

**DRAFT**

ADVERTISING  
CGCC-GCA-2018-0#-R

1                                   **California Gambling Control Commission**  
2                                   **SPECIFIC LANGUAGE OF PROPOSED REGULATIONS**  
3                                   **Advertising**  
4                                   **CGCC-GCA-2018-0#-R**

5  
6                                   **CALIFORNIA CODE OF REGULATIONS**

7                                   **TITLE 4. BUSINESS REGULATIONS.**

8                                   **DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION.**

9  
10                                   **CHAPTER 1. GENERAL PROVISIONS.**

11                                   **ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS.**

12  
13                                   **§ 12002. General Definitions.**

14                                   Unless otherwise specified, the definitions in Business and Professions Code  
15 section 19805, supplemented by the definitions found in Chapter 10 of Title 9 of  
16 Part 1 of the Penal Code (commencing with section 330), ~~shall~~ govern the  
17 construction of this division. As used in this division:

18                                   ...

19                                   (b) “Advertisement” or “advertising material” means any statement,  
20 illustration, or depiction concerning controlled gambling activity, or any display  
21 of the logo or trademark of a gambling establishment, in a publication, outdoor or  
22 indoor display, broadcast announcement, or electronic media, over which a  
23 gambling enterprise or third-party provider of proposition player services has a  
24 reasonable degree of control, for the purpose of soliciting participation in  
25 controlled gambling.

26                                   (1) “Advertisement” or “advertising material” does not include:

27                                   (A) The solicitation of activities, events, or services that do not promote the  
28 participation in controlled gambling and may otherwise be provided on the  
29 premises of a gambling establishment including, but not limited to: restaurant  
30 dining, concerts, trade shows, business conferences, and non-gambling related  
31 promotions and contests.

32                                   (B) Any identifying business signage located in or on the premises of a  
33 gambling establishment.

34                                   (C) Any notices or postings otherwise required by the Act, this Division, or  
35 Title 11, Division 3 of the California Code of Regulations, such as posted game  
36 rules.

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1 ~~(c)(b)~~ ...

2 ~~(d)(e)~~ ...

3 ~~(e)(d)~~ ...

4 ~~(f)(e)~~ ...

5 ~~(g)(f)~~ ...

6 ~~(h)(g)~~ ...

7 ~~(i)(h)~~ ...

8 ~~(j)(i)~~ ...

9 ~~(k)(j)~~ ...

10 ~~(l)(k)~~ ...

11 (m) “Direct advertisement” or “direct advertising,” means any advertisement  
12 that is distributed directly to a specific individual or household in person or  
13 through the mail, Internet, messaging service, or any telephonic communication  
14 system for the purpose of soliciting participation in controlled gambling. A direct  
15 advertisement may be in the form of, but is not limited to, a brochure, letter, flyer,  
16 email, text message, multimedia message, direct message, audio, video, or any  
17 advertisement disseminated using a list of specific recipients, demographic data,  
18 or Internet trackers.

19 ~~(n)(l)~~ ...

20 ~~(o)(m)~~ ...

21 ~~(p)(n)~~ ...

22 ~~(q)(o)~~ ...

23 ~~(r)(p)~~ ...

24 ~~(s)(q)~~ ...

25 ~~(t)(r)~~ ...

26 ~~(u)(s)~~ ...

27 ~~(v)(t)~~ ...

28 ~~(w)(u)~~ ...

29 ~~(x)(v)~~ ...

30 ~~(y)(w)~~ ...

31 ~~(z)(x)~~ ...

32 ~~(aa)(y)~~ ...

33 ~~(ab)(z)~~ ...

34 ~~(ac)(aa)~~ ...

35 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19853(a)(3) and 19854,  
36 Business and Professions Code. Reference: Sections 19800, 19805, 19811, 19816, 19841, 19853,  
37 19951 and 19984, Business and Professions Code.

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**ARTICLE 3: ADVERTISING**

**§ 12080. General Requirements.**

(a) A gambling enterprise and a third-party provider of proposition player services:

(1) Must comply with all the requirements of this article, as applicable.

(2) Must comply with Title 11, CCR, Section 2072, subsection (e).

(3) Is responsible for any advertisement that is created, purchased, placed, or distributed by or for it.

