



## A NEW PATH ON THE GERMAN STREETS

The German gaming and amusement sector is facing radical change as federal and state legislation tear up the rulebook and start afresh with major consequences

The German AWP market is set for major changes. The Interstate Gambling Treaty (Glücksspielstaatsvertrag) should be ratified to come into force on July 1, 2012. The 16 German states are set to define their own State Arcades Laws (Länderspielhallengesetze). Three states – namely Berlin, Bremen and Schleswig-Holstein – have already passed corresponding laws. In Berlin, for example, multi-concession arcades have been banned and the maximum number of AWP's has been reduced from 12 to



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eight. This state regulation goes against the federal ruling as set out by the Gaming Ordinance (Spielverordnung), which defines each concession as having 12 AWP's. The Gaming Ordinance is set to be altered as well – by January 1, 2013 – though most likely it will be earlier. The German Industrial Code (Gewerbeverordnung) will also be changed. The amusement tax (Vergnügungssteuer) has been and is being altered to the detriment of German AWP operators. This tax is set at local,

municipal level and is different up and down the country. Only one state in Germany (Bavaria) does not implement this tax.

### Major changes lie ahead

There are still well over 5,000 individual operators in the German AWP market. Even the large operators such as Merkur Spielothek, the SchmidtGruppe, Extra Games and Löwen Play only make up between 20 and 25 per cent of the market. Up to 80 per cent of operators are smaller companies, usually family-owned. The task is to reach these operators. Industry associations are very active and there are ones that represent the operators (e.g. the BA - Bundesverband Automatenunternehmer). However, a number of operators are not active in any association, so there's been a concerted effort to spread the message to all operators via a series of forums.

The DAGV (Deutsche-Automaten-Großhandels-Verband) is the German



association for distributors in the AWP market. The DAGV works closely with the BA and the FORUM for operators in Europe (Forum für Automatenunternehmer in Europa e.V.). The DAGV is a member of the European industry association EUROMAT in Brussels. The main office of the DAGV is in Berlin, with the association close to the political heart of Germany. DAGV is also a member of the BGA (Bundesverband Großhandel, Außenhandel, Dienstleistungen) - the Federation of German Wholesale, Foreign Trade and Services.

The Managing Director of DAGV is Jörg Meurer. Mr. Meurer is a lawyer who has been giving his expert opinion on the forthcoming changes, delivering presentations to operators across Germany to inform them of what lies ahead. G3 attended one such presentation to gather feedback as to the changes taking place. The following details Mr. Meurer's presentation (further explanation

has been added where required in italics by G3). As G3 attended the presentation in the state of Baden-Württemberg, there is a special reference to the expected changes ahead for this state:

### New legislation for everyone

The German federal government has scheduled planned changes to the German Gaming Ordinance and to the German Industrial Code. At the same time, the German provincial governments have instigated the first amendments to the German Interstate Gaming Ordinance and German provincial amusement arcade laws.

### Federal changes

At the Federal level, the planned changes to the German Gaming Ordinance include the following:

### RULES ON LOCATION

- Ban on installation in hotels and restaurants – so called “Permission-free” locations (Permission-free means locations where under-18's can enter such as fast-food restaurants).
- Reduction in the number of gaming machines allowed in hotels and restaurants from 3 to 2 or less AWP's
- The operator must display information on the risks of excessive gaming

### REGULATIONS RELATING TO THE DEVICES

- Manufacturers must display warnings on the protection of minors in law and on facilities offering assistance to gaming addicts
- Device checking (TÜV) by an expert (24 months) has been dropped
- Gaming machines may not be “pre-heated”
- Device model approval permit duration is limited to one year
- Installation location approval permit duration is limited to four years
- Manufacturers must have production, maintenance and servicing documentation to hand for the PTB
- Winning chances may not be displayed on any device offering the chance to win more than €1,000 or the equivalent (no TR 3.3 devices permitted in future)
- Average hourly loss is to be cut from 33 € to 20 €
- No gaming processes, sample/demo games or animation may take place during game intervals.
- Money storage is to be emptied after three hours play and the device then set to zero
- Limitation of amounts of money in play and payout storage to € 10 (formerly 25 €) (in other words the maximum amount of money that can be entered into the AWP is set to be reduced)
- Total amount risked without influence

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- may not exceed 2.30 € (automatic play button)
- The manufacturer must submit to the PTB an expertise from a recognised and accepted institution stating that the gaming machine in question cannot be manipulated
- The installer / operator must take the device out of operation
  - (a) if it malfunctions, and/or
  - (b) if it no longer complies with the PTB approval, and/or
  - (c) the gaming and playing plan is not easily accessible and/or
  - (d) the permitted duration of installation (four years) has expired
- Multi-player gaming machines may not accommodate more than four players. Individual playing facilities may not be turned off
- PTB may issue technical guidelines and applicable transition and penalty rules

### MISDEMEANOURS AND TRANSITION RULES

Extended misdemeanour rules include:

- Lack of manufacturers warnings
- Lack of manufacturers gambling addiction consulting signs
- Lack of information material issued by the installer/operator

