

## Online Gambling Advertising Regulations in Spain. A Study on the Protection of Minors

### *La regulación publicitaria de los juegos de azar online en España. Una reflexión sobre la protección del menor*

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#### Abstract

This article examines the online gambling advertising regulations in Spain currently in effect to assess the actual protection of underage youth. In recent years, online gambling among youth has increased. Through advertising, online gambling companies incite and encourage an involvement that can be harmful for vulnerable audiences. Some studies have demonstrated that advertising influences youths' assessment of gambling by increasing its appeal. We demonstrate that the shortcomings of the legal framework in force results in effective vulnerability of minors. We claim that society should seek to implement a regulatory framework to protect children from the risk of developing an addiction.

*Keywords:* addiction, advertising, children, gambling, regulation.

#### Resumen

Este trabajo estudia la actual regulación que existe en materia de publicidad de los juegos de azar online en España, con el fin de valorar si consigue una protección real al menor. En los últimos años, se ha producido un aumento en el consumo de juegos de azar online por parte de los menores. A través de la publicidad, las empresas proveedoras de juegos de azar incitan y motivan a esta actividad. Debido a que el menor de edad es un público que por sus características de inmadurez, credulidad y facilidad de persuasión resulta especialmente vulnerable frente a la publicidad, y debido al riesgo de adicción que contiene esta práctica, se debe procurar un marco regulatorio que proteja al menor. Los resultados de este estudio demuestran que si bien por voluntad de la ley se limita la posibilidad de participar de los menores en los juegos de azar online, la publicidad está influyendo en su valoración, normalizando esta práctica y haciéndola atractiva. Asimismo muestran que el marco jurídico actual presenta carencias que permiten concluir que existe una efectiva desprotección del menor.

*Palabras clave:* adicción, publicidad, menores, juegos de azar, regulación.

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**G**ambling is a type of game in which the possibility of winning or losing is subject to chance; in other words, it is not exclusively dependent on the player's skill. Its practice is widely extended amongst the Spanish population. In 2014, online gambling platforms registered an average of 130,000 new players per month. There were 356,000 active players in the fourth quarter of 2014, about 20% more than the previous year (Directorate General for the Regulation of Gambling, 2014). However, despite the existing social acceptance of gambling, this activity entails risk: in fact, some countries consider it a serious public health problem (McMullan & Miller, 2009; Messerlian, Derevensky & Gupta, 2004). According to Carbonell (2014), though children and adults play many types of games, only those that entail placing bets and in which, therefore, the possibility of winning or losing money exists, are potentially pathological. The DSM-5 classifies pathological gambling as a behavioural addiction of the non substance-related disorders, and is no longer included in the section on impulse control disorders, as it appeared in previous editions of the manual (APA, 2013). In this regard, the fact that gambling has become another form of entertainment amongst youth and is amongst this group's most popular activities, like practising sports, listening to music or watching movies (Wiebe & Falkowsky-Ham, 2003), reveals a distressing reality (Messerlian et al., 2004), given that adolescents are more vulnerable than adults to the negative consequences of gambling (Volberg, Gupta, Griffiths, Olason, & Delfabbro, 2010).

To date, no nationwide studies have been completed in Spain on the prevalence of pathological gambling, and only partial studies carried out in different Autonomous Communities and in countries of our region are available as a reference (Becoña, 2004; Carbonell, Montiel, & Salom, 2013; Griffiths, 2009). Several studies prove that the addiction to gambling develops early on (Arbinaga, 2000; Becoña & Gestal, 1996; Derevensky & Gupta, 2007) and that prevalence rates during adolescence are particularly high (Petry, 2006). In some countries, minors have higher pathological gambling rates than adults do (Granero et al., 2014; Wiebe & Falkowsky-Ham, 2003). Furthermore, some studies have not yet considered the current rates of online gambling, which has an even greater potential for increasing the prevalence rates of gambling-related problems, given its combination of the dual threat of high speed with convenient access to technology (Derevensky & Gupta, 2007).

