

<https://anj.fr/lignes-directrices>

Both the guidelines and the recommendations are translated below, using elements of the press release in English from the ANJ website <https://anj.fr/advertising-and-gambling-anj-presents-its-guidelines-and-recommendations> but otherwise unofficial and non-binding. Only the original French text applies. Some of the preamble and the resources section have not been translated.

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## FINDINGS AND PRIORITY OBJECTIVES FOR THE REGULATOR

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The ANJ draws the following conclusions from the consultation:

- The first half of 2021 sees an unprecedented increase in advertising pressure, particularly regarding sports betting communications;
- Gambling advertising has a potentially significant impact on the most vulnerable audiences (young players, problem gamblers);
- Gambling operators are increasingly using various digital tools that are particularly popular with young people and are largely unregulated;
- Prevention messages are not visible enough.

These findings do not cover commercial communications regarding casinos and gambling clubs.

Based on these findings, the ANJ is pursuing several objectives:

- To “de-intensify” advertising pressure in all communication media (television, radio, poster campaign and digital);
- To reinforce the protection of minors and at-risk audiences, particularly on digital platforms;
- To improve the effectiveness of prevention processes.

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## THE REGULATORY TOOLS PROPOSED BY THE ANJ

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To meet these objectives, the ANJ has developed two tools, in line with the reference framework for the prevention of excessive or pathological gambling and the protection of minors adopted by order of the Minister of Health on April 9, 2021: guidelines and recommendations.

1. Guidelines, which provide elements for the interpreting the decree of November 4, 2020 governing the content of commercial communications. In these guidelines, the ANJ reaffirms the primary purpose of gambling advertising, i.e. the possibility for operators to inform the public of their offer in order to distinguish it from the (prohibited) offer of illegal operators. On this occasion, the ANJ is committed to a strict reading of the legislative and regulatory provisions in force in order to support the objective of preventing excessive gambling and protecting minors that these provisions pursue. In the event of a breach of these rules, the ANJ may ask the gambling operator to withdraw the commercial communication in question and, if necessary, initiate proceedings before its sanctions committee.

These guidelines cover:

- The content of communications that are prohibited because they may encourage excessive gambling: communications banalizing (trivialising) gambling, those containing unsubstantial claims about the chances of winning or equating gambling with a change in social status or an alternative to paid work, etc.;
- Content prohibited because it could encourage minors to gamble: prohibition of advertisements featuring a minor, which would encourage minors to consider gambling as a natural part of their leisure time, or those depicting personalities from the world of minors, etc.

2. Non-prescriptive recommendations, corresponding to good practices that operators are encouraged to implement in order to improve their public protection standards. The recommendations aim to limit the pressure of advertising messages on each media channel, to encourage responsible practices by influencers and ambassadors, to reinforce the protection of minors and excessive gamblers and, finally, to improve prevention messages.

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## MARKETING COMMUNICATIONS GUIDELINES FOR GAMBLING OPERATORS

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### SCOPE

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The guidelines cover the commercial communications of gambling operators, i.e. all communications intended to promote, directly or indirectly, their gambling services, including those communications that involve a financial

arrangement or those relating to a sports partnership contract.

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## LEGAL FRAMEWORK AND NEW REQUIREMENTS

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The guidelines cannot be separate from the specific legal framework in which they are placed. Intended to promote games of chance and risk which, according to the terms of the first paragraph of article L. 320-2 of the internal security code, "are neither an ordinary trade, nor an ordinary service", then commercial communications from the operators who are an adjunct to it cannot be ordinary either.

Gambling and games of chance are authorised by means of derogation and must be subject to strict supervision in order to prevent the risk of harm to public order, particularly in terms of prevention of addiction to gambling and the protection of minors. These elements justified the creation of a demanding regulation of gambling advertising, which the ordinance of October 2, 2019 had intended to better establish and strengthen.

