

Ban Width

Spain Online

Spain's already highly regulated gambling market is due to be tightened up further with a series of online gaming safeguards targeting young and 'high-risk' players. However, with the second lowest rate of problem gambling in Europe, will the new rules damage the Spanish private gambling market and drive players elsewhere?

The Spanish online gambling market has been growing steadily for the last 10 years, ever since it was regulated back in 2011.

In 2020, this sector earned €850m in gross gaming revenues, a growth of 13.7 per cent year-on-year, whilst the average monthly spend is just over €44. The online gambling sector in Spain represents eight per cent of the total GGR in the country. However, there are some changes due to be introduced that could affect the gambling landscape. In particular, a new draft framework of a decree project, which is aimed at building a 'safer gaming environment.'

Published in July last year, the draft is entitled 'Royal Decree on Implementing Safer Gambling Environments' and amends the Royal Decree 958/2020 on Commercial Communications with respect to the Secure Gambling Title. Basically, it

“The gambling market needs an ‘optimal framework’ to protect consumers of all ages and backgrounds whilst operators will have to up their game in terms of monitoring customers as a way of improving the issue of problem gambling throughout the country.”

will modernise the Gambling Law of 2011 and is anticipated to come into force by July this year.

According to the Ministry of Consumer Affairs, which is behind the project, the gambling market needs an 'optimal framework' to protect consumers of all ages and backgrounds, whilst operators will have to up their game in terms of monitoring customers as a way of improving the issue of problem gambling throughout the country.

The policy has been divided into three main areas:

- The first is informing stakeholders on the requirement of new safeguards.
- The second details the duties and obligations of licensed operators.



- The third is designed to protect customers from gambling risks of intensive play and problem gambling.

The decree project has also stated there must be a provision for customers to maintain the rights to track their gambling spend and activity and to allow them to self-exclude from all gambling businesses. Operators must comply with a 'safety first' approach and not endorse a customer to spend more money.

The Spanish government wants to limit the amount of time and money gamblers spend on online betting and gambling platforms by setting limits before they play.

The main points outlined in the policy include:

- Casino players would have to set their

maximum spending amount during each session, which is at least 24 hours.

- Sports betting players will have to set their betting limits before they place a wager and activate their accounts. Two back-to-back sessions would carry warning messages for the players. This would flash up if the player starts gambling within one hour after the end of the previous session.
- Operators will be required to send customer reports after each online session detailing their spending and time-spent gambling to determine high risk gamblers.
- Gambling websites and mobile apps have to include a link with information about safer gambling on their home screen or main menu under the name 'juego más seguro.'

- Players deemed high risk won't be able to wager with a credit card or be offered any bonus type incentives.
- Young customers cannot be treated as VIP players and must be further targeted with gambling risk messages.
- A shared self-exclusion registry will be operated across the 17 autonomous communities. The DGOJ was given approval to re-engineer the RGIAJ player registry system, which will come under the management of the DGOJ. The minimum self-exclusion period is six months.
- All operators will need to provide a dedicated helpline with staff trained to gambling authority (DGOJ) standards.



Although 81 per cent of adults participate in some form of gambling in Spain, the country actually has the second lowest gambling rate in Europe. On average in 2020, a gambler spent €533 per year (or around €44 a month) on bingo, poker and betting. This increased from €312 per year back in 2016 (or €26 a month) although lockdowns and Covid restrictions intensified this trend recently.

The decree is being discussed due to concerns from the government over young people gambling.

In terms of high-risk gamblers, this includes those players who reach at least 50 per cent of the maximum loss limit in three consecutive periods, whilst younger players (to be adjusted to those players under 25 years) will be considered at risk when hitting 25 per cent of the loss limit in two consecutive sessions.

These players will not be able to use credit cards for deposits or participate in bonus programmes, whilst the younger players cannot be part of the casino VIP programmes and will be subject to

further notifications about safe gambling.

Spain's Minister of Consumer Affairs, Alberto Garzón, wants to curb 'risky' gambling behaviour to avoid addiction issues and says the operator must exclude these people from all its promotions and reject the use of credit cards. This could affect around one million players in Spain.

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According to a report by the Spanish Federation of Rehabilitated Gamblers (FEJAR), Spain has the highest rate of young gamblers in the EU between the ages of 14 and 21. At one time the average profile of an online player was aged 40-45, but today that profile is male between 25 and 26 years.

A more recent report carried out by the Reina Sofia Centre on Adolescence and Youth claims



ONLINE GAMBLING DATA PER GAME

	TURNOVER 2020	GGR 2020	GGR MARKET SHARE
BETTING	€7.03bn	€365.1m	
-Pre-match sport betting	€2.55bn	€133.9m	36.6%
-Live sport betting	€4.11bn	€222.3m	60%
-Parimutuel sport betting	€26,455	-€4,292	
-Horse betting	€201.4m	€163,933	
-Pari-mutuel horse betting	€2.5m	€263,824	
-Betting Exchange	€15m	€193,631	
-Other Bets	€151.4m	€8.2m	2.25%
CASINO	€11.62bn	€350.8m	
-Baccarat	€208,864	€4,545	
-Blackjack	€1.08bn	€24.6m	7%
-Complementary Games	€0	€0	
-Live Roulette	€4.15bn	€102m	29%
-Roulette	€1.19bn	€28m	8%
-Slots	€5.18bn	€196.1m	56%
POKER	€2.81bn	€110.3m	
-Cash games	€1.46bn	€33.8m	31%
-Tournaments	€1.34bn	€76.4m	69%

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young people (under the ages of 18 and 34) represent 50 per cent of online game users.