Greater accessibility offered by the Internet is one of the characteristics accounting for the broad acceptance of online gambling. The familiarity with which minors surf the Internet increases their likelihood of playing, both during the week and on weekends. In addition, betting over the Internet is private and doable from anywhere. On another hand, compared with traditional games, online gambling usually offers extra prizes to welcome new players and a wide variety of temporary promotions. Likewise, players manifest

a positive playing experience and greater physical comfort (Wood & Williams, 2011).

From a psychological perspective, the Internet is an alternate reality and permits a sensation of immersion and anonymity that many adolescents find psychologically gratifying (Griffiths, 2002). Gambling becomes, this way, an option minors can use to handle pressure during adolescence and to disconnect from the outside world (Millán, 2006). In fact, some studies demonstrate an existing relationship between regulation of emotions and impulsive conduct inherent to pathological gambling (Estévez, Herrero, Sarabia, & Jáuregui, 2014).

The reasons for which underage youth find online gambling so attractive include, especially, the possibility of winning, their parents' example, emotion and competition (Fröberg, 2006). Minors seek instant gratification and immediate satisfaction, neither making any effort nor bearing frustration.

Though Spanish legislation prohibits gambling by minors, evidence that this segment of the population gambles exists (Becoña, Míguez, & Vázquez, 2001; Derevensky, Gupta, & Winters, 2003; Granero et al., 2014). Results demonstrate that adolescents participate in Internet-based gambling and, therefore, that there are more adolescents with potential problems associated with practising this activity (Arbinaga, 2000; Muñoz-Molina, 2008). In fact, the existence of a significant relationship between youth that use the Internet to gamble and the development of gambling-related problems has been demonstrated (Carbonell et al., 2013; Secades, Fernández-Hermida, Duch, Skärstrand, Becoña, & Talic, 2014).

Advertising promotes participation in gambling (Felsher, Derevensky, & Gupta, 2004). In Spain, online gambling companies invested €140 million in publicity and marketing in 2013 (Spanish Association of Digital Gaming, 2014). Ads intend to influence attitudes and to inform of possibilities for gambling, thereby directly increasing the availability of gambling (Sklar & Derevensky, 2010). To this effect, advertising—to the extent that it sparks the initiation of gambling—may entail a notable risk for minors impacted by these commercial messages and with ready access to online gambling platforms. Likewise, in the same way that advertising of alcoholic beverages is restricted to protect the health of persons (Azurmendi, 2001), this protection should be extended to gambling advertising.

In Spain, gambling advertising is regulated by Article 7 of Act 13/2011, dated 27 May, on Gambling Regulations, but are underage youth effectively protected? In seeking to answer this question, this study evaluates Spanish legislation in effect as regards advertising of online gambling in relation to minors. The fact that online gambling is increasing amongst youth and that advertising promotes this activity demands a review of current Spanish legislation to assess whether it effectively protects minors. To achieve this goal, we completed an interdisciplinary review of literature speci-

fically on gambling and of participation in this activity by under-age youth. Likewise, we also include annual reports on gambling in Spain and more recent, specialised studies on the growth of the Internet-based gambling industry and the social costs associated with it. This review reveals a scarcity of available reports and studies with valid, reliable data. This scarcity is understandable, given that online gambling is a relatively recent activity and, especially, directly interviewing users under this age is precluded, given that legislation prohibits gambling by youth under the age of 18.

### The impact of gambling advertising on minors

Gambling advertising is a factor that interacts together with others in the development of problem gambling (Binde, 2007). At the same time, unanimity does not exist as to whether the advertising message has an obvious impact for players with problems, triggering excessive gambling, or if it is just one of many possible environmental factors interacting with a large number of characteristics related with gambling behaviour (Binde, 2009).

