

**- REVIEWED -
LEGISLATION UNIT
MINISTRY FOR
JUSTICE,
CULTURE & LOCAL
GOVERNMENT**

.....
Prim Ministru

.....
Segretarju Parlamentari għas-
Servizzi Finanzjarji, Ekonomija
Diġitali u Innovazzjoni

.....
Chairperson,
Awtorità ta' Malta dwar il-
Logħob

A.L. tal-2018

**ATT DWAR IL-LOGHOB
(ATT TAL-2018)**

Regolamenti tal-2018 dwar Komunikazzjonijiet Kummerċjali fil-Logħob

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Kumunikazzjonijiet Kummerċjali fil-Logħob**

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 12 tal-Att dwar il-Logħob, is-Segretarju Parlamentari għas-Servizzi Finanzjarji, Ekonomija Diġitali u Innovazzjoni, wara konsultazzjoni mal-Awtorità ta' Malta dwar il-Logħob, għamel dawn ir-regolamenti li ġejjin:-

TAQSIMA I

Titolu u Tifsiriet

Titolu.

1. It-titolu ta' dawn ir-regolamenti huwa r-Regolamenti tal-2018 dwar Kumunikazzjonijiet Kummerċjali fil-Logħob.

Tifsir.
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2. (1) F'dawn ir-regolamenti, bla ħsara għal dak previst fis-subregolamenti (2) u (3), il-kliem u l-frazzjonijiet kollha għandhom l-istess tifsira bħal dik preskritta fir-Regolamenti tal-2018 dwar Tifsiriet fil-Logħob.

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(2) F'dawn ir-regolamenti, sakemm ir-rabta tal-kliem ma teħtiegħ xort'oħra, "l-Att" tfisser l-Att tal-2018 dwar il-Logħob.

(3) It-termini l-oħra kollha użati f'dawn ir-regolamenti għandhom l-istess tifsira mogħtija lilhom fl-Att.

TAQSIMA II

Applikabbiltà

Kamp ta'
applikazzjoni.

3. Dawn ir-regolamenti jkunu applikabbli għal:

(a) persuni awtorizzati kollha li joffru logħba liċenzjabbli;

(b) kull persuna li tipprovdi servizz lil, jew f'isem, jew b'xi mod f'kollaborazzjoni ma', persuna awtorizzata li toffri logħba liċenzjabbli.

4. Ebda persuna ma tista' tippromwovi, tirreklama, tippubblika, jew tara li tigi pubblikata xi komunikazzjoni kummerċjali fir-rigward ta' logħba liċenzjabbli sakemm il-logħba u l-operatur ma jkunux debitament awtorizzati f'konformità mar-Regolamenti tal-2018 dwar Awtorizzazzjoni għal-Logħob:

Projbizzjoni li jiġu ppubblikati komunikazzjonijiet kummerċjali mingħajr awtorizzazzjoni.
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Iżda meta jiġu pubblikati komunikazzjonijiet kummerċjali bi ksur ta' dan ir-regolament, minkejja d-dispożizzjonijiet ta' dan ir-regolament, l-Awtorità tista' tiegħu f'kunsiderazzjoni wkoll il-ksur tar-regoli li jinsabu f'dawn ir-regolamenti waqt proċeduri ta' infurzar jew proċeduri kriminali, skont il-każ.

TAQSIMA III

Obbligi u Limitazzjonijiet Ġenerali

5. Komunikazzjonijiet kummerċjali għandhom ikunu soċjalment responsabbli, partikolarment fir-rigward tal-ħtieġa li jiġu protetti minuri u persuni oħra vulnerabbli minn ħsara jew sfruttament.

Komunikazzjonijiet kummerċjali għandhom ikunu soċjalment responsabbli.

6. Komunikazzjonijiet kummerċjali m'għandhomx:

Limitazzjonijiet.

(a) juru, jiskuzaw jew Ihegġeg mgħiba li hi kriminali jew soċjalment irresponsabbli jew tista' twassal għal ħsara finanzjarja, soċjali jew emotiva, jew direttament jew indirettament tinkoraġġixxi mgħiba antisocjali jew vjolenta;

(b) jissuġġerixxu li l-logħob jista' jkun soluzzjoni għal problemi soċjali, edukattivi, professjonali jew personali;

(c) jissuġġerixxu li l-logħob jista' jkun alternattiva għal impjeg, soluzzjoni għal inkwiet finanzjarju jew xi forma ta' investiment finanzjarju;

(d) juru l-logħob bhala soċjalment attraenti jew jissuġġerixxu li jista' jtejjeb kwalitajiet personali u, jew professjonali, pereżempju billi jtejjeb l-immagni jew l-istima personali, jew hu mod biex wiehed jikseb kontroll, superjorità, għarfien jew ammirazzjoni;

(e) juru l-logħob f'kuntast ta' inflessibilità jew jagħqduh ma' karattru b'saħħtu jew nuqqas ta' ħsibijiet;

(f) juru l-logħob bhala indispensabbli jew li hu ta' prijorità fil-ħajja, pereżempju qabel il-familja, il-ħbieb jew impenji professjonali jew edukattivi;

(g) jissuġġerixxu li logħob solitarju hu preferibbli għall-logħob soċjali;

