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ADVERTISING
CGCC-GCA-2022-0#-R

1 **California Gambling Control Commission**
2 **SPECIFIC LANGUAGE OF PROPOSED REGULATIONS**
3 **Advertising**
4 **CGCC-GCA-2022-0#-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), govern the construction
17 of this division. As used in this division:

18 ...

19 (b) “Advertise” or “advertising” means the publication or dissemination of an
20 advertisement.

21 (c) “Advertisement” includes any written or verbal statement, illustration, or
22 depiction that is disseminated to the public which is intended to solicit
23 participation in a controlled game or gaming activity, including, without
24 limitation, any written, printed, graphic, or other material, billboard, sign, or other
25 outdoor display, periodical literature, publication, or in a radio or television
26 broadcast, or in any other media.

27 (1) “Advertisement” 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) Exclusive use of the name, nickname, alias, or any other name by which
34 the gambling establishment is commonly known, including its logo or trademark.

35 (C) Any editorial or other reading material, such as a news release, in any
36 periodical, publication, or newspaper for the publication of which no money or
37 valuable consideration is paid or promised, directly or indirectly, by any owner
38 category licensee, and which is not written by or at the direction of the owner
39 category licensee.

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

7 (E) Any job postings for employment opportunities.

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

11 (2) Any advertising material included with or attached to those items which do
12 not constitute an advertisement pursuant to paragraph (1), must comply with
13 Article 4.

14 (d)~~(b)~~...

15 (e)~~(e)~~...

16 (f)~~(d)~~...

17 (g)~~(e)~~...

18 (h)~~(f)~~...

19 (i)~~(g)~~...

20 (j)~~(h)~~...

21 (k)~~(i)~~...

22 (l)~~(j)~~...

23 (m)~~(k)~~...

24 (n)~~(l)~~...

25 (o)~~(m)~~...

26 (p)~~(n)~~...

27 (q)~~(o)~~...

28 (r)~~(p)~~...

29 (s)~~(q)~~...

30 (t)~~(r)~~...

31 (u)~~(s)~~...

32 (v)~~(t)~~...

33 (w)~~(u)~~...

34 (x)~~(v)~~...

35 (y)~~(w)~~...

36 (z)~~(x)~~...

37 (aa)~~(y)~~...

38 (ab)~~(z)~~...

39 (ac)~~(aa)~~...

40 (ad)~~(ab)~~...

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- 1 (ae)~~(ae)~~...
- 2 (af)~~(af)~~...
- 3 (ag)~~(ae)~~...
- 4 (ah)~~(af)~~...
- 5 (ai)~~(ag)~~...
- 6 (aj)~~(ah)~~...
- 7 (ak)~~(ai)~~...
- 8 (al)~~(aj)~~...
- 9 (am)~~(ak)~~...
- 10 (an)~~(al)~~...
- 11 (ao)~~(am)~~...
- 12 (ap)~~(an)~~...
- 13 (aq)~~(ao)~~...
- 14 (ar)~~(ap)~~...
- 15 (as)~~(aq)~~...
- 16 (at)~~(ar)~~...
- 17 (au)~~(as)~~...
- 18 (av)~~(at)~~...
- 19 (aw)~~(au)~~...
- 20 (ax)~~(av)~~...
- 21 (ay)~~(aw)~~...
- 22 (az)~~(ax)~~...
- 23 (ba)~~(ay)~~...

24
25 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19853, 19854, and 19869,
26 Business and Professions Code; and Section 7, Government Code. Reference: Sections 7.5,
27 19800, 19805, 19811, and 19816, Business and Professions Code.

28
29 **ARTICLE 4: ADVERTISING**

30
31 **§ 12090. General Requirements.**

32 (a) An owner category licensee must comply with all the requirements of this
33 article, as applicable.

34 (b) In construing and enforcing the advertising provisions of this article, any
35 action, omission, or failure of an advertising agent, representative, or contractor
36 retained by the owner category licensee will be deemed the act, omission, or
37 failure of the owner category licensee.

