

Sweden's Digital Growth Industry

New Perspectives on the Need for a Re-regulated Gaming Market*

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Executive Summary

The Swedish gaming market needs a new regulatory framework. But although this has been acknowledged in the last three government inquiries on the matter, progress on updating regulations has been limited at best.

The online share of Sweden's gaming market stands at 26 percent, the highest in the EU and far above the EU average of 8 percent. On the production side, the Swedish online gaming companies are exceptionally successful, especially in relation to the country's population. Unibet and Betsson are among the largest private gaming companies in Europe, and offer a wide selection of games. Boss Media, Ongame and Entraction have developed poker software which has been and is still being used by the world's leading poker networks. Many of the world's most successful online operators use Net Entertainment's gaming system for casinos.

The digital gaming industry is growing rapidly, pulling its ancillary industries along with it. Although the digital gaming industry has only been around for about 15 years, several of the companies have been designated as so-called gazelle companies; most lately Betsson and Net Entertainment for their strong and sustained growth figures.

If we add up the commercial, governmental, and non-profit actors, the gaming industry has 4,500 employees, 1,900 of whom are in commercial companies and 3,400 in Sweden. This means that the gaming industry employs as many as Saab Automobile, but with the difference that gaming companies consistently show good profitability. The industry consists, to a large extent, of skilled jobs requiring higher education in business or information and communications technology. Its core activities include reliable e-commerce solutions, interactive online services, and product development on the Internet.

Several nearby countries have recently re-regulated their gaming markets. Sweden should be able to learn from developments in the UK, Italy and France, as well as in Denmark where the government awaits the EU Commission's approval for a reregulation that will expose the state monopoly to competition.

Major problems with the present Swedish regulation include a lack of evidence-based evaluations of policy effectiveness, erosion of the gaming monopoly, that the legal uncertainty of the ban on promotion creates distortions and drives advertising money to the UK, and that the differences between non-profit and commercial activity is often smaller than it may seem. As far as taxation is concerned, a gross profits tax on companies' gross winnings is preferable to a turnover tax on the players' stakes, both in terms of higher consumers' surplus and increased tax revenue. An increase in tax revenue has been a decisive motive for pro-competitive reregulation in several other countries.

Due to its special conditions, trotting is handled in a separate chapter in the report. The problematic development of trotting – the race tracks in particular – means that there is a need to test new solutions to try to reverse the trends. Nor can one escape the fact that the model with ATG [the Swedish Horse Racing Totalisator Company] as a private but state-controlled monopoly firm can be put into question.

Sweden is one of the countries that would lose the most if the gaming companies were prohibited from maintaining their international competitiveness. A forward-looking reregulation of the gaming market would instead secure jobs and tax revenue in a digital growth industry which shows great similarities with the country's cherished video games development industry.

1. Introduction

The Swedish gaming market needs a new regulatory framework. The growth of gaming on the Internet together with Sweden's EU membership mean that old laws and rules need to be updated and adapted to the new market conditions. But instead of dealing with the situation, the government has been lying low since 2008, when Minister of Finance Anders Borg came out and criticised the proposals in the state inquiry that he himself had been involved in setting up the previous year.

Previous Swedish inquiries have had two characteristics: First, they have been compelled in advance to argue for the status quo or at the very most to propose marginal changes in the regulatory framework. Secondly, in a relatively unbalanced way, they have been focused on the socioeconomic cost side of gaming in terms of gambling addiction and criminality. This report is an attempt to provide nuance to that picture by highlighting the significance of the gaming industry for employment and economic development. The gaming policy should take into account how it affects international competitiveness in a profitable and fast-growing digital business. The report thus discusses, in a more unbiased manner than earlier state inquiries, the need to re-regulate the gaming industry so that licensed private companies may receive permission to operate in Sweden.

The fact that EU Commissioner for Internal Market and Services Michel Barnier has initiated a so-called Green Paper on the European gaming market is a positive development given how unclear the EU legal situation has been for so long. It would, however, be unfortunate if the Swedish government were to see this as an opportunity for continued inaction while waiting for the EU Commission to take a position. With 4,500 employees, 1,900 of whom are in commercial companies and 3,400 in Sweden, the gaming industry in Sweden deserves to be taken with greater seriousness on the political arena than hitherto.

The report is written on behalf of the newly created interest organisation Rent Spel, an association of some of the stakeholders in the Swedish gaming industry. The report deals with previous state investigations, the Swedish gaming industry, Swedish trotting, re-regulation in other countries, problems with current Swedish regulations, and some questions concerning taxation.

2. State Inquiries

Since 2000, three state inquiries have dealt with regulation of the gaming market: the Lottery Law Inquiry (SOU 2000:50), the Lottery Inquiry (SOU 2006:11) and the Inquiry on Gambling (2008:124).¹ The overall impression of these inquiries – and especially the most recent one – is that the government has

¹ Moreover, several state inquiries have dealt with more specific aspects of the gaming market, inter alia the Internet Poker Inquiry (SOU 2008:36).

limited the mandate of the inquiries so narrowly that proposals for a legally and politically acceptable re-regulation of the gaming market are still lacking. Nor have any new laws that alter the regulation of the gaming market more than marginally been enacted.

Among other things, the Lottery Law Inquiry (SOU 2000:50) came out with a proposal for legislation adapted to the new technology and also proposed a directed relaxation of the ban on promoting participation in foreign lotteries so that, by granting an exception, the government would be able to allow ATG and Svenska Spel to take bets in cooperation with gaming companies in other countries. In accordance with the investigation the Lottery Act received a new wording (Articles 21a-d) in 2002 on "lotteries which are conveyed by means of electromagnetic waves" (referring first and foremost to the Internet).² In 2003, the ban on promotion was amended (Article 38 of the Lotteries Act) so that the government or the authority designated by it could grant an exception from the ban on promotion for international cooperation if the international partner had the right to organise a lottery or betting and had the right to cooperate internationally.³

The Lottery Inquiry (SOU 2006:11) found that regulation of the Swedish gaming market was not appropriate in the long term to maintain sufficient supervision of gaming in Sweden, and thereby to safeguard social protection concerns and revenues from betting and lotteries. The Inquiry also found that the legislation's compatibility with EU law could be questioned. However, in their final report, the investigators were forced to state that the time had not been sufficient to complete the assignment pursuant to the directive. The final report therefore does not contain any comprehensive overview and proposal for adjusting the legislation in order to take the market-related and technical development as well as EU law into consideration.⁴

The latest inquiry, the Inquiry on Gambling (SOU 2008:124), was appointed on 20 June 2007 with General Counsel Jan Nyrén from the police authority in Stockholm county as special investigator. On the same day, *Svenska Dagbladet* published an opinion piece in which Minister of Finance Anders Borg (Moderate Party) and Minister for Elderly Care and Public Health Maria Larsson (Christian Democrats) presented the new inquiry and described the government's position.⁵ Both ministers wrote that the inquiry should provide an overall illustration and thorough review of the regulatory system of the Swedish gaming market. The article began by describing the overriding goals for the government's gaming policy: "to prevent individuals from becoming addicted to gambling, make frauds more difficult and stop criminality in the industry." The government's starting point was described as basing gaming policy on the postulate that the state-controlled companies (Svenska Spel and ATG) should have the sole

² Government Bill 2001/92:153, Lotteries over the Internet etc.

³ Government Bill 2002/03:93, Certain questions in the gaming area etc.

⁴ On 24 November 2005, the government rejected the Inquiry's request to extend the assignment by 4.5 months

⁵ *Svenska Dagbladet*, 2007-06-20, "Töm och betsel på spelbolagen" [Reins and bridle on the gaming companies], Opinion piece by Anders Borg and Maria Larsson.

right to operate games which are especially problematic from a social perspective. But that there could be grounds for allowing other operators to apply for gaming licences, either for less harmful games or owing to the fact that technological development and requirements from EU law made this appropriate. The opinion piece ended with the commitment that “on the basis of this inquiry, the government can make decisions and present a responsible policy and long-term sustainable regulatory framework for a socially acceptable gaming market.”

In retrospect, it can be stated that the Inquiry on Gambling was not successful in producing a legally and politically acceptable proposal for a long-term sustainable regulatory framework for gaming. The inquiry, which was completed in December 2008, “is currently being prepared in the Government Office.”⁶ According to a council memorandum from the Ministry of Finance, the investigation has been delayed “for various reasons, shortcomings in the starting point of the inquiry, the financial crisis and elections.”⁷ According to the Inquiry on Gambling, a new gaming regulatory framework could have come into effect on 1 January 2011. That obviously did not happen.

The Inquiry on Gambling (SOU 2008:124) can be summarised in five points as follows:

1. The assessment that the current Swedish regulatory principles based on exclusive rights could be compatible with EU law.
2. Classification of games into more and less problematic games with respect to the risk that they will lead to problem gambling. The games which the investigation considered more problematic were slot machines, casino games, and interactive Internet games (poker, bingo, and scratch cards).
3. The finding that there exists international competition in betting over the Internet, which has led to a situation in which the protective aims of the Swedish gaming regulations can no longer be maintained.
4. The proposal that a future gaming regulation should either be a tightened up form of the current regulatory system or that the regulations should be amended such that companies could obtain a national licence giving them the right to offer betting (odds and pools betting but not horse betting) as local bookmakers and over the Internet.
5. The proposal to tighten the ban on promotion by banning intermediation of electronic monetary transactions to unauthorised gaming companies and moreover by banning intermediation of data communications to domain names and IP addresses for unauthorised gaming services.

The Inquiry on Gambling was not warmly regarded on a political level. On the same day the inquiry was submitted to Minister of Finance Anders Borg, several representatives of government parties came out

⁶ Government Offices of Sweden, “[Mål för spelpolitiken](#)” [Goals for gaming policy] [2011-02-17].

⁷ Ministry of Finance, 2010-11-28, “The legal framework for games of chance and betting in the Member States of the European Union,” Council Memorandum, PM to the minister, Competitiveness Council (KKR) 10 December 2010.

and criticised the proposals, especially those concerned with Internet blocking.⁸ The minister of finance was also quick to point out that “it is ... important that a proposal for limitations and restrictions are proportionate to the problems.”⁹ Ulf Bernitz, a professor of European integration law at Stockholm University, criticised the inquiry for not having given answers as to whether Swedish legislation was compliant with EU law and reported that he saw it as unlikely that the proposal would become a reality.¹⁰

Afterwards, virtually all referral bodies were critical of the Inquiry on Gambling and highlighted different types of problems. A few different but representative examples follow below.

In its response, the Swedish Competition Authority stated that it did not find that the inquiry had been convincing in that the protection of persons at risk for problem gambling could justify a state monopoly on games considered to be of a more problematic nature. The Swedish Competition Authority also believed that social protection consideration which would justify that ATG and the social movements would receive exclusive rights for less problematic forms of games was lacking. Because arguments for banning other companies from operating these less hazardous games were lacking, it was difficult to understand why any operator other than the state should be granted a monopoly.¹¹

The Swedish Agency for Public Management did not see it as obvious that the general public’s understanding of justice was consistent with the proposal to prevent Swedish citizens from using parts of the Internet. Nor was it obvious, according to the Agency, that such a tightening up of the ban on promotion were consistent with EU law. The Agency saw an additional shortcoming in the fact that the Inquiry on Gambling did not present any arguments as to why betting in connection with horse races should be regulated differently than other odds and pool betting.¹²

In a lengthy response, Svenska Spel stated that “there is a great need for reforming rules for gaming, inasmuch as the current situation in the gaming market means that the cornerstone for gaming regulations – care for social protection interests – is falling apart. A reform must ensure that legislation will be coherent, systematic, and credible.¹³ Svenska Spel endorsed the proposal of the Inquiry on Gambling about a streamlined regulation but opposed the proposal to open certain games to new operators. If new operators were nonetheless allowed in, Svenska Spel wanted to have permission to compete with them. Svenska Spel was also of the opinion that it was impossible to differentiate game forms that were more or less risky. Svenska Spel supported proposals to block electronic communication

⁸ *Dagens Nyheter*, 2008-12-16, “[Nätblockering kan stoppa spelförslag](#)” [Internet blocking might stop gaming proposals].

