

GAMBLING IN THE SINGLE MARKET – A STUDY OF THE CURRENT LEGAL AND MARKET SITUATION

Volume III

**Italy, Luxembourg, The Netherlands,
Portugal, Spain, United Kingdom**



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GAMBLING IN THE SINGLE MARKET

A STUDY OF THE CURRENT LEGAL AND MARKET SITUATION

VOLUME III

**ITALY, LUXEMBOURG, THE NETHERLANDS, PORTUGAL, SPAIN, THE
UNITED KINGDOM**

ITALY

**STUDY OF THE LEGAL AND MARKET SITUATION IN ALL THE MEMBER STATES
CONCERNING BETTING, GAMING, LOTTERY AND SIMILAR ACTIVITIES
IN VIEW OF THE COMPLETION OF THE INTERNAL MARKET**

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ITALY

INTRODUCTION

Researching the betting, gaming and lottery markets in, Italy was the most difficult of all the 12 countries.

We were hampered by a lack of cooperation from both operators and legislators. The ability to obtain accurate figures was further hampered by the common practice of parallel betting. This is a practice where illegal operators run parallel betting on state run events, often using state tickets. The illegal operators pay greater returns to players. The increase in returns is financed from the proceeds which would normally go to the state. This leaves ample profit for the operator.

1. LOTTERIES

In Italy, lottery operations is a state monopoly and private operations are strictly forbidden.

The Ministry of Finance, through its Independent Administration of State Monopolies, manages and runs the national lotteries. There are currently 6 lotteries which take place in different cities at different times of the year. Two of them are traditional types of lotteries — 'Lotteria d'Italia' and 'Solidarietà Nazionale'. Three of them are connected with results of particular sports events:

- Formula 1 Motor Racing lottery of Monza
- Horse racing lottery of Merano
- Horse racing lottery of Agnano

The sixth lottery is connected with an event to be determined from time to time by a decree from the Ministry of Finance. Other lotteries may be authorised on a yearly basis by the Ministry of Finance by means of a special law.

1.1. Legislation

Much like in other countries, Italy first passed legislation on lotteries as a means of restricting illegal practices that already existed. The basis for the national lottery regulation is contained in Royal Decree Law n. 1933 of October 19, 1938. This legislation was revised by Presidential Decree Law n. 1677 of November 20, 1948 and subsequent updates.

'Solidarietà Nazionale', 'Lotteria di Merano' and 'Lotteria d'Italia' were approved by Decree Law n. 1677 of November 20, 1948. Similarly, Decree Law n. 722 of August 4, 1955 approved the additional establishment of four lotteries connected to specific "historic-artistic-cultural and sports-related events of national relevance".

Law n. 591 of October 25, 1985 approved the temporary establishment of two lotteries 'Viareggio' and 'Venezia' for the years 1986, 1987 and 1988.

In Italy, the National Lottery is under the authority of the Ministry of Finance and is run by a special division, the Independent Administration of State Monopolies. The revenues generated by this body go into a specific item of national accounting called "lotto, lotteries and other gaming activity".

The sale of foreign lotteries in Italian territory is strictly forbidden by law, with specific provisions for confiscation of prizes and fines for offenders. On the other hand, there are no regulations preventing foreigners from buying or receiving prize money from Italian lotteries. Article 15 of Ministerial Decree n. 12 of April 12, 1945 authorises collection of prizes at Italian diplomatic or consular representatives by anyone in possession of a winning ticket.

Recent Developments

In view of the growing success of the existing lotteries, the government passed Law n. 62 of March 26, 1990 under which it authorises the establishment of up to 12 national lotteries and one international lottery. The determination of the events to which such lotteries would be connected is assigned to the Ministry of Finance which must issue a decree by the 31 October of each year.

The law changes would allow Italy to be part of any pan European lottery initiative.

1.2. Authorisation and Licensing

As a government monopoly, lotteries are run exclusively by the Independent Administration of State Monopolies.

Organisation of non-national (regional, municipal, etc) is permitted by law, subject to state authorisation (Administration of Finance) and compliance with certain procedures contained in Royal Decree Law n. 1933 of October 19, 1938. The types of games allowed under this provision are:

- lotteries promoted and organised by institutions with welfare, educational and cultural objectives;
- tombolas promoted and organised by institutions with welfare, educational and cultural objectives;

- charity games, raffles, etc. promoted and directed by institutions or charity organisations for welfare, educational or cultural objectives.

1.3. Supervision and Control

The Independent Administration is under the supervision of the Ministry of Finance.

They require internal management reports by event and an independent audit of costs.

1.4. Taxation

The operations related to the organisation and performance of national lotteries, including operations connected with the collection of wagers are exempt from VAT as per Article 10 of Decree n. 633 of October 26, 1972.

The prizes are subject to a 25% withholding tax. Decree n. 600 of September 26, 1973 provides for the tax to be included in the amount withdrawn by the state before the prize is paid out. Since this withholding tax is due as definitive taxation, the winner is not required to pay any further taxes.

1.5. Distribution of Profits

The stakes from national lotteries are divided into three equal parts allocated to organisational costs, prizes and state revenues. In comparison to other lotteries in Europe 33,3% of the pool being taken up by costs is high.

1.6. Barriers

Government monopoly and strict rules against sale of foreign lotteries effectively bars competition in this market.

Italian lottery tickets, however, can be freely sold abroad. The law will entitle anyone abroad to collect the lottery prizes at an Italian consulate or embassy abroad upon production of winning tickets. This may be attractive to the sizeable Italian expatriate communities in France and Switzerland. The Italian-

speaking cantons of Switzerland could also become a market, albeit a small one.

There is some scope for activity in non-national lotteries by institutions that meet the criteria of educational or cultural objectives. The regulations, however, restrict their scope of action by specifying additional conditions regarding the nature and size of prizes and the territory in which the sales of tickets may take place.

2. LOTTO

This game consists of selecting up to five numbers between 1 and 90 inclusive and placing a corresponding wager before a public draw is held. This data must be communicated the day preceding the draw to the people charged with receiving the wager by the law. If the numbers chosen are drawn out, the player is entitled to receive an amount increased by as many times as the multiplier corresponding to the wager.

There is only one lotto game in Italy but players have a choice of Bari, Cagliari, Florence, Genova, Milan, Naples, Palermo, Rome and Turin where draws are held by the local representative of the Ministry of Finance. When buying tickets, players can specify the city where the draw will take place.

2.1. Legislation

The game of lotto in Italy is a state monopoly organised and run by the Independent Administration of State Monopolies.

The original legislation for the game of Lotto was provided in Decree Law n. 1933 of October 19, 1933 and its further amendments in Decree n. 1077 of July 25, 1940.

The present game of lotto is regulated mainly by Law n. 528 of August 2, 1982, integrated into Law n. 722 of August 4, 1984. These two laws, however, have not been enacted yet since the application and execution rules foreseen by article 1 of the same law have yet to be issued. There is no consensus on when that might happen. Until then, the game is regulated by the original Decree Law of October 19, 1933.

The new laws assign the running of the game to the Independent Administration of State Monopolies and the collection of wagers to agent-collectors who are not connected to the public administration. The purpose of this innovation is the streamlining and rationalising of collection methods for bets.

2.2. Authorisation and Licensing

This game is under the exclusive jurisdiction of the Ministry of Finance and is presently run by the Independent Administration of State Monopolies.

2.3. Supervision and Control

The Independent Administration is under the supervision of the Ministry of Finance.

The Ministry as in the case with the lotteries requires independent audited reports from the Lotto.

2.4. Taxation

Article 10 of Decree n. 633 of October 26, 1972 exempts operations concerned with lotto, including collection of bets, from VAT taxation.

An annual government concession tax (also known as corporate franchise tax) is paid by the grantee for the exclusive management of the lottery offices.

The prizes are subject to a 25% withholding tax. Decree n. 600 of September 26, 1973 provide for the tax to be included in the amount withdrawn by the state before the prize is paid out. Since this withholding tax is due as definitive taxation, the winner is not required to pay any further taxes.

2.5. Distribution of Profits

As with the lottery the prizes, costs and government revenue are each allocated one third of stakes. Government revenues include the compensatory tax aspects on prize money.

2.6. Barriers

Government monopoly and strict rules against sale of foreign lotteries effectively bar competition in this market. Italian lottery tickets for the different draws are available throughout Italy.

3. LOTOCALCIO/TOTOSPORT/ENALOTTO (CONI)

The most popular type of lottery in Italy is the football pool, known as 'Totocalcio'. This game involves betting on the results of football matches organised or sanctioned by the Italian Olympic Committee (CONI).

Totosport involves betting on the results of cycling competition races in Italy (Giro Ciclistico d'Italia) or abroad sanctioned by the CONI.

The Enalotto is a variation on the results of the traditional lotto in which players bet on the combined results of 12 consecutive draws. The form for participating in Enalotto is similar to the traditional 1-X-2 table used for football pools.

To participate in any of these games, it is necessary to deliver the appropriate ticket duly filled in and pay the relevant stake at the competent collection offices authorised by the CONI.

3.1. Legislation

The CONI has the responsibility for running games in the entire national territory. It also has the rights to any benefits that may accrue from the running of the games.

CONI has one central office in Rome and 14 regional offices spread all over Italy. There are in total 13.500 CONI agencies which are located exclusively in independent retail shops (70% in bars and pubs).

The basis of the legislation regulating sports-related betting in general is contained in Decree n. 496 of April 14, 1948 and Decree n.581 of April 15, 1951. These decrees state that, as a general rule, sports-related gambling is the exclusive domain of the state. If these gambings relate to sports events organised by, or performed under the control of, the CONI, the organisation and running of the gambling activity is assigned to the Committee.

The regulations for each specific game are set in the following ministerial decrees:

- D.M. of May 7, 1955 for Totosport
- D.M. of October 29, 1957 for Enalotto
- D.M. of March 23, 1963 for Totocalcio

The regulations specify the precise procedures for betting, recording the bet and payment of winnings. In the case of Totocalcio and Totosport, the inclusion of foreign events is allowed as long as officially recognised and sanctioned by CONI.

3.2. Authorisation and Licensing

The organisation and management of the three sports-related gambling operations have been delegated to CONI by the Italian government through the Ministry of Finance.

CONI is free to decide on subcontracting certain aspects of the games. The agency managers are independent and have concluded personal contracts with CONI for their services. They currently receive a commission of 7,43% of their agency's turnover.

3.3. Supervision and Control

Government supervision is carried out by the Ministry of Finance, through the relevant tax authorities. The ministry has the right to nominate a representative to the central committee or board in charge of running each specific game. It may also nominate representatives to other committees involved in the running of the game such as the Records Committee.

The Ministry is also entitled to inspect and supervise any aspect of the games as it sees fit.

3.4. Taxation

Article 10 of Decree n. 633 of October 26, 1972 exempts operations concerned with CONI's concessions, including collection of bets, from VAT taxation.

A 'sole tax' of 26,80% on the aggregate amount of the wagers is due by CONI as per Law n. 1379 of December 21, 1951. This tax replaces any other direct or indirect duty due by the organisation in the performance of its duties as a concessionaire.

For the gambling reserved for CONI, the withholding tax on winnings is included in the above-mentioned 'sole tax' (Article 30 of Decree n. 600 of September 29, 1973). As this withholding tax is due as definitive taxation, no other amount is to be paid by the winners.

3.5. Distribution of Profits

In 1989, stakes were distributed as follows:

- winnings :	38%
- costs	18%
- state :	44%

3.6. Barriers

The market for sports-related events is closed to outsiders. CONI has the monopoly on the existing games and any new games that involve sports events falling under its jurisdiction. This provision, which is clearly stated in the law, prevents other entrants from creating new games.

4. HORSE RACING (UNIRE)

The running of betting games based on results of horse racing has been delegated to UNIRE (Unione Nazionale Incremento Razze Equine), a department of the Ministry of Agriculture which administers all matters concerning horses.

The following games are permitted:

- An accumulator totalisator - Totip
- A single race totalisator - Tote
- A single race book - bookmaking

There is both on-track and off-track betting, with very little restriction on what forms such betting may take. The result is that totalisator betting and bookmaking each exist both on- and off-course.

4.1. Legislation

Horse race betting legislation in Italy has existed since the 1920's.

The running of totip betting is a state monopoly assigned to the UNIRE as per the Decree-law 496 of April 14, 1948 and its subsequent regulations. UNIRE has the responsibility for regulating horse race betting in the entire national territory.

UNIRE regulations currently permit off-track betting as follows:

- an off-track totalisator: a single licence is held by one organisation, SPATI srl, which operates as a collecting agent of the on-track totalisators through a small number of outlets. Details of the licence agreement are confidential between SPATI and UNIRE .
- a national horse race pool bet, Totip, operated under licence by a company, SISAL srl. The licence has been renewed 'automatically' since Totip was founded in the 1940's. Current regulations for Totip are set out in Ministerial Decree of July 20, 1979.
- bookmaker shops: the present UNIRE regulations permit only private individuals of suitable financial standing to be bookmakers. There are approximately 400 shops; new licences are awarded at irregular inter-

vals when UNIRE feels the network should be expanded. UNIRE has full authority over adjudications of new licences.

The regulations permit betting only on Italian races, although special UNIRE permissions may allow betting on foreign races from time to time.

4.2. Authorisation and Licensing

The organisation and management of horse race gambling operations have been delegated to UNIRE by the Italian government through the Ministry of Finance.

UNIRE is free to decide to subcontract certain aspects of the games such as licences to collect bets both on- and off-track.

4.3. Supervision and Control

The government supervision is assured by the Ministry of Finance, through the relevant tax authorities. The Ministry has the right to nominate a representative to the central committee or board in charge of running the game.

The Ministry is also entitled to inspect and audit any aspect of the game as it sees fit.

4.4. Taxation

Article 10 of Decree n. 633 of October 26, 1972 exempts operations related to UNIRE's concession, including collection of bets, from VAT taxation.

A 'sole tax' of 26,80% on the aggregate amount of the wagers is due by UNIRE as per Law n. 1379 of December 21, 1951. This tax replaces any other direct or indirect duty due by the organisation in the performance of its duties as a concessionaire.

For the gambling reserved for UNIRE, the withholding tax on winnings is included in the above-mentioned 'sole tax' (Article 30 of Decree n. 600 of September 29, 1973). As this withholding tax is due as definitive taxation, no other amount is to be paid by the winners.

4.5. Barriers

The market for sports-related events is closed to outsiders since UNIRE has the monopoly on the existing game. The institution is allowed to license the collection of bets to other organisations or individuals.

5. CASINOS

There are four casinos in Italy, all authorised by special laws. They are located in San Remo, Saint Vincent, Venice and Campione. In the past they were managed by the municipal authorities but are now increasingly owned by private companies.

Non-authorised gambling is liable to sanctions specified in article 721 of the Italian penal code.

5.1. Legislation

The original legislation for games of chance were spelled out in the Royal Decree Law of April 27, 1924 which is no longer valid. This legislation was not replaced by any other decree law of a general nature. Instead, special laws have been passed to allow for the running of the four existing casinos in Italy.

5.2. Authorisation and Licensing

Casinos are authorised by individual laws. Licensing covers the types of games, number of tables, facilities.

5.3. Supervision and Control

The supervision for casinos is provided by the Ministry of Finance through its appropriate agents. The local authority also institutes controls within the casino to prevent fraud.

5.4. Taxation

Article 10 of Decree n. 633 of October 26, 1972 exempts authorised gambling operations from VAT taxation.

A special concession duty is due by the authorised institutions on an annual basis. This duty is presently fixed by law at ECU 226.200.

A further 'entertainment operation' duty is also due by the authorised gambling institutions. This duty is presently fixed by law at 8% of the gross receipts and 60% on the value of entrance fees to the gambling premises.

The prizes are subject to a 25% withholding tax. Decree n. 600 of September 26, 1973 provides for the tax to be included in the amount withdrawn by the casino before the winnings are paid out. Since this withholding tax is due as definitive taxation, the winner is not required to pay any further taxes.

5.5. Distribution of Profits

After payouts of winnings and taxes, the balance was used for the development of the local municipality to which the licence has been awarded. In order to improve management a move towards private operators has occurred. The private operators now pay an individually negotiated fixed levy to the municipality along with a percentage of revenue.

5.6. Barriers

There are no barriers to entering this market other than the difficult and laborious licensing procedures in obtaining the licence through parliamentary decree.

The Italian government would have to be assured of the tourism value of the casino along with the stability of a candidate. The stability criteria is undefined and therefore subject to arbitrary decision making.

LUXEMBOURG

**STUDY OF THE LEGAL AND MARKET SITUATION IN ALL THE MEMBER STATES
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INTRODUCTION

Luxembourg's penal law forbids all organised gambling and lotteries, with the exception of lotteries organised for charity and public services. 'Morality' and 'public order' are usually cited as the reasons underlying this legislative stance. On the one hand, man's natural tendency towards gambling and gaming must be curtailed to avoid abuses, and, on the other hand, appropriate uses can be made of profits from organising games.

The Penal Code forbids all organised lotteries. Under the law of 15 February 1882, lotteries exclusively set up for charitable purposes, to encourage industry and the arts, or to further public interest are excluded from the general prohibition. This law, as most recently modified by the law of 20 April 1977, remains the legal foundation regarding lotteries.

The Œuvre Nationale de Secours Grande Duchesse Charlotte has the monopoly for all public lotteries.

Luxembourg legislation has always allowed foreign organisations to set up in Luxembourg and operate under the same conditions as local organisations.

The gambling and gaming market in Luxembourg is comprised mainly of the Luxembourg National Lottery and the German lotos. Furthermore, one casino operates in Mondorf and is strictly regulated under Section IV of the Law of 20 April 1977 and the Règlement Grand Ducal of 17 December 1986. The casino is authorised to include gaming machines among its activities.

Finally, betting on sports events is also allowed; currently only one German toto, of marginal importance, operates under the betting on sports events legislation. Legislation regarding betting on sports events is very liberal in Luxembourg. Cross-border betting is allowed, although the heavy 15% tax imposed on this form of betting creates a commercial barrier insofar as foreign operators find the tax prohibitively high. Betting on the German toto is the main form of gaming operating under this legislation.

1. LOTTERIES

There are three types of 'lottery' currently operating in Luxembourg. First, the Luxembourg National Lottery operates under a special 'Arrêté' (July 13, 1945). This Arrêté applies exclusively to the National Lottery. The National Lottery does not operate the game of 'Loto'. Second, there are local lotteries, called 'tombolas', which fall under the Law of 1882 and the Law of April 20, 1977. We have examined tombolas in our section on non-national lotteries. The third type of lottery involved an arrangement only found in Luxembourg. Two German lotteries have been authorised to operate the game of 'Loto' in Luxembourg, subject to heavy taxation. The German lotteries must function under the same legislation as 'tombolas'.

1.1. National Lotteries (Including Authorised German Lotos)

1.1.1. Legislation

There are two types of 'national' Lotteries operating in Luxembourg. The Luxembourg National Lottery has the monopoly of public lotteries in Luxembourg, except in cases where another game is authorised by the relevant authorities. The Luxembourg National Lottery operates a classical lottery game as well as scratch lotteries. It does not however operate the game of Loto.

Since 1983, two German Loto games have been authorised to operate in Luxembourg.

Luxembourg's nineteenth century Code Penal, Articles 302 and 303, forbids all organised lotteries. The law of 15 February 1882 is the first law to allow lotteries, but only those lotteries exclusively set up for charitable purposes, to encourage industry and the arts, or to further public interest. The main idea behind the Law of 1882 was to protect vulnerable citizens from the dangers of gambling and gaming.

The Arrêté Grand Ducal of 25 December 1944 created the 'Œuvre Nationale de Secours Grande Duchesse Charlotte'. The Œuvre was originally created to provide financial assistance to war victims at a time when the public authorities were not sufficiently organised to provide that help.

The following year, an Arrêté Grand Ducal of 13 July 1945 created a national lottery. This Arrêté was modified by the Arrêté Grand Ducal of 9 May 1953 and by the Arrêté Grand Ducal of 29 December 1960. Organisation and authorisation of the national lottery was delegated to the Œuvre Nationale.

The decision to confer the running of the national lottery to the Œuvre Nationale was clearly based on the charitable nature of its purpose.

The decision to set up a National Lottery in the first place was to channel man's instinct to gamble into a controllable and a charitably-oriented framework. Abuses would thus be limited and lottery participation funds would remain in Luxembourg. The legal framework for a National Lottery did not exist prior to this date.

The Law of 20 April 1977, amending the Law of 1882, gives the Œuvre National de Secours Grande Duchesse Charlotte the power of veto regarding authorisation of all lotteries. The Law of 20 April 1977, updated the Law of 1882 with respect to all financial sums mentioned in the law.