Another study commissioned by gaming trade association, Cejuego, in 2019, entitled 'Gaming and Society,' revealed nine out of 10 adults in Spain see gambling as an acceptable pastime and 29 million people had played at least one type of game during that year.

Around 6.6 million people (20 per cent of the population) had visited a casino, bingo or gambling facility in 2018 and 1.5 million people had gambled online during the same period.

The incidence of problem gambling in Spain is said to be between 0.3 per cent and 0.5 per cent of the population aged 15-65 years compared to 34 per cent and 5.1 per cent addiction levels to tobacco and alcohol respectively.

Communications spokesperson, Alba Castro, at Spanish online gaming association, JDigital, said: "First and foremost, we want to recall that the majority of Spanish players use of online gambling is totally moderate, controlled and responsible, as shown by the prevalence figures of problematic gambling in the country and that Spain is the second European country with the lowest incidence of problematic gambling, ahead of others such as Germany, Finland or France.

"These figures show that the social alarm related to online gambling is unjustified in Spain and that this activity is not a public health problem, as the director of the DGOJ acknowledged.

"That being said, we want to emphasise that the new Royal Decree will greatly affect the internal operations of online gambling companies in Spain, which will have to re-adapt their systems and make significant investments to comply with the regulator's proposals. The sector has warned that overregulation and control of user activity can encourage users to seek alternative options for this leisure activity, such as illegal operations, places where they can obtain a less intrusive gambling experience. As an association, we will work as hard as possible to avoid this.

"One of the main aspects of the new draft Royal Decree is the creation of specific thresholds to classify gamblers. At JDigital we believe that trying to establish objective thresholds, whatever they may be, to determine the way in which whoever can play legally should, or can play, seriously undermines the supposed effectiveness of any measure that wants to be imposed to protect players.

"Each of them has its circumstances and what for some people might be indicative of a certain type of behaviour, is not at all for others. We understand that absolute relativism is not possible, but in our opinion the DGOJ should rethink some of the thresholds it has established in the project."





PLAYER GROWTH RATES

SECTOR	PLAYERS 2019	PLAYERS 2020	GROWTH RATE
Betting	999,761	1,046,427	+4.67%
Bingo	103,628	109,348	+5.52%
Casino	570,797	642,349	+12.54%
Poker	384,456	443,499	+15.36%
TOTAL	1,367,444	1,481,727	+8.36%

ADVERTISING BAN

The changes will consolidate further regulations which were introduced last year that have already restricted betting and gambling advertising across the country.

In November 2020, the Spanish Council of Ministers approved the Royal Decree on Gambling Advertising (958/2020), which introduced a near-blanket ban on gambling advertising.

Minister Alberto Garzón was also behind these

schedules of advertising in the industry, which includes:

- Advertising for privately operated games of chance is now banned in Spain on radio, television and the Internet and can only be scheduled between 1am and 5am.
- The restriction bans private gambling advertisements, whilst state lottery and gambling advertisements remain valid outside the time slots.
- The ban also affects advertising during sports

In November 2020, the Spanish Council of Minister approved the Royal Decree on Gambling Advertising (958/2020) which introduced a near-blanket ban on gambling advertising. Minister Alberto Garzón was also behind these changes. Gambling is a public policy issue in Spain and causes a lot of controversy. Garzón is a member of Unidas Podemos, the alliance formed by left wing parties in the government coalition.

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There have been several attempts over the years, since 2015, to change the advertising laws and many were surprised by the intensity of these rulings.

The key feature in the Royal Decree on Commercial Communications of Gambling Activities was to reduce the permits and

events that take place outside these hours, so sports clubs cannot sign sponsorship contracts with online or betting operators, which means there are no shirt logos, equipment or stadium billboard advertising with gambling businesses in Spain.

- No gambling advertising can be mailed and emails can only be sent with the consent of the customer and cannot be targeted at those considered at risk. Advertising on the Internet can only be done via the web page of the game operator.

La Liga President, Javier Tebas, claimed the law will cause Spanish football “€90m worth of harm” – a hefty blow especially since La Liga says they have already missed out on €2bn in ticketing and merchandising revenue since Covid struck in March 2020 as matches were cancelled or played behind closed doors. It is thought the law could also drive down the value of other sponsorship agreements in the future with other industries.



- Advertising using well known figures such as celebrities or influencers is prohibited.
- No social media advertising is permitted, although messages can be sent to their followers and on You Tube advertising is only available during the restricted 1am-5am time slot.
- Meanwhile, advertising cannot be shown in places visited by minors such as cinemas, whilst there will be instruments for parental control to block advertising online via search engines or other platforms.

There was a grace period for the various decisions to allow for the implementations, which ran until April or August depending on the prohibition.

La Liga football clubs were given a one season transition period to remove all associations with gambling companies. As of May 2021 all ties had to be severed. The decree did not allow for current deals to expire, unlike the case where tobacco advertising was banned.

Over €600m is generated annually through sponsorship in La Liga, and television channels produce a return of investment of around €1.5m. Around 40 per cent of adverts seen during a La Liga match (shirts, billboards etc) were related to betting companies.

Seven out of the 20 La Liga clubs had shirt sponsorship deals with betting firms, whilst some 30 out of 42 clubs in Spain's top two

divisions had commercial partnerships with betting companies.

