

Formal Warning

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

To: Mr Henry Williams
Chief Executive Officer
Pokies Lab

[REDACTED]

I, Rochelle Zurnamer, delegate of the Australian Communications and Media Authority (ACMA), being satisfied that you have contravened subsections 15(2A) and 61EA(1A) of the *Interactive Gambling Act 2001* (the IGA):

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

Details of the contraventions

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. By operation of subsection 92(2) of the *Regulatory Powers (Standard Provisions) Act 2014* (RPA) and subsection 64B(1) of the IGA, it is also prohibited under the IGA to be an ancillary to a contravention of subsection 15(2A), by 'being in any way, directly or indirectly, knowingly concerned in, or party to, a contravention' of subsection 15(2A) by another person.
4. Under subsection 92(2), an ancillary is taken to have contravened the relevant civil penalty provision.
5. 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).

Investigation

6. Under section 21 of the IGA, on 11 February 2022, the ACMA commenced an investigation into whether:
 - > Pokies Lab provided prohibited interactive gambling services in contravention of the IGA by operation of subsection 92(2) of the RPA
 - > Pokies Lab published, or authorised or caused the publication of, designated interactive gambling service advertisements in Australia, that publicise or otherwise promote online casino-style services that are prohibited interactive gambling services, on the Pokies Lab website, in contravention of subsection 61EA(1A) of the IGA.

7. During the period of the investigation the Pokies Lab service was available via the URL <https://pokieslab.com/>.
8. You are stated to be the Chief Executive Officer, owner and founder of the Pokies Lab service on its website and on LinkedIn, and as such are the provider of the Pokies Lab service.

Contravention of subsection 15(2A) of the IGA

9. The ACMA has previously found that a number of the casino-style services advertised on Pokies Lab are prohibited interactive gambling services that have an Australian-customer link (prohibited services), which are provided in breach of subsection 15(2A) of the IGA.
10. The Pokies Lab service publishes information that is intentionally aimed at enabling customers to access and play on the prohibited services, including customers from Australia. By providing links on its website to the prohibited services, the Pokies Lab service assists the prohibited services to sign up Australian consumers to their gambling services.
11. The ACMA is satisfied that you, as the provider of the Pokies Lab service, had actual knowledge of the essential matters constituting the contravention of subsection 15(2A) of the IGA by the prohibited services. Consequently, you are knowingly concerned in and are an intentional participant in, the contraventions of subsection 15(2A) of the IGA.

Contravention of subsection 61EA(1A) of the IGA

12. The Pokies Lab service contains content that constitutes advertising in the form of writing and visual images on a website and includes:
 - > branding images and logos from online casino-style services, included as content in reviews and listings of casino services
 - > direct hyperlinks to the websites that make available these online casino-style services
 - > text that encourages use of the online casino-style services, by referring to bonuses and statements about the trustworthiness of the services.
13. The ACMA has previously found that a number of the online casino-style services advertised on the Pokies Lab service are prohibited interactive gambling services that have an Australian-customer link, which are provided in breach of subsection 15(2A) of the IGA.
14. The ACMA is satisfied that these advertisements were published in Australia as they were viewed by staff physically present in Australia using an Australian IP address. The advertising was also targeted to Australians, indicated by the following:
 - > the website has images representing Australia, such as the Australian flag and a kangaroo
 - > the text of the website frequently refers to the service being targeted at Australians
 - > the text of the website includes Australian slang such as 'Aussies' and 'pokies'
 - > the advertisements refer to cash bonuses and prizes in Australian dollars.
15. 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.
16. Therefore, the ACMA is satisfied that you, as the provider of the Pokies Lab service, contravened the IGA by publishing designated interactive gambling service advertisements in Australia on the Pokies Lab service, that publicise or otherwise promote online casino-style services that are prohibited interactive gambling services, in contravention of subsection 61EA(1A) of the IGA.

Dated this 13 May 2022



Rochelle Zurnamer
Delegate of the Australian Communications and Media Authority