



GREEK LAW DIGEST

The Ultimate Legal Guide
to Investing in Greece

**Efthymios G. Navridis
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LOTTERY - GAMES



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IN GENERAL

What is considered by Law as Advertisement?

Advertising, in accordance with Article 9 of Law 2251/1994 is any communication of any kind of form, used in the context of a commercial, industrial, crafts or professional activity in order to promote sales of goods or services, including Real Estate and the corresponding rights and obligations.

Commercial communications which do not constitute advertising.

The EU Directive 0052/1989 differentiates advertising from the following:

“Surreptitious or covert audiovisual commercial communication” as the purposeful and against monetary payment or return, verbal or visual communication and presentation for advertisement purposes of any goods, or services, or even of the label, the trademark or the activities of a producer of goods or a provider of services, that could potentially mislead the public regarding the nature of the overall presentation.

‘Sponsorship’ as the contribution of a public or private business or of a natural person which do not provide services regarding the audiovisual industry nor do they produce any audiovisual projects, for the purpose of funding audiovisual media services or programs aiming at the promotion of its label, trademark, image, activities or products;

“Teleshopping” as the direct promotions broadcast to the public in order to provide goods or services against payment, including real estate, rights and obligations;

“Product placement” as any form of audiovisual commercial communication which consists in the presentation of a product, service or their corresponding trade mark, in the flow of a program, against payment or similar quid pro quo.

What is outdoor advertisement?

The outdoors and public promotion, in any way and by any means, via messages of all kinds, which aims at promoting commercial and professional purposes or other relative activities. Relevant qualifications and restrictions provided for in Law 2946/2001.

Who are the regulatory authorities responsible for Advertisement?

The Ministry of Development - General Secretariat for the Consumer, and the National Broadcasting Council (ESR).

What are the self-regulation agreements governing Advertisement?

On the companies’ side there has been a set of rules adopted regarding their self-restraint and their monitoring against deceptive advertisement, under the initiative of the following organizations:

- Association of Advertising Companies - Communication (EDEE)
- Hellenic Advertisers Association (SDE)

- Communication Control Council (ASC)

The last one monitors the compliance to the Greek Code for Advertisement and Communication, the continuous updating of the Code according to the current developments, the establishment of Committees for the implementation of and participation in associations abroad to promote self-regulation and the enforcement of ethics in communication.

ADVERTISEMENT CONTENT

Which products are not allowed to be advertised?

EU Directive 552/1989 prohibits the advertising of cigarettes and other tobacco products including indirect forms of advertising.

In addition, prohibited is any television presentation advertising drugs and medical treatments available only on prescription in the Member States in whose jurisdiction the broadcasting organisation falls.

Other restrictions?

Directive 552/1989 places restrictions on television advertising and teleshopping for alcoholic beverages, including restrictions set by subparagraph d of paragraph 3a of Article 3 of Law 2328/1995 concerning juvenile viewers.

What must not be included in Advertisement?

In accordance with subsection c of the 3rd paragraph of Article 3 of Law 2328/1995, television advertising must not:

- a) be an affront to human dignity,
- b) to discriminate between race, sex, religion or nationality,
- c) be offensive to religious or political beliefs,
- d) to encourage behavior prejudicial to health or safety of persons,
- e) to encourage behavior prejudicial to the protection the environment.

What is comparative advertising and under what conditions is it permitted?

The law allows, under certain conditions, comparative advertising, ie advertising that allows, directly or indirectly or by implication, the identity of a specific competitor or goods or services he offers, if the advertisement compares objectively the essential, relevant, verifiable context and with fair characteristics of competing goods or services.

When is it possible to display advertisements?

In accordance with subparagraphs a to d of paragraph 5 of Article 3 of Law 2328/1995, the advertisement may be inserted between programs and, under conditions, in their duration.

During which transmissions are advertisements prohibited?

According to subsection e of paragraph 5 of Article 3 of Law 2328/1995, during religious services, advertisements should not be transmitted. Television news, news reports (such as greenhouse political dialogue), current affairs programmes, documentaries, religious programmes and children's programmes, scheduled duration is less than 30 minutes should not be interrupted by advertisements. When these programmes are of a duration exceeding 30 minutes, then comes into force what exists for the projection of advertisements.

Is there a time limit display for advertisements?

Relating to the allowable time limits for advertisements is provided in paragraph 6 of Article 3 of Law 2328/1995.

ADVERTISING COMPANIES

What is required to establish an advertising company?

The law does not require a specific legal form, or set a specific condition, thus for the establishment of an advertising company the procedure and conditions depend on its corporate form .

In which Chamber should the interested party apply?

Responsible for advertising agencies is the Business Chamber.

Is there an inconsistent involvement of advertising companies with other companies?

