



PRESS RELEASE

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## **ECJ rules against discriminatory enforcement of gambling laws**

**The European Court of Justice (ECJ) accepts today that Sweden's ban on the advertisements of online gambling operators established in other Member States is compliant with EU law if it can be justified by overriding reasons of general interest. This is consistent with previous judgements, but the ECJ also rules against imposing higher penalties on advertisers when the promotion concerns operators established elsewhere in the EU than when it relates to unlicensed Swedish based companies.**

Today's ECJ ruling in joined cases *Sjoberg* and *Gerdin* is the result of a referral made by the Stockholm Court of Appeal in the context of the criminal proceedings against the editors of two Swedish newspapers who had published advertisements for internet gambling operators established in other Member States.

Confirming previous case-law, the ECJ finds that gambling is a service under the Treaty and that the freedom to provide services covers both providers and recipients. The ECJ also reiterates that restrictions in this area must be justified by overriding reasons of general interest, consistent with the Member State's internal policies on gambling, proportionate and non-discriminatory. The ECJ finally considers that Sweden's restriction on advertisement of gambling activities organised in other Member States by private operators is necessary to ensure that consumers take part in gambling only in the context of the national licensing system and thus finds it compatible with the rules of the Internal Market.

Nevertheless, according to the referring court (but not to the Swedish government), the promotion of gambling activities entails criminal sanctions if the activities are organised in another Member State while that promotion only involves administrative penalties if gambling is organised in Sweden. The ECJ confirms that in the context of a reference for a preliminary ruling the interpretation of provisions of national law is a matter for the national court, which must ascertain whether the promotion of gambling in the two abovementioned situations is subject or not to equivalent treatment – if it is not, the enforcement is

discriminatory and thus in breach of EU law. The ECJ consequently rules against legislation imposing stricter penalties for the promotion of gambling in another Member State than for the promotion of gambling operated on national territory without a licence.

Clive Hawkswood, Chief Executive of the RGA, said: *“While we acknowledge that there are limitations to how the ECJ approaches these cases we regret that it seems to be in a position where it accepts the arguments put forward by national governments to maintain monopolistic regimes without objectively testing their validity and it is then left to national courts to determine if national laws are compliant with EU law. People should be in no doubt that, in reality, this is to the detriment of consumers who are denied the benefits of a regulated competitive market. However, we can only welcome the ECJ’s unequivocal finding that discrimination is unacceptable and unenforceable and hope that the ruling will prevent the adoption of, and put an end to, similar provisions in other jurisdictions.”*

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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.

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