

**Jersey Gambling Commission**



# **Advertising Policy**

**November 2016**

# Advertising Policy

## Guiding Principles

The Jersey Gambling Commission's (Commission) guiding principles are set out under the Gambling Commission (Jersey) Law 2010 (the Law) and are as follows:

- gambling should be regulated in accordance with generally accepted international standards to prevent fraud and money laundering, and should not be permitted to be a source of crime;
- gambling should be verifiably fair to consumers of those services;
- gambling should always be conducted responsibly and with safeguards necessary to protect children and vulnerable people.

In exercising its functions under the Commission Law and the Law, the Commission must always have regard to these principles. The Commission will, therefore, only permit advertising of gambling or services to commercial gambling operators or societies and charities if it considers it reasonably consistent with pursuit of the guiding principles.

## Advertising Codes of Practice

Complimentary to the provisions of Law, the Commission requires advertisements to comply both with this Policy and the Advertising Standard Agency's (ASA) Code of Practice in relation to marketing gambling. The primary rules governing advertising are produced and controlled by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP); the ASA applies these rules when considering complaints or reported breaches of the Code.

A copy of this Code can be found at the following web link:

<https://www.cap.org.uk/Advertising-Codes/Non-Broadcast/CodeItem.aspx?cscid={33f1cb65-f23b-4206-8bd4-04a5f7ccd2f7}#.WC64O6KLS18>

The Commission makes it a requirement for all those approved by it to market their facilities and services responsibly and in accordance with the rules provided by the Advertising Standards Agency, specifically in respect of a gambling promotion. This requirement includes the advertisement of charitable or society gambling, as well as private members clubs.

In brief, these rules state the gambling advertising must not:

- Portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm.
- Exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons.
- Suggest that gambling can be a solution to financial concerns.

- Link gambling to seduction, sexual success or enhanced attractiveness.
- Appeal to children or young persons, especially by reflecting or being associated with youth culture.

The gaming industry and the advertising business accept responsibility for ensuring that marketing communications contain nothing that is likely to lead people to adopt styles of gambling that are unwise.

Marketing communications should be socially responsible and should not encourage excessive gambling. No proscriptive list of publications will be provided by the Commission, but advertisers should understand the demographic of the publication's readership and not market in those publications directed at under 18 year olds.

Care should be taken not to exploit the young, the immature or those who are mentally or socially vulnerable.

Marketing communications should not be directed at people under 18 through the selection of media, style of presentation, content or context in which they appear. No medium should be used to advertise betting and gaming if more than 25% of its audience is under 18 years of age. Any actors or models used to portray gambling activity should not be or look under 25.

### **Honesty**

Marketers should not exploit the credulity, lack of knowledge or inexperience of consumers.

### **Truthfulness**

No marketing communication should mislead, or be likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.

### **Testimonials and Endorsements**

Testimonials and endorsements should not be used to marketing gambling. One person's experience of a win would be misleading as their chance of winning is in no way enhanced by the fact they won. While winners of lotteries may agree to publicity in respect of their win, any commentary should only reflect the fact they won and not be portrayed as a guarantee of winning.

### **Industry Voluntary Code**

The gambling industry in the UK developed its own code in 2007 to supplement and enhance the work of the CAP. The code is called the Gambling Industry Code for Socially Responsible Advertising<sup>1</sup>.

The code makes several requirements and recommendations, which cover the following areas:

- Social Responsibility messages;

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[http://www.rga.eu.com/data/files/2015\\_PR/Gambling\\_Industry\\_Code\\_for\\_Socially\\_Responsible\\_Advertising\\_-\\_Final\\_2nd\\_Edition\\_-\\_August\\_2015.pdf](http://www.rga.eu.com/data/files/2015_PR/Gambling_Industry_Code_for_Socially_Responsible_Advertising_-_Final_2nd_Edition_-_August_2015.pdf)

- Display of gambleaware website address;
- Broadcast media – messaging;
- Television advertising – watershed;
- Ban on children’s merchandising as part of sporting sponsorships.