Betway for example sponsored three clubs (Alavés, Levante and Real Betis) whilst others included Dafabet (Cadiz); Winamax (Granada); Marathon Bet (Seville) and Bwin (Valencia).

Seville's deal with Marathon Bet, was said to be worth €5m annually, and has now been replaced by fintech company Naga for the 2021/22 season, whilst Betis' deal with Betway, struck in 2020 for three years, was said to be worth €10m. Telecommunications firm, Finetwork, replaces Betway as shirt sponsor.

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In 2020, investment in advertising for the online gambling sector beat all records and spend was a total of €464m with around €16m per month on average spent on advertising and between €2m and €4m monthly on sponsorship.

Total sponsorship spend in 2020 was €26.8m an increase of almost 30 per cent whilst €197.2m was spent on Bonus Promotions – an increase of 53 per cent YoY.

In comparison, the amount spent on marketing during the first month after the ban, which came into effect in August 31 2021 (Q3 2021) was down by 41 per cent YoY and down 28 per cent QoQ.

In Q3 2020, the amount spent topped €152.6m compared to €89.6m for the Q3 2021. Of this amount, €36.1m was spent on advertising (a drop of 39 per cent QoQ and drop of 30 per cent YoY), whilst only €1.6m was spent on sponsorship (a huge drop of 79 per cent QoQ and drop of 77 per cent YoY).

Many in the industry say the restrictions are an infringement on the freedom of business and an attack against the gambling industry specifically, and some fear it could lead to an increase in illegal and unregulated gambling.

Association JDigital filed an appeal against the law saying it “violates the right to free competition and imposes unjustified discrimination against online gambling.”



ONLINE GAMBLING DATA 2019/2020

SECTOR	TURNOVER	GGR	GGR YOY %	GGR MARKET SHARE %	ACTIVE PLAYERS
TOTAL 2020	€21.5bn	€851m			1,481,727
Betting	€7.03bn	€365.1m	-3.48	42.92	
Bingo	€114.3m	€16.5m	+30.16	1.94	
Casino	€11.62bn	€350.8m	+28.3	41.23	
Contests	€10.2m	€8.01m	+191.8	0.94	
Poker	€2.81bn	€110.3m	+35.72	12.9	
TOTAL 2019	€18.7bn	€748m			1,367,444
Betting	€7.07bn	€378.2m	+3.64	50.56	
Bingo	€96.1bn	€12.6m	-5.6	1.7	
Casino	€9.40bn	€273.2m	+14.9	36.52	
Contests	€3.5m	€2.74m	+166.2	0.37	
Poker	€2.19bn	€81.2m	-0.68	10.86	

Labelled the 'Garzón Law', the industry believes the effects will be felt across other sectors, such as advertising agencies and the media, plus sports clubs and competitions.

In October last year, the DGOJ and the association for the self-regulation of Commercial Communication, AutoControl, updated a framework for mutual collaboration.

AutoControl is an SRO set up in 1995 comprising of advertisers, agencies and professional

associations to work towards a responsible advertising goal.

They signed an agreement on Publicity, Sponsorship and Promotion of state level gambling activities basically updating an existing framework which had existed since 2011. Via this arrangement, AutoControl will inform the DGOJ as regards any decisions adopted by the Advertising Jury and consult with the DGOJ on any decisions made on advertising matters.

GAMBLING BACKGROUND

The Spanish gambling market was decriminalised back in 1977 following the end of the Franco regime, which saw most gambling activities prohibited at the time.

After Franco's death in 1975, gambling was legalised and bingo, casinos and slots all entered the marketplace joining the National Lottery, sweepstakes, sports pools. Gambling activities in Spain are divided into two main categories:



The gambling landscape changed dramatically in May 2011 when the Spanish Gambling Act (Law 13/2011) was introduced which regulated online gambling in Spain. Licences were issued in June 2012 and by the end of that year there were 32 operators active offering online gaming.

Public gaming – which is a state monopoly activity entrusted to the Sociedad Estatal Loterías y Apuestas del Estado (SELAE) and Organización Nacional de Ciegos Españolas (ONCE), which are lottery games, sports and charity pool betting.

Private gaming – made up of private operators who are licensed for land-based gambling, such as casinos, bingo, slots and betting and online gambling sectors.

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Operators were required to pay back tax on their business when the sector was unregulated, whilst databases were wiped clean and a new start began with an .es domain.

There are three types of general licences – Bets, Contests and Other Games. There are 14 regulated types of online gaming options for licences, which include: bingo, blackjack, roulette, baccarat, slots, poker, complementary games, fixed odds betting, fixed odds sports betting, sports pool betting, fixed odds horse betting, horse pool betting, exchange betting and contests.

Licences are granted by the Department of Gambling (DGOJ) under the Ministry of Consumer Affairs.

For online gambling at least two licences must be applied for (general and singular licences).

- General licences are granted via an open tender. Companies must be a public limited company or limited liability company with an address in the EEA member state.
- A minimum share capital of €100,000 to request a licence for betting and other games or €60,000 for a general licence for contests.
- A bank guarantee is required of at least €2m for general betting and other games and €500,000 for contest games.
- General licences are valid for 10 years renewable. Singular licences are valid for three to five years depending on the type of game.
- A website must be created under an .es domain.
- An Impuesto de Actividades de Juego (Tax on Gambling Activities) is set, which is 20 per cent of stakes or GGR. Those companies based in Ceuta or Melilla pay 10 per cent instead of 20 per cent of GGR.



