

# The Federal Administrative Court: An Amusement Arcade Licence for an Internet Cafe

The Federal Administrative Court decided on the 9th of March 2005 that a trade amusement licence may be necessary to operate an "internet café" (case no. 6 C 11.04). Under Art. 33i of the Trade, Commerce and Industry Regulation Act (Gewerbeordnung, GewO), a licence of this type is required by anyone who wishes to operate an amusement arcade or a similar business which predominately supplies gaming equipment or games with profit potential or commercial amusement games without profit potential.

In the Plaintiff's business, for money computers were made available which were not just for "surfing" the internet, rather, according to the determinations of the Upper Administrative Court (Oberverwaltungsgericht), predominately used by youths for gaming. In the Federal Constitutional Court's view, such multifunctional equipment could be classed as "amusement games without profit potential" in the sense of the Trade, Commerce and Industry Regulation Act (Gewerbeordnung, GewO). The requirement to have a licence for the operation of an amusement arcade set out in the GewO also serves to protect the youth. The Legislator is further following this protective aim in, for example, the ban on the presence of children or youths in amusement arcades. Therefore, a trade licence is required if the available computers are primarily used for gaming.

In practice, this may mean considerable additional cost for operators of Internet-Cafes. Particularly as in case of doubt, conditions will be attached to the necessary licence, the compliance of which must be monitored.