Effective date - 01 July 2012 (G3: unlikely)

- No TR 3.3 devices any more

### TRANSITION PERIODS

Until 30.06.2017: continued GGSG operation with approval/s before the effective date [TR 4.x]

Until 31.12.2015: approval of new types of device feasible

Until 30.06.2017: devices of new type/s may be operated; extension possible

### CHANGES TO THE INDUSTRIAL CODE

- Introduction of proof of instruction on gaming and minor protection for installers/operators and staff
- Installers / operators must always have a social plan concerning measures to prevent gaming addiction to hand
- Increases in fines for breaching the German Gaming Ordinance
- No further permission obligation for arcades operating devices purely for amusement
- Type approvals may in future be withdrawn or rescinded either in whole or in part
- Precautionary creation of authority in law to regulate a so called “player card”

### Provincial changes

The first amendments to the German Interstate Gaming Ordinance and their scope of application include the following:

- Inclusion of hotels and restaurants
- Inclusion of amusement arcades



## RESTRICTIONS

- Additional chronologically limited gaming law permit
- No legal right to the granting of approval (§ 4, II)
- Advertising on TV, the Internet or utilising telecommunications systems is banned (§ 5, III)
- Introduction of a social concept (§ 6)
- Further informational obligations (§ 7)
- Ban on selling sports bets (§ 21, II)
- Minimum gambling arcade proximity (§ 25, I) \*In effect a ban on new construction/installation
- Retroactive ban on multiple licenses / approvals (§25)
- Ban on multiple arcades is to apply retroactively to new permits / approvals
- No compensation despite expropriation of installers / operators and renters
- Arbitrary limits on the number of arcades in a municipality (§ 25, III)
- Advertising ban at arcade locations (§26)
- Introduction of general minimum disqualification periods (§26, II)
- For extant multiple arcades the brief transition period of 5 years applies (deadline: 28.10.2011)
- For multiple arcades approved after the deadline a transition period of one year applies
- In the event of sale or assignment of an extant arcade the permit / approval expires after one year
- No right to any further permit / approval after the one year transition period expires
- Effective date - 01 July 2012 (13 provinces agree)
- Effective - until 30.06.2021 (extension by 13 provinces at least)

## PROVINCIAL AMUSEMENT/GAMING ARCADE LAWS

- Responsibility due to federal law reform, "Arcade laws"
- In force in Berlin, Bremen and Schleswig-Holstein. In the other German provinces the legislation is under discussion or parliamentary consideration
- Patchwork of 16 different provincial legal frameworks
- Individual legal frameworks (e.g. Hessen)

## INDEPENDENT APPROVAL PROCEDURE

- Permit duration limited to 15 years
- Multiple permits forbidden
- Minimum proximity between arcades 300 m as the crow flies
- Advertising restrictions
- Eye-catching design is banned and non-transparent facades prescribed, as is identification as a – "Spielhalle" (= amusement arcade)
- Social concepts and personnel training
- Advisory and informational obligations

**JÖRG MEURER** of the DAGV with **MATTHIAS STAIB** of ASR following a presentation by the DAGV to operators and distributors in the German state of Baden-Württemberg. State specific changes for Baden-Württemberg are listed below.

There are still well over 5,000 individual operators in the German AWP market. Even the large operators such as Merkur Spielothek, the SchmidtGruppe, Extra Games and Löwen Play only make up between 20 and 25 per cent of the market. Up to 80 per cent of operators are smaller companies, usually family-owned.



- No entry for minors
- Curfew of 6 hours plus specific days on which they must close
- Specific types of person may not play / gamble
- Some activities are banned (betting, Internet, EC cash, payment services)
- Obligation to cooperate with other arcades in a general banning system
- Video monitoring of entrances, tills and premises on which gaming machines are installed
- Information, warning and consulting material must be displayed
- Transition period of 1 or 15 years for multiple permits / approvals

## Baden-Württemberg specifics

- Initial discussion of the draft as TOP 6 of the provincial parliament sitting on 09 May 2012 followed by discussion in the provincial parliament committee as TOP 1 on 09 May 2012
- Adoption of first GlüÄndStV provisions
- Individual provisions
- Regulations on amusement arcades included for the first time
- Regulatory authority for amusement arcades: government presidency in Karlsruhe
- Effective date one day after announcement
- Evaluation of effects after 5 years
- Clause extending efficacy beyond 30 June 2021

## THE CHANGES TAKING PLACE AT THE STREET LEVEL IN GERMANY WILL ALTER THE COUNTRY'S ENTIRE GAMING LANDSCAPE.

### FUTURE IMPLEMENTATION LAW

- Provisions governing cases of hardship due to the ban on multiple permits / approvals
- Premises / business concept utilisation options
- Continued operation until the usual amortization limits are reached
- Gradual reduction in multiple approvals / permits
- Provisions to deal with hardship cases due to proximity rules
- Chronologically limited transition solutions
- Search for alternative locations
- Duty to introduce general entry controls
- Implementation of a social concept for the business
- Holding preventive training courses (first GlüÄndStV (E) law LReg draft - Drs. 15/1570, dated 17 April 2012)