

Belgian National Lottery Accepts Fine for Minor Infractions

PGRI Introduction:

This constitutes an important legal/political victory for the people of Belgium. And perhaps, by extension, for the entire community of government-lotteries in the European Union. The community of remote private sports-betting operators had sued the Belgian National Lottery for “anti-competitive practices.” The suit was dismissed except for two minor infractions.

After a 2-year investigation, the Belgian Competition Authority dismisses the vast majority of claims and charges lodged by the community of remote online sports-betting operators.

On 23 September 2015, the Investigation Service of the Belgian Competition Authority has issued its decision to dismiss, to a large extent, the case against the Belgian National Lottery lodged by a number of private sports betting operators. As part of a transaction decision taken on the same date, however, the Investigation Service did impose a fine on the Belgian National Lottery for two small infractions pertaining to competition law, which were strictly limited in time. No anti-competitive effect whatsoever was proven. The National Lottery complies with a large number of standards that are stricter than those applying to private operators, making it difficult for it to draw any competitive advantage whatsoever from its monopoly lottery status.

Since 15 January 2013, the National Lottery has offered sports betting under the brand name of Scoore!—firstly through newsagents and then as of 29 July 2013 on the internet as well. This formed part of the National Lottery’s reaction to the liberalisation of the gaming market.

Specifically, part of the mandate of the National Lottery is to channel gaming behaviour in Belgium in a targeted manner, and to bring the fun of gaming to a broad public with recreational games.

Liberalisation has resulted in no fewer than 34 sports betting operators being able to offer betting legally, both in retail outlets and on the internet. Often, these are operators that had formerly been active for many years in a context that was anything but transparent, or that was even illegal.

In May 2013, the National Lottery’s betting offer led to two complaints by a number of private betting operators which considered that the National Lottery was contravening competition law. The plaintiffs, some of which are part of multinational firms, considered that the National Lottery benefited from an advantage deriv-

ing from its lottery monopoly in Belgium and that it was abusing this advantage to their detriment.

After a thorough investigation that took over two years, the Investigation Service decided to dismiss the vast majority of the allegations put forward by these private betting operators. However, the Investigation Service did impose a fine on the National Lottery for two limited infractions of competition law.

On the one hand, it was held against the National Lottery that on 16 January 2013 it informed, by means of a one-off, short and non-personalised email, some of the persons whose contact details had been in its database about its new sports betting offer available at their newsagents. On the other, it was held against the National Lottery that at a certain point it had gathered through a number of newsagents a limited amount of commercially sensitive information about other private betting operators

Both infractions were limited in time, and no anti-competitive effect whatsoever was proven. Nevertheless, the National Lottery was fined €1,190,000. The amount was calculated on the basis of purely technical rules taking into account the generated turnover. This fine will have no impact on the financial results of the National Lottery since the necessary funds have already been set aside.

The transaction decision also has no effect whatsoever on the continuity of the sports betting offer.

“With Scoore! we continue to promote a sustainable alternative range of sports betting against a more aggressive offer from large foreign multinationals that are based in, for example, Malta or Gibraltar.

The Belgian National Lottery wishes to play by the rules and is not afraid of the challenge represented by what these competitors offer—even if one can justifiably wonder whether such a large range of games of chance actually benefits consumers at the end of the day.

After all, games of chance are special services that can’t be compared with washing machines, for example.” ■