

Practical Guide: Online Licensing in Colombia

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This report by GamblingCompliance provides a practical summary of the process for obtaining an online gambling concession in Colombia, the first country in Latin America to adopt a national licensing framework for internet gaming.

In September 2016, Colombia became the first country in South America to regulate online gaming by adopting a resolution establishing the formal application process for operators to apply for licenses. Detailed regulations for online gaming were adopted in June 2016, after the country revised its gaming law in June 2015 to create a more favorable tax structure for internet betting.

This report provides an overview of the application process and the criteria required for an operator to be granted a concession contract to offer online gaming in Colombia.

At the time of writing, no licenses have been awarded, although the president of the Colombian gaming authority, Coljuegos, told [GamblingCompliance in February 2017](#) that the agency expected to grant its first concession within a few months.

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Relevant Laws and Regulations

- [Law 643/2001](#) and amendments
- [Acuerdo 4/2016](#)
- [Resolution 20161200025334](#)
- [Technical Requirements](#)
- [Data Storage Requirements](#)
- Anti-Money Laundering Requirements:
 - Gambling services are regulated by extension of [Articles 102 to 107 of the Financial System Statute](#), as established by [Law 1121/2006](#)
 - [Resolution 20195100044514 of 2019](#) (localised games and novelty games under the supervision of [Coljuegos](#))
 - [Acuerdo 317/2016](#) (traditional lottery, “chance” and horseracing operators)

Key Features of Colombia’s Licensing Regime

- Types of online gambling products permitted — Online gaming machines, casino games (roulette, blackjack, baccarat), bingo, poker (cash and tournament), fixed-odds betting on the result of sports and non-sports related events and betting exchanges. Operators are required to nominate games they wish to offer as part of applications for a concession; however, operators are not obligated to operate all games for which they are approved.
- Taxation — According to Article 38 of Law 643/2001, as amended in 2015, the general taxation regime for “novelty games”, the definition of which covers the operation of online gambling services, is at least 17 percent of turnover. However, the effective tax rate for “novelty games” can be reduced to 15 percent of net gaming revenues if the gambling activity offers a payout rate of at least 83 percent of total stakes. Credits or bonuses awarded to players can be deducted from operators’ gross gaming revenues (GGR) for tax purposes.
- Concession fee – Under the regulatory framework, online gambling concession holders are required to pay a fixed fee for every year in operation equal to 811 times Colombia’s official monthly minimum wage (approx. US\$201,130, based on the monthly minimum wage of COP737,717 for 2017.)
- Administrative fees – Operators will be required to pay to Coljuegos 1 percent of both their taxed net gaming revenues and the fixed license fee for each year of operation to cover administrative costs.
- The concession application form can be found [here](#).
- Concession contract duration —Under the scope of Article 7 of Law 643/2001, concession contracts can be signed for periods of up to five years or a minimum of three years.
- Server requirements —
 - **Main/gaming servers:** There are no location requirements for main servers to be located within Colombia, although operators must provide information on the physical location of the servers to Coljuegos and ensure that Coljuegos will have secure remote access to the servers.
 - **Data servers:** According to the Technical Requirements, licensed internet gaming operators will be required to maintain their data servers within Colombia in a data center with TIER III characteristics. The type of information that is to be stored includes player account information and transactions, the operator’s account information (which should permit the calculation of the operator’s net income), and a list of self-excluded players, among other things.
- Surety/bank guarantees —
 - A compliance guarantee is required under Article 10 of Resolution 20161200025334. This guarantee must be re-evaluated every six months during the concession-holder’s first year of operations and then once every year following. The compliance guarantee must cover the following:
 - An amount equal to at least 15 of the total concession contract value to cover the financial obligations of the concession contract and any potential sanctions.
 - An amount sufficient to cover salaries and social benefits, which must equal at least 5 percent of the contract value and must be valid throughout the term of the contract and an additional three years thereafter.
 - Coverage for prize payments and reimbursements of player funds is required under Article 8 of Acuerdo 4/2016:
 - The initial guarantee must be at least COP615m (approx. US\$206,330). This guarantee must be re-evaluated every six months during the concession-holder’s first year of operations. The amount of the required guarantee will be the highest amount of either 8.1 percent of the operator’s gross gaming revenues over the past six months or COP615m.
 - After the first year of operations, the guarantee must be re-evaluated on an annual basis, when the value of the guarantee will be the highest amount of either 4.1 percent of the operator’s gross gaming revenues over the past year or COP615m.
 - A civil liabilities guarantee which, at a minimum, must cover the following:
 - Incidental damages and loss of profits.
 - Property damages.
 - Damages which occur due to acts of contractors or subcontractors.
 - Protection for stakeholders.
 - Company-owned vehicles and non-company vehicles.
- Local land-based requirements — Acuerdo 4/2016 does not require operators to have an established land-based gaming license in Colombia to obtain a concession to offer internet gaming. However, if the applicant is a foreign company, the company must be able to demonstrate that it has established a formal operating subsidiary in the country. The subsidiary may be a wholly-owned Colombian company or a branch of the foreign company incorporated in Colombia.
- International liquidity — According to Article 26 of Acuerdo 4/2016, liquidity sharing is only permitted with other operators authorized to operate in Colombia. As a result, pooling of Colombian players with dot.com networks is not presently allowed. However, Coljuegos is known to be working on draft regulations to authorize international liquidity in the near future.
- Compliance requirements – Among other things, all concession holders must have a designated compliance officer and formal programs regarding responsible gaming and to ensure compliance with Colombian anti-money laundering requirements.
- Supplier licensing – Regulations do not require technology or software providers to concession holders to undergo a licensing process. However, operators may only use technological platforms that have been certified for compliance with Colombian technical standards, while operators are required to submit annual reports to Coljuegos that include details of payments made to game providers.