More specifically, the ordinance established new requirements and powers in order to strengthen advertising regulation. By way of example:

- The approval by the ANJ of the promotional strategy of the operators;
- ANJ's capability to require a gambling operator to withdraw any commercial communication directly or indirectly encouraging the gambling of minors or persons prohibited from gambling, or involving excessive encouragement to gamble;
- The reference framework "for the prevention of excessive or addictive gambling and the protection of minors" drawn up by the ANJ and approved by [an order of the Minister of Health on April 9, 2021](#)(FR), which includes a section setting out the guiding principles and good practices applicable to gambling operators' commercial communications.

In order to strengthen the regulations governing the content of gambling operators' commercial communications, Decree No. 2020-1349 of November 4, 2020 relating to the means of regulation of the ANJ, inserted in the internal security code two articles D. 320-9 and D. 320-10. The purpose of these articles is respectively to prohibit commercial communications that may encourage excessive or addictive gambling and those that have the potential to lead minors to gamble.

A possible breach of these provisions by a gaming operator may lead the ANJ to order the withdrawal of the commercial communication in question and, if necessary, refer it to the Sanctions Committee.

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## GUIDELINES OBJECTIVES

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The ANJ has been asked by several operators to clarify the meaning it intends to apply to the provisions of Articles D. 320-9 and D. 320-10. In its capacity as regulator and in the interests of transparency and dependability, it responds to this request by means of the adoption of these guidelines.

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### PROHIBITION OF COMMERCIAL COMMUNICATIONS THAT MAY ENCOURAGE EXCESSIVE OR ADDICTIVE GAMBLING

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According to article D. 320-9 of the Internal Security Code, advertising is prohibited:

"When it encourages excessive gambling, trivialises or promotes this type of practice" (D. 320-9.1°)

These provisions prohibit in particular depictions as follows:

- Of persons or characters showing symptoms of excessive or addictive gambling (nervousness, anxiety, lying, hiding to conceal their gambling habits or replaying to try to recover their gambling losses);
- Repetitive, uncontrolled, immoderate or compulsive gambling situations;
- Scenes of excitement or emotion of a disproportionate or excessive intensity directly linked to gambling itself (to be distinguished from the excitement or emotion aroused by events within a sporting competition);
- An encouragement to bet excessively and beyond their financial capabilities;
- An association of the practice of the game with a 'feat,' or the player as an extreme athlete.

"When it suggests that playing contributes to social success" (D. 320-9, 2°)

These provisions prohibit in particular depictions as follows:

- Of social success understood as financial success, emotional or sexual success, glory, power, respect, admiration from third parties or a sign of maturity;
- Outward signs of wealth or luxury products (sports cars, dream villas, etc.);
- The possibility of changing social status, of living extraordinary experiences (space travel) or of accessing services usually considered reserved for very wealthy people (private jet travel or luxury yacht cruising).

"When it contains unsubstantiated statements about the players' chances of winning or the winnings they can expect" (D. 320-9, 3°)

These provisions prohibit in particular:

- Presenting the chances of winning as higher than in reality;
- Implying that gambling involves little or no risk of loss;
- Claiming or implying that the skill, experience or know-how of the player would enable him or her to eliminate or greatly reduce the risk on which the winnings depend and which is inherent in the gambling or betting contract;
- Claiming or implying that repeating the game would significantly increase the probability of winning.

"When it suggests that gambling can be a solution to personal, professional, social, psychological problems" (D. 320-9, 4°)

These provisions in particular prohibit presenting gambling as an aid or an escape to overcome or support problems that are:

- Personal (breakup, loneliness, illness, unpaid bills, debt, etc.);
- Professional (repetitive and low-paying work, workplace harassment, unemployment, etc.);
- Social (underprivileged social environment, insecurity, poverty, discrimination, etc.);
- Psychological (depression, anxiety, malaise, despair, apathy etc.).

"When it presents gambling as a means to earn a living or as an alternative to paid work" (D. 320-9, 5°)

These provisions prohibit in particular presenting or implying that the practice of gambling, whether regular or occasional, would make it possible to earn a living or to replace a paid job.