⁹ Ministry of Finance, 2008-12-15, “Anders Borg has received the Inquiry on Gambling,” press release [2011-01-23].

¹⁰ *Dagens Juridik*, 2008-12-17, “[Ulf Bernitz om Spelutredningen: Svårt att tro förslaget blir verklighet](#)” [Ulf Bernitz on the Inquiry on Gambling: Hard to believe the proposal will become a reality].

¹¹ Swedish Competition Authority (2009).

¹² The Swedish Agency for Public Management (2009).

¹³ Svenska Spel (2009, p. 4).

to domain names and IP addresses for unauthorised gaming services and ban intermediation of payments to such gaming services. Finally, Svenska Spel believed that the possibility of stopping advertising broadcasted from television stations in other EU countries should be investigated more thoroughly.

A-lotterierna states that the gaming market functions poorly. Market operators have different conditions for running betting and lotteries. While the social movements still encounter legislation dating from the 1930's regarding payment and marketing, Svenska Spel and ATG have been given improved conditions through new concessions. The private foreign gaming companies have even better conditions for competition. A-lotterierna advocated equal conditions for different operators to run betting in new media and reacted especially negatively to Svenska Spel's attempt to drive the social movements out of the gaming market. A-lotterierna wanted to have a licensing system that was attractive enough so that private companies would conform to the national regulations instead of continuing to operate from other EU countries.¹⁴

The Swedish Post and Telecom Agency (PTS) concentrated on the proposal to force ISPs to block communication to certain IP addresses and domain names. PTS wrote that the effect of blocking could be questioned, that the operation could result in costs for market operators, that the EU legal requirements had not been fully investigated, and that blocking entailed restrictions on freedom of speech of the individual and that uncertainty prevailed as to whether such restrictions were proportional to the aim of the regulation.¹⁵

There can be said to be two reasons behind the failure of the inquiry:

1. The short time the inquiry had at its disposal. One and a half years were supposedly not adequate to go through the large complex of problems that regulation of the gaming market constitutes. Not the least given the fact that the previous Lottery Inquiry did not manage to complete its mission during the same time frame, the time allotted appears too short.
2. The strict control of the inquiry by a number of narrow directives. The directives included, inter alia, that the proposals should be consistent with EU law, that they should not lead to increased gambling and that they should have the same basis as the current gaming regulations. The last directive was interpreted such that the proposals should build upon a prohibition law with the main rule being that authorisation can only be given to state or state-controlled companies and to non-profit organisations. The inquiry also made the interpretation that a new regulation should aim at countering crime as well as social and economic damage, safeguard consumer protection interests and steer the surplus from betting to the public and the public's benefit.¹⁶

¹⁴ A-lotterierna (2009).

¹⁵ The Swedish Post and Telecom Agency (2009).

¹⁶ SOU 2008: 124, pp. 20-21, 571-590.

Accordingly the Swedish gaming market finds itself in a situation in which it ought not to be. All market operators agree that re-regulation is needed, but nothing is happening from the government's side. Considering the fact that the challenges to the current regulation in the form of the development of EU law and technology were already clearly described in the Lottery Law Inquiry (SOU 2000:50) eleven years ago, it is no longer acceptable for the government to remain passive on the issue.

3. The Swedish Gaming Industry

Sweden is the EU country with the highest share of gaming consumption online – 26 percent compared with an EU average of 8 percent. The average Swede puts 2.5 percent of his disposable income into gaming and lotteries, calculated in turnover before paid-out winnings. If one instead counts the cost after paid-out winnings, the share amounts to slightly more than one percent.¹⁷

The global market for online gambling for real money is estimated to amount to 21 billion dollars.¹⁸ Europe is the single largest market, with 43 percent of the world market. Despite this, the European market is expected to double in five years, according to a 2008 forecast.¹⁹ From the consumption side, Sweden is Europe's fourth largest online gaming market after Great Britain, Germany and France.²⁰

A comparison is more difficult on the production side of the market, but there is no doubt that Swedish online gaming companies are exceptionally successful, especially in relation to the country's population. The Swedish gaming industry consists of governmental, private for-profit and private non-profit operators. According to the Gaming Board the net earnings for gaming companies regulated in Sweden amounted to 16.8 billion SEK in 2009, an increase from 16.0 billion SEK in 2008. According to estimates by Svenska Spel, the net gaming revenues to foreign registered online gaming companies from the Swedish gaming market amounted to around 1.8 billion SEK in both 2008 and 2009. Consequently, the total Swedish gaming market amounted to around 18.6 billion SEK in 2009, an increase from 17.8 billion in 2008. As of 2009, Svenska Spel is the market leader with 53 percent, ATG accounts for 20 percent, the social movements for 16 percent, foreign online companies for 10 percent, and restaurant casinos for 1 percent. Since 2008, Svenska Spel has lost two percentage points and the social movements have gained the same.²¹

As far as online gaming is concerned, Svenska Spel estimates that the total Swedish net gaming market amounted to around 4.2 billion SEK in 2009, a 4.2 percent increase from 2008. Svenska Spel's market

¹⁷ Lotteriinspektionen [Gaming Board for Sweden] (2010a, p. 4).

¹⁸ KPMG International (2010, p. 1).

¹⁹ European Gaming & Betting Association, "[Market reality](#)" [2011-01-23].

²⁰ H2 Gambling Capital. The ranking is based on figures from 2008 (after which the Italian online market has been re-regulated and has grown dramatically).

²¹ Svenska Spel, Annual Report 2009 pp. 15–16.

share on the Internet in Sweden amounted to 29 percent, a reduction from 31 percent in 2008. ATG's market share on the Internet is almost as large. Since 2005, the market share of foreign companies on the Internet has dropped from 60 to 45 percent in Sweden. The explanation is that Svenska Spel and ATG have invested increasingly in Internet gaming. Svenska Spel's market share on the Internet, however, has dropped since 2007, while ATG's market share has increased at ever faster pace.²²

The Swedish gaming industry includes both companies in the so-called B2C segment with consumers as customers and companies in the B2B segment of corporate customers. Unibet and Betsson are among Europe's largest private online gaming operators and offer a wide variety of game types. Boss Media, Ogame and Entraction have developed poker software that has been and is being used by leading poker networks in the world. Several of the world's most successful online game operators use Net Entertainment's gaming systems for casinos.

The Commercial Operators

Gambling is a profitable, fast-growing, knowledge-intensive, global, and now also a relatively large industry. Slightly more than a dozen private companies that did not exist as recently as 1995 have grown into an established industry with approximately 1,900 employees, 1,200 of whom work in Sweden.²³ Job growth in the private gaming companies is still high: from 2007 to 2009, the number of employees in the commercial gaming companies grew by 35 percent overall and by 27 percent in Sweden. Today, Unibet and Betsson together employ over 300 people in Malta.

A concrete sign of the success of Swedish gaming companies is that several of them have been designated as "Gazelle companies" in *Dagens Industri's* annual survey of Sweden's fastest growing companies.

Gazelle companies belong to an exclusive club; annually less than 0.5 percent of Swedish limited companies are designated as Gazelles. Net Entertainment, which was designated as a Gazelle company in 2006, 2007 and 2010, stands out in particular. But also Ogame (2005 and 2006), Boss Media (2007) and Betsson (2010) have received this distinction for high and sustained growth.²⁴

²² Svenska Spel, Annual Report 2009 pp. 15, 17.

²³ See Table A1 for data and calculations.

²⁴ The following criteria must all be met for *Dagens Industri* to designate a company as a Gazelle, based on the firm's four most recent annual reports: (i) an annual turnover exceeding 10 million SEK, (ii) at least ten employees, (iii) published at least four annual reports, (iv) at least doubled its turnover in the last three years, (v) increased its turnover in each of the past three years, (vi) overall operating result which is positive, (vii) has essentially grown organically, (viii) sound finances. See www.di.se "Mer information om gasellerna" [More information about the gazelles] [2011-01-23].

Since 2005, several dramatic acquisitions of Swedish online gaming companies have taken place. Ongame, the online poker company, was founded by two students from Uppsala in 1999 and was sold in 2005 to Austrian Betandwin for 4.5 billion SEK. Boss Media, a Väjö company, was founded in 1999 and was sold in 2008 to GEMed in the Italian Lottomatica group for 1.4 billion SEK. Expekt was founded by two students from Linköping in 1999 and was sold in 2009 to Mangas Capital Gaming in Monaco's casino group for 1.3 billion SEK. In 2007, when British Ladbrokes bought Sponsio, which was responsible for Ladbrokes's Nordic gaming business, the three Swedish owners got to share half a billion SEK. The three founders of Betsson got to share 220 million SEK in 2005, when they finalised the sale of their gaming site to Cherry. Altogether, these acquisitions add up to 8 billion SEK and the acquired companies all have their business still in Sweden.²⁵ Aside from Niklas Zennström's almost legendary sale of Skype to Ebay for 2.6 billion dollars in 2005, it is difficult to find any Swedish entrepreneurs who have made more money in a shorter period of time.²⁶ In Sweden there is now a number of relatively young people with entrepreneurial spirit, considerable private wealth and depth of knowledge of the gaming industry.

Today, nine gaming companies are listed in Sweden: Unibet, Betsson, Net Entertainment, Cherryföretagen, Entraction, Betting Promotion, Redbet, 360 Holding and Stingbet. Together they have a market value of 11.3 billion SEK, which makes them as large as Axfood, Hakon Invest or Höganäs.²⁷ A large portion of the Swedish gaming industry, though, is comprised of unlisted companies: bwin Games (formerly Ongame) is owned from Austria and Boss Media from Italy. Bonnier Gaming is owned, as the name suggests, by the Bonnier companies. Among other unlisted Swedish companies are, inter alia, Nyx Interactive and Midas Player. Altogether the unlisted private companies employ about 700 people in Sweden. Furthermore there are a couple of companies with online gaming as part of their business: MTG (Bet24) and Keynote Media Group as well as foreign gaming companies with operations in Sweden (including Betfair, Ladbrokes and Pokerstars). There are also indications that a large number of small Swedish companies engage in hidden gaming activity.²⁸ The motive for concealing gaming activity is probably a combination of the fact that they cannot receive authorisation for their activity and to evade taxation. The employment figures presented in this report are thus systematically underestimated.

²⁵ In addition to these acquisitions, it can be mentioned that Anders Ström, who founded Unibet in 1997, sold off Unibet shares for around one billion SEK.

²⁶ The IT boom in the late 1990's and the beginning of the first decade of the 2000's of course made a number of entrepreneurs rich, but at that time it was mainly a case of people who managed to sell shares before the bubble burst and company values returned to normal.

²⁷ This and similar calculations are based on share prices as of 2011-01-13.

²⁸ The Swedish Tax Agency is now investigating 100 online poker sites registered abroad but whose activity is suspected to be operated from and is tax liable in Sweden. See *Dagens Nyheter*, 2011-01-07, "[Pokerbolag måste visa korten](#)" [Poker companies must show their cards].

If we add up the market values and the purchase prices (as noted, the acquired companies are continuing their operations in Sweden), we get a rough estimated industry value of 19 billion SEK.²⁹ According to such an estimate the commercial Swedish gaming industry is as big as Lundbergföretagen or Trelleborg and clearly larger than the "construction giant" Peab. A financial summary of the commercial operators in the gaming industry can be found in Table A1.

The State-owned, State-controlled and Non-profit Operators

The gaming industry is of course even larger if we add the state-owned and state-controlled enterprises Svenska Spel and ATG and the nationwide lottery organised by the Swedish Postcode Association (Postkodlotteriet), A-lotterierna (Kombilotteriet), Folkspel (Bingolotto), IOGT-NTO (Miljonlotteriet), and Ideella spel (Månadslotten). Furthermore in the Åland Islands there is also the Åland Slot Machine Association (Paf) with 413 employees, nearly one billion SEK in net revenues and strong links to the Swedish gaming market.

