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ON-LINE LOTTERY IN MEXICO

Is it **legally possible** in Mexico to carry **electronic on-line instant lotteries (drawings)** through mobile devices, and the use of Internet?

Those lotteries and drawings can be serviced by entities that in turn provide services to charities and educational institutions.

Those charities and educational institutions should first become permit holders and apply for holding such type of electronic on-line instant lottery.

Also electronic on-line lottery services can be provided to the National Lottery ("Lotería Nacional") or Sports Forecasts ("Pronosticos Deportivos") both of which are Federal Government Agencies, which proceeds are supposed to be going the public welfare.

ANALYSIS

TICKETS AND ELECTRONIC REGISTRIES

In the current Regulations to the Federal Gambling and Drawings Law published on September 17, 2004 (the "Regulations"), the definition of Ticket gives room to include that it can be an electronic registry. Such electronic registry will grant the bearer or holder the right to participate in a drawing.

A Permit Holder Applicant may apply for a drawing permit before the Ministry by providing a software system/program that randomly determines winning numbers.

The Regulations provide that drawings made through computer software systems, and broadcasted through mass media devices from establishments may be captured by participants via Internet, telephone or electronically.

LEGAL FRAMEWORK

The current Legislation on Gambling and Drawings, is comprised by the Gambling and Drawings Law (the "Law"), published in 1947 and the Regulations mentioned.

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The Regulations implement the provisions of the Law in authorizing, controlling, overseeing and inspecting gambling activities, and **drawings of any kind**, opening the door to on line drawings.

Here we use the term lotteries and drawings as equivalent.

The Law and Regulations are of Federal Jurisdiction and apply in all the Mexican Republic, to Permit Holders (charities and educational institutions) located in Mexico. It does not restrict if the service provider of on-line lottery can be located outside of Mexico, however we believe that it should be interpreted in such way.

In principle these Regulations do not apply to drawings performed by the **Lotería Nacional** and **Pronosticos Deportivos** both a **Federal Government Agencies**, which proceeds are supposed to be going the public welfare (Regs. Art. 1). However these Agencies do in fact follow the provisions of these Regulations and use electronic on-line lottery services from service providers.

THE MINISTRY OF INTERIOR INTERPRET AND APPLY THE PROVISIONS ON DRAWINGS:

The Ministry of Interior ("Secretaría de Gobernación") (the "Ministry"), through the General Office of Gambling and Drawings ("Dirección General de Juegos y Sorteos"), will interpret and apply the provisions on **drawings** (Regs. Art. 2).

Any activity related to **drawings** but not expressly described in the Law and Regulations, will be resolved by the Ministry. That includes the issuance of permits, compliance, closing of drawings, and related administrative proceedings (Regs. Art 2, Paragraphs 2nd and 3rd).

A Permit Holder can only perform, operate or organize **drawings** if it has a previous permit from the Ministry (Regs. Art. 7).

CHARITIES AND EDUCATIONAL INSTITUTIONS CAN BE PERMIT HOLDERS:

Charities and educational institutions, incorporated under Mexican laws, can be **Permit Holders** for carrying out **drawings**. Permit Holders need to post a bond to guarantee the payment of prizes (Regs. Art. 3, § XVI; Art. 20 § IV and V; Art. 92 § III).

A **Drawings Permit** has a one year term validity (Regs. Art. 3, §XVII, and Art. 33).

Drawings can only be performed in Mexican Pesos, and the payment of prizes may be in cash (pesos) or in kind (Regs. Art. 3 § XVIII, and Art. 11).

TICKETS FOR DRAWINGS ARE MOSTLY REFERRED AS PAPER DOCUMENTS:

The Regulations constantly refer to the tickets used in drawings as if they were paper documents. For example, in the Definitions Section indicate:

Drawing is the activity in which **ticket** bearers or holders, through the prior selection of a number, combination of numbers or any other symbol, obtain the right to participate, whether for free or through payment, **in a procedure previously stipulated and approved by the Ministry**, pursuant to which a number, combination of numbers, symbol or symbols, are randomly determined, and generate one or several winners of the prize (Regs. Art. 3, § XXIII).

