FEDERATED INDIANS OF
GRATON
RANCHERIA

March 16, 2026

California Gambling Control Commission
Attn: Legislative and Regulatory Affairs Division
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231

SENT BY EMAIL TO: lawsandregs@cgcc.ca.gov

Re: Comment on second modified proposed cardroom advertising regulations (CGCC-GCA-2025-02-R)

Dear Commissioners:

On behalf of the Federated Indians of Graton Rancheria (the "Tribe"), I write to reiterate my concerns with certain modifications to the California Gambling Control Commission's ("CGCC") proposed advertising regulations. We continue to support the overall effort to regulate cardroom advertising practices. The modified proposed regulations, however, omit important provisions we believe should be maintained or added.

As a threshold matter, and as we have flagged several times for the CGCC, many California cardrooms are offering illegal banked card games and have been doing so for years.[1] This activity violates the California Constitution and statutes, as well as tribes' exclusive right—as approved by the California voters—to offer banked games at tribal casinos.[2] Any effort to regulate advertising by cardrooms must recognize and address their track record of blatantly advertising the offering of these illegal banked games.

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[1] *See* Letter from Federated Indians of Graton Rancheria Chairman Greg Sarris to Andreia McMillen, Staff Services Manager, California Bureau of Gambling Control re: Comments on proposed concept player-dealer and Blackjack regulations (May 27, 2025); Letter from Federated Indians of Graton Rancheria Chairman Greg Sarris to Alex Hunter, Legislative & Regulatory Specialist, California Bureau of Gambling Control re: Comments on proposed cardroom advertising regulations (Sept. 15, 2025).
[2] California Const. Art. IV, § 19(e) and (f); Cal. Penal Code § 330.

We are therefore concerned that CGCC seems to be doubling down on the removal of any constraints against advertising illegal Nevada or Vegas style games. Specifically, and as proposed in the first modified version of the regulations, CGCC deleted language in Section 12097 that flagged use of the terms "Nevada" or "Vegas" in an advertisement as part of the criteria for the Bureau of Gambling Control (the "Bureau") to consider in evaluating whether that advertising is deceptive. Use of these terms should not only be "considered" by the Bureau, it should be deemed conclusive evidence of deceptive advertising. Given that references to "Nevada" and "Vegas" are interpreted by cardroom patrons as obvious references to banked games—which, again, are illegal under California law outside of tribal casinos—there is no legitimate reason to allow such advertising practices. We strongly urge the CGCC to reinsert and strengthen this language.

Also in Section 12097, the CGCC modified the subsection flagging as potentially deceptive any advertisements that depict gaming activity that is not currently approved by the Bureau and prohibited by Penal Code section 330. In the modified version, the CGCC has deleted "and prohibited by Penal Code section 330" from the regulation. Given the history of the Bureau approving games it later admits are illegal under Penal Code section 330, this deletion is unacceptable and again invites the cardrooms to advertise illegal activity. Accordingly, the CGCC should reinsert the deleted language and strengthen the provision by changing "and" to "or."

We are heartened to see that CGCC has re-inserted consideration of advertising violations in its relicensing process in new subsection 12099(f). We urge the CGCC to go further by adding a "scofflaw" provision under which cardrooms that have been repeatedly warned by the Bureau about their deceptive or misleading advertisements would have their license immediately suspended for a period of time.

The Tribe continues to support the CGCC's overall goal of promoting truth in advertising and protecting consumers from deceptive practices. We urge the CGCC to restore and strengthen the regulatory language necessary to prevent cardrooms from advertising unlawful activity.

Sincerely,

Greg Sarris, Chairman

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March 18, 2026

Via Email ahunter@cgcc.ca.gov
California Gambling Control Commission
2399 Gateway Oaks Dr. Suite 220
Sacramento, CA 95833-4231

Re: *Proposed Advertising Regulations:* CGCC-GCA-2025-02-R

Dear Commissioners:

These comments are submitted on behalf of the California Grand Casino and Oaks Card Club regarding the second modified text of the regulation, dated March 19, 2026.

Section 12099 should address two issues: (1) *how to count* the number of potential violations for particular content; and (2) when a "violation" of the regulation occurs.