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

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2 **§ 12091. Specific TPPPS Business Requirements.**

3 (a) A TPPPS business licensee:

4 (1) Will not create, purchase, place, or disseminate any advertisement for a
5 cardroom business licensee unless it has a TPPPS contract with that cardroom
6 business licensee and the advertisement costs and scope of advertising services to
7 be performed are included in the TPPPS contract.

8 (2) Must provide the cardroom business licensee copies or transcripts of all
9 advertisements used to promote a gaming activity that the TPPPS business
10 licensee has, or has caused to be, created, purchased, placed, or disseminated for
11 the cardroom business licensee for purposes of complying with Title 11, CCR,
12 Section 2072, subsection (e).

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

15
16 **§ 12092. Advertising Content and Dissemination.**

17 (a) Advertisements must present all of the required information pursuant to
18 this section in a clear and conspicuous manner to give the viewer or listener
19 adequate notice of the information. Clear and conspicuous means the required
20 information is legible and readable or audible and intelligible, as applicable.

21 (b) Advertisements must present the information required by paragraph (2) of
22 subsection (c) of this Section and paragraph (1) of subsection (b) of Section
23 12461 in all of the languages used in the advertisement.

24 (c) All advertisements must include:

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

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

28 (3) Information required by paragraphs (1) and (3) of subsection (b) of Section
29 12461;

30 (4) In any reference to a game, either:

31 (A) The name of the Bureau-approved game;

32 (B) The Bureau-approved alternative name for the Bureau-approved game or
33 group of games; or,

34 (C) If the game or group of games is identified by a name other than that
35 which is in accordance with items (A) and/or (B), the advertisement must state
36 one of the following:

37 (i) “California game” or “California games”;

38 (ii) “California style”;

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

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1 (iv) Any other safe harbor statement(s) published by the Bureau at its
2 discretion.

3 (5) In any reference to a gaming activity, either:

4 (A) The name of the Bureau-approved gaming activity; or,

5 (B) Any gaming activity name with the Bureau-approved identification
6 number.

7 (d)(1) The requirements of paragraphs (2) through (5) of subsection (c) do not
8 apply to any small tangible items upon which the information required would be
9 impracticable to print, display, or present, including, but not limited to: apparel,
10 hats, pens, key chains, dishware, drinking glasses, coffee mugs, etc.

11 (2) The requirements of paragraph (3) of subsection (c) do not apply to any
12 digital material with limited characters or space that provides a link to a website
13 that complies with paragraphs (1) and (2) of subsection (b) of Section 12461.

14 (e) An advertisement must not be deceptive to the public. An advertisement is
15 deceptive if it does any of the following:

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

18 (2) Targets or appeals to children or adolescents or encourages persons under
19 21 years of age to engage in controlled gambling. Examples of this include, but
20 are not limited to:

21 (A) Using depictions, images, appearances, or voice-over services of anyone
22 under 21 years of age.

23 (B) Using objects such as toys, inflatables, movie characters, cartoon
24 characters, or any other display, depiction, or image designed in a manner likely
25 to be substantially or predominately appealing to minors or anyone under 21 years
26 of age.

27 (C) Advertising on the premises of any day care center, youth center,
28 preschool, or school providing instruction in any grades kindergarten to 12, or at
29 any function for a school providing instruction to any grades kindergarten to 12,
30 or at any function that is held primarily for persons under the age of 21.

31 (3) Uses any of the following terms when describing any of the games or
32 gaming activities offered at the gambling establishment:

33 (A) "Nevada style"; or,

34 (B) "Vegas style".

35 (4) Makes any false or misleading claims.

36 (5) Depicts, illustrates, portrays, or refers to a game prohibited by Penal Code
37 section 330.

38 (6) Fails to provide all of the required information in accordance with
39 subsections (a) through (d) of this Section.

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1 Note: Authority cited: Sections 19811, 19824, 19841 and 19920, Business and Professions Code.
2 Reference: Sections 19801, 19841 and 19920, Business and Professions Code; and Sections
3 4369.2 and 4369.4, Welfare and Institutions Code.

