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A High-stakes game: Navigating Spain's complex advertising regulations ahead of the FIFA World Cup

LOYRA ABOGADOS

Patricia Lalanda
Partner

Patricia.lalanda@loyra.com

+34 915 706 687

www.loyra.com

LOYRA
ABOGADOS

BIO

Patricia Lalanda is a Partner at LOYRA Abogados, where she co-leads the firm's Gaming and Technology practice. With over 16 years of experience in Intellectual Property, New Technologies, and Data Protection, she focuses on the gaming and gambling sector, advising multinational and domestic clients on regulatory compliance, M&A, online gambling licensing, and technical and e-commerce compliance, with a particular emphasis on Spain within international strategies. She is ranked as a leading practitioner by Chambers and Lexology.

A Professor at Universidad Autónoma de Madrid and at the Legal Practice School (*Escuela de Práctica Jurídica*) of Universidad Complutense de Madrid, where she has taught gambling law for over 13 consecutive years, she is a regular speaker at leading industry forums including ICE, SBC, Next.io, the European Gaming Congress, Expojoc, and IMGL conferences. In 2024, she delivered a keynote at the XIII Legal Conference on Gambling (*XIII Jornadas Jurídicas*) organized by Spain's General Council of the Judiciary (*Consejo General del Poder Judicial*).

She is a general member of IMGL and the Madrid Bar.

LOYRA ABOGADOS

Cristina Romero de Alba
Partner

cristina.romero@loyra.com

+34 915 706 687

www.loyra.com

LOYRA
ABOGADOS

BIO

Cristina Romero de Alba is a Partner at LOYRA Abogados and a recognized adviser in global gaming and gambling law. With over 15 years of experience, she advises operators, suppliers, investors, and public authorities on regulatory, licensing, and transactional matters across Europe and the Americas, with particular depth in Spain, Portugal, Italy, and Latin America.

Her practice focuses on complex regulatory frameworks, market entry strategies, and cross-border M&A, often involving newly regulated or rapidly evolving markets. She leads a team advising on major gaming projects in more than 40 jurisdictions worldwide and has played a key role in landmark transactions, licensing processes, and regulatory negotiations across the sector.

Previously at Clifford Chance and Credit Suisse in London and New York, Cristina brings strong financial and strategic insight to her legal practice. She is a member of the Madrid Bar, IAGA, and is a registered financial adviser with the FCA and CNMV.

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Introduction

As the global sporting community turns its attention towards the upcoming FIFA World Cup, Spain's vibrant and lucrative gambling market is entering a period of intense activity. For operators, the tournament represents a golden opportunity to engage a massive audience, drive growth, and, for many, begin recouping substantial investments. However, this period of heightened commercial opportunity coincides with an equally growing level of regulatory scrutiny. The legal framework governing gambling advertising in Spain is a complex tapestry of national and regional laws, administrative interpretations, and recent judicial shifts, creating a highly complex environment for legal and compliance teams to navigate.

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This landscape is further complicated by the unique structure of the market itself. With no new licensing tenders opened in recent years, the only viable entry route for newcomers has been through the acquisition of existing licensed entities. This M&A-driven consolidation has materially raised the stakes; new players, having invested heavily to secure a market foothold, are under immense pressure to achieve a return on investment, with the World Cup serving as a critical launchpad. This article will provide a high-level analysis of the key complexities and risks inherent in Spain's advertising regulations for gaming operators and other stakeholders (direct disseminators[1] and intermediaries[2]) whose challenge is now magnified under the global spotlight of the world's most-watched sporting event.

The dual regulatory framework: Navigating national and regional regulation

The primary source of complexity stems from Spain's dual regulatory system. While national legislation sets the baseline, the country's seventeen Autonomous Communities (Regions) wield significant power, particularly over physical advertising.

For online gambling at the national level, the cornerstone of regulation is the Royal Decree 958/2020 of Gambling Commercial Communications (RD 958/2020). This Royal Decree establishes a comprehensive set of rules covering everything from the content of advertisements to the channels through which they can be disseminated. It is complemented by other key national laws, including the Law 13/2022, of July 7, on General Audiovisual Communication (LGCA) and the Law 34/2002, of July 11, on Information Society Services and Electronic Commerce (LSSI).