In general, advertising mainly maintains and reinforces establishing gambling habits, beliefs and behaviours (Planzer & Wardle, 2011); it apparently acts as a trigger and keeps some disordered gamblers from stopping (Derevensky, Sklar, Gupta, & Messerlian, 2010; Felsher, Derevensky & Gupta, 2004). The idea of “a spirit of winning” extends to gambling advertising through words, signs, myths and symbols surrounding the world of gambling (McMullan & Miller, 2009). Advertising reflects gambling as a means of entertainment, like something we can do with friends, instead of as something through which we can win or lose money (Domínguez, 2007).

Minors can also remember gambling advertising and concern exists that some advertising messages may directly target youth. In fact, studies have demonstrated how gambling advertising directly targets minors (Sklar & Derevensky, 2010). In any case, even if the messages do not directly target them intentionally, minors desiring to transcend their age to adulthood (Delfabbro, Lahn, & Grabosky, 2005) may perceive gambling as a sophisticated, adult activity.

The content and tone of the ads try to connect with users with a lifestyle seeking entertainment, shortcuts for attaining success, and solutions for overcoming fear of the future. Advertising displays gambling as an activity that is a normal and pleasant form of entertainment. In this regard, references are made neither to the scarce and real possibilities of winning nor to potential losses (McMullan & Kervin, 2012). The only obstacle minors face for participating in this type of entertainment is the existing age limit.

As part of their advertising strategy, gambling companies use the sponsorship of sports to reach large audiences (Binde, 2009; Chico & Ruiz, 2013). Furthermore, this

sponsorship associates gambling with a healthy habit: sports, thereby achieving a greater normalisation of gambling and reinforcing the notion that gambling is an acceptable form of entertainment (Lamont, Hing, & Gainsbury, 2011). In summary, the exposure obtained by gambling companies through sports sponsorship represents a direct risk for under-age youth in a stage of development that makes them susceptible to influences. This risk is higher amongst young males (Monaghan, Derevensky, & Sklar, 2008). Therefore, bookmakers use sports to promote a potentially risky behaviour that may intensify the public health problem derived of gambling (Lamont et al., 2011).

### Gambling advertising regulations in relation to minors in the Spanish legal framework

In Spain, Article 7 of Act 13/2011, dated 27 May, on Gambling Regulations (LRJ) regulates gambling advertising. This article defines the general principles that apply to advertising, sponsorship and promotion of gambling activities that are subject to statutory regulations. Online gambling advertising is bound to regulations based on the principles that inspired this Act which, as set forth in the Preamble, are those under the powers of the State as per Article 149 of the Constitution, particularly as regards the protection of minors. In addition, operators are obliged to inform certain groups, including minors and other vulnerable individuals, on the prohibition of gambling as set forth in Article 6.2 of the LRJ. This protection is set forth in Article 26 of Royal Decree 1613/2011

Table 1  
*Gambling Advertising Regulations*

Act 13/2011 on Gambling Regulations (LRJ)	<p>Article 6.2. Prohibition of gambling by minors, of which operators are obliged to inform.</p> <hr/> <p>Article 7. Requirement of express authorisation for advertising. Obligation of informing on basic requirements for gambling.</p> <p>Regulations must define the conditions for:</p> <ul style="list-style-type: none"> <li>- sending advertisements using e-mail,</li> <li>- sponsorship,</li> <li>- insertion of printed advertisements,</li> <li>- television contests.</li> </ul> <p>These regulations have not yet been developed.</p>
Royal Decree 1613/2011	<p>Article 26. Obligations of operators as to the identification and verification of participant data.</p>
Code of Conduct on Commercial Communication (Self-regulation)	<p>Ethical standards based on principles of loyalty, veracity and social responsibility.</p> <p>Principles of responsible gambling in communications and self-promotions.</p> <p>Television broadcasting of advertising during non-children’s programming.</p>

listing the different obligations of operators as regards the identification and verification of participant data.

