

Record number: Fi2021 / 03145

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OPINION ON DS 2021: 29 MEASURES AGAINST MATCH FIXING AND UNLICENSED GAME OPERATIONS

The inquiry has been tasked with identifying and proposing solutions to enable more effective supervision of illegal gambling. The inquiry has also been tasked with investigating how the work against match-fixing can be strengthened and considering the need for adjusted rules on penalty fees in the event of violations of the Money Laundering Act.

The Industry Association for Online Games (BOS) thanks for the opportunity to comment on the investigation, whose proposal we largely share.

About BOS

BOS brings together about twenty online gaming companies operating in Sweden. The companies are active in the competitive Swedish gaming market. They are independent of the state in the sense of ownership, principal and board composition. All members have a Swedish gaming license for such activities that are subject to a license. BOS works for a healthy and sustainable gaming market which i.a. is characterized by strong consumer protection, high channeling and zero tolerance for suspected crime as well as foresight and long-term perspective in the regulations.

The starting position

BOS welcomes the initiative taken by the government with regard to the fight against match-fixing as well as the defense of the Swedish licensing system and its channeling. If these can be said that the situation appears to be serious. In contrast to Sweden's normally low degree of corruption, match-fixing seems to have grown in Sweden to one of the highest levels in Europe. This makes it very important to find powerful and effective tools for suppressing that development.

As far as Swedish channeling is concerned, Sweden has squandered the initially high channeling of just over 90 per cent, to a level that seems to have parked below the state's target of at least 90 per cent channeling. This level seems - at least for a time - to have parked around 85 percent on average for all competitive gaming. Sports betting and its channeling, which is in particular focus in this memorandum, seems to be approximately at the average level of 85 percent, while betting on horses and online casinos seems to deviate by at least ten percentage points, in the former example above average and in the latter below average. . In other words, with the exception of betting on horses, there is a very

serious situation regarding the channeling into the Swedish licensing system. BOS has often commented on this. We pay special attention here to the fact that the state is not able to defend the licensing system to the extent and based on the goal it has set itself seriously makes the work against match-fixing more difficult. It is reasonable to expect that match-fixing is over-represented in the proportion that constitutes unlicensed gaming, which thus constitutes as much as 15 percent of the Swedish market for sports betting. Particularly serious is the fact that match-fixing that intends to affect the outcome of unlicensed gambling is not covered by the penalty provision in the gambling fraud offense. In other words, it is not possible to apply the gambling fraud penalty provision to manipulated gambling if this has taken place outside the Swedish licensing system.

How a channeling of at least 90 percent is reached

A high level of channeling - on a par with Denmark's and the United Kingdom's and that which prevailed in Sweden during the licensing market for the first time here - presupposes two things. Both are important, but not as important.

The first thing that is required is effective repressive measures against unlicensed gambling. These have not been of sufficient scope and sufficiently powerful so far in Sweden, which the memorandum we are replying to here may well be said to be a reaction to. As far as we know, not a single unlicensed gaming company with its representatives has been the subject of any court proceedings in Sweden. No house search has taken place. The established penalty scales for unlicensed gambling have not been used once. For natural reasons, it is difficult to calculate the number of unlicensed gaming companies, but a search on Google one day in January 2022 yields 197,000 hits on 'betting without a Swedish license'. A search for 'casino without Spelpaus.se' yields 296,000 hits. Then follows page up and page down with offers of unlicensed gaming."

The second thing that is required - and this is the most important point - is that the licensed companies are given good conditions to attract Swedish gaming consumers into the licensing system. Those conditions were there when the licensing system was introduced, but have time and time again been torn apart by the government and its authorities. Examples of such destruction are the recurring pandemic restrictions and the reduction of the types of sports betting that are permitted for licensed companies. This has created increased incentives for consumers to leave the Swedish licensed market in favor of the unlicensed, which has no deposit limits but offers all the more bonus programs.

The memorandum we are responding to here contains many good suggestions. All are of the first type, i.e. repressive measures. No proposal aims to increase the gaming companies' licensed gaming companies in Sweden to attract consumers to the licensing system. Without this insight and ability, the state will never succeed in reaching its 90 percent goal - a goal whose level of ambition we otherwise agree with as being reasonable for a game regulation to be considered successful. A first appropriate step to lift this worrying development would be for the government to refrain from introducing the recently proposed covid 19 restriction on online casinos (which only applies to licensed companies) and for the Swedish Gaming Inspectorate to lift the betting ban for the lower football divisions (which only affects the licensed companies).

We will now respond to selected parts of the proposals in the memorandum.

Scope

BOS endorses the proposed extension of the scope of the definition of unlicensed gaming. The expansion is in line with, or at least closer to, the interpretation and proposal that the Gaming License Inquiry came to in SOU 2017: 30 A re-regulated gaming market, as well as BOS definition and proposals in the letter. It is entirely possible to enable Swedes to play on unlicensed gaming sites on the Internet, has now been notified of the current investigation with record number Fi2021 / 00193-3.