The Law of 30 July 1983 creates a special tax for lotteries, following the unofficial establishment of two German lotteries (Sport-Toto GmbH Rheinland-Pfalz and the Saarland Sporttoto GmbH). Rather than tolerating a situation in which Luxembourg citizens buy lottery tickets in neighbouring German towns, Luxembourg decided to allow the two German lotteries to set up distribution points within Luxembourg, but would be taxed for the privilege of doing so (see 1.4 below). Clearly, some players preferred to participate in the German Lotos given the higher level of prizes to be won.

The basic definition of gaming is to be found in the law of 15 June 1903, as subsequently amended, which stipulates that a 'jeu de hasard' (game of chance) is one in which the element of chance prevails over the intellectual or physical skill of players. The fact that a few enlightened players have 'special skills' unavailable to the vast majority does not exclude it from the definition. This law was nonetheless abrogated by the Law of 20 April 1977.

1.1.2. Authorisation and Licensing

The Loterie Nationale is authorised by virtue of its organic law, the Arrêté Grand Ducal of 13 July, as further amended. Regarding other lotteries, the Law of 20 April 1977 stipulates that, as long as the Loterie Nationale exists, the 'Œuvre Nationale de Secours Grande Duchesse Charlotte' must give its approval for all public lotteries for which the value of tickets to be issued exceeds ECU 2.300.

The Ministry of Justice and the 'Œuvre Nationale de Secours Grande Duchesse Charlotte' have authorised two German lotteries (in 1983 and 1984), to operate the game of Loto in Luxembourg subject to levies of 7%

and 8% (increased to 9% as of January 1991) of their gross returns from loto. Authorisation for these organisations has been renewed for a period of five years from 1991. Organised by the same German lotteries, the games of 'Spiel 77' and 'Landeslotterie-Saar' have also been authorised, as has 'Glucksspirale' which operates for sixteen weeks from September to December.

The Law of 1983 does not 'allow' foreign lotteries to enter the Luxembourg market. It simply creates a tax to be applied to foreign lotteries. The Law of 20 April 1977 is the key insofar as it prohibits all lotteries except those authorised by the Ministry of Justice and with the approval of the Œuvre.

Both foreign and local lottery operators must appoint a general agent domiciled in Luxembourg. In the case of foreign operators, he must hold proxy for the foreign operator. They must also accept the competence of the Luxembourg courts regarding any litigation.

No other authorisations have been granted due to the market saturation factor.

1.1.3. Supervision and Control

The Luxembourg National Lottery is supervised mainly by the Ministry of Justice and the local police.

The German lotos, once an authorisation has been granted, are controlled by a centralisation of participation slips at the lotos Luxembourg's agents premises. A Commission de Contrôle et de Surveillance oversees the supervision. The Commission is composed of one representative each from the Ministry of Justice, the Ministry of Finance and the Œuvre National Grande Duchesse Charlotte.

1.1.4. Taxation

The National Lottery is exempt from corporate income tax, in accordance with article 161 of the Law on Income Tax. There is no tax on gross income, nor on winnings.

Foreign games are required to pay a levy for the right to offer their services on Luxembourg territory. As indicated above, a levy of 9% is imposed on the

two German lotos. A levy of 5%, 5% and 10% of gross returns is collected respectively on 'Spiel 77', 'Landeslotterie-Saar' and 'Glucksspirale'.

The organisation of loto is also subject to a special tax of 15% on the amount of the stakes. The tax is levied on the loto operator on receipt of stakes and is payable to the Administration des Contributions Directes before the fifteenth of each month for the stakes of the previous month.

Before the 'threat' of German loto fully materialised, the game was not taxed, since profits from lotteries were directly used for philanthropic purposes. Taxation would only have complicated the procedure without achieving any substantial supplementary objectives. The aim of the tax was therefore to make sure some of the money spent by Luxembourgers on loto outside its borders was recuperated by Luxembourg.

1.1.5. Distribution of Profits

A portion of the 'profit' of the Luxembourg National Lottery, fixed by a Regulation of the Public Administration of 13 January 1961 at 12/72, is allocated to the 'Fonds National de Solidarité'.

Of the remaining 60/72, 30/72 is allocated to the 'Œuvre Nationale de Secours Grande Duchesse Charlotte' and the other 30/72 is distributed among the municipal charities and philanthropic organisations (15/72 for social organisations, 5/72 for the 'Ligue Luxembourgeoise', 5/72 for the 'Œuvre Caritas' and 5/72 for the 'Croix Rouge').

All levies collected on the German lotos are split equally between social (Fond National de Solidarité), cultural (Fond Culturel) and sports (Comité Olympique) objectives.

The 15% tax collected on the German lotos goes into the global pool of tax revenue and is not allocated to any specific purposes.

1.1.6. Tax Revenue

The Loterie Nationale is tax exempt. For 1989, the Ministry of Finance collected over ECU 2 million from the German loto.

While not part of global tax revenue, approximately 30% of amounts collected by the Loterie National (ECU 3,2 million in 1989) go to charities and activities that might otherwise have needed government funding. The same applies to the 9% levy on the German loto.

1.1.7. Barriers

As indicated above, in Luxembourg, *all* lotteries are prohibited except those authorised by the Ministry of Justice with the approval ('avis conforme') of the Œuvre National.

Since the profits of German lotteries operating in Luxembourg go to German charitable organisations, a special tax was created for foreign lotteries operating in Luxembourg, with the effect that a percentage of the money raised in Luxembourg stays in Luxembourg.

This legislation does not discriminate between foreign organisations setting up in Luxembourg and local organisations. Luxembourg is the most open market in the EC.

There are nonetheless sporadic and limited clandestine infiltrations from foreign game operators. These infiltrations are initiated both by operators abroad and Luxembourg operators. Infiltrations usually take the form of mailing campaigns.

Recently the Sud Deutsche Klassenloterie was prosecuted by the Luxembourg courts for its mailing campaign. Only authorised lotteries are allowed.

1.2. Non-National Lotteries (i.e. Local Lotteries or 'Tombolas')

1.2.1. Legislation

The Law of 15 February 1882 still applies. It has been updated by the Law of 20 April 1977 to account for inflation regarding financial limits for authorisation and prize money, but remains the basic legal foundation regarding lotteries. As indicated above, the law of 15 February 1882 allows lotteries, but only those lotteries exclusively set up for charitable purposes, to encourage

industry and the arts, or to further public interest. The law of 20 April 1977 allows games or competitions and free lotteries and tombolas organised exclusively for commercial advertising purposes. Prize bonds are also covered by this legislation.

1.2.2. Authorisation and Licensing

Non-national lotteries must seek prior authorisation from the 'Collège des Bourgmestre et Échevins' (municipal council) if the total value of tickets to be issued is under ECU 5.800. For lotteries of between ECU 2.300 and the ECU 5.800, the approval of the Œuvre National is also necessary. If the total value exceeds ECU 5,800 prior authorisation from the Ministry of Justice, in consultation with the Œuvre National is necessary.

Prize bonds also require prior authorisation from the Government.

Free lotteries and tombolas organised for purely commercial advertising purposes do not need prior authorisation.

1.2.3. Supervision and Control

The Ministry of Justice oversees the application of the law regarding tombolas, the authorisation request being the main form of control. The police commissioner and the public prosecutor oversee the application of the law.

1.2.4. Taxation

The lotteries are not subject to taxation. In certain cases, some minor local taxes are levied.

1.2.5. Distribution of Profits

In the request for authorisation, details of distribution of profit to beneficiaries must be given. The set up differs from lottery to lottery, but the terms of the agreement must of course be abided by.

1.2.6. Tax Revenue

Non-national lotteries are not taxed.

1.2.7. Barriers

The local nature of tombolas means that barriers are not an important factor.

2. CASINOS AND GAMING MACHINES

2.1. Legislation

Section IV of the Law of 20 April 1977 relating to the operation of games of chance and betting on sporting events constitutes the main legal framework for casinos. Up to then, casinos were not allowed. Only if the institution promotes tourism is this law applicable.

While there is only one casino operating in Luxembourg, at Mondorf-les-Bains, the law does not exclude the opening of other casinos. The reason the law was introduced was to use a casino as a vehicle for tourism promotion. The choice of Mondorf as a site has no legal roots in the Law of 1977.

The Règlement Grand Ducal of 17 December 1986, modifying the Règlement Grand Ducal of 12 February 1979, provide a strict set of rules to implement the law of 20 April 1977. The Règlements include a definitive list of games which may be played in casinos.

Regarding gaming machines, in accordance with article 3 of the Law of 20 April 1977, all machines distributing coins and tokens, and, in general, all gaming machines based on skill and/or chance are prohibited on the public way, in public places and, in particular, in cafés. Gaming machines may only be operated in casinos.

Gaming machines offering the chance to play again as the sole prize are not subject to any prior authorisation or taxes.

Casinos in Luxembourg are free to advertise.

2.2. Authorisation and Licensing

By exception to the legal prohibition on the operation of games of chance, the Conseil d'État may grant the casino, or similar companies or associations established for tourism purposes, the authorisation to open publicly accessible locations where such games of chance may take place.

The individual authorisation is granted by the Minister of Finance, taking into account the 'cahier des charges' (the closest thing to a practical company statute) and the opinion of the Conseil d'État.

The authorisation may be revoked by the Conseil d'État if the conditions of the law, the cahier des charges or the authorisation are not respected.

Persons employed to work in the gaming rooms must have the agreement of the Minister of Justice prior to starting their activities. Outside their hours on duty, employees are not allowed to enter the gaming rooms. Authorisation is never granted to persons condemned for crimes or offences detailed in Article 11 of the law of 20 April 1977. Authorisation is always personal and non-transferable.

All types of gaming machines operated in the casino must be approved by the Ministry of Finance.

Regarding management of casinos, the board of directors must be composed of three members including a responsible director. The director and the other members of the board are bound by their job description, which is authorised by the Ministry of Justice. During opening hours, the director must be present at the casino or nearby in the municipality.

Other aspects regulated by the Règlement Grand Ducal of 12 February 1979 include the conditions for admission to gaming rooms, casino opening hours, bill-posting, and bookkeeping.

2.3. Supervision and Control

The Minister of Justice, the Administration des Contributions et des Accises and the Ministry of Finance appoint agents to supervise the casino and its staff. They have free access to gaming rooms. The task of supervision is usually carried out by a representative from a special service of the Gendarmerie responsible for casinos and a representative from the fiscal authorities. The specific rules on supervision are to be found in articles 81 to 85 of the Règlement Grand Ducal of 12 February 1979.

2.4. Taxation

The Administration des Contributions et des Accises levies a tax on the gross turnover.

The tax basis is calculated on the gross income, less an abatement of 25% representing mainly operating and staff charges and a supplementary abatement, which cannot exceed 10%, for recreational activities (shows) organised in the casino.

The tax rates on gross income excluding entrance fees are the following:

	ECU per annum
15%	< 41.000
25%	from 41.000 to 83.000
35%	from 83.000 to 249.000
45%	from 249.000 to 498.000
55%	from 498.000 to 830.000
60%	from 830.000 to 2.490.000
70%	from 2.490.000 to 4.149.000
80%	from 4.149.000 to 5.809.000.000

The tax is due by the casino on receipt of the stakes and is payable on the first and fifteenth of each month, on declaration of the casino manager.

As the tax on the returns is relatively steep, casinos are exempt from income tax, local tax, wealth tax and is not subject to VAT.

The municipality of the establishment of the casino has a right to 20% of the tax levied by the Administration des Contributions. The municipality also levies a tax on the ticket of admittance into the casino.

2.5. Distribution of Profits

Once taxes are paid, the casino is free to dispose of profits as it sees fit.

2.6. Tax Revenue

For 1989, the Ministry of Finance collected over ECU 2 million from the casino in Mondorf-les-Bains. This figure includes the levy of casino entrance fees for the municipality in which the casino is located (Mondorf-les-Bains).

2.7. Barriers

There are no legal barriers to setting up casinos in Luxembourg. There is, however, a barrier of a commercial nature, given the restricted size of the market, and the proximity of casinos in neighbouring Germany, France, Bel-

gium and the Netherlands. Another potential barrier is the political decision to grant an authorisation or not.

3. SPORTING EVENT BETTING

In Luxembourg, the only game based on gambling on sports events is the German 'Toto', which organises bets on the results of football matches. No betting on horse racing is organised in Luxembourg.

3.1. Legislation

Gambling on sports events is subject to art. 4 of the Law of 20 April 1977 and in more detail to the Règlement Grand Ducal of 7 September 1987. The latter was motivated by the decision to legalise betting on horse racing, and would allow foreign operators to set up betting offices in Luxembourg at which bets could be taken on racing outside the country. A 15% tax would be levied on these bets (see fiscal regime below).

The Law of 1977 allows only betting via the totalisator system. Bookmaking is not allowed.

Although no betting on horse racing currently operates in Luxembourg, potential candidates are free to apply for authorisation. The law does not prevent an eligible party to build a race course on Luxembourg territory.

3.2. Authorisation and Licensing

The organisation of gambling on sports events is subject to the prior authorisation of the Minister of Justice.

The request to the Minister of Justice must include the following information:

- name, profession and residence of the game operator;
- a certificate of police record;
- detailed regulations for the gambling activities for which the authorisation is requested.

The activity of manager, agent, employee or partner regarding exploitation of gambling on sports is also subject to prior authorisation of the Minister of Justice. A copy of the future staff's police record must be included in the authorisation.

The Minister of Justice, upon consultation of the Minister of Finance, may render authorisation conditional upon the provision of personal or real guarantees of up to ECU 115.300. The authorisations are personal and revocable.

The collection of bets and the validation of 'tickets' may take place only in authorised betting shops. The Ministry of Justice is the authorisation body for these shops.

A foreign operator would be obliged to use the services of an agent resident in Luxembourg.

3.3. Supervision and Control

All operations relating to the exploitation of gambles on sports events are subject to control of the Minister of Justice and the Minister of Finance. The main form of control is the supervision of a series of requirements listed in Article 11(1) of the Règlement Grand Ducal of 7 September 1987. The main control is operated through collection and centralisation of all betting slips on the agent's premises.

The Administration des Contributions has been mandated to carry out control of taxes.

3.4. Taxation

Upon establishment of a new betting office, a once-off initial tax will be fixed by the Minister of Justice in his authorisation, taking into consideration the estimated future turnover of the game operator. The amount of the initial tax will not exceed ECU 580.

The tax on betting on sports events is fixed at 15% of gross stakes. The 15% tax is due on events within and outside the territory of Luxembourg, and on bets taken by Luxembourg and foreign companies within Luxembourg. It is due by the game operator on receipt of the amounts and payable each month for the operations realised during the previous month.

3.5. Distribution of Profits

Precise information on the future distribution of the profits made by the operators must be included in the request for authorisation.

3.6. Tax Revenue

For 1989, the Ministry of Finance collected approximately ECU 46.000 from the toto.

3.7. Barriers

Under the law, foreign operators are prohibited from setting up betting offices in Luxembourg, except in case where they have been granted prior authorisation. The 15% tax rate is significantly higher than in the neighbouring countries, to the extent that foreign operators were no longer interested in setting up in Luxembourg under these conditions. Luxembourgers are allowed to make bets by telephone on foreign sporting events and, of course, to cross the frontier to foreign betting offices.

Betting on Luxembourg events from abroad must be controlled by centralisation of betting slips in Luxembourg. If betting slips cannot be checked, then betting becomes illegal.

THE NETHERLANDS

**STUDY OF THE LEGAL AND MARKET SITUATION IN ALL THE MEMBER STATES
CONCERNING BETTING, GAMING, LOTTERY AND SIMILAR ACTIVITIES
IN VIEW OF THE COMPLETION OF THE INTERNAL MARKET**

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THE NETHERLANDS

1. INTRODUCTION

The philosophy of the Dutch gambling and gaming legislation is to control the human desire to gamble, to fight illegal gambling and gaming and—in some cases—to channel revenue to improve public welfare. The present legal regime is the result of a policy which aims at curbing illegal games by allowing certain games to be played in order to meet the natural demand for gambling.

The main legal source regulating gambling and gaming in the Netherlands is the 'Wet van 10.12.1964 op de kansspelen' (Law on Gambling and Gaming of 1964) which replaced the Law of 1905. It states the basic principle that it is illegal to organise a game of chance for winnings as well as to participate in such an activity unless the game is licenced. A game of chance is defined as a game where the winner is determined by chance and has no influence on the process through which he is picked. Specific rules cover the games for which a licence can be obtained. The Law contains an exemption from the main principle in the case of the State Lottery. It is not illegal to take part in this game.

Based on the Law on Gambling and Gaming the Ministries of Justice, Economic Affairs and the Ministry of Welfare, Health and Cultural Affairs can grant a licence to an organisation under certain conditions. For the organisation of 'sports predictions' (Toto), of a totalisator and the operating of casinos in Holland, the Law stipulates that only one licence can be granted for each of these activities. A licence to organise the Lotto can only be given to the organisation entrusted with the Toto.

At the moment licences have been granted for the following principal games:

- Football pool (Toto) or other sports predictions;
- Totalisator (betting on horse races);
- Lotto and other lotteries;
- Casinos;
- Gambling machines.

The Law on Gaming and Gambling of 1964 is not applicable if the game of chance is organised within a small private party (selected group) and if the event is non profitable.

Certain life insurance policies and special loan regimes can be defined as games of chance. However, the Law on Gambling and Gaming contains an exemption and is not applicable in these cases.

The fiscal aspects of gambling and gaming activities in the Netherlands are dealt with in the 'Wet van 14.12.1961 op de kansspelbelasting' (Law on Gambling Tax). The following persons and winnings are subject to Dutch gambling tax:

- i) residents and non-residents of the Netherlands on their winnings from Dutch games of chance and sport results betting, excluding casino winnings;
- ii) residents of the Netherlands on their foreign winnings;
- iii) operators of Dutch casinos on the gross gaming profit.

The gambling tax on winnings of Dutch games is deducted at source by the operator and the player receives the net prize.

Although the Dutch legislation is clear on the definition of illegal gambling and gaming, this has not prevented the spread of illegal games. The major illegal activities are the 'Golden Ten Casinos' and the illegal lotto.

In general, three reasons can be given explaining why the present situation has developed:

- the liberal attitude of the government;
- the difficulties encountered by the law enforcement agencies, and
- in the case of illegal competition from abroad: the view that such activities are justified under EC Law.

The government believes that prosecuting the operators of illegal casinos is only one part of its policy to curb illegal gambling. The main part is to offer the Dutch player a variety of interesting games that will take away the demand for illegal games. In the past, the prosecution of illegal casino operators has involved time consuming and costly investigations. The authorities in charge, therefore, have thought twice before initiating these procedures. And last, some academics in Holland share the view that competition from abroad cannot be prevented since this would run contrary to the provisions of the EEC Treaty on the freedom to provide services.

We will deal with the question of illegal gambling in more detail in the following chapters discussing the different games.

2. LOTTERIES

The Dutch Law on Gambling and Gaming differentiates between the State Lottery and other lotteries. The state lottery is dealt within the law in a section of its own. Special rules apply to this game.

The provisions on lotteries, on the other hand, apply to the Dutch Lotto, to other national lotteries (such as the Giro- and Bank Lotteries) and to local lotteries.

Lotteries with total stakes not exceeding ECU 2.150 (ECU 4.300 in cities with more than 50.000 inhabitants) qualify as local lotteries. In this case the licence is granted by the local authorities. 60% of the turnover must be used for charitable or philanthropic purposes. As with other lotteries the rules on gambling tax apply.

The Lotto will be dealt with in the next chapter and the Giro- and Bank Lotteries are described in chapter 4.

2.1. Legislation

The fundamental principle of Dutch legislation is the prohibition of games of chance. However, an exemption is made for the 'Staatsloterij' (State Lottery) as a governmental organisation which is dealt with in Articles 8 to 14 of the Law on Gambling and Gaming.

The State Lottery has been founded some 250 years ago and has been the only legal game of chance in Holland until 1905 when lotteries were introduced.

The Dutch State Lottery organises 12 lotteries a year, one every month. Each lottery consists of 3 draws ('classes' —hence the name class lottery) which all take place in one week. Tickets whose number has been drawn drop out and the remaining go on to the second draw and then the third draw.

The main prize is limited by law to ECU 214.000. (This prize cap will be removed by new legislation which is expected to be passed in parliament in 1991). The price for a whole ticket for one lottery is ECU 10,7. It is also possible to buy a share of a ticket, in the case of the Dutch lottery it is 1/5 of a whole ticket for ECU 2,1. This share entitles the holder to 1/5 of the winnings that fall to that ticket.