I. The regulation needs to define both the number of and timing of violations.

A. The Counting Problem. The regulation currently does not explain how the number of violations will be counted. This is a critical problem due to how advertising is disseminated. Consider these examples:

1) A radio advertisement with a content issue is broadcast 50 times. Is this one violation or 50? Each violation of the regulation has a potential penalty of $5,000. (Disciplinary Reg. 12566 (a)(3) (Cal. Code of Reg. Title 4, Div. 18, Chapter 10.)

2) The same audio ad is streamed to one person at a time on Pandora, Spotify or through podcasts to 150,000 listeners. How many violations have there been?

3) Five thousand followers see a social media post from the cardroom, one at a time. Two hundred people re-post the original post giving the post another 5,000 views. If there is a content issue, how many violations have there been: (A) One, (B) 5,000, or (C) 10,000?

4) A licensee places a banner advertisement with a digital advertising aggregator who bids on website banner ad spaces. The advertisement has five creative versions with slight differences, and appears on 80 different websites. The banner ad loads separately for each unique website user. The advertiser receives a report that monthly there were 100,000 individual views across all the sites. This goes on for 12 months. If there is an issue, how many violations are there: (A) One, (B) Five, (C) 80 or (D) 1.2 million?

5) A television commercial is broadcast only one time to an audience of 75,000 persons. The same video advertisement is streamed to 75,000 persons. One person at a time views the streamed advertisement. How many violations have there been, one or 75,000?

Leaving the number of violations unclear and to the Bureau's unconstrained discretion is not only unwise, but also conflicts with prior Commission practice and threatens First Amendment rights. The potential penalties can bankrupt the advertiser, and hundreds or thousands of violations may be counted even before the licensee receives the first Bureau notice.

When substantial potential penalties attach from the date of the advertisement's publication and a licensee has to risk license denial or horrendous penalties in a renewal proceeding or disciplinary action which may be years away from resolution in order to even get a hearing on whether the Bureau notice is valid, speech rights are chilled and severely compromised. (ISOR at 19; *see* Volokh Letter I at 4-5, and Fried Letter I at 33-35.) [1] Licensees are incentivized to censor themselves in any remotely doubtful case before or after receiving a Bureau notice, and to never contest a Bureau notice to any final decision.

The Commission recognized a similar problem when it adopted Disciplinary Reg. 12554 (k), which counts a repeated practice as <u>one violation</u>:

> Where a violation arises from a practice that is repeated many times an hour or day in the conduct of controlled games, each instance of the practice will not be charged as a separate violation; however, the frequency and duration of the practice will be treated as aggravating or mitigating factors.

There is even more reason to adopt the same provision here because this is a government regulation on speech. Enforcement agents cannot be empowered to use licensing regulations to bring undue pressure on speakers.

In this case, the Bureau can charge a licensee with dozens, hundreds or thousands of violations for one advertisement in order to intimidate the licensee into a settlement that waives the licensee's right to ever challenge the Bureau action, meaning that Bureau's position will not be reviewed in an administrative or judicial hearing. This is entirely consistent with the tendency of prosecutors to overcharge, then negotiate.

B. <u>The Timing Problem</u>. Tying compliance, or the mitigation or aggravation of penalties, to the preliminary Bureau notice also creates a First Amendment and Due Process

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[1] The prior submissions for this rule-making are incorporated by reference. Letter from Prof. Eugene Volokh dated February 10, 2023 ("Volokh Letter I"); letter from Prof. Volokh dated March 17, 2024 ("Volokh Letter II"); letter from David Fried dated February 13, 2023 with attachments ("Fried Letter I"), letter from David Fried dated March 15, 2024 with attachments ("Fried Letter II"); and California Gaming Association letter dated March 17, 2024 ("CGA Letter"). Letter from David Fried, dated February 26, 2026 ("Fried Letter III").

problem. The regulation provides a 44-day period for consultation between the licensee and the Bureau following the first Bureau notice ("notice of deceptive advertising") and before a final Bureau notice and decision ("notice of disapproval"). During that time, the Bureau may withdraw or amend its initial notice. (The regulation formerly provided licensees 30 days to comply with a *final* Bureau notice. But this has been removed from the new draft.)

