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## HISTORY AND TRENDS OF THE ITALIAN REMOTE GAMBLING

Italy, Licensing, Regulation

### 1. The range of remote legal games

The first foretaste of Italian remote gambling dates back to the early 2000s, following the legalisation of horse betting and sportsbook, even then allowed for telephone and computer collection, which led to the first experiments in gambling collection through Internet websites[1].

From 2004, the Italian Parliament progressively legalised a large number of remote games with cash winnings. In 2004 remote instant and traditional lotteries[2] were legalised. In 2005 Lotto and Superenalotto[3], as well as remote bingo[4], were legalised. In 2006 skill games and tournament poker[5] were introduced. Also dating back to 2006 are the laws that provide for the introduction of exchange betting and of virtual betting[6]. In 2009 law finally stated the introduction of poker cash and casino games[7].

Between the aforementioned dates of promulgation of laws and implementing provisions and the dates of launch of actual offer of games to the public there is a gap of some years, in some cases seven or more. In the case of virtual betting and exchange betting, implementing provisions have only recently been published, while the launch of the games is expected in late 2013 or early 2014.

### 2. The rules of remote gambling

With regard to rules for remote gambling, the elementary provisions dating back to the introduction of betting were replaced with the first systematic regulation in 2006 at first, and then revised in 2009[8].

The current Italian model of remote gambling allows for participation subject to the signing of a contract with the concessionaire and the opening of a gambling account, with disclosure of personal data and tax code (so called "*codice fiscale*"), validated in advance by ADM (Agency of Customs and Monopolies), and conveyance of a copy of the ID document by the player. Additionally, before playing, the user is obliged to set his/her parameters of gambling self-limitation.

The customer registration, each deposit and withdrawal transaction, as well as each bet and win are subject to real-time transmission and validation by the ADM. The ADM always holds highly detailed, real time knowledge of the amount of money paid in and available on each player's gambling account, as well as each amount bet and won. Minors are protected by the Italian remote gambling system and cannot play unless with adult connivance, subject to criminal indictment.

To this it must be added that the concessionaire's IT system is obliged to undergo periodic certification by ADM's accredited third party bodies. Certification of gambling platform and games consists of verification, carried out by an accredited laboratory, of the compliance of the system with the "guidelines" adopted by the regulatory Authority. Laboratory is accredited on the basis of its competency, irrespective of its nationality. Tests are carried out before granting authorisation and start-up of the system and must be repeated periodically, as a condition for the continuity of the authorisation. The practice

regarding platform certification was started by jurisdictions that firstly introduced online gambling legislation and gambling licenses, of which Alderney and the Canadian province of British Columbia stand out in particular. Certification was then introduced by Italy and subsequently by every State that progressively introduced national gambling legislation, adopting similar but not identical guidelines. Their alignment should be surely pursued.

Italian model, comparing with other ones, ensures excellent security conditions mostly because it adds to the periodical certification the further and complementary control founded on the real-time connection between the concessionaire system and the Sogei (the ADM's technological partner) system, to which validation each single transaction is subdued.

### 3. The parameter for the measurement of gaming trends

The amount of money consumers collectively spend on gambling and that, consequently, is taken from other expenditures, is equal to the difference between the amount bet and the amount returned to players in winnings. The amount bet is defined as “turnover” or “collection”.

The size of the market in Italy had been measured, historically and up until a few years ago, using the turnover parameter. Nevertheless this parameter was satisfactory for monitoring trends in the past when the product range was limited, invariant and composed of games characterised by relatively small and uniform rates of return to player. More recently however, because of the introduction of new games, the use of this parameter has created distortions and confusion.

Recently introduced games are not only **new** but also **different**. The historic games, such as the Totocalcio football pools and Lotto and Superenalotto lotteries, which are available with the same rules both on the physical channel and on the online one, are characterised by low repetition (the bet is performed a few times a week), high potential winnings and low return to player. The purchase motivation, irrespective of the channel used to play, is the hope of a major or huge win.

The games most recently introduced, especially those with remote participation, are basically entertainment. These are mainly characterised by high frequency of repetition (the bet is repeated many times during a game session), high frequency of winning and high return to player. Winnings often are limited amounts but accomplished more easily and repeatedly, while relevant winnings are also possible. Most of the bet amount is returned to players in winnings.

On the basis of data provided by the ADM<sup>[9]</sup> payout is around 89% for tournament poker, around 97.5% for cash poker and around 96.5% for casino games on average. The correspondent edge for the concessionaire, before gambling tax, is respectively: 11%, 2.5% and 3.5%, i.e. a very small portion of the whole amount collected. In the new games, in relation to the high payout and with reference to quite a long series of bets, the player “pays” a limited or very limited portion of the total amount wagered in exchange for the entertainment provided through the operator systems and organisation.

