[NL] New law on online gambling and media advertising

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On 1 April 2021, an important new law on online gambling and gambling advertising (Online Gambling Act) (*Wet Kansspelen op afstand*) came into force, including notable amendments to the Dutch Media Act (*Mediawet*) (see IRIS 2021-1/24). Due to the difficulty of regulating increasingly popular (illegal) foreign gambling websites, the Dutch parliament enacted a legal response. With this new law, the ban on online gambling and the advertising of gambling has been lifted to improve regulation of the market. With the amendment to the Dutch law on gambling, gambling service providers can now request a permit for online gambling, which would be valid from 1 October 2021. It is expected that ending the ban will lead to a significant increase in advertising campaigns and online targeting.

To maintain certain standards of protection, the new law is paired with strict standards on how and when to advertise (online) gambling. The legal amendment strives to assert more regulatory control while preventing gambling addictions, Internet fraud and crime, and protecting consumer interests. To do so, the rules governing advertising in the Media Act have also been amended. The Media Act is designed to ensure a safe form of advertising of gambling by, for example, restricting advertising on television to a timeslot outside of 06:00 to 21:00.

The restrictions on advertising, however, go further than the new permit rules and a dedicated timeslot. First, under Article 4 of the Online Gambling Act, athletes and celebrities that are popular among young people are not allowed to feature in advertising to avoid the promotion of online gambling. When collaborating with an influential figure, it is necessary to carry out research to determine the effect of such advertising. If the target audience is inappropriate or the reach is too large, advertising will not be allowed.

Second, Article 4 further stipulates that advertising cannot be targeted at anyone below the age of 25, anyone with gambling problems, or to anyone with mental health problems or disorders. It is particularly difficult to manage such restricted advertising, as it is challenging to profile online users in accordance with data protection principles. The law on online gambling prohibits the use of personal data in advertising campaigns. Furthermore, according to Article 9 of the EU General Data Protection Regulation, for example, the processing of sensitive personal data such as health data is prohibited with limited exceptions.

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The Dutch Gambling Authority (*Kansspelautoriteit*) will be responsible for the enforcement of these new rules. To protect against illegal gambling practices, it is tasked with monitoring and regulating permit compliance. In doing so, the Authority will evaluate whether permit holders take the necessary steps to prevent gambling addictions. In addition, it can impose injunctions against advertising agencies, media companies, and payment services, to prevent illegal distribution and use of online gambling services. Finally, Dutch Media Authority (*Commissariaat voor de Media*) will monitor compliance with the new rules contained in the Media Act.

Ministerie van Justitie en Veiligheid, Staatscourant 4507, Regeling van de Minister voor Rechtsbescherming van 21 januari 2021, nr. 3181155, houdende bepalingen ter uitvoering van de Wet kansspelen op afstand (Regeling kansspelen op afstand), 1 februari 2021

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Ministry of Justice and Security, Dutch Government Gazette 4507, Regulation of the Minister for Legal Protection of 21 January 2021, no. 3181155, regarding the provisions for the implementation of the Online Gambling Act, 1 February 2021

Commissariaat voor de Media, Reclame voor online kansspelen, 3 mei 2021

https://www.cvdm.nl/actueel/reclame-voor-online-kansspelen

Dutch Media Authority, Advertising for online gambling, 2 May 2021

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https://www.rijksoverheid.nl/actueel/nieuws/2021/04/01/wet-kansspelen-op-afstand-treedt-in-werking

Dutch Government, Law on online gambling enters into force, 1 April 2021

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