

G-Regs™

## Italy – Gambling – Stability Law 2016



Full title of laws or regulations

1. ACT no. 208 dated 28 December 2015 - Provisions for drawing up the annual and pluriannual budget of the State (Stability Law 2016 - *Legge di Stabilità 2016*) (Paras 937-941)
2. Decree 19<sup>th</sup> July 2016 – Identification of specialized media for the advertising of games with cash prizes; Italian Official Journal (General Series) No. 184 dated 08/08/2016
3. ACT no. 401 dated 13 December 1989 on gaming, clandestine/ illegal betting and ensuring the proper conduct of sporting contests (Art. 4)

(1) Stability Law - Art. 1 (provisions/ paragraphs 918-948)

Stability Law - Provisions in relation to Gaming  
(relevant to advertising – provisions/ paragraphs 937 – 941)

937. Notwithstanding the provisions in Article 7, paragraphs 4 and 5 of the Legislative Decree n.158 dated 13 September 2012, converted with amendments to Law no. 189 on 8 November 2012, and (without prejudice to) the prohibition on advertising in Article 4, paragraph 2, of Act no. 401 dated 13 December 1989 (see translation below), in order to prevent the misuse/ abuse of gambling or betting activities, and to give consumers, gamblers (players) and minors a high level of protection, intended to safeguard public health and minimize economic loss that may result from compulsive or excessive gambling, audiovisual advertising (propaganda) of brands or gaming products with cash prizes must/ shall take into account the principles provided for in Recommendation 2014/478/EU of 14 July 2014. The criteria for the implementation of the Recommendation are to be set out by Decree of Minister of Economy and Finance, to be adopted / implemented within 120 days from the entry into force of this Act, in consultation with the Minister of Health, and in consultation with AGCOM – The Italian Communications Authority (*Autorità per le Garanzie nelle Comunicazioni*)

938. In every instance, advertising is prohibited that:

- a) encourages excessive or uncontrolled gambling;
- b) denies that gaming and gambling may lead to risks (refute that gambling can be risky)
- c) fails to make explicit the terms and conditions for the use of incentives or bonuses;
- d) presents or suggests that the game is a way of solving financial or personal problems, or constitutes an alternative source of income or livelihood to working, rather than a simple form of entertainment and amusement/ fun;
- e) gives the impression/ lead to the belief that the player's experience, expertise or skill will reduce or eliminate the uncertainty (odds) of winning, or will enable systematic winning;
- f) addresses / targets or refers to minors, even only indirectly, or show minors or people who clearly appear to be minors, involved in gaming situations.

URL of source: Stability Law 2016: <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2015-12-28;208!vig=>

Reviewed by: Your Name

Approved by: Your Name

Date posted online: 01/01/2000

g) uses signs, symbols, drawings, fictitious characters or real people, directly and primarily related to children, in such a manner that could spark interest among them (the minors) (Note: *i.e. with the specific intention of appealing to minors*)

h) gives the impression / implies that participation in the game will serve/ contribute to increase self-esteem, social status and interpersonal success;

i) depicts abstention/ non-participation in the game as a negative attribute;

l) leads (the consumer) to confuse the ease of (playing) the game with the ease of winning; (*portraying a game that is easy to play as a game that is easy to win*)

m) contains incorrect/ erroneous statements on the probability/ odds of winning or on the return that players can expect to get/win from the game;

n) refers to the immediate use/ availability of consumer credit services for the purposes of the game (gambling).

939. The advertising of games with cash prizes is also prohibited in radio and "generic/ generalist" TV broadcasts/ programmes, in compliance with the principles enshrined/ laid down at European level, between the hours of 07:00 and 22:00 every day. Excluded/ exempted from the ban are *Specialized Media* identified by Decree<sup>1</sup> of the Minister of Economic Affairs and Finance, in consultation with the Minister of Economic Development, as well as deferred prize-draw National Lotteries<sup>2</sup> as cited/ referred to in Article 21, paragraph 6 of the legislative decree no. 78 dated 1 July 2009<sup>3</sup>, implemented, with modifications, from legislation dated 3 August 2009, no. 102<sup>4</sup>. Also excluded are indirect forms of communication resulting from sponsorship in the cultural, research and sports sectors, as well as the Health and Assisted Care/ Welfare sectors.

