



ICLG

The International Comparative Legal Guide to:

Gambling 2019

5th Edition

A practical cross-border insight into gambling law

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CEO
Dror Levy

Group Consulting Editor
Alan Falach

Publisher
Rory Smith

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Global Legal Group Ltd.
59 Tanner Street
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Fax: +44 20 7407 5255
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Mexico

Begoña Cancino



Sofía Castañón



Creel, García-Cuéllar, Aiza y Enríquez, S.C.

1 Relevant Authorities and Legislation

1.1 Which entities regulate what type of gambling and social/skill gaming activity in your jurisdiction?

Relevant Product		Who regulates it in digital form?	Who regulates it in land-based form?
Gaming	Casino gaming (including slots and casino table games such as roulette & blackjack)	Not expressly regulated in Mexico.	General Bureau of Gaming and Raffles (<i>Dirección General de Juegos y Sorteos</i> , the “Bureau”) of the Ministry of Internal Affairs (<i>Secretaría de Gobernación</i> , the “Ministry”).
	Poker	Not expressly regulated in Mexico.	The Ministry through the Bureau.
	Bingo	Not expressly regulated in Mexico.	The Ministry through the Bureau.
Betting	Betting	Broadly, this is not expressly regulated in Mexico. In a particular way (as described in question 3.1): the Ministry through the Bureau.	The Ministry through the Bureau.
	Sports/horse race betting (if regulated separately to other forms of betting)	The Ministry through the Bureau.	The Ministry through the Bureau.
	Fantasy betting (payment to back a ‘league’ or ‘portfolio’ selection over a period of time, for example in relation to sport or shares)	Not expressly regulated in Mexico.	Not expressly regulated in Mexico.

Relevant Product		Who regulates it in digital form?	Who regulates it in land-based form?
Lotteries	Lotteries	N/A.	National Lottery for Public Assistance.
Social/Skill arrangements	“Social” gaming with no prize in money or money’s worth	Not expressly regulated in Mexico.	The Ministry through the Bureau.
	Skill games and competitions with no element of chance	Federal Consumer Protection Agency and, in some cases, the Ministry through the Bureau.	Federal Consumer Protection Agency and, in some cases, the Ministry through the Bureau.

1.2 Specify: (i) the law and regulation that applies to the Relevant Products in your jurisdiction; and (ii) – in broad terms – whether it permits or prohibits the offer of Relevant Products to persons located in your jurisdiction.

In Mexico, gambling and gaming matters are governed by: (i) the Federal Gaming and Raffles Law (the “Law”); and (ii) Regulations of the Federal Gaming and Raffles Law (the “Regulations”).

Pursuant to the Political Constitution of the United Mexican States, gambling and gaming activities and all other Relevant Products are considered federal matters; thus, their legislation is reserved for the Mexican Congress. This means that the Law and its Regulations are applied across all Mexican territory.

In addition, other laws or regulations may apply to this matter, such as the Federal Consumer Protection Law, the Federal Law on Protection of Personal Data in Possession of Private Entities, the General Health Law, and federal and local Mexican tax laws.

As a general rule, gambling is a forbidden activity in Mexico. Any betting game and raffle transactions must be authorised in advance by the Ministry; thus, the Bureau only has the authority to grant gambling and raffle permits for the activities described in the answer to question 2.1 below. According to the Bureau’s criteria, any other gambling activity not specifically provided by the Law would be unauthorised and rejected due to lack of legal grounds.

2 Application for a Licence and Licence Restrictions

2.1 What regulatory licences, permits, authorisations or other official approvals (collectively, “Licences”) are required for the lawful offer of the Relevant Products to persons located in your jurisdiction?

Exclusively Mexican entities – commercial companies duly constituted under Mexican laws – can apply for a licence to install gambling facilities.

Licences granted by the Bureau are required for the provision of the following gambling and raffles activities: i) opening and operating horse race betting, greyhound racetracks, frontons, and for setting remote betting centres; ii) opening and operating fairs; iii) opening and operating temporary off-site horse race and cockfighting betting; and iv) holding and organising any of the regulated types of raffle.

2.2 Where Licences are available, please outline the structure of the relevant licensing regime.

Exclusively Mexican entities can apply for Licences from the Bureau.

However, a Mexican entity with a physical establishment and a permit to install a gambling facility (the “Licence Holder”) may partner with a non-licensed entity – even foreigners – for the use of its permit through a joint venture or any other association or type of agreement, with prior authorisation from the Bureau, and only when such agreement/partnership does not allow the partner to (i) acquire corporate or administrative control, (ii) become a beneficiary of the Licence Holder, or (iii) assign the operation of the betting centre to third parties.

