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Use and Misuse of Regulation in Fighting Betting Related Corruption in Sport – The German Example

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Use and Misuse of Regulation in Fighting Betting Related Corruption in Sport – The German Example

ABSTRACT:

Betting related corruption in sports has increased considerably during the last years, heavily driven by the globalization and digitalization of the worldwide betting market. Using recent data by Sportradar, we examine the particular case of manipulation control in the context of betting regulation in Germany. Here, the legislator recently introduced the possibility for private betting companies to legally enter the sports betting market. However, after 3 years by now, none of the planned licenses has been granted to any company, leaving the whole market in a legally unregulated “grey area”. Instead, further restrictions for many betting types are under discussion (e.g. the ban of almost all live bets), officially motivated by the aim of preventing betting related corruption. Our analysis yields the following results, whose validity is not restricted to Germany: 1) Market regulations causing the growth of illegal/informal/grey betting markets are counterproductive. 2) The delegation of the supervision of betting markets (including fraud detection systems) to an independent authority is recommended. The same applies to the sanctioning of suspected cheaters, which should not be left to the sport federations alone. 3) The government should play the central role in fighting betting related corruption. One fundamental tool for law enforcement is the creation of a legal basis for criminal prosecution. Such a sport-specific element of crime, labelled e.g. “sport fraud”, could be part of a legislation covering many types of sports manipulation, including doping.

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Introduction

Betting related corruption in sport has increased considerably during the last years, heavily driven by the globalization and digitalization of the worldwide betting market. Since this problem puts the whole process of commercialization of sport in danger, it has already been tackled in various ways by major sport federations including FIFA and UEFA. One of the most important measures taken is the application of computer based fraud detection systems (FDS) in order to identify and report possible betting related manipulations in sports easily and promptly.

National authorities have also started to justify regulatory measures in the sports betting markets with the need of limiting betting related match-fixing. In many cases, several types of bets shall be banned, especially side bets, which are regarded as particularly prone to manipulation. One of the most blatant examples of this kind is Germany, where after a careful opening of the sport betting market, the ban of almost all live bets (including even bets on goals scored in football) is under discussion, motivated by the potential threat for the integrity of sport. This paper discusses the appropriateness of this approach, analysing recent data on sport betting. We will draw conclusions on the regulation of betting markets whose validity is not restricted to Germany.

The Problem

It is difficult to determine whether the problem of betting related corruption in sport has grown during the last decades or not. It probably has, due to the increased possibilities offered by the internet (including live-bets) and the increased professionalization of most sports. Obviously, match-fixing has always been a problem and some sports may have experienced higher corruption in earlier times than nowadays,¹ where increased transparency makes at least some scandals public.

What surely has increased is the danger faced by sport and society: Betting related manipulation puts the whole process of commercialization of sport in danger, and since many professional sports have reached astonishing economic dimensions, potential losses have grown exponentially. Therefore, it has already been tackled in various ways by major sport federations including FIFA and UEFA. One of the most important measures taken is the application of

¹ One insightful and well-documented early example of betting related match fixing is the “big Good Friday football fix” of 1915 (Forrest, 2015).

computer based fraud detection systems in order to identify and report possible betting related manipulations in sports easily and promptly.

A recent study by T.M.C. Asser based on Sportradar data reports 1,625 cases of probably manipulated matches in professional football in the period May 2009 – November 2014 (T.M.C. Asser, 2015, p. 26). Recent scandals include a large investigation in lower divisions in Italian football and many matches in Eastern European leagues, but also Swedish football has been hit by a relevant amount of allegedly fixed football matches (Federbet, 2015).

The Wrong Solution

As described by Ben Van Rompuy (T.M.C. Asser, 2015, Ch. 2), many European countries are using, or plan to use, the threat of betting related manipulation to tighten their betting market regulations. In particular, several types of bets, especially side bets,² shall be entirely banned in several countries because they are regarded to be more vulnerable for manipulation.

One striking example is Germany, where sports betting is in general rather strictly regulated, being treated as a part of the highly regulated gaming sector. Until 2012, the state monopolist *Oddset* was the only legally acting company in the market. A new state treaty then allowed private betting companies to enter the sports betting market legally via state-issued licenses. However, after 3 years by now, none of the planned licenses has been granted to any company, leaving the whole market in a legally unregulated “grey area”: Companies are “tolerated” and have to pay taxes, but their legal status is still uncertain, which causes a very difficult situation for private business in this sector.

