

German Jackpot Sparks Lottoland Confrontation

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A €14m jackpot won by a German player on Lottoland, the fast-growing secondary lottery website, has prompted criticism from the country's state-owned lotteries which see the company as an "illegal" competitor.

Gibraltar-based Lottoland announced last week that a customer named Michael from near Dresden had won the prize betting on Germany's popular 6aus49 lottery.

In response, state-owned Lotto Baden-Württemberg warned that customers who use websites like Lottoland may think they are buying a lottery ticket, but they are actually betting on the outcome of a lottery draw.

"This may lead to unexpected problems," said Marion Caspers-Merk, managing director of the state's lottery in a statement.

Players may also be breaking the law and face tax liabilities because so-called secondary lotteries are "illegal in Germany", the state lottery said.

However, the legality of such websites — where players bet on the winning numbers rather than buy a ticket directly — is regarded as unclear by many lawyers because of wider regulatory uncertainty in Germany.

The country's Interstate Treaty on Gambling has been "deemed invalid in several aspects by various courts", said Rolf Stypmann, a Lottoland spokesman.

"A fairly large number of private betting, casino and poker operators are currently operating and advertising in Germany based on licences issued by other European Union member states," he said.

Lottoland, which has licences in Gibraltar and the UK, is one of them, he added.

The customer will collect his winnings in person in Gibraltar once KPMG has completed the verification checks, a Lottoland spokesman said.

It is not the first time Germany's state lotteries have issued warnings about Lottoland.

Last month, the Deutscher Lotto- und Totoblock, which represents the lotteries in all 16 Länder, or regions, warned players using the site to bet on the billion-dollar US Powerball jackpot that it was a "criminal offence".

However, secondary lotteries are currently unregulated in Germany because of the legal chaos surrounding most online gambling, according to Claus Hambach, a partner at Munich-based Hambach & Hambach law firm.

“There’s still formally a prohibition for all online games of chance — except lotteries licensed in Germany — but the factual reality is different,” Hambach said.

Germany’s gambling regulations are in breach of EU law, and do not even allow secondary lotteries to obtain a German licence, he said.

They could, therefore, rely on the “freedom to provide services” set out in Article 56 of the Treaty on the Functioning of the EU, he added.

Hambach also disputed Lotto Baden-Württemberg’s claims that Lottoland’s German players were breaking the law and may face tax liabilities.

“Winnings on games of chance are always tax free in Germany. It doesn’t matter if the company’s legal or illegal,” he said.

Section 285 of the German Criminal Code also exempts people participating in lotteries from prosecution, he added.

Lottoland is lobbying to have its activities regulated, and hired Stypmann, a former German financial judge, as an advisor, according to the company’s boss.

“He’s out there saying it should be taxed and regulated,” chief executive Nigel Birrell said. “In this day and age why should you have protected monopolies?”

Germany is one of Lottoland’s biggest markets, according to Birrell.

“In Germany it’s a fragmented market with 16 Länder — all with a state lottery which aren’t very big — so the German public wants to have the opportunity to win these big jackpots,” he told GamblingCompliance in an interview earlier this month.

Lottoland, which offers bets on 28 lotteries, uses insurance to underwrite its jackpots and has paid out around €80m in prizes, Birrell said.

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