



Part 13 of the *Broadcasting Services Act 1992*

Subsection 173(1)

NOTICE TO PROVIDE DOCUMENTS AND INFORMATION

To: **Authenticate Solutions Pty Ltd (ACN 624 762 269)**

At: [REDACTED]

Attention: **Timothy Joseph Hart and James Lindsay Cameron, Directors**

The Australian Communications and Media Authority (the **ACMA**) for the purposes of an investigation conducted under subparagraph 21(1)(a)(i) of the *Interactive Gambling Act 2001* (the **IGA**), into whether the provision of the Relevant Online Services, defined in Schedule A to this notice, an online gambling service contravened Part 2 of the IGA because those at services is are prohibited interactive gambling services and/or an unlicensed regulated interactive gambling services with an Australian-customer link (the **investigation**),

HEREBY gives notice under paragraph 173(1)(b) of the *Broadcasting Services Act 1992* (the **BSA**) requiring Authenticate Solutions Pty Ltd (**Authenticate Solutions**) to provide to the ACMA, by the time and date specified below, the documents and information specified in Schedule B to this Notice relevant to the subject matter of the investigation.

Background

1. The ACMA has certain investigative powers under Part 13 of the BSA, including the power to give this Notice, and Section 22 of the IGA provides for the use of those powers in relation to IGA compliance investigations commenced under section 21 of the IGA.
2. The ACMA may conduct investigations under section 21 of the IGA into whether a person has contravened a provision of Part 2 of the IGA.
3. Under Part 2 of the IGA, a person must not provide a prohibited interactive gambling service (see subsection 15(2A)) and an unlicensed regulated interactive gambling service (see subsection 15AA(3)) that has an Australian-customer link.
4. Where a regulated interactive gambling service, within the meaning of section 8E of the IGA, has an Australian-customer link the person providing the service must 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.
2. Where a 'gambling service' is provided in the course of carrying on a business and using an internet carriage service, it is a type of service which would be a prohibited interactive gambling service, unless a relevant exclusion applies (see section 5 of the IGA). An online gambling service with an Australian customer link which is a service for the

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placing, making, receiving or acceptance of bets, or which is played for money and provided in the course of carrying on a business, is a type of service which is a prohibited interactive gambling service, unless a relevant exclusion applies (see paragraph (e) of the 'gambling service' definition in section 4 of the IGA and section 5 of the IGA).

The ACMA ~~is pursuing~~has commenced an investigation under section 21 of the IGA into whether a person has contravened Part 2 of the IGA in relation to the provision of prohibited and/or unlicensed regulated interactive gambling services with an Australian-customer link via the ~~websites~~Relevant Online Services defined in Schedule A.

~~5. During the ACMA's investigations, the ACMA identified Relevant Entities defined in Schedule A and is investigating their possible involvement in the provision of these online services. This includes~~ [REDACTED]

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~~6. Information that the ACMA has acquired indicates that there was a commercial arrangement between ISIGNTHIS EMONEY (AU) Pty Ltd (now Authenticate Solutions Pty Ltd) and~~ [REDACTED]

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~~7. 1. During the ACMA's investigations, the ACMA identified Relevant Entities defined in Schedule A and is investigating their possible involvement in the provision of these online services. This includes~~ [REDACTED]

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8. The documents and other information required by this Notice are relevant to the subject matter of the investigation.

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Time: 5:00pm (AEDT)

Date: **INSERT**

To: Australian Communications and Media Authority
Level 5, 65 Pirrama Road, Pyrmont NSW 2009

Marked to the attention of: [REDACTED]

You must provide the documents and information in a digital format to the ACMA:

- (a) in person;
- (b) by receipted courier delivery;
- (c) by registered mail delivery;
- (d) via secure file sharing application; or
- (e) via email to [REDACTED] and igtaskforce@acma.gov.au, unless the content of the email exceeds 10MB, in which case it must be provided in one of the manners listed above at (a) to (d).

Field Code Changed

Words in this Notice, including the Schedules to this Notice, have the meanings set out in Schedule A to this Notice.

TAKE NOTE:

1. Subsection 202(2) of the BSA provides that it is an offence for a person required to answer a question, to give evidence or to produce documents under Part 13 of the BSA to:
 - (a) when required to take an oath or make an affirmation, refuse or fail to take the oath or make the affirmation; or

- (b) refuse or fail to answer a question that the person is required to answer; or
- (c) refuse or fail to produce a document that the person is required to produce.

