

Decision No. 509/1/11.09.2020

Granting **Affiliate Suitability Licence** for Promotional Actions with respect to online Games of Chance and registration in the Register of Affiliates

THE INDEPENDENT ADMINISTRATIVE AUTHORITY 'HELLENIC GAMING COMMISSION (HGC)'

Having regard to:

1. The provisions of:
 - a. Articles 16 to 23 of Law 3229/2004 on the supervision of private insurance, supervision and control of games of chance and application of the International Accounting Standards and other provisions, and in a supplementary manner the provisions of Law 3051/2002 (Government Gazette 220/A) on independent authorities enshrined in the constitution and regarding the amendment and completion of the recruitment system in the public sector, and other relevant provisions;
 - b. Article 25 to 54 of Law 4002/2011 amending pension legislation for the Public Sector-Regulations for the development and consolidation of public finances- Responsibilities of the Ministries for Finance, Culture and Tourism and Labour and Social Security (Government Gazette 180/A), in particular the provisions of Article 45A as added to the provisions of Article 196 of Law 4635/2019 on "Investing in Greece and other provisions" (Government Gazette 167/A);
 - c. Law 4624/2019 on the protection of Personal Data, measures on the implementation of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and harmonization of Greek Law to Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016, and other provisions (Government Gazette 137/A);
 - d. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (L 119/1 of 4 May 2016);
 - e. Articles 4 and 11 of Law 3471 /2006 on the protection of personal data and privacy in the electronic communication sector, amending Law 2472/1997 (Government Gazette 133/A);
 - f. Article 9 of Law 2251/1 994 on consumer protection (Government Gazette 191/A);
 - g. Presidential Decree 109/2010 on the harmonization of the Greek Media Law to the provisions of Directive 2010/13/EU (OJ L 95, 15.4.2010) of the European Parliament and of the Council which codified the provisions of Directive (EC) 89/552 (EE L 298 of 17.10.1989) of the Council as in force after its last amendment

by Directive 2007/65/ EEC (OJ L 332, 18.12.2007) of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Government Gazette 190/A);

h. Presidential Decree 81/2018 (Government Gazette 151/A/2018) on the transposition into Greek law of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 (OJ L 241, 17 September 2015, p. 1) laying down a procedure for the provision of information in the field of technical regulations and rules on Information Society services (consolidated text) and other provisions (Government Gazette 151/A);

i. Commission Recommendation 2014/478/EU of 14 July 2014 laying down principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online (1214/38, 19 July 2014);

j. Joint Ministerial Decision No. 56660/1679/22.12.2011 issued by the Ministers of Finance and Culture and Tourism on the Certification for commencement of operation granted to the Hellenic Gaming Commission (HGC) (Government Gazette 2910/B);

k. Decision No. 2/63389/0004/21.7.2016 (Volume of Special Position Employees and Administration Bodies of the Public Sector and the Broader Public Sector Agencies-hereinafter referred to as 'SPEABPSA'- Issue 397) of the Minister of Finance on the "Appointment of Chair and two members, and the renewal of the term of members of the Hellenic Gaming Commission (Volume of SPEABPSA Issue 397) in conjunction with Decisions No. 2/3935/0004/24.7.2018 (Volume of SPEABPSA Issue 428) Ministry of Finance, 9433 Ministry of Foreign Affairs 2019/12.2.2019 (Volume of SPEABPSA Issue 64) and 3557 Ministry of Foreign Affairs 2020/14.1.2020 (Volume of SPEABPSA Issue 20);

l. Decision 79292 Ministry of Finance 2020/23.7.2020 establishing Gaming Regulations on the Commercial Communication of the Games of Chance (Government Gazette 3260/B);

m. Decision 79835 of the Ministry of Finance 2020/24.7.2020 on the Enactment of the Gaming Regulations for the organisation and running of online games of chance (Government Gazette 3265/B);

2. the need to regulate issues regarding the procedure for granting Affiliates the Suitability Licence for Promotional Actions with respect to online Games of Chance and registration in the Register of Affiliates pursuant to the provisions of Article 45A of Law 4002/2011 (Government Gazette 180/A);

3. HGC Decision No. 472/2/5.3.2020 according to which a draft decision on setting the procedure for granting Affiliate Suitability Licence for promotional actions with respect to online Games of Chance and registration in the Register of Affiliates was notified to the European Commission on 10.3.2020 pursuant to the provisions of Presidential Decree 81/2018 (Government Gazette 151/A) under reference number 2020/109/GR and last date of a standstill period on 11 June 2020.

