

Code of Conduct on Responsible Advertising for Online Gambling

Parties to the agreement:

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1. INTRODUCTION

The purpose of the European Gaming and Betting Association's (EGBA) Code of Conduct¹ (referred to as the "Code") is to enhance consumer and minor protection through the promotion of responsible advertising measures for online gambling. The Code reflects the industry's responsibility for ensuring that gambling is a safe and responsible entertainment pastime.

The Code is developed in the context of the Audiovisual Media Services Directive (AVMSD), which encourages the use of self and co-regulation for advertising, including *Gambling advertising*². The Code establishes a set of responsible advertising measures for online gambling, applicable across the EU/EEA and the UK that may complement or go beyond the existing legal and/or self-regulatory measures already in place in those countries.

The Code applies without prejudice to the national laws of the UK and the EU/EEA countries where the *Online gambling operators* provide their services, as well as applicable EU legislation, such as the Unfair Commercial Practices Directive (UCPD)³, the Directive on Misleading Advertising⁴ and the General Data Protection Regulation⁵. The measures in the Code do not prevail over legal requirements. If a local self-regulatory provision goes further than a provision in this Code, *Gambling operators* must comply with the local self-regulatory provision.

Online gambling operators, national gambling associations and representative bodies of other industries are invited to sign up to the Code and promote it amongst their members.

¹ The EGBA Code of conduct on Gambling advertising has been designed by the European Gaming and Betting Association (EGBA) on the basis of currently applicable self-regulatory codes of conduct, such as the 2019 Danish Code of conduct developed by the Danish Online Gambling Association (DOGA) and the proposed in 2019 "marketing guidelines of the Swedish Gaming Industry" adopted by the Swedish Trade Association for Online Gambling (BOS) and the Swedish Gambling Association (SPER). Reference is also made to the 2015 sponsorship guidelines developed by the European Sponsorship Association (ESA) in collaboration with EGBA, as well as the EC Recommendation of 14 July 2014 on "*principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online*", (2014/478/EU).

² Directive 2018/1808/ of the European Parliament and of the Council, 14 November 2018.

³ Directive 2005/29/EC of the European Parliament and of the Council, 11 May 2005.

⁴ Directive 2006/114/EC of the European Parliament and of the Council, 12 December 2006.

⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council, 27 April 2016.

Implementation and enforcement

In order to ensure maximum effectiveness, and reflecting the accepted European principles for better self- and co-regulation, members of EGBA are encouraged to cooperate with their respective advertising self-regulatory organisations (SROs), in the most appropriate manner, with a view to having the principles of the Code adopted at national level. EGBA commits to report regularly and publicly on progress in terms of having this Code, shared with national SROs.

In countries where an SRO adopts specific national guidelines based on this Code, SROs are responsible for adjudicating on complaints from both competitors and consumers and help ensure that any cases of non-compliance with such guidelines are rectified.

Monitoring and review

EGBA also endeavours to ensure that compliance with the provisions of this Code by its signatories is monitored regularly in an independent, transparent, participative and accountable manner.

Online gambling operators commit to assign the review of parts, or entirety, of the Code to an independent monitoring body, to monitor compliance and ensure that the Code continues to reflect societal trends and expectations and to amend it as necessary.

2. THE ROLE OF GAMBLING ADVERTISING

Gambling advertising has a vital role in any well-functioning gambling market, as it enables licensed *Online gambling operators*, to offer their *Online gambling services* and products to consumers and allow them to make an informed choice. Responsible advertising guides consumers to the regulated *Online gambling services* and steers them away from the unregulated environment. The Court of Justice of the European Union (CJEU) has established that advertising is a tool to direct ('channel') consumers towards the regulated gambling offer.⁶ To achieve those objectives *Gambling advertising* needs to be targeted and sustainable.

For instance, *Gambling advertising* must not be aimed specifically at *Minors*, neither in its design nor in its placement, such as around TV programmes which are dedicated to/aimed at *Minors*. Likewise, to be sustainable, *Gambling advertising* must also inform *Players* of the importance of staying in control of their behaviour, and where to find help if required.

When *Gambling advertising* is directed at a specific audience during popular events, it must not be perceived as excessive, but should strike the right balance between the quality and the quantity of advertising. Where those situations arise, *Online gambling operators* should engage with regulators and relevant stakeholders in an open dialogue with the aim to find solutions on a national level. For example, *Online gambling operators* could agree on dedicating a percentage of adverts to responsible gambling.

⁶ Cases: *Ladbrokes Betting* (C-258/08) §30, Joint cases *Markus Stoß* (C-316/07, C-358/07, C-359/07, C-360/07, C-409/07 and C-410/07) §101-103, *Case Dickinger and Ömer* (C-347/09) §69, §100.

