

## Formal Warning

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

To: Mr Michael Whykes

Of: [REDACTED]

I, [REDACTED] delegate of the Australian Communications and Media Authority (ACMA), being satisfied that you have contravened subsections 15(2A) and 15AA(3) 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 15AA(3) 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.
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.
3. Subsection 5(3) of the IGA 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...
6. An excluded wagering service is a kind of regulated interactive gambling service (as defined in section 8E of the IGA).
7. Subsection 15AA(3) of the IGA provides that a person must not provide a particular kind of regulated interactive gambling service if:
  - (a) the service has an Australian customer link; and
  - (b) the person does not hold a licence (however described) under a law of a State or Territory that authorises the provision of that kind of service in the State or Territory.
8. 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.

##### *Investigation*

9. Under section 21 of the IGA, on 22 March 2022, the ACMA commenced an investigation into whether the Q7 service provided prohibited and unlicensed regulated interactive gambling services in contravention of the IGA.

10. During the period of the investigation the Q7 service was available via the URL <http://www.q7ccc.com/>.

11. The ACMA is satisfied you are a provider of the Q7 service.

***Contravention of subsection 15(2A) and 15AA(3) of the IGA***

12. The ACMA is satisfied that the Q7 service offered 'gambling services', including:

- > casino-style games of 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);
- > services for the placing, making, receiving or acceptance of bets (paragraph (a) of the definition of 'gambling service' in section 4 of the IGA), including in-play betting services.

13. 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 and paragraph 8E(1)(i)-(j) of the IGA).

14. The Q7 service had an Australian customer-link.

15. Q7 is not licensed by an Australian State or Territory to provide regulated interactive gambling services to Australians (paragraph 15AA(3)(b)).

16. The ACMA found that, as a provider of the Q7 service, you have contravened subsections 15(2A) and 15AA(3) of the IGA by providing prohibited and unlicensed regulated interactive gambling services to customers physically present in Australia.

Dated this 30 January 2023



**Delegate of the Australian Communications and Media Authority**