A person convicted of this offence may be liable to imprisonment for one year.

Subsection 202(2A) of the BSA provides that a person will not be liable if the person has a reasonable excuse (see too subsections 202(3) and (4)). In criminal proceedings, a defendant bears an evidential burden if relying on the reasonable excuse defence (see subsection 13.3(3) of *the Criminal Code*).

2. Subsection 202(2AA) of the BSA has the effect that the ACMA may institute proceedings for a civil penalty order if, a person required to answer a question, to give evidence or to produce documents under Part 13 of the BSA:
 - (a) when required to take an oath or make an affirmation, refuses or fails to take the oath or make the affirmation; or
 - (b) refuses or fails to answer a question that the person is required to answer; or
 - (c) refuses or fails to produce a document that the person is required to produce.

Subsection 202(2A) of the BSA provides that a person will not be liable for a civil penalty if the person has a reasonable excuse (see too subsections 202(3) and (4)). A person who wishes to rely on subsection 202(2A) in proceedings for a civil penalty order bears an evidential burden in relation to that matter (see subsection 202(2B) of the BSA).

3. Giving false or misleading information or documents is a serious offence (see sections 137.1 and 137.2 of the *Criminal Code*).

Dated: [insert].

Executed by the Australian Communications and Media Authority.

Signature of Member

Signature of Member/General Manager

Name (Please print)

Name (Please print)

SCHEDULE A – DEFINITIONS

In the Notice, unless the context otherwise requires:

The singular includes the plural and vice versa.

Terms that are defined in the *Broadcasting Services Act 1992* have the same meaning as in that Act.

Terms that are defined in the *Interactive Gambling Act 2001* have the same meaning as in that Act.

ACMA means the Australian Communications and Media Authority.

agreement includes contracts, written agreements and/or oral agreements.

alternate website means a website that provides access to the same or substantially similar internet content and service as the original website referred to in the definition of Relevant Online Services.

Authenticate Solutions means Authenticate Solutions Pty Ltd (ACN: 624 762 269) and any of its ~~and includes its operation under~~ former names including SC Payments AU Pty Ltd, ISIGNTHIS AUSTRALIA Pty Ltd, ISX Financial Pty Ltd and ISIGNTHIS EMONEY (AU) Pty Ltd.

contact details means the physical address, telephone number and email or other electronic address, the Australian Company Number (ACN), Australian Business Number (ABN), Australian Registered Body Number (ARBN) and any other information that could reasonably assist in identifying and contacting the Person in question.

document means any record of information and includes:

- (a) anything on which there is writing ~~and~~
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them ~~and~~
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else ~~and~~
- (d) a map, plan, drawing or photograph.

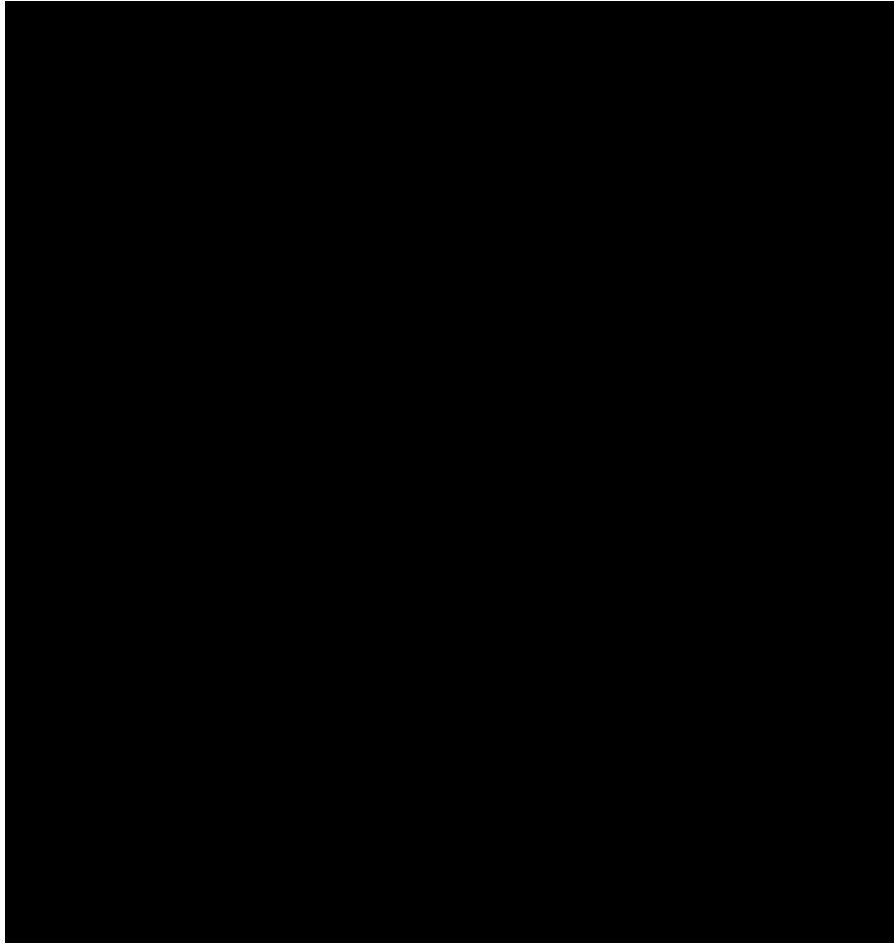
person includes a body corporate as well as an individual.