2.2. Supervision and Control

The State Lottery is set up by the Law on Gambling and Gaming and operates under the supervision of the Ministry of Finance. The Ministry appoints a director who is in charge of the Lottery's management. Financial control of the National Lottery is exercised through the Dutch 'Algemene Rekenkamer' (General Audit Office) which audits the annual financial statements presented to the Ministry of Finance.

The sale of lottery tickets is mainly done through retail outlets appointed by the Ministry. After a decision taken in November 1990 by the Minister of Finance, post offices will also sell state lottery tickets. The Law on Gambling and Gaming provides for a second marketing channel: the independent vendors ('collecteurs') employed by the State Lottery. This entails calling at houses to collect bets. Retailers are paid on a commission only basis. Their number has considerably diminished over the past years.

2.3. Taxation

2.3.1. Direct Tax

A gambling tax of 25% is levied on all winnings on the State Lottery which exceed the amount of ECU 428. The tax is deducted at source by the State Lottery and the winnings are paid net to the players. The gambling tax is withheld by the game operator.

For lottery winnings and sports betting the so-called 'add-up rule' applies: all winnings which are paid on the same occasion are considered as one grand total. This means that a winning of more than ECU 428 on a lottery ticket which is divided into five will be fully taxed even though each part of the ticket receives less than ECU 428.

2.3.2. VAT

No VAT is levied on the price of tickets for the State Lottery.

2.4. Distribution of Profits

The State Lottery is required by law to pay back in prizes at least two thirds of the stakes it receives. In 1990, as was the case in 1988 and 1989, 70% of the stakes will be paid to the participants which amounts to approximately ECU

12,8 million. This would mean that the sales of lottery tickets amount to ECU 18,4 million. After deduction of the gambling tax (ECU 4,3 million) a gaming profit of ECU 1,2 million remains.

Once the costs are deducted the gaming profit of the State Lottery is transferred to the general budget by the Ministry of Finance without being earmarked for a particular purpose.

2.5. Tax Revenue

In addition to the net operating profit the Ministry of Finance also receives the revenues of gambling tax from the State Lottery (approximately ECU 4,3 million for 1989).

2.6. Barriers

Since the State Lottery was set up by exception to the law prohibiting gambling it would be against the law to establish a competitive class lottery in the Netherlands.

The State Lottery has repeatedly complained about the two German class lotteries who sell tickets through their agents in the Netherlands. The State Lottery hopes that the forthcoming changes in legislation will help to make the State Lottery more attractive for Dutch players reducing the need for them to participate in lotteries abroad.

3. LOTTO AND TOTO

3.1. Legislation

The Law on Gambling and Gaming deals with 'sportprijsvragen' (Toto) in Articles 15 to 22 and with the Lotto in Articles 27a to 27f. The Ministries of Justice, of Economic Affairs and of Welfare, Health and Cultural Affairs are jointly in charge of executing the Law.

While Toto has been played in Holland since 1961 the Lotto was not introduced before 1974. The introduction was a response to the growing attractiveness of the German Lotto for players in the Netherlands.

The Lotto, Toto and the 'Cijferspel' are all organised by one institution, the 'Stichting de Nationale Sporttotalisator —SNS' (Foundation of the National Sporttotalisator) which is closely linked to the government.

The games concerned are:

- Lotto and Mid-Lotto (Lotto played 52 weeks per year, Mid-Lotto played 8 times a year)
- Cijferspel (60 draws per year)
- Toto (bet on the results of 12 soccer games)
- Dubbel Toto (10 times a year twice a week)
- Toto-Gelijk (drawings of soccer games; will be discontinued after the introduction of an on-line system)

Lotto accounts for 81% of the turnover of the SNS, the Cijferspel for 14% and Toto for 5%. In 1989 the turnover amounted to ECU 69,0 million.

3.2. Authorisation and Licensing

After the SNS had been operating the Toto since 1961, a licence to operate Lotto in the Netherlands has been granted to the 'Stichting de Nationale Sporttotalisator—SNS' (Foundation of the National Sporttotalisator) by the Ministry of Justice in 1975. According to the Law on Gambling and Gaming a licence for Lotto can only be granted to the body operating the Toto. This first licence was granted for a period of 7 years and has since been renewed annually.

3.3. Supervision and Control

The management of the SNS is under the supervision of the Ministry of Welfare, Health and Cultural Affairs. The Minister appoints the chairman and vice chairman of the SNS who are nominated by the 'Nederlandse Sport Federatie' and the 'Stichting Centraal Overleg Fondsenwervingsacties'.

3.4. Taxation

3.4.1. Direct Tax

As per the State Lottery, on winnings from Lotto/Toto a gambling tax of 25% is levied and deducted at source by the SNS. The exemption from the gambling tax and the 'add-up' rule (as explained under 'State Lottery') also applies to winnings received in the Lotto/Toto.

3.4.2. VAT

No VAT is levied on the sale of tickets.

3.5. Distribution of Profits

In 1989 the S.N.S. achieved a turnover of ECU 69,0 million from all games (Lotto, Toto and Cijferspel). 49% were paid in prizes to players (includes gambling tax which is retained), costs amounted to 11,5% and 39,5% of the turnover was distributed according to legislation.

As stipulated by the Law on Gambling and Gaming the revenues of the Lotto/ Toto are distributed among two big groups beneficiaries:

- i) The sector sport and physical training (sector sport en lichamelijke vorming —SLV)
- ii) The sectors culture, social welfare and public health (sectoren cultuur, maatschappelijk welzijn en volksgezondheid —CMV).

In 1989 the distribution of revenues derived from the games organised by the SNS was as follows:

1. Spendings on sport and physical training		(.000 ECU)
A	Promotional Activities	415
B	Sporting Organisations	10.969
C	Management	1.131
D	Facilities and accommodation	1.566
Total		14.081
2. Spendings on culture, social welfare and public health		
A	Culture (Prince Bernhard Fund)	2.310
B	Social Welfare (Queen Juliana Fund)	2.403
C	Public Health	2.360
D	Others (Refugee Aid and Development Aid)	277
Total		7.350
Total Spending 1989 (1 + 2)		21.431

The two funds mentioned above are the so-called 'Large Royal Funds' which have been set up in the Netherlands to finance the arts and social welfare projects. They receive part of their funding from the revenues of gambling and gaming.

3.6. Tax Revenue

Based on a total amount of winnings for 1989 of ECU 32,1 million the gambling tax deducted and paid to the Ministry of Finance by the SNS amounted to ECU 8,0 million.

3.7. Market Information

The 'Stichting de Nationale Sporttotalisator' is the only organisation in the Netherlands which has been granted a licence to operate the Lotto and Toto.

The sale of tickets and the distribution of the winnings is handled by 4000 sports clubs who sell tickets either directly to players or to shopkeepers. The SNS deals with the sports clubs through 20 regional sections of the

'Koninklijke Nederlandse Voetbal Bond—KNVB' (Royal Dutch Soccer Association) and through 40 regional agents.

Currently, a reorganisation of this distribution system is under way with a view to abolish the distribution monopoly of the sports clubs by establishing a network of 2000 independent agents (in the first stage). This restructuring will take place parallel to the introduction of an on-line system for the processing of the tickets and is expected to take place in the second half of 1991.

Although the SNS in theory enjoys a monopoly as sole operator of the Lotto and Toto in the Netherlands it faces competition mainly from illegal game operators. Over the past years the market share of illegal operations has increased and is estimated to be close to that of the official Lotto.

In its efforts to curb the illegal lottos the Dutch government and the local authorities face the problems outlined already in the summary of this report. While some of the investigations into illegal operations have been successful and led to the prosecution of the operators, the illegal lotto is too widespread to be effectively curbed with the use of existing resources.

The illegal lottos are very popular among the Dutch players. Due to their low operating costs illegal operators can offer a winning plan with higher chances to win compared to the official Lotto. Many players are not even aware of the illegal nature of the game in which they participate. This fact further discourages local authorities (Chief of Police, public prosecutor, mayor) to strictly enforce the law. In some municipalities, the police have to concentrate their efforts on more serious forms of crime and therefore lack the resources to investigate into illegal lottos.

The Dutch government's answer to the problems mentioned above lies partly in the forthcoming change of the legal situation. The introduction of the instant lottery and the establishment of the on-line system is thought to increase the attractiveness of the legal games and thus reduce the demand for illegal lottos.

3.8. Barriers

As the only organisation licenced to organise the Lotto and Toto in the Netherlands the SNS holds a monopoly on these games. The Law on Gambling and Gaming explicitly rules out the possibility of granting a licence for

the same type of games to a second operator. Foreign operators, therefore, are excluded from legally operating on the Dutch market.

The Dutch Law on Gambling and Gaming states that it is illegal to offer the opportunity to the public to participate in a game of chance for winnings without having obtained a licence from the government. This rule applies to Dutch and foreign operators, who want to establish a physical presence in the Netherlands.

In addition, a foreign operator is banned from developing activities on Dutch territory with the aim of promoting a foreign game of chance which is organised outside the Netherlands and whose business it set up outside Dutch territory.

However, Dutch residents may enter into any foreign game that is organised and promoted in a foreign country.

4. GIRO- and BANK LOTTERY

4.1. Legislation

In the Netherlands, the Ministry of Justice issues about 200 licences to conduct lotteries each year. Most of these lotteries are local and take place only once. Some are organised on a permanent basis like the two national lotteries, the Giro Lottery and the Bank Lottery.

The 'Giro Loterij' and the 'Bank Loterij' are two lotteries organised by the 'Algemene Loterij Nederland' (General Dutch Lottery) under almost identical rules. They are organised to generate funds for various purposes and are not affiliated with the banks.

To participate players must hold either a regular bank account (Bank Lottery) or a postal giro account (Giro Lottery). Their account number is their 'ticket' number. Each lottery organises 6 draws a year every second months, so that each month of the year there is a draw in either lottery. The main prizes are ECU 42.800, 32.100, 21.400 and 10.700. The price of a ticket is ECU 4,3 for one draw and is paid by standing order to the Lottery. Similarly, prizes are directly transferred to the accounts of the winners. There is neither a limit to the size of the prizes nor to the amount of the stakes.

The main requirement for obtaining a licence for a national lottery is that 60% of the turnover is used for charitable purposes.

4.2. Authorisation and Licensing

The Minister of Justice has granted a licence in 1971 to the 'Algemene Loterij Nederland' (ALN) to run the Giro and Bank Lotteries. The ALN has delegated the organisation of these lotteries to the SUFA, the 'Stichting Uitvoeringsorgaan Financiële Akties'.

4.3. Supervision and Control

The Ministry of Justice exercises control over the ALN.

4.4. Taxation

Winnings exceeding ECU 430 are subject to gambling tax of 25%. It is deducted at source by the SUFA and paid to the Ministry of Finance.

4.5. Distribution of Profits

The SUFA pays 60% of the turnover to the ALN who is in charge of distributing it among its beneficiaries. These are two royal funds (Prince Bernhard Fund and Queen Juliana Fund) as well as several foundations set up for charitable purposes.

4.6. Tax Revenue

No information is available on the proceeds from gambling tax due to the lack of turnover figures.

4.7. Barriers

Under Dutch legislation, anyone fulfilling the requirements set out in the Law on Gambling and Gaming can apply for a licence to organise a lottery in the Netherlands.

The ALN does not enjoy a legal monopoly to run the Bank Lottery and the Giro Lottery. Theoretically, there could be any number of bank lotteries licenced in Holland. In practical terms, however, the market would hardly support competing lotteries both using bank account numbers.

Another national lottery using a similar system is the Zip Code Lottery where prizes are distributed among players who have entered the lottery with the winning zip code.

5. CASINOS

5.1. Legislation

In 1974 a new Title (Titel IVb, Casinospelen) was incorporated into the Law on Gambling and Gaming regulating casinos in the Netherlands. This Title (Articles 27g to 27z), which forms the framework for the casino regulations, states that there is one organisation to be appointed to operate casinos in the Netherlands. The licensing requirements are contained in the 'Casino Order' which also sets forth rules for each game played in the casinos.

This monopolistic structure was chosen to enable the government to have a firm grip on gambling in casinos and to curb the operations of illegal casinos. Despite this regulatory attempt illegal gambling still exists on a large scale and competes with the legally established casinos.

In 1986 the operation of slot machines became legal and these machines were introduced in Dutch casinos.

5.2. Authorisation and Licensing/Supervision and Control

The 'Nationale Stichting tot Exploitatie van Casinospelen in Nederland' was set up by the state to operate casinos in the Netherlands.

The Ministries of Justice and Economic Affairs are in charge of the overall supervision of the casinos. They also have to approve the management and are assisted by the permanent Council for casinos. The Council was set up to advise and assist the Ministers of Justice and Economic Affairs on all matters regarding casinos. It has to prepare each year a report on the Dutch casinos (Articles 27h and 27i of the Law on Gambling and Gaming).

After consultation with the Council, the Ministers decide on the specific rules under which the casinos will have to operate (Casino Order).

Regarding the location of casinos the mayor and city council of a new location have to give their approval.

The Dutch General Audit Office (Algemene Rekenkamer) is responsible for supervising the financial affairs of the casinos by checking the annual audit and undertaking any further investigations if required by the Council.

The Dutch Measurement Institute has to approve and regularly check the gambling machines in the casinos.

5.3. Taxation

5.3.1. Direct Tax

A tax of 33 1/3% is levied on the gross winnings of casinos. The operator of a casino is required to keep a record of the information which is necessary for the levying of the gambling tax.

Gambling tax on casino games is levied on the casino itself and not on the players. It is based on the gross winnings.

5.3.2. VAT

Slot-machine winnings are exempted from gambling tax. However, VAT is levied on the service of providing the opportunity to play on a slot-machine, i.e. is levied on casino entrance fees. It is levied at a rate of 18.5%.

5.4. Distribution of Profits

The net profit of the casinos is paid to the Ministry of Finance and accrues to the general budget (Art.27p,3.).

5.5. Tax Revenue

The gambling tax received by the Ministry of Finance from casinos amounted to ECU 22,6 million in 1988 and ECU 24,8 million in 1989.

In 1988 casinos generated ECU 5,1 million in tax revenue and in 1989 ECU 7,5 million in VAT on slot-machines.

5.6. Market Information

The 'Nationale Stichting tot Exploitatie van Casinospelen in Nederland' is the only organisation in the Netherlands which has been granted a licence to operate casinos in the country. This organisation operates 8 casinos in the Netherlands (3 new casinos are planned) under the name 'Holland Casinos'.

Holland Casinos is bound by Article 16 of the Casino Regulations "...to see to it that any publicity activities are designed carefully and objectively guarding especially against any incitement of unlawful participation in gaming." In practice, Holland Casinos use all common means of advertising with the exception of TV spots.

Although Holland Casinos' in theory enjoys a monopoly as sole operator of legal casinos in the Netherlands it faces competition from illegal game operators.

The illegal casinos have always presented themselves to the public as 'legal establishments', claiming to organise not a game of chance but a game of skill. In the past, law enforcement agencies and the public prosecutor had to invest many hours into proving the opposite. This procedure was very costly and resulted in the prosecution of few illegal operators.

The situation has now changed when several judges accepted the opinion of one academic who claims that because of the very nature of the game "Golden Ten" can only be qualified as game of chance. This view has now become accepted several cases. However, the chief judge of the Supreme Court has still to issue a formal opinion on this matter. In the case of a favourable opinion a more effective enforcement of the present law will become possible.

5.7. Barriers

The Law on Gambling and Gaming effectively establishes a state monopoly on legally operated casinos in the Netherlands. It is clearly in the Law on Gambling and Gaming that only one organisation should be able to operate casinos under the close control of the government. This is also reflected in the fact that by law all casino profits fall to the treasury.

Holland Casinos is the only organisation which is permitted to legally operate casinos in the Netherlands. Any new casino will come under the management of Holland Casinos.

6. HORSE RACING (TOTALISATOR)

6.1. Legislation

According to the Dutch Law on Gambling and Gaming (Articles 23 to 27), a licence can be granted to a legal entity for the organisation of a totalisator for the betting on horses. The 'Stichting Totalisator Draf- en Rensport' has been granted a licence by Royal Decree.

No bookmaking is allowed in the Netherlands. This reflects the Dutch government's concerns on the ability to police and control illegal bookmaking. Given the situation regarding casinos their concerns do have some validity. It once again shows the need for a strong relationship between licensing and control procedures.

6.2. Authorisation and Licensing

The requirements for obtaining and maintaining a licence for a totalisator are stated in Art. 25 of the Law on Gambling and Gaming. They relate to

- the number of races to take place,
- the maximum stake per person and bet,
- the retention and distribution,
- the supervision by the government, and
- the prevention of illegal betting on horses.

Additional requirements are contained in the Ministerial Decree of 1986 in which the Ministers of Agriculture and Justice granted a licence to the 'Stichting Totalisator Draf- en Rensport'. These requirements mainly concern race tracks.

In 1986 the 'Stichting Totalisator Draf- en Rensport' concluded an agreement with Ladbroke on the organisation of gambling on horse races. Ladbroke was allowed to run the tote on behalf of the Stichting.

6.3. Supervision and Control

Gambling on horse races falls under the supervision of the Ministry of Agriculture and the Ministry of Justice. By order of the Minister of Agriculture the

'Stichting Totalisator Nederland' supervises the activities of the 'Stichting Totalisator Draf- en Rensport'.

6.4. Taxation

A gambling tax of 25% is levied on winnings and deducted at source by the Totalisator. The exemption for winnings below ECU 428 applies also to bets on horse races (see 2.3.1. State Lottery for details).

6.5. Distribution of Profits

Part of the revenues from the Totalisator have to be remitted to the Ministers of Agriculture and Justice. The Ministers will then determine how this part of the revenues is used.

From the remaining revenues part is used to cover the costs of organising the races and part accrues to the 'Centrale Fonds'.

6.6. Tax Revenue

No information has been obtained on the amount of tax received from horse betting. Based on a 1989 turnover of approximately 70 million ECUS and an average tax level of 15 % on returns for winnings, we can estimate tax levels for 1989 as being 7.35 million ECUS.

6.7. Barriers

Ladbroke have an exclusive contract to manage the horse race betting in the Netherlands. This prevents competitive market entry. Since by law only one organisation can operate a totalisator new applicants can only be considered after the termination of the present contract with Ladbroke.

7. GAMING MACHINES

7.1. Legislation

As of 1 December 1986 permits have been available to establish and operate gaming machines at commercial premises. Prior to that date, gaming machines which paid back winnings in cash were illegal.

7.2. Authorisation and Licensing

The permit to set up a gambling machine has to be obtained from the mayor and the city council of the town where the machine is to be set up.

General requirements governing the award and retention of permits to set up gaming machines are stated in Art. 30c of the Law on Gambling and Gaming.

Permits are granted on behalf of the Minister of Economic Affairs. The main requirements apply to the machines themselves (e.g. 60% of the stakes have to be paid back to the players). Additional requirements concern the maintenance and repair facilities an owner of gaming machines must have. Before a permit is issued the applicant has to provide information regarding his business. A permit can be withdrawn if the information provided is incorrect or if the operation of machines has not been started within one year of the issue of the licence.

7.3. Supervision and Control

The supervision and use of operator permits is carried out by civil servants of the Ministry of Economic Affairs and the Ministry of Finance.

The Minister of Economic Affairs has delegated the testing of gaming machines to the Weights and Measures Office.

7.4. Taxation

7.4.1. Direct Tax

The winnings from gaming machines are exempted from gambling tax. However, VAT is levied on the providing of an opportunity to play a gaming machine. Accordingly entrance fees to premises where gaming machines are located carry a VAT rate of 18.5%.

7.5. Distribution of Profits

The profit received by the operator of a gaming machine is not subject to any rule regarding its distribution but is considered as a regular commercial profit.

7.6. Tax Revenue

The revenues received by the State consists of VAT and legal charges for the permits. They accrue to the general budget.

7.7. Barriers

There does not seem to be any barrier to operating a gaming machine as long as the requirements for obtaining a licence are fulfilled.

PORTUGAL

**STUDY OF THE LEGAL AND MARKET SITUATION IN ALL THE MEMBER STATES
CONCERNING BETTING, GAMING, LOTTERY AND SIMILAR ACTIVITIES
IN VIEW OF THE COMPLETION OF THE INTERNAL MARKET**

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1. INTRODUCTION

Gambling and gaming activities in Portugal have been a government monopoly since the eighteenth century when the ruling monarchy first delegated lottery rights to a long-standing charitable institution, the Santa Casa da Misericórdia in Lisbon.