(h) jissuġġerixxu pressjoni mill-pari għal-logħob, jew imaqdru l-astensjoni mil-logħob;

(i) jissuġġerixxu li l-abbiltà tista' tinfluwenza l-eżitu ta' logħba li hi purament logħba tal-ażżard;

(j) jipprovdu informazzjoni falza jew mhux vera dwar il-possibbiltajiet ta' rebh jew id-dhul mistenni mil-logħob;

(k) jisfruttaw it-twemmin jew it-tradizzjonijiet kulturali dwar il-logħob jew il-fortuna;

(l) jagħmlu referenza għal servizzi ta' kreditu għall-konsumatur disponibbli, jew xi modi oħra tal-provdiment ta' kreditu lil ġugaturi;

(m) iħammgu r-rieda tajba u l-privileġġ li huma assoċjati jew għandhom x'jaqsmu b'xi mod li jkun ma' persuna awtorizzata jew iħammgu l-immagni jew ir-reputazzjoni ta' persuna awtorizzata oħra.

Komunikazzjonijiet kummerċjali mhux mitlubin.

7. (1) Persuna awtorizzata m'għandhiex twettaq xi attività li permezz tagħha jintbagħtu komunikazzjonijiet kummerċjali mhux mitlubin, kemm permezz tal-operat tagħha jew bl-intervent ta' partijiet terzi.

(2) Persuna awtorizzata li tibgħat komunikazzjonijiet kummerċjali għandha tħares talba minn xi persuna biex tieqaf milli tkompli tirċievi dawk il-komunikazzjonijiet kummerċjali hekk kif ikun raġjonevolment Prattikabbli, u f'ebda każ aktar minn tliet (3) ijiem wara li tirċievi t-talba.

Komunikazzjonijiet kummerċjali m'għandhomx jintbagħtu lil ġugaturi li eskluđew lilhom infushom.

8. Komunikazzjonijiet kummerċjali m'għandhomx jiġu mmirati lejn jew jintbagħtu lil ġugaturi li l-persuna awtorizzata taf, jew raġjonevolment kellha tkun taf, ikunu għaddejjin minn perjodu ta' esklużjoni tagħhom stess:

Iżda l-persuna awtorizzata għandha mhux aktar minn erbgħa u għoxrin siegħa ċans minn meta l-ġugatur jeskludi lilu nnifsu sabiex jibda japplika dan ir-regolament.

Użu ta' *data*. Kap. 440.

9. Persuna awtorizzata li, bla ħsara għall-Att dwar il-Protezzjoni u l-Privatezza tad-*Data* u r-regolamenti magħmulin tahtu, tiġbor data statistika dwar ġugaturi, u, jew gruppi ta' ġugaturi skont is-segwenzi u d-demografiji u, jew informazzjoni oħra jew *metadata*

biex jiġu identifikati strateġiji xierqa ta' tqegħid fis-suq jew kategorizzazzjoni ta' ġugaturi, m'għandhiex tuża *d-data* miġbura biex tħajjar jew iġġieghel biex tilgħab xi persuna li tinkwadra fil-profil ta' persuna bi problema tal-logħob.

10. Persuna awtorizzata m'għandhiex tipprova ġġieghel lil xi ġugatur biex ikompli jilgħab il-logħbiet awtorizzati b'xi mod ikun li jkun meta dak il-ġugatur ikun wera' l-intenzjoni li jwaqqaf is-sessjoni tal-logħob jew, fejn applikabbli, jitlaq mill-fond li fih qed issir l-attività tal-logħob.

Ebda attentat biex wiehed iġieghel.

11. Jekk persuna awtorizzata toffri lill-ġugaturi verżjoni alternattiva tal-logħbiet awtorizzati, iżda bl-esklużjoni ta' ġugata u premju, il-verżjoni alternattiva għandu jkollha l-istess kondizzjonijiet tekniċi u tkun mod ieħor l-istess bħal-logħbiet awtorizzati li jikkorrispondu magħha.

Logħbiet mingħajr ġugati jew premji.

12. Il-komunikazzjonijiet kummerċjali kollha għandhom juru b'mod ċar:

Informazzjoni li għandha tintwera.

(a) isem il-persuna awtorizzata rilevanti;

(b) referenza għall-entità li ħarġet l-awtorizzazzjoni rilevanti kemm jekk dik l-entità hi l-Awtorità jew l-awtorità kompetenti fil-ġurisdizzjoni rilevanti, b'referenza għal kull numru ta' referenza tal-awtorizzazzjoni rilevanti:

Iżda komunikazzjonijiet kummerċjali fuq is-siti, applikazzjonijiet jew mezzi oħra operati mill-persuna awtorizzata, jew ġewwa l-fondi għal-logħob liċenzjati operati mill-persuna awtorizzata, huma esklużi minn dan ir-regolament jekk l-informazzjoni msemmija hawn hija murija fuq is-sit, applikazzjoni u, jew ġewwa l-istess fond, skont il-każ.

13. Sabiex jitneħħa kull dubju, kull komunikazzjoni kummerċjali murija minn, fi ħdan jew permezz ta' *account portals* tal-midja soċjali miżmuma minn persuni awtorizzati jew minn terzi persuni li jaġixxu f'isem jew b'kollaborazzjoni mal-persuni awtorizzati, hi soġġetta għal dawn ir-regolamenti fl-intier tagħhom.