What is the licensee to do with its advertising during that 44-day period of time when the Bureau's position is not yet final and can still be amended or withdrawn? It is unreasonable to require cardrooms to abruptly cease or amend advertising in reliance on the initial Bureau notice, when that notice is subject to imminent change, and the advertising just six weeks later may have to be amended again or the licensee will be able to resume its former advertising. It is incredibly disruptive to make two advertising changes in 44 days, especially where advertising is placed and booked in advance, and sometimes requires time for change. Changing a video or audio ad can take at least two-three weeks. Changing a vinyl billboard means changing the artwork, printing a new one, then scheduling installation. Each design, printing and installation costs money and time, and should not have to be repeated twice.

This is also clearly a prior restraint because - until the Bureau action is final and administrative remedies are exhausted - the licensee cannot even challenge the Bureau notice in court. *Los Globos Corp. v. City of Los Angeles*, (2017) 17 Cal. App. 5th 627, 632. Under subsection (e) of section 12099, the licensee can be punished for not complying with the initial and non-final Bureau notice without any avenue for judicial relief until after the 44 days expire.

It is unconscionable for licensees to accrue added penalties based on a preliminary notice and before the Bureau even issues a final notice of disapproval, which final notice may be different than the initial notice. And it is wrong not to provide licensees a reasonable period of time to change the advertising following a final notice of disapproval.

It would be like the city sending a homeowner a preliminary notice that she has to remove or trim trees or vegetation on her property, and (1) the homeowner accruing penalties for not doing so before the city issues its final determination, which may be different than the initial notice or even result in the withdrawing of the preliminary notice, and (2) then once the city does issue its final notice, not providing the homeowner any time to do the work, the scope of which may have changed from the preliminary notice.

C. Alternatives.

Without waiving the foregoing arguments, there are alternatives that are improvements on the current language.

1. There should be no "violation" of the regulation or aggravation of penalties until after a final Bureau action because the initial Bureau notice is subject to change and is not yet final.

2. Or, there should be only one violation prior to a final Bureau notice of disapproval and no aggravation of penalties until 30 days after the notice of disapproval to provide the advertiser a brief period of time to comply.

3. The frequency or duration of the use of the content should be an aggravating or mitigating factor for discipline rather than each viewing of the advertisement counting as a separate violation. This permits the Commission to adjust the penalties based on the advertising frequency without counting violations in the hundreds, thousands or tens of thousands.

4. The extent to which there are precedential decisions that have addressed similar advertising – or there are not precedential decisions - should be an aggravating or mitigating factor for disciplinary action. There may be instances where the Bureau position is unexpected and other cases where the Bureau position has already been established.

Illustrative language:

(e) For the purposes of Chapter 10 of this Division:

(1) The use of advertising that is the subject of the Bureau's final notice of disapproval …

(option (a)) … shall not constitute a violation of this regulation until 30 days following the licensee's receipt of the Bureau's final notice of disapproval.

(option (b)) … shall not constitute more than one violation of this regulation until 30 days following the licensee's receipt of the Bureau's final notice of disapproval.

(2) Beginning 30 days after the licensee's receipt of the Bureau's notice of disapproval, use of the advertisement that is the subject of the Bureau's final notice of disapproval or use of the same content that is the subject of the Bureau notice of disapproval is

((option a) a violation of the regulation)

((or option (b)) an additional violation of the regulation)

regardless of the number of times each advertisement is viewed or heard; however, the frequency and duration of the advertising will be treated as aggravating or mitigating factors.

(3) The extent to which precedential decisions have addressed similar advertising will be treated as an aggravating or mitigating factor.

Under this approach, use of the content that is the subject of the notice would not count as a violation, or count at most as one violation before a final Bureau action. Thereafter, each advertisement would be a violation, but in no case would each viewing of the advertisement be a separate violation. This is similar to and incorporates what the Commission has already provided for in its disciplinary regulations. Reg. 12554(k).

D. Uncertain enforcement supports tying penalties to the Bureau's notice of disapproval.

An alternative approach is especially warranted here because the regulation is new and there is uncertainty in many cases in how the regulation will be applied, which is why the Bureau notice of disapproval should be the trigger for the timing and counting of violations.

Due process in speech cases requires sufficient notice that speech governed by regulation will subject the speaker to liability under a new policy, interpretation or regulation before penalties are imposed. *FCC v. Fox TV Stations, Inc.,* (2022) 567 U.S. 239 ("*FCC*").

There was a view expressed at the last hearing that what the Bureau will declare to be deceptive advertising is sufficiently clear – for example, for advertising that appeals to children - that anticipating what the Bureau will notice should not be a problem in practice. But even if there are some examples of clarity, there may be many cases where what the Bureau will object to may not be anticipated.