### **Display of Website**

All non-broadcast gambling advertising should, where it is feasible, practical and necessary to do so, carry the website address [www.gambleaware.co.uk](http://www.gambleaware.co.uk). The address should be applied in a clear and legible manner. Although the same requirement applies to broadcast advertising, the code recognises that in radio advertising, this may cause difficulties, especially if the advertisement refers to the gambling operator’s own website address. If this is the case, then the advertisement should carry educational/socially responsible messages (see below). The code also states that where possible, and in relation to gambleaware, adverts should include the phrase: *For more information and advice, please visit...*

### **Educational/Social Responsibility Messages**

As mentioned above, the code encourages the inclusion of educational messaging, such as the following:

- Please play responsibly;
- If it’s no longer fun, walk away;
- Winners know when to stop;
- Don’t let the game play you.

### **Declaration of Licence and Authority**

It is not a mandatory requirement for the advertisement to carry the fact that a gambling operator is licenced. Wording is provided for those operators wishing to include this fact in their advertisements e.g. Licensed by the...

### **Watershed**

Gambling products should not be advertised on television before 9pm. There are two exemptions to this prohibition in the UK, bingo is not subject to the watershed rule and the other exemption relates to the advertising of sports betting around televised sporting events (but not sports themed entertainment programmes).

### **Children’s Merchandising**

This industry code requires gambling operators not to allow their logos or other promotional material to appear on any commercial merchandising e.g. football shirts, which are designed for use by children.

### **Specific Prohibition**

Other than advertising unlicensed or unapproved gambling activity (see heading), it is important to note that private gambling cannot be advertised<sup>2</sup>. Private gambling is

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Citations of Articles refer to the Gambling (Jersey) Law 2012

<sup>2</sup> **Article 28 Restriction of other gambling, not being private gambling** (2) (a) it does not take place in public and is not advertised;

defined as not taking place in public, not conducted by way of business and is not advertised. If private gambling is advertised the activity will be classified as illegal gambling. The Law does not trespass into people's homes and gambling with friends and family is a legal activity. However, arranging an evening for personal profit is deemed commercial gambling if there is any element of private gain, other than monies returned as winnings. For example should the person arranging the evening exact or demand payment for participating in the game, or levies a charge for refreshments (other than the equitable division of payment for food delivery services or pre-bought beverages) this person would be profiting from facilitating gambling: this is illegal.

### **Licence Conditions**<sup>3</sup>

The Commission regulates various forms of gambling, from fundraising to commercial gambling services providers. The purpose of this guidance is to provide a general overview along with advice on minimal requirements to ensure responsible and realistic marketing of events, services and products. However, further controls on advertising may be applied through Permit or Licence conditions and this very much depends on the types of approval issued. Consistency is important, for example, any restrictions placed on one bookmaker will be applied to others offering the same bookmaking service, but these restrictions or permissions may not necessarily be applicable to other forms of gambling approval.

### **General Licence and Permit Conditions**

Corresponding with the guiding principles governing the Commission, the Law provides a mandatory licensing condition in relation to advertising:

It is a condition of every licence that the gambling must not be advertised in any manner that is directed at children or that contravenes any provision of a code of practice that restricts advertising of commercial gambling in relation to children.<sup>4</sup>

### **Specific Licence and Permit Conditions**<sup>5</sup>

The Commission applies a condition to all licensees and Permit holders under Article 20 of the Law. A person or company in possession of any form of Commission approval may only advertise those activities it is licensed to do so within Jersey. *Advertise* in this instance refers to print and broadcast media generated from or within the Island e.g. Jersey Evening post, local radio and TV programmes. If an approved company or person has gambling interests situated outside of the Island, these may not be advertised in Jersey.

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<sup>3</sup> **Article 3(2) (h)**... the circumstances in which gambling is conducted, such as the number or nature of the occasions on which it is conducted or the manner in which it is or is not advertised

<sup>4</sup> **Article 16 (2)**

<sup>5</sup> **Article 20 (1) (g)**... whether gambling advertisements may be issued by the licensee or may be issued in relation to gambling conducted by the licensee, including any restriction as to the form, content, timing and location or publication of any permitted advertisement and in particular any step to be taken to reduce the risk of harm to children;

This rule also applies to advertising sponsorship agreements with local associations and sporting bodies.

However, if the licensee operates a terrestrial premises in Jersey to which the public has access, information regarding these other jurisdictional activities may be provided internally.

