

**SUBSIDIARY LEGISLATION 583.09****GAMING COMMERCIAL  
COMMUNICATIONS REGULATIONS**

20th July, 2018

*LEGAL NOTICE 247 of 2018.*

## Arrangement of the Regulations

	Regulations	
Part I	Citation and Interpretation	1 - 2
Part II	Applicability	3 - 4
Part III	General Obligations and Limitations	5 - 16
Part IV	Responsible Gaming	17 - 18
Part V	Protection of Minors and Vulnerable Persons	19 - 20
Part VI	Sponsorships	21 - 27
Part VII	Misleading and Unfair Promotional Schemes	28 - 30
Part VIII	Exemptions	31
Part IX	Enforcement	32 - 33

## PART I

## Citation and Interpretation

1. The title of these regulations is the Gaming Commercial Communications Regulations. Citation.
2. (1) In these regulations, save as provided in sub-regulations (2) and (3), all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations. Interpretation.  
S.L. 583.04.
- (2) In these regulations, unless the context otherwise requires, "the Act" means the Gaming Act. Cap. 583.
- (3) All other terms used in these regulations shall have the same meaning attributed to them in the Act.

## PART II

## Applicability

3. These regulations shall be applicable to: Scope.
  - (a) all authorised persons offering a licensable game;
  - (b) any person providing any service to, or on behalf of, or in any way in collaboration with an authorised person offering a licensable game.

Prohibition to publish commercial communications unless authorised. S.L. 583.05.

4. No person shall promote, advertise, publish, or cause to be published any commercial communication with respect to any licensable game unless the game and the operator are duly authorised in accordance with the Gaming Authorisations Regulations:

Provided that where commercial communications in breach of this regulation are published notwithstanding the provisions of this regulation, the Authority may also take into consideration breaches of the rules contained in these regulations during enforcement or criminal proceedings, as the case may be.

### PART III

#### General Obligations and Limitations

Commercial communications must be socially responsible.

5. Commercial communications must be socially responsible, with particular regard to the need to protect minors and other vulnerable persons from harm or exploitation.

Limitations.

6. Commercial communications must not:

(a) portray, condone or encourage behaviour that is criminal or socially irresponsible or could lead to financial, social or emotional harm, or directly or indirectly encourage anti-social or violent behaviour;

(b) suggest that gaming can be a resolution to social, educational, professional or personal problems;

(c) suggest that gaming can be an alternative to employment, a solution to financial concerns or a form of financial investment;

(d) portray gaming as socially attractive or suggest that it can enhance personal and, or professional qualities, for example by improving self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration;

(e) portray gaming in a context of toughness or link it to resilience or recklessness;

(f) portray gaming as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments;

(g) suggest that solitary gaming is preferable to social gaming;

(h) suggest peer pressure to game, or disparage abstention from gaming;

(i) suggest that skill can influence the outcome of a

game that is purely a game of chance;

(j) provide false or untruthful information about the chances of winning or expected return from gaming;

(k) exploit cultural beliefs or traditions about gaming or luck;

(l) make reference to instantly available consumer credit services, or any other ways of providing credit to players;

(m) tarnish the goodwill and privilege that is associated or related in any manner whatsoever to an authorised person or tarnish the image or reputation of another authorised person.

7. (1) An authorised person shall not engage in any activity that involves the sending of unsolicited commercial communications, whether it is through its own operation or by the intervention of third parties.

Unsolicited commercial communications

(2) An authorised person engaged in the sending of any solicited commercial communications must comply with a request by any person to stop receiving such commercial communications as soon as is reasonably practicable, and in no case later than three (3) days from receipt of the request.

8. Commercial communications should not target or be sent to players who the authorised person knows, or reasonably should have known, are undergoing a period of self-exclusion:

Commercial communications not to be targeted to self-excluded players.

Provided that the authorised person has a maximum of twenty-four hours from the moment that the player has self-excluded before this regulation becomes applicable.

9. An authorised person who, subject to the Data Protection Act and the regulations made thereunder, collects statistical data about players, and, or, groups players based on patterns and demographics and, or other data or metadata, to identify appropriate marketing strategies or player categorisation, shall not use the data gathered to urge or induce any person fitting the profile of a person with a gaming problem to play.

Use of data. Cap. 586.

Provided that, any profiling of players carried out by authorised persons shall always respect the principles laid down in data protection legislation.

No attempt to induce

10. An authorised person shall not attempt to induce any player to continue playing the authorised games in any manner when such a player has shown the intention to stop the gaming session or, where applicable, to leave the premises in which the gaming activity

No attempt to induce.

is being conducted.

Games without stake or prize.

**11.** If an authorised person offers players an alternative version of the authorised games, but with the exclusion of a stake and a prize, the alternative version shall retain the same technical conditions and be otherwise identical to corresponding authorised games.