Table 1 summarises the regulations applicable to gambling advertising in Spain currently in force. Article 7 of the LRJ sets forth that the business license issued by the Directorate General for the Regulation of Gambling must expressly authorise gambling operators, advertising agencies and media wishing to participate in online gambling advertising. The LRJ also sets forth (Article 7.2) the statutory regulations defining the conditions for commercial communication, in particular: e-mailing of advertisements, inclusion of ads, sponsorships, insertion of printed advertisements on gambling, television contests and the obligations of informing on basic requirements for gambling, amongst others. These statutory regulations, essential for developing a legal framework on online gambling advertising, have not yet been drafted.

This same Act defines a system of responsibility specifically for online gambling that includes not only the corresponding gambling operator, but also includes other participating agents, like media, advertising agencies or Internet access providers, amongst others. The reason for this measure is that the operators of online gambling activities may reside outside of Spain, wherefore the only way to control that they have obtained the required business license is through the Spanish advertisers or media in which they insert advertising messages.

The LRJ establishes the possibility for the Directorate General for the Regulation of Gambling to sign co-regulation agreements, in particular concerning advertising. In 2012, the Directorate General for the Regulation of Gambling, the Deputy Directorate General for Contents of the Information Society, and the Association for the Self-regulation of Commercial Communication (Autocontrol)<sup>1</sup> signed an agreement to establish a code of conduct. Called the “Code of Conduct on Commercial Communication of Gambling Activities” (Autocontrol, 2012), its purpose is to protect consumers, especially underage youth and other vulnerable groups, as regards gambling advertising. This Code is applicable to all advertising, promotions, sponsorships and any other type of commercial communications disseminated in Spain, for any type of gambling activity subject to the regulations of the Act on Gambling Regulations, including the promotion of companies, brands and events, carried out by companies or entities adhered to the same.

By virtue of this agreement, the companies adhered to the Code may submit their advertising for gambling operators to prior review, through a previous confidential and binding consultation system known as *copy advice*. When Autocontrol issues the advertising message a positive report

prior to its emission, it is interpreted that the advertiser has acted in good faith. Last year 529 consultations were processed. Of these, changes were suggested in 69 to avoid possible infractions and only 8 were considered non-recommendable (Spanish Association of Digital Gaming, 2014).

This Code establishes a series of ethical standards based on the principles of legality, loyalty, identification, veracity and social responsibility, amongst others. Moreover, for commercial communications and self-promotions, it sets forth some principles on responsible gambling that should be respected, such as the prohibition of advertising that incites addictive habits or that suggests that gambling is a means of escape and can resolve financial problems.

In the context of the protection of minors, commercial communications or self-promotions that insinuate that underage youth may participate or place bets, that use or include minors, that incite minors -whether directly or indirectly- to gamble, or that exploit a relationship based on their trust in parents, teachers or other persons, are prohibited. Furthermore, visual elements - whether visual, auditory, spoken or written - that target minors are not allowed, and when used, must contain a warning on the use of fiction in advertising messages; gambling may be presented neither as a sign of maturity or as the initiation into adulthood, nor as a gift that a child may give or receive.

As regards broadcasting times, commercial communications or self-promotions of gambling cannot be emitted during children’s programming, in compliance with the Code on Self-regulation of Television Content and Children. As a result, advertising and self-promotion for playing roulette, baccarat, blackjack, poker, and all types of sports betting exchanges, may only be broadcast between the hours of 10 p.m. and 6 a.m., with the exception of regulations applicable to live broadcasting. This exception, unfortunately, contradicts all regulations for the protection of minors.

As regards advertising sponsorship in television, compliance is mandatory with the conditions set forth in the general law on Audiovisual Communication (Act 7/2010, dated 31 March) and in Article 12.e, Royal Decree 1624/2011, dated 14 November, approving the implementing regulations of the general law on Audiovisual Communication.