Svenska Spel and ATG dominate the regulated gaming market in Sweden with 85 percent of sales.³⁰ Since 2007, the Postcode Lottery has grown rapidly at the other lotteries' expense. It is also notable that Svenska Spel's online poker is decreasing in turnover.³¹ Svenska Spel is estimated to have had 30 percent of the Swedish online poker market, a share which at the end of 2010 is estimated to have dropped to about 20 percent.³² It is possible that the number of poker players at Svenska Spel does not reach the critical mass needed to keep the games running. Instead, Svenska Spel's poker may have landed in a vicious circle in which lack of players makes the company's online poker less attractive, leading to even fewer players and so on.

The government and non-profit operators' net revenue amounts to a total of 14.8 billion SEK. Altogether, they have 2,500 employees, 2,200 of whom are in Sweden.³³ Job growth has been half as rapid as in the commercial part of the industry and amounted to 9 percent from 2007 to 2009. Svenska Spel, with 1,700 employees, has by far the largest work force – nearly four times as many as Unibet and

²⁹ The estimate excludes the unlisted companies for which an acquisition value is missing. The two largest of these: Bonnier Gaming and Nyx Interactive together have 48 employees. In Sweden there is also Jadestone with 58 employees, owned by Paf from the Åland Islands but which has been included here among the non-profit operators.

³⁰ The regulated market in Sweden also includes restaurant casinos and bingo, as well as local and regional lotteries.

³¹ Lotteriinspektionen [Gaming Board for Sweden], "[Statistik tredje kvartalet 2010](#)" [Third quarter 2010 statistics] [2011-01-24].

³² H2 Gambling Capital (2011).

³³ Included in the larger figure is all of Paf, with 413 employees. The smaller figure includes Paf's Swedish subsidiary Jadestone with 58 employees.

more than seven times as many as ATG. A financial summary of the governmental and non-profit operators in the gaming industry can be found in Table A2.

If we add up the commercial, governmental and non-governmental actors, we find a gaming industry with 4,500 employees, 3,400 of whom are in Sweden, and a total net revenue of 19 billion SEK.³⁴ This means that in 2009 the gaming industry employed as many people as Saab Automobile, but with the difference that the game companies consistently show good profitability.³⁵ According to several of the largest companies in the industry, including Svenska Spel, the gaming industry has continued to grow and today has 23 percent more employees than in 2009 (if the data from these companies are representative).

The Ownership Structure

The big private gaming companies currently have a fairly widely held ownership. In several cases, the entrepreneurs who founded companies were bought out completely. Some who have been involved from the start, however, still have shares of about ten percent remaining: Anders Ström in Unibet, Per Hildebrand in Entraction and Per Hamberg at Betsson, Net Entertainment and Cherryföretagen (with slightly more than 20 percent of the votes in these three companies). Lars Kling owns about 10 percent (and slightly more than 20 percent of the votes) in Cherryföretagen. Among the companies' major shareholders are also Swedish and foreign funds and banks as well as some private Swedish investors. In particular Swedbank Robur funds have chosen to invest in online gaming and hold 9 percent in Unibet, 7 percent in Entraction and 6 percent in Betsson. Handelsbanken funds have 6 percent in Entraction and 2 percent in Betsson and Net Entertainment. The "other shareholders" category has 42 percent of the share capital in Unibet and over 50 percent in Entraction, Betsson and Net Entertainment (but only about 25 percent of the votes in the last two companies).

In October 2010, *Svenska Dagbladet* noticed the fact that the Swedish state, through the National Pension Fund owned shares in several online gaming companies. This while at the same time Minister of Finance Anders Borg came out and criticised that "a number of companies that market and sell their games in Sweden without the support of Swedish law".³⁶ All AP funds own shares in some of Unibet, Betsson, Net Entertainment, Ladbrokes and Modern Times (which owns Bet24) companies. In total, the state's holdings of online gambling companies amounts to 972 million SEK according to *Svenska Dagbladet's* investigation. The Second AP Fund is distinguished by 71 million SEK invested in Unibet and

³⁴ The figures are conservative because they exclude retail (the agents of Svenska Spel and ATG), many foreign companies with operations in Sweden, many Swedish companies with gaming operations that are not reported separately, and small businesses which run hidden gambling.

³⁵ According to www.saabsverige.com ("About Saab"), Saab Automobile had 3,355 employees as of 31 December 2009 [2011-01-09].

³⁶ *Svenska Dagbladet*, 2010-10-12, "[Högt spel med statens pengar](#)" [High game with the state's money].

17 million SEK in Ladbrokes. The Third AP Fund has Unibet and Betsson shares worth 36 million SEK and 3 million SEK. This means that nearly all Swedes' pensions to some extent depend on how the gaming companies' market value develops.

The AP funds believe that gaming holdings need not be subjected to any ethical scrutiny because they have not violated Swedish law or any international convention, which are the criteria that the National Pension Funds Ethical Council has established for the shareholdings.³⁷ However, the situation is not quite that simple. In the first place, under current legislation, the companies in question are continuously tested in various legal bodies, mainly with respect to the status of EU law. Secondly, both the government and the parliament's finance committee believe that the AP funds, through the Ethical Council, should develop a clearer set of values for their activities, in line with previous proposals from the Committee on the AP Funds' Ethical and Environmental Responsibility (SOU 2008:107). In particular, the government has questioned the AP funds' narrow interpretation of the state's set of values as the international conventions Sweden has signed. Among other things, since conventions are most often the result of political compromises, such an interpretation is not entirely accurate, according to the government.³⁸

Spill-Over Effects

An underlying explanation for the gaming industry's strong position in Sweden with international successes like Unibet, Betsson, Ogame, Boss Media and Net Entertainment is likely to be that the country is so well connected to the Internet. Virtually the entire population has access to the Internet and one-third have broadband connections. With 73 percent who use the Internet every day or almost every day and only 7 percent who never use the Internet, Sweden is in both cases ranked as the highest of all EU countries. The so-called ICT sector (information and communication technology) is of great importance for the Swedish economy, and even – according to an EU report – one of the main sources for a smart and sustainable growth in the European economy.³⁹ Sweden is ranked number one in Europe in terms of share of employment in the ICT sector and in third place with regard to the sector's share of GDP.⁴⁰ That Swedes quickly and gladly embrace new technologies is a common conception.⁴¹

The size and dynamism of the gaming industry means that it has significant spill-over effects to firms in other Swedish industries. This is of course not unique to the gaming industry; for example, it is becoming far more common for companies across the entire economy to outsource services to

³⁷ *Svenska Dagbladet*, 2010-10-13 "[AP-fonder försvarar innehav](#)" [AP Funds defend holdings].

³⁸ Finansutskottets betänkande [The Committee on Finance's report] 2010/11:FiU6 (p. 17, 26).

³⁹ European Commission (2010 p. 1).

⁴⁰ European Commission (2010 p. 189).

⁴¹ See, for example KTH Royal Institute of Technology (2010, p.12) for an interview with Peter Bertilsson, CEO for bwin Games.

subcontractors instead of producing them with their own staff. According to information from some big gaming companies, about every fourth job in these companies creates a job in the consultancy or staffing industry. If this information is representative, the gaming industry in the first stage creates slightly more than 1.000 jobs in consulting and staffing companies. Besides that, jobs created in connection with inter alia gaming companies' advertising should be added.

Especially characteristic of the gaming industry is, however, its digital nature. The commercial companies are investing almost exclusively in betting over the Internet and the governmental and non-profit operators are following the same direction.⁴² This makes the gaming industry interesting in light of the EU Commission's growth strategy Europe 2020 which, inter alia, includes the so-called flagship initiatives Digital Agenda for Europe and the Innovation Union.⁴³ In Sweden, Minister for Information Technology and Regional Affairs Anna-Karin Hatt is responsible for the national digital agenda, which will give Sweden a leading role in the work towards the goal of the digital agenda for Europe.⁴⁴ More specifically, Sweden's digital agenda includes, inter alia, the goal that "Sweden also in the future can be the most competitive digital economy so that new jobs and new services and products can grow right here."⁴⁵ Because of the EU's Growth Strategy Europe 2020, the European Union's Council (Council of Ministers) recently emphasised that the flagship initiatives Digital Agenda for Europe and the Innovation Union should be seen as integrated strategies for achieving the growth strategy's objectives and that an integrated European innovation strategy presupposes the creation of a fully functional digital internal market, in order to benefit European businesses and consumers. The latter applies especially to small and medium-sized enterprises and innovative start-up companies.⁴⁶

The EU's strategies for digital services and innovations can help the gaming industry and the gaming industry can contribute to achieving the EU objectives. The gaming industry is clearly technology- and knowledge intensive. A large majority of workers in the commercial part of the gaming industry in Sweden are involved in technological development in a broad sense (including web technology, web

⁴² Cherryföretagen is the only commercial operator in Table 1 that does not have the major portion of its sales online. But even the Cherry companies are investing in the online market through their trademarks Playcherry.com, NorgesAutomaten.com, SverigeAutomaten.com and DanmarksAutomaten.com and mention the possibility of letting online operations grow through new acquisitions in their annual report (2009, p. 16).

⁴³ Europe 2020 is the EU's new ten-year growth strategy and consists of five main objectives (employment, innovation and investments, greenhouse gas emissions, training, poverty) and seven flagship initiatives (inter alia the Digital Agenda for Europe and the Innovation Union). The Europe 2020 Strategy was adopted at the meeting of the Council of Europe on 17 June 2010 and replaces the Lisbon Strategy.

⁴⁴ Government Offices of Sweden, 2011-01-14, "[Digital agenda](#)" [2011-01-27].

⁴⁵ Speech by Minister for Information Technology and Regional Affairs Anna-Karin Hatt during the Parliamentary debate on expenditure area 22, Communications, 2010-12-21, "Sweden will be the most competitive digital economy".

⁴⁶ Council of the European Union, "[Council conclusions on 'Cross fertilization between Europe 2020 flagship initiatives Digital Agenda for Europe and Innovation Union'](#)", 3052th Transport, Telecommunications and Energy Council meeting, Brussels, 2010-12-02 - 2010-12-03 [2011-01-26].

design, web architecture, web services, and web and mobile applications). Product development has been very fast and run by the private operators. The times when *Stryktipset* [pool betting on football] dominated the supply of the state's de facto monopoly Tipstjänst is fairly difficult to imagine for those who currently use mobile phones to do live betting with several different foreign operators. Gaming companies have many "early adopters," who are happy to try out and embrace new technological services, among their customers.

Compared with the United States, the European market for e-commerce is highly fragmented. EU consumers do not shop as much on the Internet as American consumers. Payment security and trust are important explanations of why EU consumers are choosing to shop or not to shop on the Internet. Many European consumers are also experiencing problems with e-commerce across the EU's borders.⁴⁷ The different national regulations for gaming mean that fragmentation is even greater on the European gaming market than on other e-commerce. The major Swedish gaming companies' export shares are significantly higher than 50 percent of net revenues. For some companies the export share is around 90 percent.

If the gaming industry has previously served as a gateway to other e-commerce, it is today rather the complexity of the gaming companies' payment systems which can have positive spillover effects on other companies. Peter Bertilsson, CEO of bwin Games, has described that the gaming companies maintain the same high security as banks while at the same time they have many thousands more transactions per time unit than the stock market – and stay open around the clock around the whole world. The high complexity means that bwin Games is experiencing difficulties in finding technicians with the right skills.⁴⁸ Where payments are concerned, it may be worth noting that the Swedish companies DIBS and Paynova have established themselves as complete providers of payment solutions on the Internet. Online gambling is one of the three market areas on which Paynova focuses.

Outside their own industry gaming companies probably have the greatest impact as advertisers. Gaming companies are already making large advertising investments, amounting to a total of 1.4 billion SEK in 2009, an increase of slightly more than 250 million since 2008, according to a survey by SIFO Research International Sweden. It is the foreign gaming companies that account for most of the increase. Altogether, foreign gaming companies account for 52 percent of advertising investments. Next Svenska Spel follows with 23 percent, ATG and Folkspel, each with 8 percent and the Swedish Postcode Lottery with 6 percent.⁴⁹ According to Svenska Spel, there are about 50 gaming companies that do marketing in the Swedish media without being authorised to conduct gaming operations from Sweden.⁵⁰

⁴⁷ European Commission (2010).