General advertising law tells us what the rules are for advertising a household product; for which there is ample historical precedent. California courts and the Federal Trade Commission have decided many cases that involve false or misleading product claims usually involving quantifiable claims, such as product ingredient claims. But the Bureau's actions here are likely to break new ground.

Section 12097(d) of the regulation identifies four types of "deceptive" advertising criteria: (1) advertising that depicts gambling as a means to become wealthy or to resolve a financial burden; (2) advertising that appeals to children, (3) advertising that is false or materially misleading; and (4) advertising that clearly and conspicuously depicts a game or gaming activity that is not approved. None of these categories are necessarily clear in practice.

(1) Advertising that depicts gambling as a means of financial improvement is not a usual category of deceptive advertising. Until now, it has not been a subject actionable at law under California advertising law and therefore there is an absence of precedential guidance as to how this criterion is to be applied. Is showing a person winning money to be prohibited, or is it prohibited only if the amount of money is sufficient for a person to be "wealthy"?

For example, it has long been the practice to show pictures of the winner of a large poker tournament with a lot of chips or cash. During the World Series of Poker, often when the tournament is down to two players, they place cash bundles on the table and then take a picture of the winner. Is that a violation? In other words, can we depict people winning money, for example a large jackpot prize, but just not show them reclining on a yacht? Whatever position the Bureau takes, it will be new.

(2) With regard to advertising that appeals to children, one aspect of the regulation targets advertising using cartoon characters. A joker in a deck of cards is a cartoon character and there are Bureau approved games that use Jokers. For example, in Pai Gow Poker games, a joker serves as a wild card. Cardrooms may advertise a "fully wild joker" or the "joker is always wild."

In some approved blackjack style games, the highest ranked hand is two Jokers.[2] Will an advertisement showing the image of a joker from a standard deck of cards now be prohibited?

(3) Determining what is "false or materially misleading" as now applied to cardroom advertising will undoubtedly break new ground in California. If a cardroom website has a quantifiable claim, for example, our three-card poker game has a player-dealer edge of less than 1%, under traditional false advertising law a quantifiable claim is subject to both proof and deceptive advertising rules. But if the Bureau tries to apply this regulation to non-quantifiable claims, then there is no precedent that an advertiser can rely upon. *Regulating Land-Based Casinos*, Cabot & Pindell ed., (UNLV Gaming Press 2014) at 193.

(4) The last criteria relates to unapproved games or gaming activities. Will the Bureau apply this regulation to the advertising of blackjack-style games using the name "blackjack" even though dozens of blackjack style games have been approved by the Bureau many of which include "blackjack" in the approved name?

In many cases, the Bureau will be making quasi-legislative judgments about what content in cardroom advertisements is deceptive. We do not yet know what these categorical judgments may be. Because licensees lack due notice in many cases of what content will be found deceptive, licensees should not rack up dozens, hundreds or thousands of "violations" before the Bureau even issues a notice.

For all these reasons, prior to receiving a Bureau notice of disapproval, the use of particular content should not be a violation or at most count as one violation. If there are precedential decisions regarding particular content – or the absence of such decisions – that can be grounds for aggravating or mitigating penalties.[3]

II. Subsection (f) of section 12099 should be modified.

The Bureau should not be including in renewal reports instances where the Bureau has withdrawn a notice of deceptive advertising. Only notices of disapproval (final notices) should be included. Withdrawn notices should not be a subject for renewal licensing.

> (f) Pursuant to this section, when the Bureau issues a notice of disapproval pursuant to subsection (d), all of the following must be included in the next Bureau report for the cardroom business licensee's or TPPPS business licensee's initial or renewal license application, as applicable: …

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[2] https://oag.ca.gov/gambling/cardroomlist *See, e.g.*, Bay 101 Pai Gow Poker approval; "Hot Action Blackjack" California Grand Casino.

[3] Based on the prior hearing, it seems the regulation will be modified to address retroactivity and those concerns are not repeated here.

III. Problems under the Administrative Procedure Act.

A. Necessity.

The "necessity" requirement mandates that "the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record." (Gov. Code, § 11349, subd. (a) (emphasis added.)

The Commission has not demonstrated any necessity for why each publication or dissemination of an advertisement should potentially be a separate violation, especially for modern advertising where the public may view or hear an advertisement one person at a time.

