+ State-run casinos and commercial amusement arcades are subject to different basic rules. In casinos there is a general access control. Once you are in, there are no further restrictions on the slot machines in the gambling halls of the casinos. Within a short space of time – rhetorically speaking – one can “gamble one’s life away”.

In amusement arcades on the other hand, there is no general access control. According to the Youth Protection Law (“Jugendschutzgesetz”) young people under the age of 18 may not spend time in amusement arcades and may not play on the awp-machines. Furthermore, in line with the Gaming Ordinance of national scope, the commercial gaming industry is subject to very strict rules on awp-machines: awp-machines may only provoke a loss of up to 80 euros in a single hour. The average money lost by players may not exceed 33 euros per hour. In practice, the average loss is between 5 and 15 euros.

Particularly in view of these restrictive rules on awp-machines one question arises, among others: Can it be right that in many states amusement arcades are not even allowed to serve coffee? Casinos on the other hand routinely serve alcohol. What about equal treatment and coherence?

*+Question:+ Media and politics repeatedly speak about pathological gambling – also referred to as “gambling

addiction".*

How does Germany compare to other European countries and what does the German gaming industry do in order to ensure the players' protection?

+Uwe Christiansen:+ According to international scientific studies, between 0.2 and 2% of Europe's adult population is affected by problem gambling. This includes all forms of gambling and gaming. The average in Germany is between 0.2 and 0.56% of the adult population, which puts us at the bottom end of the spectrum. This means: More than 99 % of all adults in Germany play without suffering from problems. This is where players' protection really works! Obviously, there will always be a certain percentage of people who cannot control or deal with their gambling behaviour.

The German gaming industry has been actively involved in the protection of players and minors for over 20 years and recognises its responsibility in society. For instance commercial social concepts were developed. With the help of organisations such as the Caritas association for the archdiocese of Berlin, training sessions are organised for amusement arcade staff. Training standards have been developed at a national level and are continuously being evaluated and improved. The aim is to be able to recognise players with problematic gambling behaviour. However, we do not wish to throw these people out but instead we want to take them by the hand and- if necessary - refer them to a qualified counsellor.

Since August 2008 there have been dedicated apprenticeships for jobs within our industry. Dealing with problematic gambling behaviour is part of these apprenticeships. Furthermore, the owners of amusement arcades are legally required to submit proof of training. They are required to prove that they are familiar with the legal and socio-political basics of commercial gaming.

*+Question:+ In view of the severe restrictions faced by the

gaming industry, how has the tax burden on awp-machines developed over the last years?*

+Uwe Christiansen:+ Just as all other commercial businesses, commercial awp-machines are subject to income tax, value added tax and – a special form of local taxation – entertainment tax. Entertainment tax has drastically increased in recent times. In 2006 the nationwide tax revenue from entertainment tax on awp- and amusement-machines was 201 million euro. In 2010 it had already risen to 376 million euro and in 2012 it was at 616 million euro. The revenue for 2013 is projected to rise to 700 million euro!

In the past two years the turnover of operators has more or less stagnated (2012: +1.0 % and 2013: -0.8 %), whereas the revenue for local authorities from entertainment taxes has risen considerably by 28.5 % in 2012 and 19.5 % in 2013 (compared to the previous year). This means that operators are being taxed 3.5 times as much as they were in 2006! This radical increase in entertainment taxation has reached the limits of what is economically viable and in some cases has even gone beyond that.

+Question:+ Will the 2012 Interstate Treaty on Gambling in Germany be maintained permanently?

+Uwe Christiansen:+ The First Interstate Treaty on Lottery entered into force in 2004. In 2006 the Federal Constitutional Court (“Bundesverfassungsgericht”) challenged it. Then, in 2008 the Interstate Treaty on Gambling came into force. It greatly restricted the state-run casinos, too. Commercial gaming was not affected. The result of this Interstate Treaty was a collapse in the income of casinos and fixed-odds sport betting. In September 2010 the European Court of Justice declared the Interstate Treaty on Gambling to be inconsistent. Its main point of criticism was the aggressive advertising for state-run gambling providers, also supported by the Federal Administrative Court. On 01 July 2012 the new Interstate

Treaty on Gambling came into force. It brought with it some easing of conditions for the state's monopoly on gambling, but for the first time it also affected commercial gaming, introducing several restrictions.

We have asked legal experts to examine the legality of the 2012 Interstate Treaty on Gambling. The unanimous conclusion: The bans and restrictions of this Interstate Treaty for commercial gaming infringes on basic principles of European law and German constitutional law. Many legal proceedings are now pending! The commercial gaming industry is fighting with all possible means within the rule of law to defend itself from the attempt to reduce or even destroy an industrial sector out of pure state self-interest; a sector which has worked on a stable commercial basis for decades.

In a position paper from March 2012, the European Commission recognised that it could not take a final decision on the 2012 Interstate Treaty on Gambling in Germany due to a lack of sufficient information. This pertains, in particular, to the economic implementation of the future licensing system for online sports betting. According to the Interstate Treaty, 20 sports betting licences were to be given to private providers. So far, this has not happened. What's becoming apparent: The 2012 Interstate Treaty on Gambling pursues the primary aim of securing the state's monopoly on gambling. I am convinced that the European Commission, German courts and the European Court of Justice will not tolerate this for ever!