⁴⁸ KTH Royal Institute of Technology (2010, p. 12).

⁴⁹ Svenska Spel, Annual report 2009, p. 90. Figures do not include advertising on the Internet.

⁵⁰ Svenska Spel, Annual report 2009, p. 15.

Despite the large advertising figures, it is reasonable to assume that the gaming companies' advertising has been held back by the so-called promotion ban, according to which it is forbidden to market games that lack a license in Sweden. However the promotion ban has a large gap in that it only applies to media that have their broadcasting and publishing licence in Sweden. Thus, for example, TV 3 and Kanal 5 have been able to broadcast gaming advertising directed at their viewers in Sweden. This has distorted the television market and led to large advertising revenues landing in Great Britain rather than Sweden. Especially given the fact that the newspaper industry as a whole is struggling with declining editions and declining profitability, increased advertising revenue from the gaming companies would be a welcome contribution from their perspective. The promotion ban is discussed further in Section 5.

The Swedish Gaming Miracle

In conclusion, to provide additional perspective on the Swedish gaming industry, it can be compared to the related video game industry (computer and video games), whose growth has received very positive attention from journalists and politicians. "The Swedish gaming miracle" has become a household word and the video game industry is trotted out as an export success in the same class as its predecessor "the Swedish music miracle". According to a report from its own trade association, the Swedish video game industry is made up of 101 firms (most small) with a total of 1,102 employees and a total turnover of 967 million SEK.⁵¹

With 254 employees, DICE is the largest of the country's game development companies. Over the years, the company's Battlefield series has sold over 25 million copies worldwide.⁵² Under the company's former name Digital Illusions, DICE became the object of the industries by far largest acquisition in 2006 when it was taken over by the American Electronic Arts for 600 million SEK.⁵³ A consolidated comparison between the commercial gaming industry and the video game industry follows in Table 1.

⁵¹ Dataspelsbranschen [The Swedish Games Industry] (2010).

⁵² Dataspelsbranschen [The Swedish Games Industry], "[Spelundret väntar inte](#)" [The gaming miracle doesn't wait] [2011-01-15].

⁵³ G5 Info, "[Electronic Arts \(EA\) uppköp av Digital Illusions CE \(DICE\)](#)" [Electronic Arts' (EA) buyout of Digital Illusions CE (DICE)] [2011-01-15]. The exact price is difficult to estimate because the purchase was protracted (2004–2006) when minority owners did not want to sell at the offering price.

Table 1. Industry comparison, commercial companies

	Gambling	Video Games
Number of employees	1,936 (+16%)	1,102 (-19%)
Number of employees in Sweden	1,159 (+16%)	1,102 (-19%)
Net revenue/turnover	4.6 billion SEK	967 million SEK
Market value, listed companies	11.3 billion SEK	322 million SEK
Largest company acquisition	Ongame 4.5 billion SEK	Digital Illusions 600 million SEK

Notes: The number of employees and turnover refer to 2009. Change in the number of employees in 2008–2009 appears in parentheses. Net revenue refers to games of chance and turnover refers to computer games. Market value is as of 2011-01-13 and for the video game industry includes the listed companies G5 Entertainment, Starbreeze, Star Vault, Community Entertainment, Junebud and Global Gaming Factory.

The industry comparison is clearly to the advantage of gambling. Yet it does not follow from Table 1 that the growth in gambling has been relatively steady, while video game companies have shown to be very cyclical. The financial crisis and recession hit video game companies hard in 2009. Seven of the ten largest game developers cut staff and Grin, with about 300 employees, was forced into bankruptcy.⁵⁴ Overall, employment in the sector fell by 19 percent. That same year, the number of employees in the gambling industry grew by 15 percent and gaming operator Expekt was bought out for 1.3 billion SEK. The video game industry also lived through a crisis period of 2002–2003, when several of the larger companies cut staff and one of them, Mindark, went bankrupt.⁵⁵ During these years, Unibet tripled its turnover and went from 45 to 75 employees. While Boss Media lost 23 percent of its revenues from 2001 to 2003, their work force increased from 86 to 106 people during the same period. Betsson received a bookmaker licence in London in 2002 and had its breakthrough as an online gaming operator in 2003.

The Social Democrats are the party that has most clearly highlighted video games as a future industry in which to invest. The party's former Minister of Culture, Leif Pagrotsky, pointed out that video games

⁵⁴ *Dagens Nyheter*, 2009-09-11, "[Spelundret kom av sig](#)" [The video games miracle broke down].

⁵⁵ Sandqvist (2010, p. 113).

"are an indispensable part of our culture and form a significant part of the economy." Pagrotsky was also involved in the Nordic Council of Ministers' 45 million SEK program to support game development.⁵⁶

However, it is Social Democratic MP Luciano Astudillo who has been most enthusiastic about the video games industry. It is worth highlighting a quote from the Social Democrats' report "Investing in the video games industry", written by Astudillo:

Video games create growth. The industry offers competitive export products with high added values, which presuppose high skills, qualified related industries, cultural profiling and rapid technological development – which other parts of society benefit from.⁵⁷

On his blog as well, Astudillo stresses that new video games are about "big money and many jobs."⁵⁸

The Social Democrats have six suggestions for a new video games policy which is presented in Astudillo's report:⁵⁹

1. Appoint a working group on video games
2. Take the video games industry seriously
3. Review the supply and dimensioning of training spots for video game development
4. New professorship in video game development
5. Draw up a future program for creative industries
6. Recognise the role of video games in culture through for example translation support

The Social Democrats have also proposed that the state should institute a game export prize for the video games industry. The idea is that such a prize should provide the same kind of support and attention as the previously instituted music export prize, designed to promote the export of Swedish music.⁶⁰

That Swedish video game developers produce world-leading games that create new jobs, generate export earnings and drive the development of Swedish technology is undoubtedly something that strengthens the national economy at large. However, this is something that video game developers

⁵⁶ *Svenska Dagbladet*, 2005-11-01, "[Pagrotsky satsar miljoner på spel](#)" [Pagrotsky is investing millions in games].

⁵⁷ Astudillo (2008, p. 7).

⁵⁸ "[Massiva Massive en pusselbit i det Kreativa Sverige](#)", [Massive Massive a piece of the puzzle in creative Sweden] 2009-09-15 [2011-01-16].

⁵⁹ Socialdemokraterna, "[Sex punkter för en ny dataspelspolitik](#)" [Six points for a new computer game policy] 2011-01-16].

⁶⁰ Dataspelsbranschen [Swedish Games Industry], "[Socialdemokraterna vill införa spelexportpris](#)" [The Social Democrats want to introduce a gaming export prize] [2011-01-16].

have in common with the larger business of gambling. Instead of one-sidedly emphasising and supporting the video games industry, politicians should treat the two industries in a more equal manner. The fact is that video games and gambling games exhibit many similarities and have several common requirements. This is underlined by the fact that B2B companies Boss Media, Net Entertainment and Jadestone are indeed involved in game development – and are running projects that fit equally well into the video game industry. If one looks at the two nearby sectors as a whole, one can really talk about a Swedish gaming miracle.

4. Swedish Trotting

Swedish trotting is very popular and is deeply rooted across the country. Horse racing in almost all countries, however, has two things in common that make it deserve to be treated in a separate section. The first is that horse racing was long one of the few permissible options for betting. Secondly, the horse racing industry has therefore been dependent on income from betting.

Aktiebolaget Trav och Galopp (ATG) [The Swedish Horse Racing Totalisator Company] has a legal monopoly on operating betting on horse races in Sweden. Unlike Svenska Spel, ATG is owned not by the state but by the Swedish Trotting Association (90 percent) and the Swedish Jockey Club (10 percent). Despite this, the government controls ATG by naming half of the board members (including the chairman) and by granting licences for gaming operations.⁶¹ It is ATG's responsibility to distribute game surpluses to the horse racing industry.

ATG's monopoly can be questioned in several ways. In responses to the Inquiry on Gambling (SOU 2008:124), the proposal to preserve ATG's monopoly on horse betting was heavily criticised. For example, the Swedish Competition Authority wrote that there were no social protection policy considerations that justified giving ATG exclusive rights to betting on horses because such betting was not considered a dangerous form of gambling in terms of risk of problem gambling.⁶²

One can also wonder why the state has chosen a unique model for simultaneously taxing and supporting trotting and horse racing, while at the same time all other sports make do with market earnings, normal contributions from state and local authorities, plus the help of unpaid labour. In 2010, support for Swedish sports that was previously paid as a share of the profits from Svenska Spel, was replaced by a normal state appropriation. The government's motive for this was to create a stable and predictable funding form. The reasons for treating trotting and horse racing in a special way need to be clarified and discussed. It is especially unclear why political support for trotting and horse racing should vary depending on how much money people spend on horse betting. This arrangement causes support to

⁶¹ Authorisation is granted on the basis of Articles 4 and 45 in the Lotteries Act (1994:1000).

⁶² Swedish Competition Authority (2009).

fluctuate more than other government aids and is driven by a number of factors that are unrelated to actual horse racing. Such a variation of support is hard to justify on the basis of a genuine concern for the horse racing industry and also leads to the disadvantage that future economic opportunities will be difficult to predict for those actively involved, which inter alia makes their investment calculations more difficult. Politically motivated support should also make a larger differentiation between the smaller race tracks with relatively weak profitability and the larger race tracks such as Solvalla, Åby and Jägersro, with very different economic circumstances.

Another question is how well ATG's international business fits in with the political argument for the company's gambling monopoly. ATG organises pool betting on horse races in the other Nordic countries and in France, and sells games abroad in Swedish races (including games export through local or shared pools to Denmark, Norway, Finland, Germany, Austria, Netherlands, Estonia, South Africa, USA, Australia, Malta, Poland, France, Italy and Canada); 12 percent of ATG's betting comes from the international market.⁶³ This at the same time as the government wants to prevent companies in other EU countries from operating and marketing horse race betting in Sweden. ATG's authorisation is valid provided that its cooperating organisation in the other country receives comparable authorisation in Sweden.⁶⁴ But it is difficult to see how such international business partnerships coincide with the demands of EU law that national gaming regulations must be non-discriminatory, justified by overriding reasons of public interest and be necessary and proportionate.⁶⁵ The fact is the government, as recently as December 2010, rejected the ATG's application to participate in betting in international pools in horse racing.⁶⁶

Given the history of the sister monopoly Svenska Spel, it is notable that such a large proportion of ATG's betting comes from the international markets and that the company insists that "ATG is currently focused on working to increase the international participation and to ... increase the betting pools".⁶⁷ In 2006, Svenska Spel's then CEO Jesper Kärrbrink announced that the company had teamed up with a few firms in the Baltic countries to "export knowledge, games and responsible gaming to other countries".⁶⁸ This Baltic adventure led the EU Commission to question the Swedish state's action. To protect its

⁶³ ATG, "[International wagering on Swedish horseracing](#)" [2011-01-21]; and ATG's Annual Report 2009.

⁶⁴ Regeringsbeslut [government decision], 2009-12-17, Fi2009/7006, "Ansökan från AB Trav och Galopp om tillstånd att anordna vadhållning i samband med hästtävlingar enligt 45 § lotterilagen (1994:1000)" [Application from AB Trav och Galopp for authorisation to conduct betting in connection with horse racing pursuant to Article 45 of the Lotteries Act (1994:1000)].

⁶⁵ cf. SOU 2008:124, p. 240.

⁶⁶ Regeringsbeslut [government decision], 2010-12-16, Fi2010/4552, "Ansökan från AB Trav och Galopp om tillstånd att anordna vadhållning i samband med hästtävlingar enligt 45 § lotterilagen (1994:1000)" [Application from AB Trav och Galopp for authorisation to conduct betting in connection with horse racing pursuant to Article 45 of the Lotteries Act (1994:1000)].

