

DRAFT

1 **California Gambling Control Commission**
2 **SPECIFIC LANGUAGE OF PROPOSED REGULATIONS**
3 **Advertising**
4 **CGCC-GCA-2020-0#-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” means any statement, illustration, or
20 depiction concerning the conduct of or participation in a controlled game or
21 gaming activity, or any display of the logo or trademark of a gambling
22 establishment, in a publication, outdoor or indoor display, broadcast
23 announcement, or electronic media, that is disseminated to the public, over which
24 a licensee, as specified in Business and Professions Code section 19851, or an
25 owner, as defined in Section 12200, has or reasonably should have control, for the
26 purpose of soliciting participation in a controlled game or gaming activity.

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

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

33 (B) Business signage located in, on the exterior of, or adjacent to the licensed
34 premises, which solely identifies the name, nickname, alias, or any other name by
35 which the gambling establishment is commonly known, including its logo or
36 trademark.

37 (C) A business listing that is published for informational or contact purposes
38 only. A business listing may include the name, logo, trademark, and contact

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1 information of a gambling establishment that is listed in an informational
2 publication including, but not limited to, a hotel directory, phone book directory,
3 chamber of commerce directory, business directory, etc.

4 (D) The distribution of informational material that is not targeted at persons
5 under 21 years of age for purposes of recognizing a donation, gift, or charitable
6 contribution. The information provided may include the name, logo, and
7 trademark of a gambling establishment and may be provided in informational
8 material including, but not limited to, a program pamphlet or informational
9 handout for an event, a posting on a charitable organization’s website, etc.

10 (E) Any job postings for employment opportunities.

11 (F) Any notices or postings otherwise required by the Act, this Division, or
12 Title 11, Division 3 of the California Code of Regulations, such as posted game
13 rules.

14 (2) Any advertising material included with or attached to those items which do
15 not constitute an advertisement pursuant to paragraph (1), must comply with
16 Article 3.

17 (c)(b)...

18 (d)(e)...

19 (e)(d)...

20 (f)(e)...

21 (g)(f)...

22 (h)(g)...

23 (i)(h)...

24 (j)(i)...

25 (k)(j)...

26 (l)(k)...

27 (m) “Direct advertisement” or “direct advertising,” means any advertisement
28 or advertising material that is disseminated directly to a specific individual or
29 household in-person, by physical mail, telephone, messaging service, social
30 media, the Internet, or electronic means, for the purpose of soliciting participation
31 in a controlled game or gaming activity. A direct advertisement may be in the
32 form of, but is not limited to, a brochure, letter, flyer, email, text message,
33 multimedia message, direct message, social media post, audio and/or video.

34 (n)(l)...

35 (o)(m)...

36 (p)(n)...

37 (q)(o)...

38 (r)(p)...

39 (s)(q)...

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1 (t) “Gaming activity” has the same meaning as defined in Title 11, CCR,
2 Section 2010, subsection (f).

3 (u)~~(r)~~...

4 (v)~~(s)~~...

5 (w)~~(t)~~...

6 (x)~~(u)~~...

7 (y)~~(v)~~...

8 (z)~~(w)~~...

9 (aa)~~(x)~~...

10 (ab)~~(y)~~...

11 (ac)~~(z)~~...

12 (ad)~~(aa)~~

13 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19853(a)(3) and 19854,
14 Business and Professions Code. Reference: Sections 19800, 19805, 19811, 19816, 19841, 19853,
15 19951 and 19984, Business and Professions Code.

ARTICLE 3: ADVERTISING

§ 12080. General Requirements.

17 (a) A licensee, as specified in Business and Professions Code section 19851,
18 or an owner, as defined in Section 12200:

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

20 (2) May be held responsible for any advertisement that is created, purchased,
21 placed, or disseminated by or for it, over which it has or reasonably should have
22 control, whether contractual or otherwise.

23 (b) A primary owner, as defined in Section 12200:

24 (1) Will not create, purchase, place, or disseminate any advertisement for a
25 gambling enterprise unless it has a proposition player contract, as defined in
26 Section 12200, with that gambling enterprise and the advertisement costs are
27 included in the proposition player contract.

28 (2) Must provide the gambling enterprise copies or transcripts of all
29 advertisements used to promote a gaming activity that the TPPPS has, or has
30 caused to be, created, purchased, placed, or disseminated for the gambling
31 enterprise for purposes of complying with Title 11, CCR, Section 2072,
32 subsection (e).

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

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1 **§ 12082. Advertising Content and Dissemination.**

2 (a) Advertisements must present all of the required information pursuant to
3 this section in a clear and conspicuous manner to give the viewer or listener
4 adequate notice of the information. Clear and conspicuous means the required
5 information is legible and readable or audible and intelligible, as applicable and as
6 determined by the Bureau.