According to this legislation, surveillance by public administrations and the imposition of penalties are powers entrusted to the audiovisual authorities, which are responsible for ensuring compliance with codes. A Joint Committee -presided over by a representative of the Directorate General for the Regulation of Gambling - must be established for monitoring co-regulation agreements and unto which the self-regulation system is held accountable and periodically reports on its activity. The powers for taking procedural steps and imposing sanctions on audiovisual communication service providers correspond to the Directorate General for the Regulation of Gambling; in these cases, applicable sanctions are those set forth in the general law on Audiovisual Com-

<sup>1</sup> In 1995, Spain’s main advertisers, agencies and media established this non-profit organisation for self-regulation of commercial communication: true, legal, honest and loyal.

munication. In 2013, there were 16 out-of-court settlements for claims related to gambling advertising that Autocontrol processed at the request of the Association of Communication Users (Spanish Association of Digital Gaming, 2014).

## Discussion

The purpose of this investigation was to analyse current legislation on gambling advertising to evaluate the extent to which it effectively protects minors from the risks associated with exposure to advertising that promotes participation in online gambling.

First, the study affirms that gambling advertising is a risk factor for underage youth. This variable influences addiction to gambling. Though it exerts lesser impact than other factors –in fact, the only factor that is associated with the development of gambling-related problems in adolescents unanimously acknowledged by the scientific community is the absence of strong parental bonding–, its messages influence the behaviour and perceptions of minors. In recent years, bookmakers have considerably increased their advertising. In fact, a majority of young people claim to have received gambling advertising, while a minority acknowledge having seen any content referring to responsible gambling.

Second, the study confirms that the Spanish legal framework acknowledges the influence of gambling advertising on minors. Specifically, gambling advertising, regulated by Act 13/2011 on Gambling Regulations, directly refers to the need for protecting minors. A Self-Regulation Code has been approved to protect minors and other vulnerable individuals: the Code of Conduct on Commercial Communication of Gambling Activities. This Code prohibits advertising messages that target minors. This study proves that this Code has significant deficiencies as regards fulfilling its goal involving the constitutional rights of underage youth. Specifically, the study verifies that no legal obligation exists for informing in advertising of the possible risks derived of gambling. Though principle 6.2 of the Code sets forth the obligation of including a message on social responsibility or the fight against addiction, the guidelines for implementing this obligation have not been addressed. Likewise, as regards informational and warning messages set forth in Article 8 of Act 13/2011, dated 27 May, on Gambling Regulations as concerns the protection of consumers and responsible gambling policies, a same set of standards for all operators has not been established. In addition, the fact that the gambling industry is the party defining these rules raises doubts as to their effectiveness, given that economic interests may impede the goal of protecting individuals.

On another hand, the study reveals that, due to its nature as a code, companies are not obligated to comply with it, wherefore many remain beyond the scope of the control system. In that sense, as to the level of non-compliance, though the code prohibits the advertising of bingo during the special times for

protecting minors, in reality this advertising occurs. The current gambling advertising code is not sufficiently effective.

Third, the study has verified that gambling companies recur to sponsorship of sports events as part of their advertising strategy, and this type of advertising contradicts legislation on the protection of minors. Likewise, the investigation has confirmed that the Code allows bookmakers to sponsor sports teams as well as for their advertising to appear on players' uniforms. This displays the brand, amongst other occasions, during the retransmission of games/matches or press conferences after the events, as well as in clips of these broadcasts and press conferences with athletes also aired during news coverage of sporting events, something specifically prohibited by legislation on news programmes (Articles 13 and 16 of R.D. 1624/2011). Moreover, the study affirms that this type of advertising is especially harmful to children, as it reinforces the notion that it is an acceptable and healthy form of entertainment (Lamont et al., 2011), while it disregards its potential for generating negative effects, especially amongst youth that are developing and defining their personal identity.

In conclusion, this study reveals that online gambling advertising may increase the risk of gambling amongst underage youth. Though gambling by minors is prohibited, evidence reveals that they gamble. The self-regulation code is not a sufficient resource for effectively protecting minors and other vulnerable individuals. For this reason, it is necessary to define regulations that address gaps in legislation and that effectively protect minors from gambling advertising. This way, we hope that the conclusions of this study will represent a contribution so that an activity that generates a public health problem will have an increasingly less negative impact on underage youth.

## Conflict of interests

The authors declare the inexistence of conflicts of interest.

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