



Notification Number: 2017/578/E

Draft Royal Decree on commercial communications for gambling activities and on responsible gambling

Date received : 13/12/2017

End of Standstill : 14/03/2018

Message

Message 002

Communication from the Commission - TRIS/(2017) 03224

Directive (EU) 2015/1535

Translation of the message 001

Notification: 2017/0578/E

No abre el plazo - Nezahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He ce предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201703224.EN)

1. Structured Information Line

MSG 002 IND 2017 0578 E EN 13-12-2017 E NOTIF

2. Member State

E

3. Department Responsible

Subdirección General de Asuntos Industriales, Energéticos, de Transportes, Comunicaciones y Medio Ambiente.

Dirección General de Coordinación del Mercado Interior y otras Políticas Comunitarias.

Secretaría de Estado de Asuntos Europeos.

Ministerio de Asuntos Exteriores y de Cooperación.

C/ Serrano Galvache, 26, 4ª planta, Torre Sur (28071 Madrid)

Teléfonos: 91 379 84 64

Fax: 91 379 84 01

Dirección correo electrónico: d83-189@maec.es

3. Originating Department



Ministerio de Hacienda y Función Pública

4. Notification Number

2017/0578/E - H10

5. Title

Draft Royal Decree on commercial communications for gambling activities and on responsible gambling

6. Products Concerned

- Gambling-related activities

7. Notification Under Another Act

- The draft Royal Decree on commercial communications for gambling activities and on responsible gambling was notified to the European Commission in 2015 under procedure No 2015/0186/E.

A new version of this draft is now being notified.

8. Main Content

Without prejudice to the pre-existing legislative and self-regulation framework, the main purpose of this royal decree is to implement Articles 7 and 8 of Law 13/2011 of 27 May 2011 on gambling regulation, completing and updating the regulation of the gambling market under State jurisdiction.

This Royal Decree contains a preamble, thirty Articles grouped into four titles, four additional provisions, two transitional provisions, a repealing provision and two final provisions.

The introductory title 'General provisions' sets out the purpose of the royal decree, namely implementing certain provisions of Law 13/2011 of 27 May 2011 on gambling regulation in relation to commercial communications and the policies on responsible gambling and consumer protection. It also specifies both the subjective and objective scope of application, the objective scope covering all gambling activities conducted under State jurisdiction. Lastly, it introduces various definitions and provides a context for institutional collaboration and coordination between the authority responsible for regulating gambling and other relevant public bodies and organisations.

Title I 'Commercial communications on gambling activities' starts with the provision relating to the implementation of legislation set out in Article 7 of Law 13/2011 of 27 May 2011, going on to cover the various aspects related to advertising, sponsorship and all other forms of commercial communication for gambling activities. To this end, the essential content of the 2012 Code of Conduct in relation to ethical standards has been included, though updated with adjustments and some amendments. Chapter I thus contains the legal framework governing commercial communications and the general principles to be followed with such communications. Likewise, Chapter II includes some specific provisions. Some of these relate to certain forms of commercial communication, such as sponsorship or vouchers and other promotional initiatives, while others deal with the various forms of gambling and the commercial communication dissemination channels and media that require additional, specific treatment. Chapter III includes provisions for encouraging various co-regulation and self-regulation mechanisms within the field of commercial communications. These mechanisms are designed as systems that increase consumer protection, ensure greater (voluntary) involvement of the main stakeholders in the sector and form an effective extra tool in meeting the objectives of gambling legislation in relation to advertising.



Title II 'Responsible gambling policies and user protection' deals with the implementation of regulations for the provisions laid down in Article 8 of Law 13/2011 of 27 May 2011. In this regard, and in addition to the existing measures, a series of specific implementation mechanisms in this area has been included. Thus, in addition to a general provision on corporate social responsibility, a series of obligations and implementation measures to be applied by gambling operators has also been introduced, with the aim of preventing, detecting and, where applicable, reducing afflictions such as gambling addiction or dependence or other risks or problems associated with gambling. In addition, the regulatory and control powers of the competent State authority have been enhanced and various ways for operators to collaborate with the Administration have been planned.

Under this title, the various responsible gambling measures have been organised into three areas. The first relates to prevention, focused on mechanisms for operators to provide users with transparent and easily accessible information, taking into account the requirements and characteristics in terms of how the information is presented and accessed, the minimum information content and the use of public figures on the operator's online platforms. The second involves mechanisms for raising awareness of the adverse effects of gambling, including the option for operators to send the authority responsible for gambling regulation studies they have carried out on responsible gambling, with a view to them being more widely distributed. It also includes an obligation for operators to collaborate with the Administration in certain initiatives aimed at increasing knowledge of how the gambling industry works, of users' perceptions and of risk factors associated with gambling. The third of these areas is the introduction of control systems, including the obligation for operators to monitor their participants' activity in order to detect potentially risky behaviour. This area also covers provisions for giving users the ability to temporarily suspend their own gambling accounts, and for setting up a telephone support service for users.

Title III refers to the supervision, inspection and control system. Firstly, this title implements the provisions of Law 13/2011 of 27 May 2011 as regards the requirements for ceasing the communications or providing information, and the interaction between other supervisory bodies in this sector. In addition, the role of the bodies responsible for gambling supervision within the penalties system arising from gambling and audiovisual legislation is laid down. Mechanisms for linking to the penalties system in the recognised co-regulation systems are described too, with the aim of making these systems more useful and effective. In particular, gambling operators' duty of care with respect to the actions of businesses they are associated with is also specified.

The first of the additional provisions refers to the special conditions for the participation of certain underage people in National Lottery draws (taking account of the established practice and tradition). The second repeats the special statutory arrangements for the supervision of the Organización Nacional de Ciegos Españoles (Spanish association for the blind) by its supervisory board (Consejo de Protectorado), as well as certain specific details relating to the advertising this organisation produces in relation to its various gambling activities. The two final additional provisions include similar advertising conditions for public-interest or charitable activities other than gambling that may be carried out by the State lotteries operator Sociedad Estatal Loterías y Apuestas del Estado or by non-profit organisations or foundations formed by or linked to gambling operators.

Moreover, the transitional provisions set out the need to adapt the existing co-regulation systems to the system in the royal decree. Sponsorship contracts shall also be adapted. Finally, the first final provision amends a specific aspect of Royal Decree 1614/2011 of 14 November 2011 relating to the mechanism allowing users to set and adjust deposit limits, which was deemed to need clarification. The second final provision states the entry into force of the royal decree.

9. Brief Statement of Grounds

Firstly, the royal decree aims to protect public interests (public health) affected by gambling activities, in particular protecting minors and other vulnerable groups. It also aims to prevent gambling addiction and other risks related to gambling, as well as to protect consumers and users, participants and the general public.



Secondly, it is intended to give gambling operators greater legal security by laying down transparent rules applied consistently across the industry, without undue discrimination against the stakeholders involved. The intention is also to strengthen and adapt the monitoring, control and penalty system in the regulated areas by including the promotion of self-regulation and co-regulation in the administrative mechanisms.

10. Reference Documents - Basic Texts

No basic text(s) available

11. Invocation of the Emergency Procedure

No

12. Grounds for the Emergency

-

13. Confidentiality

No

14. Fiscal measures

No

15. Impact assessment

-

16. TBT and SPS aspects

TBT aspect

No - the draft is neither a technical provision nor a conformity assessment procedure.

SPS aspect

No - the draft is neither a sanitary nor phytosanitary measure.

European Commission

Contact point Directive (EU) 2015/1535

Fax: +32 229 98043

email: grow-dir2015-1535-central@ec.europa.eu