⁶⁷ ATG, "[International wagering on Swedish horseracing](#)", [2011-01-21].

⁶⁸ [Realtid.se](#), 2006-07-21, "[Svenska Spel går in i Baltikum](#)" [Svenska Spel goes into the Baltics].

monopoly in Sweden when at the same time Svenska Spel went out to compete in other countries stood out as too inconsistent. It all ended with the government's rejecting Svenska Spel's request to operate in the Baltic countries along with other new initiatives that were not in line with the government's assignment. It then came out that Svenska Spel had entered into new projects without waiting for government approval.⁶⁹ In the midst of all this, Svenska Spel got a new chairman and then also a new CEO when Margareta Winberg and Meta Persdotter replaced Anders Gustafzon and Jesper Kärrbrink. Subsequently Svenska Spel has taken a more cautious role quite in line with an opinion piece in which Ministers Anders Borg and Maria Larsson intended to clarify the governance of Svenska Spel and ATG and to put beyond all doubt that both monopoly companies are run so as to counteract the negative effects of gambling and not by commercial considerations.⁷⁰ But, unlike Svenska Spel, ATG has not held back from commercial ventures abroad. Instead, ATG is focusing fully on selling betting on Swedish trotting in a large number of other countries.

It must be noted that the Inquiry on Gambling (SOU 2008:124) in general did not discuss these disadvantages of ATG's gaming monopoly. The explanation seems to be that the government's directives stated as a starting point that "the role of the social movements as the games organisers on the market shall remain unchanged as far as possible".⁷¹ In addition to this instruction, the Inquiry on Gambling did not present any more profound and consistent arguments for maintaining ATG's monopoly. Nor did the Inquiry on Gambling offer any clear explanation for its choice to exclude bets on horse races from the proposal to allow competition in betting in the form of odds and pool betting in one of the regulatory options presented. ATG's special treatment seems to boil down to the fact that gaming revenues are a prerequisite for horse racing to continue to develop. The crux, which the investigation directives also mention, is that, according to the EU court's practice, this may not be the main aim of gaming regulation.⁷²

Given the problems described and the special circumstances of horse racing, it is important that the development of horse racing in Sweden is being taken into account in an inquiry like this one. Betting on horses has a long history and was for a long time one of the few legal and organised betting activities in the country. From the time when horse betting became legal again in 1923, until the start of ATG and the introduction of V65 1974 and V75 1993, betting on trotting has been an economic success for both the State Treasury and the trotting industry. In recent years, however, trotting tracks and practitioners of the sport have sensed an increasingly harsh economic climate. Above all, trotting tracks has experienced a setback with declining visitor figures. New games have emerged and are competing for

⁶⁹ Sveriges Radio, Ekot, 2007-12-07, 20:49, "[Svenska Spel investerar utan klartecken](#)" [Svenska Spel invests without go-ahead].

⁷⁰ *Svenska Dagbladet*, 2007-06-20, "[Töm och betsel på spelbolagen](#)" [Reins and bridle on the gaming companies].

⁷¹ SOU 2008: 124, annex 1, p. 583.

⁷² SOU 2008:124, annex 1, p. 582.

players' interest. Furthermore the Internet has made it more difficult to maintain ATG's betting monopoly and it is now possible to place bets on trotting online with other gaming companies. For example, Unibet offers daily bets on Swedish trotting in cooperation with the trotting site travnet.se.

The Swedish trotting industry has not emerged stronger from the new situation. The 2006 inquiry *Trotting of the Future* lists a number of problems and deficiencies in trotting, among others (p. 18–19):

- Competition is intensifying both in the gaming market and in markets for experiences. Horse betting is stagnating in the Swedish market. The number of spectators at the race tracks has declined by over 20 percent since 1999.
- The funds transferred from gaming to the sport and to active participants have basically remained unchanged since 2000.
- ATG's revenues, i.e. total net earnings, are significant, but not enough for trotting because of the state taking an ever greater share of the surplus. Furthermore the tax is also a turnover tax – the higher the game turnover, the higher the revenue to the state. Nor is such a tax neutral in relation to competitors in the gaming market (public and private).
- Horse owners' costs have increased significantly in the 2000s while prizes remain at an unchanged level.
- The 30 most winning teams have increased their share of the (unchanged) prize funds from 29 percent in 1995 to 40 percent in 2005.
- The number of horses in professional so-called A-training has increased by five percent while the number of horses in so-called B-training declined by 11 percent during the period 1995–2005.
- Breeding and rearing have greater and greater problems with profitability. The number of registered horses has fallen by almost 20 percent since 2000.
- The race tracks cannot afford to maintain the tracks, with large and serious deficiencies as a result.
- Policy instruments to promote the economic incentives and thereby develop trotting in the synergy between sport and gaming are lacking, which is related to the fact that the state is showing an active interest in gambling revenues, but otherwise has a passive attitude to the sport.

The survey does not present a bright picture of the trotting industry and its future prospects. Since 2006, some improvements have been made in line with sales growth in ATG's games, but structural problems remain.⁷³ Race track attendance has continued to decline since 2005 by another 16 percent.

⁷³ In December 2010, ATG and ST reported that there would be more resource allocations to harness racing in 2011: 31 million SEK in prize money, 11 million to premium runs and 15 million to breeders.

The decline in attendance does not seem to be levelling off, and in 2010, the average number of spectators declined by 5.3 percent. This is also reflected in the fact that on-track betting turnover has been declining, while betting on the Internet continues to grow and 2009 amounted to just under 25 percent of total turnover.⁷⁴ In line with the increasing costs of horse ownership, it has become much more common to hold shares in a racehorse. Since 2005, the number of B-coaches has also gone down by 15 percent while the number of horses in B-training has declined by 24 percent.⁷⁵ Trotting seems to be less and less a non-commercial hobby for broad groups of people.

Trotting is hobbled today by a number of government restrictions that prevent the development of marketing and game types, and is also weighed down by the State taking one-third of the gross win revenue. It is symptomatic that ATG itself is assuming the costs of producing television broadcasts of trotting in its own company, Channel 75, and that race tracks thereby receives no more money because their race is broadcast on television. Other sports, such as football, have drawn substantial economic benefits from competition between international television companies and bookmakers. The race tracks alone cannot capitalise on the success of their own races without getting their money through ATG, which does not encourage new initiatives and business models.

The trotting industry risks ending up in a passive position of dependence vis-à-vis the state. Business development and modern financing solutions have become the exception. New ideas in, for example, advertising, sponsorship and the sale of broadcasting rights are currently very limited. One important explanation is likely to be that the trotting industry – and especially individual race tracks – has such weak bargaining power vis-à-vis the state which decides on the gaming monopoly. There is a significant risk that the trotting industry will have significant adjustment problems the day when the current regulatory and funding model is changed. New thinking is needed and an option that has been tried in the U.S., where harness racing has experienced even greater problems, is to combine harness racing and casinos into so-called racinos.

Ultimately, one cannot dismiss the fact that the model of ATG as a private but state-controlled, monopoly firm is a questionable one. The reason why horse racing should be treated in such a special way is unclear and the consequences for the development of horse racing are not necessarily positive.

⁷⁴ Lotteriinspektionen [Gaming Board for Sweden], "[Preliminär spelstatistik för 2009](#)" [Preliminary betting statistics for 2009] [2011-01-23].

⁷⁵ "Fakta om svensk travsport" [Facts about Swedish trotting], www.travsport.se [2011-01-09].

5. Re-regulation in Other Countries

Unlike the situation in Sweden, several other countries have recently re-regulated or are planning to re-regulate their domestic gambling market. Developments in a few especially interesting countries are briefly described below.

Great Britain

Great Britain has long had a large and well developed gaming market with a long history of private bookmakers. In 2007, new gaming legislation was introduced, The Gambling Act 2005, under which the new authority, the Gambling Commission in Birmingham, has been given extensive powers to issue rules and conditions for gaming. The new law gave Great Britain a modern and cohesive framework legislation in the gaming area, which also covers online gaming. In order to obtain a license, a number of requirements must be met, including amongst other things cash management and information.⁷⁶ There is no requirement that operators should be domiciled in Great Britain; companies from within the EU and in other "white listed" countries are also allowed.

In sports betting and similar games, the tax amounts to 15 percent of gross gambling revenue, that is, stakes minus winnings. In recent years, Paddy Power, William Hill and Ladbrokes moved their online operations to countries with lower taxes. The state has a monopoly on nationwide lotteries but has contracted out the operation of the large National Lottery to the private Camelot Group company. From the price of a lottery ticket, 50 percent goes to prizes, 28 percent to a fund for non-profit purposes, 12 percent to taxes, 5 percent to the retailers that sell lottery tickets, and 5 percent to the Camelot Group.

In Great Britain there is currently a privatisation and market opening of The Horserace Totalisator Board (The Tote), which has over 500 betting shops and a monopoly on totalisator bets on horse races (gallop is the dominant race and game form). Private bookmakers have long competed with The Tote by offering horse betting at fixed odds. The British government has brought in ten bids for The Tote, including bids from Sportech, Gala Coral and Betfred. In the spring the company Lazard Ltd., which is responsible for the sale, is expected to submit a list of a few main candidates for the purchase.⁷⁷

Italy

In recent years, Italy has carried out major re-regulation and opened its domestic gambling market to competition. In 2004, slot machines were legalised and in 2006 the state auctioned off the rights to offer odds betting through agents to 112 Italian and four foreign companies. In 2006 the law for Internet

⁷⁶ SOU 2008:124, p. 481.

⁷⁷ EGRmagazine.com, 2011-01-05, "[Tote sale draws closer](#)".

gaming was amended and the state auctioned off 40 nine-year concessions for odds betting, pool betting, games of skill (mainly poker), scratch cards and bingo.⁷⁸

After having first tried to ban and block online gaming without success, the Italian state, during a period of time, chose to run online betting under its own direction. To avoid a conflict with the Court of Justice of the European Union, Italy then chose to re-regulate the market by auctioning off licences to private operators. Online poker tournaments, which were launched in 2008, have had explosive growth with very high profitability. The entire regulated Italian online gaming market grew 28 percent in 2010.⁷⁹ A new law which came into force on 3 February 2011 also allows for online casino and online poker in the form of cash games. Under the new rules repayments to players cannot fall below 90 percent and gaming tax amounts to 20 percent of the gaming surplus paid out after winnings (gross profits tax).⁸⁰

France

France opened up its domestic gambling market to competition in 2010 and thus broke up a state monopoly that stretched back to 1539. Licensed online companies can now offer betting on sports and horse racing and provide poker. Other forms of gambling such as online casino and betting exchange, on the other hand, remain illegal. The two giants of Française des Jeux (FdJ - State enterprise) and Pari Mutuel Urbain (PMU – an amalgamation of 51 horse racing organisations) still, however, maintain their monopoly on sports and horse betting in betting shops and FdJ also retains its lottery monopoly. Furthermore FdJ and PMU are also involved and compete in the licensed online market for betting and poker.

Concerning taxation, French re-regulation differs sharply from that in Italy and other countries. The tax in France is a turnover tax on the staked amount (without deduction of payouts). Turnover tax is 15 percent on horse racing, 8 percent on sports betting and 2 percent of the pot in poker. This makes the tax on, for instance, sports betting significantly higher than in Italy, where the tax has varied but has now dropped to around 4 percent.⁸¹ Several companies have criticised the French tax level and among others Ladbrokes, Sportingbet and Paddy Power have chosen to remain outside the French market until further notice.⁸² The French BetClic Everest Group believes that the tax prevents the French companies from expanding internationally because the profitability of the domestic market is so low.⁸³

⁷⁸ Claudia Ricchetti, speech at SpelAkademin [the gaming academy], 2010-09-08.

⁷⁹ EGRmagazine.com, 2011-01-19, "[Italian egaming market grows 28% in a year](#)".

⁸⁰ EGRmagazine.com, 2011-04-02, "[Italy legalises cash poker and casino](#)".

⁸¹ Wall Street Journal, 2010-06-09, "[France Opens Up Gambling Market](#)".

