

# Summary<sup>1</sup>

Traditionally, the Swedish gambling market has been regulated by giving certain actors exclusive rights to offer gambling to Swedish consumers. These exclusive rights come with a number of requirements in return. These include regulation of the level of winnings<sup>2</sup> and a prohibition on offering certain types of gambling, e.g. online casinos.

For a long time it was possible to maintain the traditional Swedish regulatory system because gambling was a domestic market, i.e. domestic gambling providers met the domestic demand for gambling. As some forms of gambling have developed into digital services that can be traded across international borders, the structure of the gambling market has fundamentally changed. International gambling providers that are not regulated under Swedish legislation can now offer gambling to Swedish consumers. Digitalisation and the possibility of international trade have thereby rendered the exclusive rights inoperable for certain types of gambling, as those rights cannot in themselves prevent international competition.

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<sup>2</sup> This term is used in the report since it is the term used by the Ministry of Finance for the issue of licenses to Svenska spel and ATG.

*Attainment of gambling policy objectives under threat*

The aim of the traditional regulatory system is to attain the Swedish gambling policy objectives: a sound and secure gambling market in which demand for gambling is satisfied in controlled forms and any surplus from gambling goes to the public purse.

The extent to which the objective of gambling in controlled forms is attained can be estimated by calculating the proportion of consumption of gambling that takes place via gambling providers that are regulated under Swedish legislation. According to such an estimate, in 2013 just under 85 per cent of the gambling market was under Swedish control, while around 15 per cent was outside of Swedish control and was provided by gambling providers registered and regulated abroad. The proportion of the gambling market under Swedish control has diminished continuously as the international gambling providers have gained market shares.

The objective of the surplus of gambling going to the public purse is also under threat. The surplus from gambling that goes to central government, non-governmental organisations and equestrian sports has declined by almost ten percentage points, from 57 to 48 per cent, measured as a percentage of overall gambling consumption since 2003. Because the surplus share can be interpreted as a tax rate on consumption of gambling, this means a reduction in the tax rate of almost one percentage point per year since 2003.

*Continued traditional regulation cannot be expected to achieve the gambling policy objectives*

A continuation of the traditional regulatory system risks a further weakening of the extent to which the Swedish gambling policy objectives are attained. This report shows that in the next 10–15 years there is a risk that control over the market will be undermined (from 85 to 72 per cent of total gambling consumption) and the surplus will diminish (from 48 to 41 per cent of total gambling consumption). Such a reduction in the surplus would mean a future loss of central government budget revenues of up to SEK 1.4 billion per year.

There are ways to try to regain control over the gambling market within the framework of continued traditional regulation. Legal instruments such as IP-blocking, prohibitions on payment mediation and strengthened marketing rules can be used to prevent international trade in gambling. Such measures probably have some effect, but it is not clear how effective they are and what potential shortcomings and consequences they may have in the form of costs. There is therefore a considerable risk that it is impossible to prevent the international trade in gambling and that developments would be the same regardless of whether these measures are introduced. With no possibility to prevent international competition on the Swedish gambling market, the traditional regulatory system cannot maintain control over the market, or the level of surplus. The traditional regulatory system is therefore very difficult to maintain in the long run, regardless of the detailed design of the rest of the regulatory framework, and must therefore be considered obsolete.

*International competition on certain forms of gambling improves attainment of objectives*

A number of countries have the same problem as Sweden, in that their traditional regulatory systems have not been able to withstand the new conditions of increasing international competition. To tackle this development, Denmark, for example, has chosen to open up parts of the gambling market to international competition by inviting international gambling providers to offer betting, online casinos and online poker to Danish consumers via licences. A number of other European countries have introduced similar systems.

If Sweden were to introduce a regulatory system via licences in a similar vein to the Danish system, control over the gambling market could be improved from the current level of 85 per cent to 95 per cent. The level of control can probably also be raised by improving the conditions for international gambling providers in a Swedish regulatory system via licences as compared with the Danish system. A surplus around the current level can also be expected. This means that the tax rate on gambling can be

maintained at around the same level as today, without the surplus diminishing or central government losing revenues.

Taking the Swedish gambling policy objectives as a starting point, a regulatory system via licences similar to the Danish system is preferable to a continuation of the traditional regulatory system. Control over the gambling market can be expected to increase, without the risk of the surplus being undermined over time.

It is possible to regulate the gambling market in several different ways. However, there are two main options. The first is to continue to try to maintain the traditional regulation of the gambling market through exclusive rights for certain gambling providers to offer gambling. The other is to open up the gambling market to international competition. Allowing international gambling providers, via licensing, to offer certain types of gambling is a step in this direction. The different regulatory frameworks assessed here – a continuation of the traditional regulatory system and a Danish-style system of regulation via licences – can therefore be seen as representing these two main options. The details of each regulatory framework can be altered, but their main characteristics and results remain largely the same.