Information sharing

BOS recommends improved and legally secure opportunities for gaming companies, authorities and sports representatives to share information that can facilitate the work against match-fixing.

The role of the Swedish Gaming Inspectorate in the work against match-fixing

BOS recommends a strengthening of the Swedish Gaming Inspectorate's role in the work against match-fixing. We believe that this role should include developing the authority's match-fixing council to emulate the British counterpart Sports Betting Integrity Forum, which has succeeded in uniting the players of the gaming market into a common view on important policy issues, such as the importance of not limiting the allowable betting portfolio for licensed gaming companies. We further believe that further inspiration should be obtained from the British Gaming Authority's own Sports Betting Intelligence Unit. We are thinking in particular of its operational working method, its broad mandate and its close cooperation with other key players who work to maintain honesty and integrity in sports.

We understand and agree with the investigation that the Swedish Gaming Inspectorate, with its current assignment, should not be given a mandate to stop gambling on individual matches. However, we believe that if Spelinspektionen's work against match-fixing could be developed in the direction of the British equivalent, this is something that could happen, in a way that is both legally secure and company-neutral. We believe that such an operational mandate would be much more effective in the fight against match-fixing than the sweeping prohibition provisions that apply to entire divisions and other betting objects in general. Such general prohibition provisions in practice hand over the betting market to unlicensed players whenever there is a demand for such betting. A transfer of an individual gaming object (eg betting on the outcome of a Swedish Division 5 match) to the unlicensed gaming market also risks entailing that the customer's total gaming - ie also the gaming currently offered within the licensing system - is transferred to the player who can offer a complete betting portfolio, ie the unlicensed gaming market. In this context, it can be mentioned that it should be considered whether operational stoppages of play in individual matches should not mean that the match is canceled, rather than bets on the match. A game ban only applies to licensed players. A match stop applies to everyone.

The Swedish Gaming Inspectorate should be the center of work in Sweden against match-fixing.

Obligation to provide information to the Police Authority

BOS recommends that licensees be obliged to cooperate with the Police Authority in matters concerning match-fixing, which of course should include that licensees hand over all potentially relevant information about suspected match-fixing to the police. It is important that the state conducts it by the Gambling Market Inquiry and others. proposed licensing of gaming providers (business to business gaming companies) so that providers of sports books and betting systems are also included in this obligation.

Duty to provide information to sports federations

BOS recommends that certain relevant information become mandatory for licensees to submit to sports federations that are members of the Swedish Sports Confederation upon request. BOS has no objection to the information that is currently included in the unions' own regulations, and our members are happy to cooperate with the unions to enable such information transfer to become mandatory given that it does not contravene Swedish law and EU law. BOS also wants to emphasize that since the application of law in this respect can be said to be privatized, as no authority is involved and there is still a legally binding duty, it is of great importance that the information required by sports federations is balanced and relevant for the purpose of counteracting match-fixing. It is possible - hypothetically - to imagine demands from the sports movement on the gaming companies to provide information that is not sufficiently relevant in terms of match-fixing, but which can cause all the more damage to the gaming company in terms of business and competition.

Requirements for international cooperation

BOS recommends requirements for licensees to participate in international information exchange on suspected match-fixing as well as participation in company-wide international warning systems for suspected match-fixing. As in practice there is only one possible organization for this cooperation for non-state gaming companies, we realize that the proposal can challenge the constitutional freedom of association. BOS is not the organization to delve into the Form of Government. We believe that the proposal for an international cooperation obligation is correct and important and ask the government to ensure that a possible bill is drafted so that it is not in conflict with the Swedish constitution.

Payment block

BOS supports the proposal that the current provision on blocking payment intermediation be repealed and instead replaced by an extended ban on the promotion of payment intermediation and the previously announced extension of the scope of unlicensed gambling. We agree that this is likely to contribute more accurately and effectively to the goal pursued; that payment intermediaries do not mediate payments from Swedish consumers to unlicensed gaming companies in Sweden.

Penalty fee money laundering

BOS supports the proposal not to change the provision on penalty fees in the event of a breach of the Money Laundering Act. However, we understand the Swedish Gaming Inspectorate, which has raised the anomaly that may seem to prevail with regard to the size of the penalty fees for violations of the Money Laundering Act, compared with violations of the Gaming Act. The penalty fees for the latter are often many times higher, despite the fact that it can often be considered that a money laundering offense has been more serious.

In this context, we would like to point out another anomaly, namely the fact that penalty fees for violations of the Gaming Act are calculated on the basis of the gaming companies' turnover and not gaming surplus. The gaming companies are thus forced to pay a penalty fee based on money that never belonged to the gaming companies in question, but only passed through their system, for example in the form of profit payments. It is an unreasonable way to calculate the penalty fee, regardless of what percentage of the turnover the penalty fee is subsequently determined at. We believe that the penalty fee should be based on the gaming companies' gaming surplus (in English GGR or Gross Gaming Revenue), i.e. the money that remains with the gaming company after the winnings have been paid out to the players. Such a basis for calculation would also be in line with how the Swedish Tax Agency calculates the gaming tax.

Sincerely,

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