⁸² EGRmagazine.com, 2010-10-25, "[France: Ladbrokes out, Unibet in](#)".

⁸³ EGRmagazine.com, 2010-11-30, "[BetClic chairman slams French gaming laws](#)".

Denmark

Denmark is in the process of re-regulating the country's gaming market. The old regulation was no longer up to date with the new gaming on the Internet. The state company Danske Spil currently has a legal monopoly on odds betting, but its market share is estimated at only about 30–40 percent.

Under the proposed regulation, the most profitable games will remain under the state's aegis: lottery, horse racing, bingo, scratch cards and Keno. Odds betting (online and offline) and online casino (including poker) will stay outside the monopoly. Servers must stay in Denmark so the Danish game inspection authorities can easily carry out inspections. Danske Spil, the current monopoly firm, will be allowed to offer the competitive games if it does so via subsidiary companies.

There will be two different licences for odds betting and online casino. The application fee will be at 250 000 DKK for a license and 350 000 DKK if both licences are applied for at the same time. Those who receive a licence must then pay an annual licence fee which will be between 50 000 and 1.5 million DKK. Betting tax is charged at 20 percent of net revenues ("gross gambling revenue", i.e. stakes minus winnings). In poker and other games where the operator charges a fee for the game the tax will be 20 percent of this fee. A new independent body (the Gambling Control Board) has the task of monitoring the licensees. Funding of measures directed at problem gambling will increase fivefold and be expanded to include preventive measures as well. The Danish proposal includes the possibility to block IP addresses for online gaming operators who do not have a license.⁸⁴

The new Danish law was intended to come into force on 1 January 2011 but has been delayed by an investigation launched by the EU Commission. Earlier examinations of the same type have previously taken about 18 months and Denmark may not introduce any part of the new law until the investigation is completed.⁸⁵ The investigation concerns, inter alia, whether it is permissible to have lower tax rates for online casinos than for traditional gambling houses such as Casino Copenhagen. The Danish government has, however, given its assurance that the EU Commission's investigation will be completed in June 2011 and that the re-regulated market will be open this autumn.⁸⁶

Denmark is especially interesting for Sweden not only because of the geographical and cultural proximity but also because of its size. Games like poker and bingo as well as odds exchanges are characterised by network effects, which means that it becomes less interesting to play at small companies and networks. As noted in Section 3 on the Swedish gaming industry, there are some signs that Svenska Spel's online poker no longer maintains a sufficiently large player base.

⁸⁴ Henrik Norsk Hoffman, speech at SpelAkademin [the gaming academy], 2010-09-08.

⁸⁵ Privata Affärer, 2010-12-14, "[Spel: EU-granskning stoppar dansk spellag i ca 18 månader](#)" [Betting: EU reviews stop Danish gambling law for approximately 18 months].

⁸⁶ [EGRmagazine.com](#), 2011-01-21, "[Market open by autumn with 20% tax, predicts Danish tax minister](#)".

Other Countries

Re-regulation is also in progress in Belgium, Greece, the Netherlands and Spain, and possibly in Germany as well.⁸⁷ Greece is generally expected to be first in line because of its fiscal problems. Greece's goal is to have annual revenues from taxes and licence fees amounting to 700 million EUR.⁸⁸ In 2002, Greece was fined by the Court of Justice of the European Union because the country's restrictive gaming policy violated EU law.⁸⁹

In the USA, federal legislation has held back online gaming, but this past year, several states have taken steps toward their own regulations. Most recently, New Jersey was very close to passing a law that would allow regulated online gambling within the state. The proposal was passed in both houses of the state's legislature on 11 January 2011, but was stopped on 3 March when Republican Governor Chris Christie vetoed it. In California, there are similar plans, but there the various interest groups have not been able to unite around a common bill.⁹⁰ The legal differences between the EU and the USA have given the European online gaming companies a major head start. Online gaming is a digital market in which the USA is far from being a world leader.

6. Problems with the Current Swedish Regulation

The fact that Sweden, unlike several other countries with major gaming markets, has neither re-regulated nor initiated a re-regulation of the gaming market risks putting a spanner in the works of a profitable and fast growing digital industry. Swedish gaming companies have been exceptionally successful, but there are no guarantees that they will be able to retain their positions if Sweden starts to fall behind the trend in other countries. For example, the forthcoming re-regulation in Denmark will make our southern neighbour appear more attractive as a gaming location. Besides such a business policy perspective, there are several problems with current gaming regulations that should be considered in a future re-regulation. Discussed below is the lack of evidence for the effectiveness of regulation, the erosion of the gaming monopoly, the ban on promotion, and non-profit activities.

⁸⁷ [EGRmagazine.com](#), 2010-08-31, "[Greece unveils draft egaming regulation](#)"; [EGRmagazine.com](#), 2011-01-14, "[2011: An industry awaits PART 1](#)".

⁸⁸ Wall Street Journal, 2011-01-26, "[Greece Proposes New Gambling Framework, Mixed OPAP Impact](#)".

⁸⁹ [EGRmagazine.com](#), 2011-02-04, "[The Greek proposal](#)".

⁹⁰ [EGRmagazine.com](#), 2011-01-10, "[Come on COPA!](#)".

The Lack of Evidence of the Effectiveness of Regulation

According to the government, the objectives of Swedish gambling policy are:

... to have a healthy and safe gaming market in which social protection interests are safeguarded by having the demand for gaming satisfied in controlled forms. The goal is to counter excessive gambling, which can lead to problem gambling, and thereby to achieve one of the goals in the area of public health. Profits from gaming should go, inter alia, to the social movements and horse racing, and thereby benefit the public at large.⁹¹

What is meant by a "healthy and safe gaming market" is not entirely clear, but presumably is about protecting consumers by preventing fraud and other crime in the gaming industry.⁹² In bullet points, the gaming policy could then said to be aimed at:

1. Preventing fraud and other crime
2. Combating problem gambling
3. Fund some social movements and the horse racing industry.

It is striking that these three objectives have not been evaluated in a systematic way. For example, one can search in vain in the Inquiry on Gambling (SOU 2008:124) for evaluations that show how well current Swedish legislation meets these objectives compared with alternative forms of regulation. That the gaming industry is sometimes associated with fraud, money laundering and crime seems, to begin with, not to be a strong argument for prohibiting Swedish companies from offering gaming on the Internet. Fraud (rigged games) and money laundering are more difficult to get away with on the Internet than in a traditional casino because it is possible to trace the entire chain of events in the electronic documentation. The difference would be even clearer if the Swedish authorities were to require online companies to further facilitate such tracking. Consumer protection has also suffered from the fact that the Gaming Board cannot do anything to assist a gaming consumer who wants to complain about a foreign gambling company's payouts or the like.⁹³ The Inquiry on Gambling went so far as to say that the protective purposes of the Swedish gaming regulations can no longer be maintained.⁹⁴

⁹¹ Regeringskansliet [Government offices for Sweden], "[Mål för spelpolitiken](#)", [Goals for gaming policy] [2011-01-30].

⁹² See Anders Borg's and Maria Larsson's opinion piece in *Svenska Dagbladet*, 2007-06-20, "Töm och betsel på spelbolagen" [Reins and bridle at the gaming companies].

⁹³ Also see The *Economist*, 2010-07-08, "[A special report on gambling: Sure thing](#)".

⁹⁴ SOU 2008:136, p. 23.

Nor does it seem that there is any clear evidence that the present Swedish regulation is especially effective when it comes to combating problem gambling. Even though an investigation of the problem gambling issue lies outside of the scope of this report, it is worth noting that the prevalence levels of problem gambling are relatively stable across countries and over time. For example, the prevalence of pathological gambling amounts to 0.3 percent in both Sweden and Great Britain.⁹⁵ Problem gambling does not seem to have increased significantly over the past ten years while at the same time it has become possible to play without limits on the Internet. The Inquiry on Gambling (SOU 2008:124) tackled problem gambling primarily by dividing betting into a more and less dangerous group. But the inquiry did not analyse how different forms of regulation can be expected to affect addiction to different games. The link between the Inquiry on Gambling's proposals and the breakdown of games into those more and less dangerous could have been clearer.

The last objective, financing some social movements and the horse racing industry, is the most problematic of the three. A legal monopoly has many drawbacks. The absence of competition means that monopolies are not disciplined to the same cost-consciousness as are companies in competitive markets. A typical characteristic for monopoly markets is also that product development is stagnating compared with competitive markets. The low payouts by monopoly firms to the players reduce their total consumers' surplus. Moreover, tax revenues in a re-regulated and competitive market should be sufficient for the state budget to finance the trotting industry and the social movements that have lottery revenues.⁹⁶ Special conditions apply to trotting, and therefore it received a somewhat lengthier treatment in section 4, but the drawbacks of a monopoly are the same for trotting as for other industries. Concerning support for other sports and non-profit purposes, the problems of the monopoly model stand out clearly and sharply. When funding depends on gambling rather than on the activities' needs, there is a high risk that it will become too low, too uneven and too difficult to forecast. This is an argument which, incidentally, is as taken from the government's new focus on sports policy with stable funding independent of Svenska Spel's sales.⁹⁷

The important lesson is the brief argument against the current regulation described above. What is causing the rebuff is rather that a systematic and evidence-based evaluation of gaming policy goals is essentially missing. Unfortunately there is a tendency that the purely legal question of the compatibility of the current regulation with EC law crowds out the more relevant question of how the objectives for the gaming sector can best be met.

Finally, it is striking that the fiscal goal of gaming policy is not mentioned at all. Countries that have re-regulated the gaming market, such as Italy, have made it clear that tax revenues have great significance.

⁹⁵ Griffiths (2009).

⁹⁶ Hortlund, Jonsson and Bergström (2008).

⁹⁷ Regeringens proposition [government proposal] 2008/09:126, Statens stöd till idrotten [State support for sports].

When Svenska Spel was founded in 1996 even the Swedish government stressed that gaming policy should generate revenues for the Treasury:

An increased turnover in the gaming market that does not lead to increased profits for the state, the voluntary sector and the horse racing industry overall should not be pursued. Not least in light of the fiscal position Sweden is in, the future state revenue from the gaming market should be developed at least in line with inflation.⁹⁸

Even when the Swedish casinos were introduced, the government was clear about the fiscal goals:

The government's ambition is to work actively so that the market develops positively and in a healthy manner in the long run thus enabling high incomes to the government and the voluntary sector and also enabling a broad trotting and horse racing industry of good quality.⁹⁹

Since then, gaming policy has not changed more than marginally. But the state's gaming revenue has been phased out from the official political objective statement. However, Svenska Spel, for some reason, is the only one of 57 state companies which is managed by the Ministry of Finance.

The Erosion of the Gaming Monopoly

With each passing year, the Swedish gaming monopoly model of regulation is increasingly challenged by competition from gaming companies on the Internet. Even though Svenska Spel can grow as long as the overall gaming market grows, the company will lose market share along with a rising share of the games being placed online and a declining share of retail agents. The simple explanation is that Svenska Spel, in the absence of competition, has an almost 100 percent market share in gaming through its agents. On the Internet, the competitive situation is quite different.

Svenska Spel was the market leader in Sweden despite declining sales, with 51 percent of the total gaming market in 2009. In 2010, Svenska Spel's turnover decreased again – now by 5 percent – and according to representatives of Svenska Spel, we may be seeing a trend.¹⁰⁰ In 2009 Svenska Spel estimated its market share on the Internet at 29 percent, a decline of 2 percentage points since 2008.¹⁰¹

⁹⁸ Regeringens proposition 1995/96:169, Sammanslagning av Svenska Penninglotteriet AB och AB Tipstjänst, etc [Government proposal, Merger of Svenska Penninglotteriet AB and AB Tipstjänst, etc].

⁹⁹ Regeringens proposition 1998/99:80, Kasinospel i Sverige mm, [Government proposal, Casino games in Sweden etc], p. 21.

¹⁰⁰ Sveriges Radio, Ekot, 2011-01-17, "[Kurvan dalar för Svenska Spel](#)" [The curve sags for Svenska Spel].