Komunikazzjonijiet kummerċjali fuq il-midja soċjali.

14. (1) Ma jistgħux jinħarġu komunikazzjonijiet kummerċjali f'xi post pubbliku jew fuq ġewwa xi mezz ta' trasport pubbliku:

Postijiet pubbliċi.

Iżda din ir-restrizzjoni m'għandhiex tapplika għal xi komunikazzjonijiet kummerċjali ppubblikati, murija jew mxandra f'fond għal-logħob awtorizzati, jew f'xi ambjent tax-xogħol użat mill-persuna awtorizzata.

(2) Is-subregolament (1) m'għandux japplika għal komunikazzjonijiet kummerċjali li jintwerew jew jitqassmu:

(a) f'postijiet frekwentati prinċipalment minn turisti, inklużi ajruporti, portijiet, lukandi u kumplessi turistiċi;

Iżda ma jinkludux postijiet tax-xorb u ristoranti;

(b) f'konferenzi jew avvenimenti speċifikament organizzati fir-rigward tas-settur tal-logħob;

(c) f'fond ta' operaturi;

(d) f'fond ta' organizzaturi jew benefiċjarji ta' logħobiet ta' riskju baxx awtorizzati; u

(d) gazzetti jew *magazines*.

Persuni awtorizzati jistgħu jidentifikaw fond f' distanza speċifikata.

15. Persuna awtorizzata tista' twaqqaf sinjal jew avviż li jidentifika fond użat jew li hu proprjetà tagħha.

Iżda dak is-sinjal jew avviż għandu jitqiegħed direttament fuq il-fond hawn qabel imsemmi, jew mhux aktar minn distanza radjali ta' ħames (5) metri miċ-ċentru tal-punt tad-dhul għall-fond u hekk li dak is-sinjal jew avviż hu l-uniku sinjal jew avviż li jirrigwarda l-fond f'dak il-punt ta' dhul

Iżda wkoll is-sinjal jew avviż għandu jkun limitat li jidentifika l-isem jew il-marka tal-persuna awtorizzata, u direzzjonijiet lejn l-entrata.

Komunikazzjonijiet kummerċjali permezz tax-xandir. L.S. 350.25

16. Sabiex jitneħħa kull dubju, persuni awtorizzati li jippromwovu jew jagħmlu reklami permezz ta' mezzi tax-xandir ikunu soġġetti għall-Ħtiġiet dwar ir-Reklami, Metodi ta' Reklamar u Direttivi dwar Reklamar dwar Logħob tal-Azzard fuq is-Servizzi għax-Xandir kif ukoll għal dawn ir-regolamenti.

TAQSIMA IV

Logħob Responsabbli

Messaġġi dwar logħob responsabbli.

17. Kull komunikazzjoni kummerċjali li għandha x'taqsam mal-logħob għandu jkun fiha b'mod prominenti messaġġi dwar logħob responsabbli:

Iżda fejn dan ma jkunx prattikabbli minħabba fil-limitazzjonijiet ta' spazju, bħal ma huwa il-każ fuq *screens* ta' tagħmir ta' komunikazzjonijiet li jista' jingarr, il-komunikazzjoni kummerċjali rilevanti tista' tagħmel użu minn mezzi alternattivi li

jiġbdu l-attenzjoni b'mod effettiv ta' min iħares lejhom.

18. L-indirizz tas-sit elettroniku ta' xi entità dedikata għal-logħob responsabbli għandu jidher f'kull komunikazzjoni kummerċjali u għandu jintwera b'mod li hu jista' jinqara b'mod ċar:

Portal tal-web ta' entità dedikata għal logħob responsabbli.

Iżda fejn dan ma jkunx prattikabbli minħabba fil-limitazzjonijiet ta' spazju, bħal ma huwa l-każ fuq *screens* ta' tagħmir ta' komunikazzjonijiet li jista' jingarr, il-komunikazzjoni kummerċjali rilevanti tista' tagħmel użu minn mezzi alternattivi li jiġbdu l-attenzjoni, b'mod effettiv, ta' min iħares lejhom:

Iżda wkoll meta l-metodu alternattiv hu magħmul minn *click-throughs*, il-paġna tas-sit elettroniku li tinkludi messagġi dwar logħob responsabbli prinċipali tal-web għandha tkun mhux aktar minn żewġ klikkijaturi bogħod u għandha tkun jew mikrosit tal-logħob li jkun responsabbiltà ewlenija tal-operatur, jew xi portal tas-sit tal-web elettroniku ieħor ta' entità b'għan relatat.

TAQSIMA V

Protezzjoni ta' Minuri u Persuni Vulnerabbli

19. Il-komunikazzjonijiet kummerċjali kollha, bl-eċċezzjoni ta' sponsorizzazzjoni, għandhom juru b'mod prominenti, tul il-komunikazzjoni kollha, sinjal li jindika l-età minima biex wieħed jieħu sehem fil-logħba li tkun qed tiġi promossa.

Età minima.

20. Mingħajr preġudizzju għad-dispożizzjonijiet tar-regolament 6, komunikazzjonijiet kummerċjali m'għandhomx:

Restrizzjonijiet fir-rigward ta' minuri u persuni vulnerabbli.

