

Responsible Gaming in a Technology-Driven World

By Jennifer Roberts

One of the primary policy reasons that states have regulated gaming is to provide a system for protecting the gambling consumer. When the modern gaming regulatory system was implemented in 1959, the Nevada State Legislature mandated that gaming be “licensed, controlled and assisted to protect the public health ... and general welfare of the inhabitants of” Nevada. NRS 463.0129(1)(d). This has resulted in a system where, not only does the government have an interest in protecting consumers, the industry and the community at large want to ensure that gambling does not harm vulnerable persons, such as minors or those with addictive disorders. Responsible gaming is a mission for everyone involved.

Currently, Nevada provides protections for gaming establishment patrons by requiring policies and procedures and employee training about problem gambling; placement of informational materials in certain areas of a gaming property; and a process for patrons to exclude themselves from receiving promotional materials, being issued credit, or cashing checks at the establishment. NGC Regulation 5.170(2)-(4). Some states with regulated gaming go even further and have regulations that establish a mechanism for patrons to voluntarily exclude themselves from a gaming establishment so that a person on a self-exclusion list may be trespassed, arrested, or even have gambling winnings forfeited. Some states may also require problem gambling messaging in advertisements or marketing materials. Just like Nevada, the risk for failing to properly implement a problem gambling program, to properly advertise or promote, or to monitor and enforce exclusions is disciplinary action by the gaming authorities. *See id.* at (6).

The gaming industry continues to undergo a bit of a renaissance with the increased reliance on technology-based games and systems, ranging from skill-based gambling games to interactive poker. It wasn't that long ago when the industry thought that ticket-in, ticket-out technology would fail and that no person would ever play a gambling game without a live dealer. Now, we are seeing traditional gambling activities being incorporated into mobile, remote, and technology-dependent platforms. That doesn't even take into consideration innovative offerings that are currently being researched and developed. Whether we are talking about account wagering for slots and table games, in-gaming sports betting, server-based gaming, or wagering on esports tournaments, technology is definitely driving the industry (just like nearly every other industry!).



While gambling is becoming more accessible through cell phones and home computers, regulators and the industry have not forgotten the core objective of consumer protection. In fact, new technologies in gaming are bringing about added safeguards.

Responsible Gaming Plan

Like its land-based counterparts, regulators of online or mobile gambling operators will generally require some form of responsible gaming plan and may even require advance approval of a plan prior to operating. Even if not required by regulation, such gaming operators should adopt policies that address responsible game play. This should include a problem gambling reporting structure so that customer-facing employees can understand at-risk behaviors or activities that would often trigger internal reporting, the employee chain-of-command for internal coordination for such issues, and the processes and procedures for the responsible person in management to initiate customer interaction. Further, employees should undergo training on problem gambling, as well as the responsible gaming plan implemented by the gaming operator. This training should be periodically refreshed to not only demonstrate the commitment by the company to the responsible gaming plan, but to make sure employees are reminded of the proper policies and procedures and behaviors demonstrated by players who may be at risk. Finally, there should be proper record keeping of plan distribution, training, and customer interactions.

Age Verification

For mobile or remote wagering activities, it is important to make sure minors are prevented from gambling. One measure that is used is through the uploading or scanning of a valid, legible photo identification that confirms a person's date of birth and provides a current photograph. Some systems may require a periodic affirmation of age or occasional identification checks. See Eric D. Frank, *Regulatory controls key to success of social casino model*, Casino Journal (Nov. 7, 2014). These are also often used in conjunction with know-your-customer (KYC) efforts for anti-money laundering programs.

While the technology behind thumbprint or fingerprint access and verification continues to be refined, some jurisdictions have strict privacy and data protection laws that may affect use of this account verification technique.

Account Monitoring

Another protective measure for responsible game play in the technology world is account monitoring. If a patron sets up a wagering account, they can access and monitor the amount of time games are played, as well as the amounts wagered on gambling activities over periods of time, whether hourly, daily, weekly, or monthly. Customers might be more willing to place controls on their participation if they see a summary of play in front of them.

Wagering accounts can also be utilized to advise the patron about game rules, odds and outcome randomness, and other information that can assist players to make informed decisions about game play.