¹⁰¹ Svenska Spel, Annual Report 2009, p. 15.

The foreign-based gaming companies are already considered to have taken over half the Swedish market for sports betting.¹⁰²

Svenska Spel is likely to continue to lose market share over time, especially if the company does not keep up with product development and market itself as aggressively as before. Examples of relevant differences from the private operators are that Svenska Spel is not authorised for:

- betting exchange, in which the company mediates games between different customers instead of acting as traditional bookmaker (this is available, inter alia, at Betfair)
- "exotic" betting opportunities outside the traditional sports games (politics, Nobel Prize winners, reality shows, etc);¹⁰³
- bonuses to the players.
- combinations of online and traditional casino games, for example so-called satellite tournaments on the Internet in which one may qualify for large live poker tournaments at the casinos.

Svenska Spel itself states that even if it can maintain its position as market leader in the short term, in the longer term there is a need for "gaming legislation covering all actors in the Swedish market and that creates order and clarity in the Swedish gaming market."¹⁰⁴

Even the Gaming Board believes that the erosion of the gaming monopoly has gone so far that a re-regulation must now take place:

Expectations for a change in legislation have, not in the least in view of the high incidence of illegal gambling on the market and the changes that the globalisation of the market has meant, increased over time and there is, in the Board's view, now almost total consensus among market participants regarding the need for changes. Whatever the policy choices that can and must be made with regard to the basis for

¹⁰² Lotteriinspektionen [Gaming Board for Sweden] (2010b, s. 8).

¹⁰³ For several years, Svenska Spel has offered individual games on other than sports, such as the Melodifestival, Eurovision Song Contest and Let's Dance. Currently, Svenska Spel has a license which is valid for such specifically stated gaming objects. However Svenska Spel has submitted an application to arrange new games (with higher payouts). This application has been classified at the Ministry of Finance (Fi2010/3712). In its statement, the Swedish Gaming Board points out that Svenska Spel's application is unclear and that the company is applying for authorisation to arrange games at "entertainment events" and "other happenings." The Gaming Board believes that the admissibility should be limited. It is of course still possible that Svenska Spel will expand its offerings in the future by adding on gaming services that the company's competitors are already offering. The question, however, is whether this will be done in a way that is sufficiently attractive for gaming consumers.

¹⁰⁴ Svenska Spel, Annual Report 2009, p 16.

regulation, it is particularly urgent that reform now come to pass.¹⁰⁵

Unlike the case for alcohol policy, preconditions for maintaining the so-called total consumption model are severely limited in gambling policy, because of the possibility of playing on the Internet. Svenska Spel faces the difficult choice of either losing market share or acting in the same way as their foreign competitors. Whatever way Svenska Spel chooses, the company's legal monopoly will be increasingly difficult to justify. In practice, the monopoly has already fallen and the leakage of government revenue risks increasing if the companies paying tax in other countries continue to take market share.

Ban on Promotion

A notable conflict in the Swedish gaming market has been the so-called promotion ban. According to the Lotteries Act (Articles 38 and 54), it is forbidden to market "lotteries" (including sports betting, poker, etc.) which are not licensed in Sweden. The ban includes imprisonment in the range of penalties and Swedish editors-in-chief have been fined for publishing odds and ads from companies with gaming licences in another EU country.

In 2005 the Gaming Board ordered several media companies, including *Expressen* and *Aftonbladet*, under a penalty of 150 000 SEK, to cease actions that the Gaming Board considered as the promotion of foreign lotteries. In autumn 2007, the Gaming Board carried out a comprehensive examination of gaming advertising in Swedish media and reported those media that published suspected illegal gaming advertising to the prosecutor.¹⁰⁶ The Gaming Board has also made the strict interpretation of the law that it is forbidden for sports clubs in any fashion to exhibit a gaming company's logo, for example advertising on their jerseys or in game programs, or to let the announcer at a sporting event refer to the gaming companies' odds.¹⁰⁷

After a long legal battle between the Gaming Board for Sweden on the one hand and *Aftonbladet* and *Expressen* on the other hand, on 30 November 2010 the Supreme Administrative Court as the highest instance, announced that odds comparisons should be considered as editorial content and therefore protected by the Freedom of the Press Act.¹⁰⁸ The Supreme Administrative Court also rejected the Gaming Board's monetary penalty against *Expressen* for publishing advertisements from companies with gaming licenses in another EU country. The Gaming Board had no right to impose a fine of 150 000 SEK on each advertisement. A general advertising ban is not consistent with the Freedom of the Press Act;

¹⁰⁵ Lotteriinspektionen [Gaming Board for Sweden] (2009, p. 1).

¹⁰⁶ Lotteriinspektionen [Gaming Board for Sweden] (2008, s. 16).

¹⁰⁷ Lotteriinspektionen [Gaming Board for Sweden], 2010-10-26, "[Det svenska främjandeförbudet](#)" [The Swedish Ban on Promotion] [2011-01-28].

¹⁰⁸ The Supreme Administrative Court changed its name in Swedish to Högsta förvaltningsdomstolen 1 January 2011.

gaming ads need to be tested individually in each case. In the case of advertisements in the newspaper *Aftonbladet*, the Supreme Administrative Court, however, sent the case back for trial in the administrative court of appeal. That case is expected to come up in spring 2011. Although it is too early to say how legal practice will develop, it is clear that the Supreme Administrative Court's ruling will have major implications for the gaming companies, newspapers and advertising.

The legal rounds have thus mainly focused on the Freedom of the Press Act, but also on the discrimination against gaming companies with licences issued in another EU country. In addition there are at least three inconsistencies in the Swedish regulation of gaming advertising, which future legislation should seek to address.

First, the ban on promotion in practice has always had the major loophole that it only applies to media that have their broadcasting and publishing licence in Sweden. Thus, for example, TV 3 and Kanal 5 could broadcast game advertising to their viewers in Sweden. This has distorted the television market and led to large advertising revenues ending up in Great Britain rather than Sweden.

Secondly, it seems inconsistent that Swedish media can publish alcohol ads while there is still uncertainty about which gaming ads that are allowed. While the Gaming Board has fought to maintain its strict interpretation of the ban on promotion, on the authority's website one could read "The connection of the chance of winning to the brain's reward system may contribute to an addiction similar to alcoholism."¹⁰⁹ If this is the case, it seems reasonable that the rules for gaming advertising should not be tougher than those for alcohol advertising. The question of responsibility for problem gambling, for example through warning messages, has been totally lost in the contest over whether advertising for gaming should be allowed at all or not. In 2009, Svenska Spel invested 290 million SEK on advertising for increasing gaming and 45 million SEK on advertising for responsible gaming (under the slogan "Play moderately").¹¹⁰ In contrast, ads for alcohol and tobacco – as opposed to gambling ads – include warnings that inform about the risks of consumption.

Thirdly, there is a distortion when some newspapers, supported by the Freedom of the Press Act, run gaming ads, while other types of promotion are banned even though they are not as effective and aggressive as ads can be. A clear example is Betsson's betting shop in Stockholm which, under a ruling of the administrative court of appeal (the Supreme Administrative Court chose not to hear the case), under penalty of 2.5 million SEK, will have to stop the advertising of Betsson. The betting shop has reopened – for the third time – but now without Betsson logos and signs.

¹⁰⁹ Lotteriinspektionen [Gaming Board for Sweden], "Motiv för att spela" [Motives for playing] [2011-01-24].

¹¹⁰ Svenska Spel, Annual Report 2009, p. 90.

Activity of Non-profits

The basics of current gaming legislation include that licenses can only be given to state and state-controlled companies and non-profit organisations with charitable causes. Economic research has, however, noted that the differences between commercial for-profit and non-profit organizations are often smaller than this classification suggests. The people who control a non-profit organisation can take out the surplus in the form of high wages or by allowing the organisation to pay for private consumption, which can be camouflaged as costs. Irrespective of whether or not this happens, a notable American investigation has shown that private for-profit and private non-profit hospitals in California are similar to each other in that both hospital types clearly reacted to a fee increase, which resulted in stronger incentives to treat low-income groups, while the public hospitals' behaviour, on the other hand, was unchanged.¹¹¹ Many other U.S. studies have also shown that private non-profit hospitals behave more like private for-profit hospitals when competition between these hospital types is intensified.¹¹² In many cases, private non-profit organisations behave not so differently from private commercial companies. The major behavioural difference is between the private and public sectors.

At least two gambling establishments should be mentioned in this discussion: ATG and Svenska PostkodLotteriet [the Swedish Postcode Lottery]. Both are operated as joint stock companies with apparent commercial elements.

To begin with, there is a tension between ATG's legal monopoly and the main principle of gaming legislation to grant permission only to non-profit organisations so that the proceeds accrue to non-profit purposes. What favours ATG's monopoly is that the entire surplus is distributed to horse racing, that horse racing is considered as a social movement, and that money contributes to the policy objective "of making a broad trotting and horse-racing of good quality possible".¹¹³

It is however possible to debate whether horse racing is a social movement and whether the activity is a charitable one. There is no clear definition of what a social movement is, either in law or in the social sciences. However, it is clear that the horse racing industry is clearly distinct from many "classic social movements" such as, for example, the labour or temperance movement. It is true that Sweden's racetracks are owned by organizations in the form of voluntary associations, but that horse owners are engaged in voluntary work is something no one would assert. A 2007 survey showed that 95 percent of those who quit being horse owners state an unsatisfactory economic return as a reason. The survey also shows a clear difference between the owners of horses in professional so-called A-training and the

¹¹¹ Duggan (2000).

¹¹² See Lindqvist (2010) for descriptions and references.

¹¹³ SOU 2008:124, p. 230, 231.

owners of horses in the amateur class of so-called B-training.¹¹⁴ Owners of A-trained horses are on average younger and primarily motivated by the element of competition, gaming and excitement, while the owners of the B-trained horses are on average older and to a greater extent highlight motives such as closeness to the horses, training/care and family traditions.¹¹⁵ Part of the picture is that the number of A-trained horses is increasing and the number of B-trained horses is decreasing.¹¹⁶ The treatment of Swedish trotting in Section 4 also contains other indications that trotting is being professionalised and commercialised. The smaller race tracks and stables find it increasingly difficult to compete.

The Swedish Postcode Lottery lies even more clearly in a gray area between the commercial and the non-profit; they are explicit on the fact that the lottery has both a commercial and a non-profit side. Novamedia Svenska PostkodLotteriet stands for the commercial side and Svenska PostkodFöreningen stands for the non-profit (and can thereby be allowed to run the lottery). Novamedia Svenska PostkodLotteriet is part of the privately-owned Novamedia Group headquartered in Holland. The Postcode Lottery calls its business model a "market-driven charity", a concept based on the interaction between commercial and non-profit forces. In 2009, the lottery paid out 468 million SEK to charity. At the same time, the company's CEO has clearly communicated the lottery's commercial nature with statements such as "We are not a charity".¹¹⁷

There are several examples showing that the commercial element of the lottery is significant. Most important is that 4.08 percent of lottery sales are paid as royalties to the parent company in the Netherlands. In 2009 49 million SEK was paid to the parent company and its owners.¹¹⁸ A Charity Rating review showed that 20 percent of the Postcode Lottery surplus went to the parent company in the form of licensing and management fees during the period 2005–2007. Charity Rating does not believe that the Swedish Postcode Lottery lives up to its mission "to collect as much money as possible for charity." This criticism has emerged because the payback is 24 percent lower than average, distributions to beneficiaries 21 percent less than the average, and the lottery's operating expenses 83 percent higher than the average for comparable lotteries and gambling in Sweden. Charity Rating also criticised the Nova Media Group's complex structure which makes it difficult to follow the billing of licensing and management costs between the different companies.¹¹⁹

Behind the Swedish Postcode Lottery's high expenses is amongst other things a relatively high salary to the company's CEO. In both 2008 and 2009, the CEO's salary, including bonuses, amounted to 5.7

¹¹⁴ As a rule, trainers with a B-licence have their main employment in another profession, for example doing their own farming and training a few horses as a side pursuit.