The third window for gaming licences closed at the end of 2018 and no new windows are expected soon. The 80 authorisations were permitted after three calls launched in November 2011, October 2014 and December 2017. Since then requests for new licences have not been granted.



SPANISH MARKET REVENUES (PRIVATE/PUBLIC GAMING) 2019/2020

SECTOR	GAMBLED 2019	GGR 2019	GAMBLED 2020	GGR 2020
LAND-BASED TOTAL	€6.09bn	€1.44bn		€673.4m
Casino games	€1.82bn	€354.8m		€146.3m
Bingo games	€2.03bn	€637.8m	€1bn	€253.4m
Betting	€2.23bn	€457m	€1.18bn	€273.7m
ONLINE TOTAL	€19.2bn	€790.8m	€22bn	€875.9m
Casino games	€11.6bn	€354.5m	€461m	
Bingo games	€96.2m	€12.7m	€114.4m	€16.5m
Betting	€7.3bn	€403.9m	€7.26bn	€389.1m
Lotteries	€227.3m	€16.8m	€250.8m	€26m
MAQUINAS B (SLOTS)	-	€1.72bn	-	€782.7m
LOTTERIES TOTAL	€11.4bn	€4.54bn	€9.2bn	€3.41bn
SALAE	€9bn	€3.41bn	€7.5bn	€2.67bn
ONCE	€2.2bn	€1.06bn	€1.6bn	€684m
others	€113.2m	€65.4m	€88.9m	€57.4m

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Gambling licences are non-transferable and they can only be acquired or sold in the framework of a M&A transaction. So, any company wishing to enter the gaming market can only obtain a Spanish licence by acquiring an already existing operator.

Usually, the DGOJ awards general licences via a public tender either initiated by the DGOJ or a third-party request. After the public tender is called no further public tenders for the same category of game can be held until 18 months have lapsed. The terms of the tender does not limit the number of licences to be awarded unless stated by the DGOJ.

In 2020, the total online gaming handle amounted to €21.5bn and a GGR of €850m – an increase of 13.7 per cent compared to the year previously. This is made up of €365.1m on betting; €16.5m on bingo; €350.8m on casino games; €110.3m on poker and €8m on contests. The number of active gamblers reached 1.48 million.

GAMBLING DATA

Data for the fourth quarter of 2020 saw GGR increase by 20 per cent compared to the third quarter to €231m (and a 25 per cent rise on 2019 Q4 figures). Total amounts gambled reached €6.65bn for that quarter – a record amount of €74m per day.

The Covid pandemic has been cited as the reason behind the increase in revenues – during the first nine months of 2020 the amount of money played in bingos, casinos and online bets reached €16.8bn – a record amount.

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Slots online has seen a remarkable growth from 23 per cent share of the online casino market share back in 2015 to 56 per cent share in 2020.

In 2019, the online gambling sector saw a GGR of €748m. This has more than doubled since 2015 when the GGR was €389m. This is





There were over 1,481,700 active online players in 2020 – a growth of 8.36 per cent compared to the year before. Of this more than 82 per cent were men and almost 18 per cent women. The vast majority of players (83 per cent) were between the ages of 18 and 45 years. There were some 351,400 new players last year. The average amount of playing time was four months and 29 per cent of players are permanently active for a month or more.

compared to the total amount of GGR for gambling (offline) which reached €1.44bn made up of €354.8m from the casino sector; €637.8m from bingo and €457m from betting. The lottery sector saw €4.5bn in total GGR divided up between €3.4bn (SALAE) and €1bn (ONCE) and €64m (other lotteries).

In terms of locations there are (2020 data) around 330 bingo halls in Spain, 448 betting shops and three racetracks. There are 3,680 gaming halls and 329 bingo halls and a total of almost 181,000 slots (Máquina B) and 47 casinos with 1,026 casino slots (Máquinas C) and 314 table games.

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The average amount of playing time was four months and 29 per cent of players are permanently active for a month or more. Betting is the biggest online gaming sector in terms of players with around one million active players.

Meanwhile the latest online gambling data for the third quarter of 2021 shows a GGR for that period of €182.69m, a decrease of over 15 per



cent compared to the previous quarter and a drop of five per cent YoY.

The online casino sector has the biggest chunk of that revenue with almost 53 per cent share (€100.3m) followed by betting with 32 per cent (€59.1m) and then poker (€19.5m).

The Covid pandemic has had a considerable impact on land-based gambling revenues in Spain as gambling locations were shut down in early 2020 with further suspensions and time restrictions in some of the autonomous communities later in 2020 and early 2021.

As the land-based sector suffered, online gambling was also affected due to the lack of sporting events, however, GGR for the online gaming sector grew by over 13.7 per cent in 2020 to €850m.

There was initially a decrease in the number of active accounts during the first state of alarm period, although this decline recovered in the second half of 2020.

By January 2021 there were a total of 8.6 million cases of Covid and over 91,400 deaths. Figures rose and dropped like a rollercoaster throughout 2020 and 2021, peaking at various points. At end of last year, Spain was classed as high risk again as the wave marked the third time the country broke the 300 barrier for cases per 100,000

inhabitants over a 14 day period. As the state of alarm began in March 2020 this led to an increase in the use of online gambling websites and a Royal Decree-Law 11/2020 came into force in April 2020 to deal with the pandemic, which basically dealt with promotions and advertising of gambling which included:

- Prohibiting promotional activities aimed at attracting new customers or securing loyalty of existing customers such as free bets or free spins.
- There was a ban on advertising on radio and TV except between 1am and 5am.
- Ban on any other marketing communications via emails or social networks.