However, for any advertising that takes place in the physical world—such as in stadiums, hotels, or at live events—operators face a second layer of regulation. Article 17.1 of RD 958/2020 mandates that physical communications must comply not only with state law but also with the specific regulations of the Region in which they are conducted. This creates a fragmented and, in certain cases, inconsistent legal map. An advertising campaign that is perfectly viable in Madrid may be entirely prohibited in Aragón or subject to stringent pre-authorisation requirements in Castilla y León.

This duality generates significant legal uncertainty. For instance, while RD 958/2020 provides a theoretical exemption for communications within sports facilities under a sponsorship agreement, suggesting they should be subject only to state law, the practical reality is different. Many Regions and the sponsored entities themselves (e.g., football clubs) adopt a risk-averse stance, deferring to the stricter regional regulations to avoid potential sanctions. This forces operators and stakeholders to navigate a patchwork of local laws, dramatically increasing compliance costs and operational complexity.

Key areas of contention and interpretive risk

Beyond the dual framework, operators face risks stemming from the ambiguous interpretation of key legal concepts by the national regulator, the Dirección General de Ordenación del Juego (DGOJ).

1. These are the entities that broadcast or publish the advertisements directly to the public. This broad category includes: (i) Audiovisual or electronic communication service providers (e.g., TV and radio stations); (ii) Information society service providers, which encompass websites, social media platforms, and affiliates; (iii)Any other communication medium used to spread the commercial message.
2. These are the entities that participate in the intermediate stages of creating, transmitting, or placing the advertisements, acting as a link in the advertising chain. This group includes: (i) Advertising networks. (ii) Advertising agencies and (iii) Intermediation service providers.

A prime example is the interpretation of the term "emplazamiento" (placement) in the context of the strict 1:00 a.m. to 5:00 a.m. advertising window for audiovisual media. The DGOJ has adopted an expansive interpretation of this time restriction, applying not just to television or radio broadcasts, but to any advertising *placed* within a stadium if the event is being broadcast, regardless of whether the specific advertisement (e.g., a logo on a cup or a QR code on a seat) is an audiovisual communication itself. This interpretation clashes with the definition in the LGCA, which requires a communication to be audiovisual to fall under such restrictions. While a sanction based on this broad interpretation may lack a firm legal basis, the DGOJ's position creates a tangible risk of initiating sanctioning procedures, forcing operators to weigh commercial opportunities against potential legal battles.

The digital frontier presents its own set of challenges. While primarily governed by national law, the rules are highly dependent on the specific platform:

- **Video-sharing platforms (e.g., YouTube, Twitch, Kick):** Advertising on these platforms is generally restricted to the 1:00-5:00 a.m. window, as per the LGCA. A relevant exception exists for channels whose primary activity is related to gambling, which are exempt from the time slot.

- **Social media (e.g., Instagram, X):** Currently, these platforms are not typically classified as "video-sharing services" under the LGCA, meaning the stringent time restrictions do not apply, provided they have mechanisms for age verification and ad-blocking. However, this is a fluid situation. As platforms evolve, there is a persistent risk that their classification could change, subjecting them to the same time restrictions as YouTube and potentially requiring a substantial restructuring of existing digital marketing strategies.

The Supreme Court's intervention: A shift towards proportionality

A recent and pivotal development in this area is the Supreme Court Ruling 527/2024. This landmark ruling annulled several of the most restrictive articles of RD 958/2020, including prohibitions on promotional offers for new customers and the use of public figures in advertising.

The significance of this judgment lies not just in the specific articles it struck down, but in its underlying reasoning. The Supreme Court established a critical precedent: any restriction on the freedom of enterprise, including advertising, must be necessary and proportional. It explicitly cautioned against using the "protection of minors" as a blanket justification for imposing broad, general prohibitions that are not adequately justified. The judgment reinforces the principle that restrictions affecting commercial freedom must be supported by a sufficiently robust evidentiary basis and drafted in proportionate terms.