According to PD 310/1996 and Law 2644/1998 advertising companies may not be involved in radio or television, or newspapers or registration of audiovisual works, and should maintain their autonomy in relation to broadcasting market research firms.

What are the requirements for registration of the Public Advertiser?

The entry of companies interested to undertake activities, advertising or other relevant public viewing as per the Register of Article 3 of Presidential Decree 261/1997 and Article 27 of Law 3166/03, will be held in the same classification in at least one of the following categories:

- a. Planning and organization of advertising strategy
- b. Creation of content (creative) or the imprinting of a physical medium (production)
- c. Providing advisors on choosing the appropriate media promotion (radio, television, print material, etc.)
- d. Providing advisors and general services in marketing and public relations and planning and organizing websites.

Any interested company can be listed in more categories.

Such a company must be a company of legal standing. The capital of the company concerned must be at least 60,000 Euros.

The company concerned must fulfill all requirements as a business organization, staffing and logistics, and to fulfill its contractual obligations in a proper way with efficiency. That at least 75% or more of their gross income, during the past twenty four months before the evaluation of the request, should come from contracts and general agreements, which have been drawn directly with advertisers or other end users of their services, as evidenced by a certificate by a recognized firm of chartered accountants - auditors.

OTHER LEGAL - TAX QUESTIONS

What are the extra fees paid for an advertisement?

Any radio, TV station, and newspaper or magazine, broadcasting or publishing, and based in any part of the Greek territory, provided by the applicable provisions, is currently obligated to pay Excise and Press taxes, and must submit to the relevant Internal Revenue Service (PES), its pricelist advertising and sponsorship, which it administers, which should include all discounts, commissions and promotions, and the recipient, whether it be the person who is advertised or the advertisee concerned.

Who are exempt from the above charges?

In accordance with Article 2 par 1 section of the 2nd. subparagraph LD 1344/1973 exempt from payment of the Press tax of the State, are municipalities, legal entities of public law and Public utilities.

Also exempt are non-profit organizations, and social content messages projected in accordance with the order of the first subparagraph of paragraph 21 of Article 3 hereof.

What is the periodicity of these dues?

Paid each calendar two months up to the 20th day of the month the which follows two months following the completion of specific forms of the advertisee or promoter when mediated by the Advertiser under the instructions of the advertisee.

What are the consequences of failing to pay the above dues?

In accordance with the provisions of Articles 33 of Law 2429/1996 and 10 of Law 2328/1995, the timely and adequate non-payment of the Press tax by the broadcast media and magazines, among other things implies the acknowledgment of such debt by the TSPEATH against the Company and recoverability in accordance with the provisions of KEDE, and provides instigation for criminal proceedings, and allows the party responsible for collecting the insurance fund and the right to have the certificate, which is enforceable and collected under the provisions of KEDE.

What summarizes the main enactments that one can enquire in connection with advertisement?

The basic legislation is that of Law 2251/1994 (Article 9) "Consumer Protection", as amended by Article 3 of the Joint Ministerial Decision Z1-496/2000, the leading to the adaptation of Greek legislation to the provisions Council Directive 84/450/EEC concerning misleading advertising, and Directive 97/55/EC of the European Parliament and Council directive on comparative advertising.

For the interpretation of the Joint Ministerial Decision Z1-496/2000 also issued was Z1-512/2001 Circular.

The questions dealt specifically with relevant legislation as described above.

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Civil Law

Handling of Real Estate

Governing Law

Criminal Law



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■ LOTTERY – GAMES



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LOTTERY - GAMES

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What is in force concerning the Lottery in Greece?

Under the privatization program of the Law 3985/2011 "Medium Term Financial Strategy Framework 2012-2015" decision 187/2011 (Official Gazette B 2061/16.09.2011), as applicable, the Interministerial Committee on Restructuring and Privatization and by the October 24, 2011 decision of the board of directors, the company called "Fund for the Development of Private Property of the State SA", which is owned 100% by the Greek government, decided to transfer the right to exclusive production, operation, traffic, marketing and overall management of the Greek Lottery.

The transfer of the Right will be made by the Fund for a period of 12 years through a contract granting the License. Any period of leave will begin by the end of the transitional period provided for in licensing agreements. The Special Purpose Company shall have the sole purpose of the exclusive production, operation, traffic, marketing and overall management of the Greek Lottery pursuant to the terms and conditions of licensing agreements, the Greek general legislative and regulatory framework, as well as more specific regulatory framework of the Greek Lottery.

Which law regulates gambling?

A key piece of legislation is Law 4002/2011 and specifically Articles 25-54, which were passed in accordance with the relevant EU directives. The provisions of this Act apply to the technical sub-entertainment cc of the case a of Article 25 and gambling, carried out with slot machines or via the internet. These provisions do not apply to gaming conducted, or that which has already authorized the entry into force of this Act, in casinos and the companies OPAP SA and O.D.I.E. SA, for which special provisions are applied.