- (a) ikunu immirati lejn minuri jew persuni vulnerabbli;
- (b) jinkoraġġixxu jew jimmiraw fuq minuri jew persuni vulnerabbli biex jilagħbu logħba;
- (ċ) ikun fihom minuri fil-komunikazzjoni;
- (d) jiġbdu l-attenzjoni ta' minuri jew persuni vulnerabbli b'xi mod jew ieħor;
- (e) jisfruttaw is-suxxettibblitajiet, l-aspirazzjonijiet, il-kredibilità, in-nuqqas ta' esperjenza jew nuqqas ta' għarfien ta' minuri jew persuni vulnerabbli, jew jipprezentaw il-logħob bħala sinjal ta' maturità jew pass lejn l-istat ta' adult.

TAQSIMA VI

Sponsorizzazzjonijiet

L-isponsorizzazzjonijiet għandhom jeskludu l-pjazzament ta' prodott.

21. Għall-finijiet ta' dawn ir-regolamenti, l-isponsorizzar għandu jkun limitat għal kliem, *logo* jew immaġni li jwasslu għall-għan esklużiv li tiġi identifikata l-persuna awtorizzata, u jeskludi t-tqeghid ta' prodott.

L-isponsorizzazzjonijiet għandhom jindikaw il-persuna awtorizzata li għandhom x'jaqsmu magħha.

22. Persuni awtorizzati li jisponsorizzaw xi organizzazzjoni, avveniment jew attività għal xi għan għandhom jiżguraw li kull *logo* jew immaġni li jintużaw jindikaw b'mod ċar l-identità tal-persuna awtorizzata.

Servizz relatat ma' persuna jew avveniment.

23. (1) Meta s-servizz tal-logħob ta' persuna awtorizzata hu b'xi mod relatat ma' persuna jew avveniment sponsorizzat, il-persuna awtorizzata:

(a) ma għandha bl-ebda mod teżerċita pressjoni eċċessiva fir-rigward ta' hwejjeġ sportivi u oħrajn, fuq ir-rappreżentanti tal-parti sponsorizzata jew fuq persuni li jistgħu jinfluwenzaw, jew li jistgħu jkollhom tagħrif minn ġewwa dwar, l-avveniment sponsorizzat; u

(b) għandha tevita kull implikazzjoni li tista', bħala konsegwenza tal-isponsorizzazzjoni, ikollha xi involviment fl-immaniġġjar tal-attivitajiet li qed jiġu sponsorizzati.

Projbizzjoni ta' sponsorizzazzjoni fejn l-attività tinvolvi prinċipalment minuri jew persuni vulnerabbli.

24. Ma jistgħux jiġu sponsorizzati attivitajiet fen il-maġġoranza tal-udjenza hi raġjonevolment mistennija li tkun magħmula minn minuri jew minn persuni vulnerabbli, jew li jiġbdu l-attenzjoni b'mod partikolari ta' minuri jew persuni vulnerabbli.

Sponsorizzar ta' minuri.

25. L-isponsorizzar ta' minuri jew ta' persuni li għandhom l-età għal-logħob li huma rappreżentati bħala minuri hu espressament projbit:

Iżda persuna awtorizzata tista' tisponsorja avvenimenti li primarjament jattenduhom adulti, u timijiet primarjament komposti minn adulti, ukoll jekk jista' jkun fihom l-involviment ta' minuri wieħed jew aktar.

Bejgħ prinċipalment maħsub għal minuri.

26. Persuna awtorizzata m'għandhiex tippermetti li materjal promozzjonali, inklużi *logos* jew kitba, jidher fit-tmexxija ta' bejgħ maħsub, jew prinċipalment maħsub, għal minuri.

27. L-isponsorizzar ta', u, jew reklamar fi, programmi tat-televizjoni li għandhom jew li huma mistennija li jkollhom attenzjoni partikolari minn minuri jew minn persuni vulnerabbli hu espressament proibit.

Programmi tat-televizjoni li jattiraw minuri.

TAQSIMA VII

Skemi Promozzjonali Qarrieqa u Ingusti

28. Skemi promozzjonali operati minn persuni awtorizzati għandhom jkunu soġġetti għall-Att dwar l-Affarijiet tal-Konsumaturi.

Skemi promozzjonali. Kap. 378.

29. (1) Kull skema promozzjonali intenzjonata li tagħti xi vantaġġ jew opportunità lil ġugatur m'għandhiex tkun qarrieqa u:

Skemi promozzjonali m'għandhomx ikunu qarrieqa u għandhom jharsu kondizzjonijiet.

(a) għandha tkun ċara dwar il-limitu tal-impenn li l-konsumatur għandu jidhol għalih sabiex jiehu vantaġġ minn xi offerta;

(b) ma tistax tħalli barra jew taħbi informazzjoni materjali, jew tipprezentaha b'mod li ma jkunx ċar, ma jistax jinftiehem jew ambigwu;

(c) għandha tispjega bi prominenza suffiċjenti l-informazzjoni materjali kollha, inklużi l-htigiet ta' imħatri u, jew depożiti li għandhom jiġu mharsa minn ġugatur sabiex ikun intitolat għalihom, inklużi eżempji li jispjegaw dawn il-htigiet b'mod li jista jinftiehem u komprensibbli faċilment, kif ukoll ir-restrizzjonijiet kollha jew dawk applikabbli jew kondizzjonijiet oħra b'mod ċar u mingħajr ambigwi.

