

## Authority submission

Meeting date: 1 February 2024

Agenda item no: (Authority Secretariat to insert number)

Title: Investigation into [REDACTED] - giving of notices under paragraph 173(1)(b) of the *Broadcasting Services Act 1992* (BSA)

Description: This paper seeks the Authority's approval to give notices under paragraph 173(1)(b) of the BSA requiring the production of documents and information about [REDACTED] and associated entities that are currently being investigated for providing prohibited interactive gambling services under the *Interactive Gambling Act 2001* (IGA).

### RECOMMENDATION

That the Authority:

**AGREE** to give notices under paragraph 173(1)(b) of the BSA for the purpose of requiring the entities and individual below to provide documents and information relevant ~~to to the~~ subject matter of this investigation: investigating possible contraventions of the IGA:

- [REDACTED] in the form set out in **Attachment A**.
- [REDACTED] in the form set out in **Attachment B**.
- Authenticate Solutions Pty Ltd in the form set out in **Attachment C**.

### TIMING

There is no statutory deadline. The ACMA has adopted internal Key Performance Indicators (KPIs) for 95% of investigations into interactive gambling matters ~~for 95%~~ to be completed within six months. A new investigation was commenced on 31 January 2024.

Commented [DP1]: Note: New investigation to be commenced prior to the authority meeting

### COMMITTEE OR PROJECT BOARD CONSIDERATION

- ☐ Content Committee ☐ Compliance Priority (please specify)
- ☐ Spectrum Committee
- ☐ Telecommunications and Consumer Committee ☐ Project Board (please specify)
- ☐ Compliance and Enforcement Committee

Paper by: [REDACTED]

Cleared by: GM: Autumn Field EM: Rochelle Zurnamer

Legal contact officer: [REDACTED]

File no.: PJ17/18

## INVESTIGATION INTO [REDACTED] – NOTICES

### BACKGROUND

1. The IGA prohibits certain interactive gambling services with an Australian-customer link from being provided or advertised to Australians. Prohibited interactive gambling services include online casino-style services and services which provide in-play betting on sporting events. Regulated interactive gambling services such as online wagering and lottery services with an Australian-customer link can be provided if to Australians as long as a relevant licence issued by an Australian state or territory regulator is held.
2. We have investigated the 17 online gambling services [REDACTED] listed in **Attachment D**. In each case, we have found that the services were being provided in contravention of subsection 15(2A) and/or 15AA(3) of the IGA, because they are prohibited and/or unlicensed regulated interactive gambling services with an Australian-customer link. These services were all found to be provided by [REDACTED]
3. [REDACTED]
4. Enforcement options to date have been limited [REDACTED] that are actually in control.
5. The [REDACTED] have a large market presence and are causing significant harm to the Australian community, based on the large number of complaints received about services<sup>2</sup> and the ongoing creation of mirror sites following website blocking. In addition, the majority of these services continue to have substantial Australian traffic each month.<sup>3</sup>
6. We have identified several entities related to the [REDACTED] Services in **Attachment D** including:
  - (a) [REDACTED]
  - (b) [REDACTED]
  - (c) [REDACTED]
7. A map outlining the relationships between [REDACTED] and its associated entities is at **Attachment E**.

<sup>1</sup> A mirror website is where the internet content and service of a website is the same as, or substantially similar to, that available at the primary website when it was investigated previously by the ACMA.

<sup>2</sup> Since the first complaint was received in October 2018 to December 2023, we have received 37 complaints about the [REDACTED] Services.

<sup>3</sup> For example, during a 6-month period (between June and November 2023), there were over 2.3 million visits to the [REDACTED] service from Australia.

Commented [JL4]: Pending finalisation of latest 2 investigations

Commented [RZ6]:

Commented [JK8]: include a footnote to explain what mirror sites are

8.

#### Power to compulsorily gather information

9. The ACMA has the power under Part 13 of the BSA to compulsorily gather [documents or other information relevant to the subject matter of information in respect of](#) investigations under the IGA. (See subsection 22(3) of the IGA, section 170 of the BSA and subparagraph 10(1)(o)(iii) of the *Australian Communications and Media Authority Act 2005* (the **ACMA Act**), as set out in **Attachment F** to this paper).
10. The power to give notices under paragraph 173(1)(b) of the BSA cannot be delegated due to a limitation on powers that can be delegated imposed by paragraph 53(2)(k) of the ACMA Act (excerpt in **Attachment F**).

#### DISCUSSION

11. We have obtained information that indicates that providers of the [REDACTED] in **Attachment D**, have had dealings with certain Australian individuals or entities incorporated in Australia. We propose giving notices under paragraph 173(1)(b) of the BSA (**Statutory Notices**) to the entities [and individual](#) listed below, [REDACTED]
12. The purpose of each notice is to obtain information about the person(s) representing the [REDACTED] (defined as the relevant online services in each notice) or relevant entities, in any dealings with these Australian entities [and individual](#). This may provide information about the entities and individuals associated with and providing the relevant online services.
13. The scope of information/documents required under each notice is similar and includes details of any goods, services or other dealings (depending on the notice) provided in relation to the relevant online services and/or relevant entities, contact and payment details and any related contracts or understandings, billing records or correspondence. The notices also require details of any persons known to operate or otherwise be involved with the relevant services or entities.

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[REDACTED]

[REDACTED]

Commented [DP13]: Note - not listed on ASIC

Commented [DP14]: Query to LSD - Is it preferred to issue a notice to the business, ie [REDACTED], rather than its sole proprietor [REDACTED]?

**Authenticate Solutions Pty Ltd (formerly ISIGNTHIS EMONEY (AU) Pty Ltd) (ACN: 624 762 269) (Authenticate Solutions)**

19. Authenticate Solutions Pty Ltd is an Australian FinTech company with registered offices in Melbourne. Authenticate Solutions was known as ISIGNTHIS eMoney (AU) Pty Ltd between March 2018 and November 2020.<sup>6</sup> The company provides financial technology software solutions for customer onboarding, identity verification, core banking and e-wallet solutions.<sup>7</sup>

20. Authenticate Solutions is a wholly owned subsidiary of ISX Financial EU PLC, an offshore company registered in Cyprus.

21. [REDACTED]

[REDACTED]

**RISKS/SENSITIVITIES**

22. Green - The risk of giving these notices is considered to be low.

23. [REDACTED]

24. [REDACTED]

<sup>6</sup> Authenticate Solutions was known as ISX Financial Pty Ltd between November 2020 and December 2021 and ISIGNTHIS AUSTRALIA PTY LTD from December 2021 to March 2023.

25.

#### **CONSULTATION:**

26. The Legal Services Division (LSD) reviewed the notices in **Attachments A, B, C** and this paper. The notices and this paper are consistent with the advice provided by LSD.

#### **COMMUNICATIONS**

27. Communications strategy required? No.

28. Ministerial briefing required? No.

#### **REGULATORY IMPACT ANALYSIS PROCESS**

29. We have considered whether a regulatory impact analysis process is required and formed the view that the recommendation in this submission would not give rise to a regulatory change as defined by the Office of Impact Analysis (OIA). Therefore, a regulatory impact analysis process has not been applied.

#### **STATEMENTS OF COMPATIBILITY (SOC) WITH HUMAN RIGHTS**

30. N/A

#### **ATTACHMENTS**

- A** [REDACTED]
- B** [REDACTED]
- C** Notice to Authenticate Solutions Pty Ltd
- D** Background – relevant online gambling services
- E** Map of related entities
- F** Key legislative provisions referred to in this paper