In high repetition games to change the payout, for example in order to introduce a higher level of taxation, it is not only equivalent to increase the price of the entertainment, insofar as the portion returned to player is reduced, but can also lead to a substantial change of the product, in other words of the gambling experience and its associated gratification, from the point of view of the player.

For example, in the case of cash poker, the player in each “hand” bets real money that goes to the winner, except for a share equal to 2.5% in average, which is the commission for the house. A cap is applied to each hand. The 2.5% represents a fair price for the service provided by the operator<sup>[10]</sup>. It is quite obvious that should the house retain a high portion, e.g. 10% or 20%, during a gaming session, which may consist of tens or even hundreds of hands, with normal alternation of winning by the various players at the table, all the players' money were be quickly and inexorably drained by the house. No player would participate in such unfair conditions with the practical impossibility of winning. The game would not be competitive when compared with the possible alternatives offered by illegal gambling, and, given the characteristics of the Internet medium, it would be illusory to think the illegal offer can be mostly defeated by contrast measures<sup>[11]</sup>.

In 2012, on average, online gambling returned to the player **more than 95%** of the wagered amount and retained less than 5% for the operators and the State. While the **turnover** (i.e. the amount wagered) in legal online gambling can be estimated at € 15.4 billion, the consumer **spending**, that is the figure really matters because it is the portion of income taken up from other expenditures, amounted to **only € 749 million**, over twenty times less<sup>[12]</sup>. We can now understand how the adoption of the turnover parameter is deeply distorting the representation of events now taking place in the gambling industry.

#### 4. The trend in remote gambling and the current situation

Spending on legal remote gambling amounted to € 310 million in 2008 and grew to € 608 million in 2009 following the introduction of tournament poker. Subsequently, the growth rate reduced steadily, despite the introduction of major new games. In 2010, the year on which remote bingo was launched, spending was equal to € 690 million, an increase of 14%. In 2011 spending was equal to € 735 million, an increase of 6.6%. This latter however hides a drop when you consider that in mid-2011 poker cash and casino games were introduced, thus recouping considerable amounts from the illegal market. Finally, in 2012 spending was equal to € 749 million, an increase of 1.9%, which masks a even more pronounced drop if you take into account the fact that casino games and poker cash impacted the 2011 figure for only six months and that in December 2012 online slot games were introduced also<sup>[13]</sup>.

So, spending on legal remote gambling has grown significantly since 2008 as a result of the progressive introduction of new games and has always been accompanied by the channelling of illegal gambling into the legal circuit. To ensure correct calculation of spending (i.e. the income amount taken from other consumer expenditures) and its trend, the result of both legal and illegal gambling activities should always be considered.

With regard to the current situation, a comparison of the first quarter of 2013 with the first quarter of 2012 shows a 0.2% decline, according to official ADM data, despite the introduction of slot machine games in December 2012. Although the ADM has not produced official figures for the second and third quarters of 2013, estimates based on data from reliable sources indicate a fall of around 2% – 3% over the same period last year. Online poker in particular reduced by 35% in the first nine months of 2013 over the same period 2012<sup>[14]</sup>. It is believed that during the first months of 2013 there has been a significant fall of illegal remote gambling, because of migration of players to legal websites following the introduction of legal online slots. There then followed substantial stability in following months, even if the current very hostile climate towards gambling may have pushed marginal sectors of the offer to consider illegal gambling as a profitable alternative to the legal business, providing incremental flows to the former.

In conclusion, we must refute the belief that credits remote gambling with relentless growth in Italy. 2010 has presumably been the year of maximum development of remote gambling, given the volume of both the legal and illegal markets. **From 2011 there has been a progressive decline of the total remote gambling market**, legal and illegal, also because of the economic crisis, although it would be logical to expect development, assisted by widespread use of the Internet and the increase in device performance. The trend is in contrast to the limited growth rate of Internet use by the Italian adult population.

The € 749 million of spending accounted for by online gambling in 2012 is only 4.4%<sup>[15]</sup> of total gambling spending in Italy, which is equal to € 17.1 billion. On the basis of our estimation<sup>[16]</sup>, that share slightly drops in 2013. There is a general perception, probably because of the role that the media and television necessarily play in the marketing of remote gambling<sup>[17]</sup> and more generally by the grasp this phenomenon has on the people imagination, that online gambling has a much larger share of the gambling total market than is actually the case. Spending on Italian legal online gambling is comparable with that allotted to other sectors of entertainment, e.g. cinema going, and is noticeably lower than expenditure for videogames<sup>[18]</sup>.