There also is no showing of necessity for treating the violation of advertising regulations differently than a regulatory violation involving the operation of gambling. For other regulatory violations, the Commission has decided that a repeated practice is only one violation. Disciplinary Reg. 12554 (k). There is no necessity for imposing penalties for advertising regulation violations with a severity hundreds or thousands of times greater than for violations of public safety regulations for the operation of controlled games and internal controls.

The Gambling Control Act makes it clear that the priorities for the Commission should be the operation of the gambling and the licensing of the persons who have an interest in the profits from legalized gambling. (Bus. Prof. Code §§ 19801 – 19987 "Act")). The Act is lengthy and comprehensive, addressing administration, operations, gambling rules, licensing, game approvals, revenues, and political activities. The printed copy of the Act is 70 pages, and the regulations adopted under the Act concerning these operational and licensing subjects is over 150 pages. In contrast, the Act mentions advertising in all of three sentences in one subsection (19841(f)). There is simply no evidence or showing that violations of advertising regulations must be treated far more harshly than violations of gambling operation regulations.

B. Clarity.

Government Code section 11349, subdivision (c), defines "clarity" to mean that "… the meaning of regulations will be easily understood by those persons directly affected by them." *In Re Office of the State Fire Marshall*, (2023) OAL Matter Number: 2023-0720-02 at 4.

The regulation is severely lacking any clarity for determining how the number of violations are to be counted.

C. Consistency

The "consistency" requirement under the APA mandates that regulations be "in harmony with, and not in conflict with or be contradictory to, existing statutes, court decisions, or other provisions of law." (Gov. Code, § 11349, subd. (d).)

1. Due Process and The First Amendment. Due process in speech cases requires sufficient notice that speech governed by regulation will subject the speaker to liability under a new policy, interpretation or regulation. *FCC v. Fox TV Stations, Inc.,* (2022) 567 U.S. 239 ("*FCC*"). In *FCC*, the Court held that the FCC cannot apply a new interpretation of its indecency policy to prior broadcasts because broadcasters lacked due notice of what conduct would trigger liability.

As explained above, the Bureau will be making quasi-legislative judgments about what content in cardroom advertisements is deceptive as well as individualized decisions. There is no applicable precedent for the decisions that may be made. This regulation gives the Bureau the authority to go beyond what has been actionable at law historically, and to recognize as "deceptive" advertising that was not regarded as deceptive previously.

Because licensees lack due notice of what content will be found deceptive, a "violation" and certainly multiple violations should not occur before a final Bureau notice of disapproval.

2. Self – Censorship and the "chilling" of speech without a hearing.

a. Self-Censorship.

Licensees do not yet know what language in advertisements the Bureau will find deceptive. If penalties attach from the date of publication, a licensee will have to guess at what the Bureau may object to and may censor themselves in advance of receiving a Bureau notice. Worse yet, the licensees may have to define the "gray area" – the area of uncertainty – very broadly and self-censor in order to avoid the cost and risk of a licensing issue and penalties in the hundreds of thousands or millions of dollars. This uncertainty and the potential horrendous administrative penalties can chill protected speech even before an initial Bureau notice. (Volokh Letter I at 4-5, and Fried Letter I at 33-35.)

Even after the preliminary Bureau notice, the regulation strongly incentivizes the licensee to cease the advertisement before a final determination is made in an administrative or judicial hearing because under subsections (e) and (f), the licensee is penalized for not complying with the Bureau notice pending the Commission's decision on a license renewal or accusation. The Bureau can also charge a licensee with hundreds of violations, which may pressure licenses to settle before a hearing. Even if a licensee goes to hearing, because license renewals occur every two years and a GCA hearing on a renewal may not conclude for another 18 months, and the accusation process can also take two years, the self-censorship could continue for years.

b. Prior-Restraint.

When potential penalties attach from the date of the advertisement's publication rather than from an administrative or judicial hearing decision and the hearing is not held promptly, this is the essence of a prior restraint on speech prior to any due process. A regulation cannot force a licensee to risk license denial or disciplinary action in order to get an administrative hearing on whether the Bureau notice is valid. (ISOR at 19; *see* Volokh Letter I at 4-5, and Fried Letter I at 33-35.)