While in former times the strict German legislation was motivated especially by the aim of controlling the problem of gaming addiction,³ the new state treaty adds the limitation of match fixing as another main target. This serves as a justification for imposing strict measures, up to forbidding certain types of bets. The state law is in this respect rather unclear (Albers, Böhm & Rebeggiani, 2016), but the responsible agencies of the interior ministries of the *Länder* are increasingly urging private companies to ban all types of side bets, including bets on goal scores

² We define side bets as all types of bets not directly correlated to the final result of a match, e.g. bets on yellow cards or corner kicks in football.

³ However, we regarded this approach more as a tactical move to preserve the state monopoly than as a sincere concern for fighting gambling addiction. This was shown e.g. by the fact that slot machines located in “amusement halls” or pubs, the gambling type which in clinical studies normally emerges as the major cause for addiction, was not classified as “gambling” and therefore not regulated at all by the old state treaty (Rebeggiani, 2010).

in football. Following this (highly controversial) interpretation, only bets on final results actually seem to be acceptable.

Some Insights from a Simple Economic and Statistical Analysis

The main problem with the approach described above is the danger of forcing considerable parts of the sports betting into a “grey” or even illegal market, with no possibility for the government of imposing taxation or any other kind of regulatory measures. Under the previous regulatory regime, which imposed a strict monopoly with the public company *Oddset* as only supplier, up to 95% of the German sports betting market was unregulated (Figure 1), leaving the state with considerable losses of tax revenues and without any control over addiction problems or possible criminal involvements.⁴

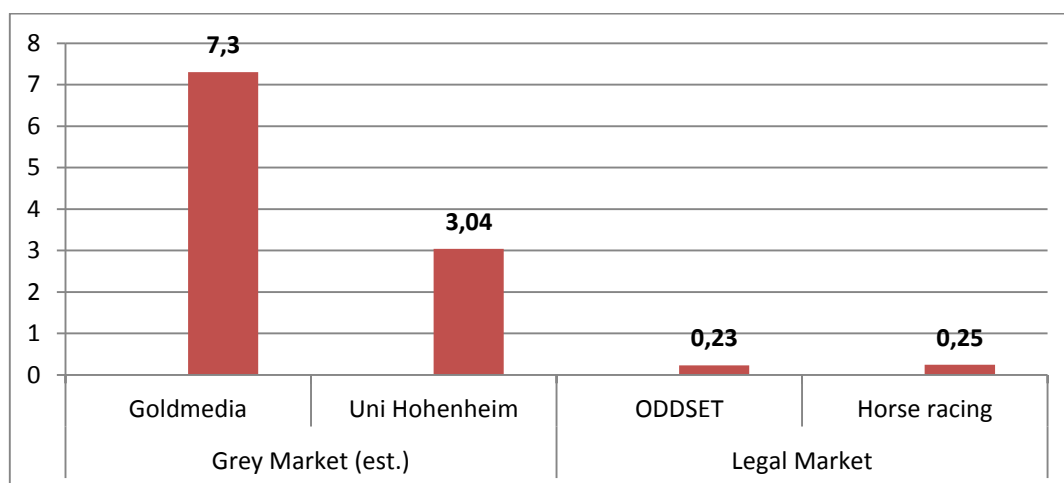


Figure 1: Grey and legal betting market in Germany 2009 (turnover in bill. EUR)

Data: *Goldmedia*, University of Hohenheim

The situation has changed since the partial liberalization of the betting market in 2012, but the proportion of a grey/illegal market in Germany is still high. It can be estimated at about 50%. Besides unregulated internet offerings and illegal bookmakers, especially (mostly illegal)

⁴ Figure 1 shows two estimates for the grey market in Germany, a business-data based estimation from *Goldmedia* (Goldmedia, 2010) and a survey-based one from the University of Hohenheim (Becker and Barth, 2012). Even following the more conservative latter one, the share of the grey market would have been 86% of the whole of the betting market in Germany. For more details on both surveys, see Rebeggiani and Rebeggiani, 2013, p. 158-159.

betting terminals are increasingly popular. A common feature of this illegal supply is its broad range of bets offered and their attractive odds.