Application Criteria

- The applicant must be a national or foreign legal entity and the entity must be a gaming operator.
 - Foreign companies must verify that they have a subsidiary established in Colombia. The constitution or by-laws of the subsidiary will be verified.
 - The company must be registered under the International Standard Industrial Classification of All Economic Activities Code 9200 (Gambling and Betting Activities) in the Colombian Commercial Registry.
 - The company must remain in operation for two years after the concession contract term ends.
- All documents submitted to Coljuegos must be in Spanish. If documents need to be translated, then a certified translator approved by the Ministry of Foreign Affairs must be used.
- The webpage to be used for online gaming must be in Spanish and under a domain ending in “.co” that is owned by the applicant.
- The financial requirements are explained below:
 - **Working Capital:** Online gambling license applicants are required to demonstrate a working capital (WC) equal to or higher than 1,450 times Colombia’s formal minimum wage (currently COP737,717). Based on the below formula, the required minimum working capital would be approximately US\$359,000.
 - *Working Capital (WC) = (Current Assets-Current Liabilities) = ≥ 1,450 CMMW (Approx. US\$359,000)*
 - **Net Debt:** Online gambling license applicants are required to demonstrate a level of indebtedness equal to or lower than 70 percent of the operators’ total assets, which will be calculated using the following formula:
 - *Level of Indebtedness (LI) = Total Liabilities / Total Assets = ≤ 70 percent.*
 - **Net Worth:** Online gambling license applicants are required to demonstrate a net worth equal to or higher than 30 percent of the fixed exploitation rights (fixed annual tax) established by Law 643/2001, which will be calculated using the following formula:
 - *Net Worth Required (NWR) = Net Worth/(Fixed Exploitation Rights (811 CMMW x number of years of the contract) and Administrative Expenses (811 CMMW x number of years of the license x 1 percent)) ≥ 30 percent*
 - Online gambling operators are also required to have a surety or bank guarantee for the coverage of obligations, salary and social benefits, and player deposits and prizes.
- Documents required:
 - [Application form](#).
 - Copy of identification of the designated legal representative:
 - If applying through a proxy, the power of attorney or authorization document must be presented to a judicial officer or notary to ensure that the proxy has the authority to sign documents and to enter into the concession contract on behalf of the entity.
 - Approval from the board of directors or the shareholders (in accordance with the by-laws of the entity) authorizing the legal representative to sign all documentation.
 - Required information for the applicant’s accountant or fiscal auditor (if applicable):
 - Copy of identification
 - Business card
 - Certificate of good standing and background record issued by Central Board of Colombian Accountants.
 - Financial statements:
 - Balance sheet
 - Income statement
 - Cash flow statement
 - Statement of changes in equity
 - Statement of changes in financial position
 - Bank certification.
 - Certification of compliance with technical requirements.
 - Documentation establishing estimated value of the contract:
 - This is calculated by the sum of the total gaming revenue tax, fixed license fees, and administrative costs to be paid to Coljuegos for the contract term.
 - Proposed fiduciary or bank guarantee documentation to cover prizes and return of players’ funds.
 - Certification of contributions to social security and other tax obligations, signed by the legal representative or fiscal auditor.
 - Operator’s manual for the prevention of money laundering and terrorist financing.
 - Operator’s code of conduct.
 - Responsible gaming program.
 - Information required for a compliance officer:
 - Curriculum vitae
 - Copy of identification
 - Cover letter and acceptance letter