This restriction ran from April 4 until June 10 with fines ranging from €100,000 up to €1m and suspensions for those infringing the rules.

There was little emergency governmental support for the industry and the effects still linger.



ONLINE GAMBLING QUARTERLY FIGURES

CATEGORY	Q1 2020	Q2 2020	Q3 2020	Q4 2020	Q1 2021	Q2 2021	Q3 2021
Turnover	€4.8bn	€4.75bn	€5.39bn	€6.65bn	€7.04bn	€6.56bn	€6.36bn
- Betting	€1.54bn	€1.05bn	€1.93bn	€2.49bn	€2.76bn	€2.64bn	€2.51bn
- Bingo	€27.4m	€32.2m	€27.3m	€27.3m	€28.5m	€25m	€25.5m
- Casino	€2.52bn	€2.85bn	€2.81bn	€3.42bn	€3.55bn	€3.31bn	€3.28bn
- Contests	€2.3m	€4.6m	€1.7m	€1.63m	€2.23m	€841,579	€192,105
- Poker	€706.2m	€805.5m	€609.5m	€696.7m	€692.3m	€579.8m	€539.8m
GGR	€217.8m	€208.8m	€192.6m	€231.2m	€240m	€215.9m	€182.69m
- Betting	€110.5m	€68.1m	€82.8m	€103.5m	€110.2m	€91.9m	€59.1m
- Bingo	€3.6m	€5m	€3.8m	€3.8m	€3.6m	€3.2m	€3.5m
- Casino	€77.5m	€93.5m	€81.8m	€97.8m	€99.5m	€99.8m	€100.3m
- Contests	€1.8m	€3.9m	€1.1m	€1m	€1.7m	€505,597	€103,576
- Poker	€24.2m	€38.1m	€22.9m	€24.9m	€24.9m	€20.3m	€19.5m
Active accounts (monthly average)	911,443	642,938	881,798	1,051,139	1,118,603	991,196	915,529
New accounts (monthly average)	294,428	137,930	330,262	391,510	422,519	231,167	173,224

THE UPCOMING SPANISH DECREE FOR ONLINE GAMING

As requested in the Gaming Act 13/2011, in order to provide a recreational and fun experience to the participants in online sites, the Spanish Gambling legislation includes provisions aimed to provide a safe gaming environment to customers, mainly along the regulations for each one of the authorised games as well as within the requested technical standards.

Following the trend of other EU jurisdictions and after the approval of the decree on gaming advertising, which leaves quite small windows to operators in order to make any kind of publicity of their licensed products, the fresh Ministry of Consumption was tasked with reducing and minimising risky, problematic, or pathological gambling behaviours of the participants and its potential negative effects through a new decree on responsible gaming.

According to the above, the online gambling authority in Spain, the General Directorate for Gambling Regulation – the so called DGOJ, – has already issued the first two draft versions of said decree, setting the elements that define the offer and consumption of gambling for the protection of consumers, focusing on certain groups of participants.

STAGE OF CONSIDERATION AND EXPECTED ENTER INTO FORCE

The EU standstill period ended on January 17, 2022, and the Spanish Government plans the approval of the Decree developing safer gaming environments the first quarter of 2022. Additionally, the latest circulated version of this legal text provides the entry into force the July 1, 2022, while some measures should be implemented by the operators before the July 1, 2023.

NOVELTY AND PERTINENCE

The Decree would be the first regulation containing exclusively responsible gaming provisions in Spain. Several of the provisions included in this Bill were already in place through other regulations, like the Decree on technical standards and the ministerial orders for each one of the permitted games. In this sense, the new Bill states partially the responsible gaming measures provided within the technical gambling regulation, which comes from 2011. For instance, obligations like providing access to a summary report about the gaming activity of the player as well as the need of filling the outcome of each round were already in place and now have been simply developed in a more detailed way.

A similar situation occurs in relation to the measures of responsible gaming included within



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Asensi represents many of the major operators and gaming service providers and is involved in the regulatory developments of the gaming industry. Asensi provides legal advice to a large number of bookmakers, poker, casino, bingo and skill games operators (online and terrestrial).

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"Following the trend of other EU jurisdictions and after the approval of the decree on gaming advertising, which leaves quite small windows to operators in order to make any kind of publicity of their licensed products, the fresh Ministry of Consumption has the purpose to reduce and minimise risky, problematic, or pathological gambling behaviours of the participants and its potential negative effects through a new decree on responsible gaming."





the regulations for the different types of each one of the games. Particularly, the obligation for the configuration of the player gaming session (by selecting the maximum time and the limit of the amount to spend) foresees in the slots regulation will also be mandatory for other modalities of games, such bingo, roulette or baccarat. In fact, it will be applicable in any gaming with the only exception of tournament poker, given its specific nature.

In terms of in-play betting, the new wording of the Draft Decree clarifies and replaces the current one of the sports betting regulation, being more restrictive in terms of where to stake the winnings of the participant as now it will be limited to the live event where the winnings have been obtained unless they come from a combined bet.