The Santa Casa has evolved as the government's major agency for the implementation of its gambling regulations. It currently runs the National Lottery, a football pool (Totobola) and a lotto pool (Totoloto). The institution has set up two internal departments to run the lottery and the pools. These departments are independent from the other activities of the Santa Casa and run the gambling concessions as a private concern, under the scrutiny of the official government gambling institutions.

The oldest form of gambling control is the National Lottery rules that have existed since 1886. Present regulations emanate from Decree-law 40 397 of November 24, 1955. Totobola was initially created in 1961 and present regulations were defined in Decree-law 84/85 of March 28, 1985. This same decree-law sets out the rules for Totoloto, which had been introduced in 1982 and taken market share from Totobola.

All three games have declined recently as a result of the introduction of a uniform 25% tax on winnings which seems to have discouraged players. The Santa Casa is hopeful the market will go up again as soon as the effects of the new tax have been absorbed. The Santa Casa also hopes to merge the two existing departments (National Lottery and Pools) into one by the end of 1990 in an effort to reduce duplication of activities and to cut costs.

The government's principal watchdog is the 'Inspeção Geral de Finanças' (Finance General Inspectorate), the financial control and technical support arm of the Finance Ministry. This Inspectorate conducts random audits of the Santa Casa's activities to ensure that the appropriate regulations are being complied with.

Another body, the Gambling General Inspectorate, inspects the activities of casinos and bingo operators, with teams usually permanently assigned to casino premises to verify compliance with the law.

Casinos and bingo rooms complete Portugal's gambling market. In line with government monopoly rules, concessions are given for the running of these games. Casino regulations date back to 1926 while bingo regulations is as recent as 1982. The government's original intentions in regulating these

games was to limit the scope for exploitation of the public and curtail illegal activities that were taking place. The initial legislation was, therefore, of a prohibitive nature. More recently, the government has come to recognise the importance of gambling activities as a promotional instrument for tourism. It has sought to clarify legislation to encourage it.

Casinos are now allowed in areas of strong tourism activity and have to support government sponsored tourism initiatives in their areas. Bingo rooms have become increasingly popular and, given the recent implementation of the game, the government has announced plans to put new concessions to tender very soon.

Foreign investment is only possible in casinos and bingo rooms. Ownership rules presently limit outside participation to 40% of a company's capital.

The relative small size of the Portuguese market results in a small pool for players. A Single Market would allow Portuguese players access to larger pools in other European markets such as Spain and France.

In Portugal, the running of betting games such as football and lotto pools is a government monopoly. This is the responsibility of Santa Casa da Misericórdia de Lisboa.

The Santa Casa is a five century-old charitable institution in Lisbon. The Government has granted exclusive rights to Santa Casa for the organisation and administration in the national territory of all 'apostas mútuas desportivas', a general denomination for any kind of game involving guesses on results of either sport events or sets of numbers drawn at random for cash or other prizes.

The Santa Casa is an organ of public utility subject to very strict regulations emanating from the Ministry of Labour and Social Security. It has financial and administrative autonomy to conduct its public assistance objectives as well as the gaming concessions.

The government's position is that only an organisation of this kind satisfies the requirement of absolute integrity in the performance of tasks such as collection of bets, handling of scrutinies and payment of prizes. Even in our modern economies the governmental position is that the Santa Casa has to run the games to ensure its proper control. A recent extension to that rationale has led to the channelling of profits from gambling through the Santa Casa to purposes of social merit. These include the promotion of sports and the provision of general social services.

1.1. The Games

The Santa Casa's concessions presently include the Totobola (football pool), Totoloto (lotto pool) and National Lottery.

The institution was first given the responsibility to run the national lottery in 1783. This mandate was ratified in a Decree-Law in 1926. Concessions for Totobola and Totoloto followed in 1961 and 1985, respectively.

1.2. Departamento de Apostas Mútuas

In order to administer its gambling concessions for Totobola and Totoloto, the Santa Casa has created a special department in its organisation, the 'Departamento de Apostas Mútuas'. The DAM is financially independent from the Santa Casa, with its own budget and accounting system and private sector style management. It is responsible for all aspects of the organisation and running of the lotteries and pools although it may delegate and subcontract part of the work by means of public tender.

A separate department assures the running of the National Lottery.

The Santa Casa has plans to integrate both departments under the designation of 'Department of Social Games' to avoid duplication of efforts.

1.3. Share of the Profits

While the Santa Casa is entitled to a third of the profits from the National Lottery, the profits from Totobola and Totoloto are set by periodic revisions of the law. It currently allocates a 21.5% of profits from each game to the Santa Casa.

1.4. Management

The Board of Directors of DAM includes, in addition to the usual members of the Board of Santa Casa:

- the official director of DAM
- a representative from the Ministry of Finance
- a representative from the Ministry of Labour and Social Security

For the purpose of supervision of the day-to-day gambling operations, a jury (Júri dos Concursos) is designated by law. This body supervises operations which include the receipt and keeping of ticket microfilms, the supervision of scrutinies and totoloto drawing sessions, etc. This jury is composed of three persons:

- the director of DAM as chairman
- a representative of the Lisbon Council Authority
- a representative from the Finance General Inspectorate

The Santa Casa has agreements with independent agents for ticket distribution. These agents are separate economic entities and some of them also carry out other commercial activities.

1.5. Supervision

The audit of accounts is conducted by a team from the Ministry of Finance. Representatives from ministries (Finance, Labour) also sit on management boards and ensure daily supervision.

An Inspectorate representative is also nominated to become part of the 'júri das reclamações', a body who deliberates over claimed prizes.

2. TOTOBOLA POOLS

Totobola is organised on a weekly basis. Players gamble on the results of football matches. The minimum bet amount allowed is ECU 0,23. Tickets must be handed in to agents by Friday. Matches take place on Saturdays and Sundays.

An amount of 50% of revenue from Totobola Pools is allocated, in equal amounts, to the three prize categories.

The first prize is distributed equally to participants who guess the right results of 13 matches. The second prize is distributed equally to participants who correctly guess the results of 12 matches. The third prize is evenly distributed to those who guess the results of 11 matches.

The remaining Totobola profits are distributed mainly to charities, institutions providing social services and support to the handicapped, sports associations, etc.

Prior to the official government sanction in 1961, this type of game and other similar versions of organised betting were carried out by sports clubs and local recreational associations. The government did not legislate due to the belief that such activities were not sufficiently materially significant to warrant official involvement.

2.1. Legislation

In 1961, the government decided to legislate on the matter in view of the increase in illegal gambling and to keep in step with similar initiatives in other European countries. Rules were established to protect the interests of the public rather than strictly to prohibit gambling.

The initial legislation for Totobola was approved in Decree-Law 43 777 of July 3, 1961 and was subsequently modified by other decrees and edicts. Present legislation for Totobola is principally based on the revised Decree-Law 84/85 of March 28, 1985. The game's latest regulations are set out in an annex as edict 837/88 of December, 1988.

Since the legalisation of Totobola, the essence of the legislation on the matter has not been altered although some modifications have been made.

The state monopoly and the role of the Santa Casa have been maintained and profits continue to be allocated in the same proportion (around 50%) to the promotion of sports and to health and social assistance (mostly to the severely handicapped). Some new institutions have been included amongst

recipients. The present institutional distribution could change again in the future.

In 1985, legislation on Totobola was reviewed as a result of the introduction of Totoloto, a new game administered under the 'apostas mútuas'. Its launch resulted in a negative impact on Totobola revenue. In order to limit the impact on profit recipients, it was decided that profits from both sources were to be pooled and distributed in the same manner.

Also in 1985, a share of 'apostas mútuas' profits was allocated to football teams in the third division for the first time.

In 1986, Totobola and Totoloto profits were once again separated. A larger share (50%) of Totobola profits was channelled to the Portuguese Football Federation and teams.

Relatively smaller shares were assigned to teams from clubs who obtained licences to operate bingo.

Additionally, the amount allocated to the handicapped was enlarged and small allowances were made for assistance in case of national disaster. Shares attributed to cultural activities and non-professional sports were reinforced.

2.2. Authorisation and Licensing

In Portugal, Totobola pools is a state monopoly. Exclusive rights rest with the Santa Casa da Misericórdia de Lisboa. Private agents, either Portuguese or foreign, are not allowed to set up football pools and lotto operations. The use of the designation 'Totobola' is part of these exclusive rights.

2.3. Supervision and Control

The Ministries of Finance, Quality of Life and Labour are represented in DAM's Board of Directors.

The audit of accounts is conducted by a team from the Ministry of Finance. The general rules for Totobola have to be submitted to the Ministry of Labour and Social Security who approves it and puts it into the official edict. The same ministry is also responsible for approval of subcontracts and delegation of work by the DAM.

2.4. Taxation

Santa Casa da Misericórdia de Lisboa —the institution that promotes Totobola— is exempt from corporation income tax.

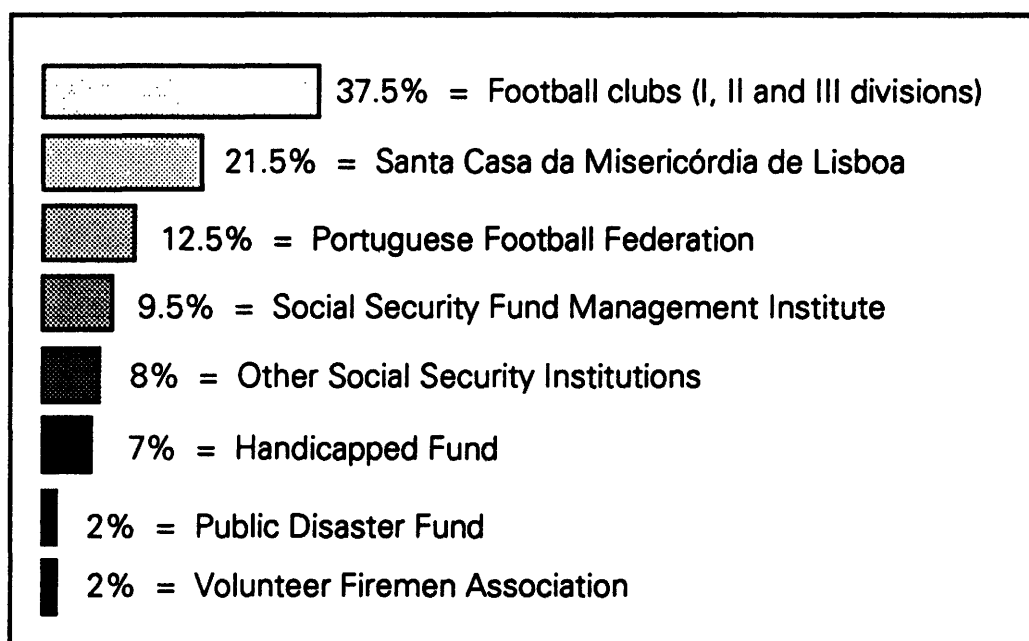
Individual prize winners were subject to stamp duty on their winnings until 1989. The new system of general taxation abolished the stamp duty and replaced it by a withholding tax of 25% on the prize amount. The duty applies to all amounts, no matter how large or small.

Tax on Totobola prizes is withheld at source by DAM and handed on to 'Tesouraria da Fazenda Pública' —the body of the Finance Ministry responsible for collecting taxes. It is held at post offices or authorised banks until the 20th of the month subsequent to the one to which the tax refers.

2.5. Distribution of Profits

Calculations of Totobola profits and its distribution lie at the heart of the legislation. They are frequently changed by decree-law or edicts.

The present breakdown for Totobola profits is as follows:



At the present time, the calculation of profit is as follows:

(1)	Totobola Total Revenue
(2)	(deductions allocated to funds)
(3)	(operational expenses)
(4)	(amount allocated to prizes)
	Totobola total profits

(1) Totobola Total Revenue in the formula above is obtained by the summation of the following items:

total amount is escudos of pools accepted
total amount of pools rejected but not reimbursed
revenue from publicity in tickets
after hours commissions
shares in fines on illegal similar games
replacement fees for winning tickets lost
income from application of funds (beyond maximum limits)

totobola total revenue

(2) Deductions Allocated to Funds currently allowed are:

- 0.5% of total revenue up to ECU 86.500 to be allocated to a fund for claims on prizes
- 1% of total revenue up to ECU 865.000 to be allocated to two funds for equipment replacement

(3) Operational Expenses consist of the sum of the following items:

operational specific costs
share of totobola & totoloto common costs

operational expenses

- (4) Amount allocated to prizes currently stands at 50% of Totobola total revenue minus certain charges (mainly commissions for collecting agents).

2.6. Barriers

The government monopoly prevents any other institution, Portuguese or foreign from entering this specific market.

3. TOTOLOTO POOLS

Totoloto was created in 1985. It was undoubtedly inspired by similar games in other European countries.

Totoloto is a weekly bet on the results of a combination of seven numbers drawn at random from a total of 49. The seventh number drawn is called the supplementary number.

The minimum bet allowed is ECU 0,29. Totoloto drawing sessions take place every Saturday evening. Tickets must be handed in to agents by the previous Friday.

Bets entitled to prizes must satisfy the following requirements:

- First prize Right guess of the first six numbers drawn in sequence.
- Second prize Right guess at any five number combination included in the first set of six numbers drawn plus the supplementary number.
- Third prize Right guess at any five number combination included in the first set of six numbers drawn.
- Fourth prize Right guess at any four number combination included in the first set of six numbers drawn.
- Fifth prize Right guess at any three number combination included in the first set of six numbers drawn.

An amount of 50% of Totoloto total revenue, after deducting allowable expenses (mainly collecting agents commissions) is allocated to prizes as follows:

First prize	25%
Second prize	7%
Third prize	19%
Fourth prize	19%
Fifth prize	30%
	100%

Whenever prizes allocated to individual winners are lower than ECU 0,43, they are not distributed. They are added to prize category immediately above. The remaining profits, as in the Totobola, are distributed to several

institutions, mainly charities, institutions providing social services and support to the handicapped, sports associations, etc.

3.1. Legislation

Totoloto was created by the Decree-law 382/82 of September 15, 1982. Not until this legislation was amended by Decree-law 84/85 of March 28, 1985 was the game actually implemented. Initially, the game was included as part of the 'Apostas Mútuas'. Legislation was structured on the basis of Lotobola laws. In recent years, Totoloto has been subject to game-specific legislation and has become more independent from the framework designed for the Totobola. The latest Totoloto game regulations are set out in edict 836/88 of December 30, 1988.

Main alterations to the original legislation concern the total of numbered balls involved in the game, the way prize revenues is allocated to the different categories of prizes and distribution of profits.

The number of balls increased from 45 to 47 in 1988 and again to 49 in 1990 in an effort to make the game comparable to other European counterparts.

3.2. Authorisation and Licensing

Totoloto pools is a state monopoly for which exclusive commercial rights rest with the Santa Casa da Misericórdia de Lisboa. Private agents, either Portuguese or foreign, are not allowed to set up lotto operations.

3.3. Supervision and Control

The Ministries of Finance, and Labour are represented in DAM's Board of Directors.

The audit of accounts is conducted by a team from the Ministry of Finance. In addition, a representative from the Inspectorate is a member of the internal jury that oversees the scrutinies and the draws.

The general rules for Totoloto have to be submitted to the Ministry of Labour and Social Security who approves them and puts them into the official edict.

The same Ministry is also responsible for approval of subcontracts and delegation of work by the DAM.

3.4. Taxation

Santa Casa da Misericórdia de Lisboa —the institution that promotes Totobola— is exempt from corporation income tax.

Individual prize winners were subject to a stamp duty on their winnings until 1989. The new system of general taxation abolished the stamp duty and replaced it by a withholding tax of 25% on the prize amount. The duty applies to all amounts, no matter how large or small.

Tax on Totoloto prizes is withheld at source by DAM and handed on to 'Tesouraria da Fazenda Pública' —the body of the Finance Ministry responsible for collecting taxes— to post offices or authorised banks until the 20th of the month subsequent to the one to which the tax refers.

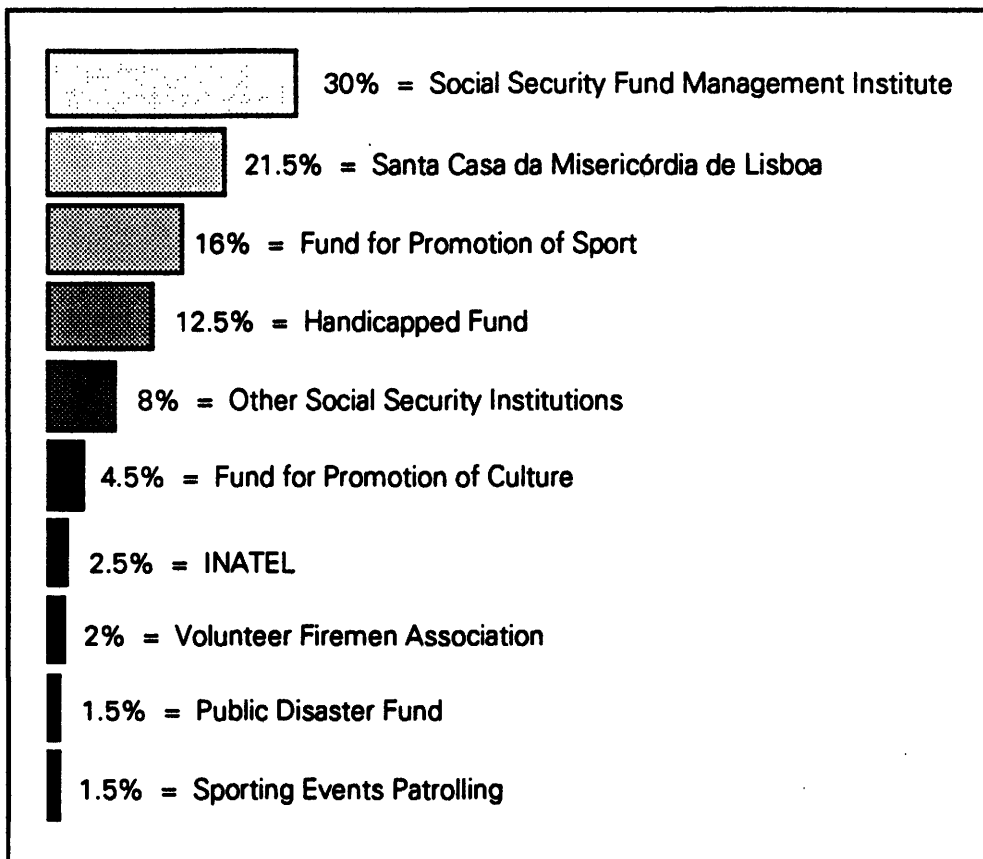
3.5. Distribution of Profits

The prize revenue changes mirrored the changes in the number of balls in 1988 and 1990. The percentages changed according to the chart below:

Prize Categories	Years		
	1985	1988	1990
1st	25%	19%	25%
2nd	5%	8%	7%
3rd	15%	20%	19%
4th	22%	20%	19%
5th	33%	33%	30%

The distribution of Totoloto profits was, as mentioned in the previous section, linked to the effects the game had on the Totobola share of the gambling market in Portugal.

The present distribution is presented below:



Totoloto profits are calculated in a manner similar to the Totobola. The main difference is the sizeably larger limits for the deductions allocated to funds.

(1)	Totaloto Total Revenue
(2)	(deductions allocated to funds)
(3)	(operational expenses)
(4)	(amount allocated to prizes)
	Totaloto total profits

- (1) Totoloto total revenue in the formula above is obtained by the summation of the following items:

total amount in escudos of pools accepted
total amount of pools rejected but not reimbursed
revenue from publicity in tickets
after hours commissions
shares in fines on illegal similar games
replacement fees for winning tickets lost
income from application of funds (beyond maximum limits)

totoloto total revenue

- (2) Deductions allocated to funds currently allowed are:

- 0.5% of total revenue up to ECU 490.200 to be allocated to a fund for claims on prizes
- 1% of total revenue up to ECU 4,9 million to be allocated to two funds for equipment replacement

- (3) Operational expenses consist of the sum of the following items:

operational specific costs
share of totobola & totoloto common costs

operational expenses

- (4) Amount allocated to prizes currently stands at 50% of Totoloto total revenue minus certain charges (mainly commissions for collecting agents).

3.6. Market Information

The Totoloto proved to be a very popular game since its inception in 1985. The total turnover increased steadily until 1988 when it reached over ECU 253,7 million.

The introduction of a the unified 25% tax on winnings in the second semester of 1989 took its toll and the total turnover for the year fell to ECU 241,6 million.

As with the Totobola, the market is expected to recover from this temporary slump as soon as the new tax becomes accepted.