(b) A third-party provider of proposition player services will not create, purchase, place, or distribute any advertisement for a gambling enterprise with which it has a proposition player contract, as defined in Section 12200, unless the advertisement costs are included in the Bureau-approved proposition player contract.

Note: Authority cited: Sections 19824, 19826, 19840, 19841 and 19984, Business and Professions Code. Reference: Section 19984, Business and Professions Code.

**§ 12082. Advertising Content.**

(a) Advertisements must present all of the required information in a clear and conspicuous manner to give the viewer or listener adequate notice of the information. As used in this section, clear and conspicuous means the required information is readable to the average viewer or audible and intelligible to the average listener, as applicable.

(b) All advertisements must include:

(1) The name, nickname, alias, or any other name by which the gambling establishment is commonly known.

(2) All of the following:

(A) A statement that participants must be 21 or older to gamble;

(B) Information required by subsection (c) of Section 12461;

(C) The Bureau-approved game name or Bureau-approved alternative game name in any reference to a game; and,

(D) Any gaming activity name with its Bureau-assigned identification number in any reference to a gaming activity.

(c) The requirements of paragraph (2) of subsection (b), do not apply to any small tangible items upon which the information required would be impracticable to print or display, such as: apparel, hats, pens, key chains, dishware, drinking glasses, coffee mugs, etc.

(d) Any information required by paragraph (2) of subsection (b) that appears in writing or any hyperlinked text required by paragraph (7) of subsection (f) must be printed or displayed horizontally, in serif (e.g. Bell, Cambria, Georgia, Times

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1 New Roman, etc.) or sans serif (e.g. Arial, Calibri, Helvetica, Universal, etc.) type  
2 font, in a color that contrasts with the background, and at the bottom and/or end of  
3 the advertisement, as applicable.

4 (e) Any information required by subparagraphs (A) and (B) of paragraph (2)  
5 of subsection (b) that appears in writing must be displayed on a separate line or  
6 lines above any information required by subparagraphs (C) and (D) of paragraph  
7 (2) of subsection (b), as applicable.

8 (f) The information required pursuant to paragraph (2) of subsection (b) must  
9 be presented in accordance with the following, as applicable:

10 (1) Video. The information must appear in writing for at least four  
11 consecutive seconds and must constitute at least four percent (4%) of the height of  
12 the advertisement, per line. Any video that contains audio must also meet the  
13 requirements of paragraph (2).

14 (2) Audio. The information must be spoken and audible for at least four  
15 consecutive seconds.

16 (3) Print media. On printed materials designed to be handheld and  
17 customarily viewed by the person holding the advertisement, the information  
18 must appear in writing and in no less than a 10-point type size.

19 (4) Over-size print media. On printed materials that are larger than those  
20 designed to be handheld and customarily viewed by the person holding the  
21 advertisement, such as a print billboard, the information must appear in writing  
22 and constitute at least four percent (4%) of the height of the advertisement, per  
23 line.

24 (5) Over-size electronic displays or signage. On electronic displays, such as  
25 digital billboards, which are larger than those designed for individual viewing on  
26 a personal electronic device, the information must appear in writing for the entire  
27 duration of the advertisement and must constitute at least four percent (4%) of the  
28 height of the advertisement, per line. Notwithstanding paragraph (1), if an over-  
29 size electronic display contains a video advertisement, the requirements of this  
30 paragraph must prevail.

31 (6) Email. The information must appear in writing, in no less than a 10-point  
32 type size, and must be presented in the email and on any email attachment. Any  
33 video or audio communication in an email or email attachment must present the  
34 information as specified in paragraphs (1) and (2) respectively, in addition to the  
35 requirements of this paragraph.

36 (7) Other electronic media. Electronic communications that are not otherwise  
37 specified in this section, including but not limited to, an advertisement that is  
38 disseminated via text message, multimedia message, direct message, blog,  
39 microblog, social media, public forum, Internet banner, pop-up window, icon,  
40 graphic, image, or other similar form of electronic communication, including

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1 animated versions thereof, must display in writing the text “REQUIRED  
2 INFORMATION,” underlined and in all capital letters. The text must be  
3 hyperlinked to an Internet website, landing page, pop-up window, or similar  
4 means, which displays the required information in writing and in no less than a  
5 10-point type size. If, due to character limits, a single advertisement consists of  
6 multiple consecutive posts or messages, the information is not required to be  
7 displayed on each post or message that is part of the advertisement if at least one  
8 text hyperlink is provided at the end of the advertisement. Any video or audio  
9 communication disseminated via other electronic media under this paragraph,  
10 must present the information as specified in paragraphs (1) and (2) respectively,  
11 in addition to the requirements of this paragraph.