It should be highlighted that the Draft Decree establishes the creation of certain groups of participants and the measures that should apply in order to protect them. In this regard, it is included in the definitions that the young participants are those between 18 and 25 years. They cannot be considered as VIP players, nor receive any promotional activity which is unrelated to the game itself.

The measures incorporated in the Draft Decree try to sharpen and update the already existing provisions on responsible gaming by establishing new obligations for the operators through a more restrictive regulatory approach. In this sense, it should be noted that such a restrictive approach by the Spanish Government at the time of combating problematic gambling seems meaningless, particularly, considering the current statistics and studies, where the level of citizens with behaviour associated to problematic gambling is *0.3 per cent in Spain. Therefore, from our perspective, the pertinence of the restrictive measures that the Draft Decree establish are, undoubtedly, disproportioned compared to the problem that this upcoming regulation will try to address.

CONTROVERSIAL CONTENT OF SOME PROVISIONS

Besides the disproportioned measures previously mentioned, the text of this Bill also includes some controversial provisions.

Thus, the Draft Decree defines participants "with intensive gambling behaviour" as those incurring in weekly net losses of €600 or more for three consecutive weeks. However, in the case of the young participants (aged 18 to 25) they will also be considered as "intensive" when the weekly net losses are equal to or greater than €200 per week for the same period of time.

Other remarkable aspects in relation to this matter are the assessment that the operator must conduct upon these participants and the obligations that they receive a specific message and a monthly summary of their gambling activity. Moreover, once the player is considered as "intensive", the prohibition of certain payment methods should apply as long as they keep such status.

Regarding the previously mentioned amount of losses (€600 / €200), it really calls the attention that the research that supports the draft decree** does not provide any kind of study that concludes that such amount is the appropriate one for all kinds of players without any kind of distinction. On top of that, considering the state of the art as well as that the operators will need to make an assessment about the financial status and sources of income of each participant, it seems that would have been much more reasonable to establish, for instance, an algorithm, or just a simple guideline that sets the way that such figure should be set.

On the same line, the operator would have the obligation to suspend participants with risky gambling conduct, at least for three months, when the origin of the funds comes from the sale of a real state property, company shares or other transferable securities, inheritances, gifts, loans or credits of any kind.

Finally, it should be also highlighted the obligation for the operators of providing information and assistance on safe gambling and risky behaviours through telephone services. In this sense, the Draft Decree adds two requirements to the previous regulations in place. Firstly, the obligation to offer it in Spanish and in the other co-official languages (Basque, Galician, Valencian, Catalan and Aranese), which is a political decision without any relevance in terms of responsible gambling and carries out a considerable cost to the operator. Secondly, the staff shall receive specific training in order to be familiarised with the active measures plan and the safe gambling policies of the particular operator.

In summary, reaching the objective of safer gaming environment for participants through the implementation of responsible and safe gaming measures needs to find the right balance with the burden on operators as well as with the enjoyment of the gaming activity by the participants. The forthcoming Royal Decree developing safer gaming environments generates several controversies about its pertinence and for the significant effort, in terms of human and economic resources, to be carried out by the operators at the time of implementing the new provisions.





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* University Carlos III (2020). CEJUEGO. Juego y Sociedad 2020.

** Ministry of Consumption (2021). Report of the regulatory impact assessment of the Royal Decree developing safer gaming environments.



REGULATING SECURITY AND RESPONSIBILITY IN GAMBLING: THE SPANISH EXTRAVAGANZA

New regulations aren't born out of the blue, there is always context to them, whether economic, demographic, technological, ideological, political (not that the later could be separated from the rest) and others. In this case, it is important to understand that both political parties who form the Government in coalition, PSOE and Unidas Podemos, signed an agreement in December 2019, which made it very clear that both parties wanted to "regulate gambling" (yes, more regulation to an over-regulated sector) "in a similar way as tobacco, to prevent fraud and pathological gambling."

Online gambling advertisement was first on the 'to do' list; November 5, 2020, the Royal Decree 958/2020 on gambling commercial communications (the "Advertisement Regulation"), came into force and apart from the 30 articles dedicated purely to advertisements, it also included a section of seven articles on secure and/or responsible gambling measures. This notwithstanding, July 2021 a new draft Royal Decree was published titled "Regulation on Implementing Safer Gambling Environments" which would repeal those seven articles of the Advertisement Regulation. The Administration alleged that the current regulation, including the Advertisement Regulation, had gaps and shortcomings which leaves an awkward feeling on how the previous regulation could become outdated in half a year. Had the context in Spain changed that much?

Apparently, there is a growing social concern about the serious consequences that the consumption of gambling may have on certain individuals, which serves as a driving force to achieve a more adequate level of protection for those most vulnerable groups and those who may be experiencing a gambling problem. However, the data (or its interpretation) is contradicting, and depends on the source that is managed. In any case, the demonisation is such that the Spanish gambling authority has ruled against opening a new window to request new licences for operating gambling in Spain, until further notice.

THE NEW DRAFT OF ROYAL DECREE ON IMPLEMENTING SAFER GAMBLING ENVIRONMENTS

The latest draft publicly available, dated September 30, 2021, and which supposedly includes all the contributions provided by stakeholders during the public allegation period, has 36 articles, eight additional provisions, a transitional provision, a repealing provision and five final provisions making this regulation very exhaustive and detailed. It is applicable to entities with a licence issued by the state-wide



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Patricia is also a lecturer on subjects such as landbased and online gaming regulation and market knowledge, blockchain, cryptocurrencies and eSports. She frequently publishes on regulatory developments and opinion in industry journals.