7 (b) Advertisements must present the information required by subparagraph
8 (A) of paragraph (2) of subsection (c) of this Section and paragraph (1) of
9 subsection (b) of Section 12461 in all of the languages used in the advertisement.

10 (c) All advertisements must include:

11 (1) The name, nickname, alias, or any other name by which the gambling
12 establishment is commonly known; and,

13 (2) All of the following:

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

15 (B) Information required by paragraphs (1) and (3) of subsection (b) of
16 Section 12461;

17 (C) In any reference to a game, either:

18 (i) The name of the Bureau-approved game;

19 (ii) The Bureau-approved alternative name for the Bureau-approved game or
20 group of games; or,

21 (iii) If the game or group of games is identified by a name other than that
22 which is in accordance with items (i) and (ii), the advertisement must state one of
23 the following:

24 (I) “California game” or “California games”;

25 (II) “California style”;

26 (III) “This cardroom does not offer Nevada-style banked games”; or,

27 (IV) Any other safe harbor statement(s) published by the Bureau at its
28 discretion.

29 (D) In any reference to a gaming activity, either:

30 (i) The name of the Bureau-approved gaming activity; or,

31 (ii) Any gaming activity name with the Bureau-approved identification
32 number.

33 (d) The requirements of paragraph (2) of subsection (c) do not apply to any
34 small tangible items upon which the information required would be impracticable
35 to print, display, or present, including, but not limited to: apparel, hats, pens, key
36 chains, dishware, drinking glasses, coffee mugs, etc.

37 (e) An advertisement must not be deceptive to the public. An advertisement is
38 considered deceptive if the Bureau determines an advertisement does any of the
39 following:

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1 (1) Depicts gambling as a means to become wealthy or resolve a financial
2 burden.

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

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

7 (B) Advertisements that depict a child or portray any objects, images, cartoon
8 figures, or movie or television characters that primarily appeal to persons less
9 than 21 years of age. Advertising material is considered to primarily appeal to
10 persons less than 21 years of age if it has special attractiveness to such persons
11 beyond the general attractiveness it has for persons 21 years of age or older.

12 (C) Displaying, broadcasting, or disseminating advertising material on the
13 premises of any day care center, youth center, preschool, or school providing
14 instruction in any grades kindergarten to 12, or at any function for a school
15 providing instruction to any grades kindergarten to 12, or at any function that is
16 held primarily for persons under the age of 21. This provision does not apply to
17 informational material as specified in subparagraph (D) of paragraph (1) of
18 subsection (b) of Section 12002.

19 (3) Makes any statement that is untrue or misleading. Examples of this
20 include, but are not limited to:

21 (A) “Casino style”;

22 (B) “Nevada style”; or,

23 (C) “Vegas style”.

24 (4) Makes any false or misleading claims.

25 (5) Depicts, illustrates, portrays, or refers to a game prohibited by Penal Code
26 section 330 or the California Constitution.

27 (f) In addition to the other requirements of this section, a direct advertisement
28 must meet the following criteria, as applicable:

29 (1) The licensee, as specified in Business and Professions Code section 19851,
30 or an owner, as defined in Section 12200, must have a reasonable degree of
31 control over the content of any direct advertisement.

32 (2) All direct advertisements must, in accordance with subsection (a) and in
33 all of the languages used in the advertisement, provide at least one reasonable
34 method, including instructions, by which recipients can unsubscribe, opt-out, or
35 exclude themselves from receiving all future direct advertisements.

36 (3) For a direct advertisement that is directly disseminated by a licensee, as
37 specified in Business and Professions Code section 19851, or owner, as defined in
38 Section 12200:

39 (A) The recipient must not be known to the licensee or owner to be less than
40 21 years of age; and,

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1 (B) The licensee or owner must have the ability to discontinue further
2 dissemination of the direct advertisement.

3 (4) For a direct advertisement that a licensee, as specified in Business and
4 Professions Code section 19851, or owner, as defined in Section 12200, causes to
5 be disseminated using the services of a third-party direct advertisement
6 distributor, prior to dissemination, the licensee or owner must provide instruction
7 to the distributor and retain a record thereof, to not disseminate the advertisement
8 to individuals known to the distributor to be less than 21 years of age. A third-
9 party direct advertisement distributor may consist of, but is not limited to, any
10 third-party social media advertisement distribution company, social media
11 platform, direct email distributor, or direct physical mail distributor, that uses the
12 personal contact information of specific individuals or households to disseminate
13 an advertisement.