Information to be displayed.

**12.** All commercial communications must clearly display:

(a) the name of the relevant authorised person;

(b) a reference to the entity which issued the relevant authorisation whether such entity is the Authority or the competent authority in the relevant jurisdiction, referring to any relevant authorisation reference numbers:

Provided that commercial communications displayed on the websites, applications or any other channel operated by the authorised persons, or within the licensed premises run by the authorised persons, are excluded from the requirements of this regulation if the above information is otherwise displayed on the same website, or within the same premises.

Commercial communications on social media.

**13.** For the avoidance of any doubt, any commercial communications displayed by, within or via social media account portals held by authorised persons or third parties acting on behalf of or in collaboration with the authorised persons, are subject to these regulations in their entirety.

Public places.

**14.** (1) No commercial communications may be issued or distributed in any public place, or in or on any means of public transportation in Malta:

Provided that such restriction shall not apply to any commercial communications published, displayed or broadcasted within authorised gaming premises, or in any work environment used by an authorised person.

(2) Sub-regulation (1) shall not apply to commercial communications which are displayed or distributed in:

(a) locations frequented mainly by tourists, including airports, seaports, hotels and holiday complexes:

Provided that this shall not include bars and restaurants;

(b) conferences or events specifically organised in relation to the gaming sector;

(c) premises of operators;

(d) premises of organisers or beneficiaries of authorised low risk games; and

(d) newspapers or magazines.

**15.** It shall be lawful for an authorised person to set up a sign or notice identifying premises used or belonging to it:

Authorised persons may identify premises within specified distance.

Provided that such sign or notice shall be placed directly on the premises referred to above, or not further than a radial distance of five (5) metres from the centre of the entry point to the premises and that sign or notice is the only sign or notice relating to the premises at that entry point:

Provided further that the sign or notice is limited to the identifying name or brand of the authorised person, and directions towards the entrance.

**16.** For the avoidance of any doubt, authorised persons promoting or advertising via broadcasting means shall be subject to the Requirements as to Advertisements, Methods of Advertising and Directions Applicable to Gambling Advertisements in addition to these regulations.

Commercial communications via broadcasting. S.L. 350.25

#### PART IV

##### Responsible Gaming

**17.** Educational responsible gaming messaging shall be prominently included within all commercial communications related to gaming:

Responsible gaming messages.

Provided that where impractical due to spatial limitation, such as on the screens of portable communications devices, the relevant commercial communication may make use of alternative means which capture the viewer's attention effectively.

**18.** The web-portal address of any entity devoted to responsible gaming must be carried on all commercial communications and should be presented in a manner which is clearly legible:

Web-portal of entity devoted to responsible gaming.

Provided that where impractical due to spatial limitation, such as on the screens of portable communications devices, the relevant commercial communication may make use of alternative means which capture the viewer's attention effectively:

Provided further that where the alternative method is composed of click-throughs, the landing page should be no further than two clicks away and should be either the operator's own responsible gaming microsite, or any other web-portal of an entity with a related objective.

## PART V

## Protection of Minors and Vulnerable persons

Minimum age.

**19.** All commercial communications, with the exception of sponsorship, must prominently display, for their entire duration, a sign indicating the minimum age to participate in the game being promoted.

Restrictions in relation to minors and vulnerable persons.

**20.** Without prejudice to the provisions of regulation 6, commercial communications must not:

- (a) be directed towards minors or vulnerable persons;
- (b) encourage or target minors or vulnerable persons to play a game;
- (c) feature minors;
- (d) appeal to minors or vulnerable persons in any way;
- (e) exploit the susceptibilities, aspirations, credibility, inexperience or lack of knowledge of minors or vulnerable persons, or present gaming as a sign of maturity or move to adulthood.

## PART VI

## Sponsorships

Sponsorships to exclude product placement.

**21.** For the purposes of these regulations, sponsorship shall be limited to text, logo or imagery that serve the exclusive purpose of identifying the authorised person, and excludes product placement.

Sponsorships to indicate the authorised person to which they relate.

**22.** Authorised persons sponsoring any organisation, event or activity for any purpose, shall ensure that any logo or imagery used clearly indicates the identity of the authorised person.

Service related to sponsored party or event.

**23.** (1) Where an authorised person's gaming service is in any way related to the sponsored party or event, the authorised person:

- (a) must in no way exert undue influence in relation to any sporting or other matters, on representatives of the sponsored party or on any persons who can influence, or who have insider knowledge about, the sponsored event; and
- (b) must avoid any implication that they might, as a result of the sponsorship, have any involvement in the management of the activities being sponsored.

**24.** Activities where the majority of the audience is reasonably expected to be composed of minors or of vulnerable persons, or which have particular appeal to minors or vulnerable persons must not be sponsored.