4
5 **§ 12093. Age Confirmation in Advertising.**

6 (a) Prior to any advertising from the owner category licensee involving direct,
7 individualized communication or dialogue, the owner category licensee must use
8 age affirmation to verify that the recipient is 21 years of age or older. For the
9 purposes of this section, direct, individualized communication or dialogue may
10 occur through any form of communication, including in-person, telephone,
11 physical mail, or electronic.

12 (b) A method of age verification is not necessary for a communication if the
13 owner category licensee can verify that the owner category licensee has
14 previously had the intended recipient verify the recipient is 21 years of age or
15 older by a method of age affirmation and the owner category licensee is
16 reasonably certain that the communication will only be received by the intended
17 recipient.

18 (c) An owner category licensee must use a method of age affirmation before
19 having a potential customer added to a mailing list, subscribe, or otherwise
20 consent to receiving direct, individualized communication or dialogue controlled
21 by an owner category licensee.

22 (d) Any website or social media landing page operated by or for an owner
23 category licensee must require the visitor to affirm he or she is 21 years of age or
24 older before being allowed access to the website or social media landing page.

25 Note: Authority cited: Sections 19811, 19824, 19841 and 19920, Business and Professions Code.
26 Reference: Sections 19801, 19841 and 19920, Business and Professions Code; and Sections
27 4369.4, Welfare and Institutions Code.

28
29 -----*Beginning of Options*-----

30
31 **Option 1:**

32
33 **§ 12094. Disapproval of Deceptive Advertising.**

34 (a) If the Bureau determines that an advertisement is deceptive pursuant to this
35 article or any other applicable state or federal laws, the Bureau may issue a letter
36 of warning to the owner category licensee. The letter of warning must include, at
37 minimum, the following:

- 38 (1) A legal citation of the violation;
- 39 (2) A description of each part of the advertisement that is deceptive; and,
- 40 (3) A specified deadline to correct the deceptive advertisement.

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1 (b) After issuing a letter of warning in accordance with subsection (a), if the
2 deceptive advertisement is not corrected by the deadline specified by the Bureau,
3 the Bureau must issue a notice of disapproval and failure to correct to the owner
4 category licensee. The Bureau may take any action it deems appropriate,
5 including:

- 6 (1) A disciplinary action under Chapter 10 of this division; or,
- 7 (2) A disciplinary action under Business and Professions Code sections 19930
8 and 19931.

9 (c) Any notice of disapproval and failure to correct issued pursuant to
10 subsection (b) or instances of repeated violations of this article and any
11 subsequent action by the owner category licensee and or Bureau must be included
12 in the Bureau report for consideration during an owner category licensee’s initial
13 or renewal license application and may be considered a factor in determining
14 suitability for licensure.
15

16 **Option 2 (Commission Staff Recommendation):**

17
18 **§ 12094. Disapproval of Deceptive Advertising.**

19 (a) If an advertisement is deceptive pursuant to this article, the Bureau may
20 issue a letter of warning to the owner category licensee. The letter of warning
21 must include, 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 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 by the deadline specified by the Bureau,
27 the Bureau will issue a notice of disapproval and failure to correct to the owner
28 category licensee.

29 (c) Any notice of disapproval and failure to correct issued pursuant to
30 subsection (b) or instances of repeated violations of this article and any
31 subsequent action by the owner category licensee and or Bureau must be included
32 in the Bureau report for consideration during an owner category licensee’s initial
33 or renewal license application and may be considered a factor in determining
34 suitability for licensure.

35 (d) Nothing in this article shall be construed to limit the Bureau from filing a
36 disciplinary action under Chapter 10 of this division and/or under Business and
37 Professions Code sections 19930 and 19931.

38 (e) Nothing in this article will be construed to create or imply a private cause
39 of action.

40 -----*End of Options*-----

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

**CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS.
ARTICLE 9. PROGRAM FOR RESPONSIBLE GAMBLING.**

§ 12461. Posting Referral Information.

...

(b) Any website or social media landing page operated by or ~~on behalf of~~ for any cardroom business licensee or TPPPS business licensee must, in accordance with subsection (a) and (b) of Section 12092, contain the following information in writing:

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

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

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

(A) 1-800-GAMBLER;

(B) 800gambler.chat; or,

(C) Text “SUPPORT” to 53342.

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

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

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

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

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