(d) għandu jkun fiha l-pattijiet u l-kondizzjonijiet li jirrigwardaw l-informazzjoni materjali kollha li għandha x'taqsam mal-iskema, li għandha tiġi espressament aċċettata mill-ġugaturi qabel ma dawn jistgħu jiġu iskritti fl-iskema u li wara dan għandha tkun dejjem faċilment disponibbli u aċċessibbli għall-ġugatur li jkun issottoskriva għall-iskema.

(2) Il-persuna awtorizzata għandha tiżgura li ġugaturi jistgħu l-hin kollu jaraw il-progress tagħhom fil-qadi tal-htigiet sabiex jibbenefikaw minn kull opportunità jew vantaġġ mogħtija mill-iskema promozzjonali.

30. Fejn il-promozzjoni u r-reklam ikunu limitati bil-hin u bl-ispazju, għandha tiġi inkluża informazzjoni materjali kemm jista' jkun prattikabbli, u li tidderieġi lill-ġugaturi lejn għejjun alternattivi faċilment aċċessibbli fejn l-informazzjoni materjali kollha tidher b'mod prominenti:

Il-wiri għandu jkun fiha informazzjoni materjali meta l-ispazju jkun limitat.

Iżda fejn l-imsemmi reklam hu ta' natura diġitali, l-informazzjoni materjali għandha tintwera mhux aktar bogħod minn klikkjatura waħda mir-reklam stess.

TAQSIMA VIII

Eżenzjonijiet

Komunikazzjonijiet kummerċjali dedikati għal għanijiet ta' impjeg jew edukattivi.

31. Komunikazzjonijiet kummerċjali, li l-għan uniku tagħhom hu li jinfurmaw lill-pubbliku dwar opportunità ta' impieg jew għal għan edukattiv, huma eżentati mid-dispożizzjonijiet ta' dawn ir-regolamenti, hekk iżda li dawn il-komunikazzjonijiet kummerċjali ma jkun fihom l-ebda riferenza għal servizz ta' logħob.

TAQSIMA IX

Infurzar

Lmenti.

32. Mingħajr preġudizzju għas-setgħat stabbiliti fl-Att, u kull strument regolatorju ieħor, u minkejja l-proċeduri għall-infurzar stabbiliti fl-istrumenti regolatorji oħra fir-rigward ta' ksur minn persuna awtorizzata, sabiex jiġi konfermat li d-dispożizzjonijiet ta' dawn ir-regolamenti huma mharsa u fit-twertieq tal-funzjoni tagħha skont l-artikolu 7(1)(ċ) tal-Att, li r-reklamar ta' logħob għandu jsir b'mod ġust u responsabbli:

(a) meta tirċievi lment minn xi persuna, jew jekk l-Awtorità mod ieħor issir taf li jkun hemm ksur *prima facie* ta' dawn ir-regolamenti, l-Awtorità għandha minnufih tavża lill-persuna awtorizzata rispettiva dwar dak il-ksur, u tippermetti tliet (3) ijiem tax-xogħol lill-persuna awtorizzata sabiex tissottometti difiża bil-miktub għall-allegat ksur;

(b) l-Awtorità għandha teżamina n-natura tal-allegat ksur ta' dawn ir-regolamenti, waqt li tqis is-sottomissjonijiet tal-persuna awtorizzata, u għandha tippubblika d-deċiżjoni tagħha fi żmien għaxart (10) ijiem minn meta tirċievi s-sottomissjonijiet mingħand il-persuna awtorizzata. Il-persuna awtorizzata għandha minnufih tiġi notifikata bil-miktub dwar dik id-deċiżjoni:

Iżda l-Awtorità tista', meta tqis li jkun neċessarju, tagħti istruzzjonijiet lill-persuna awtorizzata biex din tissospendi l-pubblikazzjoni jew l-għoti tal-komunikazzjoni kummerċjali sakemm tittiehed id-deċiżjoni finali mill-istess Awtorità u l-persuna awtorizzata għandha tħares dawk l-istruzzjonijiet;

(c) fl-eventwalità li l-Awtorità tiddeciedi li dik il-komunikazzjoni kummerċjali ma tkunx konformi ma' dawn ir-regolamenti, l-Awtorità tista' tordna li tiġi modifikata, irtirata u terminata;

(d) l-Awtorità tista' tieħu kull azzjoni amministrattiva meħtieġa, inkluż il-ħruġ ta' sanzjonijiet amministrattivi kif speċifikati fl-Att u fir-regolamenti magħmulin taħtu, kontra persuni awtorizzati:

Iżda, fl-eventwalità li l-persuna awtorizzata volontarjament emendat, jew temporanjament issospendiet il-komunikazzjoni kummerċjali, sakemm tingħata d-deċiżjoni finali mill-Awtorità, din l-azzjoni għandha tittiehed f'kunsiderazzjoni mill-Awtorità meta tiġi biex tiddetermina n-natura tas-sanzjoni;

(e) l-Awtorità tista' titlob l-appoġġ tal-awtoritajiet Maltin kompetenti rilevanti għat-tneħħija ta' materjal li jkun bi ksur ta' dawn ir-regolamenti jew l-Att.