4. The fact that the standstill period ended on 11 June 2020 and the suggested provisions do not need to be notified anew to the European Commission under

Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 (OJ 1241, 17.9.2015) in that they neither extend current and/or already notified restrictions nor introduce new restrictions, obstacles or prohibitions on the access, provision, set up and use of the services in the games of chance sector, and on the specifications of relevant products and services;

5. Report II 161 of the Chair of the HGC 8.9.2020 ;

6. deliberation thereupon;

7. the fact that this decision does not entail any burden on the budget of the HGC, we hereby issue:

a decision on Granting Affiliate Suitability Licence for Promotional Actions with respect to online Games of Chance pursuant to Article 45A of Law 4002/2011 (Government Gazette 180/A) and registration in the Register of Affiliates, as follows:

GRANTING AFFILIATE SUITABILITY LICENCE FOR PROMOTIONAL ACTIONS WITH RESPECT TO ONLINE GAMES OF CHANCE AND REGISTRATION IN THE REGISTER OF AFFILIATES

Article 1

DEFINITIONS

For the purposes of this decision, the following words or phrases shall have the following meaning:

Online Gaming Licence or Licence means the administrative permit issued by the HGC to allow games to be organised/ run. Licences shall take either of the following two forms: a) Type 1 Online Betting Licence and b) Type 2 Other Online Games Licence.

Affiliate Suitability Licence (Affiliate SL) or SL means the decision approving a person's suitability to be an Affiliate pursuant to the relevant provisions of the Gaming (suitability of persons) Regulations.

Commercial Announcement is any specific announcement which directly or indirectly seeks to market gambling services, and which is implemented in the context of a commercial communication plan in compliance with the Gaming Regulations on the Commercial Communication of the Games.

Commercial Communication means any kind of promotion of the organisation and running of the games of chance or of the Licence Holder's image. The concept of Commercial Communication also includes sponsorship, corporate social responsibility and loyalty programs.

HGC or Authority means the Hellenic Gaming Commission.

Running means running a game referred to in Article 25(s) of Law 4002/2011 (Government Gazette 180/A). Where the provisions of this Decision which refer to the concept of 'Running' shall also cover the concept of 'Organising' and vice versa.

Organising means organising a game referred to in Article 25(t) of the Law 4002/2011 (Government Gazette 180/A). Where the provisions of this Decision refer to the concept of 'Organising' it shall also cover to the concept of 'Running' and vice versa.

Gaming Regulation means any ministerial decision referred to in Article 29(3) of Law 4002/2011 (Government Gazette 180/A).

Suitability means the finding made by the HGC that all requirements for the granting of a Suitability Licence are met pursuant to the provisions of this decision. To ascertain Suitability, the HGC shall among other things examine information relating to the identity, place of establishment, background, criminal record, organisation, operation and lawful presence in general and business activities of the person applying for an Affiliate Suitability Licence.

Licence Holder or Holder means the legal person that provides services in the context of Organising and Running of Games of Chance and to whom a Licence to organise and run online games of chance has been granted pursuant to the provisions of the applicable law and the Gaming Regulations.

Register means all data held by the HGC posted on its website.

Law means Law 4002/2011 (A' 180).

Guidelines are guidelines of the circular issued by the HGC with instructions on how to implement the provisions of the Gaming Regulations and of this decision. The guidelines are binding in the Authority's dealings with citizens.

Player means the natural person who lawfully participates in Games of Chance organised and run by the Licence Holder.

Payment Service Provider means a credit institution or payment institution or electronic money institution that is established and operates lawfully in Greece or other Member State of the European Union or the European Economic Area.