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Drawing with sale of tickets: Type of drawing in which the contestant, through the payment of a determined amount of money, acquires a **ticket** that is used as receipt of participation in a drawing (Regs. Art. 3, § XXV).

Instant Drawing: Type of drawing where **tickets** with a hidden number or symbol are offered, and as soon as they are acquired, allow the bearer to instantly know the result of the drawing by only **taking, scratching or uncovering the ticket or a part thereof**. This drawing is also named Scratch-Off ("Raspadito") or Instant Lottery ("Lotería Instantánea").

The winner of this type of drawing claims the prizes through a procedure previously stipulated and **printed on the ticket or receipt** (Regs. Art. 3, § XXVI).

Seeding is the Random distribution of numbers to be awarded, or of the prizes to be granted, made at the time of making the **participation receipts of the instant drawings** (Regs. Art. 3, § XXI).

Value of the issuance: Total amount, quantified in money, **of the face value of the receipts of participation in a drawing** (Regs. Art. 3, § XXX).

SAMPLE TICKET AND SUPPLIER:

Also the Applicant shall provide in the Filing Application the information and documentation required, such as a **sample ticket**, that has **printed** on the back the participating guidelines, how the results will be broadcasted, and the description of the security measures of the ticket, as applicable. And the **identify the ticket supplier** in the case of **instant drawings** (Regs. Art 26, § I through V).

TICKET REQUIREMENTS ON PRICE DELIVERY:

The regulations indicate that Prizes shall only be delivered when the winning tickets meet the following characteristics: (i) have no signs of erasures, corrections nor any other serious alteration that engenders doubt as to the winner's identification or the ticket's authenticity, and (ii) the tickets have been duly filled-up by the participant with inscriptions that generate certainty on the identification data that uniquely identify the holder (Regs. Art. 121).

NOTWITHSTANDING, A TICKET CAN BE AN ELECTRONIC REGISTRY:

However, the Regulations also recognize that a **ticket** can be an **electronic registry** as indicated below. This clearly opens the door to electronic on-line instant lottery in Mexico.

Under the definition of Ticket, **Ticket** is understood to be either a document, or an **electronic registry**, which grants the bearer or holder the right to participate in a **drawing**, and guarantees such rights printed on such document, **or contained in the system in which the registries are kept** (Regs. Art. 3, § III);

SOFTWARE SYSTEM AS DRAWING MECHANISM:

Further more, when the Regulations discuss the **different drawing mechanisms for determining the winning numbers**, the Regulations accept the possibility of a **software system/program** as drawing mechanism.

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The Regulations provide that a **software system/program** that randomly determines winning numbers may be used for drawings if the Permit Holder Applicant indicates, in the application the system/program that will be applicable, and how it will be applied.

In such case, a Ministry's inspector will confirm its correct functioning, and will oversee the application of such system/program during the event.

Note that the Ministry may develop its own software program to be applied by the permit holder (Regs. Art. 98 § IV).

FOLIO NUMBER FOR PARTICIPANTS THROUGH INTERNET OR TELEPHONE NETWORK:

Additionally, for drawings carried out throughout the Mexican Territory, in which participants are obtained through either: (i) Internet or (ii) from a telephone network, each participant should be given a "folio number".

In all cases, after attaining participation, the participants shall have access via Internet for consultation and printing of their folio number receipt and to their corresponding rights in the drawing (Regs. Art. 104).

DETERMINING A WINNER:

Also recognizing that a ticket can be an electronic registry, the Regulations, when defining who is a "winner", indicate that the winner is the person who guesses correctly, or achieves the purpose of the event, obtaining the right to receive the corresponding prize by evidencing such achievement through either: (i) possessing a participation ticket, or (ii) **by having proof of participation**, or (iii) **by proving the condition of a winner with the appropriate means of proof** (Regs. Art 37).

PROVISIONS THAT CAN BE USED ANALOGICALLY FOR ELECTRONIC ON-LINE LOTTERY:

Since the provisions on electronic on-line instant lotteries are scarce, most probably the Ministry, when granting a Permit on such type of lottery, will consider the provisions on remote betting centers (bingos), and drawings of numbers predetermined by the participant that, in our opinion, may be used analogically on how electronic tickets may be used, how those lotteries may be carried, and closed.