This prohibition requires clarification with regard to games that involve the payment of winnings in the form of periodic payments, an annuity for example. If such a method of payment is not in itself prohibited, the operator's commercial promotion must not have the purpose or effect of disregarding the prohibition applied in paragraph 5 of the aforementioned article D. 320-9. In this regard, the operator must exercise particular vigilance when promoting such a game when the amount of the payment is high and spread over a long period, several years for example. Thus, such promotion should not imply that winning with this form of payment would enable the replacement of paid employment. The Authority will assess on a case-by-case basis the commercial communications that accompany games involving this particular method of payment.

The specific case of hyperbolic advertisements

Hyperbolic advertisements are permitted provided they do not have the effect, through the use of emphasis, parody or grossly exaggerated staging, of circumventing or infringing the provisions of Article D 320-9 of the aforementioned Internal Security Code.

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Prohibition of commercial communications that may encourage minors to gamble

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According to article D. 320-10 of the Internal Security Code, the following is prohibited:

"Any depiction of minors or any representation of minors in a purchasing situation" (D. 320-

10 paragraph 1)

These provisions prohibit in particular:

- Any depiction of a minor in a commercial communication for gambling, whether or not in a purchasing situation (e.g. a minor proposing a game or helping to choose a card, a bet or a number to be played, the amount of a bet, or participating in a scene of celebration following a win by a loved one); staging
- Any depiction of a minor in a gambling game purchase situation;
- Any showing or representation of people with a youthful appearance that could suggest that they are minors.

“Any advertisement encouraging minors to consider gambling as a natural part of their leisure time” (D. 320-10 para 2)

These provisions prohibit in particular:

- The association of gambling with leisure activities generally the province of minors or particularly practiced by them;
- The presentation of gambling as a family pastime or referring to an initiation of minors to games by parents, grandparents or more generally by a family member.

“Any showing of personalities or characters belonging to the world of minors” (D. 320-10 paragraph 3)

The ANJ considers that these provisions do not only target personalities or characters that belong exclusively to the world of minors or that are popular only with them. In fact, the only important issue here is the attraction that the commercial communication is likely to have for the minor. The scope of these provisions is therefore broad and must be assessed on a case-by-case basis, depending on the circumstances of the case, with regard to the reputation of the personality or character among minors and its role in the collective imagination of minors.

“Any advertising directed towards children or adolescents, or particularly attractive for them, in particular because of visual, sound, verbal or written elements” (D. 320-10 paragraph 4)

These provisions thus exclude in particular visual, audio, verbal or written elements that may be considered especially attractive to minors, such as the representation of an activity or a cultural work particularly popular with them.

#### Clarification relating to partnership contracts

In view of their purpose, which consists of the operators making themselves known to the public and, consequently, directing them towards their gambling services, in particular through the dissemination of their brands, sponsorship contracts (original French text ‘contrats de parrainage’) (also called “sponsorship contracts” - original French text ‘contrats de sponsoring’) are governed by the rules applicable to commercial communications.

As such, it is reminded that under Article L. 320-12 of the Internal Security Code, these communications must be accompanied by a warning message against excessive or addictive gambling as well as a message referring to the information and assistance system provided for in article 29 of law No. 2010-476 of 12 May 2010 relating to the opening up to competition and the regulation of games of chance and risk online.

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## RECOMMENDATIONS FOR LICENSED GAMBLING OPERATORS’ COMMERCIAL COMMUNICATIONS OR HOLDERS OF EXCLUSIVE RIGHTS (Volume and methods of dissemination of commercial communications)

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### OBJECTIVES OF THE RECOMMENDATIONS

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The specific issue related to compliance of the content of commercial communications with Decree No. 2020-1349 of November 4, 2020 has led the ANJ to adopt guidelines in order to clarify the meaning it intends to give to these provisions in the exercise of the supervisory and sanctioning powers that it derives from the law.

However, these guidelines do not make it possible to address the question of the volume and methods of dissemination

of gambling advertising and the public health issues they raise, particularly with regard to the exposure of minors and public at risk.

