

Formal Warning

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

To: Mr Martin Robinson

I, [REDACTED], delegate of the Australian Communications and Media Authority (ACMA), being satisfied that you have contravened subsections 61EA(1A) and 15(2A) of the *Interactive Gambling Act 2001* (the IGA):

HEREBY issue you a formal warning under section 64A of the IGA, for one or more contraventions of each of subsections 61EA(1A) and 15(2A) of the IGA, being civil penalty provisions.

Details of the contravention/s

Obligations under the IGA

1. Subsection 15(2A) of the IGA provides that a person must not provide a prohibited interactive gambling service that has an Australian customer link.
2. A 'prohibited interactive gambling service' is defined in section 5 of the IGA and 'gambling service' is defined in section 4 of the IGA. Under section 8 of the IGA, 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.
3. Subsection 61EA(1A) of the IGA provides that a person must not publish a designated interactive gambling service advertisement in Australia if the publication is not permitted by another specified section of the IGA (including sections 61EB, 61ED, 61EE or 61EF of the IGA).
4. Subsection 64B(1) of the IGA provides that each civil penalty provision under the IGA is enforceable under Part 4 of *Regulatory Powers (Standard Provisions) Act 2014* (the RPA). Paragraph 92(1)(d) of the RPA provides that a person must not 'be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of a civil penalty provision'.
5. Under subsection 92(2) of the RPA, an ancillary who contravenes subsection 92(1) in relation to a civil penalty provision is taken to have contravened the relevant civil penalty provision.

Investigation

6. Under section 21 of the IGA, on 10 May 2024, the ACMA commenced an investigation into whether the provider of the Pokiesman:
 - > published, or authorised or caused the publication of, designated interactive gambling service advertisements in Australia, that publicise or otherwise promote online casino-style services that are prohibited interactive gambling services, on the Pokiesman website, in contravention of subsection 61EA(1A) of the IGA.
 - > provided prohibited interactive gambling services in contravention of the IGA by operation of section 92 of the RPA.

7. During the period of the investigation the Pokiesman service was available via the URL <https://pokiesman.com>.
8. You are the provider of the Pokiesman service.

Contravention of subsection 61EA(1A) of the IGA


9. The Pokiesman service contains content that constitutes advertising in the form of writing and visual images on a website and includes:
 - > branding images and logos from online casino-style services, included as content in reviews and listings of online casino services
 - > direct hyperlinks to the websites that make available these online casino-style services
 - > text that encourages use of the online casino-style services, by referring to bonuses and statements about the trustworthiness of the services.
10. The ACMA has previously found that a number of the online casino-style services advertised on the Pokiesman service are prohibited interactive gambling services that have an Australian-customer link, which are provided in breach of subsection 15(2A) of the IGA.
11. The ACMA is satisfied that these advertisements were published in Australia as they were viewed by staff physically present in Australia using an Australian IP address. The advertising was also targeted to Australians, indicated by the following:
 - > the text of the website frequently refers to the service being targeted at Australians
 - > the text of the website includes Australian slang such as 'Aussies' and 'pokies'
 - > the advertisements refer to cash bonuses and prizes in Australian dollars
 - > the website header displays 'Best Online Pokies in Australia 2024'.
12. The publication of these advertisements in Australia was not permitted by another specified section of the IGA, including sections 61EB, 61ED, 61EE or 61EF of the IGA.
13. Therefore, the ACMA is satisfied that you, as the provider of the Pokiesman service, contravened the IGA by publishing designated interactive gambling service advertisements in Australia on the Pokiesman service, that publicise or otherwise promote online casino-style services that are prohibited interactive gambling services, in contravention of subsection 61EA(1A) of the IGA.

Contravention of subsection 15(2A) of the IGA

14. The ACMA has previously found that a number of the casino-style services advertised on Pokiesman are prohibited interactive gambling services that have an Australian-customer link (prohibited services), which are provided in breach of subsection 15(2A) of the IGA.
15. The Pokiesman service publishes information that is intentionally aimed at enabling customers to access and play on the prohibited services, including customers from Australia. By providing links on its website to the prohibited services, the Pokiesman service assists the prohibited services to sign up Australian consumers to their gambling services.
16. The ACMA is satisfied that you, as the provider of the service, had actual knowledge of the essential matters constituting the contravention of subsection 15(2A) of the IGA by the prohibited services. Consequently, you are knowingly concerned in and an intentional participant in, the contravention of subsection 15(2A) of the IGA.

Dated this 24 July 2024




Delegate of the Australian Communications and Media Authority