Spending on remote gambling is limited even in comparison with Europe. While it is true that in general, gambling in Italy has reached higher levels than in other EU countries, the spread of online gambling is lower than the European average instead. In this regard the situations in the southern and Latin markets, including France and Spain, which recently introduced their own national gambling legislation and which show remote gambling propensities similar to Italy, appear noticeably different compared to the Nordic markets, where per capita spending on online gambling is even 3 or 4 times that of the Italians<sup>[19]</sup>.

## 5. Remote gambling per player spending

The Observatory of the Politecnico di Milano, which conducts annual research based on analytical data provided by the ADM<sup>[20]</sup> shows, with reference to 2012, that the number of unique players in the month (the number of different players in each month counted only once, regardless of the number of gambling sessions played) adds up to 797,000, or 2.9% of adult Internet users. Further 563,000 players, despite not having played in the month under examination, had played in one of the previous 5 months. Another 1.45 million people owning a gambling account had been “silent” players for over 6 months. Obviously they should not be defined as “gamblers”. They would probably be astonished to be defined like that.

The vast majority of account holders spend limited amounts on gambling. 78% of unique player in the month spend less than 100 euros in the month. The average monthly expenditure per unique player in the month is less than 50 euros. The figures refer to the consolidated amounts spent on all gambling accounts that might be used by the player, held by different concessionaires.

## 6. Online problem gamblers

Some research on problem gambling seems to indicate higher prevalence rates in online gambling compared to gambling in general, and this has contributed to establishing a dangerous image for remote gambling. In contrast to this widespread belief, the results of the British Gambling Prevalence Survey 2010 held by the British Gambling Commission show that the majority of online players are actually “also” online players, i.e. they play both online and offline.

The research confirms that the rate of problem gambling is higher in those who play many different games, on many media and in different ways.

In contrast, **the prevalence rate of problem gamblers who play *only* online is very low**. It is actually zero in the case of the specific research mentioned, however the data suffers from limited statistical significance in relation to the low specific sample size<sup>[21]</sup>.

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[1] The first elementary regulation for remote horse betting had been introduced by Inter-ministerial Decree of 15 June 2000, in compliance with Presidential Decree 8 April 1998, No. 169, concerning the reorganisation of regulation regarding games and bets on horse races. Originally that provision was provided to meet the needs of betting shops to remotely serve their usual customers, collecting bets by telephone. Remote collection of sports bets had been introduced by Directorial Decree of the AAMS 31 May 2002, in compliance with Decree of the Ministry of Finance 2 June 1998, No. 174, concerning the organisation and exercise of prize-pool and fixed odds betting on sports competitions, and by Decree of the Ministry of Finance 15 February 2001, No. 156, which extended remote collection to all games. Betting on sports events other than horse races and on non-sports events is currently regulated by Decree of the Ministry of Finance 2 August 1999, No. 278, modified by Decree of the Ministry of Economy and Finance 6 August 2007, No. 129, with regard to prize-pool type, and by Decree of the Ministry of Finance 1 March 2006, No. 111, with regard to fixed odds type. The offer of customised and complementary programs of events by concessionaires of fixed odds betting is regulated by Directorial Decree of the ADM 30 July 2013, following article 12, paragraph 1, letter m), of Decree law 28 April 2009, No. 39, converted with modifications and integrations by Law 24 June 2009, No. 77.

[2] Regulation of instant and traditional lotteries with remote participation had been introduced by Directorial Decree of the AAMS 13 April 2006 and by Directorial Decree of the AAMS 28 October 2006, in compliance with article 1, paragraph 292, of Law 30 December 2004, No. 311, and article 11-quinquiesdecies, paragraph 1, of Decree law 30 September 2005, No. 203, converted with modifications and integrations by Law 2 December 2005, No. 248.

[3] Regulation of remote collection of Superenalotto had been introduced by Directorial Decree of the AAMS 11 June 2009, then replaced by Decree 4 May 2011 in order to adjust regulation to modifications meanwhile introduced regarding remote gambling rules. Recent regulation of remote collection of Lotto had been introduced by Directorial Decree of the ADM 23 January 2013. Both regulations implement provisions laid down many years before in article 11-quinquiesdecies, paragraph 1, of Decree law 30

September 2005, No. 203, converted with modifications and integrations by Law 2 December 2005, No. 248.