To do this, and in the absence of specific legislative or regulatory provisions, the ANJ has chosen to draw up recommendations that propose concrete solutions to make the regulation of gambling advertising more effective in order to keep gambling in a workable recreational context.

The goal sought by the ANJ is to reduce advertising pressure and promote the dissemination of commercial communications that are more protective of the public. This is based on the objective of preventing excessive or addictive gambling and protecting minors, which constitutes the first of the State's policy objectives on gambling and the key to the regulation of this sector, and which justifies limiting and strictly supervising the supply and use of games and controlling their promotion.

The approach adopted and developed in close consultation with all the players in the sector prefers the deployment of flexible regulation that gives gambling operators significant scope to achieve the set objective. The operational recommendations and best practices allow operators who so wish to set up higher standards of public protection.

These recommendations are not mandatory and do not prohibit operators from adopting alternative solutions, subject to compliance with the applicable mandatory rules. However, they are a direct extension of the guidelines set out in the reference framework for the prevention of excessive or addictive gambling and the protection of minors.

This approach also reflects the ANJ's desire to implement a coordinated strategy involving public and private players in the regulation of advertising in order to strengthen its consistency and effectiveness. To this end, these recommendations were preceded by in-depth discussions with the Audiovisual and Digital Communication Regulatory Authority (ARCOM) and the Professional Advertising Regulatory Authority (ARPP). These exchanges are expected to continue and be strengthened within the framework of the development of measures for implementing these recommendations.

Finally, these recommendations do not constitute a fixed tool: they are intended to be adapted, in particular according to the evolution of commercial practices on the market and the evaluation of the promotional strategies of gambling operators. They may, where appropriate, be extended by proposals for legislative and regulatory amendments which it deems necessary to pursue the objectives of the gambling policy. To this end, the ANJ will rely on the permanent consultative committee for the prevention of excessive or addictive gambling and on an operational monitoring committee made up of representatives of the various stakeholders.

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#### RECOMMENDATION 1: LIMIT THE PRESSURE OF ADVERTISING MESSAGES ON EVERY MEDIA LEVER

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##### *Limiting the volume and frequency of gambling commercial communications on all the different existing media*

The ANJ recommends limiting the volume and frequency of gambling commercial communications on all the different existing media in order to control advertising pressure for the protection of minors and prevent its effects of problem gambling.

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#### TELEVISION AND RADIO

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- Advertising agencies are invited to limit to three, on one advertising screen, the number of gambling commercial communications, for all operators combined;
- In addition to this measure and in order to encourage diversity of advertising, it is recommended for a single gambling operator not to broadcast more than one commercial communication on the same advertising screen;
- In addition, a prevention message proposed by the Authority, in line with methods to be specified, could be broadcast during advertising on the occasion of major sporting events as set out in Article 3 of Decree No. 2004-1392 of December 22, 2004 for the application of article 20-2 of law No. 86-1067 of September 30, 1986 on freedom of communication.

The implementation of these recommendations will involve undertaking a review, under the aegis of ARCOM and ANJ, of the charter of good conduct for television advertising agencies, on the one hand, and that of radio broadcasters and their advertising agencies on the other hand. These charters would thus regulate the volume and concentration of gambling operators' commercial communications.

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#### DIGITAL

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Operators are invited to limit to three the number of their commercial communications per day and per medium sent to

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users (per website, per mobile app, per social platform and per search engine, etc.).

This measure will be included in the Charter of good conduct that the ANJ proposes that gambling operators draw up under its aegis, with the objective of regulating the volume and means of dissemination of commercial communications on the various online communication services.

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#### OUTDOOR DISPLAY

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- Within the same display sequence, limit to one unit of three the number of gambling commercial communications, all operators combined;
- Avoid consecutive displays on locations close to each other;
- No commercial communications near schools.