¹¹⁵ Gradient (2007, p. 7).

¹¹⁶ STC and ATG (2006, p. 19).

¹¹⁷ *Dagens Nyheter*, 2009-09-15, "[Rekord - men bara en del blir gåvor](#)" [Record, but only a portion will be gifts].

¹¹⁸ Novamedia Svenska PostkodLotteriet, Annual Report 2009, p. 6.

¹¹⁹ Charity Rating (2009).

million SEK.¹²⁰ By comparison, wages and compensation to Svenska Spel's CEO amounted to 2.3 million SEK in 2009. Furthermore, the Postcode Lottery's advertising is relatively aggressive when compared with advertising from other players in the Swedish regulated market. The Lottery's advertising mailings clearly play on the idea that people will know afterwards whether their postal code wins:

Imagine if your postal code 753 25 MC is drawn during the 14 days in March when we're raffling off all these millions – and you didn't buy a lottery ticket ...

The Postcode Lottery has even been convicted in the Swedish Market Court for exaggerating the chances of winning in a misleading way and not clearly indicating that the newspaper PostkodNyhetererna [Postal Code News] is purely an advertising magazine without editorial material.¹²¹ Under the terms of the license for the Postcode Lottery, marketing of the lottery shall be socially responsible and cannot be aggressive or pushy. Another condition of the lottery's license is that the Postcode Foundation, on request, should account for what other income in addition to funds from the Postcode Lottery that has been received by the Foundation. According to the conditions, these revenues shall make up a not insignificant portion of the total revenues.¹²²

In conclusion, it should be emphasised that the discussion of ATG's and the Swedish Postcode Lottery's activities should not be seen as any specific criticism of these companies or their employees. This has not been the purpose of the presentation and such a discussion would require considerably more space, inter alia for comparisons with other non-profit and commercial players. However what the discussion does illustrate is how hard it is to draw a line between commercial and non-profit activity.

7. Taxation

How should gaming services be taxed? Several different models and levels of taxation have been tried out and different countries differ a lot from each other. One clear finding, however, is that a gross profits tax on the surplus remaining after winnings are paid out is preferable to a turnover tax on players' stakes, both in terms of consumer benefit as well as tax revenues.

To begin with, there is the obvious risk that a turnover tax would be set so high that domestic firms could not achieve profitability in competition with foreign gaming operators. France has introduced a turnover tax of 15 percent on horse racing, 8 percent for sports betting and 2 percent of the pot in

¹²⁰ *Dagens Industri*, 2011-01-03, "[Postkodlotteriets vd får topplön - igen](#)" [Postcode Lottery's CEO gets top salary – again].

¹²¹ Marknadsdomstolens dom [Judgment of The Swedish Market Court] 2009:15, Registration number B 1/08, 2009-06-18, "[marknadsföring av lotter](#)" [marketing of lots].

¹²² Lotteriinspektionen [Gaming Board for Sweden], Registration number 10LI 6447, 2010-10-29, "Villkor avseende PostkodLotteriet 2011" [Terms and conditions for the Postcode Lottery 2011].

poker. As has already been described, Ladbrokes, Sportingbet and Paddy Power, inter alia, have therefore elected to remain outside the regulated French market. Unibet's share price fell 25 percent on news that the company will conduct its activities in France within the new licensing system.¹²³

The level of a tax can of course be adjusted; it is worse that a turnover tax hits different kinds of games differently. Since money from, for example, live betting can be turned over very quickly, a turnover tax could mean that a 100 SEK bill put into play could vanish almost entirely in taxes during a day's betting. The result of course is that neither the players nor the gaming companies will find live betting attractive – and that the state's tax revenue will be altogether absent. To tax the entire buy in fee in a poker tournament with a turnover tax is also a sure way to suck the profitability out of most tournaments. Instead, low-frequency multi-player games and low-payout shares become more attractive. *Stryktipset* [pool betting on football] would be one such example, or possibly weekly poker tournaments with thousands of participants.

To tax a form of gambling so heavily so that it disappears from the market would be an example of failed taxation. The state loses tax revenues. Game companies lose game surpluses. Consumers lose an appreciated form of gaming.

A tax on gross profits on the surplus after winnings are paid out is more neutral among different game types. This means that the gross profits tax also has the advantage that it stimulates product development of new games based on what consumers demand instead of based on what fits with a turnover tax.

In Sweden, competition is distorted to the detriment of trotting games since ATG pays a turnover tax. Italy first introduced a turnover tax in its re-regulated market for online gaming but quickly switched to a gross profits tax.¹²⁴ Spain too now seems to swing from an initial proposal for a turnover tax to a gross profits tax.¹²⁵ Britain has a gross profits tax of 15 percent on sports betting.

In the Netherlands, the government plans on opening up for competition with the state monopoly De Lotto and re-regulating the market for online betting. Currently ongoing inquiries on taxation models and proposals for new laws are being prepared. Betting tax is currently 29 percent of consumer winnings on betting and lotteries, and 29 percent of companies' gross profits on other games (gaming). Calculations made by the H2 Gambling Capital analyst firm predict that the Netherlands government's tax revenues would increase by an estimated 33–36 million euros per annum if the market were opened up for competition at unchanged tax rates. A ten per cent turnover tax would increase tax revenues by less than this (by an estimated 22–26 million euros). A gross profits tax of 20 percent would, however, according to the same calculations, increase tax revenues by 44–53 million euros per annum. But even a

¹²³ EGRmagazine.com, 2010-10-25, "[France: Ladbrokes out, Unibet in](#)".

¹²⁴ Claudia Ricchetti, speech at SpelAkademin [Gaming Academy], 2010-09-08.

¹²⁵ EGRmagazine.com, 2011-02-18, "[Spain in tax u-turn](#)".

gross profits tax of 5 percent in a competitive market would likely generate increased tax revenues compared with the current monopoly situation.¹²⁶

8. Concluding Discussion

Sweden has a large online gaming market on both the consumption and production side. Swedish consumers do a higher percentage of their gambling online than consumers in any other EU country. The private gaming industry is profitable and fast growing. Swedish gaming companies have been exceptionally successful: they have led product development forward and have done well in global competition. Companies such as Betsson, Boss Media, Expekt, Net Entertainment, Ongame and Unibet – along with video game companies like DICE – have created a Swedish gaming miracle.

But at the same time as the Internet has changed the gaming industry conditions from the ground up, we still have legislation from the time when *Stryktipset* and *V65* (i.e. pool betting on football and trotting) dominated the country's gaming offering. With a large and successful online gaming industry, Sweden is one of the countries that stand the most to lose from laws damaging the gaming companies' international competitiveness. If we add up the commercial, governmental and non-governmental players, the gaming industry has 4,500 employees, 1,900 of whom are in commercial enterprises and 3,400 in Sweden. The Swedish gaming companies are still growing rapidly and creating jobs for highly skilled workers in finance, IT and communication technologies. Few industries would be more in line with the government's digital agenda and goal for Sweden to be the world's most competitive digital economy.

There is almost total support among market players for re-regulation of the Swedish gaming market. One further reason for this is that consumer protection is increasingly suffering when the Gaming Board for Sweden cannot do anything for players who want to complain about payouts from foreign gaming companies or the like. Nearby countries such as Great Britain, Italy and France have already adapted their legislation to the online market conditions. Denmark stands ready to follow suit with a licensing system.

A promotion ban has been a central part of the Swedish gaming regulation. Now that the courts have begun to compromise on the ban, it seems increasingly misguided. Since the ban only applies to media that have their broadcasting and publishing license in Sweden, Swedish television viewers are exposed to gaming ads on a daily basis, while the advertising revenues end up in Great Britain. The promotion ban also appears unbalanced in comparisons between gambling and alcohol, and between advertising and other marketing.

After a decade of fruitless governmental inquiries, it is time for the Swedish government to act. Both the

¹²⁶ H2 Gambling Capital (2011).

EU and the Internet are here to stay. Problem gambling and consumer protection will obviously be two key issues when re-regulation is designed. But a farsighted gaming policy should also have an aspiring and enterprising approach with the aim of strengthening the Swedish online gaming companies' competitiveness on the international market.

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Industry Tables

Table A1. Commercial companies

Company	Founded	Employment	Employment in Sweden	Employment growth 2007-2009	Employment growth in Sweden 2007-2009	Net revenue, Million SEK	Export share	Market value, Million SEK	Trading venue, ownership
Unibet	1997	465	69	30%	8%	1 597	53%	4 041	Nasdaq OMX Nordic Mid Cap
bwin Games	1999	382	382	32%	32%	438	N/A	N/A	Parent listed in Austria
Betsson	2001	226	70	111%	141%	1 300	54%	4 125	Nasdaq OMX Nordic Mid Cap
Boss Media	1996	216	216	6%	6%	357	N/A	N/A	Parent listed in Italy
Cherryföretagen	1963	203	203	13%	-13%	264	57%	307	Aktietorget
Net Entertainment	1996	110	101	83%	84%	300	85%	2 359	Nasdaq OMX Nordic Mid Cap
Entraction	2000	110	56	4%	6%	14	N/A	305	Nasdaq OMX First North Premier
Redbet	2002	74	11	37%	83%	100	N/A	27	Nasdaq OMX First North
Midasplayer	2004	67	67	60%	60%	64	100%	N/A	Owned by a holding company on Malta
Nyx Interactive	2007	31	21	244%	133%	27	N/A	-	Privately held
Betting Promotion	2002	18	9	0%	0%	59	N/A	123	Nordic Growth Market
Bonnier Gaming	2006	17	17	29%	29%	23	N/A	N/A	Owned by the Bonnier companies
Mahjong Logic	2006	12	12	N/A	N/A	0	N/A	N/A	Isle of Man
360 Holding	1995	3	3	-25%	-25%	11	N/A	5	Nasdaq OMX First North
Stingbet	2007	2	2	30%	8%	6	N/A	6	AktieTorget
Total		1,936	1,159	35%	27%	4,560		11,298	

Notes: bwin Games refers to Ogame. Net revenue and employment refer to 2009. Unibet's net revenue is converted from GBP to SEK at the exchange rate 11.5438 (spot exchange rate 31 December 2009). The export shares of Unibet and Betsson refer to revenue shares from non-Nordic countries. Market value calculated as of 31 December 2011. Bonnier Gaming refers to Bonnier Gaming AB and the subsidiary Bonnier Lottery AB.

Table A2. State-owned, state-controlled and non-profit companies

Company	Founded	Employment	Employment growth 2007-2009	Net revenue, Million SEK	Export share	Owner, products, etc.
Svenska Spel	1997	1,748	10%	9,905	0%	Completely owned by the state.
ATG	1974	236	0%	3,850	11%	Owned by Svensk Travsport (90%) and Svensk Galopp (10%), but controlled by the state through the Board of Directors.
Lotteries of the social movements				2,793		National lotteries, bingo, local lotteries, regional lotteries.
- Swedish Post Code Lottery	2005	70	112%	1,251	0%	Novamedia Svenska PostkodLotteriet AB is owned by Novamedia BV in the Netherlands. The surplus is donated to 35 selected organisations.
- A-lotterierna	1956	35	21%	416*	0%	Owned by the Swedish Social Democratic Party and the Swedish Social Democratic Youth League. Kombilotteriet, Drömmresan, Motorlotteriet, Femman, Glädjelotten.
- Folkspel	1989	34	-17%	641	0%	Owned by voluntary associations. Bingolotto.
- IOGT-NTO	1964	N/A	N/A	239	0%	Miljonlotteriet.
Paf	1966	413	0%	986	65%	Public association on the Åland Islands.
- Jadestone	2001	58	5%	28	N/A	Swedish subsidiary of Paf.
Total		2,536	9%	17,534		

Notes: * indicates gross revenue (turnover before winnings have been paid out) for Kombilotteriet. The net revenue of Miljonlotteriet is calculated as gross revenue less a winnings share of 49 percent (according to the license). The export share of Paf refers to the Internet. Figures for other lotteries and bingo are missing

