

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

To: Daniel Paolini, trading as Elitebet (ABN: 31 727 957 160)

Of: Rosehill Racecourse, Grand Avenue,
ROSEHILL NSW 2142

I, [REDACTED] delegate of the Australian Communications and Media Authority (ACMA), being satisfied that Daniel Paolini, trading as Elitebet (ABN 31 727 957 160) (Elitebet) has contravened subsection 15(2A) of the *Interactive Gambling Act 2001* (the IGA):

HEREBY issue Elitebet a formal warning under section 64A of the IGA to comply with subsection 15(2A) of the IGA.

Details of the contravention/s

Obligation 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. Subsection 5(1) provides that:
 - (1) For the purposes of this Act, a **prohibited interactive gambling service** is a gambling service, where:
 - (a) the service is provided in the course of carrying on a business; and
 - (b) the service is provided to customers using any of the following:
 - (i) an internet carriage service;
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3. Subsection 5(3) lists services that are not prohibited interactive gambling services, including an excluded wagering service (paragraph 5(3)(aa)).
4. A service is an excluded wagering service for the purposes of the IGA, to the extent that it relates to betting on a sporting event except to the extent the service is an in-play betting service (subsection 8A(3) of the IGA).
5. Paragraph 10B(a) of the IGA relevantly provides that a gambling service is an *in-play betting service* to the extent to which:

the service relates to betting on the outcome of a sporting event, where the bets are placed, made, received or accepted after the beginning of an event.

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Investigation

6. On 26 July 2022, the ACMA commenced an investigation into whether Elitebet provided a prohibited interactive gambling service, in the form of in-play betting on an ice hockey event on 14 March 2022 (subject event).
7. The Elitebet service made available at <https://www.elitebet.com.au> satisfies the key elements of a prohibited interactive gambling service under subsection 5(1) as:
 - (a) it is a gambling service for the placing, making, receiving or acceptance of bets
 - (b) is provided in the course of carrying on a business
 - (c) it is provided to customers using an internet carriage service.
8. The subject event was not an excluded wagering service because, although it related to betting on a sporting event, Elitebet accepted a bet after the beginning of the event and therefore provided an in-play betting service (subsections 5(3), 8A(3) and section 10B of the IGA).
9. It is not in contention that the customer of the service was physically present in Australia (section 8 of the IGA).
10. The ACMA found that Elitebet had contravened subsection 15(2A) of the IGA by providing a prohibited interactive gambling service to a customer physically present in Australia.

Dated 1 November 2022

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Delegate of the Australian Communications and Media Authority