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OPERATORS, START YOUR ENGINES; BUT BEWARE OF SANCTIONS

by Michael D. Lipton, Q.C., Kevin Weber, and Alex Dumais

Less than a month has passed since the launch of the regulated iGaming market in Ontario, and the Ontario regulator has already handed down its first pair of penalties. On Tuesday, May 3, 2022, the Alcohol and Gaming Commission of Ontario announced its first two monetary penalties to iGaming Operators – both stemming from alleged failures to comply with advertising and marketing Standard 2.05.

BetMGM Canada’s penalty totaled \$48,000 for alleged failure to comply with Standards 2.04 and 2.05. Meanwhile, their peer PointsBet Canada was served a penalty totaling \$30,000 for alleged failure to comply with Standards 2.05.

Both Standard 2.04 and 2.05 relate to an Operator’s marketing and advertising. Standard 2.04 requires that an Operator’s marketing (including their advertising and promotions) be truthful, not mislead players, or misrepresent products. Meanwhile, Standard 2.05 prohibits the broad public advertising of bonuses and inducements.

BetMGM Canada’s alleged breach of Standard 2.04 came from an April 10th tweet that stated, “the more money you put in per bet, the higher your chance is of winning.” Standard 2.04 includes a number of minimum requirements, including a prohibition against implying that the chances of winning increase the more one spends.

BetMGM Canada was also found to be communicating gambling inducements to a broad audience via a string of tweets ranging from April 4th – April 11th. The tweets included offers for bonuses and free spins. Similarly, PointsBet Canada allegedly included gambling inducements on posters on Ontario GO trains from April 4th – April 21st.

While Standard 2.05 does not prohibit the use of inducements, bonuses, or credits, it does limit the ways that Operators can promote them. As opposed to other jurisdictions, Ontario is one of the only jurisdictions in the world to prohibit broad public advertising of bonuses and other gambling inducements.

AGCO’s message here is clear: tweets are just as much a form of advertising as anything else and must be compliant with the standards. Likewise, these two penalties serve as a reminder to all Operators that marketing materials that might work in other jurisdictions might not work in Ontario.

May 9, 2022 | Volume 13, Number 18

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