940. Any violation of the prohibitions/ restrictions referred to in paragraphs 938 and 939 and the requirements of the decree referred to in paragraph 937 shall be punished with a pecuniary administrative sanction referred to in Article 7, paragraph 6, of the Legislative Decree of 13 September 2012, n. 158, converted with amendments to Law on 8 November 2012, n. 189. The penalties shall be imposed by the Italian Communications Authority, according to the principles set out in Act n. 689 dated 24 November 1981, to the person who commissions the advertising, the person/ entity who carries it out, and the owner of the means by which it is disseminated (*i.e. covering the likes of the operator, broadcaster, media owner*)

941. The Ministry of Health, in consultation with the Ministry of Education, Universities and Research, including through the use of its websites, prepares information and awareness campaigns, with particular reference to schools of all levels, on the risk factors related to gambling in order to raise awareness of the related phenomena of dependence

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<sup>1</sup> [Law Decree 19<sup>th</sup> July 2016](#) – Identification of specialized media for the advertising of games with cash prizes; Italian Official Journal (General Series) [No. 184 dated 08/08/2016](#) – see translation of relevant provisions below.

<sup>2</sup> There are 2 types of national lottery in Italy: Traditional lotteries (deferred draw) and instant lotteries (scratch/card, "Gratta e Vinci") – Deferred draw lotteries are drawn on a fixed date.

<sup>3</sup> <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto:legge:2009-07-01:78!vig> = Decree-Law 1<sup>st</sup> July 2009, n. 78 on anti-crisis measures and extension of time limits and Italian participation in international missions. Art. 21(6): The management and running of the national lotteries with deferred draws remain in any case reserved to the Ministry of Economy and Finance - Independent Authority for the Administration of State Monopolies (AAMS - *Amministrazione Autonoma dei Monopoli di Stato*), which is represented by itself or by a company with public shareholders.

<sup>4</sup> <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2009-08-03:102!vig> = LAW 3 August 2009, n. 102: Conversion into law, with amendments, of Decree-Law of 1 July 2009, n. 78 (i.e. so as of 3rd August 2009, the Bill for the conversion into law of Law Decree no. 78 of 1 July 2009 was approved)

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as well as on the resulting risks to health, providing information on the services arranged by the public and tertiary sectors to address the problem of gambling addiction.

**(2) Decree 19 July 2016**

Decree 19<sup>th</sup> July 2016 – Identification of specialized media for the advertising of games with cash prizes; Italian Official Journal (General Series) No. 184 dated 08/08/2016<sup>5</sup>

[http://www.gazzettaufficiale.it/atto/serie\\_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2016-08-08&atto.codiceRedazionale=16A05782&elenco30giorni=false](http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2016-08-08&atto.codiceRedazionale=16A05782&elenco30giorni=false)

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Minister of the Economy and Finance, in consultation with the Minister of Economic Development

Having regard to Legislative Decree 31<sup>st</sup> July, 2005, n. 177, entitled “consolidated text on radio and audiovisual media services” (also known as the AVMS Code) published in the Italian Official Gazette 7 September 2005, n. 208 – Ordinary Supplement n. 150, and subsequent amendments and additions.

Having regard to Law 28 December 2015, no. 208 entitled, “Provisions for drawing up the annual and pluriannual budget of the State (Stability Law 2016 - Legge di Stabilità 2016)” published in the Italian Official Gazette of 30 December 2015, n. 302 - Ordinary Supplement no. 70, and, in particular, Article. 1, paragraphs 937-940.

With particular regard to Article. 1, paragraph 939, of Law December 28, 2015, n. 208, cited above, which in prohibiting advertising of games with cash prizes in radio and generalist television broadcasts, respecting the principles laid down at European level, from 7am – 10pm daily, stipulates, inter alia (among other things), that “excluded from this prohibition are Specialized Media identified by Decree of the Minister of Economic Affairs and Finance, in consultation with the Minister of economic development...”

**Decree:**

Article. 1:

1. “Generalist (general-interest) TV programmes/ broadcasts” means generalist digital terrestrial TV channels referred to in Art. 32(2)(b<sup>6</sup>)\*\* of LD 177/2005, as amended (known as the Italian AVMS Code) and the related automatic numbering plan for digital terrestrial television channels within the competence of the Italian Communications Authority (*Autorità per le garanzie nelle comunicazioni* - AGCOM), already legitimately emitted/ broadcast at national level in analogue and analog-digital simulcast\* (ADS), which broadcast mainly free-to-air general-interest programmes with the obligation to provide information<sup>7</sup>.