Premises authorisations are granted through municipal permits, and not by the Bureau.

Furthermore, the Bureau must authorise any advertisement and marketing for gaming activities, betting and raffles, shareholder structure modifications of the Licence Holder, changes in location of establishments, gaming operation systems and the data infrastructure to be used in the facilities, among others.

2.3 What is the process of applying for a Licence for a Relevant Product?

Applications to request a Licence must be filed before the Bureau through the official process and include the following information and documentation:

- a) name, nationality and address;
- b) property and financial statements;
- c) *curriculum vitae*;
- d) professional or patrimonial links with other Licence Holders, shareholders, advisors, beneficiaries or staff members;
- e) an affidavit stating they have no criminal record or history of bankruptcy; and
- f) a credit report from a credit information company.

Legal entities must additionally file:

- a) a copy of the incorporation deed, as well as all modifications;
- b) balance sheets and statements of income;

- c) a certified copy before a notary public of the act whereby the relevant corporate body of the legal entity has authorised the investment in the company requesting the permit;
- d) a list of names, nationalities and addresses of the members of the board of directors and statutory auditor;
- e) a list of shareholders; and
- f) the identity of the final beneficiaries.

The Bureau may take up to three months to grant or reject the application, and may request additional information or documentation. Every granted Licence will be published on the Bureau’s webpage and will be publicly available.

2.4 Are any restrictions placed upon licensees in your jurisdiction?

In addition to the restrictions set forth in the Regulations, additional restrictions may be established on a particular Licence for Relevant Products.

Some of the most common restrictions imposed on Licence Holders or licensees are as follows: to abstain from operating other gambling games and raffles rather than those explicitly authorised by law and/or Licences; to abstain from assigning, transferring or selling the Licence; to abstain from giving credit to players/gamblers; to abstain from installing casinos within 200 metres of an educational institution or religious centre; to abstain from allowing the admission of underage players or people under the influence of alcohol or drugs into the establishments; to forbid the shareholders of the Licence Holder to be individuals or legal entities resident in territories with tax advantages or jurisdictions with low tax rates; to forbid the acquisition of shares of the Licence Holder, directly or indirectly, through trusts; as well as particular advertisement restrictions.

2.5 Please give a summary of the following features of any Licences: (i) duration; (ii) vulnerability to review, suspension or revocation.

Licences for opening and operating horse race betting, greyhound racetracks, frontons, and for setting up remote betting centres will be granted for a minimum validity of one year and a maximum of 25 years. These Licences may be extended for subsequent 15-year periods, with prior authorisation from the Bureau.

Licences for opening and operating fairs, as well as for opening and operating temporary off-site horse races and cockfighting betting, will be granted for a maximum validity of 28 days, or the authorised period, as applicable.

Licences for holding and organising raffles will be granted for a maximum validity of one year.

Licences will lose validity: (i) at the end of the validity period; (ii) at the end of the event, as applicable; (iii) by revocation; (iv) in case of entities, insolvency, dissolution, liquidation or extinction of the permittee; and (v) in case of individuals, insolvency or death of the Licence Holder.

Any infringement of the provision of the Law, such as the transfer of the Licence, the non-compliance with the object established in the permit, the non-compliance of stated operation deadlines, or the substantial modification of the terms and conditions of the authorised gambling and gaming activities, may cause the revocation of the Licence and the permanent closure of the facility, if applicable. All causes of revocation shall be stated on the Licence.

2.6 By Relevant Product, what are the key limits on providing services to customers? Please include in this answer any material promotion and advertising restrictions.

The following restrictions apply:

- The admission of underage players or people under the influence of alcohol or drugs into the facilities shall not be allowed.
- Gaming equipment may only be leased or sold to authorised Licence Holders, operators and establishments.
- All bets must be made in the national currency (pesos).
- Establishments are not allowed to grant credit to participants.
- The Licence may contain specific advertisement requirements for the Relevant Products, such as the indication that only individuals older than 18 may participate in gaming or betting activities, the obligation to abstain from explicitly promoting bets placed on gambling facilities, the obligation to abstain from using advertisements that may cause confusion to consumers, and the obligation to include the relevant permit number.

2.7 What are the tax and other compulsory levies?

The following taxes apply to gambling activities in Mexico:

- i) General Bureau of Gaming and Raffles Fees: within the Licence, a licence fee has to be paid to the Ministry, in amounts that range from 1% to 2% of their income, depending on the origin of the bet and their permits.
- ii) Income Taxes (*Impuesto Sobre la Renta* – “ISR”): every individual or entity with a permanent establishment in Mexico must pay an Income Tax for all their income, within an approximate range of 30% for legal entities minus authorised deductions over expenses.
- iii) Special Production and Services Tax (*Impuesto Especial Sobre Producción y Servicios* – “IEPS”).
- iv) Local and State Taxes (depending on the state and location): some Mexican states impose additional taxes on casino users, such as value added tax (*Impuesto al Valor Agregado* – “IVA”).