In addition, and for all practical purposes, the ANJ suggests that operators re-state in their contracts with poster service providers the obligation on the latter to comply with the rules applicable to the display of outdoor advertising, in particular the prohibition of so-called 'wild' posting

The ANJ proposes that the implementation of these recommendations result in the adoption by the outdoor industry of a charter of good conduct for gambling advertising display.

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#### VOD

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Operators are invited to limit to three per day the number of gambling commercial communications per channel.

This point could be included in the aforementioned charter of good conduct for publishers and their advertising agencies in the context of its possible revision.

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#### PRINT

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The ANJ will soon launch a consultation with those involved in order to better regulate the commercial communications disseminated in this medium.

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#### *Establishment of an "advertising moderator"*

This moderator will allow the player, when registering online on the gambling operators' websites or mobile apps, to choose the number, frequency and type of notifications that can be sent to them.

To do this, operators can, for example:

- Provide an "advertising moderator" form to be completed by the player when registering online, allowing the latter to choose the number, frequency and type of notifications and their format that can be sent to them;
- Allow the player to easily access and modify this online form within the settings of the profile of their customer account

Examples of 'Ad Moderator':



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#### RECOMMENDATION 2: ENCOURAGE RESPONSIBLE PRACTICES BY INFLUENCERS AND AMBASSADORS

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The ANJ recommends that operators ensure that their ambassadors and influencers:

- Are not popular with minors in particular and more specifically that they do not have an audience greater than or equal to 16% in the 13-17 age group, whatever the media;
- Have obtained the "Certificat Influence Responsable" from the ARPP.

It is also reminded that it follows from 1° of article D. 320-10 that these influencers must be over 18 years old and must not look as if they are minors.

In addition, in order to ensure that their influencer partners or ambassadors communicate responsibly, operators are invited to provide, within the framework of their contracts with them:

- a clause by which the partner certifies that he/she has read the regulations applicable to gambling commercial communications and undertakes to comply with them;
- a clause by which the partner undertakes not to promote illegal offers or illegal tipsters.

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### RECOMMENDATION 3: STRENGTHEN MINORS PROTECTION & THE PREVENTION OF EXCESSIVE OR ADDICTIVE GAMBLING

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In order to limit the exposure of minors as well as that of players identified as excessive or addictive gamblers, the operators are encouraged in particular to:

- affix a "no under 18s" notice on the front of gambling materials marketed at points of sale in retail outlets;
- With regard to the digital platforms (YouTube, Twitch, Telegram, Tik Tok, Facebook, live streaming devices, web TV, for example) on which their gambling offer is provided or promoted, **prohibit access to commercial communications** to users who do not hold an account and who have not confirmed their adulthood (majority);
- Regulate access to commercial communications on the sites and mobile apps of gambling operators only to persons holding a validated player account;
- Exclude, by seeking their prior agreement, those identified as problem or addictive gamblers and who neither self-exclude nor are banned, from the mailing list of all commercial communications sent directly to players (such as in particular e-mails, notifications on gambling apps, text messages or telephone calls).

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### RECOMMENDATION 4 ON SPONSORSHIP

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In order to prevent excessive or addictive gambling and to protect minors who are spectators of these sporting events, operators could ask for the insertion in their sponsorship contracts of a clause by which the sponsored person undertakes to include on their website and mobile app a page dedicated to responsible gambling.

Given the complexity of the subject, a working group on these contracts will soon be set up under the aegis of the ANJ and the ministry responsible for sports in order to discuss with all the stakeholders this practice and developments to bring to its management, in particular with regard to the issues of protecting minors and preventing excessive or addictive gambling.

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### RECOMMENDATION 5: INCREASE THE EFFECTIVENESS OF PREVENTION MESSAGES

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An order issued by the Minister for Health will shortly amend the rules relating to the content and methods of displaying prevention messages. Before it is brought forward, the ANJ already intends to make the following recommendations for the attention of the Minister for Health:

- Communications by means of audio broadcasting: broadcast the warning message orally in a comprehensive, comprehensible and audible manner, at the end of each commercial communication.
- For all media except sound broadcasting:
  - Insert the warning message inside a yellow 'cartridge' to a size representing at least 15% of the total size of the advertising format used. The warning message font must be legible;
  - Include the symbol prohibiting those under 18, as recommended in the terms of reference;
  - include the warning message and the symbol prohibiting those under 18 throughout video commercial communications, whatever the medium (television, SMAD, internet). This recommendation applies to all commercial communication, including sponsorship or product placement.

