

IG Taskforce

From: IG Taskforce <IGTaskforce@acma.gov.au>
Sent: Thursday, 30 January 2020 2:13 PM
To: 'info@gcb.cw'
Subject: CM: Notification of formal warning for contravention of the Australian Interactive Gambling Act 2001 - Olimpbet N.V. [SEC=OFFICIAL]
Attachments: Letter from ACMA to Gaming Control Board Curacao- Olimpbet N.V..pdf; Formal warning from the ACMA to Olimpbet N.V..pdf

Dear Mr Campbell,

Please see attached a letter from the Australian Communications and Media Authority advising that Olimpbet N.V. has been issued with a Formal Warning for contravening the Australian *Interactive Gambling Act 2001*.

Kind Regards,

Interactive Gambling Taskforce

Australian Communications and Media Authority

E igtaskforce@acma.gov.au

www.acma.gov.au



30 January 2020

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

By email: info@gcb.cw

ACMA file reference: ACMA2018/141-41

Dear Mr Campbell

Contravention of the Australian *Interactive Gambling Act 2001* – Olimpbet 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 services made available at <https://www.olimpbet.com>. The ACMA found that Olimpbet N.V. contravened each of subsections 15(2A) and 15AA(3) of the IGA by:

- > providing a prohibited interactive gambling service to Australian customers
- > providing an unlicensed regulated interactive gambling service to Australian customers.

On 24 May 2019, the ACMA advised Olimpbet N.V. of the ACMA's preliminary contravention findings. No response was received.

The ACMA finalised the investigation on 19 June 2019. The ACMA issued a Formal Warning to Olimpbet N.V. under section 64A of the IGA on 30 January 2020.

If Olimpbet N.V. continues to provide prohibited and/or unlicensed regulated interactive gambling services to persons physically located in Australia, the ACMA may take further action.

I have attached a copy of the Formal Warning issued to Olimpbet 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]

Thank you for your engagement in this process.

Yours sincerely,

A large black rectangular redaction box covering the signature of the sender.

A/g Executive Manager
Content Safeguards Branch

Attached: Formal Warning, Relevant provisions of the IGA

Formal Warning

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

To: Olimpbet N.V.

Of: Heelsumstraat 51 E-Commerce Park
Curacao

Attention: [REDACTED]

I, Rochelle Zurnamer, delegate of the Australian Communications and Media Authority (ACMA), being satisfied that Olimpbet N.V., has contravened subsection 15(2A) and 15AA(3) of the *Interactive Gambling Act 2001* (the IGA):

ISSUE Olimpbet N.V. a formal warning under section 64A of the IGA, for one or more contraventions of each of subsection 15(2A) and 15AA(3) of the IGA, being civil penalty provisions (see Attachment A).

Details of the contravention/s

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

Contravention of subsections 15(2A) and 15AA(3) of the IGA

- a. The Olimp service was available via the URL <https://www.olimp.com>.
- b. The Olimp service offered gambling services, including casino-style games played for money, wagering services and live in-play betting on sporting events.
- 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. Olimpbet N.V. is providing the Olimp service.
- g. Olimpbet N.V. is not licensed by an Australian State or Territory to provide regulated interactive gambling services to Australians.
- h. The above matters establish that Olimpbet N.V. is contravening subsections 15(2A) and 15AA(3) of the IGA.

Dated this 30 January 2020

[REDACTED]

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*).

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*).