2.8 What are the broad social responsibility requirements?

There is a responsibility for the prevention of gambling addiction, money laundering and criminal acts committed through authorised establishments or through the black market.

Gambling service providers’ social responsibilities are mainly towards the advertisement of gambling activities, through the non-allowance and non-promotion of underage individuals’ participation in such activities, and inviting individuals through advertisements to game and bet in a responsible and healthy way and always with the main purposes of entertainment, leisure and recreation.

All gambling personnel have to receive special training and, as stated in the answer to question 2.2, must comply with particular requirements set forth in the Law and Regulations in order to provide professional services involving brokerage, cross betting or fronton quartermaster.

In addition, the Bureau collaborates with the National Commission against Addictions (“CONADIC”) and the National Centre for the Prevention and Control of Addictions of the Ministry of Health for the prevention and treatment of gambling addictions.

2.9 How do any AML, financial services regulations or payment restrictions restrict or impact on entities supplying gambling? Does your jurisdiction permit virtual currencies to be used for gambling and are they separately regulated?

Gambling activities are considered “Vulnerable Activities” pursuant to Mexican legislation; thus, gaming service providers and gambling Licence Holders and operators are required to comply with the regulations provided in the following laws, among others:

- i) the Federal Law on the Prevention and Identification of Transactions with Funds from Illegal Sources (the “Anti-Laundering Law”);
- ii) the Regulations to the Federal Law on the Prevention and Identification of Transactions with Funds from Illegal Sources; and
- iii) the General Rules referred to by the Federal Law on the Prevention and Identification of Transactions with Illegal Resources.

Pursuant to the Anti-Laundering Law, the execution of gambling and raffle activities, as well as the sale of tickets or tokens for such purpose, obliges Licence Holders to identify every client and user involved and verify their identity, accept requests from the clients involved regarding information about the business owner, protect information about the Vulnerable Activity and avoid the loss of this information, allow verification visits to related authorities, and give notice to the applicable authority when any of the aforementioned activities exceeds approximately US\$2,500.00.

All betting game and raffle transactions must be made in Mexican pesos. Thus, virtual currencies are not permitted for gambling.

3 Online/Mobile/Digital/Electronic Media

3.1 How does local law/regulation affect the provision of the Relevant Products in online/mobile/digital/electronic form, both from: (i) operators located inside your jurisdiction; and (ii) operators located outside your jurisdiction?

Pursuant to the Regulations, online betting on authorised gaming activities is permitted; however, online betting is only regulated with respect to online bets received by entities which already have authorisation from the Bureau, which have a physical establishment in Mexico, and which carry out authorised betting and gaming activities.

For such purposes, these activities may be carried out at racetracks, dog tracks, frontons, fairs or remote betting centres (*centros de apuestas remotas*). Remote betting centres are establishments authorised by the Ministry to hold and operate betting data on sports competitions, events and games permitted by the Law, carried out in Mexico or abroad which may be broadcasted in time. Such remote betting centres are also allowed to place online bets with respect to sport events. Pursuant to the Regulations, a remote betting centre may receive and match bets; provided, however, that it does not receive and/or match bets from or contained at remote betting centres located abroad.

As previously stated, exclusively Mexican entities can apply for Licences from the Bureau; however, as stated in answer to question 2.2, a Licence Holder may partner with a non-licensed entity, i.e. an Operator which may be located outside Mexican jurisdiction. The foreign-located Operator shall state to the Bureau that it will comply with applicable Mexican legal framework, and that it will not

change its shareholder structure (up to its ultimate parent company) unless the Ministry is informed of such change.

Furthermore, the Law and Regulations do not provide any specific prohibitions/provisions for gaming and betting via the Internet, when offered from an entity that is not related to an establishment authorised to install a remote betting centre, either foreign or Mexican.

3.2 What other restrictions have an impact on Relevant Products supplied via online/mobile/digital/electronic means?

In Mexico, (i) there are no specific legal provisions applicable to gaming and bets via the Internet when offered from a foreign-based or local operator, (ii) the Law and its Regulations are silent as to a Mexican person placing online bets by any means, and (iii) Mexican legal principles state that private parties are authorised to execute any kind of transaction when not specifically prohibited by Mexican law.

The legislative omission regarding independent online gaming which involves betting leaves unclear the permission or prohibition over such online supplying of gambling services. Thus, the loophole in the Law and its Regulations on this matter is covered by legislation applicable to other related matters.

