DRAFT RESOLUTION OF THE DIRECTORATE GENERAL FOR GAMBLING REGULATION APPROVING AND ESTABLISHING THE TECHNICAL SPECIFICATIONS OF THE MESSAGE RELATING TO THE HARMFUL EFFECTS DERIVED FROM GAMBLING ADDICTION OR A RISKY BEHAVIOUR OF THE USER AND OF THE MESSAGE RELATING TO THE PROHIBITION OF PARTICIPATION OF MINORS IN THE COMMERCIAL COMMUNICATIONS OF GAMBLING ACTIVITIES.

Royal Decree 958/2020, of 3 November, on commercial communications relating to gambling activities established a new paradigm in advertising in the gambling sector which, among other reasons, responds, as stated in its explanatory memorandum, to a social demand for the implementation of preventive, awareness-raising, control and intervention measures in view of the serious consequences that the consumption of certain gambling and betting activities can have on certain individuals. In line with this reasoning, the Royal Decree sets out the general principles that must govern commercial communications, including the principle of safe gambling and the principle of protection of minors.

The Royal Decree stipulates that, in implementing the principle of safe gambling, the design and dissemination of commercial communications by gambling operators shall seek to strike a balance between promoting gambling activity and the necessary protection of consumers against the risks of such activity.

In accordance with this purpose, Article 10 of Royal Decree 958/2020, of 3 November, on the principle of safe gambling, provides in Paragraph 4 for the possibility that the regulatory authority may establish, by means of a resolution, the obligation for commercial communications from gambling operators to include a message regarding the harmful effects of gambling addiction or a risky behaviour on the part of the user, a provision which this resolution brings into effect.

Likewise, in order to avoid both the excessive number of messages, and the consequent ineffectiveness in achieving the information objective to which they respond, as well as the proliferation of potentially contradictory messages, and in line with the orientation of the new framework for the protection of consumers of gambling services introduced by Royal Decree 176/2023, of 14 March, on safer gambling environments (in which the concept of safe gambling in terms of protection of the participant in gambling shifts the focus away from the subjective perspective of the individual responsibility of the player to a conception in which the operator is also responsible in the design of its service offer), the resolution opts for the alternative of removal of the message relating to playing responsibly provided for in Article 10, Paragraph 3, of Royal Decree 958/2020, of 3 November, and its replacement by the message mentioned in the previous paragraph.

For its part, in relation to the principle of protection of minors, the Royal Decree in its Article 11 establishes the obligation that the commercial communications of gambling operators must include a warning that minors may not participate in gambling activities, while leaving a

discretionary margin to its determination by the operators, and whose content is established by this resolution in a univocal manner.

Finally, Article 10, Paragraph 5, and Article 11, Paragraph 4, of the aforementioned Royal Decree empower the authority responsible for regulating gambling to establish specifications regarding the form, size, placement, contrast and content of the messages provided for in Article 10, Paragraph 4, and Article 11, Paragraph 3, of the Royal Decree.

The purpose of this resolution is to approve the message prohibiting the participation of minors provided for in Article 11, Paragraph 3, of Royal Decree 958/2020, of 3 November, on commercial communications for gambling activities, as well as the set of mandatory messages that these communications must include in order to warn of the harmful effects resulting from gambling addiction or a risky behaviour on the part of the user provided for in Article 10, Paragraph 4, of the same regulation; to replace the message provided for in Paragraph 3 of the same provision relating to gambling responsibly with the previous message; and to lay down the specifications relating to the form, size, placement, contrast and content of both messages.

To that end, the resolution is structured into seven sections and two annexes. Section One, relating to the purpose of the resolution, is to approve the mandatory message that commercial communications relating to gambling activities must include in order to warn of the harmful effects of gambling addiction or a risky behaviour on the part of the user, as a substitute for the message on responsible gambling provided for in Article 10, Paragraph 3, of the Royal Decree, and for the establishment of the specifications relating to the format, size, placement, contrast and content of the messages referred to in Article 10, Paragraph 4, and Article 11, Paragraph 3, of the Royal Decree. Section Two, which develops the content of the mandatory warning message that gambling operators must include in order to warn of the harmful effects derived from gambling addiction or a risky behaviour of the user, for which different options and their form of dissemination are foreseen depending on the means of communication. Section Three, which determines the message relating to the prohibition on gambling by minors. Section Four, which establishes the common provisions for messages – aimed at ensuring their clarity and intelligibility – and refers to Annexes I and II, which set out the technical specifications relating to their form, size, placement and contrast. Section Five, which contains an exception regarding commercial communications of quiz games disseminated through radio audiovisual media services in accordance with the provisions of Article 21, Paragraph 4, of Royal Decree 958/2020, of 3 November. Section Six, which provides for a transitional clause regarding the adaptation of existing contracts before the resolution takes effect. And finally, Section Seven, which establishes the time from which the resolution will be effective. The resolution is supplemented with two annexes. Annex I sets out the general specifications according to the medium in which the commercial communication of the gambling operators takes place, and Annex II sets out the provisions applicable to the models of the messages in graphic format.

