

Formal Warning

under section 64A of the *Interactive Gambling Act 2001*

To: Speqta Media N.V.

Of: Heelsumtraat 51 E-Commerce Park B-03
Curacao

Attention: [REDACTED]

I, Rochelle Zurnamer, delegate of the Australian Communications and Media Authority (ACMA), being satisfied that Speqta Media N.V., has contravened subsection 15(2A) and subsections 61EA(1A) or 61EA(2A) of the *Interactive Gambling Act 2001* (the IGA):

HEREBY issue Speqta Media N.V. a formal warning under section 64A of the IGA, for one or more contraventions of each of subsection 15(2A) and subsections 61EA(1A) or 61EA(2A) of the IGA, being civil penalty provisions.

Details of the contravention/s

Obligations under the IGA

1. Subsection 15(2A) of the IGA provides that:

A person must not provide a prohibited interactive gambling service that has an Australian customer link (see section 8).
2. A 'prohibited interactive gambling service' is defined in section 5 of the IGA and 'gambling service' is defined in section 4 of the IGA. Under section 8 of the IGA, a gambling service has an Australian-customer link if, and only if, any or all of the customers of the service are physically present in Australia.
3. Subsection 61EA(1A) of the IGA provides that a person must not publish a designated interactive gambling service advertisement in Australia if the publication is not permitted by another specified section of the IGA (including sections 61EB, 61ED, 61EE or 61EF of the IGA).
4. Subsection 61EA(2A) of the IGA provides that person must not authorise or cause a designated interactive gambling service advertisement to be published in Australia if the publication is not permitted by another specified section of the IGA (including sections 61EB, 61ED, 61EE or 61EF of the IGA).
5. A 'designated interactive gambling service advertisement' is defined in section 61BA of the IGA. A person 'publishes' a designated interactive gambling service advertisement if they do any of the things set out in section 61CA of the IGA (subject to certain exceptions), such as disseminates the advertisement to the public, or a section of the public, by any means.

Investigation

6. Under section 21 of the IGA, on 14 May 2021, the ACMA commenced an investigation into whether the Ninja Spins service provided prohibited interactive gambling services in contravention of the IGA and whether specific emails assessed

by the ACMA contained designated interactive gambling service advertisements published in Australia, that publicise or otherwise promote the Ninja Spins service.

7. During the period of the investigation the Ninja Spins service was available via the URL www.ninjaspins.com.
8. Speqta Media N.V. is the provider of the Ninja Spins service.

Contravention of subsection 15(2A) of the IGA

9. The Ninja Spins service offered 'gambling services', including casino-style games of chance or mixed chance and skill, played for money where the customer gave consideration to play the game (paragraph (e) of the definition of 'gambling service' in section 4 of the IGA).
10. The gambling services were provided in the course of carrying on a business and were provided to customers using an internet carriage service (section 5 of the IGA).
11. The Ninja Spins service had an Australian customer-link.
12. The ACMA found that, as the provider of the Ninja Spins service, Speqta Media N.V. has contravened subsection 15(2A) of the IGA by providing prohibited interactive gambling services to customers physically present in Australia

Contravention of subsections 61EA(1A) or 61EA(2) of the IGA

13. Specific emails assessed by the ACMA contained content that constitutes advertising in the form of writing and visual images and includes:
 - > repetitive use of the name of the Ninja Spins service as well as its logo and branding
 - > use of the Ninja Spins domain name in the emails which is identical to the website
 - > text that describes casino-style games in general and offers bonuses and free games (or 'spins').
14. The ACMA has found the Ninja Spins service is a prohibited interactive gambling service that has an Australian-customer link, which is provided in breach of subsection 15(2A) of the IGA.
15. The ACMA is satisfied that these advertisements were published in Australia because there were instances of multiple emails with similar content being received by different Australian email addresses and sent from the Ninja Spins service as part of a mailing list.
16. The ACMA is satisfied that Speqta Media N.V. published, or authorised or caused the publication of, these advertisements because:
 - > the email addresses from which these emails were sent have the same domain name as the website used by the Ninja Spins service being advertised
 - > the email content is framed as being from the service, such as referring to 'us'
 - > the emails are signed from 'The Ninja Spins Team'.

17. The publication of these advertisements in Australia was not permitted by another specified section of the IGA, including sections 61EB, 61ED, 61EE or 61EF of the IGA.
18. Therefore, the ACMA is satisfied that Speqta Media N.V., as the provider of the Ninja Spins service, contravened the IGA by publishing, or authorising or causing the publication of, designated interactive gambling service advertisements in Australia, that publicise or otherwise promote the Ninja Spins service, in contravention of subsection 61EA(1A) or 61EA(2A) of the IGA.

Dated this 7 March 2022



Rochelle Zurnamer
Delegate of the Australian Communications and Media Authority