Self-Exclusion

Similar to land-based establishments, self-exclusion can be undertaken with technology-based wagering. In Nevada, for interactive gaming (currently limited to Internet poker), a customer is allowed to self-exclude from such wagering activities for 30 days or more, which is more than is required for land-based businesses in the state. This usually means that the account is suspended or closed and that no transactions can be performed, no deposits to the account can be made, and no changes to the account can be made. However, patrons should always be able to withdraw funds on deposit before the self-exclusion.



Having a self-exclusion program means that gaming operators should have rules, procedures, and employee training about it. It is also important that the operator maintain a list of such persons, including name and address, so that new accounts can be monitored to ensure that self-excluded persons have not opened an account. Accounts should also be monitored to make sure multiple accounts for the same person or same credit card are not being set up.

The self-exclusion program should also extend to marketing and promotional materials, whereby the gaming operator ceases all marketing efforts to the self-excluded patron.

Singapore and a few other gaming jurisdictions have exclusion systems in which third parties, including

family members and even employers, can apply for a person to be prohibited from the gaming premises. This is not common for gaming operators in the United States. Singapore is unique in that consent of the patron whose exclusion is being sought by a third party is not required. However, interestingly, the Massachusetts Attorney General imposes a requirement on daily fantasy sports operators to have procedures for requests by third parties to exclude or set limits for customers. See 940 C.M.R. 34.10(5).



Marketing

Operators of technology-based gaming are often restricted from sending marketing or promotional materials to persons on a self-excluded list. Such limitation should not only apply to mailings, but must extend to technology-based messages such as texts or e-mails. Although often required by law or regulation, an operator should maintain records of all marketing or promotional materials or messages distributed to assist with any regulatory audit of the self-exclusion program.

RESOURCE ACCESS

As previously mentioned, Nevada requires the placement of brochures containing information about problem gambling resources in certain areas of a gaming establishment. However, technology-based gaming can provide greater access and visibility to such resources. For example, an online gaming platform can include an informational tab containing an anonymous hotline telephone number or link to a federal or state problem gambling resource center website. Operators should conspicuously display or have easily accessible such resources throughout the gambling session.

Under Nevada gaming regulations, a responsible gaming website link must be accessible prior to starting a gambling session. See NGC Reg. 5A.150(6)(b). With the new wagering accounts permitted by regulation, the following message must be shown before accessing account funds: “[Licensee’s name] encourages you to gamble responsibly. For problem gambling information and assistance, call the 24-hour confidential Problem Gamblers HelpLine at 1800-522-4700, or visit www.WhenTheFunStops.org.” NGC Reg. 5.225(18)(b).

There has also been the suggestion that real-time counseling could be available for at-risk players using an Internet or mobile platform. See Eric D. Frank, *Regulatory controls key to success of social casino model*, Casino Journal (Nov. 7, 2014).

Self-Imposed Limits

Limits on how much can be wagered on gambling activities are not very common in the United States, especially after Missouri repealed its \$500 loss limit, although Colorado has a single-bet limit of \$100 for certain games. See Colo. Rev. Stat. 12-47.1-103(19). However, technology-based gaming can allow for self-imposed wagering limits, such as a limit on how much money can be deposited over a period of time, such as

daily, weekly, or monthly. In New Jersey, when a patron’s lifetime deposit for Internet or mobile gaming exceeds \$2,500, the patron must make a special acknowledgment that the deposit limit has been achieved, that the patron has the capability to either establish responsible gaming limits or close the account, and that the patron has access to a problem gambling hotline. See N.J.A.C. 13:690-1.4(s).

Regulators or operators may also offer patrons the ability to set up daily, weekly, or monthly wagering spend limits or time-setting limits on wagering activities. This is unique to the online setting because traditional land-based casinos don’t generally offer patrons the opportunity to place wagering limits, especially since a patron does not have to register or set up an account to gamble. The election of wagering limits may also mean periodic “reality checks” like those offered in the United Kingdom.

Just as AML embraces a “culture of compliance,” a culture for responsible game play should also be embraced within a gaming company from the top down. There are many options to encourage responsible game play with technology-based gaming. This should provide comfort to regulators, industry, and the community at large that consumer protections are in place to support legislative intent for regulated gaming.



RESPONSIBLE GAME PLAY