This resolution is in accordance with the principles for sound regulation referred to in Article 129 of Law 39/2015, of 1 October, on the Common Administrative Procedure of Public

Administrations, particularly the principles of necessity, effectiveness, proportionality, legal certainty, transparency and efficiency. Specifically, this regulation pursues a general interest, within the framework of the set of measures adopted by Royal Decree 958/2020, of 3 November, and is based on an overriding reason of general interest – namely public health in the form of awareness-raising and prevention of gambling addiction – and protection of the public interest, with particular relevance as regards minors, by strengthening the protection of the general public through increasing their awareness of the harm inherent in gambling through a set of warning messages that must be included in the commercial communications of gambling operators. As such, it constitutes a primary prevention measure designed to prevent, inform, raise awareness and sensitise the general population and, therefore, promote safer behaviours in relation to this activity. Moreover, it is an essential regulation in view of the fact that there are no other measures imposing fewer obligations than those laid down in this regulation with equal effectiveness in achieving the intended purpose. The regulation is also consistent with the legal system and promotes its certainty and clarity, thus respecting the principle of legal certainty. In this sense, the resolution specifies both the content of the messages, as well as the advertising media and dissemination channels, harmonising the warning signage in this sector. This initiative also complies with the principle of efficiency, since it does not entail unnecessary administrative burdens. Finally, during the procedure for its preparation, the participation of the potential addressees of the regulation was encouraged through the public consultation process.

This provision has been subject to the information procedure in the area of technical rules and regulations relating to information society services provided for in Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, and that set out in Royal Decree 1337/1999, of 31 July, regulating the transmission of information in the field of technical standards and regulations and rules relating to information society services.

This resolution is issued in accordance with the provisions of Article 10, Paragraphs 4 and 5, and Article 11, Paragraphs 3 and 4, of Royal Decree 958/2020, of 3 November.

Accordingly, following a report from the State Attorney's Office at the Ministry of Social Rights, Consumer Affairs and Agenda 2030, the Directorate General hereby decides:

First. Purpose.

1. In the context of entities subject to supervision by the Directorate General for Gambling Regulation, the purpose of this resolution is to:

    i. Establish the obligation for commercial communications regarding gambling activities to include a message concerning the harmful effects of gambling addiction or a risky behaviour by the user.

ii. Replace the message regarding responsible gambling in Article 10, Paragraph 3, of Royal Decree 958/2020, of 3 November, on commercial communications of gambling activities, with the message provided in the previous paragraph.

iii. Establish specifications regarding the form, size, placement, contrast and content of the messages provided for in Article 10, Paragraph 4, and Article 11, Paragraph 3, of Royal Decree 958/2020, of 3 November, on commercial communications relating to gambling activities.

2. The measures adopted in this resolution will be complementary and independent to those provided for in Article 9 of Royal Decree 176/2023, of 14 March, which develops safer gaming environments.

Second. Message content relating to the harmful effects of gambling addiction or a risky behaviour.

1. The content of the message provided for in Article 10, Paragraph 4, of Royal Decree 958/2020, of 3 November, shall be one of the following:

‘Gambling addiction is a risk of gambling.’

‘The probability of being a money-losing player is 75 %.’

‘The total losses of all players exceed their winnings by a factor of four.’

2. A reference to the website of the Directorate General for Gambling Regulation, which deals with safe gambling, will also be included: www.juegoseguro.es. Whenever the medium of dissemination allows it, by clicking on the message the user will be redirected to the website. www.juegoseguro.es.

