



PRESS RELEASE

9th September 2010

ECJ rules against protectionist gambling laws in Austria

The European Court of Justice (ECJ) found today that the conditions and the procedure for the award of concessions to operate casinos in Austria is in breach of the freedom of establishment and the freedom to provide services.

The Austrian legislation provides that the public authorities may grant the right to organise and operate games of chance in casinos by issuing a maximum of 12 concessions. It also imposes on concessionaires the obligation to be public limited companies having their seat in Austria. Since 1991, Casinos Austria AG holds all the concessions. There was no public call for tenders before the grant of any of them and the subsequent renewals.

In today's ruling in the *Engelmann* case, the ECJ accepts that the obligation to be a public limited company can be justified due to the controls that this particular legal form entails. The ECJ finds, however, that the requirement for companies to have their seat in Austria constitutes an unjustified restriction to the freedoms of the Internal Market. Such a requirement prevents companies whose seat is located elsewhere in the EU from operating casinos in Austria through an agency, a branch or a subsidiary and also deters them from applying, owing to the establishment and installation costs in Austria that they would have to incur if their application were successful. The ECJ considers this requirement to be both discriminatory and disproportionate.

The ECJ also finds that the procedure in the call for tenders is incompatible with EU law. Although the ECJ accepts the limitation on the number of concessions and their duration for a period of 15 years, it stresses that the obligation of transparency that arises from EU law requires, for the benefit of any potential tenderer, a degree of publicity sufficient to enable the service concession to be open to competition and the impartiality of the award procedures to be reviewed. The ECJ notes that the concessions in Austria were made in total absence of transparency. For the ECJ, this circumstance constitutes indirect discrimination on grounds of

nationality as operators established in other Member States have no real possibility of manifesting their interest in obtaining a concession.

Clive Hawkswood, Chief Executive of the RGA, said: “*We welcome the findings of the ECJ in this ruling and find it hard to believe that some monopolies and incumbent operators keep claiming that EU law has nothing to do with them. Austria is not alone in having gambling laws and arbitrary practices that seek to protect particular local operators and we hope that this ruling will convince other Member States to introduce changes in their legislation*”.

- Ends –

The RGA represents the world’s largest licensed, and stock market-listed remote gambling companies. It provides the industry with a single voice on all issues of importance to regulators, legislators, and key decision makers around the world.

For more information, contact:

Clive Hawkswood, Chief Executive

+44 (0)20 7831 2195

chawkswood@rga.eu.com