Which is the scope of implementation of Law 4002/2011?

The Law 4002/2011 applies to "electronic games" and for Lucky Games carried out with slot machines or via the internet.

However, the Law 4002/2001 does not apply to gaming conducted, or that which has already authorized the entry into force of this Act, in casinos and the companies OPAP SA and O.D.I.E. SA. Therefore, the Law 4002/2011 does not apply to "Games Betting fixed and variable efficiency" (Law 2433/1996), "BINGO LOTTO", "Kino", Numerical 5 BY 35 "" Super 3 "and" Super 4 " (Article 27 of Law 2843/2000).

What is defined by the Law as "Lucky Games"?

According to Article 25 of Law 4002/2011, such games are defined out those of which the outcome depends at least partly by chance, which gives the player a monetary benefit. Within the realm of gambling are also considered the technical-entertaining

games that take the form of lucky games, as a result of which a bet is placed between any persons, or in which the end result can bring economic benefit of any kind to the player. The category of lucky games are integrated and all those which are classified as “mixed games” or “gambling”, are in accordance with the provisions of Royal Decree 29/1971, subject to the entry into force of this Act. A game of chance is the Bet.

What is defined as “Bet”?

“Bet” is a game of chance that involves a provision for events of all kinds, from a number of individuals, provided that the profits of each player are determined by the organizer of the bet, before or during game, with reference both to the amount that every player paid to participate in the bet, and at the specified rate of return on the bet.

What are the differences between Lucky Games as opposed to Technical - Entertainment games?

“Technical-entertainment” is the chance whose outcome depends solely or primarily on the skill and mental abilities of the player and performed in public for recreational purposes, without allowing for the outcome of the bet concluded between any persons or given any form of financial benefit to the player. The technical, recreational games, do have a system for calculating, recording and yield economic benefits to the player. The Technical-Entertainment games are not allowed to supply the player with any form of monetary gain.

The technical- recreational games, according to their purpose, are divided into: aa) “gaming machines”: in which to operate them requires only mechanical means and the exertion of physical force by the player. b) “Electromechanical games”: in which the operation requires electrical or electronic support mechanisms. c) “Electronic gaming”: that when to operate, apart from the supporting electronics and other mechanisms requires, electronic assistive devices (hardware), and the existence and implementation of software - the program (software) games, which is incorporated or installed which contains all the information, instructions and other data relating to use and execution of the game.

Which authority is responsible for issuing licenses?

The Commission on Monitoring and Control of Lucky Games under Article 16 of Law 3229/2004 (A 38), which was renamed E.E.E.P., is the authority responsible for issuing licenses, certifications, supervision and monitoring progress and holding games.

What are the responsibilities of E.E.E.P.?

The E.E.E.P. exercise its powers under Article 17 of Law 3229/2004 and in those as laid down in Article 28 § 3 of Law 4002/2011, the most important of which are:

- a) The supervision and control of the market: aa) technical - entertaining games with slot machines or via the internet, b) gaming with slot machines or via the Internet, c) forms of gaming that are not defined by other provisions or relevant supervisory authority, regardless of the means of implementing them.
- b) To monitor and carry out the necessary inspections of participants in licensing competitions, concessionaires and those who operate gambling, to determine compliance with the terms hereof and their authorization.
- c) power, characterization, classification and certification of each type of game or software thereof, and implementing or withdrawing the decision subject to a request

submitted by a manufacturer, supplier, distributor, licensee or trader in the premise where gambling will be installed and conducted.

d) The issue of regulatory decisions to protect minors and generally vulnerable groups and to implement specific measures for the prevention and enforcement, banning games with racist, xenophobic, pornographic contents or that which is contrary to public order.

e) issuing regulatory decisions addressed to holders of permits in order to implement measures to prevent and deter money laundering.

f) The imposition of statutory sanctions of the law including the temporary or permanent withdraw of licenses to perform gambling, without this being a hindrance to other penalties set by other legislation.

g) The establishment of the Organization of E.E.E.P. and the Rules of Operation and Control of Games.

How can one carry out and exploit games with slot machines or online?

To conduct and operate games of slot machines or via the Internet requires the prior granting of an administrative permit pursuant to the provisions of Law 4002/2011.

Third non-permit holders may exceptionally operate and operate gambling with slot machines, as set out in paragraph 6 of Article 39. Gambling and slot machines must be certified in accordance with the provisions of the Act.

Is the above exclusivity in line with European legislation?

In principle, the European Court upheld the monopoly on gambling on the grounds that each state - member of the EU has the right to grant monopoly rights, gaming (even online) to a specific company, in order to ensure the safety and consumer protection against crime and the dangers of games.

What is, and what is implemented by, the Governing Body E.E.E.P. and the Rules of Operation and Control Games?