Another questionable underlying assumption is the unreflected belief in the fact that side bets are always more subject to manipulation. This is certainly true if one looks at the supply side in the manipulation market, i.e. at the players and referees ready to engage in betting combines. According to standard microeconomic theory, the supply of match-fixing actions rises when probability of detection is lower, the probability of cheating attempts being successful is higher, and the financial loss, if manipulations are detected, is low.⁵ Thus, manipulation via side bets is rather attractive, because of the smaller loss of sporting glory and the easier realization of a fix by a few insiders (Rebeggiani and Rebeggiani, 2013).

Alas, things start to change if one takes into account also the demand side of betting related fraud (Forrest, 2013), i.e. how many criminals are willing to put their money in such combines in order to launder it or to earn more. Then, it becomes clear that liquidity in the market is a crucial variable. Betting related match fixing needs large markets, on the one hand in order to realize sufficient profits. On the other, in order to avoid an easy uncovering by fraud detection systems. Where is most of the liquidity in sports betting concentrated? In “normal” betting markets, i.e. what providers call primary bets (especially bets on match odds and on total goals scored). Figure 2 shows data from the betting exchange platform *Betfair*:⁶ More than 87% of the overall volume of the market was staked in the primary betting market, 11.4% in the derivative or secondary betting markets and only 1.5% in markets for side bets.

This means that the volume of the “frightening” market for side bets, which is so often cited by lawyers and politicians as main threat for the integrity of sports, is negligible. It must be also kept in mind that private suppliers react rather quickly when they notice strange movements in the allocation of bets, by changing odds or completely withdrawing the bet. Manipulation is therefore, at least with bets placed at regulated European operators, not necessarily possible on a large scale. Another reason why side bets are not always offered by bookmakers is, probably, that most of the events underlying side bets (corners, yellow cards etc.) are hardly predictable and have more a random character. Therefore, the calculation of appropriate odds by the operator may be difficult.

⁵ See Forrest, McHale & McAuley, 2008 for a detailed model description and Rebeggiani and Rebeggiani, 2013, for an application to recent cases.

⁶ Data was collected in the period January-April 2014 and covers bets on English football Premier League games, probably the league with the highest stakes in the world. Ongoing research by the author is investigating whether data from other main private companies show a different pattern than that of *Betfair* or not.

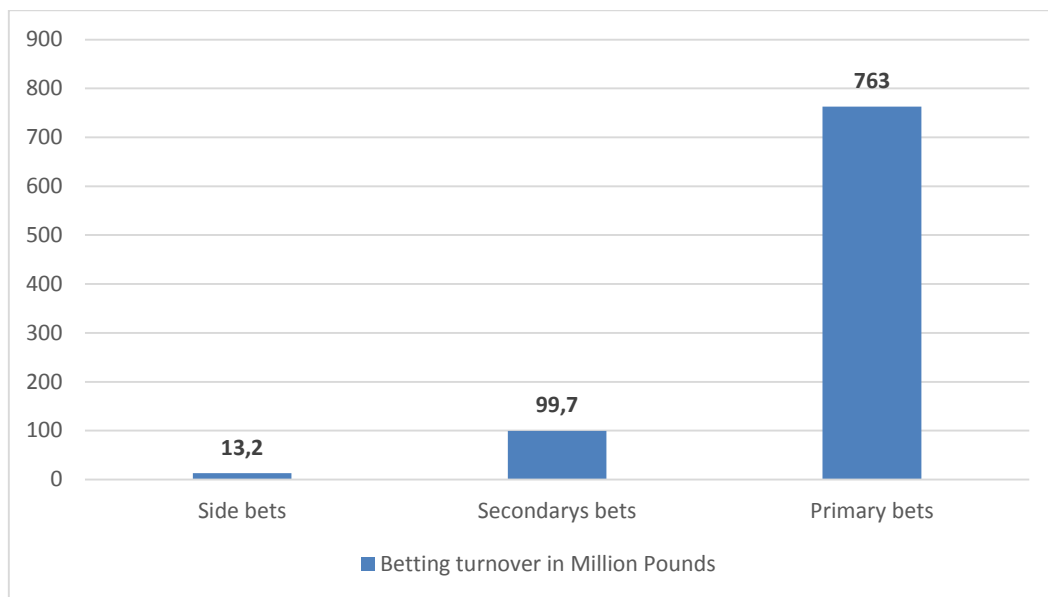


Figure 2: Liquidity in different types sports betting markets (*Betfair*, January-April 2014)
 Data: Betfair (T.M.C. Asser, 2015, p. 21)

Another database collected by *Sportradar* about betting related manipulation show that most of the possibly detected cases of betting related match-fixing occurred in fact in markets for primary bets. Out of the 1,625 probably fixed matches detected by the FDS, only six cases (0,37%) concerned side bets.⁷ All others occurred in primary betting markets, in most cases involving more than one of the main betting types: match odds, total goals scored, and Asian Handicap bets (Figure 3). Thus, empirically there seems to be no particular vulnerability of side bets, while manipulation cases are concentrated in the highly liquid primary betting markets and are also often associated with Asian Handicap bets. Of course, this very simple analysis is only the first step and further empirical studies will be necessary, but one should bear in mind that *Sportradar*'s FDS is one of the leading monitoring tools in the world, covering most of the international betting market.

