

28 March 2024

██████████
Acting Manager, Gambling Compliance Team
ACMA
PO Box Q500, Queen Victoria Building, NSW 1230

By email: ██████████

Dear ██████████

Re: Investigation of gambling advertising in various football matches broadcast on Optus Sport ACMA file reference: BI-000688

Please find below the information requested in your letter dated 18 March 2024 in relation to various La Liga and English Premier League football matches broadcast on Optus Sport.

Optus takes its obligations to comply with the Broadcasting Services (Online Content Service Provider Rules) 2018 ("**Online Rules**") and the Interactive Gambling Act 2001 ("**IGA**") seriously. Optus submits that its activities are in compliance with the provisions of the Online Rules and the IGA for the following reasons:

1. Online Rules – re Optus Sport's live coverage of La Liga and English Premier League

To the extent that any of the advertisements in the La Liga live stream or English Premier League live stream fall within the ambit of Parts 3 and 4 of the Online Rules, Optus is entitled to the exceptions under ss.18(2) and (3).

In each case:

- a) the applicable sporting event originates from outside Australia (Spain or England as applicable);
- b) Optus did not add the gambling promotional content;
- c) it is not reasonably practicable for Optus to remove the gambling promotional content given the nature of the international live feeds provided to Optus, including the intermittent nature of the gambling promotional content and that Optus has no forewarning of when that content will feature in the live stream; and
- d) Optus did not receive any direct or indirect benefit in relation to the gambling promotional content.

For completeness we note that the Online Rules do not apply to the La Liga highlights given the highlights were not provided in conjunction with the live coverage of a sporting event.

2. Interactive Gambling Act 2001 (Cth)

I note that your investigation will also consider Optus's compliance with ss.61DA and 61EA of the IGA. Optus does not comment on the nature of the gambling services the subject of

the advertisements in the La Liga highlights, La Liga live stream or English Premier League live stream and whether they fall within the ambit of ss. 61DA and 61EA of the IGA. However, to the extent that any of them do fall within the ambit of those sections, Optus is entitled to the benefit of the exceptions in ss. 61DB and/or 61ED.

The inclusion of the applicable advertisement is no more than an incidental accompaniment to the provision of the highlights package or stream of the game, as applicable. In each case, the advertisement is clearly subordinate to the event being streamed or provided by Optus, consistent with well-established precedent in Australia.¹

As also noted above, Optus does not receive any direct or indirect benefit (whether financial or not) from the inclusion of the advertisement in the applicable content.

A. Information requested

In responding to your information requests below (using your numbering), I have set out your request in *italic* and our response in **bold**.

1. *For the La Liga live stream can you:*

a. *provide a copy of the live stream.*

Please find a link to a copy of the La Liga live stream, that contains the relevant advertising that is the subject of the complaint, here:

<https://www.dropbox.com/scl/fo/iqtqflwqqat1qiox4l34q/h?rlkey=xzlvkdsi82pm3vfnncff2meba&dl=0>

We will send you the password separately.

b. *confirm:*

i. *the time that the live match coverage commenced and ended.*

The coverage commenced at 05:10 AEDT and ended at 07:10 AEDT, 4 January 2024.

ii. *the published scheduled start of play.*

The published scheduled start of play was 05:10 AEDT, 4 January 2024.

Virtual advertisements

2. *For the La Liga live stream, were virtually inserted gambling advertisements included in the live stream, and if so: **Yes, there was a virtual advertisement for Kaiyun appearing as goal-line signage at the venue which was already embedded in and***

¹ See for example *Director of Public Prosecutions v United Telecasters Sydney Ltd* (1990) 168 CLR 594; 91 ALR 1; *Rothmans of Pall Mall (Aus) Ltd v Australian Broadcasting Tribunal* (G 377 of 1984) (1985) 58 ALR 675; *Re Action on Smoking and Health Limited v Australian Broadcasting Tribunal, TCN Channel Nine Pty Limited and Philip Morris Limited* [1992] FCA 218; and *Channel Seven Adelaide Pty Ltd v Australian Communications and Media Authority* [2014] FCAFC 32.

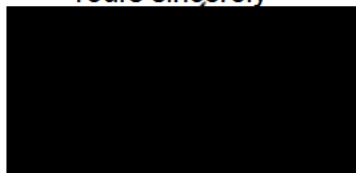
visible throughout the La Liga live stream when the goal-line was in view of the camera as per the screenshot attached at Annexure A to this letter. We confirm that other than this virtual advertisement, any other gambling advertisements in the La Liga live stream were physical advertisements as part of the applicable match, such as a field barrier, scoreboard or other signage at the venue.

- a. *was Optus responsible for inserting them?* **No**, the virtual advertisements were already embedded in the live feed that was delivered by La Liga to rightsholders including Optus.
 - b. *did Optus receive a financial benefit for inserting them?* **No**, Optus received no direct or indirect benefit from this advertising.
3. *For the La Liga highlights, were virtually inserted gambling advertisements for Kaiyun included, and if so: Yes (on the same basis as per our answer to 2 above).*
 - a. *was Optus responsible for inserting them?* **No** (as per our answer to 2.a. above).
 - b. *did Optus receive a financial benefit for inserting them?* **No**, Optus received no direct or indirect benefit from this advertising.
4. *For the English Premier League matches live streams, were advertisements for 8XBET, BK8, W88 and Parimatch virtually inserted, and if so, No, each one of these advertisements existed as a physical advertisement as part of the applicable match, such as a field barrier, scoreboard or signage at the venue.*
 - a. *was Optus responsible for inserting them?* **No – N/A**
 - b. *did Optus receive a financial benefit for inserting them?* **No – N/A**

Attached at Annexure A to this letter are excerpts of the La Liga and English Premier League matches showing examples of the relevant advertising content in question.

I trust this information and response addresses your concerns. Please contact me if you have any further questions or wish to discuss the above.

Yours sincerely



Head of Regulatory

Annexure A – Relevant Advertising Content Examples

La Liga Virtual Advertising

(Next To Goal-Line)



La Liga Field Barrier Advertising Signage at the venue



Premier League Field Barrier Advertising Signage at the venue