3.7. Barriers

The government monopoly prevents any other institution, Portuguese or foreign from entering this specific market.

4. LOTTERIES

The National Lottery is the oldest legal form of gambling in Portugal and was implemented in the eighteenth century. The monarchy at the time was seriously concerned about the social implications of games of chance and allocated the running of the lottery to the Santa Casa as the only institution capable of honestly dealing with the profits of such games. The mandate is still in place today.

Lottery is based on pre-sold numbered tickets that are drawn at random.

The Lottery department of the Santa Casa promotes lotteries of three types:

- 'Ordinária'
- 'Extraordinária'
- 'Popular'.

Different ticket prices, prizes and draw days, are set for each type, except that 'Extraordinária' replaces 'Ordinária' whenever it occurs. Drawing sessions occur on Tuesday for 'Popular' and on Friday for 'Ordinária' or 'Extraordinária'.

Tickets from lotteries 'Ordinárias' and 'Extraordinárias' are divided into ten or more fractions that can be sold either separately or in one ticket alone.

Tickets from lottery 'Popular' are always sold as a whole.

The holder of a single fraction of a winning ticket is entitled to a prize amount in proportion to the fraction held.

Ticket prices vary from ECU 1,4 for 'Popular' lottery to around ECU 5,8 for a fraction of an 'Extraordinária'. These prices are set by law and periodically reviewed.

4.1. Legislation

The basis for the present lottery regime are set out under Decree-Law 40 397 of November 24, 1955 and its subsequent amendments.

The law stipulates the creation of a separate department for the running of the national lottery. The National Lottery Department has the same organisation structure as the DAM, with a separate jury (Júri da Lotaria Nacional) to supervise draws and other operations.

Decisions on matters such as the number of tickets to be issued, distribution of prizes amount to winning numbers, timing of 'Extraordinária' lotteries and ticket prices are taken by the Santa Casa's Lottery Department Management.

The most important recent change in the legislation is due to the new Portuguese system of taxation with implemented a uniform 25% withholding tax on prize winnings (see Tax section below).

The National Lottery Department has taken a backstage to the DAM since the successful implementation of Totoloto.

4.2. Authorisation and Licensing

In Portugal, the National Lottery is a state monopoly operated exclusively by the Santa Casa da Misericórdia de Lisboa. Private agents, either Portuguese or foreign, are not allowed to set up competing games. The Santa Casa is entitled by law to set up other types of lotteries subject to government approval.

4.3. Supervision and Control

The audit of accounts is conducted by a team from the Ministry of Finance. On a permanent basis, the Inspectorate nominates a representative to be part of the 'Júri da Lotaria Nacional'.

4.4. Taxation

The Santa Casa da Misericórdia de Lisboa is exempt from corporation income tax.

As already mentioned in the legislation section, a new and uniform withholding tax of 25% applies to lottery winnings.

This tax is withheld at source by the National Lottery Department and handed to the local representative in charge of collecting taxes for the Finance Ministry, post offices or authorised banks.

4.5. Distribution of Profits

According to government regulations the total amount allocated to prizes lies in between 54% and 65% of receipts from total tickets issued.

One third of lottery total profits are allocated to the Santa Casa for charity purposes, the remaining two thirds being allocated to the government treasury to pay for social services.

4.6. Barriers

The government monopoly prevents any other institution, Portuguese or foreign from entering this specific market.

5. CASINOS

The existence of illegal gambling forced the Portuguese government in 1926 to legislate on casinos to protect the public interest.

Given the growing importance of the tourism industry in Portugal in recent years, the government has taken the view that casinos play a major role in the promotion and development of certain areas. This resulted in improved and more receptive legislation for casinos.

Casinos are located in areas of touristic importance as determined by the government. At present, these areas are:

- Algarve
- Espinho
- Figueira da Foz
- Funchal
- Porto Santo
- Póvoa do Varzim
- Tróia
- Vidago-Pedras Salgadas

The games that can be played in casinos are closely regulated by the government. In addition, gambling concessionaries that run the casinos must also promote sporting, cultural and other activities aimed at developing tourism in the area in which they are located.

5.1. Legislation

The casino legislation has been recently updated. The base legislation is now set out in Decree-Law 422/89 of December 2, 1989 which came into force on January 1st, 1990.

The running of games of chance is restricted to casinos in the areas specified by the law. Gambling activities can exceptionally be granted permission to operate in places other than casinos, namely airports, ships, planes and hotels in tourism areas.

The law stipulates the types of games that can be played in the casinos as well as the individual characteristics of each of them. Games considered include:

- Games set at single or double tables
 - Bacara ponto e banca
 - French Bank
 - Boule
 - Cussec
 - Écarté
 - French Roulette
 - American Roulette with zero
- Set at single tables
 - Black Jack/21, Chuckluck e trinta e quarenta
- Set at double tables
 - Bacara (limited bank) and Craps
- Tabled game: Keno
- Non-banked Game:
 - Bacara chemin de fer, Open bank bacara and Ecarté
 - One armed bandits and slot machines
 - Other games giving prizes other than coins, namely points

In addition to that, gambling machines are allowed in casinos. The maximum retention rate for these machines is 20% according to the law, but in practice it is closer to 15%. The maximum bet allowed is 5 chips of ECU 0,60.

The manufacture, import, sale, transport and use of gambling machines has to be officially approved by the Gambling General Inspectorate.

The casinos' tourism promotion initiatives are scheduled on an annual basis and subject to previous approval by the Tourism Promotion Institute.

Casinos must also subsidise government campaigns or organise their own promotion outside the gambling area where they are located. This must be done in consultation with the Gambling General Inspectorate and the Tourism Promotion Institute.

5.2. Authorisation and Licensing

Casino concessions in the prescribed areas are awarded by the government through a process of public tender. These tenders are published by regular decree and usually include the following items:

- (a) specific requirements to be met by bidders
- (b) indication of the location of the casino and other property involved

- (c) minimum contract requirements for the concession
- (d) duration of the concession
- (e) guarantee to be deposited by bidders
- (f) procedural timetable for the bidding process
- (g) criteria for selection.

The award is decided by the Council of Ministers and published in the Official Diary (Diário Oficial).

A company wishing to bid for a gambling concession must be registered as a joint-stock company and satisfy the following requirements:

- i) Agree to fulfil all tourism promotion obligations for casinos as set out in the law,
- ii) During the three years subsequent to the signing of the contractual agreement of concession, the concessionaire must realise capital (in cash) of at least 30% of forecasted investment values. This percentage must reach 60% of those investments, at least, during the six subsequent years. Nevertheless the concessionaire is entitled to choose between the previous clause and give a guarantee for the amount of the investments forecasted.
- iii) At least 60% of company capital must be represented by nominative or bearer shares. Transfers of share ownership must always be reported to the Gambling General Inspectorate within 30 days of registration in the company books.
- iv) 60% of company capital must be of direct Portuguese ownership. Should the owners be other companies at least 60% of capital must be Portuguese.
- v) The concessionaires as well as its shareholders owning over 10% of the company capital are not allowed to own equal or superior fractions in any other gambling concession.
- vi) The acquisition of gambling companies' shares representing more than 5% of capital resulting in changes in company control is subject to government authorisation.

The legislation does not specify how manufacturers or importers of gambling machines should seek the necessary authorisation from the Gambling General Inspectorate.

5.3. Supervision and Control

The Gambling General Inspectorate (Inspecção Geral de Jogos) is the public inspectorate of the Ministry of Commerce and Tourism.

The Inspectorate supervises the exploitation and practice of gambling at casinos and sees that the concessionaires fulfil their obligations.

The inspection team works permanently at casinos. They operate from offices located in the casino premises. The team prepares memoranda of instruction to regulate gambling operations and sets deadlines, where not previously fixed, for the fulfilment of concessionaires' obligations.

The Inspectorate examines and sanctions any violation of gambling rules and applies preventive measures to inhibit the access to gambling rooms, in accordance with legislation.

The Inspectorate representatives' testimony is officially taken in the same manner as a police testimony and according to Portuguese legislation, its decisions can be challenged in court.

Specific duties of the Inspectorate include the supervision of:

- i) the fulfilment of concessionaires' obligations and those of employees and gambling rooms attendants,
- ii) the operating of gambling rooms,
- iii) gambling machines and instruments,
- iv) gambling practice,
- v) accounting procedures and the concessionaire's books as far as gambling is concerned,
- vi) the fulfilment of fiscal obligations.

The concessionaires' employment records and obligations as well as points (e) and (f) above fall within the jurisdiction of the Taxes General Inspectorate.

The Inspectorate, in conjunction with the National Institute for Tourism Promotion, approves annual plans for promotion abroad and tourist activities submitted by casinos in accordance with the law. The aim of the approval process is to control compliance with the law and assure that tourism promotion efforts are of consistent great quality and not duplicated.

The similar table for double lay-out have rates that vary from 0,15% to 1,2%. Values for B also depend on gambling area locations but with substantially higher rates. There is only one table for B values which is reproduced below:

Banked Gambling Area	B-Values (%)					
	First 5-year period	Second 5-year period	Third 5-year period	Fourth 5-year period	Fifth 5-year period	Subseq. 5-year period
Estoril	20	20	20	20	20	20
Funchal	10	12.5	15	20	20	20
Algarve	10	12.5	15	20	20	20
Troia	10	12.5	15	20	20	20
Vidago-Pedras Salgadas	10	12.5	15	20	20	20
Porto Santo	10	12.5	15	20	20	20
Other areas	20	20	15	20	20	20

Slot and other automatic machines are subject to a modified version of banked games taxation. The A-rates applied are the ones for single lay-out (see table A above) but the Inspectorate stipulates, on an annual basis, the amount that should be taken as starting on gambling capital for each machine or groups of machines.

The games of keno and bingo are subject to a modified version of the non-banked games taxation as per the table below:

Annual revenue (ECU)	Appropriate B-rate
0 - 865.000	1*B
865.000 - 1.442.000	2*B
Over 1.442.000	3*B

5.5. Distribution of Profits

Once the operators have fulfilled their fiscal obligations, they are entitled to distribute profits as they see fit.

5.6. Barriers

As far as ownership is concerned, only 40% of the concessionaire's shares can belong to foreign nationals or corporations. The wording of the law leads one to believe that the remainder 60% could also belong to Portuguese corporations with foreign capital provided the 60/40 split between national/foreign ownership is respected.

The legislation, however, restricts participation in a second or more casino operations to 10% of total capital. This rule was designed for national operators but could be used as a barrier against foreign capital. A casino operator in France would be restricted to a 10% participation in a Portuguese venture.

A further rule specifies that a company, be it national or foreign, is not allowed more than one concession for casinos. The Algarve casinos are an exception in the sense that all three are owned by one company under a single concession agreement.

At present, all concessions for casinos are taken for the next five years.

6. BINGO

The game of bingo was played in Portugal as an illegal activity before being authorised by law in 1982. Prior to that, casinos were allowed to run bingo but the right was not exercised until separate bingo halls appeared.

The rules for playing bingo in Portugal are issued by the Ministry of Tourism and Commerce and updated as needed.

Bingo gambling involves a set of balls numbered from 1 to 90, a device for drawing the balls, a screen or board, sound installation, closed circuit TV and cards showing 15 different numbers arranged in three horizontal lines of 5 numbers each. Each time a ball is drawn its number must be read aloud and appear in every room screen. Each player must check whether the number drawn appears in his/her card and mark the number's position with a cross. When a card line is filled up the card owner is entitled to a monetary prize. To do bingo it is necessary to fill up the whole card.

6.1. Legislation

The 1982 legislation aims to protect the interests of the consumers and realise some State revenue from a growing popular activity. In line with the reasoning for casinos, the government also took into account the importance of gambling for tourism promotion.

The game was first regulated by Decree-law 277/82 of July 16, 1982 and later considerably amended by Decree 76/86 of December 31, 1986. The rules for bingo are detailed in the official communication 80/85 issued by the Ministry of Tourism and Commerce.

In general, bingo gambling rooms are authorised to operate in:

- priority tourism areas
- sports associations acting in the public interest promoting at least three sports

This game is still authorised in casinos provided cards price equals or exceeds the minimum amount necessary for betting on traditional casino games.

The government controls the location and category of bingo rooms. Categorisation of rooms is as follows:

- a) Special rooms —over 500 seats

- b) First category —201 to 500 seats
- c) Second category —101 to 200 seats
- d) Third category —up to 100 seats

Rooms opening hours and days are determined by the concession agreement.

Main changes in the existing legislation concern the distribution of the total amount of card sale revenues.

The share allocated to prizes decreased from 60% to 55%. The share accruing to the concessionaire increased from 10% to 35% for sport associations and other institutions of public interest.

6.2. Authorisation and Licensing

The candidates qualifying for bingo concessions are the following:

- Tourism industry companies not engaged in gambling exploration as a main line of business. The capital of these companies must be at least 60% Portuguese. A foreign company incorporated in Portugal counts as Portuguese capital.
- Sports associations (clubs) and other institutions of public interest.

Casinos are not excluded because all are subject to their own set of rules for licensing.

The government publishes tenders for bingo concessions through its official journal and other major newspapers. The offer sets out the locations, number of rooms, hours of opening and other specific details. Applicants have to provide evidence that any obligations towards the State, social security and tourism fund have been fulfilled. A declaration must also be made that any credit arrangement for investment finance with organisations other than banks shall not be signed without the previous approval of the Gambling General Inspectorate.

Applicants have 60 days to send their proposals to the Gambling General Inspectorate. A separate formal request has to be sent to the State Secretary of Tourism.

A temporary concession will be issued to the successful bidder and ratified within 3 months by the government.

6.3. Supervision and Control

Gambling Inspectorate General is the supervisory body of bingo gambling inside and outside casinos.

The Inspectorate issues memoranda of instructions to:

- regulate bingo operations,
- approve bingo equipment,
- set and impose conditions for the import, manufacture, sale and transport of bingo equipment.

The inspectorate may demand a guarantee of up to ECU 5.800 to ensure these conditions are met.

The inspection team may work permanently or temporarily at the bingo concessionaires premises. In practice, several inspection teams go around the bingo locations in the country. They check 7 to 8 halls a week.

The specific duties of the Inspectorate as far as bingo is concerned include supervising the following:

- i) the fulfilment of concessionaires' obligations and those of their agents,
- ii) the operation of bingo gambling rooms,
- iii) gambling equipment,
- iv) gambling practice,
- v) accounting procedures and the concessionaire's books as far as bingo is concerned,
- vi) the fulfilment of fiscal obligations.

The Inspectorate is entitled to demand access to any information or document necessary to perform its duties.

The Inspectorate representatives' testimony is officially taken in the same manner as police testimony. Decisions of the Inspectorate can be challenged in court.

6.4. Taxation

The Tax General Directorate is the tax authority responsible for taxes in general, although in practice its competences are delegated to the Gambling General Inspectorate in the case of bingo.

Income from bingo accruing to concessionaires is subject to annual Corporation Tax (IRC) except when the concessionaire is already liable to 'Imposto Especial de Jogo' as is the case of casinos.

A 25% withholding tax is deducted on prizes. It must be paid by the 20th of the following month to the local office of the 'Fazenda Pública', post office or authorised bank. This does not apply for bingo at casinos.

6.5. Distribution of Profits

At each casino draw, the amount allocated to prizes is 60% of the total revenue from cards sale. Of this 60%, 50% is allocated to the bingo prize and 10% to the line prize. Otherwise in normal bingo rooms, the amount allocated to prizes is 55%, being 50% allocated to the bingo prize and 5% to line prize.

Should the concessionaires be sport associations or other institutions of public interest, bingo gross revenue is allocated as follows:

Prizes	55%
Concessionaire	35%
Sports fund, Tourism Local Board or Council, Fund for Tourism and Gambling General Inspectorate	10%

6.6. Barriers

Apart from the state control of licensing, the only significant barrier seems to be the restrictions on foreign ownership. This is presented in general terms in the legislation (i.e. capital of Portuguese origin).

There are no limits on the number of bingo concessions awarded to one company.

SPAIN

**STUDY OF THE LEGAL AND MARKET SITUATION IN ALL THE MEMBER STATES
CONCERNING BETTING, GAMING, LOTTERY AND SIMILAR ACTIVITIES
IN VIEW OF THE COMPLETION OF THE INTERNAL MARKET**

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1. INTRODUCTION

1.1. Legislation

State controlled lotteries have been part of Spanish life since the Royal Decree of September 30, 1763. Privately run gaming and betting activities are a product of recent developments.

Spanish legislation as regards gaming and gambling is essentially prohibitive in that, until the publication of Royal Decree-Law 16/1977 of February 25 which lays down the regulations governing penal, administrative and tax aspects of this activity, only lotteries and some sporting bets were permitted.

The aim of the decree was to increase social guidance and protection in this area and to fulfil a series of important social and tax-related objectives by eliminating underground gaming and gambling and introducing in its place a more progressive and practical system governing both the activity itself and the way in which it is controlled. The decree gave rise to new initiatives and as a result of these changes, casinos and bingos became legitimate and began to flourish as of 1979 (gaming machines in 1981).

Gaming and gambling in Spain is currently governed by several sets of regulations. This relative abundance may be attributed in principle to the following factors:

- gaming and gambling in Spain was legalised only very recently
- Spain is divided up into a series of different regions, each with its own regional government.

The principal legislation governing gambling and gaming is the Organic Law 8/1983 of July 25, 1983 as amended by Royal Decrees, laws and decisions.

Conscious from the start of the impact that the legalisation of gambling and gaming was likely to have on Spanish life, legislators were quick to lay down an array of different and sometimes confusing legal provisions. These were later complemented by a series of more precise dispositions designed to clarify and regulate the initial laws. Hence, the current diversity of regulations governing gambling and gaming in Spain.

Another of the factors mentioned above is the recent division of Spain into 'autonomous regions' and the subsequent delegation of responsibilities as regards casinos, gaming and betting regulations to the corresponding regional governments. These responsibilities are partially regulated under

the Organic Law 8/1980 of September 22, 1980 on financing for the autonomous communities and Law 30/1983 of 28 December 1983 governing the transfer of government taxes to the autonomous communities. Every one of the 17 regions also has a specific Organic Law on the statute of autonomy. In addition to national laws, the autonomous regions may adopt their own laws and regulations for regional games. Some of them have taken advantage of that provision and legislated accordingly.

Independent gambling legislation exists in Navarra, Galicia, Canarias, Valencia, Andalucia, Catalunya and Euskadi (Basque region). When the autonomous statutes for Spanish regions were negotiated, the traditional 'historic communities' (Euskadi, Catalunya, Andalucia and Galicia) managed to win special concessions together with a few more vocal regions. These seven regions now have the right to pass their own legislation concerning gambling and gaming. In some cases, this legislation may differ considerably from the national legislation. Andalucia has its own rules for bingo and gambling machines. Catalunya has its own gambling law, modifications in the bingo rules, different tax systems for games, special tax on gambling machines, a special 'Catalan' lottery, etc. Galicia has its own gambling law, a 'Galician' coupon lottery, a different set of bingo rules and machines, etc. Euskadi has a special regulation for bingos and has started a coupon lottery; Valencia has its own gambling law and special tax on bingo cards.

The regions have local institutions similar to the National Gambling Commission to control and regulate gaming activities. Some of them use the National Gambling Squad for enforcement while others have created their own gambling police force. The national legislation is valid for the other ten Spanish regions. In 1990, a special commission (Comisión Sectorial del Juego) was created to harmonise some of the different practices and regulations.

In conclusion, Spanish gaming and gambling is highly regulated and legislation is still significantly evolving.

1.2. Foreign Investment

Significant barriers exist to foreign investment in gambling and gaming. Foreign investment in companies which engage in the exploitation of gaming and gambling activities are governed by Decree 10261/1977 of March 28. Under the provisions of this Decree, prior authorisation must be obtained for foreign investments of this type. The Decree also places a limit of 25% on the amount of share capital that may be held by the foreign investor in companies exploiting games of chance. This provision overrides regional legislation and is the competence of the national government.

There is no specific Spanish legislation governing investment by EC residents. They are therefore governed by the Foreign Investment Act of June 27, 1986. Article 26 of the said act states expressly that the establishment rights relating to gaming and betting activities, among others, are subject to specific regulations.

In Spain, this authorisation must be issued by the Ministry of Commerce and Finance, subsequent to the preparation of a report by the Investments Committee. The first step is to present an application form. This form must state, among other details, the particulars of both Spanish and non-Spanish shareholders, regardless of whether they are individuals or legal entities. The percentage of share capital to be held by each shareholder must be stated as well as the size of any foreign holdings in Spanish corporate shareholders.

