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Opinion Piece

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The Dutch Regulator's 2026 Supervisory Agenda:

When Disruption Replaces Policy

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Kansspelautoriteit, the Dutch Gambling Authority, has recently published its supervisory agenda for 2026. It states an ambition to push channelisation above 90%. At the same time, faced with rapid technological change, artificial intelligence, and a persistent illegal offer, it concludes that supervision has become "broader and more complex." That may be true. But complexity is not a force of nature. More often, it is the result of policy choices that were never fully thought through. To be blunt: the agenda reads less like a realistic supervisory plan and more like a manifesto from a regulator that senses it is losing its grip on a market it helped design.

Enforcement by Architecture

The regulator's proposed solution is telling. Instead of simplifying rules or restoring legal certainty, it seeks to expand enforcement outward: from licensed operators to suppliers, intermediaries, platforms and technical infrastructure, while at the same time seeking to disrupt the practical ability of unlicensed operators to function. This is not classic supervision. It is enforcement by architecture.

That should make anyone who cares about the rule of law pause. In the European legal order, access to digital infrastructure is not a discretionary privilege of the state. Where enforcement touches networks, platforms or distribution channels, restrictions must be based on clear legal authority and meet strict tests of necessity and proportionality. This is not academic theory: it is the logic behind the EU's open-internet and net-neutrality framework, which exists precisely to prevent policy goals from being pursued through informal pressure on access points rather than through transparent, reviewable law.

Disruption is not a Strategy

What makes the current direction especially striking, is that Kansspelautoriteit itself has recently demonstrated why "disruption" is not a strategy. In 2025, the regulator published an effects assessment of the gambling tax increase to 34.2% as of January 1st 2025, 37.8% as of January 1st 2026, concluding that the measure failed to produce the intended additional revenue. Indeed. Gross gaming revenue declined, tax receipts fell, and the legal market weakened. Exactly the opposite of what policymakers promised.

Channelisation collapses not because rules are too soft, but because they become unworkable

The regulator explicitly warned that financially driven disruption undermines player protection and that a financially healthy legal market is essential for effective supervision. Yet the 2026 agenda doubles down on disruption, this time by targeting the infrastructure and the wider ecosystem around legal as well as illegal supply. The risk is straightforward: when compliance becomes uncertain, costly, or operationally fragile, the regulated market loses its gravitational pull. Consumers do not stop gambling; they reroute. Channelisation



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fails not because the rules are too lenient, but because the legal route becomes impractical or even unworkable.

My concern is not that this regulator wants to protect players. That is its mandate. My concern is that enforcement is gradually replacing policy. When supervision is driven by pressure rather than clarity, and by architecture rather than law, the system stops rewarding compliance and starts incentivising avoidance. History is unforgiving on that point.

Fair Balance? A second wave of legal scrutiny

There are also limits to how far a government can “disrupt” a market before it collides with fundamental rights. In 2021, the Supreme Court confirmed that a gambling tax burden can, in a concrete case, become so excessive that it upsets the required fair balance and triggers compensation under the right to peaceful enjoyment of property. That precedent matters, because it draws a hard boundary: policy objectives do not justify measures that effectively hollow out lawful economic activity.

Against the backdrop of the most recent tax hike, litigation is already underway against the fiscal disruption that has weakened the legal market. If supervision now moves further into access restriction by proxy, via intermediaries and infrastructure, it will inevitably invite a second wave of legal scrutiny under EU open-internet and proportionality principles. That is not a threat; it is a structural consequence of the legal framework we operate in.

Conclusion

If 2026 is to be a year of effective supervision, Kansspelautoriteit must resist the temptation to regulate through disruption. Regulation only works when good actors can realistically remain inside the system. Once enforcement replaces policy, the market stops listening and starts finding ways around it. Everyone shall lose at that point. Except for the illegal operators.

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