

From: IG Taskforce </o=Messaging/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e5b0d2077dd44a2596e6e8fa2fb823bd-[REDACTED]>
Sent: Friday, 5 March 2021 12:03 PM
To: 'info@gcb.cw'
Subject: Correspondence from the ACMA to Gaming Control Board Curacao [SEC=OFFICIAL]
Attachments: Correspondence from ACMA to Gaming Control Board Curacao.pdf; Copy of Formal Warning to Digi Markets NV.pdf; Copy of Formal Warning to Speqta Media NV.pdf

Good morning,

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

Yours sincerely,

Interactive Gambling Team

Australian Communications and Media Authority

E igtaskforce@acma.gov.au

www.acma.gov.au



4 March 2021

Mr G.S. Campbell
Algemeen Directeur
Director General
Gaming Control Board Curaçao
Emancipatie Boulevard Dominico F. "Don" Martina 23
Willemstad
Curaçao

By email: info@qcb.cw

ACMA file reference: ACMA2020/333-12

Dear Mr Campbell

Contravention of the Australian *Interactive Gambling Act 2001* – Digi Markets N.V. and Speqta Media N.V.

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 GW Services set out at the end of this letter. The ACMA found that Digi Markets N.V. and Speqta Media N.V. contravened:

- > subsection 15(2A) of the IGA by providing prohibited interactive gambling services to Australian customers
- > subsections 61EA(1A) or 61EA(2A) of the IGA by publishing, or authorising or causing the publication of, designated interactive gambling service advertisements in Australia, that publicise or otherwise promote the gambling services.

On 11 December 2020 the ACMA advised Digi Markets N.V. and Speqta Media N.V. of the ACMA's preliminary contravention findings. No response was received.

The ACMA finalised the investigation on 1 February 2021. The ACMA issued a Formal Warning to each of Digi Markets N.V. and Speqta Media N.V. under section 64A of the IGA on 4 March 2021.¹

If Digi Markets N.V. and Speqta Media N.V. continue to provide prohibited interactive gambling services to persons physically located in Australia, or to publish, or to authorise or

¹ Please note that the ACMA has previously notified you about issuing a Formal Warning to Digi Markets N.V. for providing the following services in contravention of subsection 15(2A) of the IGA:

- > Formal Warning on 6 March 2018, for providing the GW Casino service
- > Formal Warning on 22 May 2018, for providing the Roo Casino service.

cause the publication of, designated interactive gambling service advertisements in Australia for such services, the ACMA may take further action.

I have attached a copy of the Formal Warnings issued to Digi Markets N.V. and Speqta Media N.V. 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 Curaçao to the regulation of online gaming in Curaçao. We understand that 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 Team at [REDACTED].

Thank you for your engagement in this process.

Yours sincerely,

[REDACTED]

[REDACTED]

Executive Manager
Content Safeguards Branch

Attached: Formal Warnings, Relevant provisions of the IGA.

GW Services:

- > GW Casino, available at the website www.gwcasino.com
- > Roo Casino, available at the website www.roocasino.com
- > Wager Beat, available at the website www.wagerbeat.com
- > All Spins Win, available at the website www.allspinswin.com
- > Bonza Spins, available at the website www.bonzaspins.com
- > Golden Pokies, available at the website www.goldenpokies.com
- > House of Pokies, available at the website www.houseofpokies.com
- > Pokie Mate available at the website www.pokiemate.com
- > Pokie Spins available at the website www.pokiespins.com
- > PokieZ service available at the website www.pokiez.com,

and also available at alternate websites that provide the same, or substantially similar, internet content and service as these original websites.

Formal Warning

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

To: Digi Markets N.V.

Of: Heelsumtraat 51 E-Commerce Park
P.O. Box 422
Curacao

Attention: [REDACTED]

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

ISSUE Digi Markets N.V. a Formal Warning under section 64A of the IGA, for one or more contraventions of subsection 15(2A) and subsections 61EA(1A) or 61EA(2A) of the IGA, being civil penalty provisions (see Attachment A).

Details of the contraventions

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

Contravention of subsection 15(2A) of the IGA

- a. The GW Casino, Roo Casino, Wager Beat, All Spins Win, Bonza Spins, Golden Pokies, House of Pokies, Pokie Mate, Pokie Spins, PokieZ services were available via the URLs www.gwcasino.com, www.roocasino.com, www.wagerbeat.com, www.allspinswin.com, www.bonzaspins.com, www.goldenpokies.com, www.houseofpokies.com, www.pokiemate.com, www.pokiespins.com, www.pokiez.com, and also available at alternate URLs that provide the same, or substantially similar, internet content and service as these original URLs (GW Services).
- b. The GW Services offered gambling services, including casino-style games played for money.
- c. The gambling services were provided in the course of carrying on a business.
- d. The gambling services were provided to customers using an internet carriage service.
- e. The GW Services had an Australian customer-link.
- f. Digi Markets N.V. is providing the GW Services.
- g. The above matters establish that Digi Markets N.V. is contravening subsection 15(2A) of the IGA.

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

- a. Content, in the form of writing and visual images, was made available in specific email(s) (**Advertisements**).