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"Apparently, there is a growing social concern about the serious consequences that the consumption of gambling may have on certain individuals, which serves as a driving force to achieve a more adequate level of protection for those most vulnerable groups and those who may be experiencing a gambling problem. However, the data (or its interpretation) is contradicting, and depends on the source that is managed."







gambling regulation authority and gambling activities subject to user identification and gambling account identification.

CHAPTER I.

This chapter contains a set of definitions, some of them never defined previously by any gambling regulation in Spain (neither online nor landbased). Various of these definitions have raised debate in the industry such as "Participants with intensive gambling behaviours", "Vulnerable participants or groups at risk" and, "Young participants" (persons 25 years or under).

CHAPTER II.

Titled "Active information policies and protection of users" contains (i) regulatory provisions on the safe gambling officer, which, with all due caution, reminds me of the status of the Data Protection Officer; (ii) the plan of active measures and the training obligations with which gambling operators must comply; (iii) obligations on the general information on the web pages and apps the operators must provide to potential or existing customers.

Thus, this section contains certain information obligations for web portals, applications and establishments open to the public of these operators; a set of obligations are laid down for the configuration of the gaming sessions of participants, the setting of limits on participation in live betting, the presentation of the outcomes of the games imposing so much detail as not allowing the operators to put certain comments if the player loses such as "you almost won", "you were close" and similar (here is obviously a misconception on the concept of consumer as the CJUE has ruled against treating consumers as below average intellect); specific self-assessment messages namely messages to self-evaluate every 30 minutes must pop up, be read and signed by the player in order to continue playing; as well as the articulation of a monthly summary of the activity of all participants.

One of the shocking obligations that is set out is the provision of assistance to players or potential players on safe gambling and risky behaviours through telephone service in Spanish and in the other co-official languages. One must consider this would add up to six different languages which may seem somewhat burdensome for the operator; Young players cannot be VIP. In this chapter the gambling authority is also further empowered to set a risk assessment model for an operator's games prior to their marketing from the perspective of those design factors likely to influence players in

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"In addition to proper detection, operators must put in place a group of additional protective measures, such as the establishment of a specific interaction with those participants, their exclusion from promotional activities and the list of VIP, restrictions on commercial communications, the setting of limitations on the means of payment (cannot use payment methods which are not nominal such as prepaid cards and cannot use credit cards) and the imposition of due diligence measures on the financial source of such players in a very UK Gambling Commission style."

terms of their addictive potential. In addition, the gambling authority may also determine the specific measures to minimise such risks.

CHAPTER III.

Titled "Additional active information and protection policies for certain groups of vulnerable participants or groups at risk", sets out a set of protective measures beyond those provided for in Chapter II, for certain groups of players, for example, the deposit of funds with credit cards by participants with intensive gambling behaviour is prohibited. This chapter also incorporates certain requirements aimed at protecting young participants, such as setting up a personalised message, as well as prohibiting the offer of gifts, advantages or compensations.

This chapter also disposes specific obligations to be deployed in the environment of gamblers with risky gambling behaviours; in this regard, in addition to proper detection, operators must put in place a group of additional protective measures, such as the establishment of a specific interaction with those participants, their exclusion from promotional activities and the list of VIP, restrictions on commercial communications, the setting of limitations on the means of payment (cannot use payment methods which are not nominal such as prepaid cards and cannot use credit cards) and the imposition of due diligence measures on the financial source of such players in a very UK Gambling Commission style.

Finally, this chapter lays out measures aimed at participants who have self-excluded and self-banned (there is a quite redundant self-exclusion regime in Spain), such as the suspension of their gambling accounts, the restriction of commercial communications, specific messages, and the establishment of processes for monitoring and detecting possible impersonations by participants registered in the General Register of Gaming Access Bans, which is a very unique registry where you can self-exclude from all online gambling websites and to which operators must be connected to.

THE FUTURE HORIZON

Considering that reputable studies indicate that Spain has a problem gambling rate of 0.3 per cent it may be difficult to state that draft Royal Decree on Implementing Safer Gambling Environments, the principles of necessity, effectiveness, proportionality, legal certainty, transparency, and efficiency are complied with.

As could not be otherwise, the industry awaits the approval of the text with great concern and expectancy.

CEJUEGO INTERVIEW

Regarding the Royal Decree on Safe Gambling – what are CeJuego's thoughts on this draft?

Our sector has for years supported initiatives that promote responsible and safe gambling. Spain is one of the countries in the world with the lowest problem gambling figures. This has been thanks to the cooperation between the regulator and companies, which has reduced the risk of problematic, compulsive, or pathological gambling behaviour.

This Royal Decree is based on a dangerous populism that tries to inoculate fear towards our sector. We continue to be the object of political persecution by those who prefer to construct gimmicky narratives rather than to pay attention to the reality of the scientific evidence.

From private face-to-face gambling sector, we have been working for years to ensure that our customers are in safe environments that can protect the most vulnerable consumers, providing them with sufficient guarantees. It is precisely in public gambling consumer environments where the approval of new regulations should be developed, as the data from the institutions that supervise the incidence of problem gambling corroborate the lack of guarantees for the protection of these customers.

The problem generated by the current Ministry of Consumer Affairs in its regulations is a consequence of the ideological lines that underlie its vision of gambling. Minister Garzon and his team deliberately and systematically want to deny the reality of the data to create a scenario opposing scientific evidence: private face-to-face gambling is safe in Spain.

