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The BETs are open

New sports betting rules: Law 14,790/2023 impacts the betting market in Brazil

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ADVOGADOS

Law 14,790/2023, published in the last Saturday of 2023, and which is almost entirely in force, revealed the eagerness of the federal government and of Congress to regulate the lottery modality popularly known as BET. BETs have been increasingly seen in advertisements on athletes' jerseys in various sports and on the illuminated billboards of sports arenas, having overlapped, through marketing strategies, some of the traditional sports sponsors.

The government intends to exert control over this activity which has already been taking place in Brazil for some years, through foreign companies operating mainly in virtual media. It also intends to collect taxes and operating fees from companies that, under this new law, must be headquartered in Brazil and previously authorized by an act of the Ministry of Finance (MF). The law details several aspects, of which we highlight the main ones below.

What is the scope of the new law?

The lottery modality known as **fixed-odds betting that has as its object:**

• Real sports-themed events

- individual or collective sports competitions, tournaments, matches or events;**
- with unknown outcome at time the bet is placed;**
- promoted/organized according to the rules of the national sports administration organization (according to the General Sports Law – Law 14,597/2023) or**
- promoted/organized by sports administration organizations based outside of Brazil**

• Virtual online gaming events*

- competition or act of online gaming;**
- with unknown outcome at time the bet is placed;**

*** These can only be offered through virtual means**



The new law does not apply to

- Lotteries
- Real sports-themed events that exclusively involve people under the age of 18
- Sports events involving youth teams
- Fantasy sport: electronic sports in which disputes take place in a virtual environment, based on the performance of real people, in which: (i) there are virtual teams of at least 2 real people and the performance depends on personal skills and knowledge; (ii) the rules are pre-established; (iii) the guaranteed value of the prize depends on the volume collected or on the number of participants; and (iv) the results do not derive from the result or the isolated activity of one single person in real competition



What types of bets can be offered?

Virtual: by access to electronic channels

Physical: by purchasing paper tickets

The betting company can operate in one or both modalities, depending on the authorization received

It is **forbidden** to market fixed-odds bets in a virtual medium through physical equipment or devices (eg., making a tablet or computer available for thta in a supermarket or club)

Bets placed to obtain an advantage or gain in connection with match-fixing and corruption in sporting events are **null and void**



WHO CAN EXPLORE FIXED-ODDS BETTING AND WHAT ARE THE BASIC CRITERIA?

- **Legal entity (PJ) with headquarters and administration in Brazil**
- Compliance with the requirements of the Ministry of Finance (MF) on the legal entity, its structure (minimum share capital, knowledge in games, betting or lotteries, ombudsman, internationally certified technical requirements, association with entities) and procedures to apply for a grant
- **Prior authorization** from the MF, according to its convenience and opportunity
- The MF defines the **duration** of the authorization, which can be of **up to 5 years**
- There is no minimum or maximum number of authorized operators

The BET operator cannot transfer or trade its authorization granted by the MF



HOW MUCH WILL IT COST TO OPERATE A BETTING COMPANY?

The amount will depend on regulations from the Ministry of Finance

Payment of the grant amount is due within 30 days of communication of the end of the application analysis

However, the maximum limit provided for in the law is **30 million reais** for the use of 3 trademarks to be exploited by the operator in electronic channels



Payment Transactions

- There are obligations and prohibitions for payment arrangement institutions and financial institutions, as well as for BETs
- Payment arrangement institutions and financial institutions shall only be able to operate transactions for authorized legal entities (there will be a transitional period)
- Bettors can only deposit and withdraw amounts from BET account and receive prizes through Brazilian institutions authorized to operate by the Central Bank of Brazil (BCB)
- Such institutions and the BETs shall keep record of all transactions performed in the accounts
- Separation between bettors' resources and BETs' resources
- Facial recognition required for BETs to identify the bettors
- BETs shall have systems and processes in place to identify harms associated with betting from the moment an account is open, as well as to limit using time by bettors. They shall also have mechanisms to detect money laundering and financing of terrorism



Other provisions

- People barred from betting
- Basic rights of bettors, including the right to guidance and assistance
- Prohibited conducts in the offer of bets

- Taxation of premiums by Income Tax (IRPF) at the rate of 15%
- 90-day statute of limitations for bettors to receive prizes or request refunds
- Infractions, penalties and sanctioning process

Affected legal provisions

- Law 5,768/1971, on the free distribution of prizes for advertising: provisions on process and penalties included;
- Provisional Measure 2,158-35/2001: amendment of the text on the Authorization Fee for activities provided for in Law 5,768/1971, with increased fees in Annex I of the PM;
- Law 13,756/2018, on the destination of the proceeds from the collection of lotteries and the fixed-odds betting lottery modality: repeal, inclusion and amendment of provisions, including the Annex on Inspection Fees, and addition of Chapter V-A, on the exploitation of lotteries by the States and the Federal District;



EXPECTED SHORT-TERM IMPACTS

- The Ministry of Finance will have to draft and issue regulations on various aspects of the new law, in addition to organizing itself internally to monitor compliance with the law
- The publicity and advertising of fixed-odds betting will depend on regulation by the MF, with self-regulation being encouraged

- CONAR already published self-regulation rules on this regard (<http://www.conar.org.br/pdf/conar-regras-apostas-folder-web.pdf>)
- The ban on advertising by unauthorised operators will only come into force after regulation by the MF

- Impact on financial and on payment arrangement institutions, which shall have to observe the prohibitions and requirements under the new law
- Possibility that smaller companies be unable to operate, depending on the criteria to be established by the MF and on the grant amount



TMT TEAM

The Technology, Media and Telecommunications team of Azevedo Sette Advogados follows up on the development of this subject and is available for inquiries and contributions.

Questions about the content? Contact us!



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