See notes below referring to gaming using electronic on-line services for analogy purposes.

REMOTE BETTING CENTER:

Remote betting centers, also known as "books", are establishments authorized by the Ministry to capture and operate bet placements for events, sporting competitions and gambling occurring abroad or nationally, broadcasted in real time and simultaneously in video and audio; and adds that in such Centers drawings of symbols or numbers can also be carried as indicated in Article 124 of the Regulations (Regs. Art. 76).

The **drawings of symbols or numbers** are drawings where the participants that acquire a set of characters, and who are the first in forming or completing the sequence of the drawn symbols or numbers, become the winners.

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DRAWINGS THROUGH PREPRINTED CARDS THROUGH ELECTRONIC SUPPORT:

In particular Section III, of Article 124, provide for drawings performed at remote betting centers through the sale of cards or electronic support

This Section III refers to drawings performed through preprinted cards on paper or through electronic support with randomly selected numbers and sold to participants presently there.

During the game, the participant indicates the numbers appearing in its card, or its **electronic support**, are at the same ones obtained by the permit holder through the random extraction of numbered spheres during the game.

The drawn numbers will be published on an electronic board, or **other suitable device**, to make it known to the participants.

The drawing winner will be the first person indicating that he/she has completed the card with all the numbers published on the board, or the first one completing the numbers appearing on any of the winning combinations previously established.

The prize will vary according to the cost of the cards and the number of cards sold.

DRAWINGS OF NUMBERS PREDETERMINED BY THE PARTICIPANT:

But Section IV, of Article 124, provide for drawings at remote betting centers through the sale of cards, or electronic support, where **the participants predetermine the numbers**.

But the difference here is that the participant previously selects and writes a combination of numbers, and such selection is compared with the result of the drawing performed by the permit holder to determine whether or not such participant is the winner (Regs. Art. 124, § III-IV).

ADDITIONAL INFORMATION ON PERMITS:

In addition to other information for obtaining a permit, the Regulations require the **number of tickets issued**, and **the procedure and the mechanics under which the drawing will be carried out** (Regs. Arts. 32, and 93 §s I, and IV).

Such procedure and the mechanics can be a software system/program that randomly determines winning numbers that the Permit Holder Applicant will indicate (Regs. Art. 98, § IV).

REQUIRED INFORMATION ON TICKETS:

The drawings tickets, **as well as any kind of publication**, or printed publicity carried out by the permit holder, shall contain the among others, information on the **number of tickets issued; nominal value of the ticket**; total value of the issuance; number of prizes to be delivered; value of the grand prize; number and term of the permit; and **drawing** date, place and **mechanism** (Regs. Art. 108, § I, II, III, , IV, V, VI, and VII).

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CLOSING OF DRAWINGS PERMITS:

The Ministry will finalize (close) a drawing permit when the permit holder has fulfilled of its obligations under the permit. In such case the Ministry will conclude its supervision and oversight.

The Permit Holder should prove compliance with its obligations before the Ministry within 30 business days following the term for delivering the prize, or following the termination of the permit term.

Thereafter, the Ministry has 30 working days to resolve, and notify the permit holder of the permit's termination, as applicable.

The termination may order the cancellation of the bond granted, as well as all other obligations acquired by the permit holder (Regs. Arts. 40, and 41).

CONCLUSION:

Mexican Companies may provide services to charities and educational institutions, to perform electronic on-line instant lotteries, since it is legally possible to implement electronic on-line instant lotteries through mobile devices, and the use of Internet.

A Ticket can be an electronic registry, and a Permit can be granted to an Applicant that presents to the Ministry a software system/program that randomly determines winning numbers.

Drawings made through computer software systems, and broadcasted through mass media devices, from establishments may be captured by participants via Internet, telephone or electronically.

The Ministry should consider, in analogy, the provisions on remote betting centers on drawings of numbers or symbols, where the numbers appearing on electronic boards of the permit holder are matched with the ones predetermined by the participant using a mobile device or through internet

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We hope that the foregoing is of use. We look forward to answer and question on the foregoing

Respectfully submitted,



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