Regulatory Framework means all legislative and other regulatory provisions, decisions, guidelines and recommendations issued by HGC, the terms contained in licences laying down the conditions for lawfully organising and running Games within the territory of Greece.

Affiliate Locations means the websites and web applications belonging to an Affiliate as well as any websites or channels managed by an Affiliate on social media.

Participation means entering a Player's particulars/options in any Games of Chance and confirming that entry after paying the wager.

Affiliates are all persons who collaborate with the Licence/Permit Holder to promote specific games by inserting links on their website to attract more players to the website of the online Game of Chance Permit Holder that is being advertised, have been granted Suitability Licence in this respect and are registered in the respective register.

Games of Chance or Games means the Online Bet referred to in Article 25(c) of the Law and Other Online Games referred to in Article 25(v) of the Law which may be organised and run lawfully in the territory of Greece by the Licence Holder via its website and which have been granted the required Gaming Certifications.

Responsible Gambling means all provisions of the Gaming Regulations and HGC Guidelines that aim to ensure that all activities in the field of games of chance are performed pursuant to the provisions in force, in a socially responsible manner, in order to minimise consequences for the Players due to their participation in games of chance.

Article 2 SCOPE – GENERAL PRINCIPLES

2.1. This decision is applicable for Affiliates and those applying for an Affiliate SL as well as for Licence Holders.

2.2. Between the HGC and the SL Holder shall be established an online file and document transportation and management procedure. To this end, the SL holder should be able to sign digitally all documents to be issued, transported or managed.

2.3. In case the application for an Affiliate SL is rejected or the SL granted is waived for any reason whatsoever, the dues paid pursuant to the provisions currently in force and to this decision shall not be refunded.

2.4. When examining an application for a Licence/Certification to be granted to an Affiliate, the Authority may for the purpose of checking the accuracy, completeness and authenticity of the particulars and the supporting documents submitted, request that the applicant or any other body and authority in the public and private sector, in Greece or abroad, provide any data, information or document considered necessary to form a relevant opinion. Applicants must provide an unconditional, full mandate to the HGC to process the personal information and data relating to them, including making available to the Authority and/or verification by it of said data and information by third parties. Where the relevant certificates and entries are based on registers which are electronically available, the applicant shall be released from the obligation to submit them where he/she can provide the URL where the data has been posted as well as the passwords if required for gaining access or retrieving these data. The HGC shall verify, wholly or by way of a sample, the accuracy of data submitted in the context of granting a Licence, authorisation or Certification. The HGC may at any time carry out an ex officio check of whether the terms and conditions of Licences granted to an Affiliate are being complied with.

2.5. When examining the applications for granting Affiliate SL, the HGC shall take into consideration any information possibly received from the competent prosecuting and judicial authorities pertaining to cases in which the applicants are involved or with respect to which they are prosecuted and it may, following prior hearing of the applicant, reject the application for granting a SL for these reasons, providing respective justification.

2.6. The Affiliate SL granted shall in no way amend or cancel any other provisions currently in force in relation to the granting of licences and shall not prevail over them.

2.7. In the event that the entity applying for an Affiliate SL has its registered office/domicile abroad, it must submit documents equivalent to those provided for herein, issued by the competent authority of the country of its registered office/domicile, lawfully certified and translated into Greek. Any curriculum vitae required pursuant to the provisions of this decision shall be submitted in the Greek or English language.

2.8. Affiliates shall have the right to use the HGC's logo on their commercial documents and communication, in accordance with the terms and specifications laid down by the Authority.

2.9. The HGC shall issue guidelines determining and readjusting, as the case may be, the content of the Affiliate SL application, the time and manner of submission thereof, the data required and any other necessary details.

2.10. The HGC may, whether it deems it appropriate, call the applicant of the suitability certification for a personal interview.

2.11. The terms and conditions upon which an Affiliate SL was issued must be met throughout the term of validity of the SL. The HGC may at any time inspect whether the terms and conditions of the Affiliate SL are met and where it ascertains any violations, it shall waive the SL.