Authorisations granted by the Ministry of Commerce and Finance in this respect are conditional upon the granting of an authorisation for the exploitation of gaming and gambling activities by the relevant bodies.

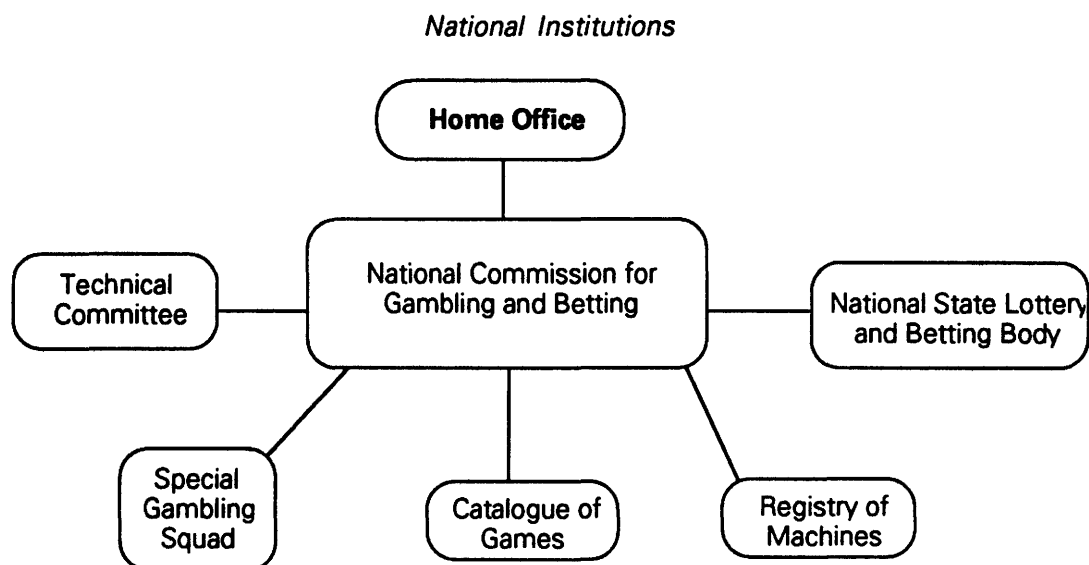
1.3. Taxation

Apart from the state and local taxes that may be levied under current legislation, companies and businesses engaged in gaming and gambling activities also have to pay a special duty.

The assessment base for this levy differs for different game operators. For details, see the analysis of regulations by game.

1.4. Institutions

There are several national institutions that are common to all game operators in Spain. These institutions are represented in the diagram below:



National Commission

The National Commission for Gaming and Betting reports to the Spanish Home Office. It is the central institution responsible for the coordination, study and control of all activities and authorisations relating to gaming and betting.

Technical Committee

The Technical Committee of the National Commission for Gaming and Betting is the body responsible for the preparation and carrying into effect of resolutions passed by the National Commission for Gaming and Betting.

Gambling Squad

The Special Gambling Squad is a division of the General Commissariat for Public Order and Safety of the Directorate General of Security. The squad is responsible for seeing that the relevant legal provisions as regards gaming and gambling are complied with, for preventing fraud, for detecting and eliminating underground gaming and gambling activities, and for safeguarding public order and moral standards in the premises in which such activities

are practiced. Some of the regions have their own local gambling squad, which acts independently from the national institutions.

Catalogue of Games

Gaming and betting activities (with the exception of nationally run lotteries) must be registered in a 'Catalogue of Games' before they may be practiced. The catalogue itself, the entries made in it and any subsequent cancellations are approved by means of a Spanish Home Office Resolution subsequent to a proposal by the National Commission for Gaming and Betting and the preparation of a Treasury report. This catalogue specifies for each type of gaming and gambling activity the different names by which it is known, the possible forms in which it may be practiced, the elements required, the basic rules by which it is governed, and the conditions and prohibitions that are considered advisable.

The ten types of games (lotteries excluded) that are currently allowed are:

- i) Roulette
- ii) American Roulette with only One Zero
- iii) Black Jack of Twenty-One
- iv) 'Boule' or 'Bola'
- v) Thirty and Forty
- vi) Dice or Craps
- vii) 'Punto y Bance'
- viii) Baccarat, 'Chemic de fer' or 'Ferrocarril'
- ix) Baccarat 'A dos panos'
- x) Bingo

Registry of Machines

This registry is similar to the Catalogue of Games mentioned above. Slot machines and other similar machines have to be entered in this registry before they may be sold to operators. The application process has to be undertaken by the machine manufacturer.

National State Lottery and Betting Body

The National State Lottery and Betting Body is the governing body for all nationally run lotteries and other games requiring authorisation. It is organised and operated under the auspices of the National Commission. The specific organisation and administration of the different lotteries are regulated by Royal Decrees by the Ministry for Economic and Financial Affairs.

2. LOTTERIES

The National Lottery was created by Royal Decree on September 30, 1763 and, until 1977 was the only legal lottery system in Spain.

Lotteries were initially organised for social reasons such as protecting players from unscrupulous operators and to stop illegal activities. Over the years, lotteries became another means of raising funds and hence a regular revenue item in the state budget.

The state authorities are responsible for organising lotteries and other activities of this type involving large amounts of money or objects of value. It may carry out its duties in this area either directly or through public or private institutions which are obliged to comply with the corresponding regulations. Some of the autonomous regions have the right to organise their own lotteries although cross-border selling between regions is forbidden.

The State organises two national games:

- Lotteries
- 'Apuestas Mutuas Deportivas Benéficas' —football betting

Unlike other gambling and gaming activities, the two games mentioned are administered by the national government and not by individual Autonomous regions. The national government has set up two state-controlled companies to run the games. 'Servicio Nacional de Loterías' runs the national lottery, 'Lotería primitiva and Bono-loto' while the 'Patronato de Apuestas Mutuas Deportivas Benéficas' runs football bets. The Ministries of Finance and Economics of the national government are the main beneficiaries from the running of the lotteries. They legislate on the financial aspects of the game, i.e. the sharings of the pool.

A special type of lottery is the 'ONCE', a daily lottery administered by the Spanish National Organisation of the Blind (Organización Nacional de Ciegos Españoles). The original intent of this concession was to provide the ONCE with a means to collect funds for its non-profit purposes. ONCE ticket stalls are omnipresent in Spanish cities and their marketing rivals private organisations. In recent years, other handicapped organisations have requested the right to run their own lotteries.

2.1. Legislation

The current lottery rules date back to 1893 when the first national lottery was established. These rules consist of 316 paragraphs of general provisions on the organisation, administration and operations of national lotteries and form the framework for later development.

Modern lotteries are governed by the Basic Law 7/1982 of 13 June 1982 and the many amendments that followed.

The Basic Law also explicitly prohibits the advertisement, sale, importation, production and circulation on the entire Spanish territory of foreign lotteries. The Royal Decree 773/1989 of 23 June 1989, however, authorises the National State Lottery and Betting Body to carry out joint activities (draws) abroad with other state lotteries.

Such activities have already taken place in Europe (European Lottery Association) and Latin America (Iberoamerican Lottery Association).

2.1.1. Legislation on Lotería Primitiva

The classic national lottery is the oldest form of betting in Spain. In this game, numbered tickets are sold prior to the official draw. These tickets can be sold whole or partially. Draws are held usually once a week and presided over by a committee headed by the Director General of the Organismo Nacional. The Christmas draw of the national lottery is considered a traditional event in Spain where it is customary to give lottery tickets (whole or parts) as presents. Consequently, the Christmas draw always result in record prizes and participation. It typically represents over 30% of total revenues raised for the year.

The Lotería Primitiva consists in choosing a combination of numbers (six out of 49) to match the results of a public draw held every week. During this draw, six numbered balls are randomly selected plus a seventh one for a complementary prize. The balls are of the same colour, size and weight and could be subject to verification before the drawing.

Bets can be simple or multiple and are recorded in forms (boletos) supplied by the Organismo Nacional de Apuestas.

The winnings portion of the proceeds are distributed among the winners within each of five categories. These categories are defined according to

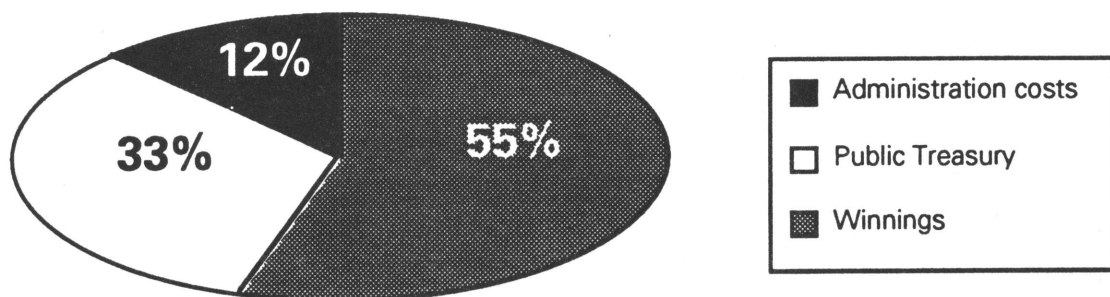
how closely the player's choice matches the result of the draw (which may or may not include the seventh ball).

The draws for the lottery are held in public function every Thursday and are presided over by a committee headed by the Director-General of the Organismo Nacional.

The management, organisation and exploitation of all lotteries is the exclusive responsibility of the Organismo Nacional de Apuestas des Estado.

The Organismo Nacional determines the form, terms and conditions of administration and distribution network for the different lotteries.

The proceeds from lotteries are distributed according to the graph below:



A Resolution of 20 January 1988 created the 'Bono-loto', a variation that is now run in parallel with the Lotería Primitiva. Its main feature is a ticket valid for four consecutive draws over the space of a week. The cycle begins with a Sunday draw followed by further draws on Monday, Tuesday and Wednesday. This game has a few rules of its own but is largely regulated by the same set of rules as the Lotería Primitiva.

2.1.2. Legislation on Apuestas Mutuas Deportivas Benéficas

The revised regulations for the 1989-90 season of this game are set out in Resolution of 28 July 1989 of the Organismo Nacional.

The game consists in choosing the final result for a number of football matches sanctioned by the Royal Spanish Football Federation (Real Federación Española de Fútbol). Matches taking place in other countries may also be included as long as they are sanctioned by the appropriate football federa-

tion in the relevant country. Currently, there are 14 matches with a 15th complementary match.

The choices have to be recorded on special forms printed exclusively by the Organismo Nacional and distributed free of charge to players.

The proceeds from this type of lottery is distributed according to the following breakdown:

Football Clubs	1.0%
Sports Board	1.5%
Agents	6.0%
Prizes	55.0%
Regional Authorities	10.98%
Administration	25.52%
	100%

The first 45% of proceeds allocated to winnings are equally divided in three categories of funds:

- First Category: fund to be allocated to players who correctly identify 14 matches
- Second Category: fund to be allocated to players who correctly identify 13 matches
- Third Category: fund to be allocated to players who correctly identify 12 matches

The last 10% of proceeds allocated to winnings are to be divided among the winners of the First Category who also correctly identified the complementary 15th match.

2.2. Authorisation and Licensing

Licensing regulations are the exclusive domain of the National State Lottery and Betting Body as delegated by the National Commission.

2.3. Supervision and Control

The National State Lottery and Betting Body is the main body responsible. Other bodies such as the Technical Committee and the Gambling Brigade

may carry out specific internal audits. In the case of the ONCE, control of operations is exercised by a committee of representatives from three ministries: the Home Office, Treasury and Social Affairs.

2.4. Taxation

The revenues generated through the national lotteries (33% of stakes) belong entirely to the public treasury. These funds are considered an 'ordinary resource' of the national budget and are not normally assigned to any specific purpose.

Occasionally, revenues from certain draws are allocated to specific purposes. Recent examples include draws for the Red Cross, the 1992 World Fair in Seville, the Spanish Cancer Association, the Olympic Games in Barcelona and the commemoration of the discovery of the Americas.

2.5. Barriers

Lottery legislation in Spain is basically protectionist in style barring competition on home turf while allowing foreigners to play the Spanish Lottery.

3. CASINOS

3.1. Legislation

The rules governing casinos are set out under the Order dated January 9, 1979 whereby the Casino Regulations are approved. Prior to that, casinos were not allowed in the national territory. There are currently 22 casinos in Spain situated normally outside the main urban centers.

Permanent authorisations for the organisation of gaming and gambling activities in the Catalogue of Games will only be issued to establishments classed as casinos which have as their specified purpose the 'commercial exploitation' of such activities. Authorisations for the installation, opening and running of casinos are issued at the discretion of the Spanish Home Office which, in turn, is governed in this respect by an overall national planning scheme approved by the government.

In some cases, however, these responsibilities rest with the autonomous governments. A system of 'notification' has been put in place to allow the autonomous governments to act under certain guidelines for the following responsibilities that were previously the domain of national governments:

- i) authorisation for the installation, opening and running of casinos
- ii) issuance of necessary permits and documents for casinos within Catalonia
- iii) control, inspection and sanction of gambling activity

3.2. Authorisation and Licensing

Establishments which have as their specific purpose the commercial exploitation of gaming and betting activities listed in the Catalogue of Games are classed as casinos.

Any company owning a casino must fulfil the following requirements in order to apply for a licence from either the regional government and/or the National Commission:

- i) Company status: it must be a limited company ('Sociedad Anónima').
- ii) Nationality and domicile: it must have Spanish nationality and be domiciled in Spain.
- iii) Corporate purpose: its corporate purpose must be the exploitation of a casino to the exclusion of all other activities.
- iv) Share capital: it must have a minimum share capital of ECU 1.500, fully subscribed and paid in.
- v) Shares: these must be registered.
- vi) Foreign capital: foreign shareholdings may never exceed 25% of the company's capital
- vii) Administration: the company must be governed by a Board of Directors. The members of this board must be individuals. The proportion of non-Spanish to Spanish directors may not exceed the proportion of foreign to Spanish share capital. The Chairman of the Board of Directors and the Managing Director, or equivalent, must be of Spanish nationality.
- viii) Shareholders: no individual or legal entity may hold shares in more than three companies owning casinos.

Complementary Services

Under the relevant regulations, companies owning casinos must offer the public the following complementary services:

- bar service
- restaurant service
- lounges
- nightclub or cabaret facilities

They may also provide a series of optional services. These optional services, however, will be regarded as obligatory if they were foreseen in the application for the relevant authorisation and were included in the authorisation itself:

- theatres and cinemas
- conference halls

- concert halls
- exhibition halls
- swimming pools, gymnasia or sport facilities
- shopping facilities

These facilities may belong to or be exploited by persons or companies other than the owner of the casino. They must, however, be situated within the same building or complex as that which houses the casino. The company that owns the casino will be liable, together with the owner or exploiter of the aforementioned facilities, for the quality of the services rendered.

3.3. Supervision and Control

In principle, the National Commission for Gambling and Betting is the licensing body. In practice, autonomous regions may have their own regulatory bodies. The national rules and bodies apply when no regional counterpart exists.

Supervision is conducted by the Gaming and Betting Squad through the head office or one of its five regional offices. Supervision may also fall under the regional governments' responsibilities and specific police forces may be created. Until that is done, the national Gambling Squad is the responsible body for supervision.

3.4. Taxation

The tax on casinos will be calculated on the difference between the monies received from players and the amounts paid out as winnings. Entrance fees will not be included in this calculation.

The following tax rates will be applied to casino earnings per annum:

Range in ECUs	Tax Rate
0 - 2.300.000	35%
2.300.000 - 4.600.000	42%
over 4.600.000	50%

National Treasury Authorities unless otherwise specified in regional law are the tax authority.

3.5. Barriers

A significant barrier in the casino industry in Spain is the national policy of restricting the number of casinos to a certain number. How this number may increase or what factors would lead to it are not known.

Equally the ownership restriction rule, that limits foreign participation to a minority share, discourages foreign involvement in Spain.

4. BINGO

4.1. Legislation

The rules governing bingo halls are set out under the enabling Order of January 9, 1979. Prior to that, bingo was not allowed in Spain. With the liberalisation of gambling rules, bingo halls have become increasingly popular and have conquered a considerable share of the market.

Authorisations for the installation and running of bingo halls are issued on the initiative of the National Commission for Gaming and Betting. Authorisation of this type may be issued to sporting, cultural or charitable societies or associations. These organisations must be individuals or legal entities who own tourist establishments, as long as they fulfil the relevant conditions.

4.2. Authorisation and Licensing

Authorisations for the installation and running of bingo halls are usually issued by the Spanish Home Office subsequent to a proposal of the National Commission for Gaming and Betting. Regional authorities may also share part or all the responsibility for bingo hall regulation.

In general, these authorisations may be issued to:

- i) Sporting, cultural or charitable associations or companies and individuals or legal entities owning tourist establishments.
- ii) Service companies set up in the form of limited companies may, with the relevant authorisation, be contracted by the aforementioned entities to undertake the management of a bingo hall. Such companies must assume before the authorities full responsibility for the activities of the establishment concerned.
- iii) Casinos, subject to the conditions of the respective authorisations issued to them, may install bingo halls in premises separate from those housing other gaming and betting activities.

An installation authorisation and permission to open the bingo hall must be obtained before it may begin its activities.

Authorisations to operate bingo halls may be issued to entities which have the following characteristics:

- i) non-political and non-profit making companies, associations or clubs, of a cultural, sporting, charitable or social nature;
- ii) the entity concerned must have been in existence for at least three years;
- iii) it must have been operating continually for at least the last three years immediately prior to the date on which the application is presented.

The application for an authorisation may be presented jointly by two or more of the aforementioned entities. Each of these entities, however, must fulfil the requirements set out above. They will be severally liable to the authorities.

4.2.1. Tourist Establishments

Authorisations to install bingo halls within tourist establishments may also be issued to the entities or individuals that own this type of establishment.

Hotels, residence hotels, apartment hotels, attraction parks and sport and tourism complexes are all regarded as tourist establishments.

4.2.2. Service Companies

The persons and entities referred to above may contract a service company to manage the bingo hall.

These service companies must fulfil the following requirements:

- i) they must be limited companies
- ii) they must be of Spanish nationality and be domiciled in Spain
- iii) their corporate purpose must be, to the exclusion of all other activities, the exploitation of one or more bingo halls and, where appropriate, the exploitation of any other game for which authorisation may have been issued
- iv) minimum share capital must be established on the basis of the number of halls managed. This share capital must be fully subscribed and

paid in. It may not be reduced during the life of the company, unless the number of halls managed is also reduced

- v) shares must be registered
- vi) these companies must be governed by a Board of Directors. The members of the Board must be individuals. The proportion of non-Spanish members may not exceed the proportion of foreign to Spanish share capital (25%). The Chairman of the Board of Directors and Managing Director, or equivalent, must be of Spanish nationality
- vii) no individual or legal entity may hold shares in more than five companies of this type. To this effect, persons or companies forming part of a single financial group will be regarded as one

Companies of this type may only be set up with an authorisation from the Spanish Home Office, issued on the basis of a proposal from the National Commission for Gaming and Betting. Authorised companies will be registered in a special register kept by this Commission.

4.3. Supervision and Control

In principle, the National Commission for Gambling and Betting is the primary regulatory body. In practice, autonomous regions may have their own regulatory bodies. The national rules and bodies apply when no regional counterpart exists.

Supervision is enforced by the Gaming and Betting Squad through the head office or one of the five regional offices. Supervision may also fall under the regional governments' responsibilities and specific police forces may be created. In the absence of such forces, the National Gambling Squad is the responsible body for supervision.

4.4. Taxation

The tax on bingo hall revenues is calculated on the total income received by the players for acquisition of 'boletos' without any deduction.

The general tax rate applied is 20% but it may vary according to regional policy.

National Treasury Authorities are the main authorities unless otherwise specified in regional law.

4.5. Barriers

Ownership rules limiting foreign participation to 25% of paid-up capital and reserving top positions for Spanish nationals are clearly significant barriers to European investors.

5. GAMING MACHINES

Slot machines are the most recent addition to the Spanish gambling market. Introduced in 1981, these machines were set up in bars and quickly increased. One of the reasons for their success is the importance to Spanish social life to the bar.

5.1. Legislation

The basic legislation is set out under the Royal Decree 1794/1981 of 18 August 1981.

The officially sanctioned machines are those included in a National Registry of Machines kept by the National Commission. This is a reflection of the Catalogue of Games.

The machines fall under one of three categories: (a) recreational, (b) recreational with prizes and (c) chance with prizes.

Type (a) machines can be installed in bars, cafeterias, restaurants, clubs and other hotel establishments under the responsibility of the General Secretariat for National Tourism.