3. The messages described in the previous section will be disseminated according to the media outlet and in accordance with the following criteria:

i. In the case of communications in face-to-face media, only one of the messages from the previous section will be shown depending on the campaign of which they are part.

ii. In commercial communications in audiovisual media services, the audible message "Gambling addiction is a risk of gambling" will be disseminated.

iii. In the rest of the media, the messages will be shown alternately and tending to be equitable in each advertising campaign of which they are a part and according to the possibilities of the media used for their dissemination, without privileging some content over others.

4. In commercial communications disseminated through face-to-face media, when, due to their size, it is not possible to include any of the messages mentioned above in a size that allows for easy reading, the message ‘Gambling is a risk’ may be opted for instead.

Third. Content of the warning regarding the prohibition of underage gambling.

The content of the warning provided for in Article 11, Paragraph 3, of Royal Decree 958/2020, of 3 November, referring to the prohibition of minors from participating, shall be 'Only for persons aged 18 and over'.

Fourth. Common provisions.

1. The messages shall be presented in an accessible and easily legible and/or audible manner, taking into account the characteristics of the medium used for their dissemination. They shall be clearly distinguishable from commercial communications and fully visible, without the participant having to scroll across the screen of their device to view them; and when transmitted orally, they shall be pronounced clearly and comprehensibly.
2. They may not be modified, concealed, obscured, or separated by other indications or images, and their content may not be distorted.
3. The specifications relating to the shape, size, arrangement and contrast of the messages will be those provided for in Annex I and II.

Fifth. Exception.

Commercial communications of quiz games disseminated through radio audiovisual media services will not be subject to the provisions of this resolution in relation to the message relating to the harmful effects derived from gambling addiction or a risky behaviour of the user.

Sixth. Adaptation of advertising contracts signed prior to the effectiveness of this resolution.

Advertising contracts signed prior to the publication of this resolution may continue to be executed for a period of three months from said publication without the need for the commercial communications disseminated to be adapted to this resolution.

Seventh. Effectiveness.

This resolution shall enter into force sixty days after its publication in the Official State Gazette (Boletín Oficial del Estado).

The interested party may lodge an appeal against this resolution with the General Secretariat for Consumer Affairs and Gambling, within a period of one month from the day following its publication, in accordance with Articles 115, 121 and 122 of Law 39/2015, of 1 October.

Madrid, XXXX.–The Directorate General for Gambling Regulation, Mikel Arana Echezarreta.

ANNEX I

General specifications taking into account the medium in which commercial communication takes place.

First. Layout of the messages.

1. In graphic format, the messages shall be laid out according to the means of communication and their size in the image formats set out in Annex II.

   i. In general, the image will consist of two lines in which the messages will be distributed as follows:

   - the first line will display a message warning of the harmful effects of gambling addiction or a risky behaviour;
   - the second line will display a message prohibiting minors from participating in gambling activities, as well as information about the safe gambling website of the Directorate General for Gambling Regulation.

   ii. On the portals, websites and applications of gambling operators or their affiliates, the message will be arranged over four or five lines, depending on the message to be disseminated:

   - In the first, second and, where applicable, third line, the text of the message relating to the harmful effects of gambling addiction or a risky behaviour will be integrated;
   - In the fourth line, or the third if the previous message is incorporated into two lines, the message relating to the prohibition of participation by minors will be integrated;
   - and, in the last line, the reference to the safe gambling website of the Directorate General for Gambling Regulation.

   iii. Commercial communications disseminated through face-to-face media where, due to their size, incorporating the messages on several lines makes them difficult to read, may display the messages on a single line.

2. The messages in audio format will be arranged in the following order: first, the message regarding the harmful effects of gambling addiction or a risky behaviour on the part of the user will be disseminated; second, the warning prohibiting gambling by minors; and third, information regarding the safe gambling area on the website of the Directorate General for Gambling Regulation.

Second. Commercial communications disseminated on audiovisual media services.

1. In commercial communications disseminated on audiovisual media services, the message relating to the harmful effects of gambling addiction or a risky behaviour shall be orally transmitted, always at the end of the commercial communication, for at least two seconds.

   For its part, the warning relating to the prohibition on gambling by minors may be conveyed either orally, jointly with the preceding message and for a minimum duration of two seconds, or graphically, in which case it shall be clearly visible in band format at the bottom of the screen for the entire duration of the commercial communication and shall occupy at least 15 % of the height of the audiovisual communication across 100 % of its width.

2. In the case of dissemination via radio audiovisual media services, the messages must appear at least once in every two commercial communications made consecutively by the same operator and by the same service provider, without prejudice to the exception provided for in Section Five of this Resolution.