12 (g) An advertisement must not be deceptive to the public. An advertisement is  
13 deceptive if it:

14 (1) Fails to comply with any of the requirements of this section.

15 (2) Promotes gambling as a promise or guarantee to become wealthy.

16 (3) Promotes irresponsible or illegal gambling.

17 (4) Specifically targets or appeals to children or adolescents. Examples of this  
18 include, but are not limited to:

19 (A) Using models or actors who are less than 21 years of age to appear in or  
20 provide voice-over services for any advertisement.

21 (B) Displaying, broadcasting, or distributing advertising material on the  
22 grounds of any Kindergarten through 12th Grade school.

23 (C) Targeting children or adolescent users of any Internet website or social  
24 media platform by disseminating advertisements to those who are registered or  
25 otherwise known or identified as being less than 21 years of age.

26 (5) Constitutes a false advertisement pursuant to Business and Professions  
27 Code section 17508 and/or 15 U.S.C. 55.

28 (h) In addition to the other requirements of this section, as applicable, a  
29 licensee must meet the following criteria for the distribution of a direct  
30 advertisement:

31 (1) A licensee must have control over the distribution of any direct  
32 advertisement.

33 (2) The direct advertisement must clearly and conspicuously provide at least  
34 one reasonable method, including instructions, by which recipients can  
35 unsubscribe, opt-out, or exclude themselves from receiving all future direct  
36 advertisements.

37 (3) Prior to the distribution of any direct advertisement, a licensee must have  
38 used a method of age affirmation or verification to validate that the intended  
39 recipient is at least 21 years of age or older. A licensee must maintain a record of  
40 the specific method of age affirmation or verification used to validate the intended

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1 recipient is at least 21 years of age or older. For purposes of this section, the  
2 method of age affirmation or verification may be completed by the intended  
3 recipient, such as requiring the recipient to confirm his or her age, disclose his or  
4 her birth date, or other similar method.

5 Note: Authority cited: Sections 19811, 19824, 19841 and 19920, Business and Professions Code.  
6 Reference: Sections 19801, 19841 and 19920, Business and Professions Code; and Sections  
7 4369.2 and 4369.4, Welfare and Institutions Code.

8 **§ 12084. Disapproval of Advertising.**

9 (a) If the Bureau determines that an advertisement violates this article, the  
10 Bureau may issue a notice of disapproval to the gambling enterprise or third-party  
11 provider of proposition player services. The notice must describe each deficiency  
12 and specify a time frame for the deficiency to be corrected.

13 (b) Violations of this article may be considered a factor in determining the  
14 license suitability of a gambling enterprise or third-party provider of proposition  
15 player services at any time, including:

16 (1) The consideration of the licensee’s initial or renewal license application;  
17 and,

18 (2) A disciplinary action under Chapter 10 of this division.

19 (c) This provision does not limit the Bureau’s authority under Business and  
20 Professions Code sections 19930 and 19931.

21 Note: Authority cited: Sections 19811, 19824, 19841(f), 19841(o), 19856, 19857, 19859 and  
22 19920, Business and Professions Code. Reference: Sections 19801(c) and 19920, Business and  
23 Professions Code; and Sections 4369.2 and 4369.4, Welfare and Institutions Code.

24  
25 **CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS.**

26 **ARTICLE 6. PROGRAM FOR RESPONSIBLE GAMBLING.**

27  
28 **§ 12461. Posting Referral Information.**

29 (a) Each licensee ~~shall~~must post or provide, at patron gambling entrances or  
30 exits, and in conspicuous places in or near gambling areas and any areas where  
31 cash or credit are available to patrons, accessible written materials concerning the  
32 nature and symptoms of problem gambling and the toll-free telephone number  
33 approved by the Office of Problem Gambling (or its successors) that provides  
34 information and referral services for problem gamblers, currently “1-800-  
35 GAMBLER.”