33. (1) Persuna awtorizzata tkun responsabbli għal kull ksur ta' dawn ir-regolamenti, ukoll jekk l-azzjoni ma tkunx saret direttament minnha, iżda minn terza parti:

Prestazzjoni
minn partijiet
terzi.

Iżda l-Awtorità tista' tiddeciedi li ma timponix sanzjonijiet amministrattivi fuq persuna awtorizzata jekk ikun jista' jintwera li t-terza parti tkun aġixxiet mingħajr l-għarfien jew l-approvazzjoni tal-persuna awtorizzata, u sakemm l-Awtorità tkun sodisfatta li l-persuna awtorizzata ħadet il-prekawzjonijiet neċessarji sabiex tali ksur ma jseħħ, kif ukoll azzjoni suffiċjenti minnufih sabiex tirrettifika l-ksur u tagħmel minn kollox sabiex il-ksur ma jergax isir.

(2) Persuna awtorizzata għandha, fl-eventwalità li l-attività tal-logħob tagħha qed tiġi reklamata jew promossa minn terza parti bi ksur ta' dawn ir-regolamenti, tagħmel minn kollox sabiex tirrettifika s-sitwazzjoni minnufih.

**- REVIEWED -
LEGISLATION UNIT
MINISTRY FOR
JUSTICE,
CULTURE & LOCAL
GOVERNMENT**

.....
Prime Minister

.....
Parliamentary Secretary for
Financial Services, Digital
Economy and Innovation

.....
Chairperson,
Malta Gaming Authority

L.N. of 2018

**GAMING ACT
(ACT OF 2018)**

Gaming Commercial Communications Regulations, 2018

Arrangement of the Regulations

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L.N. of 2018

**GAMING ACT
(ACT OF 2018)**

Gaming Commercial Communications Regulations, 2018

IN exercise of the powers conferred upon him by article 12 of the Gaming Act, the Parliamentary Secretary for Financial Services, Digital Economy and Innovation, in consultation with the Malta Gaming Authority, has made the following regulations:-

PART I

Citation and Interpretation

1. The title of these regulations is the Gaming Commercial Communications Regulations, 2018. Citation.

2. (1) In these regulations, save as provided in sub-regulations (2) and (3), all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations, 2018. Interpretation.
LEGAL
NOTICE
NUMBER TO
BE INSERTED
UPON
PUBLICATION

(2) In these regulations, unless the context otherwise requires, "the Act" means the Gaming Act, 2018. ACT NUMBER
TO BE
INSERTED
UPON
PUBLICATION

(3) All other terms used in these regulations shall have the same meaning attributed to them in the Act.

PART II

Applicability

3. These regulations shall be applicable to: Scope.

(a) all authorised persons offering a licensable game;

(b) any person providing any service to, or on behalf of, or in any way in collaboration with an authorised person offering a licensable game.

Prohibition to publish commercial communications unless authorised.
LEGAL NOTICE NUMBER TO BE INSERTED UPON PUBLICATION

4. No person shall promote, advertise, publish, or cause to be published any commercial communication with respect to any licensable game unless the game and the operator are duly authorised in accordance with the Gaming Authorisations Regulations, 2018:

Provided that where commercial communications in breach of this regulation are published notwithstanding the provisions of this regulation, the Authority may also take into consideration breaches of the rules contained in these regulations during enforcement or criminal proceedings, as the case may be.

PART III

General Obligations and Limitations

Commercial communications must be socially responsible.

5. Commercial communications must be socially responsible, with particular regard to the need to protect minors and other vulnerable persons from harm or exploitation.

Limitations.

6. Commercial communications must not:

(a) portray, condone or encourage behaviour that is criminal or socially irresponsible or could lead to financial, social or emotional harm, or directly or indirectly encourage anti-social or violent behaviour;

(b) suggest that gaming can be a resolution to social, educational, professional or personal problems;

(c) suggest that gaming can be an alternative to employment, a solution to financial concerns or a form of financial investment;

(d) portray gaming as socially attractive or suggest that it can enhance personal and, or professional qualities, for example by improving self-image or self-esteem, or is a way to gain control, superiority, recognition or admiration;

(e) portray gaming in a context of toughness or link it to resilience or recklessness;

(f) portray gaming as indispensable or as taking priority in life, for example over family, friends or professional or educational commitments;

(g) suggest that solitary gaming is preferable to social gaming;

(h) suggest peer pressure to game, or disparage

abstention from gaming;

(i) suggest that skill can influence the outcome of a game that is purely a game of chance;

(j) provide false or untruthful information about the chances of winning or expected return from gaming;

(k) exploit cultural beliefs or traditions about gaming or luck;

(l) make reference to instantly available consumer credit services, or any other ways of providing credit to players;

(m) tarnish the goodwill and privilege that is associated or related in any manner whatsoever to an authorised person or tarnish the image or reputation of another authorised person.

7. (1) An authorised person shall not engage in any activity that involves the sending of unsolicited commercial communications, whether it is through its own operation or by the intervention of third parties.

Unsolicited
commercial
communications

(2) An authorised person engaged in the sending of any solicited commercial communications must comply with a request by any person to stop receiving such commercial communications as soon as is reasonably practicable, and in no case later than three (3) days from receipt of the request.