record includes information stored or recorded by means of a computer.

relevant entities means each of the following:

[REDACTED]
[REDACTED]
[REDACTED]

relevant online services means each of the following:



relevant period means the period between 1 March 2019 and the date of this Notice (both inclusive).

SCHEDULE B - DOCUMENTS AND INFORMATION REQUIRED TO BE PROVIDED

Documents and information to be provided

1. For the Relevant Period:
 - (a) Describe the services supplied by Authenticate Solutions to any person in connection with the Relevant Online Services and Relevant Entities, including any services for the processing or transfer of customer deposits or services for customer authentication for any of the Relevant Online Services and Relevant Entities.
 - (b) Specify the dates or date ranges on or during which Authenticate Solutions supplied each of the services referred to in the response to paragraph 1(a).
 - (c) Identify and provide the all known names and Contact Details of all Persons to whom Authenticate Solutions had dealings in connection with the supply of the services referred to in the response to paragraph 1(a), including Persons outside of Australia, and the directors and principals and key representatives of those Persons (if any).
 - (d) Identify and provide the name and Contact Details of any Persons to whom Authenticate Solutions sent invoices for payment for the services referred to in the response to paragraph 1(a).
 - (e) For any invoices issued by Authenticate Solutions for any of the services referred to in the response to paragraph 1(a), identify each method used to make payment of these invoices and:
 - (i) where payment was made by bank transfer, provide all known details of any bank accounts used, including the name of the bank, the name of the bank's customer, the BSB number and the account number;
 - (ii) where payment was made by credit or debit card, provide all known details identifying the Person making the payment, including the issuer of card, the name on the card, the account number on the card and the expiry date of the card; and
 - (iii) where any other method of payment was used, provide a description of that method of payment and all known contact details identifying the Person making the payment and the source of the funds.
2. Provide all known the names and Contact Details of all Persons that Authenticate Solutions knows or understands, to be operating, or to have operated, or to otherwise have been in any way connected or involved with the Relevant Online Services or Relevant Entities during the Relevant Period, including Persons outside of Australia, and the directors and principals and key representatives of those persons (if any).
3. For each Person identified in the responses to paragraphs 1(c), 1(d) and 2, provide:
 - (a) the dates or date ranges on or during which that person was known or understood to be operating or otherwise connected or involved with each of the Relevant Online Services and Relevant Entities; and

- (b) a description of their association with the Relevant Online Services or Relevant Entities.

Documents to be provided

4. In respect of each of the services supplied by the Authenticate Solutions during the Relevant Period referred to in the response to paragraph 1(a), provide copies of the following Documents:
- (a) Records relating to any contract or understanding to which Authenticate Solutions was a party relating to the supply by Authenticate Solutions of the services; and
 - (b) all billing Records and other Records relating to payment for those services.
5. Provide copies of all Records of communications (including emails, letters and Records of telephone conversations or meetings) during the Relevant Period between Authenticate Solutions and:
- (a) Persons identified in the responses to paragraphs 1(c), 1(d) and 2, and
 - (b) the Relevant Entities.