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This ruling has reshaped the landscape. It has reopened certain marketing practices that were previously closed, such as welcome bonuses. More fundamentally, it has armed operators with a powerful legal argument to challenge disproportionate regulatory measures. It does not signal a deregulation of the market, but rather a recalibration, demanding that regulators provide concrete, evidence-based justifications for any limitations they impose on commercial communications.

In the wake of the ruling, there have been various legislative attempts to reinsert the annulled articles into a Law, but these initiatives have not succeeded in the legislative process. However, further attempts cannot be discarded.

Nevertheless, the Supreme Court's judgment has not reduced regulatory momentum in the sector. On the contrary, the DGOJ continues to promote additional measures aimed at reinforcing responsible gambling obligations.

In this context, a new regulatory development is underway, a DGOJ Resolution. This project aims to develop further the responsible gambling principle in commercial communications established in the Royal Decree 958/2020. Its primary objective is to replace classic, generic messages like "Play Responsibly" with much more direct and stark warnings about the real risks of gambling similar to the tobacco messages. Examples of the proposed new messages include: "Gambling addiction is a risk of gambling." or "The probability of being a player who loses money is 75%."

Emerging frontiers and new regulatory headaches

As operators and stakeholders adapt to this new landscape, the focus of regulatory scrutiny is shifting towards the complex and rapidly evolving world of digital marketing such as the following.

1. The challenge of User-Generated Content (UGC) and Influencers

User-Generated Content (UGC), refers to any form of content—such as social media posts, videos, reviews, or forum discussions—created by end-users rather than the brand itself. Its power lies in its perceived authenticity, making it a potent, if indirect, marketing tool. However, it presents a significant regulatory minefield. The DGOJ's mandate is clear: all commercial communication must be identifiable as such. This creates significant compliance challenges with UGC, where the line between genuine user enthusiasm and incentivized promotion can be blurred. An operator may incur regulatory exposure where this is considered to be benefiting from or encouraging promotional UGC without ensuring proper disclosure.

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This challenge is crystallized in the use of influencers. While a more direct form of marketing, the core principles are the same. Any influencer promoting a gambling operator in exchange for any form of compensation must clearly and unambiguously disclose the commercial nature of the relationship. The provided analysis underscores that the ultimate responsibility for ensuring this transparency rests with the operator. This necessitates robust compliance frameworks, including: (i) comprehensive contracts, meaning that agreements with influencers must explicitly detail disclosure requirements in line with Spanish advertising, gambling and consumer protection laws in general; (ii) Active monitoring. Operators and platforms are starting to actively monitor influencer content to ensure ongoing compliance as responsibility under the "notice and take down" procedure for liability exemptions in case of illicit content is becoming more blurry, particularly under the Digital Services Act; And (iii) Providing influencers with clear, unequivocal instructions on how to disclose partnerships is essential to mitigate risk.

Failure to manage this effectively can lead not only to regulatory sanctions but also to significant reputational damage.

2. The DGOJ's intensified scrutiny of Affiliates

Affiliates—third-party individuals or entities that promote operators in exchange for commissions—have historically been a cornerstone of online gambling marketing. However, these commercial relationships are now facing intensified scrutiny from the DGOJ.

While the regulator has traditionally held operators vicariously liable for the advertising practices of their affiliates, the past two years have marked a significant shift. The DGOJ is now extending its oversight to scrutinize affiliates directly. This change in enforcement is evidenced by several sanctioning proceedings initiated against affiliates, signalling a new focal point in the regulator's supervisory strategy. This strategic shift is particularly aimed at those promoting illegal operators, as the DGOJ has found it more effective to collect fines from these affiliates than from unlicensed operators based outside the European Economic Area (EEA).

3. New sets of regulations that also need to be monitored closely

Beyond the marketing regulatory initiative currently underway, there are also two sets of regulations that will materially affect the way in which operators design and deploy their commercial communications; however, they will not affect the FIFA World Cup, as they will foreseeably enter into force afterwards. Although neither is strictly an advertising rule, both will reshape the universe of players that can be lawfully targeted and the conditions under which any commercial action can be deployed.