14 Note: Authority cited: Sections 19811, 19824, 19841 and 19920, Business and Professions Code.
15 Reference: Sections 19801, 19841 and 19920, Business and Professions Code; and Sections
16 4369.2 and 4369.4, Welfare and Institutions Code.

§ 12084. Disapproval of Deceptive Advertising.

17 (a) If the Bureau determines that an advertisement is deceptive pursuant to this
18 article or any other applicable state or federal laws, the Bureau may issue a letter
19 of warning to the licensee, as specified in Business and Professions Code section
20 19851, or owner, as defined in Section 12200. The letter of warning must include,
21 at minimum, the following:

22 (1) A legal citation of the violation;

23 (2) A description of each part of the advertisement that is deceptive; and,

24 (3) A specified time frame or deadline to correct the deceptive advertisement.

25 (b) After issuing a letter of warning in accordance with subsection (a), if the
26 deceptive advertisement is not corrected in the time frame or by the deadline
27 specified by the Bureau, the Bureau must issue a notice of disapproval and failure
28 to correct to the licensee, as specified in Business and Professions Code section
29 19851, or owner, as defined in Section 12200. The Bureau may take any action it
30 deems appropriate, including:

31 (1) A disciplinary action under Chapter 10 of this division; or,

32 (2) A disciplinary action under Business and Professions Code sections 19930
33 and 19931.

34 (c) Any notice of disapproval and failure to correct issued pursuant to
35 subsection (b) or instances of repeated violations of this article and any
36 subsequent action by the licensee, owner, and or Bureau must be included in the
37 Bureau report for consideration during a licensee or owner's initial or renewal
38

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license application and may be considered a factor in determining the suitability for licensure.

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

CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS.

ARTICLE 1. GENERAL PROVISIONS.

§ 12360. Chapter Definitions.

Except as otherwise provided in Section 12002 of these regulations, the definitions in Business and Professions Code section 19805 govern the construction of this chapter. As used in this chapter:

...

~~(f) “Gaming activity” has the same meaning as defined in Title 11, CCR, Section 2010, subsection (f).~~

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

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

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

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

Note: Authority cited: Sections 19811, 19824, 19840, 19841 and 19924, Business and Professions Code. Reference: Sections 19805, 19841, 19860 and 19924, Business and Professions Code.

ARTICLE 6. PROGRAM FOR RESPONSIBLE GAMBLING.

§ 12461. Posting Referral Information.

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

(b) Any website operated by or ~~on behalf of~~for any gambling enterprise, TPPPS, or gambling business ~~shall~~must, in accordance with subsection (a) and (b) of Section 12082, contain the following information in writing:

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1 (1) ~~a~~ A responsible gambling message;
2 (2) ~~and a link~~ A hyperlink to the Office of Problem Gambling (or its
3 successors) at <http://www.problemgambling.ca.gov> that provides information and
4 referral services for problem gamblers, ~~currently~~
5 ~~“<http://www.problemgambling.ca.gov>”~~; and,
6 (3) At least one of the following information and referral services for problem
7 gamblers approved by the Office of Problem Gambling (or its successors):
8 (A) 1-800-GAMBLER;
9 (B) 800gambler.chat; or,
10 (C) Text “SUPPORT” to 53342.

11 ~~(e) Advertising material produced by or on behalf of any gambling enterprise,~~
12 ~~TPPPS or gambling business shall contain a responsible gambling message and~~
13 ~~shall refer to the telephone number listed in subsection (a) above or the website~~
14 ~~listed in subsection (b) above, or both. This provision applies to any~~
15 ~~advertisement that will be distributed by television, radio, outdoor display, flyer,~~
16 ~~mail or digitally. This provision does not apply to:~~

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

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

22
23 Note: Authority cited: Sections 19811, 19840, 19841~~(e)~~ and 19920, Business and Professions
24 Code. Reference: Sections 19801 and 19920, Business and Professions Code; and Sections 4369.2
25 and 4369.4, Welfare and Institutions Code.

26 § 12463. Self-Restriction Program.

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

31 ...

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

36 ...

37 Note: Authority cited: Sections 19811, 19840, 19841~~(e)~~ and 19920, Business and Professions
38 Code. Reference: Sections 19801, 19920 and 19954, Business and Professions Code; and Section
39 4369.4, Welfare and Institutions Code.

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1 **§ 12464. Self-Exclusion Program.**

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

6 ...

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

11 ...

12 Note: Authority cited: Sections 19811, 19840, 19841(~~o~~) and 19920, Business and Professions
13 Code. Reference: Sections 19801, 19920 and 19954, Business and Professions Code; and Section
14 4369.4, Welfare and Institutions Code.

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