

IG Taskforce

From: IG Taskforce </o=Messaging/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3b5ba7d57c0c475894b9bd043e5c3fa4-
[REDACTED]>
Sent: Wednesday, 29 July 2020 8:38 AM
To: 'info@gcb.cw'
Subject: Notification of Formal Warning for contravention of the Australian Interactive Gambling Act 2001 [SEC=OFFICIAL]
Attachments: Advice to regulator re Formal ~ing (Gaming Control Board) (2).pdf; Direx NV and Direx Limited - Formal Warnings.pdf

Good Morning,

Please see attached a letter from the Australian Communications and Media Authority (the ACMA) regarding the issuing of a Formal Warning to Direx N.V and Direx Limited for contravening the Australian *Interactive Gambling Act 2001*.

Regards,

Interactive Gambling Team

Australian Communications and Media Authority

E igtaskforce@acma.gov.au

www.acma.gov.au



26 July 2020

Mr Leonard Coffi
Chairman
Gaming Control Board Curacao
Emancipatie Boulevard Dominico F. "Don" Martina 23 Willemstad
Curacao

By email: info@gcb.cw

ACMA file reference: ACMA2018/141-48

Dear Mr Coffi

Contravention of the Australian *Interactive Gambling Act 2001*

The Australian Communications and Media Authority (the ACMA) is responsible for investigating and taking enforcement action for contraventions of the Australian *Interactive Gambling Act 2001* (the IGA).

The ACMA has recently completed an investigation into the service made available at <https://syndicate.casino>. The ACMA found that both Direx N.V. and Direx Limited contravened subsection 15(2A) of the IGA by providing a prohibited interactive gambling service to Australian customers.

On 3 April 2020, the ACMA advised Direx N.V. and Direx Limited of the ACMA's preliminary contravention findings. No response was received.

The ACMA finalised the investigation on 19 May 2020. The ACMA issued a Formal Warning to Direx N.V. and Direx Limited under section 64A of the IGA on 26 July 2020.

If Direx N.V. and Direx Limited continue to provide prohibited interactive gambling services to persons physically located in Australia, the ACMA may take further action.

I have attached a copy of the Formal Warnings issued to Direx N.V. and Direx Limited as well as the key provisions of the IGA.

We have brought this matter to your attention as we understand that there is an intention to expand the role of the Gaming Control Board Curacao to the regulation of online gaming in Curacao. Findings of illegal activity may be relevant to your future consideration of the suitability of a licensee.

If you have any questions on the above, please contact [REDACTED], Manager of the Interactive Gambling Taskforce at [REDACTED].

Thank you for your engagement in this process.

Yours sincerely,

[REDACTED]

Rochelle Zurnamer
A/g Executive Manager
Content Safeguards Branch

Attached: Formal Warnings, Relevant provisions of the IGA

Formal Warning

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

To: Direx N.V.

Of: E-Commerce Park Vredenberg
PO Box 423
Curacao

Attention:

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

ISSUE Direx N.V. a formal warning under section 64A of the IGA, for one or more contraventions of subsection 15(2A) of the IGA, being a civil penalty provision (see Attachment A).

Details of the contravention/s

As a result of the investigation into this matter, the ACMA has determined that:

Contravention of subsection 15(2A) of the IGA

- a. The Syndicate Casino service was available via the URL <https://syndicate.casino>
- b. The Syndicate Casino service offered gambling services, including casino-style games played for money
- c. The gambling service was provided in the course of carrying on a business.
- d. The gambling service was provided to customers using an internet carriage service.
- e. The service had an Australian customer-link.
- f. Direx N.V. is providing the Syndicate Casino service.
- g. The above matters establish that Direx N.V. is contravening subsection 15(2A) of the IGA.

Dated this 26 July 2020.

Rochelle Zurnamer
Delegate of the Australian Communications and Media Authority

Formal Warning

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

To: Direx Limited

Of: 12 Kolonakiou Street, West Block, 1st Floor, Office/Flat 101, Agios Athanasios
Limassol, Cyprus 4103

Attention:

I, Rochelle Zurnamer, delegate of the Australian Communications and Media Authority (ACMA), being satisfied that Direx Limited., has contravened subsection 15(2A) of the *Interactive Gambling Act 2001* (the IGA):

ISSUE Direx N.V. a formal warning under section 64A of the IGA, for one or more contraventions of subsection 15(2A) of the IGA, being a civil penalty provision (see Attachment A).