During these years they have generated legislation that threatens the free exercise of an economic sector that provides 47,000 direct jobs, an economic activity that represents 0.38 per cent of the gross domestic product and almost €2,000m in taxes.

Recently, CeJuego has reached unprecedented agreements with UGT and CCOO, the main trade unions in Spain, to reconcile the protection of the most vulnerable sectors of society while respecting the employment of all workers in this sector. We believe in balance, but to achieve it, the Ministry of Consumer Affairs must also listen to the voices of experts, employers and workers.

Is there an issue with problem gambling in Spain, especially among young people?

In Spain, gambling is an activity that enjoys wide social recognition and is deeply rooted in our customs and habits. This is not a problem, as

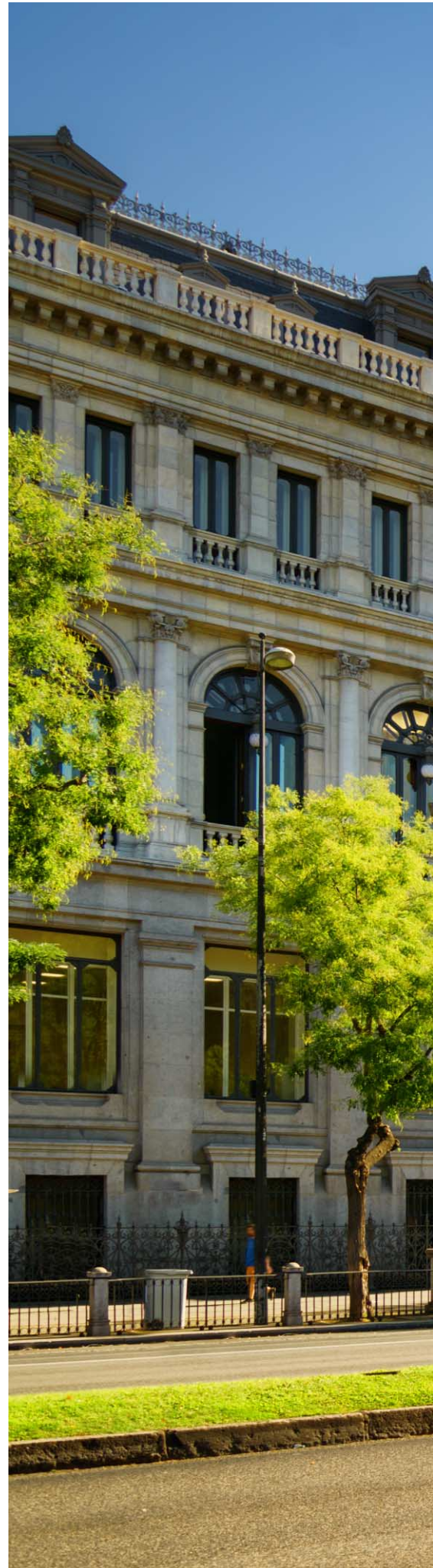


Alejandro Landaluce
CEO
CeJuego

CeJuego is an industry association which represents around 70 per cent of the private gaming sector in Spain. The association promotes safe and responsible gambling, ensuring the interests of the sector and users who gamble. Alejandro Landaluce, CEO of CeJuego, provides some further insight to the draft decree.

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we are one of the five countries in the world with the healthiest relationship with gambling.

Any of the studies, both from the Administration (ESPAD, 'Informe de adicciones comportamentales', ESTUDES, EDADES, etc.), and those carried out by private researchers and Universities ('Juego y Sociedad 2021'), show us that the rate of problem gambling in Spain has remained stable over the last decade, at around 0.3 per cent. This rate is much lower than other behavioural disorders, such as eating, shopping, or compulsive internet use, which has a rate of 3.7 per cent.

All the Autonomous Communities have regulated strict entry controls in private gambling premises, where the customer's ID card is checked, so that minors and players, registered in the register of banned gamblers, are not allowed to enter. While the controls of in-person private gambling are preventing the possible presence of minors in the premises, the data collected by the administrations tell us that in Spain gambling among minors is mainly a problem of public gambling and especially of three types: lotteries, instant lotteries and Quinielas (a type of state sports betting).

Young people are not going to enjoy safer gambling environments thanks to this regulation that does not affect the public offer.

Do you think these restrictions will push players to unregulated offshore websites?

Sadly, as has happened repeatedly in our history, prohibitionist choices are opening the door to less safe and less well-regulated activities. If legal and compliant operators continue to be punished with impossible regulations that prevent us from carrying out our activity, consumers will continue to move to irregular gambling spaces, which are more unsafe and where they will be less protected.

How has the advertising/sponsorship ban affected the sports betting industry?

Gambling has been one of the best allies of sport through sports sponsorship. With the prohibitions set out in the laws in force, a hole of €90m has been generated (according to the estimates of the Spanish football employers' association).

To have a complete picture of the private gambling industry, including sports betting, it is necessary to consider important factors such as the health crisis, the restrictions, and the persecution from part of the public opinion, because of ideological issues, which has led to sharp declines in our sector. In face-to-face entertainment gaming in 2020, including sports betting, managed by private companies, 48 per cent less was played compared to 2019. However, the sports betting sector's commitment to employment has gradually increased since 2016, remaining stable between 2019 and 2020.

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