⁷ As already mentioned, this figure reflects the number of suspect games in the period May 2009 to November 2014. These were less than 1% of all football matches monitored by the FDS in that period. Out of these 1,625 matches, 1,468 are included in a particular database, designed to analyse particularly suspicious cases (see e.g. Figure 3).

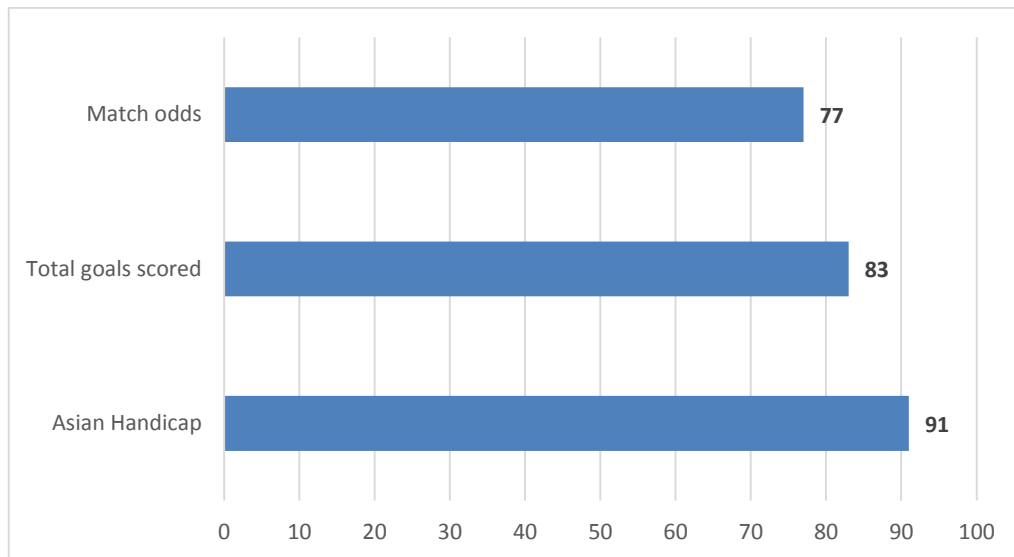


Figure 3: Percentages of betting markets involved by suspect matches (n = 1,468)

Data: Sportradar (T.M.C. Asser, 2015, pp. 30)

Furthermore, the *Sportradar* data fail to detect any particular vulnerability of live bets: The percentage of live bets involved in match-fixing attempts is very similar to that of pre-match bets. Concerning the type of matches, most of the allegedly manipulated games are national league club matches (88%), much more than international club matches or national teams' games (Figure 4). Even more surprising, the first leagues account for more than three quarters of all fixing attempts, while only 22% of the suspect matches took place in second or lower divisions. This is, again, a result which is hardly compatible with the pure supply side based theory described above, which would predict more fixed matches in lower divisions, where publicity and therefore detection probability is lower, while salaries and therefore potential costs of match fixing are also lower. What, in contrast, is again confirmed as being very relevant is market liquidity, which is absolutely needed for match fixing attempts. Since liquidity is concentrated in betting markets attached to first division football, also most of manipulation cases take place there.