New algorithm to detect risk behaviour

Royal Decree 176/2023, of 14 March, which develops safer gambling environments, assigns the DGOJ the responsibility of developing a mandatory mechanism for the detection of risky gambling behaviours, to be used by all licensed operators within a maximum period of two years from its approval. This represents a significant departure from the current model: in place of the operator-driven detection systems that have been the standard until now, the new regime imposes a single, regulator-defined algorithm whose parameters, risk thresholds and intervention protocols are to be set centrally by the DGOJ and uniformly applied across the market.

The DGOJ resolution developing this mandatory mechanism has generated significant controversy within the industry. Jdigital (Asociación Española del Juego Digital), the principal Spanish online-gambling trade association, has formally challenged it before the European Commission in May 2026, raising serious questions of proportionality and compatibility with EU law — concerns that resonate with the Supreme Court's recent recalibration of the regulatory framework. The challenge does not, however, suspend the implementation timetable, which means that operators must continue to prepare for the deployment of a system whose ultimate design and parameters may still be subject to revision.

From an advertising standpoint, the implications are far from trivial. Once a player has been classified as "at risk" or "problematic" under the regulator's parameters, operators are required to exclude that player from personalised commercial communications, promotional offers and bonuses, in addition to applying playing or deposit limits and other protective measures. This will demand a tight integration between the regulator's risk-detection system and operators' CRM and marketing-automation tools, so that targeted communications cease automatically as soon as a player's risk profile changes.

Joint deposit limit regulation

A second regulatory development on the horizon, with equally far-reaching commercial implications, is the introduction of a joint (cross-operator) deposit limit. Under the current regime, default deposit limits apply on a per-operator basis (€600 daily, €1,500 weekly and €3,000 monthly, subject to the player's request to modify them and, for higher amounts, to additional verifications), with the result that a player holding accounts with several licensed operators can, in aggregate, deposit amounts well in excess of what any individual limit was designed to allow.

The Draft Royal Decree amending Royal Decree 1614/2011 — which develops Law 13/2011 on gambling regulation in respect of licences, authorisations and registration procedures — is intended to address this gap. The draft introduces a voluntary and complementary system aimed at enhancing player control, allowing participants to set a total deposit cap that operates across all the licensed operators with whom they hold registered accounts. Final approval of the Draft Royal Decree is imminent but will enter into force six months after being published in the Official Gazette and will have a testing phase of four months. The implications also extend to commercial communications. Once a player has voluntarily activated the joint cap, operators will need to ensure that their advertising and CRM strategies treat that player accordingly.

The world cup magnifying glass

The impending FIFA World Cup is poised to act as a powerful catalyst, significantly intensifying the aforementioned market dynamics, a landscape further complicated by the nascent yet critical regulatory considerations. In particular, emerging discussions around prediction markets and adjacent betting products may generate additional uncertainty regarding classification, licensing and advertising treatment. The tournament's unprecedented global reach positions it as an unparalleled platform for brand visibility. This potent commercial imperative will inevitably converge with, and potentially clash against, the heightened vigilance of regulatory authorities. This scrutiny extends beyond the DGOJ in Spain to encompass other national and international bodies whose jurisdictions may be implicated by cross-border marketing strategies. Any regulatory infraction or misstep during this period of maximum public exposure could result not only in severe financial penalties but also in profound and lasting reputational damage.

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Conclusion: A call for sophisticated strategy

In this regulatory environment, success will not be defined by the scale of marketing budgets alone. It will be determined by the sophistication of an operator's legal and compliance strategy.

Navigating the labyrinth of national and regional laws, interpreting the new possibilities opened by the Supreme Court, and managing the novel risks associated with digital channels like UGC, influencers, and affiliates requires a proactive, integrated, and deeply informed approach. The operators best positioned to capitalize on the World Cup and achieve sustainable growth will be those who can expertly balance their commercial ambitions with an unwavering commitment to legality, transparency, and the protection of consumers.