2.12. Any Affiliate SLs granted in accordance with the provisions hereof shall be valid until the end of their validity period or until they are waived. Affiliate SL shall be waived if it is ascertained that the preconditions for granting it are not met or upon request of the Holder of Affiliate SL. The holders of Affiliate SL shall notify the HGC of any possible changes in their data and supporting documents based on which the SL was granted pursuant to the provisions laid down herein.

2.13. During the validity period of an Affiliate SL, the Licence Holder shall provide for and apply appropriate and effective procedures so as to ascertain that all preconditions for granting an Affiliate SL are met and shall notify the HGC of any change in the data or documents based on which said SL was granted as soon as he/she is informed about it.

2.14. The Licence Holder shall provide for and apply appropriate procedures so as to ensure that when the holder of the Affiliate SL provides his/her services, he/she does not place at any risk the Organisation and Running of the Games, public safety and health, and safeguards the Principles of Responsible Gaming.

2.15. The provisions of Article 23(8) of Law 4141/2013 (Government Gazette A/81) are applicable when granting an Affiliate SL.

Article 3

AFFILIATES

3.1. All entities cooperating with a Holder of a Licence for promoting the Conduct of Games and attracting clients to the games via the Websites, and whose remuneration reflects the number, participation and the general gaming activity of the Players attracted, shall fall under the definition of affiliate of promotional activities with respect to Games of Chance of Article 45A of the applicable law and shall be considered as an entity organising Games of Chance in the meaning of Article 25 (r) of the Law currently in force.

3.2. In order to provide their services to a Licence Holder, those entities referred to in paragraph 3.1 must have been granted an Affiliate SL and entered in the Register of Affiliates kept by the HGC and they must have signed the cooperation agreement stipulated in Article 5.

3.3. All Affiliates fall under the provisions laid down in the General Regulations for the Protection of Personal Data pursuant to Law 4624/2019 (Government Gazette 137/A) and Law 2472/1997 (Government Gazette 50/A) and are obliged to take all necessary precautionary measures to prevent Players from being identified by technical or other means that may be reasonable used by third parties.

Article 4 AFFILIATE SUITABILITY LICENCE

4.1. In order to be granted an Affiliate SL, interested parties must submit an application to the HGC.

4.2. The application is equivalent to a solemn declaration under Article 8(4) of Law 1599/1986 (Government Gazette 75/A) that all the data included therein as well as those accompanying it are true, and is accompanied by an envelope containing the following supporting documents and data:

- a. a curriculum vitae.
- b. A full list of the prospective Affiliate's domain names, web addresses, applications and all delivery channels for the provision of these applications will be used as Affiliate Websites for the provision of his/her services to one or more Licence Holders.
- c. a WHOIS certificate for the domain names.
- d. a certificate on the commencement of professional/commercial activities.
- e. proof of appointment of a process agent if the prospective junket operator is established abroad.
- f. A certificate issued by the competent authority in each case confirming that the prospective junket operator is not in a state of bankruptcy, liquidation, compulsory receivership, composition, or other similar situation, and in proceedings to be declared bankrupt or to have a judgment on compulsory liquidation or compulsory receivership or composition or other similar procedure handed down.

More specifically, if the prospective junket operator is established in Greece, the certificates that it is not bankrupt, in composition or in compulsory receivership,

or that he/she has not been placed in conciliation, shall be issued by the competent court of first instance at its seat. The certificate that the legal person has not been placed in liquidation by court order shall be issued by the competent court at the person's seat and the certificate that it has not been placed in liquidation by decision of the partners shall be issued by the GCR in accordance with the provisions currently in force from time to time. Natural persons or sole proprietorships need not submit certificates that they are not in liquidation.

g. Certificates/confirmations of entry in professional/company registers (if any).