According to Article 29 of Law 4002/2011, under presidential decrees which are issued with the proposal of the Minister of Finance, upon the original proposal of E.E.E.P., adopted by the Agency of E.E.E.P. and the Rules of Operation and Control Games. With the Organization of E.E.E.P. , specific issues of its responsibilities are addressed, along with the allocation of staff and all other matters relating to its structure and organization.

With the Regulation and Control Operation Games issues on gambling are addressed, and in particular:

a) The conditions of certification and registration in their register of manufacturers, importers and games of skill and slot machines, and the upkeep of these registers.

b) The specific procedure for issuing licenses and monitoring procedures, auditing, compliance with the terms of licenses and obligations hereof by the holders of licenses.

c) The certification process, its duration, and the enrollment in their registers of shops, slot machines, games or websites to conduct gaming, and the keeping of these registers.

d) The rules relating to responsible gambling licensees, who operate games, providers, players, financial institutions, owners of shops, internet service providers (ISPs), advertisers and everyone involved in the process.

- e) How information providers inter-network (ISPs) from E.E.E.P. to ensure the block of unlicensed gaming sites conducted online by users.
- f) The operating conditions and specifications of the servers and software games for the license holders and those who operate gambling, on either slot machines or via the Internet, and the frequency and the exact content of the data sent to E.E.E.P.
- g) The procedures for imposing sanctions, the mode assignment and escalation of sanctions under Article 51. In addition, the Regulation and Control of Gaming Operation regulating commercial communication games, the advertising of gambling, and in particular gambling and rules of conduct to govern activities.

What is in force regarding the licensing of gambling ?

Greece is allowed to operate 35,000 slot machines. The Minister of Finance granted a license to OPAP SA in accordance with the provisions of Article 27 of Law 2843/2000 (A 219) for total of 35,000 slot machines. From this number, 16,500 were installed and operated by OPAP SA through agencies, and the remaining 18,500 were installed in unmingled locations, according to the requirements of Articles 42 and 43, and operated by concessionaires to whom OPAP grant the right of establishment and exploitation, as set out in paragraph 6. For the grant of license a payment is determined in accordance with the procedure as outlined in paragraph 9 of Article 27 of Law 2843/2000. The price for slot machines installed by OPAP SA and operated through their agencies is paid immediately upon the granting of the license. The license is valid for ten years, beginning twelve months after being granted.

What comprises a Personal Card Player?

In order to participate in games of chance conducted by slot machines or via the Internet, a player requires a personal card, with the aim of identifying factors such as age, Tax Identification Number, and to ensure additional restrictions set by the player himself. The individual player card may be issued by holders of permits in accordance with the procedure and conditions established by the decision of E.E.E.P. Prohibited to E.E.E.P., holders of the license and all operators is to conduct any gambling disclosure of the Personal Card Player. All the above relate to taking appropriate precautions so as not be able to identify players with technical or other means that can reasonably be used by third parties.

What is the process of licensing online gambling ?

The conduct of gambling on the internet in Greece, comes under the exclusive jurisdiction of the State which operates through specially licensed providers. The E.E.E.P. determine the required operating conditions and specifications of the servers and software for the gaming license holders to conduct gambling on the internet, to ensure compliance with all provisions concerning the protection of players and the public interest.

The authorization to carry out gambling online has five (5) years tenure and includes conditions for which the activity was issued. No contractor can obtain more than one license. The licenses are personal and not transferable. Prohibited in any way is the leasing or pooling of marketing with others.

Some of the conditions imposed on the authorization may be incompatible with European legislation and / or the Constitution, as that of the sites which carry gambling

online with the mandatory name ending in «. Gr» (Article 47, paragraph 7), that the person who operates gaming websites mandatory exercises and the operation of these websites (article 48 paragraph 2) and that it prohibits the creation and operation of websites by non-permit holders (Article 48 paragraph 3), and places severe restrictions on Internet use but in addition because they lead to incongruous conclusions, as for example that the holder of the license should also be the page designer.

Which are the consequences of operating without license or in violation of the license?

The consequences consist in serious administrative penalties (heavy fines, the recovery of which is pursued according to the provisions of the Central Union of Municipalities [K.E.D.E.] the revocation of the license, the closure of the company) and also criminal penalties reaching imprisonment.

Has law 4002/2011 been put into effect?

The actual implementation of the Law has been hindered by the delay of the Ministry of Finance to enact the Advisory Committee on Gaming, which would be responsible for suggesting to E.E.E.P. the necessary measures for improving the functioning of the market and formulating opinions for regulatory decisions that E.E.E.P. is authorized to issue by the Laws 3229/2004 and 4002/2011. Furthermore, neither the Governing Body E.E.E.P., nor the Rules of Operation and Control Games have yet been established.

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