8. Commercial communications should not target or be sent to players who the authorised person knows, or reasonably should have known, are undergoing a period of self-exclusion:

Commercial
communications
not to be
targeted to self-
excluded
players.

Provided that the authorised person has a maximum of twenty-four hours from the moment that the player has self-excluded before this regulation becomes applicable.

9. An authorised person who, subject to the Data Protection Act and the regulations made thereunder, collects statistical data about players, and, or, groups players based on patterns and demographics and, or other data or metadata, to identify appropriate marketing strategies or player categorisation, shall not use the data gathered to urge or induce any person fitting the profile of a person with a gaming problem to play.

Use of data.
Cap. 440.

10. An authorised person shall not attempt to induce any player to continue playing the authorised games in any manner when such a player has shown the intention to stop the gaming session or,

No attempt to
induce.

where applicable, to leave the premises in which the gaming activity is being conducted.

Games without stake or prize.

11. If an authorised person offers players an alternative version of the authorised games, but with the exclusion of a stake and a prize, the alternative version shall retain the same technical conditions and be otherwise identical to corresponding authorised games.

Information to be displayed.

12. All commercial communications must clearly display:

(a) the name of the relevant authorised person;

(b) a reference to the entity which issued the relevant authorisation whether such entity is the Authority or the competent authority in the relevant jurisdiction, referring to any relevant authorisation reference numbers:

Provided that commercial communications displayed on the websites, applications or any other channel operated by the authorised persons, or within the licensed premises run by the authorised persons, are excluded from the requirements of this regulation if the above information is otherwise displayed on the same website, or within the same premises.

Commercial communications on social media.

13. For the avoidance of any doubt, any commercial communications displayed by, within or via social media account portals held by authorised persons or third parties acting on behalf of or in collaboration with the authorised persons, are subject to these regulations in their entirety.

Public places.

14. (1) No commercial communications may be issued or distributed in any public place, or in or on any means of public transportation in Malta:

Provided that such restriction shall not apply to any commercial communications published, displayed or broadcasted within authorised gaming premises, or in any work environment used by an authorised person.

(2) Sub-regulation (1) shall not apply to commercial communications which are displayed or distributed in:

(a) locations frequented mainly by tourists, including airports, seaports, hotels and holiday complexes:

Provided that this shall not include bars and restaurants;

(b) conferences or events specifically organised in relation to the gaming sector;

(c) premises of operators;

(d) premises of organisers or beneficiaries of authorised low risk games; and

(d) newspapers or magazines.

15. It shall be lawful for an authorised person to set up a sign or notice identifying premises used or belonging to it:

Authorised persons may identify premises within specified distance.

Provided that such sign or notice shall be placed directly on the premises referred to above, or not further than a radial distance of five (5) metres from the centre of the entry point to the premises and that sign or notice is the only sign or notice relating to the premises at that entry point:

Provided further that the sign or notice is limited to the identifying name or brand of the authorised person, and directions towards the entrance.

16. For the avoidance of any doubt, authorised persons promoting or advertising via broadcasting means shall be subject to the Requirements as to Advertisements, Methods of Advertising and Directions Applicable to Gambling Advertisements in addition to these regulations.

Commercial communications via broadcasting. S.L. 350.25

PART IV

Responsible Gaming

17. Educational responsible gaming messaging shall be prominently included within all commercial communications related to gaming:

Responsible gaming messages.

Provided that where impractical due to spatial limitation, such as on the screens of portable communications devices, the relevant commercial communication may make use of alternative means which capture the viewer's attention effectively.

18. The web-portal address of any entity devoted to responsible gaming must be carried on all commercial communications and should be presented in a manner which is clearly legible:

Web-portal of entity devoted to responsible gaming.

Provided that where impractical due to spatial limitation, such as on the screens of portable communications devices, the

relevant commercial communication may make use of alternative means which capture the viewer's attention effectively:

Provided further that where the alternative method is composed of click-throughs, the landing page should be no further than two clicks away and should be either the operator's own responsible gaming microsite, or any other web-portal of an entity with a related objective.

PART V

Protection of Minors and Vulnerable persons

Minimum age.

19. All commercial communications, with the exception of sponsorship, must prominently display, for their entire duration, a sign indicating the minimum age to participate in the game being promoted.

Restrictions in relation to minors and vulnerable persons.

20. Without prejudice to the provisions of regulation 6, commercial communications must not:

- (a) be directed towards minors or vulnerable persons;
- (b) encourage or target minors or vulnerable persons to play a game;
- (c) feature minors;
- (d) appeal to minors or vulnerable persons in any way;
- (e) exploit the susceptibilities, aspirations, credibility, inexperience or lack of knowledge of minors or vulnerable persons, or present gaming as a sign of maturity or move to adulthood.

PART VI

Sponsorships

Sponsorships to exclude product placement.

21. For the purposes of these regulations, sponsorship shall be limited to text, logo or imagery that serve the exclusive purpose of identifying the authorised person, and excludes product placement.

Sponsorships to indicate the authorised person to which they relate.

22. Authorised persons sponsoring any organisation, event or activity for any purpose, shall ensure that any logo or imagery used clearly indicates the identity of the authorised person.

Service related to sponsored party or event.