- b. The content of the Advertisements are designated interactive gambling service advertisements as they publicise or otherwise promote:
 - > the relevant GW Service both through repetitive use of the name of the service as well as its logo and branding
 - > the GW Service domain name which is used in the emails and is identical to the website
 - > designated interactive gambling services in general through text that describes casino-style games and offers bonuses and free games (or 'spins').
- c. Digi Markets N.V. published, or authorised or caused the publication of, these designated interactive gambling service advertisements in Australia, by disseminating, or authorising or causing the dissemination of, the Advertisements to a section of the public in Australia by email, sent from the GW Services as part of a mailing list.
- d. The publication of these designated interactive gambling service advertisements in Australia was not permitted by another specified section of the IGA, including sections 61EB, 61ED, 61EE or 61EF of the IGA.
- e. The above matters establish that Digi Markets N.V. is contravening subsections 61EA(1A) or 61EA(2A) of the IGA.

Dated this 4 March 2021



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 or else 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*).

15AA Unlicensed regulated interactive gambling services not to be provided to customers in Australia

- (3) A person must not provide a particular kind of regulated interactive gambling service if:
- (a) the service has an Australian-customer link (see section 8); 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.

Civil penalty: 7,500 penalty units.

- (5) Subsections (1) and (3) 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 (5) (see subsection 13.3(3) of the *Criminal Code*).

61EA Designated interactive gambling service advertisements not to be published in Australia

(1A) A person must not publish a designated interactive gambling service advertisement in Australia if:

- (a) the publication is not permitted by section 61EB; and
- (b) the publication is not permitted by section 61ED; and
- (c) the publication is not permitted by section 61EE; and
- (d) the publication is not permitted by section 61EF.

Civil penalty: 180 penalty units.

(2A) A person must not authorise or cause a designated interactive gambling service advertisement to be published in Australia if:

- (a) the publication is not permitted by section 61EB; and
- (b) the publication is not permitted by section 61ED; and
- (c) the publication is not permitted by section 61EE; and
- (d) the publication is not permitted by section 61EF.

Civil penalty: 180 penalty units.

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:

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):

ISSUE Speqta Media N.V. a Formal Warning under section 64A of the IGA, for one or more contraventions of subsection 15(2A) and subsections 61EA(1A) or 61EA(2A) of the IGA, being civil penalty provisions (see Attachment A).

Details of the contraventions

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

Contravention of subsection 15(2A) of the IGA

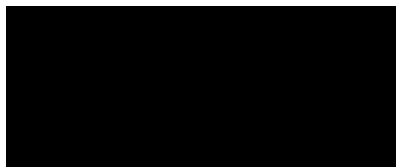
- a. The GW Casino, Roo Casino, Wager Beat, All Spins Win, Bonza Spins, Golden Pokies, House of Pokies, Pokie Mate, Pokie Spins, PokieZ services were available via the URLs www.gwcasino.com, www.roocasino.com, www.wagerbeat.com, www.allspinswin.com, www.bonzaspins.com, www.goldenpokies.com, www.houseofpokies.com, www.pokiemate.com, www.pokiespins.com, www.pokiez.com, and also available at alternate URLs that provide the same, or substantially similar, internet content and service as these original URLs (GW Services).
- b. The GW Services offered gambling services, including casino-style games played for money.
- c. The gambling services were provided in the course of carrying on a business.
- d. The gambling services were provided to customers using an internet carriage service.
- e. The GW Services had an Australian customer-link.
- f. Speqta Media N.V. is providing the GW Services.
- g. The above matters establish that Speqta Media N.V. is contravening subsection 15(2A) of the IGA.

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

- a. Content, in the form of writing and visual images, was made available in specific email(s) (**Advertisements**).

- b. The content of the Advertisements are designated interactive gambling service advertisements as they publicise or otherwise promote:
 - > the relevant GW Service both through repetitive use of the name of the service as well as its logo and branding
 - > the GW Service domain name which is used in the emails and is identical to the website
 - > designated interactive gambling services in general through text that describes casino-style games and offers bonuses and free games (or 'spins').
- c. Speqta Media N.V. published, or authorised or caused the publication of, these designated interactive gambling service advertisements in Australia, by disseminating, or authorising or causing the dissemination of, the Advertisements to a section of the public in Australia by email, sent from the GW Services as part of a mailing list.
- d. The publication of these designated interactive gambling service advertisements in Australia was not permitted by another specified section of the IGA, including sections 61EB, 61ED, 61EE or 61EF of the IGA.
- e. The above matters establish that Speqta Media N.V. is contravening subsections 61EA(1A) or 61EA(2A) of the IGA.

Dated this 4 March 2021



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 or else 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
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 - (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*).

15AA Unlicensed regulated interactive gambling services not to be provided to customers in Australia

- (3) A person must not provide a particular kind of regulated interactive gambling service if:

- (a) the service has an Australian-customer link (see section 8); 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.

Civil penalty: 7,500 penalty units.

- (5) Subsections (1) and (3) 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 (5) (see subsection 13.3(3) of the *Criminal Code*).

61EA Designated interactive gambling service advertisements not to be published in Australia

(1A) A person must not publish a designated interactive gambling service advertisement in Australia if:

- (a) the publication is not permitted by section 61EB; and
- (b) the publication is not permitted by section 61ED; and
- (c) the publication is not permitted by section 61EE; and
- (d) the publication is not permitted by section 61EF.

Civil penalty: 180 penalty units.

(2A) A person must not authorise or cause a designated interactive gambling service advertisement to be published in Australia if:

- (a) the publication is not permitted by section 61EB; and
- (b) the publication is not permitted by section 61ED; and
- (c) the publication is not permitted by section 61EE; and
- (d) the publication is not permitted by section 61EF.

Civil penalty: 180 penalty units.