

NOTE

Advertising clauses extracted from the EU notification file of the 2021 State Treaty on the re-regulation of Gambling in Germany

§ 5 Advertising

(1) Subject to other legal regulations, holders of a permit pursuant to § 4 may advertise the permitted games of chance and conduct sponsoring. They may commission third parties to carry out the advertising. Content-related and ancillary provisions regarding the design of advertising for public gambling, in particular on television and on the Internet, including television-like telemedia and video sharing services, as well as mandatory information must be laid down in the permit as per § 4. Advertising on telecommunication systems is prohibited. Calls from the player or anyone interested in the game to the organiser or broker are not included in the prohibition according to sentence 4; with the consent of the player or those interested in the game (§ 7(2)(3) Act against Unfair Competition [UWG]), these telephone calls may also include advertising for a permitted game of chance. Furthermore, telecommunications within an existing contractual relationship are not covered by the prohibition according to Sentence 4.

(2) The type and extent of advertising for public games of chance may not contradict the objectives of § 1. (See below). The advertising may not be excessive. Special features of the respective game of chance may be emphasised when advertising individual games of chance. Advertising may not address minors or comparably vulnerable target groups. Minors are to be excluded as recipients of advertising as far as possible. Misleading advertising for public games of chance, particularly advertising which contains unfounded statements on the chances of winning or the type and sum of the winnings, is prohibited. In advertising, the results of games of chance must not be depicted as being influenced by the player and games of chance may not be presented as a solution to financial problems. Advertising that gives the impression that it is editorial content is not permitted.

(3) Radio and Internet advertising for virtual slot machines, online poker and online casino games is not permitted between 6.00 a.m. and 9.00 p.m. daily; paragraph 4 remains unaffected. Advertising for sports betting on this sports event is not permitted on the broadcasting channel immediately before or during the live broadcast of sports events. Advertising for sports betting with active athletes and officials is not permitted.

(4) Advertising of games of chance in sports venues is only permitted in the form of umbrella brand advertising on jerseys and boards and similar advertising media.

(5) Advertising for games of chance addressed to individual persons, in which barred players may not participate in accordance with § 8(2), may only take place if the intended recipient has given prior consent to the receipt of advertising and to the blacklist file being requested by the advertiser. Personal advertising for these games of chance to barred players is not permitted. Advertisers are obliged to ensure that the recipient is not a barred player before sending such advertising, in particular by post or email, by comparing it with the blacklist file. If the comparison shows that a player is barred, consent as per sentence 1 given to the organiser or broker is deemed to be revoked.

(6) Payment depending on turnover, deposits or stakes may not be agreed upon or paid for advertising for games of chance in which barred players are not allowed to participate as per § 8(2) on the Internet, in particular in the form of affiliate links. Live scores of sports events may not be linked to the advertising of sports betting on this sports event; this does not affect the display of live interim scores for betting offers on a betting provider's own website.

(7) Advertising and sponsoring for illegal games of chance are prohibited.

§ 1 Objectives of the State Treaty

The objectives of the State Treaty are, with equal priority,

1. to prevent the occurrence of gaming and betting addiction and to create the preconditions for an effective addiction control,
2. to guide the population's natural gaming desire into orderly and supervised channels and to counteract the development and spreading of prohibited games of chance on the black market by means of a limited offer of games of chance which constitute a suitable alternative to illicit games of chance,
3. to ensure youth protection and player protection,
4. to ensure that gaming proceeds in an orderly fashion, players are protected from fraudulent manipulation, and to prevent the occurrence of crime as a consequential or associated phenomenon of gaming.
5. to prevent risks to the integrity of sports competition in the organisation and brokerage of sports bets.

In order to achieve these objectives, a number of differentiated measures for the individual game forms have been defined in light of their specific potential for addiction, fraud, manipulation and crime.