23. (1) Where an authorised person's gaming service is in any way related to the sponsored party or event, the authorised

person:

(a) must in no way exert undue influence in relation to any sporting or other matters, on representatives of the sponsored party or on any persons who can influence, or who have insider knowledge about, the sponsored event; and

(b) must avoid any implication that they might, as a result of the sponsorship, have any involvement in the management of the activities being sponsored.

24. Activities where the majority of the audience is reasonably expected to be composed of minors or of vulnerable persons, or which have particular appeal to minors or vulnerable persons must not be sponsored.

Sponsorships prohibited where activity mainly involves minors or vulnerable persons.

25. Sponsorship of minors or of persons of legal gaming age portrayed as minors is expressly prohibited:

Sponsorship of minors.

Provided that it is lawful for an authorised person to sponsor events predominantly attended by, or teams composed of, adults, but which might include the involvement of one or more minors.

26. An authorised person shall not cause any promotional material, including any logos or text, to appear in merchandising designed for or mainly aimed at minors.

Merchandising aimed mainly at minors.

27. Sponsorship of, or advertising in, televised programmes that have or are expected to have particular appeal to minors or vulnerable persons is expressly prohibited.

Televised programmes appealing to minors.

PART VII

Misleading and Unfair Promotional Schemes

28. Promotional schemes operated by authorised persons shall be subject to the Consumer Affairs Act.

Promotional schemes. Cap. 378.

29. (1) Any promotional scheme purporting to grant any advantage or opportunity to a player must not be misleading and:

Promotional schemes must not be misleading and must adhere to conditions.

(a) must be clear as to the extent of the commitment the consumer must make to take advantage of any offer;

(b) cannot omit or hide material information, or present it in a manner which is unclear, unintelligible or ambiguous;

(c) must delineate with sufficient prominence all

material information, including wagering and, or deposit requirements which must be fulfilled by a player in order to become entitled thereto, including examples displaying such requirements in an intelligible and easily comprehensible manner, as well as all or any applicable restrictions or other conditions in a clear and unambiguous manner;

(d) must include terms and conditions referring to all material information relating to the scheme, which shall be expressly agreed to by the players before being enrolled in the scheme and must thereafter always be readily available and accessible to the player who has subscribed to the scheme

(2) The authorised person shall ensure that players can constantly view their progress in fulfilling the requirements in order to benefit from any opportunity or advantage granted by the promotional scheme.

Display to include material information when space is limited.

30. Where the promotion or advertisement is limited by time or space, it must include as much material information as is practical, and must direct players to an easily accessible alternative source where all the material information is prominently displayed;

Provided that where the said advertisement is of digital nature, the material information should be displayed no further than one click away from the advertisement itself.

PART VIII

Exemptions

Commercial communications devoted to employment or educational purposes.

31. Commercial communications, the sole purpose of which is to inform the public of an opportunity for employment or for an educational purpose, shall be exempt from the provisions of these regulations, provided that such commercial communications shall not include any references to gaming services.

PART IX

Enforcement

Complaints.

32. Without prejudice to the powers set out within the Act, and any other regulatory instrument, and notwithstanding the procedures envisaged in other regulatory instruments for enforcement against breaches committed by authorised persons, for the purpose of ascertaining that the provisions of these regulations are adhered to and in the fulfilment of its function in accordance with article 7(1)(c) of the Act, that gaming is advertised fairly and in a responsible

manner:

(a) upon reception of a complaint by any person, or if the Authority becomes in any other manner aware of a *prima facie* breach of these regulations, the Authority must immediately notify the respective authorised person of such breach, and allow three (3) working days for the authorised person to submit a defence in writing for this alleged breach;

(b) the Authority shall examine the nature of the alleged breach of these regulations, taking into consideration the submissions of the authorised person and publish its decision within ten (10) days from the receipt of submissions from the authorised person. The authorised person must immediately be notified in writing of such decision;

Provided that, the Authority may, when it deems it necessary, instruct the authorized person in writing to suspend the publication or provision of the commercial communication until the final decision is reached by the same Authority and the authorised person shall comply with such instructions;

(c) in the event that the Authority determines that such commercial communication does not comply with these regulations, the Authority may order its modification, retraction or termination;

(d) the Authority may take any administrative action required, including the issuing of administrative sanctions as laid down within the Act and the regulations made thereunder against authorised persons:

Provided that, in the event that the authorised person voluntarily amended, or temporarily suspended the commercial communication in question, pending the final decision of the Authority, this action will be taken into consideration by the Authority when determining the nature of the sanction;

(e) the Authority may call on the support of any relevant competent Maltese authorities for the removal of any material which is in breach of these regulations or the Act.

33. (1) An authorised person shall be held responsible for any breach of these regulations, even if the action is not performed directly by it, but by any third party:

Performance by third parties.

Provided that the Authority may decide against subjecting an authorised person to administrative sanctions if it can be shown

that the third party acted without the knowledge or approval of the authorised person, and as long as the Authority is satisfied that the authorised person took sufficient precautions to avoid such breaches being committed, and took action forthwith to rectify the breach and endeavour that it does not re-occur.

(2) An authorised person shall, in the event that its gaming activity is being advertised or promoted by a third party in breach of these regulations, endeavour to rectify the situation forthwith.