[4] Directorial Decree of the AAMS 28 February 2007 regulated “*modalities for centralised withdrawal, management of game and remote collection by current concessionaires of hall bingo*”, in compliance with article 11-quinquiesdecies, paragraph 1, of Decree law 30 September 2005, No. 203, converted with modifications and integrations by Law 2 December 2005, No. 248. That decree had been later replaced by Directorial Decree 24 May 2011 in order to adjust its content to modifications meanwhile introduced regarding remote gambling rules. The forthcoming publication is expected of Directorial Decree of the ADM for regulation of remote bingo, in compliance with article 24, paragraph 33, of Decree law 6 July 2011, No. 98, converted with modifications by Law 15 July 2011, No. 111.

[5] Regulation of skill games, to which tournament card games also belong, including tournament poker, had been introduced by Decree of the Ministry of Economy and Finance 17 September 2007, No. 186, in compliance with article 38, paragraph 1, letter a), of Decree law 4 July 2006, No. 223, converted with modifications and integrations by Law 4 August 2006, No. 248, later integrated by article 1, paragraph 93, of Law 27 December 2006, No. 296. That decree became effective and the offer of the game could start only after the publication of Directorial Decree of the AAMS 17 April 2008, which allowed the trial exercise of the game only by participants holding a gambling contract with operators owning a concession assigned by the AAMS. That still is the only permissible modality (so called “national liquidity”). The regulation was later updated by Directorial Decree of the AAMS 10 January 2011, also in order to adapt it to modifications meanwhile introduced regarding remote gambling rules. The latter decree had also integrated the regulation of fixed odds games of chance and non-tournament card games.

[6] Regulation of exchange betting have been recently introduced by Decree of the Ministry of Economy and Finance 18 March 2013, in compliance with provisions laid down almost seven years before on article 38, paragraph 1, letter a), of decree Law 4 July 2006, converted with modifications and integrations by Law 4 August 2006, No. 248. Regulation of virtual betting had been recently introduced by Directorial Decree of the AAMS 12 February 2013, in compliance with provisions laid down more than seven years before on article 88 of Law 27 December 2006, No. 296.

[7] Regulation of fixed odds games of chance and non-tournament card games, namely cash poker and casino games, had been introduced by Directorial Decree of the AAMS 10 January 2011, in compliance with article 12, paragraph 1, letter f), of decree Law 28 April 2009, No. 39, converted with modifications and integrations by Law 24 June 2009, No. 77.

[8] The first systematic regulation of remote gambling had been laid down by Directorial Decree of the AAMS 21 March 2006, that superseded AAMS’s circular letters 14 July 2004 and 11 April 2005, which previously provided interpretation and instructions to the operators, with reference to innovation taken by offer of gambling on the Internet. Such a regulation was subsequently integrated by Directorial Decree of the AAMS 25 June 2007. The latter decree was overruled by the TAR-Lazio on 7 May 2008 and subsequently revived by the Italian Supreme Administrative Court on 12 May 2010. Remote gambling regulation was innovated in 2009, by article 24, paragraphs from 11 to 26 of Law 7 July 2009, No. 88. The new regulation was implemented and entered into effect by Directorial Decree of the AAMS 8 February 2011 and by consequent subscription of the act of integration of the agreement for access to concession of public games, pursuant to article 38, paragraph 2, of the Decree law 4 July 2006, No. 223, converted with modifications and integrations by Law 4 August 2006, as well as by the procedure for assignment of concession to exercise public games, pursuant to article 24, paragraph 13, letter a), of Law 7 July 2009, No. 88.

[9] Until August 2012 in the monthly report regarding trends of Italian remote gambling, published by the Remote Gambling Office of the ADM till March 2013 and still available on the ADM’s website, it had been reported the payout of Skill games (including tournament poker), of non-tournament card games among players (in other words cash poker) and of fixed odds games of chance and non-tournament card games in solitaire (in other words, casino games). With reference to the last monthly data available (August 2012), payouts regarding the three different game typologies were: 88.58%, 97.45%, 97.03%. Payout data are also provided by yearly report processed on behalf of the ADM by the Remote Gambling

Observatory of the Politecnico di Milano, on the basis of data provided by the ADM itself. The edge of the concessionaire, before tax, is equal to 1 – payout %.