Type (b) machines can only be installed in casinos, boats, bingo halls and other similar establishments authorised by the National Commission.

Type (c) machines can only be installed in casinos and boats that have secured the appropriate authorisation from the National Commission.

New machines can be registered upon request by the manufacturer. Once inclusion on the list is approved, it remains in the the Registry for an unlimited period.

Authorisation for the right to exploit the machines is given to operators by the Spanish Home Office through the National Commission or the competent regional authority. The Home Office also has the prerogative of cancelling registry entries. Licences to use machines are only given for machines that have previously been recorded in the National Registry.

5.2. Authorisation and Licensing

In principle, the National Commission for Gambling and Betting is the regulatory authority. In practice, autonomous regions may have their own regulatory bodies. The national rules apply when no regional counterpart exists.

5.3. Supervision and Control

The supervisory function is enforced by the Gaming and Betting Squad through the head office or one of the five regional offices. Supervision may also fall under the regional governments' responsibilities and specific police forces may be created. In the absence of specific police forces, the national Gambling Squad is the responsible body for supervision.

5.4. Taxation

The tax on slot and other machines is calculated on the basis of the number of machines present in the establishment. Each type of machine will have a specific fixed tax depending on its specifications.

The gaming machines' fiscal mechanisms are under review as the fiscal benefits do not bear a comparable relationship to turnover when compared to lotteries and other games. The proposed regulation would tax each machine as a percentage of its earnings. To measure that, meters would be installed in the machines as it is presently done in Portugal.

National Treasury Authorities are the principle fiscal body unless otherwise specified in regional law.

5.5. Barriers

The requirement to comply with detailed regulations for inclusion in the registry of approved machines and the need for approval from several regional bodies in addition to national requirements may constitute a barrier.

The considerable impact of gaming machines on the public has given rise to a public debate on their control. These are likely to be stricter in the future.

6. HORSE RACING

Although gambling was illegal up to 1978, horse racing continued principally as an interest of the military forces. Today, horse racing is still administered by the Ministry of Defence.

There is a national horse race pool bet, the Quiniela Hípica, which is managed by the Spanish Jockey Club. This and the on-track totalisator are the only forms of horse race betting permitted in national legislation.

Of the regions which have competence on gambling, Catalonia has laws on racing and betting, Andalucia has law on racing and a draft law on betting and Euskadi has made no provision. Both Catalonia and Andalucia intend to permit corporate ownership of racetracks and corporate operation of an off-track totalisator.

7. RECREATIONAL GAMBLING

Games and competitions of a purely recreational nature, which are primarily social events or family activities and which involve the transfer of small sums of money between players, are excluded from regulations governing gaming and gambling. They must not be seen as profit-making activities either by the players themselves or by other persons not directly involved in them. The practice of games or competitions of this type is permitted by Spanish law and no special authorisation is required.

Raffles and tombolas of a charitable or private nature which are regarded as being in the public interest may be authorised by the government.

UNITED KINGDOM

**STUDY OF THE LEGAL AND MARKET SITUATION IN ALL THE MEMBER STATES
CONCERNING BETTING, GAMING, LOTTERY AND SIMILAR ACTIVITIES
IN VIEW OF THE COMPLETION OF THE INTERNAL MARKET**

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INTRODUCTION

The principle characteristics of the gambling and gaming market in the United Kingdom are that operators are predominantly private as opposed to state-run and that there is no National Lottery.

There is a strong tradition of gambling and gaming in the United Kingdom. The legislative philosophy is to control and regulate games for which there exists an unstimulated (i.e. socially inherent) demand. While controlling the gambling and gaming environment, fiscal legislation has been superimposed to enable tax revenues to be obtained from this market.

The legislation is market driven. If it is evident that there has evolved, due to social conditions, a demand for a gaming activity, then it would be legislated for.

Gaming, betting and lotteries are not classified by the Home Office as a leisure activity. The Home Office does not believe that the legislation of such activities should be compared with other leisure environments. The government believes controls are required to prevent fraud and excessive gambling. In view of the need for special regulations the government rejects the tendency by the gambling industry to try to portray itself as part of the Leisure Industry.

Legislation has evolved over a period of time and two recent official studies on the industry, in 1951 and 1978, resulted in legislative reviews of the industry. Major influences on the market's current evolution are:

- The Betting, Gaming and Lotteries Act 1963
- The Gaming Act 1968
- The Lotteries and Amusement Act 1976

Their impact and those of subsequent fiscal legislation are examined in this report.

1. HORSE RACING AND GREYHOUND RACING

1.1. Introduction

From the reign of Charles II (1660-1685), betting on horse racing has been regarded as a socially acceptable leisure activity. Initially it was for the rich and landed gentry who would race one horse against another with a wager (bet) on which horse would win. Before tracks existed, races were organised on a cross-country route from one village church to another, with the church's bell tower (or steeple) guiding the riders. This was known as a steeplechase, a type of obstacle race still in existence on race tracks today.

Bookmaking is a system where a non-racing third party can hold wagers for a multi-horse race and pay out against pre-ordained odds while still retaining a profit for himself. On-track bookmaking has been in existence since the development of horse racing tracks. Bookmakers were in attendance at steeple chases even before the construction of racetracks.

Greyhound racing has developed over the last sixty years. Legislation and supervision for greyhound and horse race betting are in principle the same.

1.2. Bookmaking

Bookmaking was permitted on-track. Illegal off-track bookmaking, however, was common. In order to control the criminal element involved in this activity it was decided that off-track credit-bookmaking would be allowed. This was covered by the Acts of 1853 and 1906. This by definition supplied the needs of the wealthy who were credit-worthy and an acceptable risk to the credit bookmakers.

By the 1930s, a number of on-track bookmakers had set up official centralised credit bookmaking operations in London, including Joe Coral, William Hill and a company called Ladbroke which had been supplying this service to the gentry since the mid-nineteenth century.

1.2.1. Legislation

All British gambling legislation is based on the philosophy of "providing facilities to meet unstimulated demand"¹ and the prevention of crime.

¹ Rotschilds Royal Commission on Gambling, 1978.

Betting legislation, which is based broadly on the report of the Royal Commission published in 1951, was introduced originally to regularise a social problem with illegal cash betting taking place quite openly in pubs and on street corners. Many restrictions were introduced so that a problem-free transition would be achieved.

In 1960, off-track bookmakers were permitted to open shops. In practice these were not allowed to be on high streets or main thoroughfares and shopfront signalisation was strictly regulated. Having reviewed the impact of the legislation, the 1963 Betting, Gaming and Lotteries Act liberalised to some degree the placement and profile of such premises.

The principle of controlling an unstimulated market and collecting revenue as simply and efficiently as possible is evident in the current legislation. The legislation impacts both on- and off-track bookmakers and is a mixture of both 'social' and 'fiscal' law.

The laws are:

Betting, Gaming and Lotteries Act 1963 as amended

The Betting and Gaming Duties Act 1981 as amended or repealed by the Finance Acts as follows;

General Betting Duty Regulations 1987

Section 1(2) by Finance Act 1987

Section 3 by Finance Act 1987

1.3. On-Track Bookmaking

1.3.1. Legislation

All on-track bookmakers must be in possession of a permit before accepting bets. Any bets accepted which do *not* meet the following requirements are liable to duty:

- a) The bet must be taken at a meeting at which both the punter and the bookmaker are present.
- b) Where the bet is not made at a meeting it must be part (or whole) of a hedged or laid-off bet made by the bookmaker by way of his business.
- c) The bet must be made during a meeting.

Bets placed, which satisfy the legal requirements above, are not chargeable with duty. All other bets are charged at 8%.

1.3.2. Authorisation and Licensing

The Local Licensing Authority is the Magistrates Court within whose jurisdiction the race track falls. It is responsible for granting on-track bookmakers with a licence. The race track then grants the bookmaker permission to trade in return for a fixed fee for his 'spot'.

A licence is granted if the applicant is deemed suitable in that he has not previously breached the Betting, Gaming and Lotteries Act, is resident (or if a company incorporated) in the United Kingdom, is considered "fit and proper" and is financially sound.

Applications would be unlikely to succeed without the race tracks' support. Objections may be heard from the police, Customs and Excise, and members of the public.

1.3.3. Supervision and Control

The local licensing authorities control the issue and renewal of licences for on-track bookmakers which are granted annually. The authority can refuse to grant or renew a permit or licence on the grounds of suitability of the individual or his financial standing.

The licensing power is discretionary. Each licence application is treated separately. Considerations for the decision on remitting a licence vary from application to application.

Customs and Excise can request the forfeiture and cancellation of the on-track bookmakers licence or object to its renewal, if duty is not paid.

1.3.4. Taxation

- a) If the on-track bookmaker satisfies the legal requirements of betting on-track, i.e. is not liable to duty, he will be obliged to:
 - i) notify Customs & Excise (7 days in advance),

- ii) apply for a Betting Duty reference number,
 - iii) keep a field book record of all bets received. This must be bound and have serially numbered pages,
 - iv) record details of each bet immediately it is received,
 - v) record hedged bets within 7 days of receipt.
- b) If the bookmakers does not satisfy the legal requirements, i.e, is liable to pay duty, he will be obliged to :
- i) notify Customs & Excise (7 days in advance),
 - ii) give security to Customs & Excise in the form of either a cash deposit equal to 4 weeks duty liability, a bond or a deposit on account,
 - iii) inform Customs & Excise if trading is ceased,
 - iv) keep a field book the same as a.iii. above,
 - v) keep a betting duty account,
 - vi) submit a monthly return,
 - vii) keep betting slips for six months and field books for six years.

Betting duty is the responsibility of Customs & Excise. Under the terms of the law quoted at 1.2 above, and the Customs and Excise Management Act 1979, officers have powers which allow them to:

- i) enter any premises used for betting,
- ii) enter any track or meeting place,
- iii) direct which records must be kept by bookmakers,
- iv) inspect any records kept under (iii) including bank and annual accounts,
- v) take copies of any books or records relating to on course bets.

The rate of duty for on-course bets is currently set at zero, and the rates applicable to off-course betting are shown in section 1.4.

1.3.5. Distribution of Profits

After duty and winnings are repaid to punters, the on-track bookmaker is subject to the normal civil tax codes. Unlike off-track bookmakers, he pays ECU 15 per annum directly to the horse racing industry via the Levy Board, his spot fee to the race course is considered as a contribution.

1.3.6. Barriers

A licensed on-track bookmaker must be registered or resident in the UK. A bookmaker need not be an individual but must be a legal entity, i.e. individual, partnership, limited company or corporate body.

In such a mature market it would be difficult to prove additional demand. New licences are granted (405 in the year to May 1990) but access to racecourses is limited by course managers.

1.4. Off-Track Bookmaking

Having examined the on-track bookmakers position, we now consider off-track bookmaking.

1.4.1. Legislation

The principal legislation applicable to off-course betting is the same as for on-course betting.

The laws are:

Betting, Gaming and Lotteries Act 1963

The Betting and Gaming Duties Act 1981 is amended or repealed by the Finance Acts as follows;

General Betting Duty Regulations 1987

Section 1(2) by Finance Act 1987

Section 3 by Finance Act 1987

The bookmaker must be in possession of a permit and his premises licensed.

1.4.2. Authorisation and Licensing

The Local Licensing Authority at the relevant Magistrates Court issues bookmakers' permits and licences in England and Wales. The Local Licensing Authority in Scotland is the local licensing board made up of local councillors. 'Credit' bookmakers who take bets only by telephone do not require a licence since the public are not admitted to their premises.

A licence application is made public via the court postings. Objections may be heard during the subsequent proceedings. These could come from either competitors operating in the locality, shop keeper associations, local councillors or social pressure groups as well as police, fire service and Customs and Excise.

The onus is on objectors to prove that there exist adequate facilities to meet demand for off-track bookmaking in the locality.

As with on-track bookmakers, Customs and Excise can request the forfeiture and cancellation of a bookmaker licence or object to its renewal, if duty is not paid.

1.4.3. Taxation

All off-course bets made with bookmakers in Great Britain and Northern Ireland are liable to duty. Duty on off-track horse race betting was introduced in 1966 and is currently levied at 8% of the stake value. There is an 8% tax itemised on betting slips in shops.

Excise duty obligations of the off-track bookmaker:

- i) Any person who wishes to commence trading as an off-course bookmaker must notify Customs & Excise giving at least 7 days notice of intention to trade.
- ii) The bookmaker must provide security in the form of either a cash deposit, bond or deposit on account. The amount of security required is 5% of 4 weeks' average stakes.
- iii) The bookmaker must keep a record of all bets received on a serially numbered slip in a consecutive series not less than 9,999. A copy must be given to the punter.
- iv) The bookmaker must keep a betting duty account in accordance with customs rules.
- v) The bookmaker must submit monthly returns.
- vi) Records must be kept for 6 months (betting slips etc) or 6 years (all other records).

The fiscal controls are the same as those for on-course betting. Off-track bookmakers are not however required to record bets by track meetings and races.

1.4.4. Tax Revenue

Over the last decade, betting duty revenue from off-track bookmakers rose from ECU 339,5 million in 1979-1980 to ECU 619,6 million in 1988-1989.

Off-track betting duty revenues 1979-1980 to 1988-1989

Fiscal Year	Revenue (.000 ECU)
1979-1980	339.528
1980-1981	371.907
1981-1982	378.802
1982-1983	405.203
1983-1984	403.770
1984-1985	435.237
1985-1986	470.232
1986-1987	511.551
1987-1988	532.982
1988-1989	619.625

In 1988-1989, off-track betting duty receipts totalled 45.68% of all betting and gaming revenue for Customs and Excise.

1.4.5. Market Information

The United Kingdom has the largest horse race betting market in Europe. It is also the largest off-track betting market. There are nearly 10,000 off-track betting shops spread throughout the United Kingdom servicing nearly 4 million customers who, in 1988-1989 wagered ECU 7,7 billion (compared to ECU 4,6 billion in France, the next largest market), according to *The Financial Times*. This total includes a proportion of greyhound race bets.

In 1988-1989, the Government received ECU 619,3 million in betting tax from the off-track bookmakers.

Big multiple outlet bookmakers have come to dominate the industry. In March 1986, Schedule 4 of the Betting, Gaming and Lotteries Act 1963 which sets out the rules governing licensed betting offices, was amended to make provision for the use of television (subject to conditions) and for the sale of some light refreshments. The former change allowed for the development of a televised service for betting shops (Satellite Information Services). The introduction of this service between 1987 and 1989 provided a boost to turnover. The number of horse and greyhound meetings also grew by some 6% over this period.

Televised service for betting shops because racing was already being shown on national televisions in the afternoon. Commercial demands had resulted

in live televised racing, therefore the placing of televised racing into shops merely satisfied already existing demands.

Bookmakers are the major shareholders in the Satellite Information Service. S.I.S. broadcast race meetings into the off-track bookmaking shops in addition to those carried on national television channels. This now gives more opportunity for customers to bet. Racing is often beamed from Ireland and occasionally Belgium and Hong Kong.

Independents still make up the majority of the outlets, but the multiples lead the market and have the financial strength to drive the industry. Their total turnover is around 63% of the total off-track betting market.

The concentration of bookmaker power is continuing with the Big 3 buying up their smaller rivals while individual bookmakers close down. Ten years ago, there were nearly 14,000 shops. This figure dropped to below 10,000 in 1990 to approximately 9,750 by June of this year.

1.4.6. Barriers

Other than the licensing procedures requiring domicile, there does not appear to be any barriers to market entry.

Bookmakers accept bets on racing events outside the UK without paying a contribution to the event organisers. Indeed, there is no legislation insisting on payments.

There exist some operating restrictions on off-track bookmakers:

- Operators cannot advertise in connection with the location of a licensed betting office or the facilities available.
- Strict rules apply to external display which prevents the operator using window space to promote services.
- Legislation prevents the use of the betting office for any purpose other than the effecting of a betting transaction and limited soft drinks and light refreshments.
- Mixed forms of gambling are prohibited in betting offices. Casinos, bingo halls and horserace and greyhound tracks do not suffer the same restrictions.
- Amusement with Prize (AWP) machines are common-place and can be played in uncontrolled and unlicensed premises, but not in licensed betting offices.

- Football pool betting which is available, although illegal, in confectioners, tobacconists and newsagents (CTN) throughout the country is prohibited in licensed betting offices.
- The hours of opening are restricted. Shops must close by 6:30 p.m. each evening, Monday - Saturday. Sunday opening is not permitted.

Official justification of these regulations is the protection of players from exploitation.

1.5. The Tote

The totalisator or Tote is a pool bet (a pari mutuel). It was established by the government in 1928 as a means of funding horse racing in the United Kingdom. Originally, it was an on-course bet, but with the introduction of off-track bookmakers the Tote established Tote shops in 1972 of which there are now 133.

Although promoting the Tote bet within the shops, 98% of all bets taken in Tote shops are on bookmaker odds, the remaining 2% being Tote bets.

The Tote is managed by a Board of Governors and Home Secretary appointees. The current Chairman is Lord Wyatt.

The Tote's principle aim, as previously stated, is to fund horse racing and this is done via a contribution to the Levy Board. In 1989 this was ECU 1,5 million. Bookmakers' contribution was ECU 55,9 million.

The Tote also made a direct payment of ECU 4.8 million directly to racetracks.

1.5. The Levy Board

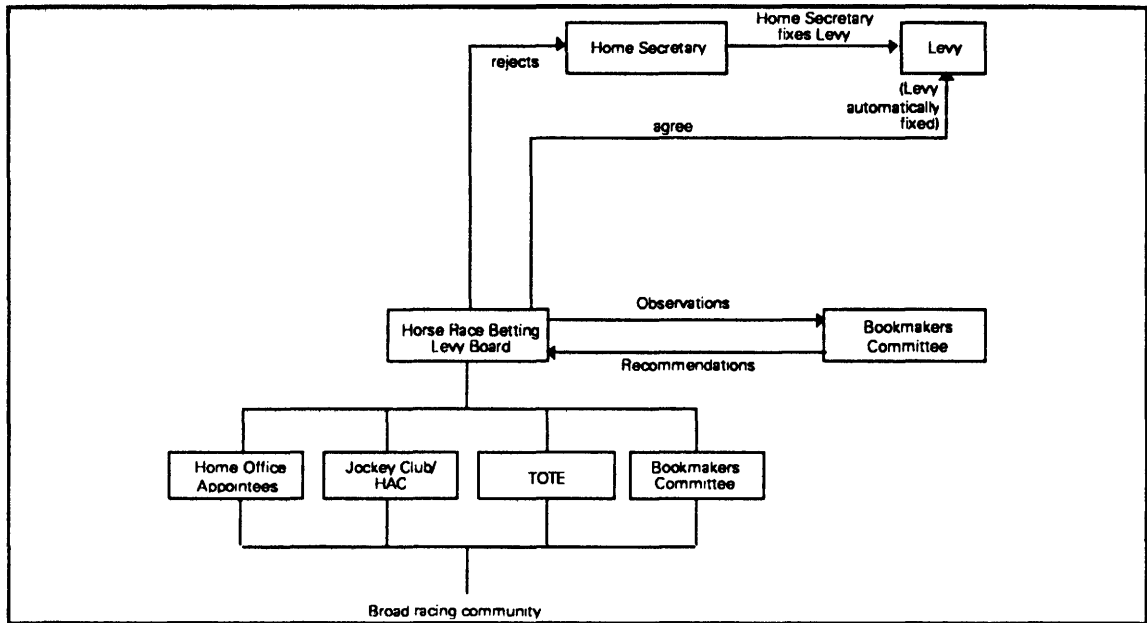
The horse race betting Levy Board is responsible for managing monies derived from a levy on betting. The monies are used to support horse racing.

The current levy is based on turnover per bookmaker outlet and is scaled up to 1%. The average levy rate for 1989-1990 was 0.89%.

The setting of the levy is achieved each year via negotiations between the Bookmakers Committee and The Horse Race Betting Levy Board. The Bookmakers Committee is also represented on the Board.

If the levy rate cannot be agreed, the situation is referred to the Home Secretary who fixes the levy for the following year. This process is illustrated below:

The Levy Setting Process



Once the levy is set, the fund is established and allocated to various uses.

The tables below show sources and allocation of funds for the 1989-1990 fiscal year.

Levy Income

Sources of funds	Amount (.000 ECU)	%
Bookmakers	55.852	93.9
Tote	1.524	2.6
Interest	2.113	3.5
Total	59.489	100.0

Levy Expenditure

Activity	Amount (.000 ECU)	%
Prize Money	27.689	46.5
Integrity Services*	13.908	23.4
Capital Expenditure	6.337	10.7
Race courses	3.024	5.1
Administration	2.688	4.5
Veterinary Services	1.854	3.1
Miscellaneous	3.989	6.7
Total	59.489	100.0

* Integrity services include breeding checks, registration checks, anti-doping administration, ensuring correct handicaps, etc.