Sponsorships prohibited where activity mainly involves minors or vulnerable persons.

**25.** Sponsorship of minors or of persons of legal gaming age portrayed as minors is expressly prohibited:

Sponsorship of minors.

Provided that it is lawful for an authorised person to sponsor events predominantly attended by, or teams composed of, adults, but which might include the involvement of one or more minors.

**26.** An authorised person shall not cause any promotional material, including any logos or text, to appear in merchandising designed for or mainly aimed at minors.

Merchandising aimed mainly at minors.

**27.** Sponsorship of, or advertising in, televised programmes that have or are expected to have particular appeal to minors or vulnerable persons is expressly prohibited.

Televised programmes appealing to minors.

## PART VII

### Misleading and Unfair Promotional Schemes

**28.** Promotional schemes operated by authorised persons shall be subject to the Consumer Affairs Act.

Promotional schemes.  
Cap. 378.

**29.** (1) Any promotional scheme purporting to grant any advantage or opportunity to a player must not be misleading and:

Promotional schemes must not be misleading and must adhere to conditions.

(a) must be clear as to the extent of the commitment the consumer must make to take advantage of any offer;

(b) cannot omit or hide material information, or present it in a manner which is unclear, unintelligible or ambiguous;

(c) must delineate with sufficient prominence all material information, including wagering and, or deposit requirements which must be fulfilled by a player in order to become entitled thereto, including examples displaying such requirements in an intelligible and easily comprehensible manner, as well as all or any applicable restrictions or other conditions in a clear and unambiguous manner;

(d) must include terms and conditions referring to all material information relating to the scheme, which shall be expressly agreed to by the players before being enrolled in the scheme and must thereafter always be readily available and accessible to the player who has subscribed to the scheme

(2) The authorised person shall ensure that players can

constantly view their progress in fulfilling the requirements in order to benefit from any opportunity or advantage granted by the promotional scheme.

Display to include material information when space is limited.

**30.** Where the promotion or advertisement is limited by time or space, it must include as much material information as is practical, and must direct players to an easily accessible alternative source where all the material information is prominently displayed;

Provided that where the said advertisement is of digital nature, the material information should be displayed no further than one click away from the advertisement itself.

## PART VIII

### Exemptions

Commercial communications devoted to employment or educational purposes.

**31.** Commercial communications, the sole purpose of which is to inform the public of an opportunity for employment or for an educational purpose, shall be exempt from the provisions of these regulations, provided that such commercial communications shall not include any references to gaming services.

## PART IX

### Enforcement

Complaints.

**32.** Without prejudice to the powers set out within the Act, and any other regulatory instrument, and notwithstanding the procedures envisaged in other regulatory instruments for enforcement against breaches committed by authorised persons, for the purpose of ascertaining that the provisions of these regulations are adhered to and in the fulfilment of its function in accordance with article 7(1)(c) of the Act, that gaming is advertised fairly and in a responsible manner:

(a) upon reception of a complaint by any person, or if the Authority becomes in any other manner aware of a *prima facie* breach of these regulations, the Authority must immediately notify the respective authorised person of such breach, and allow three (3) working days for the authorised person to submit a defence in writing for this alleged breach;

(b) the Authority shall examine the nature of the alleged breach of these regulations, taking into consideration the submissions of the authorised person and publish its decision within ten (10) days from the receipt of submissions from the authorised person. The authorised person must immediately be notified in writing of such decision;

Provided that, the Authority may, when it deems it necessary, instruct the authorized person in writing to suspend

the publication or provision of the commercial communication until the final decision is reached by the same Authority and the authorised person shall comply with such instructions;

(c) in the event that the Authority determines that such commercial communication does not comply with these regulations, the Authority may order its modification, retraction or termination;

(d) the Authority may take any administrative action required, including the issuing of administrative sanctions as laid down within the Act and the regulations made thereunder against authorised persons:

Provided that, in the event that the authorised person voluntarily amended, or temporarily suspended the commercial communication in question, pending the final decision of the Authority, this action will be taken into consideration by the Authority when determining the nature of the sanction;

(e) the Authority may call on the support of any relevant competent Maltese authorities for the removal of any material which is in breach of these regulations or the Act.

**33.** (1) An authorised person shall be held responsible for any breach of these regulations, even if the action is not performed directly by it, but by any third party:

Performance by third parties.

Provided that the Authority may decide against subjecting an authorised person to administrative sanctions if it can be shown that the third party acted without the knowledge or approval of the authorised person, and as long as the Authority is satisfied that the authorised person took sufficient precautions to avoid such breaches being committed, and took action forthwith to rectify the breach and endeavour that it does not re-occur.

(2) An authorised person shall, in the event that its gaming activity is being advertised or promoted by a third party in breach of these regulations, endeavour to rectify the situation forthwith.

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