\* the term "simulcast" - simultaneous broadcasting in analogue and digital mode

\*\* LD 177/2005 Art. 32

(2) *Without prejudice to the right of each user to reorder the channels offered on digital television as well as the possibility for pay TV operators to introduce further and additional programme guide and channel order services, the Authority, for the purpose of ensuring*

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<sup>5</sup> [http://www.gazzettaufficiale.it/gazzetta/serie\\_generale/caricaDettaglio?dataPubblicazioneGazzetta=2016-08-08&numeroGazzetta=184](http://www.gazzettaufficiale.it/gazzetta/serie_generale/caricaDettaglio?dataPubblicazioneGazzetta=2016-08-08&numeroGazzetta=184)

<sup>6</sup> The actual text states 32(2)(c) – however the correct reference for generalist channel is Section 32, Paragraph 2, let. b) of the Legislative Decree no. 177 of July 30, 2005 – so it is presumed that this is in fact a typo error.

<sup>7</sup> <http://www.dtti.it/lcn/> LCNs (Logical Channel Numbers) 1-9 are: Rai 1; Rai 2; Rai 3; Rete 4 (Mediaset); Canale 5 (Mediaset); Italia 1 (Mediaset); LA7 (Cairo Communications); TV8 (Sky Italia); NINE/ NOVE (Discovery Italia) – all of which are classified as “generalist”. LCN 20 – Retecapri is also “generalist”. Digital terrestrial television (DTTV or DTT) in Italy transmits in DVB-T format (Digital Video Broadcasting – Terrestrial)

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*fair, transparent and non-discriminatory conditions, shall adopt a suitable plan for the automatic numbering of digital terrestrial television channels, in unencoded form and paid for, and shall establish, with its own regulations, the method for assigning numbers to the audiovisual media services providers authorised to broadcast audiovisual contents using digital terrestrial technology, on the basis of the following principles and regulatory criteria in order of priority:*

*(a) ...<sup>8</sup>*

*(b) respect the habits and preferences of users, with particular reference to generalist / general interest national channels and to local broadcasters*

*(c) the breakdown of the numbering of the national broadcasting channels, based on the prevalent programming, in relation to the following types of thematic programming: Semi-generalist, children and young people, information, culture, sport, music, and teleshopping<sup>9</sup>. In the first range of numbers suitable space must be provided for numbering assigned to quality programming by local broadcasters and those linked to the territory. Channels for adult viewing only must not be placed in that same range of numbers. In order to ensure the broadest diversity on a level playing field between market participants, a series of numbers should be left available for new entries of each type;*

*(d)<sup>10</sup>, (e)<sup>11</sup>, (f)<sup>12</sup>*

**Note:** In Resolution No. 366/10/CONS of July 15, 2010 (published in Italy's Official Journal on August 10, 2010), AGCOM laid down the automatic numbering plan for digital terrestrial television channels, assigning former analog channels with information obligations (known as "generalist" or "general-interest" channels) the first nine positions and attributing position 7 to La7 and 8 to MTV (now SkyItalia<sup>13</sup>).

Article. 2:

1. For the purposes of the following decree, the term "specialized media" means:

1) Digital terrestrial television channels belonging to the types of thematic programming<sup>14</sup> referred to in Art. 32(2)(c) of LD 177/2005 (consolidated – i.e. AVMS Code) as laid down in the automatic numbering plan for digital terrestrial television channels covered by AGCOM (Italian Communications Authority).

2) TV channels broadcast over electronic communications networks\* other than digital terrestrial ones<sup>15</sup>.