h. a solemn declaration drawn up by the prospective junket operator in which he/she declares that:

aa) he/she personally or in the case of a legal person, the persons managing, administering and/or lawfully representing the prospective junket operator, has/have not been convicted of felony by final judgement or been subject to a penalty for theft, embezzlement, fraud, breach of trust, acceptance and disposal of the proceeds of criminal activities, extortion, forgery, active or passive bribery, grievous or actual bodily harm, concealing a crime, crimes relating to currency, crimes which are commonly considered dangerous, crimes against personal freedom, sexual offences, sexual exploitation offences, a crime specified in the legislation on narcotics, weapons, explosives or tax evasion, in Greece or abroad.

bb) He/she either personally or in the case of a legal entity, the persons responsible for managing, administering and/or lawfully representing the prospective Affiliate, has not been convicted of crimes by final judgement specified in the laws on Games of Chance, either in Greece or abroad;

cc) He/ She is not bankrupt, in liquidation, compulsory receivership, composition or other similar situation or in proceedings to have him declared bankrupt or have a judgment on compulsory liquidation or compulsory receivership or composition or other similar procedure handed down.

dd) He/ She provides the HGC with his/her unconditional, full consent and mandate to process the personal information and data relating to him/her, including making available to the Authority and/or verification by him/her of said data and information by third parties.

Where the applicant for the Suitability Licence falls into any of the cases in points bb and/or cc the person must necessarily declare what situation he/she is in and submit any information he/she has and request the HGC to examine whether, despite the said situation existing, it could approve the application since the situation in which he/she is in does not put the lawful and proper running of Games at risk.

i. proof of payment of the respective fees to the HGC.

4.3. Where the application relates to a legal person, the following supporting documents and information shall also be submitted:

a. depending on the applicant's legal form and the laws of its country of establishment, the applicant's incorporation and lawful operating documents.

- b. a decision on the official establishment of the Board of Directors.
- c. minutes of the Board of Directors or the document conferring powers of representation for the legal person.
- d. authorisation to sign and submit the application if it is not signed by the legal representative.

4.4. In all cases where under the relevant provisions the prospective junket operator is obliged to hold a licence to carry on a profession or business activity, the relevant licence should also be submitted or a statement that he/she will be exempt from said obligation.

4.5. If the appropriate legal requirements are met, the HGC shall grant the SL and enter the Affiliate in the respective register. Registration shall constitute sufficient notice and proof of issuance of the SL and, therefore, the lawful provision of services.

4.6. For granting an Affiliate SL and registering the Affiliate in the respective register, a fee of one thousand (1. 000) euros must be paid.

4.7. The persons entered in the register shall notify the HGC of any change which relates directly or indirectly to the approval of their Suitability, within twenty (20) days as of the date the change occurred, and shall submit along with the notice the information and supporting documents referred to as necessary to document the change.

4.8. The HGC may summon prospective Affiliates to a personal interview in order to form an opinion on their suitability.

4.9. The HGC shall grant holders of Suitability Licences- upon request- a certificate on the validity of the Suitability Licence which may be used for all lawful purposes.

4.10. The HGC shall determine in its Guidelines the manner, type, form and procedures to be followed for maintaining the data and information pertinent to the conduct of Games of Chance within the framework of cooperation.

Article 5 COLLABORATION AGREEMENT

5.1. In order for Affiliates to provide their services to a Licence Holder, they must have signed a Collaboration Agreement.

5.2. The Collaboration Agreement shall include, as a minimum, the duration and scope of the collaboration, the Affiliates' locations, the procedure for amending the Agreement, the grounds for termination of the Agreement, the method for calculation and manner and time of payment of the Affiliate's fees, the dispute resolution method, an express commitment from the Affiliate to fully, absolutely and unreservedly accept the provisions of the relevant legislation, the Gaming Regulations and the HGC guidelines on organising and running Games of Chance.

5.3. The holders of Affiliate SL are not entitled to provide services related in any way to non-holders of a licence. For this purpose, prior to concluding the relevant agreement and during provision of the services, they must confirm in

any expedient manner that the person to whom they provide or are about to provide services is a Licence Holder.

5.4 In the framework of his/her contractual relationship with the Licence Holder, the Affiliate shall:

- a. Only use Affiliate Websites in its possession to promote the Licence Holder.
- b. Immediately inform the HGC in any manner available with respect to any change, transfer, modification, closure or addition of Affiliate Websites.
- c. Settle his/her transactions with the Licence Holder in an account he/she holds as sole beneficiary at a Payment Service Provider in compliance with the relevant provisions.