*Further work necessary to determine whether licence system is preferable*

This report restricts itself to assessing how extensive the control over the gambling market is and how large the surplus can be expected to be under various forms of regulation, in order to study how successfully the gambling policy objectives can be attained. This is not sufficient to be able to say whether regulation via licences as per the Danish model is preferable to the continuation of traditional regulation. Several more steps would be required to make that assessment.

It is necessary to estimate the other socio-economic consequences of Swedish re-regulation. This includes estimating the effects on other markets, the costs of gambling problems and the positive socio-economic effects of the expected fall in the price of gambling.

Regardless of whether gambling on horse races continues to be offered via exclusive licence by ATG or is opened up to

international competition, it is unclear how the surplus from gambling on horse races would be affected. There is a risk that ATG's surplus and central government revenues could decline considerably in either case. For central government to attain the highest possible level of control over the gambling market, licences for gambling on horse races are preferable. ATG itself recommends a solution based on licences. The remaining overall question that needs answering is therefore whether central government is willing to take the risk of lower tax revenues from gambling on horse races that a solution based on licences may entail.

Assuming that civil society is to retain the possibility to fund its activities by offering gambling, it is necessary to demarcate which forms of gambling are to be offered via licences. If certain types of online gambling, e.g. online bingo, are opened up to international competition, this will conflict with activities of non-profit organisations that are currently exempt from tax. At the same time, international competition for more kinds of online gambling would mean a probable increase in control over the market, and mean that central government would be able to tax a market that is likely to grow over time. However, demarcating which forms of gambling should be offered via licences has both economic and legal consequences that need to be resolved.

*Proposed preparations for opening up the gambling market to international competition*

International gambling providers have rapidly claimed a share of the Swedish gambling market. There is nothing to suggest that this trend is tailing off. The result is that central government revenues can be expected to decrease over time. Assuming that regulation via licences is preferable, and that the future political approach will be to allow international competition, it is therefore justifiable to immediately begin preparations for regulation via licences while the details of such a system are being worked out. The following measures should be taken with a view to strengthening Swedish-regulated companies in international competition before a new regulatory system is put in place:

1. The price and supply regulation of Svenska spel should be discontinued immediately for those forms of gambling that are subject to international competition. Admittedly this may contravene EU law, but if this measure is part of preparations for opening the gambling market up to competition, it should be possible in practice. The measure is also reasonable in light of the fact that competition is distorted in favour of the international gambling providers, because Svenska spel is currently limited in terms of what forms of gambling and level of winnings it can offer. If central government also considers that betting on horse races should be opened up to international competition, and is willing to take the associated risks in terms of future surplus, ATG should also be given the same sort of possibility as Svenska spel to immediately determine its own level of winnings.
2. In a system of licensed regulation, Svenska spel should be divided into two separate companies: one company offering forms of gambling via exclusive rights, e.g. lotteries, and another company offering forms of gambling open to competition, e.g. betting and online casinos, via licences. How this division would take place and whether the licensed activities would be allowed to operate on the international gambling market should be elaborated as soon as possible. As part of this work, there should be a review of whether the part of Svenska spel that offers gambling via licences should be sold off when licensed regulation is introduced.
3. The prohibition of promoting non-regulated gambling should immediately be strengthened in a similar way to the system in Denmark, with penalties of fines and possibly imprisonment for media companies that contravene regulations. Work is already ongoing in this area to strengthen the traditional regulatory system, but reinforcement will be an important element of any future system of regulation via licences.

*Proposals for the design of a Swedish licence system to strengthen control over the gambling market*

Control over the market is the most important indicator of how successful a licence system is. The level of control is determined by the number and size of the market shares brought into the system by international gambling providers, and thus by the fact that the market conditions are so favourable that international gambling providers value a licence more highly than remaining outside. In large part, a Swedish regulatory framework can be designed in the same way as the Danish regulatory framework, but some aspects should be different in order to achieve a higher level of control over the gambling market.

In a Swedish licence system, too, betting, online poker and online casinos should be offered under conditions of international competition and by licensed gambling providers. To raise the value of a licence, other forms of gambling could be included, such as betting on horse races, scratch-cards and online bingo. Exactly which forms of gambling should be included must be investigated separately.

As in Denmark, the tax rate on consumption of betting, online poker and online casinos should be 20 per cent. However, to increase the value of licences, player bonuses should not be taxed. The exact level of the tax rate can be guided by experience from the United Kingdom and the Netherlands, which are both introducing licence systems around the end of 2015, and by future developments on the Danish licensed market.

Unlike Danske Spil in Denmark, Svenska spel should not be divided into two companies that continue to share premises, branding and a website. To avoid the problems and extra costs engendered in Denmark by the blurred division of Danske Spil, Svenska spel should instead be clearly divided into two separate companies that do not maintain any contact and should not be part of the same group of companies.