<sup>8</sup> guarantee the automatic channel ordering system is simple to use;

<sup>9</sup> Meaning that the automatic numbering plan will depend on how many of these themed channels are prevalent in the given list

<sup>10</sup> selection of specific numbering for paid-for audiovisual media services;

<sup>11</sup> define the conditions for use of the numbering, providing the opportunity, based on agreements, to exchange number allocation within one of the same type group, following communication to the competent administrative authorities;

<sup>12</sup> update the numbering plan according to the development of the market, and on hearing the interested parties

<sup>13</sup> On July 31, 2015 Sky Italia took over ownership of the free-to-air MTV. On September 16, 2015, MTV Italy was rebranded as MTV8 by Sky Italia, then later to TV8

<sup>14</sup> *Semi-generalist, children and young people, information, culture, sport, music, and teleshopping*

<sup>15</sup> Likes of Satellite broadcasts (FTV Satellite, FTA Satellite)

Digital satellite TV like: Sky Italia (note: **TV8** is a digital-terrestrial free-to-air Italian general entertainment tv channel owned by [Sky Italia](#) through its subsidiary company "Nuova Società Televisiva Italiana S.r.l.")

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3) Pay-TV channels distributed on any electronic communications network (including on-demand services and pay-per-view)<sup>16</sup>

4) Channels broadcast by local TV stations

5) National and local Radio stations

\* Art. 2(c) LD 177/2005 (Consolidated) - "electronic communications networks", means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, networks used for radio and television broadcasting, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, and cable television networks, irrespective of the type of information conveyed;

Article. 3:

1. Under no circumstances may TV or radio channels, disseminated by any electronic communications network, be considered "specialized media" under Art. 2 of this Decree, which are directed exclusively or primarily at an audience of minors.

2. The provisions of this decree may be subject to review in the light of digital radio developments.

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**(3) Art. 4: Law 401/1989**

ACT no. 401 dated 13 December 1989 on gaming, clandestine/ illegal betting and ensuring the proper conduct of sporting contests

<http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:1989-12-13;401&vig=>

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Article 4 Gaming and Betting malpractice

1. Any person who unlawfully participates in the organising of lotteries, betting or pools reserved by law to the State or to entities operating under licence from the State shall be liable to a term of imprisonment of 6 months to 3 years. Any person who organises betting or pools in respect of sporting events run by CONI (Italian Olympic Committee), or by organisations under the authority of CONI, or by UNIRE (National Horse Breeders Enhancement Society) shall be liable to the same penalty. Any person who unlawfully participates in the public organising of betting on other contests between people or animals, or on games of skill, shall be liable to a term of imprisonment of 3 months to 1 year and a minimum fine of ITL 1 000 000. The same penalties apply to anyone who sells on national (Italian) territory without the authorization of the Independent Authority for the Administration of State Monopolies (Gambling Regulatory Authority: previously AAMS, now ADM), lottery tickets or similar events of chance of foreign states, as well as anyone who takes part in such operations through advance bet acceptance and bet settlement and the promotion and advertising carried out by any means of communication.

((Also punished with imprisonment ranging from six months to three years, is anyone who organizes, practices and collects remotely, without the required license, any game set up or governed by the Independent Authority for the Administration of State Monopolies (Gambling Regulatory Authority – now known as the Customs and Monopolies Agency). Any license holder who organizes, practices and collects remotely any game or set up governed by the Independent Authority for the Administration of State Monopolies (now,

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<sup>16</sup> Includes Sky Italia and Mediaset Premium (Italian digital terrestrial television service provided by Mediaset. It provides pay TV and pay-per-view (only for football matches) through the use of a smart card as well as video on demand through its Premium Play and Premium Online streaming service); Mediaset Infinity (Pay TV services in streaming)

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Customs and Monopolies Agency) using methods or technology other than those prescribed by law will be punished with imprisonment ranging from three months to one year, or with a fine ranging from EUR 500 to EUR 5,000.)

2. Any person who advertises competitions, games or betting organised in the manner described in paragraph 1, albeit without being an accomplice to an offence defined therein, shall be liable to a term of imprisonment of up to 3 months and a fine of between ITL 100k and ITL 1m. The same penalty applies to anyone, by any means, who promotes gaming, betting and lotteries in Italy, that are accepted by any person abroad.

4-bis The penalties laid down in this article shall be applicable to any person who, without the concession, authorisation or licence required by Article 88 of [Consolidated Text of Public Safety Laws], carries out activities in Italy for the purposes of accepting or collecting, or, in any case, of assisting the acceptance or in any way whatsoever the collection, including by telephone or by data transfer, of bets of any kind accepted by any person in Italy or abroad.

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