1.7. Greyhound Racing

Greyhound racing revenue is not subject to a levy and has been actively developed by off-track bookmakers as it provide an extra 1% to their net operating profit. It now account for nearly 20% of the total stakes.

The Greyhound Association are lobbying for a levy on greyhounds.

2. FOOTBALL POOLS

The football pools were introduced between the two world wars and soon millions of pounds were being staked on the weekly event.

Private entrepreneurs developed the football pools companies which are relatively easy to tax.

2.1. Legislation

The principle laws covering football pool betting are:

The Betting, Gaming and Lotteries Act, 1963

The Lotteries and Amusement Acts, 1976

The Betting and Gaming Duties Act, 1981 (as amended)

The objectives of the legislation as applied to the football pools are; to control the extent of gambling, the protection of clients' stakes and winnings, the control of promoters expenses and the collection of duty by Customs and Excise.

It provides a framework of legislative control, based around a licensing system, which minimises the risk of abuse and prevents the 'stimulation of demand' for the product.

2.2. Authorisation and Licensing

Any person who wants to carry on a business in pool betting or fixed odds coupon betting must obtain a permit for each set of premises involved in the operation from customs and excise.

The licence will be granted by the local authority. The Custom and Excise may apply for the licence to be revoked on the ground of unpaid duty.

2.3. Supervision and Control

There are three bodies that exercise supervision and control.

The Local Authority:

Local authorities are responsible for the auditing of the football pools organisations sited in their area. They should ensure the pool is divided as per leg-

isolation, and that costs and net profit fall within the reasonable bounds. The local authority have the power of licensing and can rescind the licence if the promoter is convicted of any offence under the gaming regulations covering football pools.

Customs and Excise:

Customs and Excise have powers to take whatever steps are necessary to ensure validation of any fiscal documentation they receive from the football pools promoter.

The Police:

The police and the public have the right to prosecute the promoter under criminal or civil law, depending on what offence the promoter is accused of having committed.

2.4. Taxation

Football pools betting duty was reduced from 42.5% to 40% with effect from 28th May 1990. This reduction is based on an agreement between the government, the English and Scottish Football Leagues and The Football Trust. The residual amount, equal to 2.5% stakes, will be channelled by the pools promoters to The Football Trust to improve safety and comfort of spectators at football grounds.

The legislation is a result of the recommendations arising from the government inquiry into the Hillsborough disaster.

The fiscal obligations of the pool promoter are:

- i) Before starting business the trader must notify Customs & Excise of the address of the premises to be used.
- ii) Before starting a new competition (or changing the rules of existing ones) the trader must notify Customs & Excise.
- iii) The trader must keep an up-to-date register of the names and addresses of all agents used.
- iv) Promoters must keep records that enable the duty due to be calculated.
- v) Agents must keep a record of all moneys received and copies of all returns etc. given to the promoter.

vi) Records must be retained for between 2 months and 2 years (depending on the type of record).

vii) The trader must submit a weekly return of total stakes and duty due.

Pool Betting duty is the responsibility of Customs & Excise. Officers are entitled, at all reasonable times, to enter premises used in connection with pool betting. Officers are also empowered to:

- i) Direct which records should be kept
- ii) Take copies of relevant documents.

2.5. Tax Revenue

Pool Betting Duty: Receipts by Customs & Excise in .000 ECU

Fiscal Year	Receipts by Customs and Excise (.000 ECU)
1979-1980	202.100
1980-1981	233.203
1981-1982	261.440
1982-1983	296.016
1983-1984	304.337
1984-1985	323.731
1985-1986	349.409
1986-1987	377.597
1987-1988	411.338
1988-1989	414.223

The 1988-1989 Pool Betting receipts totalled 30,54% of all Betting and Gaming receipts.

2.6. Distribution of Profits

The breakdown and distribution of football pool stakes is specified under the Gaming and Lotteries Act 1963.

The pool operator must state the proposition of total stake money that will not be paid out in prizes. The acceptable norm is for cost not to exceed 30% of the pool or net operating profit (before company tax but net of costs) in excess of 3%. Current duty levels including the funding of sport grants are set at 42.5%. The balance is then paid out in prize money.

2.7. Barriers

The Football Pools perform the same function for the government as the National Lottery in other European states, being a popular numbers game which generates significant revenue via duty for the government. In all but name the football pools market acted as the UK lotteries.

National Lotteries are forbidden under UK law. Betting on foreign lotteries is also against the law and Customs and Excise have gone to some lengths to interrupt postal stakes and winnings. The philosophy behind such legislation is that permitted forms of gaming and gambling are inherent in the culture of the UK and are controlled by legislation. A National Lottery is principally a vehicle for raising revenue for the government and is not considered an activity inherent in the national culture.

3. CASINOS

3.1. Legislation

The principle legislation covering casino operations is the Gaming Act 1968 (as amended). It was designed to control casinos strictly along with certain other gaming activities.

Under the Act of 1968, the Gaming Board for Great Britain was established to exclude criminal elements from gaming activities and to ensure that the demand for casino facilities was not artificially stimulated by casino operators.

The Gaming Licence Duty Regulations 1980, the Betting and Gaming Duties Act of 1981, and the Gaming Act of 1968 legislates the collection of revenues and controls the gaming environment.

3.2. Authorisation and Licensing

The licensing of a casino is controlled at three levels:

- Customs and Excise licence for taxation;
- The local licensing at the Magistrate Court under whose geographical jurisdiction the premises falls;
- The Gaming Board for Great Britain

A casino licence is granted annually. For a new licence an applicant applies for a certificate of consent from the Gaming Board.

The Board shall not issue a certificate of consent when the applicant:

- i) is not a corporate body is under 21
- ii) is not a corporate body is not resident in Great Britain or has not been resident for a period of six months
- iii) is a corporate body is not incorporated in Great Britain.

In considering the application for a certificate, the Board must be secure in the opinion that the applicant is capable of and diligent in ensuring gaming is fairly and properly conducted.

They also take into consideration the character, reputation and financial standing of the applicant.

Should the Board decide against a certificate of consent on the above grounds, there is no appeal.

Having obtained a certificate of consent, the applicant must seek a licence from the local licensing authority under whose geographical jurisdiction the premises fall.

A licensing authority may refuse to grant a licence under the 1968 Act if it is not shown to the satisfaction of the licensing magistrate that:

- i) substantial demand already exists
- ii) that no similar gaming facilities are available in the locality
- iii) that such facilities, if available, are insufficient to meet demand

It is possible for the Gaming Board to issue a certificate of consent and then object to the granting of a licence on the above grounds.

3.3. Supervision and Control

There are extensive powers of entry, search and inspection of licensed premises under the 1968 Gaming Act. These powers vest in the Gaming Board Inspectorate and the police.

Any inspector or constable may at any reasonable time enter any premises in respect of which a licence under the 1968 Act is in force. While there he may inspect any:

- machines
- equipment
- goods or documents

If any licence holder or person acting on their behalf:

- (i) fails without reasonable excuse to admit an inspector or constable who demands admission to premises for inspection,
- (ii) fails without reasonable excuse to permit inspection of the premises or any machine or other equipment on the premises,
- (iii) fails to produce any book or document in his possession relating to gaming
- (iv) fails without reasonable excuse to furnish information to the inspector,

the holder of the licence is guilty of an offence.

Any constable who enters any premises under the authority of a warrant issued as a result of suspicion of illegal activity under the 1968 Act may:

- (i) seize and remove any document, money, valuable thing or instrument
- (ii) arrest and search any person found on the premises.

The licence holder must on request:

- (i) produce for inspection by the Board any books or documents requested,
- (ii) furnish any information required by the Board.

Any person duly authorised in writing by the fire authority (within the meaning of the Fire Services Act 1947) in whose area the licensed premises are situated may at any reasonable time enter the premises.

There is no limited liability under the 1968 Act. Accordingly, both directors and employees may be liable for offences committed by corporate bodies under the Act.

3.4. Taxation

Duty is paid six months in arrears. It is based on the casino's winnings not turnover.

Scaled Duty Rates Per Single Casino

Annual Casino Winnings (ECU)	Rate
the first 557.000	2,5%
the next 2.785.000	12,5%
the next 3.342.000	25,0%
the remainder	33,33%

The excise obligations of the trader are:

- a) All gaming operators must notify Customs & Excise at least 14 days before the licence is required.
- b) Notification of change of ownership must be given to Customs & Excise under the same terms as at (a).

- c) The operator must render returns of the gross gaming yield twice yearly.
- d) A general financial statement for the last financial year must be rendered annually.
- e) The operator must maintain records sufficient to complete the six monthly return, and retain them for six years.

As covered in detail in section 3.3, the collection of gaming licence duty is the responsibility of Customs & Excise. Officers are empowered to:

- i) Enter premises used for gaming
- ii) Demand production of any licence in force
- iii) Demand information concerning gaming

3.5. Tax Revenue

Gaming licence duty paid from 1979 to 1989 is as follows :

Receipts by Customs and Excise .000 ECU

1979-1980	9.021
1980-1981	8.005
1981-1982	17.142
1982-1983	37.794
1983-1984	62.721
1984-1985	70.610
1985-1986	81.699
1986-1987	77.619
1987-1988	94.152
1988-1989	85.136

3.6. Barriers

Other than the requirement of residence or incorporation in the UK for owners of casino licences, there appears to be no statutory barriers.

The applicant is empowered to take the decision to judicial appeal.

In refusing a certificate of consent, however, the Gaming Board could refer to a number of unspecified considerations, i.e. ability to ensure gaming is run correctly, character, reputation, etc., which could be used as a barrier.

There are 119 casinos in Great Britain. Despite there being no restriction on foreign ownership, none are owned by a non-British citizen company.

4. BINGO

In comparison with other betting and gaming activities, bingo is regarded as much more of a social activity. 90% of the stake money (money paid for bingo cards) is returned to the players as winnings. The remaining 10% is accounted for by tax (tax is also charged on additional prize money). The bingo promoter's profit comes from the entry fee to the premises and from money spent on food and drinks, etc. Legislation allows various types of bingo to be exempt from duty, e.g. small scale bingo played in members' clubs, societies and similar organisations. This reflects the social rather than the gaming nature of this type of bingo.

4.1. Legislation

Bingo is covered by:

The Gaming Act of 1968.

Betting and Gaming Duties Act 1981

The Betting and Gaming Duties Act 1981 is amended by Finance Acts as follows:

Section 19(2) by Finance Act 1986

Section 20(2) by Finance Act 1986

Bingo Duty Regulations 1988

Bingo was incorporated into the 1968 Gaming Act as the game had been adopted by leisure multinationals who had surplus cinema building which they adapted into bingo halls. The legislation on bingo recognised the cultural and historically social role of bingo in British society.

4.2. Authorisation and Licensing

Under the Gaming Act of 1968, the licensing procedure for either a casino or bingo hall is the same. A certificate of consent is required from The Gaming Board. The local licensing authority, within whose geographic jurisdiction the bingo premises falls, grants a licence for the premises. Facilities are available for objections to be lodged.

The same authority registers, as opposed to licences, premises such as social clubs for playing bingo for profit as a way of raising funds for the club.

The registered premises are not subject to duty; the licenced premises are.

4.3. Supervision and Control

The Gaming Board, the police and Customs and Excise are principally responsible for the enforcement of the legislation, the police to ensure that civil and criminal laws are not broken, and Customs and Excise to ensure that all duties are paid. They have the same powers under the 1968 Act to control bingo as apply to casinos.

Officers of Customs & Excise are empowered to:

- i) Enter premises where bingo is played.
- ii) Demand information concerning bingo activities.
- iii) Direct the nature of records to be kept.
- iv) Demand production of records,
- v) Estimate due duty where records are inaccurate or incomplete.

4.4. Taxation

In addition to the standard corporate taxation regime, licence premises are subject to a duty. This duty is 10% of the total stake. Should the bingo operator add to the prize money in the pool this addition is subject to a tax of 11.11%, one-ninth of the added prize money.

Under the duty acts, a number of obligations are imposed on the bingo operator. They are:

- i) It is the operator's obligations to establish if his activities are dutiable or not.
- ii) Non-dutiable operators must maintain records of monetary prizes and receipts.
- iii) Dutiable operators must give Customs & Excise 14 days' notice of intention to trade.
- iv) Dutiable operators must notify Customs & Excise of any change in circumstances (ownership, address etc).
- v) Operators must maintain a bingo duty account which must be retained for at least two years.

- vi) Operators must number the bingo cards consecutively in a series not less than 99,999.
- vii) Operators must give 7 days' notice to Customs & Excise of intention to destroy cards.
- viii) Cards must be issued in strict numerical order.
- ix) Operators must render monthly returns.

4.5. Tax Revenue

Bingo duty paid by operators from 1979 to 1989 was as follows:

Receipts by Customs & Excise .000 ECU

1979-1980	32.272
1980-1981	43.103
1981-1982	64.678
1982-1983	70.930
1983-1984	73.500
1984-1985	73.046
1985-1986	75.442
1986-1987	80.272
1987-1988	90.609
1988-1989	94.017

The 1988-1989 bingo duty receipts totalled 6,93% of all betting and gaming receipts.

4.6. Distribution of Profits

90% of stakes are returned as winnings with 10% being paid in duty. The bingo operators' profit is made principally from the entrance fee that is charged and the sale of food and drink in the premises. After paying taxes, the operator is free to distribute profit as he sees fit.

4.7. Barriers

Other than licensing barriers there does not appear to be any restriction on entering this market.

5. GAMING MACHINES

This section covers amusement machines which provide prizes. These are distinct from amusement machines such as video games which do not give out cash prizes.

There are around 2000 amusement arcades in Great Britain. Approximately 800 of these are sited in town centres and the majority, approximately 1200, are sited at either seaside or holiday resorts. Most of the seaside and holiday resort amusement arcades cater specifically for holiday makers and as such are open on a seasonal basis, usually from April to October.

The number of amusement arcades has risen slightly since the 40s with a peak in the late 70s early 80s coinciding with the video boom. The numbers are expected to decrease slightly over the next few years and stabilise at around 1600-1800.

In contrast to the domestic sales of video games, currently estimated at around 6 million games per annum, the number of video machines in pubs, cafes and amusement arcades has dropped dramatically. Since 1982 when numbers reached around 150,000 the figure has decreased to around 110,000 for 1989.

5.1. Legislation

The laws covering amusements with prizes are:

- The Gaming Act 1968 as amended
- Gaming Machine Licence Duty Regulations 1988

The Betting and Gaming Duties Act 1981 is amended or repealed by Finance Acts as follows:

- Section 21(4) by Finance Act 1987
- Section 22(5)(c) and (b) by Finance Act 1982
- Section 21A(3) by Finance Act 1985
- Section 23(1) by Finance Act 1985
- Section 24(1) by Finance Act 1984
- Section 25(4) by Finance Act 1982

The underlying principles of the social and fiscal legislation are to collect revenue and to regulate, to a certain extent, the public's access to and use of gaming machines. Thus, for example, 'Jackpot' machines (i.e. relatively large

payout for a single payment) are allowed only in places with no public right of entry such as casinos, bingo halls and registered members' clubs. Small prize machines are generally found in other premises open to the public.

5.2. Authorisation and Licensing

The coin machine industry in England, Scotland and Wales is subject to a number of laws, which affect the manufacture, sale, supply, hire, maintenance and use of machines. Also covered are the types and number of machines permitted, the charge to play and prize limits.

The law provides for the provision of certificates from The Gaming Board of Great Britain. The certificates are normally valid for five years but are renewable, and cover the sale, supply, hire and maintenance of machines.

Certain of the conditions when a machine is let or hired out by the owner are subject to legal restrictions. For example, the rent must not in any way be related to the extent to which a machine is played.

According to the law, machines may only be installed and operated in clubs with private membership, in public houses, amusement arcades, cafes and shops for which permits have been granted. The exception is travelling fairs staying in one place for not more than 28 days, which are exempt from permits.

The maximum permitted charge to play one game for an amusement with prize (AWP) machine and jackpot machine is ECU 0,30. The law allows for changes in this from time to time on the recommendation of The Gaming Board.

Prize limits, too, are laid down by law. There are no limits for machines installed in clubs. There is a voluntary trade limit, however, for jackpot machines of ECU 223. For machines installed in public houses, cafes, etc., a limit of ECU 3.6 for costs or ECU 7.2 for tokens.

Gaming machines which have an effective stake of ECU 0,03 and which pay out in excess of the stake must be licensed.

Machines which do not require a licence are as follows:

- a) Machines with an effective cost of ECU 0,03 or less to play once.
- b) Amusement-only machines (i.e. video games).
- c) Small prize machines where the reward is less than cost to play once.

- d) Small prize machines provided for charitable events.
- e) Machines involving skill for prizes.
- f) During March-October, small prize machines for which a $\frac{1}{2}$ or $\frac{1}{4}$ year licence is held.

5.3. Supervision and Control

Although The Gaming Board of Great Britain is the main arbiter for the industry, local authorities have certain powers to control amusement arcades in their own areas.

Current planning considerations give local authorities a variety of controls. Permission to operate, when granted, may be subject to a number of conditions such as: days and times of opening, the number of machines, the type of machines, the type of games, the way the games are played, the type and use of frontage, type of doors, control of sound and layout of premises.

Under the 1968 Gaming Act, local authorities have the power to grant or refuse a permit for an amusement arcade or centre on grounds transcending planning considerations, irrespective of whether or not planning permission has already been granted.

5.4. Taxation

There are four levels of duty on gaming machines, calculated on prize money and stakes.

- a) Small prize machines (payout not exceeding ECU 7,1)

Type of machine by stake	Licence Duty (ECU)		
	Yearly	Half yearly	Quarter yearly
Lower rate (ECU 0,03-0,07)	220	120	70
Higher rate (more than ECU 0,07)	560	300	170

b) Jackpot machines (payout exceeding ECU 7,1)

Type of machine by stake	Licence Duty (ECU)		
	Yearly	Half yearly	Quarter yearly
Lower rate (ECU 0,03-0,07)	560	300	170
Higher rate (more than ECU 0,07)	1430	790	430

The Excise obligations of the trader are:

- a) The trader must apply to Customs & Excise 14 days before the license is required.
- b) The trader must notify Customs & Excise 14 days in advance of any intended transfer of license.
- c) Exchanges of license, amendments and credits must be notified to Customs & Excise giving 14 days' notice.
- d) Ordinary licences must be displayed in a prominent position in the premises for which they are in force.
- e) Special licences must be displayed on the machine for which they are in force.
- f) For special licences, a record must be kept showing
 - location of each machine
 - the machine's make, model and serial number
 - the number of the licence applicable for each machine
 - the commencement and expiry dates of that licence
- g) Changes in the records must be made up no later than the next working day following the amendment.

Officers of Customs & Excise are empowered to:

- a) Enter premises where a gaming machine is provided.
- b) Inspect premises and demand production of a licence where a machine is provided.

- c) Demand the provision of information with respect to any use to which premises have been put or about any machine that is or has been on the premises.
- d) Demand production of records.
- e) Seize unlicensed inadequately licensed gaming machines.

5.5. Tax Revenue

Gaming machine licence duty paid by operators from 1979 to 1989 was as follows:

Receipts by Customs & Excise ECU .000

1979-1980	20.662
1980-1981	26.357
1981-1982	38.977
1982-1983	85.020
1983-1984	93.445
1984-1985	78.984
1985-1986	127.666
1986-1987	110.906
1987-1988	140.781
1988-1989	143.300

The 1988-1989 Gaming Machine Licence duty receipts totalled 10.57% of all receipts by Customs and Excise.

Over the last 5 years the average increase in Gaming Machine Licence Duty receipts has been 11.5%.

5.6. Barriers

Other than the licensing procedures, there appears to be no restriction on market entry. Because of the physical nature of the game, cross-border betting considerations are not applicable in this case.

6. LOCAL LOTTERIES

All public lotteries are subject to licensing requirements.

Under the Local Lotteries Act of 1976, local lotteries are permitted providing they are non-profit making and their aim is to generate revenue for charitable, sporting and other philanthropic activities.

Lotteries with a total stake value of below ECU 15.000 and a first prize of ECU 3.000 are not subject to licensing by the local licensing authority but need only be registered.

Lotteries with total stakes of between ECU 15.000 and ECU 180.000 and first prizes of between ECU 3000 and ECU 18.000 do require a licence. Local lotteries with a stake revenue of over ECU 270.000 and a first prize of over ECU 18.000 are not considered as local lotteries and are illegal.

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