3.3 What terminal/machine-based gaming is permitted and where?

Gambling machines and terminals are only permitted in physically established gambling facilities. Additionally, they shall be formally identified and in compliance with Mexican Official Standards (“NOMs”).

Activities conducted with machines, whereby individuals bet by inserting coins, tokens or electronic devices, subject to chance and with the purpose of obtaining a prize, are also allowed.

4 Enforcement and Liability

4.1 Who is liable under local law/regulation?

The relevant Licence Holder and its operator, if applicable, are liable. Furthermore, in Mexico, legal entities are criminally liable for crimes committed on their behalf, in their name, for their exclusive benefit, by their legal representatives and/or administrators. On the other hand, directors or legal representatives of the Licence Holder may be liable for breaches made by the relevant entity.

4.2 What form does enforcement action take in your jurisdiction?

What is the approach of authorities to unregulated supplies? As stated in question 3.2, the lack of an updated gambling regulation is currently being covered by legislation applicable to other related matters, such as criminal or commercial law. In this sense, any bad practice in the provision of gambling services in Mexico could be subject to sanctions imposed by other matters such as data and consumer protection, anti-bribery, commercial or criminal matters (e.g. electronic fraud, which would be managed and prosecuted by the Attorney General’s Office).

4.3 Do other non-national laws impact upon liability and enforcement?

No, they do not.

4.4 Are gambling debts enforceable in your jurisdiction?

No. The Regulations provide specifically that Licence Holders may not grant credit, directly or indirectly, to bettors in betting games or raffle participants, on the development of their permit-related activities.

5 Anticipated Reforms

5.1 What (if any) intended changes to the gambling law/regulations are being discussed currently?

As of 2014, there is a proposal to substantially amend the Law – which dates from 1947 – and, as a consequence, the complete gambling legal framework in Mexico. In general, such amendment proposes a new law aligned with technological advances, innovative business and communication models, and centred on individuals and their freedom of leisure.

In particular, it proposes to incorporate the National Institute of Games and Raffles as a new gaming regulator and autonomous authority, introduce the obligation for all personnel to be certified by such Institute, and properly introduce online gaming.

Unfortunately, to date, such proposal remains unapproved and seems unlikely to be approved within 2018.

**Begoña Cancino**

Creel, García-Cuéllar, Aiza y Enríquez, S.C.
Torre Virreyes
Pedregal 24, Piso 24
Col. Molino del Rey
11040 Ciudad de México
Mexico

Tel: +52 55 4748 0679
Email: begona.cancino@creel.mx
URL: www.creel.mx

Begoña Cancino is a partner in the Mexico City office. Her practice focuses on Intellectual Property, Data Privacy, Regulatory and Administrative Litigation. On the standard IP front, Ms. Cancino counsels clients from all kinds of industries on the protection and enforcement of their IP rights in Mexico, also assisting with the transfer of IP portfolios within the context of complex corporate transactions involving all sorts of IP rights (such as trademarks, copyrights and appellations of origin). Ms. Cancino also provides assistance through her legal advice on regulatory and advertising matters, advising our clients on compliance with all applicable provisions issued by COFEPRIS (the Federal Commission for the Protection against Sanitary Risk) and PROFECO (Mexico's consumer protection agency). She has represented clients in all sorts of administrative litigation proceedings, concerning advertising, health, environmental and of course, IP matters, before administrative authorities and federal judicial courts. In the field of data privacy, Ms. Cancino has counselled clients from multiple industries in the drafting and implementation of internal policies, privacy notices and specific legal concerns, not only regarding clients' daily operations, but also within the context of cross-border transactions and internal investigations into compliance.

**Sofía Castañón**

Creel, García-Cuéllar, Aiza y Enríquez, S.C.
Torre Virreyes
Pedregal 24, Piso 24
Col. Molino del Rey
11040 Ciudad de México
Mexico

Tel: +52 55 4748 0600
Email: sofia.castanon@creel.mx
URL: www.creel.mx

Sofía Castañón is an associate of Creel, García-Cuéllar Aiza y Enríquez in Mexico City and specialises in Intellectual Property and Data Privacy. Ms. Castañón's experience includes obtaining registrations and protection of all sorts of Intellectual Property rights, as well as the negotiation of technology transfer, technical assistance, licence, and franchise and settlement agreements. She also assists with the transfer of IP portfolios within the context of complex corporate transactions involving all sorts of IP rights (such as trademarks, copyrights and appellations of origin).

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59 Tanner Street, London SE1 3PL, United Kingdom
Tel: +44 20 7367 0720 / Fax: +44 20 7407 5255
Email: info@glgroup.co.uk

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