There has to be a stay for compliance with the notice pending a judicial hearing, and if not, a provision for a prompt hearing. *See*, Fried Letter I at 33-35, Fried Letter II at 14 - 17, and Volokh

Letter II at 4-6. While in other contexts, it may be common to date a violation from the conduct rather than from the notice to cease the conduct, speech issues are addressed differently to avoid either restricting or "chilling" protected speech.

It is especially strange for the regulation to provide a brief period of consultation between the licensee and the Bureau regarding the advertisement before a final Bureau decision, and then to punish the licensee for using the advertising during that period of time. This is clearly a prior restraint because the Bureau action is not yet final and therefore the licensee cannot even challenge the Bureau notice in court yet. The licensee has to cease using the advertisement without any administrative or judicial relief even being available. The Bureau review process – an exchange of letters - does not suffice as a "hearing" because it is not an adjudicative hearing.

c. An APA Hearing should be required.

The most recent changes to section 12099 were prompted by the Bureau's December 30, 2025 letter to the Commission although the changes are not what the Bureau suggested. The Bureau's letter only pointed out that the Bureau lacked the authority to initiate a civil judicial action related to the disapproval of advertising. The Bureau argued that a Bureau determination of deceptiveness was only preliminary and that there should be a process for an administrative hearing on the advertisement before any disapproval decision. Bureau Letter at p. 2.

We agree with the Bureau that the Bureau's determination cannot be final and that a hearing is required before disapproval. The courts do not allow agencies to "disapprove" advertising without a hearing; that would be a prior restraint. In addition, even if the Bureau does not bring an accusation seeking penalties, it's notice of deceptive advertising will be included and considered during license renewal proceedings where the licensee has the burden of showing their suitability for licensure. Because of the potential negative impacts on licensing, there is an enhanced need for a prompt hearing on the validity of the Bureau notice.

In those cases where the Bureau does not withdraw its initial notice after a timely objection, the regulations must provide a prompt hearing.

> To this end, the exhibitor must be assured, by statute or authoritative judicial construction, that the censor will, within a specified brief period, either issue a license or go to court to restrain showing the film. ... an administrative refusal to license, signifying the censor's view that the film is unprotected, may have a discouraging effect on the exhibitor. ...Therefore, the procedure must also assure a prompt final judicial decision, to minimize the deterrent effect of an interim and possibly erroneous denial of a license.

Freedman v. Maryland, (1965) 380 U.S. 51, 59.

The Gambling Control Act ("GCA") hearing provided under a license renewal process is not adequate for the purpose of timely adjudicating an advertising issue. The First Amendment does not tolerate delaying a decision on the content of an advertisement for up to 3-4 years during a renewal hearing process and while penalties accrue because that would invariably "chill" some protected speech. Using the accusation process is also unsuitable because of the delays. A licensee cannot

wait a long time for a hearing, or face discipline before there is a hearing on whether the advertisement is deceptive.

Because the Bureau is not charged with making adjudicative decisions and does not have a hearing process, the hearing should be held by the Office of Administrative Hearings. A typical function of an Administrative Law Judge is to review an agency action before it is final. The Commission by regulation can set forth a procedure for the licensee to request a hearing on the Bureau's preliminary determination. Fried Letter III at pp. 6-7.

CONCLUSION

We suggest that the Commission give Commission staff the opportunity to revise section 12099 to address these comments and proposed changes.

Yours,

David M. Fried

March 19, 2026

Via Email ahunter@cgcc.ca.gov
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833

Re: Proposed Advertising Regulations: CGCC-GCA-2025-02-R

Dear Commissioners:

On behalf of the California Gaming Association (CGA) and its member cardrooms serving communities across the state, we write to express our concerns regarding the Commission's second modified text of the proposed advertising regulations dated February 17, 2026.

CGA supports and incorporates by reference the comments submitted by David M. Fried on March 18, 2026, concerning proposed Section 12099. We share the significant concerns outlined in his submission, particularly regarding: (1) how to count the number of potential violations for particular content; and (2) when a "violation" is deemed to occur. Without waiving those arguments, we also support the alternative approaches he proposes as improvements to the current language.

CGA respectfully requests that the Commission defer action at this hearing and direct staff to further revise Section 12099 in light of the legal and procedural concerns identified in Mr. Fried's submission.

We appreciate the Commission's consideration and look forward to continuing to work with you.

Sincerely,

Kyle Kirkland
President
California Gaming Association