[10] For a better understanding of frequent overestimation of revenues, and then earnings, of remote gambling operators it should also be taken into account that players are generally rewarded with bonuses and incentives, non-cashable, usable to play and subject to gambling tax. Bonus is equivalent to discount from an accounting point of view. For poker the portion of revenues before gambling tax given back in bonuses to the player is often equal to 30% – 40% on average. Assignment of bonuses and incentives is a well-established practice in the market to which in any case the legal offer must go along with, to be competitive towards the illegal offer. With reference to cash poker in order to calculate the net revenues there should be subtracted from the 2.5% figure of revenues before gambling tax both the gambling tax itself, that is equal to 20% i.e. 0.5 percentage point out of 2.5, and bonuses amount that is equal to 30% – 40% of gross revenues in previous assumption i.e. at least 0.8 percentage point out of 2.5. Net revenues are consequently reduced to:  $2.5\% - 0.5\% - 0.8\% = 1.2\%$ . By such net revenues the concessionaire must pay costs for marketing activity, including advertising (for a product provided through the Internet advertising is imperative to make the market aware of the offer), customer support, product development, IT systems, and operations. The remaining amount only represents the concessionaire's earnings, and is subject to direct taxation and to contributions charges, as for whatever company. Several concessionaires do not make any earnings. Some of them are investing for a pursued future solid market position. Many minor operators are giving up the business because they have lost money since entering the market and are now aware it will not be possible to be profitable in the near future neither.

[11] As it had been stated by the European Commission, it is illusory to fight the illegal online gambling offer without a competitive legal alternative offer. Italy was the first to adopt this model and has been considered to be the example progressively imitated by many other countries in Europe and beyond.

[12] Data for spending of Italian remote gambling is available on the report published by the ADM with reference to December 2012. The ADM ceased to publish data regarding turnover on August 2012. Data for turnover reported on this article as equal to 15.4 billion euros had been estimated on the basis of turnover of the first eight months for each game typology, that had been provided by the ADM, increasing it proportionally by the ratio of spending of the whole year to that of the first eight months, that are provided by the ADM also, in order to estimate the turnover of the whole year for each single game typology, and then summing-up such estimates to calculate the total turnover.

[13] Data reported is calculated directly on the basis of data made available on the monthly reports published by the Remote Gambling Office of the ADM.

[14] Based on research activity of the author.

[15] Share calculated on the basis of data provided by the ADM.

[16] Based on the integration of information collected directly from the gambling operators, press reports and the ADM itself.

[17] It is essential that advertising be strictly regulated, as is actually happening, through the rules introduced by the so called "Balduzzi" Decree law 13 September 2012, No. 158, converted with modifications and integrations by Law 8 November 2012, No. 189, and future ones that should be provided in compliance with draft law of delegation on taxation currently under discussion by the Chamber, as well as it is also happening through the active contributions of the Associations of Concessionaires adhering to the Federation Sviluppo Gioco Italia belonging to Confindustria. The above-mentioned Associations are self-regulated through the "*Code and Principles of Conduct of communication concerning games with cash winnings*", approved in June 2012, and included as Article 28-ter since 31 December 2012 in the 56th edition of the "*Code of Conduct of Business Communication*" of the IAP (the advertising self-regulating body). Federation Sviluppo Gioco Italia is now preparing further guidelines to encourage more rigorous and uniform conduct by operators. Advertising is however indispensable for the protection of the consumer, so that they can recognise and distinguish the safe, legal offer from the illegal offer. Therefore any prevalence of calls for its prohibition would ultimately favour the illegal gambling industry and compromise the proper information, awareness and ultimately, the

safety of the citizen.

[18] On the basis of the data shown on the report published by the Observatory of Remote Gambling of the Politecnico di Milano “*Il Gioco Online in Italia: Un Mercato già maturo?*”.

[19] Estimate reported is based on data published by H2 Gambling Capital (market research company in the gambling industry) to which the European Commission also refers in its communication dated 23 October 2012 “*Towards a comprehensive European framework for online gambling*” to the European Parliament, the Council, the Economic and Social Committee and to the Committee of the Regions. Furthermore, regarding the UK we refer directly to data reported in the Report Industry Statistic April 2009 to March 2012 published by the Gambling Commission and in the Annual Report and Account 2010 – 2011 published by the National Lottery Commission and, regarding Denmark, to data reported in the Annual Report 2012 published by the Danish Gambling Authority.

[20] Data reported in the paragraph is taken from reports published by the Observatory of Remote Gambling of the Politecnico di Milano, regarding analysis conducted on behalf of the ADM using the data base provided by the ADM itself, and in particular from: “*Il Gioco Online in Italia: Un Mercato già maturo?*” April 2013 and “*Osservatorio Gioco Online – Workshop di Kickoff*” issue 2013/2014.

[21] See G. Carboni, *Measures of prevalence of online problem gambling*, LexGiochi, 5 September 2012.

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