

Press release

Online lottery marketing allowed – court stops prolongation of State Treaty on Games of Chance

- **Internet bans in state GlüStV legislation contravene EU law**
- **Court pre-empts new State Treaty**

(Hamburg, 16 May 2012) The Internet ban continued by German state laws since the expiry of the State Treaty on Games of Chance (“Glücksspielstaatsvertrag” - GlüStV) in late 2011 contravenes European law and is inapplicable. This was the verdict of the Regional Court of Bremen which has lifted a preliminary ban preventing Tipp24 Deutschland from online brokerage of the state-run lottery in Bremen. As of February 2012, Tipp24 has been brokering lottery tickets via its www.lotto24.de website, as new gaming legislation in Schleswig-Holstein made such activities legal again.

Lotto Bremen wanted to prevent this online competition in Bremen. The court, however, saw no grounds. The Internet ban regarding the organization and brokerage of games of chance is no longer applicable, as the State Treaty on Games of Chance expired at the end of 2011. The state of Bremen’s own gaming legislation has not been notified with the European Commission, although this is required by the EU Information Directive. The prolongation of the Internet ban included in Bremen’s state law therefore contravenes European law. In its verdict, the Regional Court of Bremen referred to a verdict of Germany’s Federal Supreme Court (“Bundesgerichtshof”). In 2011, the latter had already indicated that should state laws seek to tighten any provisions of the State Treaty on Games of Chance, such legislation could not be effectively enforced without conducting the prior EU notification procedures.

There are similar Implementation Acts in all federal states – with the exception of Schleswig-Holstein – which prolong the regulations of the expired State Treaty on Games of Chance until new legislation has been adopted. As none of these state laws has been notified with the European Commission, they are all likely to contravene EU law and be largely inapplicable.

Magnus von Zitzewitz, Managing Director of Tipp24 Deutschland, states: “The court confirmed our opinion that the Internet ban is inapplicable. This means that a further court has ruled that online lotteries are legally permitted.”

In the only legally binding verdict on online lottery brokerage to date, the Administrative Court of Halle already declared on 11 November 2010 that all restrictions of the State Treaty on Games of Chance were inapplicable. The court was thus applying the rulings of the European Court of Justice, which had already declared the GlüStV inapplicable on 8 September 2010, as it was neither coherent nor systematic. One of the main arguments which the Administrative Court of Halle emphasized in its final judgement was that lotteries do not involve any recognizable danger of addiction – also not via online brokerage. The court thus exposed the monopolistic reasons behind the GlüStV’s restrictions.

The interesting aspect of the verdict is that it is based on the most exhaustive enquiry ever conducted. In a nationwide survey, the court questioned 100 addiction clinics and over 600 guardianship courts with regard to gambling addiction in general and specifically the danger of becoming addicted to lotteries. This finally established the absurdity of the ‘lottery addiction’ argument.

About Tipp24 SE: Tipp24 SE (formerly Tipp24 AG) was founded in September 1999 and holds equity interests in a number of companies in Spain, Italy and the UK, which enable participation in lottery-based games via the Internet, especially via the websites www.ventura24.es, www.giochi24.it, www.mylotto24.co.uk and www.tipp24.com. From its foundation to the end of 2008, Tipp24 SE brokered tickets worth over 1.5 billion euros to the state lottery companies – in the latter years over 330 million euros annually. Following its successful IPO in 2005 (Prime Standard), the company was admitted to the SDAX index in June 2009 and has been trading as a European public limited company since December 2009.

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