



Notification Number: 2015/186/E

## Draft Royal Decree on commercial communications for the activities of gambling and responsible gambling.

Date received : 10/04/2015

End of Standstill : Closed

Issue of comments by : Commission

### Message

Message 002

Communication from the Commission - TRIS/(2015) 01042

Directive 98/34/EC

Translation of the message 001

Notification: 2015/0186/E

No abre el plazo - Nezaahajuje 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 - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He се предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201501042.EN)

#### 1. Structured Information Line

MSG 002 IND 2015 0186 E EN 10-04-2015 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 de Políticas Comunes y de Asuntos Generales de la Unión Europea. Secretaría de Estado para la Unión Europea.

Ministerio de Asuntos Exteriores y de Cooperación.

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### 3. Originating Department

Ministerio de Hacienda y Administraciones Públicas.

### 4. Notification Number

2015/0186/E - H10

### 5. Title

Draft Royal Decree on commercial communications for the activities of gambling and responsible gambling.

### 6. Products Concerned

- Gambling-related activities

### 7. Notification Under Another Act

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### 8. Main Content

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

This royal decree contains 36 articles grouped under four titles, and two additional provisions, two transitional provisions and three final provisions.

The preliminary title 'General provisions' establishes the purpose of the royal decree, which consists in the implementation of specific provisions of Law 13/2011 of 27 May for the regulation of gambling, relating to commercial communications, and the policies on responsible gambling and consumer protection. Furthermore, it specifies both the subjective and objective scope of application, covering all gambling activities conducted under State jurisdiction. Lastly, various definitions are introduced, and it creates a scope for institutional collaboration and coordination between the authority responsible for the regulation of gambling and other relevant public bodies and organisations.

Title I 'Commercial Communications on gambling activities' is based on the provision relating to regulatory implementation contained in Article 7 of Law 13/2011, while it also covers other aspects related to publicity, sponsorship and any other way of promoting gambling activities. To that end, the essential content has been collected in the Code of Conduct on commercial communications regarding gambling activities of June 2012 as regards its ethical principles, updated with adaptations and a number of amendments. Accordingly, Chapter I establishes the legal framework for commercial communications, the principles to be observed in commercial communications relating to gambling and a number of specifications with regard to these. Likewise, Chapter II addresses some specific provisions which, in some cases, affect certain types of commercial communications, such as sponsorship or vouchers, and other promotional initiatives, and in others, the various gambling varieties and the means of broadcasting commercial communications requiring additional and particular treatment. Chapter III includes provisions to launch various co-regulation and self-regulation mechanisms for commercial communications, designed as systems to increase the level of consumer protection, ensure greater voluntary involvement by the main parties in the sector, and serve as an effective complement in complying with the objectives of the regulatory framework on gambling with regard to publicity.



Title II 'Responsible gambling policies and user protection' concerns the regulatory development of the provisions established in Article 8 of Law 13/2011 of 27 May. In this regard, and in addition to the existing measures, a series of concrete performance mechanisms have been developed in this area. In this way, in addition to the general provision on corporate social responsibility, a series of obligations and measures for action have been included for their implementation by gambling operators, guided by the objective of preventing, detecting and, where applicable, mitigating pathological phenomena (such as gambling addiction and compulsive gambling), or other risks and problems associated with gambling. In addition, the capacities for regulation and control of the State authority in this area are strengthened, and various schemes for collaboration between operators and the Administration are established.

Under this title, the various responsible gambling measures have been streamlined in three areas. The first area is prevention, focusing on mechanisms for the provision of transparent and easily accessible information by the operators to the users, considering the requirements and characteristics with regard to presentation, access and minimum content of said information, and the use of public figures in the operator's online platforms. The second area relates to the mechanisms to raise awareness regarding the adverse effects of gambling, including the promotion of education and information campaigns regarding gambling carried out by the operators, the obligation of operators to communicate any studies on responsible gambling carried out by the authority responsible for regulating gambling with a view to facilitating their dissemination, and the operators' duty to collaborate with the administration on certain initiatives to obtain a better understanding of the functioning of the activity, of the perception that its users have of it and of the risk factors linked to gambling. The third area is the development of control systems, including the obligation for operators to follow up on the activities of participants; provisions regarding the temporary suspension of gambling accounts; the establishment of a user support telephone service; and the regulation of the payment of funds and prizes in certain situations to institutions which offer support or assistance in relation to gambling-related risks.

Title III refers to the framework for supervision, implementing the provisions of Law 13/2011 of 27 May with regards to aspects such as requirements for termination or information. Likewise, it establishes provisions regarding infringement proceedings. In this regard, the main addition is the linkage of connection mechanisms with the infringement framework of the recognised co-regulation and self-regulation systems, with a view to strengthening the utility and effectiveness of these systems.

Lastly, the first additional provision refers to the special conditions for the participation of underage people (taking into account established practice and tradition) in National Lottery draws. The second refers to the specific conditions legally recognised by the Council of the Protectorate for the supervision of the Spanish Organisation for the Blind (ONCE). Likewise, the transitional provisions establish the validity of certain co-regulation and self-regulation systems, and provide for the adaptation of technical gambling systems. The final provisions concern the assignment of competences, the competence for regulatory implementation of the State authority for the regulation of gambling, and the entry into force of the royal decree.

## 9. Brief Statement of Grounds

Protect public interests (public health) affected by gambling activities, in particular the protection of underage people and other vulnerable groups, the prevention of gambling addiction and other risks related to gambling, as well as protect consumers and users, participants and citizens in general.

Provide greater legal certainty for gambling operators, establishing transparent and uniformly applicable rules for the sector, without unwarranted discrimination against the parties involved, and reinforce and ensure the monitoring, control and the disciplinary framework with regard to the areas for regulation, integrating administrative mechanisms, including the promotion of self-regulation and co-regulation.



**10. Reference Documents - Basic Texts**

No basic text(s) available.

**11. Invocation of the Emergency Procedure**

No

**12. Grounds for the Emergency**

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**13. Confidentiality**

No

**14. Fiscal measures**

No

**15. Impact assessment**

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**16. TBT and SPS aspects**

TBT aspect

No - the draft has no significant impact on international trade.

SPS aspect

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

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European Commission

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