Application Process

- Only one application may be submitted for each interested entity.
- Application may be submitted in the following manner:
 - In person at Coljuegos’ offices.
 - Via Coljuegos’ online operator portal.
 - Via email.
- Before applications are submitted, the operator’s software/gaming platform must be certified by a testing laboratory authorized by Coljuegos. Currently, these are the authorized testing labs:
 - Gaming Laboratories International LLC (GLI)
 - NMi Metrology & Gaming Ltd (NMI)
 - BMM North America Inc (BMM)
 - SIQ Gaming Technologies (SIQ)
- The operator then must gather and submit all required documentation to Coljuegos.
- Once received, Coljuegos has a maximum period of two months to review and determine whether to issue a concession to the entity.
- If the decision is favorable, Coljuegos will communicate the date of the contract to the applicant.
- Upon being notified of the awarded contract, the operator must file the fiduciary or bank guarantee for the coverage of prizes and player funds. If denied, Coljuegos will provide reasons for the denial.
- Within 15 days after being accepted, the applicant must also provide Coljuegos with its required guarantees.

Enforcement

With Colombia’s online gambling market now open and officially regulated, Coljuegos is known to be working with the country’s National Police and the Ministry of Information Technologies and Communications (MINTIC) to enforce the blocking of more than 300 gaming websites which are currently believed to be operating illegally in the country.

Coljuegos has yet to publish an official “blacklist” of the unauthorized sites to which it is looking to block access from Colombia. However, local newspaper Revista Semana in March 2017 published a [list of 325 domain names](#) purportedly drawn up by Coljuegos, including sites belonging to leading international operators bet365, 888, PokerStars and Paddy Power Betfair. Independent sources in Colombia have told GamblingCompliance that the list published by Revista Semana should be considered unofficial but is likely to be genuine, and that such websites are expected to be subject to blocking as soon as MINTIC and Coljuegos finalize the technical protocols to do so.

Law 643/2001, as amended in 2015, grants Coljuegos and other Colombian authorities express authority to “monitor any channels, financial institutions, websites and media that in any way service the operation, sale, payment, advertising or marketing of unauthorized games of chance, and order the corresponding warnings or blocks.” Under Article 44 of Law 643/2001, entities found to be operating illegally may be suspended from offering gaming activities for a period of five years following the imposition of a penalty. Article 46 of the law also establishes a fine of up to 300 times the Colombian monthly minimum wage (CMMW) (COP737,717 for 2017), for illegal gambling activities.

Credits

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This report was prepared with assistance from attorneys Juan Camilo Carrasco and Andrés Torrado in the Bogotá offices of Asensi Abogados law firm.

Further information about Asensi Abogados can be obtained by visiting the firm’s [website](#).

REFERENCE LIBRARY

[Colombia Country Report](#)

[Colombia Q&A: Online Gambling](#)

[Colombia Licensing Guide](#)

[Colombia Q&A: Supplier Licensing & Certification](#)

[Technical Compliance](#)

WATCHLIST

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