

Translation of letter

From: President of the Bundesrat, Berlin

To: President Barroso

Dated: 10 October 2014

Subject: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Towards a comprehensive European framework for online gambling (COM(2012) 596 final)

The Bundesrat decided at its 926th meeting on 10 October 2014 to submit the resolution in annex to the Commission.

10 October 2014

**Resolution
of the Bundesrat**

**Communication of the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Towards a comprehensive European framework for online gambling
COM(2012) 596 final**

At its 926th meeting on 10 October 2014, the Bundesrat adopted the following opinion in accordance with §§ 3 and 5 of the Act on Cooperation between the Federation and the *Länder* in European Union Affairs (EUZBLG):

1. The Bundesrat reiterates its view that cooperation between the authorities of the Member States in the regulation and supervision of online gambling needs to be further developed in order to ensure appropriate monitoring and effective implementation of national legislation in the interests of players and of the general public. The Bundesrat calls on the Commission to assist the Member States in the fight against illegal online gambling services; as already stated in point 2.2.3 of the Commission Communication, this includes all online gambling services that are not consistent with the law in force in the respective recipient Member State.
2. It notes that the expert group on gambling referred to by the Commission in the Communication has been set up and has met seven times. Experience so far has been promising, in particular as regards exchanges between the representatives of the Member States, but also shows the need for the expert group to be more closely involved in the preparation of Commission initiatives. The Bundesrat therefore reiterates its request for proposals for recommendations and other Commission measures to be fully coordinated with the expert group and for particular weight to be attached to the common principles and views expressed by the majority of Member States.
3. The Bundesrat takes note of the Commission Recommendation of 14 July 2014 on principles for the protection of consumers and players of online gambling services and for the exclusion of minors from online gambling (2014/478/EU).

It reiterates its view that there is no need for harmonisation in the field of online gambling and that it is for the Member States – in line with the principle of subsidiarity and according to their own cultural, social and societal preferences and traditions – to decide what is necessary to increase protection against the specific risks of gambling (see Bundesrat documents 651/12 (Resolution) and 176/11 (Resolution)). It draws attention to the settled case law of the European Court of Justice, which states that the mechanisms of free competition in the very specific gambling market can have detrimental consequences for consumers and vulnerable players (see judgments in *Stanleybet International Ltd and others*, Joined Cases C-186/11 and C-209/11, ECLI:EU:C:2013:33, paragraph 45, and

¹ First Bundesrat Resolution of 14 December 2012, Bundesrat Document 651/12 (Resolution)

Digibet Ltd and others, Case C-156/13, ECLI:EU:C:2014:1756, paragraph 31).

The Bundesrat notes that the effective protection of players and of the general public in online gambling presupposes that suppliers comply with the law in force in the country of the players. Only then can the level of protection pursued by the respective Member State be achieved and a reduction in the legal or actual minimum level of protection within the EU be prevented. The Recommendation takes insufficient account of this basic requirement of effective protection, since section III point 7 only requires that an operator be authorised, wherever that may be.

4. The Bundesrat calls on the Commission to fully involve the expert group in the evaluation referred to section XII point 54 and to give the Member States an opportunity to comment before a final report is drawn up. In addition, given the lack of Member State involvement before the adoption of the Recommendation, the evaluation must not be limited to mere implementation, but must also cover and critically assess the contents of the Recommendation.
5. In the proposals to combat betting-related match-fixing referred to in the Communication, the Commission should always take into account the bearing such proposals and recommendations have on the obligations of contracting parties to the Council of Europe Convention against the manipulation of sport competitions. After all, the Convention is an important step towards ensuring the integrity of sport by enhancing international cooperation.
6. The Bundesrat will submit this opinion directly to the Commission.