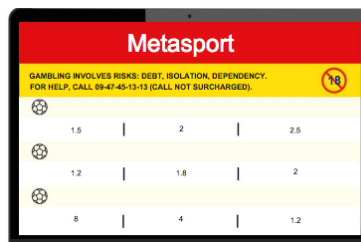
**GAMBLING INVOLVES RISKS: DEBT, ISOLATION, DEPENDENCY.  
FOR HELP, CALL 09-47-45-13-13 (CALL NOT SURCHARGED).**



- For the operators' websites and mobile apps, as well as their dedicated pages on the various social networks and content sharing platforms

Operators could also put in place, for example, the following measures:

- systematically include the warning message at the top of the page, ensuring that it does not merge with the operator graphics;
- ensure that the message remains visible at all times, including when the user has set up an ad blocker or when they scroll down the page



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## THE IMPLEMENTATION MECHANISM

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Three operational principles will govern the implementation of these recommendations:

- Inter-regulation, by strengthening cooperation with ARCOM and ARPP;
- Progression, which means a preliminary phase of co-construction of these instruments with gambling operators and regulatory organisations before their effective implementation;
- The evolving nature of the system, based on the assessment that will be conducted.

The implementation of these recommendations will mean:

- Updating the ARPP's Gambling recommendation of June 2009;
- Revising the ARCOM deliberation of January 22, 2013 on conditions for the dissemination of gambling operators' commercial communications;
- Initiating, in conjunction with ARCOM, the revision of the "good conduct" charters concluded in 2011 by television advertising agencies on the one hand, and by radio publishers and their advertising agencies on the other, with a view to the regulation of the volume and concentration of gambling operators' commercial communications;
- Adopting a charter of "good conduct" for outdoor advertising for gambling, signed by outdoor industry representatives;
- Launching a consultation with print organisations better to supervise commercial communications in this medium;
- Drawing up, under the aegis of the ANJ, a charter of good conduct for gambling operators aimed at regulating their digital advertising practices:
  - This charter would contain measures to regulate the volume of exposure to gambling commercial communications;
  - it would implement a restriction of access to all commercial content disseminated on digital platforms by a gambling operator;
  - it would provide that the operator offers its users of its website or app a 'notification moderator';
  - it would include the various measures to regulate the working practices of influencers and ambassadors set out in these recommendations;
- Adopting the decree of the Minister for Health set out under the provisions of Article D. 320-2 of the Internal Security Code which specifies the content and how the warning message is displayed and disseminated;
- Establishing a working group on the changes to be made to the sponsorship framework, placed under the aegis of the ANJ and the sports ministry.

In order to institute a strengthened system for advertising regulation on the occasion of the next Football World Cup, the instruments outlined above must be finalised and operational on September 1, 2022.

A review of the implementation of these recommendations will be carried out by the Authority at the beginning of 2023,



in conjunction with the monitoring committee and the advisory commission mentioned above, and, if necessary, accompanied by an external evaluation.

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#### TIMELINE

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- March 17, 2022: approval by the college of the ANJ of the promotional strategies of the operators;
  - End of March 2022: launch of the sponsorship working group;
  - June 16, 2022: ANJ College Approval of Financial Rewards Guidelines and Recommendations ("Bonus")
  - July 2022: "Regulation Meeting" dedicated to promotional campaigns for the 2022 World Cup;
  - September 1, 2022: operational implementation of the various instruments;
  - December 2022 / January 2023: meeting of the monitoring committee to take stock of the implementation of the guidelines and recommendations and make any necessary changes.
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