### **Static Advertising**

An approved person or company may use posters, advertising boards and hoardings, but these static campaigns must not be displayed in front of schools or playgrounds.

### **External Advertising**

The Commission applies the test provided by Article 29 to distinguish the difference between direct and general advertising of gambling that is situated outside of Jersey. Advertising will not be treated as being issued in Jersey if the target audience is principally outside of the Island.

- Copies of UK periodicals and newspapers are freely on sale throughout the Island, but they are not published solely for Jersey consumption and any gambling advertising they carry will not be considered as directly targeting the Island's public.
- Sound or television broadcasts transmitted principally for reception outside of Jersey will not be considered as directly targeting the Island's public.
- Websites not principally intended for use by persons in Jersey will not be considered as directly targeting the Island's public. However, unsolicited advertising generated outside of Jersey and targeted at the Island's public is prohibited.

The Commission will pursue as far as is practicable any adverts failing to conform with CAP/ASA Codes or home jurisdiction equivalents.

### **Advertising Unlawful Gambling<sup>6</sup>**

It is illegal and therefore an offence to provide gambling in Jersey without a licence, permit or registration (certain exempted activity is allowed) and this carries a separate penalty. However, it is a further offence to advertise this illegal activity.

In respect of the Law, a person or company advertises gambling if they issue an advertisement containing an invitation to gamble or to use a gambling service or the advertisement contains information, which is intended or might reasonably be presumed to be intended to lead directly or indirectly to gambling, or to the use of a gambling service.

Advertising also extends to sponsorship and brand-sharing arrangements. This is where a name is displayed in connection with an event or product, and either the provision of facilities for gambling is the sole or main activity undertaken under that sponsor's name, or the manner or context in which the name is displayed is

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<sup>6</sup> Article 29

designed to draw attention to the fact that facilities for gambling are provided under that name.

“Issue” in respect of advertising includes the use of any means of delivery to bring the advert’s content to public attention.

## **Penalties**

A person or company is guilty of an offence and liable to imprisonment for a term of 2 years and to a fine if they advertise unlicensed or unapproved gambling activity.

It is also an offence for an approved person or company to advertise gambling activities that they are not licensed or sanctioned to conduct.

This equally applies to first stage applicant companies or individuals as well as those late stage applicants for any form of Commission approval. If a company or a person does not hold Commission approval, it should not advertise gambling until it receives a Licence or Permit.

This prohibition does apply to exempt category clubs, societies and charities (please refer to: <http://www.jgc.ie/application-forms/social-and-charitable-gambling/>).

Persons or companies named in gambling advertisements will be held responsible for the advertisement unless they can prove otherwise. The display or exhibition of an illegal advertisement is an accumulative offence, with each day of exhibition taken separately into account<sup>7</sup>.

## **Publishers**

Generally, the offence of advertising illegal gambling does not extend to individuals or firms whose business it is to publish advertisements or arrange for publication of advertisements if a defence can be made that they were innocently involved in the matter. The Law in determining culpability provides that publishers meet the following tests:

- he or she received the gambling advertisement for publication in the ordinary course of his or her business;
- the matters contained in the gambling advertisement were not, wholly or in part, devised or selected by him or her or by any person under his or her direction or control; and
- he or she did not know and had no reason for believing that publication of the gambling advertisement would constitute an offence.

Publishers should take all reasonable steps to ensure that prospective clients are approved by the Commission, and that the matters they seek to advertise are sanctioned by the regulator.

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<sup>7</sup> Article 29 (6)

## **Enforcement Powers** <sup>8</sup>

The Law equips the Commission with the power to issue directions in respect of gambling advertisements. A direction may:

- prohibit the issue, re-issue or continuance of a particular gambling advertisement,
- require that any particular gambling advertisement be modified in a specified manner,
- prohibit the issue, re-issue or continuance of gambling advertisements of any description, or
- require that gambling advertisements of any description be modified in a specified manner.

If you are in any doubt as to the requirements of this Policy, or its application to an advertisement that you intend to make you should contact the Commission:

Email: [info@jgc.ie](mailto:info@jgc.ie)

Telephone 01534 828540

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<sup>8</sup> Article 35

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