36 (b) Any website operated by or ~~on behalf of~~for any gambling enterprise,  
37 TPPPS<sub>2</sub> or gambling business ~~shall~~must, at the bottom of every publicly

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1 accessible page of the website, in serif (e.g. Bell, Cambria, Georgia, Times New  
2 Roman, etc.) or sans serif (e.g. Arial, Calibri, Helvetica, Universal, etc.) type font,  
3 in no less than a 10-point type size, and in a color that contrasts with the  
4 background on which it is displayed, contain the following:

5 (1) ~~a~~ A responsible gambling message;

6 (2) ~~and a link~~ An underlined hyperlink to the Office of Problem Gambling (or  
7 its successors) at <http://www.problemgambling.ca.gov> that provides information  
8 and referral services for problem gamblers; ~~currently~~

9 ~~“<http://www.problemgambling.ca.gov>”;~~ and,

10 (3) At least one of the following information and referral services for problem  
11 gamblers approved by the Office of Problem Gambling (or its successors):

12 (A) 1-800-GAMBLER;

13 (B) 800gambler.chat; or,

14 (C) Text “SUPPORT” to 53342.

15 (c) Advertising and direct advertising material, as defined in Section 12002,  
16 produced by or ~~on behalf of~~ for any gambling enterprise, ~~or TPPPS or gambling~~  
17 ~~business shall~~ must contain a responsible gambling message and ~~shall~~ must refer  
18 to ~~the telephone number~~ at least one of the information and referral services listed  
19 in paragraph (3) of subsection (a)-(b) above ~~or the website listed in subsection (b)~~  
20 ~~above, or both.~~ This provision applies in accordance with Section 12082 ~~to any~~  
21 ~~advertisement that will be distributed by television, radio, outdoor display, flyer,~~  
22 ~~mail or digitally.~~ This provision does not apply to:

23 (1) ~~Any digital material with limited characters or space that provides a link to~~  
24 ~~a website that complies with subsection (b).~~

25 (2) ~~Any promotional item in which size or space limitations do not allow the~~  
26 ~~responsible gambling message to be legibly displayed, such as: pens, key chains,~~  
27 ~~hats, drinking glasses, coffee mugs, etc.~~

28  
29 Note: Authority cited: Sections 19811, 19840, 19841~~(c)~~ and 19920, Business and Professions  
30 Code. Reference: Sections 19801 and 19920, Business and Professions Code; and Sections  
31 4369.2 and 4369.4, Welfare and Institutions Code.

## 32 **§ 12463. Self-Restriction Program.**

33 (a) Licensees ~~shall~~ must implement a program that allows patrons to self-limit  
34 their access to the gambling establishment entirely, or to the issuance of credit,  
35 check cashing, or marketing by that licensee. That program ~~shall~~ must contain, at  
36 a minimum, the following:

37 ...

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1 (6) Policies and procedures that allow a patron to restrict his or her inclusion  
2 on customer lists maintained by the licensee for direct advertising ~~mail marketing,~~  
3 ~~telephone marketing, and other direct marketing~~ regarding gaming opportunities  
4 or promotions at the gambling establishment during the term of restriction.

5 ...

6 Note: Authority cited: Sections 19811, 19840, 19841~~(e)~~ and 19920, Business and Professions  
7 Code. Reference: Sections 19801, 19920 and 19954, Business and Professions Code; and Section  
8 4369.4, Welfare and Institutions Code.

9 **§ 12464. Self-Exclusion Program.**

10 (a) Licensees ~~shall~~ must implement a program that allows patrons to exclude  
11 themselves from gambling establishments using a form entitled Self-Exclusion  
12 Request, form CGCC-037 (Rev. 02/15), attached in Appendix A to this chapter.  
13 That program ~~shall~~ must contain, at a minimum, the following:

14 ...

15 (6) Policies and procedures for removal of a patron from customer lists  
16 maintained by the licensee for direct advertising ~~mail marketing, telephone~~  
17 ~~marketing, and other direct marketing or marketing opportunities~~ regarding  
18 gaming opportunities or promotions at the gambling establishment;

19 ...

20 Note: Authority cited: Sections 19811, 19840, 19841~~(e)~~ and 19920, Business and Professions  
21 Code. Reference: Sections 19801, 19920 and 19954, Business and Professions Code; and Section  
22 4369.4, Welfare and Institutions Code.

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