3. DEFINITIONS⁷

- **“Advertising intermediaries”** are companies and/or individuals, such as media agencies, influencers, bloggers, brand ambassadors, etc, who promote either directly or indirectly an *Online gambling service* and/or brand on behalf of the *Online gambling operator*, on the basis of a contractual relationship.
- **“Affiliate(s)”** are companies, who promote either directly or indirectly an *Online gambling service* and/or brand on behalf of the *Online gambling operator* on the basis of a contractual relationship and, where required, also under a licencing regime.
- **“Bonus(es)”** refers to financial incentives, such as discounts, payback, cashback, free bets, spins or stakes that are deployed to render a gambling offer more attractive.
- **“Gambling marketing”** refers to any form of commercial communication designed to promote, directly or indirectly, the services, branding, or corporate image of an *Online gambling operator*, by the *Online gambling operator* and/or by its *Advertising intermediaries* and/or *Affiliates*. This includes but is not limited to print media, social media, direct mail (electronic or postal), audiovisual media and outdoor advertising. Unless stated otherwise in the Code, **“Gambling marketing”** also refers to **“Gambling advertising”**.
- **“Minors”** refers to any person under the minimum age requirements to participate in online gambling as defined by the national laws of the respective EU country. In most cases this minimum age is 18 years, but in some cases, it is 21 years.
- **“Player(s)”** means any person who holds a *Player* account with an *Online gambling operator* and participates in any type of *Online gambling service*.
- **“Online gambling operator(s)”** is defined as any legal entity providing an *Online gambling service*. Unless stated otherwise, throughout the Code **“Online gambling operator”** also refers to **“Gambling operator”**.
- **“Online gambling service(s)”** is any service which involves placing a stake of monetary value in a game of chance, including lotteries, casino games, poker games, virtual sports, eSports and any type of betting provided online, by electronic means or any other technology for facilitating communication and at the individual request of a recipient of services.

⁷ Based on the Commission Recommendation of 14 July 2014 on principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online, (2014/478/EU).

- **“Sponsorship”** means a contractual relationship between a *Gambling operator* and a sponsored commercial party under which the *Gambling operator* provides direct financing or other financial support to any sporting or artistic event, organisation, club or individual, to establish an association between the *Gambling operators’* corporate name, image, brand or products and a sponsored party, in return for commercial communications or other benefits.

4. SCOPE

The Code is intended to be applicable in all EU, EEA countries and the UK. Signatory parties agree to comply with the measures included in this Code. The Code covers all *Gambling marketing* activities in all media platforms (including television, radio, social networks and other online platforms), regardless of the technology used. All signatories, commit to implement and uphold, in letter and in spirit, this Code of Conduct.

Online gambling operators should seek to ensure their *Advertising intermediaries* and/or *Affiliates* are aware and comply with the EGBA Code, where applicable. This is without prejudice to any liability the *Affiliates* and/or *Advertising intermediaries* may incur through their own behaviour. However, if an *Online gambling operator* is aware that an advertising intermediary and/or affiliate is in breach of the Code, the *Online gambling operator* should take appropriate steps to ensure that the advertising intermediary ceases such behaviour.

Signatory parties may promote the Code where appropriate, including on their websites or via other channels. The Code is a “living document” and can be updated by EGBA, in consultation with the signatory parties, in the future.

5. CONTENT MODERATION

Gambling marketing should provide clear and non-misleading information about an *Online gambling operator* or *Online gambling service*. It should be socially responsible and not encourage problem gambling.

Gambling marketing should not:

- a. Claim that gambling is free of the risks of financial losses;
- b. Promote behaviour that objectively leads to financial harm;
- c. Provide false or unrealistic information about the probability of gambling winnings or returns;
- d. Suggest that skill can influence the outcome of a game of pure chance;
- e. Suggest that it is possible to gamble anonymously or without holding an account with an *Online gambling operator*;
- f. Target or specifically appeal to *Minors*;
- g. Show, condone or encourage criminal or antisocial behaviours;
- h. Suggest gambling is an important part of an individual's life and can be a resolution to personal, professional or educational problems;
- i. Contain claims that gambling can lead to social success or enhancement of personal qualities, i.e. gambling can improve consumers' self-esteem;
- j. Promote gambling as an alternative to employment, or a financial investment or a solution to financial problems;
- k. Imply that gambling is more important than family, friends, professional or educational obligations;
- l. Contain messages that gambling could lead to sexual success or enhanced attractiveness;
- m. Exploit cultural beliefs regarding the role of gambling or luck;
- n. Contain, pressuring or urgent messages such as "you have nothing to lose", "your next win is around the corner", or "hurry up and bet now";

- o. Contain unclear information about the terms and conditions for -inter alia- obtaining a *Bonus*, where applicable. Where technically possible, an ad on *Bonuses* should make clear that a new customer needs to register first in order to get “a *Bonus* of 6 free spins”, for example.

6. PROTECTING MINORS

Gambling marketing should not harm or exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of *Minors*. *Gambling marketing* should not be aimed at or specifically designed to appeal to *Minors*.