Details of the contravention/s

As a result of the investigation into this matter, the ACMA has determined that:

Contravention of subsection 15(2A) of the IGA

- a. The Syndicate Casino service was available via the URL <https://syndicate.casino>
- b. The Syndicate Casino service offered gambling services, including casino-style games played for money
- c. The gambling service was provided in the course of carrying on a business.
- d. The gambling service was provided to customers using an internet carriage service.
- e. The service had an Australian customer-link.
- f. Direx Limited is providing the Syndicate Casino service.
- g. The above matters establish that Direx Limited is contravening subsection 15(2A) of the IGA.

Dated this 26 July 2020.

Rochelle Zurnamer
Delegate of the Australian Communications and Media Authority

Attachment A - Key provisions of the *Interactive Gambling Act 2001*

Key definitions:

4 Definitions

designated interactive gambling service means:

- (a) a prohibited interactive gambling service; or
- (b) an unlicensed regulated interactive gambling service.

gambling service means:

- (a) a service for the placing, making, receiving or acceptance of bets; or
- (b) a service the sole or dominant purpose of which is to introduce individuals who wish to make or place bets to individuals who are willing to receive or accept those bets; or
- (c) a service for the conduct of a lottery; or
- (d) a service for the supply of lottery tickets; or
- (e) a service for the conduct of a game, where:
 - (i) the game is played for money or anything of value; and
 - (ii) the game is a game of chance or of mixed chance and skill; and
 - (iii) a customer of the service gives or agrees to give consideration to play or enter the game; or
- (f) a gambling service (within the ordinary meaning of that expression) that is not covered by any of the above paragraphs.

Unlicensed regulated interactive gambling service means a regulated interactive gambling service that is provided in contravention of subsection 15AA(3).

5 Prohibited interactive gambling services

- (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;
 - (ii) any other listed carriage service;
 - (iii) a broadcasting service;
 - (iv) any other content service;
 - (v) a datacasting service

Note: This definition relates to the offence provisions and civil penalty provisions set out in section 15 and Part 7A.

- (2) Subsection (1) has effect subject to subsection (3).

Excluded services

- (3) For the purposes of this Act, none of the following services is a **prohibited interactive gambling service**:

- (a) a telephone betting service;
- (aa) an excluded wagering service (see section 8A);
- (ab) an excluded gaming service (see section 8B);
- (aba) a place-based betting service (see section 8BA);
- (ac) a service that has a designated broadcasting link (see section 8C);
- (ad) a service that has a designated datacasting link (see section 8C);
- (ae) an excluded lottery service (see section 8D);
- (b) a service to the extent to which it relates to the entering into of contracts that are financial products within the meaning of Chapter 7 of the *Corporations Act 2001*;
- (ba) a wholesale gambling service;
- (bb) a trade promotion gambling service (see section 8BB);
- (c) an exempt service (see section 10).

8 Australian-customer link

For the purposes of this Act, 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.

8E Regulated interactive gambling service

- (1) For the purposes of this Act, a **regulated interactive gambling service** is:
- (a) a telephone betting service (see section 8AA); or
 - (b) an excluded wagering service (see section 8A); or
 - (c) an excluded gaming service (see section 8B); or
 - (d) a place-based betting service (see section 8BA); or
 - (e) a service that has a designated broadcasting link (see section 8C); or
 - (f) a service that has a designated datacasting link (see section 8C); or
 - (g) an excluded lottery service (see section 8D); or
 - (h) an exempt service (see section 10);
- where:
- (i) the service is provided in the course of carrying on a business; and
 - (j) the service is provided to customers using any of the following:
 - (i) an internet carriage service;
 - (ii) any other listed carriage service;
 - (iii) a broadcasting service;
 - (iv) any other content service;
 - (v) a datacasting service; and
 - (k) in the case of an exempt service—a determination under subsection (2) is in force in relation to the service.
- (2) The Minister may, by legislative instrument, determine that each exempt service included in a specified class of exempt services is covered by paragraph (1)(k).
- (3) Subsection (1) has effect subject to subsection (4).
- (4) For the purposes of this Act, neither of the following services is a **regulated interactive gambling service**:
- (a) a wholesale gambling service;
 - (b) a trade promotion gambling service (see section 8BB).

Civil penalty provisions:

15 Prohibited interactive gambling services not to be provided to customers in Australia

- (2A) A person must not provide a prohibited interactive gambling service that has an Australian-customer link (see section 8).

Civil penalty: 7,500 penalty units.

- (3) Subsections (1) and (2A) do not apply if the person:

- (a) did not know; and
- (b) could not, with reasonable diligence, have ascertained;

that the service had an Australian-customer link.

Note: In the case of proceedings for an offence against subsection (1), the defendant bears an evidential burden in relation to the matters in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).