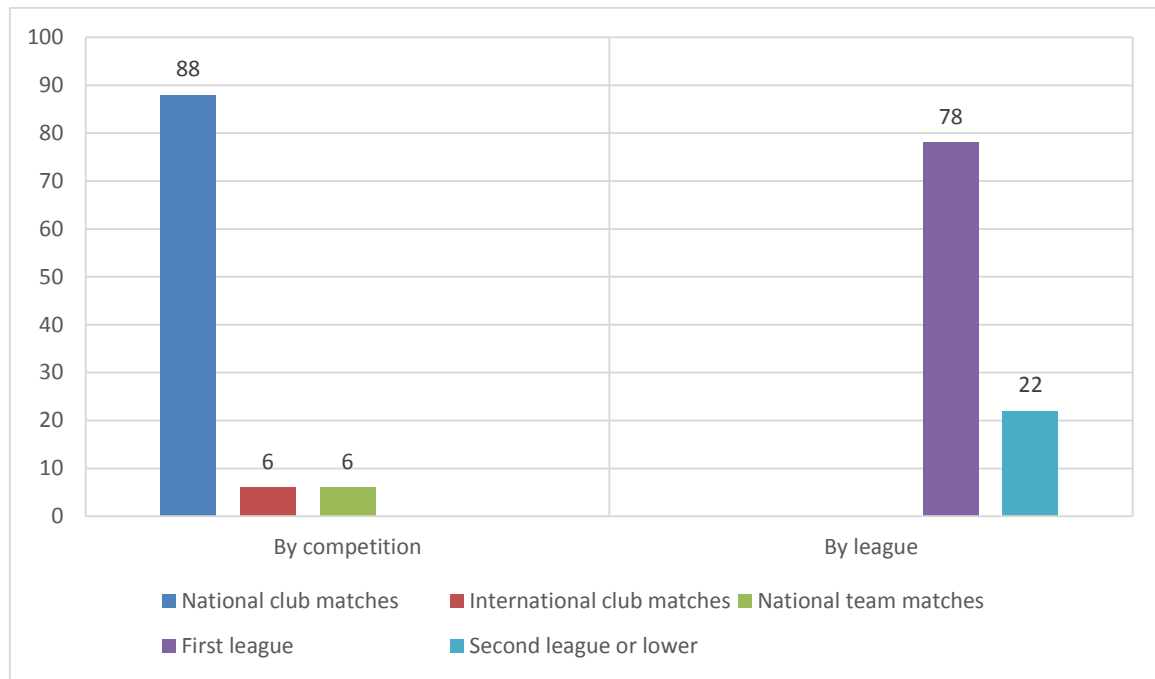


Figure 4: Matches with suspect betting activities in per cent (2009-2014)

Data: Sportradar (T.M.C. Asser, 2015, pp. 26-29)

A Better Solution

The first conclusion drawn from the present analysis is a scepticism towards all regulatory measures which would drive significant portions of the markets into “grey” or completely illegal areas. The case of Germany has shown that regulation which is excessively strict may lead to the state’s loss of control over nearly the entire betting market. Many of the policy measures currently under discussion in Germany and other European countries would significantly deteriorate the business conditions for private betting companies, since complete bans on live bets and goal scorer bets would hit some of the most popular segments.

This paper argues furthermore that an effective prevention of betting related corruption needs to enforce a legal regulation covering the whole of the betting market and at the same time provide strong incentives for behaviour in compliance with the law, e.g. by introducing specific penal sanctions for manipulative activities in sports (e.g. match fixing, doping, sports related violence). The first component needed is therefore the creation of a legal basis for criminal prosecution, which clearly enlists all types of sport fraud and the penalties for them. This framework should be located on the ground of ordinary law and not in the field of sports regulations managed by the respective federations.

Finally, the supervision of betting markets (including fraud detection systems) should be delegated to an independent authority. In this case, Germany should follow the example of Italy and France, where such institutions are already operative and exert a considerable power. The same applies to the sanctioning of suspected cheaters, which should not be left to the sport federations alone. Experiences from other fields of self-administrating sport federations are not very encouraging. Especially the example of doping prosecution shows in our view, that the self-regulatory ability of sports is weak when own commercial and non-commercial interests are possibly endangered.

Conclusion

The German law against sports fraud, which in November 2015 was approved by the *Bundestag*, represents in our view a step in the right direction. For the first time, German prosecutors will be able to rely on a legal basis covering doping and other corruption issues. It is, however, rather unclear, how effectively this basis will be used. As in most other European countries, there remains a multitude of open governance issues when many interests collide, as it is the case for professional sport and gambling. On the one hand, the interplay between sport federations, bookmakers and the government (including police) will be crucial for effectively fighting corruption in sports. On the other, an efficient regulation of gambling sector remains a hard-to reach goal, mostly because of the diverging interests of the involved stakeholders (private suppliers, monopolists, and the government). Only if these two challenges will be addressed properly, the application of the new legal tools will deliver the desired results for fighting betting related corruption in sport.

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