Messages and content

Gambling marketing should:

- a. Clearly state information/ have message on minimum age requirements;
- b. Not contain claims that gambling marks the transition from adolescence to adulthood;
- c. Not invite *Minors* to gamble;

Appeal and portrayal

Gambling marketing should not portray:

- a. Colourful and exaggerated animated characters that are common in children's cartoons such as animals, pirates or fairy-tale characters;
- b. Comic figures which have particular appeal to *Minors*;
- c. Other fictional characters which have particular appeal to *Minors*, such as superheroes;
- d. Celebrities from movies, programs or events where the primary audience is *Minors*;
- e. *Minors* in gambling adverts, except when *Minors* participate in the event on which bets are offered, for example *Sponsorship* of events or teams that include one or more individuals that are under the legal gambling age;
- f. Adults as being under the minimum age or imitating *Minors*;
- g. Adolescent, juvenile or loutish behaviour;

Display and placement

Gambling marketing should not be:

- a. Displayed during audiovisual programmes or on digital platforms where *Minors* are expected to be the primary audience, this includes in TV ad breaks immediately before or after dedicated broadcasts for *Minors*;
- b. Displayed in print media (e.g. comic books, magazines), which specifically target *Minors*;
- c. Reproduced on merchandised material such as clothing, equipment or products intended for use by *Minors*.

7. RESPONSIBLE GAMBLING MESSAGING

Responsible gambling messaging informs *Players* on risks associated with gambling and encourage appropriate gambling behaviour. The messaging can be formulated in many ways, e.g. “Winners know when to stop”, “if the fun stops, stop!”.

Where possible, responsible gambling messaging should:

- a. Be included in all *Gambling marketing*;
- b. Be clearly stated in order to be legible;
- c. Include information on help lines on gambling related problems, where the *Player* or relatives can seek help;

All *Gambling marketing* content must also show the following:

- 18+ or any legal age limit applicable symbol;
- Link to the relevant responsible gambling website (e.g. www.begambleaware.com for the UK);
- Terms & Conditions (T&Cs) apply, where applicable;
- Wagering requirements, if applicable;
- Local requirements which will differ according to local licence (i.e. the inclusion of “significant terms” in the UK).

Responsible Gambling Campaigns

Gambling operators can individually or jointly together with other *Gambling operators* run responsible gambling campaigns to raise awareness on responsible gambling. The campaigns can include specific links/references to fact -based information on problem gambling and effective tools to deal with it. These campaigns should:

- a. Only include information about responsible gambling and not invitations to gamble or *Bonus* offerings;
- b. Last for at least a period of time long enough to be read/listened to and understood on any *Gambling marketing* channels.

8. SOCIAL MEDIA

Online gambling operators should seek to ensure that when they work with influencers, brand ambassadors, streamers, podcasts, they comply with the requirements of this Code irrespectively of whether the *Gambling operator* is itself the creator and sender of advertising.

Social media includes but it is not limited to Facebook, YouTube, Twitter, Instagram, etc.

In particular:

- a. *Gambling operators* should ensure, where possible, that paid-marketing is clearly labelled when produced in collaboration with influencers, bloggers and when purchasing editorial content. For example, the hashtag #ad (or other appropriate disclosure label recommended by the SRO in a given market) can be used to indicate sponsored content on social media, which is either uploaded by the *Gambling operator* or by the sponsored party (influencer, ambassadors, bloggers, etc);
- b. *Gambling operators'* profiles and pages on social media should clearly state the legal age limit for gambling⁸, as well as the responsible gambling messaging requirements of this Code (see above for guidance). To the extent possible, they should also include a forward advice notice, reminding users not to forward content to anyone underage;
- c. When technically feasible, *Gambling operators* should ensure that their profiles and pages on social media are restricted, so they can only be accessed by those who declare they are over the legal age limit for gambling (age-gating);
- d. *Gambling operators'* profiles and pages on social media should be verified by an "official profile" badge or statement, so users are aware that they are the official brand pages;
- e. To avoid marketing targeting *Minors*, *Gambling operators* should use the available data tools when advertising on social media, such as age-screening tools or tools to identify age-restricted content. This can be done, for example, by filtering data which analyses individuals' online interests and browsing behaviour.

⁸ In most Member States of the EU the legal age limit for gambling is 18+ years old.

9. SPONSORSHIP

- a. *Gambling operators* should not sponsor activities, where the primary audience is reasonably expected to be *Minors*, or which have a particular appeal to *Minors*;
- b. *Gambling operators* should not sponsor *Minors*. However, this does not prevent *Sponsorship* of events or teams which might include the involvement of one or more individuals that are under the legal gambling age. Care should also be taken when sponsoring an individual over the legal gambling age, or when including them in any related marketing activities, making sure that they are not portrayed as being under the legal gambling age;
- c. *Minors* should not be portrayed in *Gambling marketing*, except to the limited extent arising due to their participation in the event on which bets are offered;
- d. *Gambling operators* and sponsored parties are encouraged to ensure that Gambling marketing is not used in merchandises designed specifically for *Minors*.