5.5. The Licence Holder shall immediately and in any expedient manner notify to the HGC the cooperation agreement and any amendment thereof, upon execution thereof, as well as the account held by the Affiliate with a Payment Service Provider of which he/she is the sole beneficiary where all transactions between them are settled within the framework of the agreement.

5.6. In the event that the Affiliate Suitability Licence is waived, the Licence Holder must immediately cease all actions relevant to the cooperation agreement, terminate the agreement and notify the HGC accordingly.

Article 6 COMMERCIAL COMMUNICATION

6.1.0 The Affiliate must abide by the provisions on commercial communication under Law 4002/2011 (Government Gazette 180/A) and pursuant to the Gaming Regulations.

6.2. The HGC may impose immediate interruption of any commercial communication action that is contrary to the current provisions and the Gaming Regulations.

6.3.0 The Licence Holder and his/her Affiliates may engage in commercial communications on accounts he/she owns, develops and creates on social media, provided that the social media provide special filters and access blocking apps for persons who have not turned 21 years old, pursuant to the specific regulatory provisions on commercial communications and Responsible Gambling and the relevant HGC Guidelines.

Article 7 MAINTAINING A REGISTER OF AFFILIATE SUITABILITY LICENCE HOLDERS BY THE LICENCE HOLDER

7.1. The Licence Holder shall maintain a register of Affiliate SL holders with whom he/she has maintained contractual relationships. The HGC may, based on its Guidelines, determine all data and information to be kept in the relevant register, the manner in which those are kept and sent, the type and form of the data kept, the

manner in which changes are presented, the manner in which information is presented and codified, as well as any other relevant details.

7.2. Within the first five (5) business days of each month, the Licence Holder shall send to the HGC a list of the holders of Affiliate SL. The list shall at least mention the full name and father's name or trade name, the date of commencement and termination of the legal relation as well as the Affiliate SL code number.

7.3.0 The Licence Holder must ensure that all prerequisites for granting an Affiliate SL are met during the period of validity of this collaboration agreement.

7.4. Regardless of the obligation stipulated in paragraph 7.2, the Licence Holder shall provide the HGC with the registers of Affiliate SL holders at the time and in the manner specified by the Authority. The HGC may issue guidelines adding data and information to be held in the relevant register.

Article 8

PROCEDURE FOR PAYING THE SPECIFIED FEES

8.1. The relevant fee to be paid for granting an Affiliate SL is the HGC's source of income and is deposited in a bank account determined by the Authority. Every deposit constitutes collection of the respective fee and the relevant deposit slip which must explicitly state the code of payment and the type of the fee constitutes a proof of payment.

8.2. By virtue of a decision thereof, the HGC may regulate the details, manner and time of payment of the relevant fees as well as specific issues required to give effect to the provisions of this article.

Article 9

SUPERVISION AND CONTROL- ADMINISTRATIVE PENALTIES

9.1. Supervision and control of the entities holding an Affiliate SL is carried out by the HGC in accordance with the current provisions and those of the Gaming Regulations on Administrative Penalties.

9.2. The holders of Affiliate SL shall be obliged to grant the HGC and its authorised offices access to the relevant data and facilities, in the manner and at the time specified by the Authority.

9.3. In the event of breaching the provisions of this decision, administrative penalties shall be imposed pursuant to the provisions currently in force and those laid down in the Gaming Regulations on Administrative Penalties.

Article 10 TRANSITIONAL PROVISION

Entities that lawfully provide services relevant to online Games of Chance at the moment of entry into force of this decision and have submitted an application for being granted a Licence for Conducting online Games of Chance, shall not receive the services stated in Article 3 provided by entities which have not been granted an Affiliate SL within one (1) month from the grant of the Licence.

Article 11 ENTRY INTO FORCE

This Decision shall enter into force as of its publication in the Government Gazette.

This Decision shall be published in the Government Gazette.