Third. Commercial communications in display, banner, pop-up window or similar format of information society services and in distinguishable and separable commercial communications in video-sharing platform services.

In commercial communications such as display/banner advertising, pop-ups or similar, as well as in distinguishable and separable commercial communications in video-sharing platform services referred to in Article 25, Paragraph 2, of Royal Decree 958/2020, of 3 November, on commercial communications for gambling activities, the image contained in Annex II must be clearly visible at the bottom in band format throughout the commercial communication and must be at least 15 % high in 100 % of the width of the commercial communication.

Fourth. Portals, websites, and applications of gambling operators or their affiliates.

1. The portals, web pages and applications of gambling operators or their affiliates on which commercial communications, promotional offers or any other form of advertising activity are placed, must display the messages provided for in this resolution in the form of a display/banner, pop-up window or similar, centred and with a size equivalent to at least 15 % of the content visible to the internet user, depending on the device they are using to browse, for at least five seconds or, where applicable, until the user closes it or stops it.

   In addition, gambling operators' websites and applications must display the messages permanently.

2. The provisions of the previous section do not apply to the operator's gambling environment.

Fifth. Commercial communications through email or other equivalent media.

Commercial communications disseminated by email or other equivalent means shall incorporate the image contained in Annex II, which shall be clearly visible, in band format.

In those cases where the equivalent medium used does not allow the insertion of the image provided in the previous section, its content must be adapted to a text format, always ensuring its sufficient visibility and legibility.

Sixth. Face-to-face media.

In commercial communications disseminated in face-to-face media, when the nature of the medium in which the communication is disseminated allows it, the messages must be located at the bottom, in a band format, occupying at least 15 % of the height and 100 % of the width of the space allocated to commercial communication.

In the case of gambling activity participation media, such as tickets, slips, ballots or other documents, the messages shall be inserted at the bottom and the format may be adapted to the characteristics of the media.

Seventh. Format specifications relating to messages and the container image for those messages.

1. The message will be written on a white background (CMYK 0,0,0,0), in Helvetica bold, lowercase typeface, in black (CMYK 0, 0, 0, 100).
2. The size of the typography, as well as each line, will be adapted to make the most of the available space between the left and right edges of the surface, in accordance with the font size used in commercial communication, centring the text on the width and height of the surface reserved for the message, respecting a margin of approximately 10 pixels to the black frame on which the message is framed.
3. The size of the warning message about the harm caused by gambling addiction or a risky behaviour will serve as a reference for determining the size of the message regarding the prohibition of participation by minors and the referral to the website, which should use a font size of approximately 60 % of that used in the former. This rule will not apply to the format provided for in clause four of Annex II.
4. The image will be framed in a black frame (CMYK 0 0 0 100) and 18 pixels thick. In the case of commercial communications disseminated on portals, web pages and applications belonging to gambling operators or their affiliates, an additional white outer border (CMYK 0, 0, 0, 0) 2 pixels thick shall be displayed.

ANNEX II

Message templates in graphic format.

First. Graphic format in commercial communications in audiovisual media services.

Solo para mayores de 18 años
Infórmate en www.juegoseguro.es

Only for adults aged 18 and over
Find out more at www.juegoseguro.es

Second. Graphic format in portals, websites and applications of gambling operators or their affiliates.

La ludopatía
es un riesgo
del juego
Solo para mayores de 18 años
Infórmate en www.juegoseguro.es

Gambling addiction is a risk of gambling
Only for adults aged 18 and over
Find out more at www.juegoseguro.es

Third.- Band to be incorporated into commercial communications disseminated in the format of display, banner, pop-up windows or similar information society services; face-to-face media, emails or other equivalent means and in distinguishable and separable commercial communications in video sharing services through a platform.

La ludopatía es un riesgo del juego
Solo para mayores de 18 años. Infórmate en www.juegoseguro.es

Gambling addiction is a risk of gambling
Only for adults aged 18 and over
Find out more en www.juegoseguro.es

Fourth. Band to be incorporated into commercial communications disseminated through face-to-face media when the nature of the medium in which the communication is disseminated allows it and the message ‘Gambling is a risk’ has been chosen.

El juego es un riesgo. Solo para mayores de 18 años. Infórmate en www.juegoseguro.es

Gambling is a risk. Only for adults aged 18 and over. Find out more en www.juegoseguro.es