

IN THE HIGH COURT OF JUSTICE

BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES

COMMERCIAL COURT



Claim No. CC-2023-000850

BETWEEN:

ENTAIN HOLDINGS (NETHERLANDS) B.V.

Claimant

- and -

(1) SPORTS ENTERTAINMENT MEDIA B.V.

(2) MR GERADUS LEONARDUS SINGELS

(3) MR PIET FRANCISCUS SINGELS

(4) MR DAVE JOSEPH SINGELS

(5) MR MELVIN BOSTELAAR

(6) MR JOSEPH JOEY SINGELS

(7) MR DAVE SINGELS

(8) MR ROBERT KOOIMAN

(9) MR MAXIME SINGELS

(10) MS BARBARA MICKY SINGELS

Defendants

PARTICULARS OF CLAIM



The Parties

1. The Claimant is a private company with limited liability (*bepaalde vennootschap met beperkte aansprakelijkheid*) incorporated in the Netherlands, with its registered office at [REDACTED]. The Claimant is part of the Entain group of companies and is the holding company for part of the Entain group's sports betting and gambling business in the Netherlands.
2. The First Defendant ("SEM") is also a private limited company incorporated in the Netherlands with its registered address at [REDACTED]. SEM established and operated Betent B.V. (trading as BetCity) ("**Betent**"), a private limited company incorporated in the Netherlands, which operates a sports betting and remote gambling business in the Netherlands.
3. The Second – Tenth Defendants are individuals whom the Claimant understands to be resident in the Netherlands and the shareholders (directly or via wholly owned special purpose vehicles) in SEM. With the exception of the Fifth and Eighth Defendants, each is a member of the Singels family, which developed the business of SEM and Betent (amongst other businesses).
4. The Second and Fifth Defendants were at all relevant times, the directors of SEM and remain directors of SEM.

Overview of claim

5. By these proceedings the Claimant claims damages for breach of warranty and breach of covenant in relation to its purchase of Betent from SEM. In summary:
 - (1) Pursuant to an agreement for the sale of Betent dated 13 June 2022, the Defendants gave numerous warranties as to Betent's compliance with the terms of its licence from the Dutch gambling regulator, and with applicable law, and confirming that there were no pending or ongoing proceedings against it.
 - (2) In fact, at the date of that agreement there were two ongoing investigations into Betent by the Dutch gambling regulator. The Defendants did not disclose either



investigation before the agreement was signed, nor did they disclose the misconduct which was the subject of those investigations.

- (3) In November 2022, the Claimant discovered one of the investigations and was informed of the other (though it was not informed that the other investigation had commenced before the date of the agreement) by SEM. In December 2022, approximately six months post-execution, the Claimant notified the Defendants of a claim for breach of warranty in respect of the investigation it had discovered, and which it understood had been commenced before the date of the agreement.
- (4) Shortly thereafter, pursuant to an amendment to the sale agreement, the Defendants agreed to indemnify the Claimant in respect of any fines imposed by the Dutch gambling regulator on the conclusion of the investigation which was the subject of the warranty claim. The amendment preserved the Claimant's claims for breach of warranty insofar as its losses exceeded the amount for which the Defendants were liable under the indemnity.
- (5) At the subsequent conclusion of its investigations, the Dutch gambling regulator imposed significant fines on Betent. Its findings are clear that, at the date of the agreement, Betent was failing to comply with the terms of its licence and applicable law in respect of numerous aspects of its business. It is also clear that, in further breach of warranty, and in breach of covenants in the agreement, Betent continued to breach the terms of its licence and applicable law in the period between signing and completion of the agreement.
- (6) The Claimant's losses from the Defendants' failure to disclose the investigations at the date of the agreement, and the underlying misconduct to which they related, far exceed the amount to which it is entitled pursuant to the indemnity. By these proceedings therefore, issued to prevent any potential expiry of its claims for breach of warranty, the Claimant claims significant damages from the Defendants for breach of contract in relation to its purchase of Betent.
- (7) A chronology of the key events is at Annex 1 to these Particulars of Claim.



The SPA, Betent and the KSA Licence

6. On 13 June 2022, Entain Holdings (UK) Limited (“**Entain UK**”) as “Buyer”, SEM as “Seller” and the Second – Tenth Defendants as the “Covenantors” entered into an agreement (the “**SPA**”) for the sale and purchase of Betent, then a wholly owned subsidiary of SEM, referred to in the SPA as the “Company”.
7. At all relevant times up to completion of the sale of the shares in Betent pursuant to the SPA, the Second and Fifth Defendants were the directors of Betent, and the Fifth, Sixth and Eighth Defendants were employees of Betent. The Second Defendant remained a director of Betent until 12 January 2023 and the Fifth Defendant remained a director of Betent until 31 August 2023.
8. As a matter of Dutch law, Betent is only permitted to conduct its business in accordance with the terms of a licence issued to it by the Dutch Gambling Authority (the *Kansspelautoriteit*: the “**KSA**”) on 29 September 2021 (the “**KSA Licence**”).
9. Pursuant to the KSA Licence Betent is permitted to organise remote gambling in accordance with applicable provisions of Dutch law, for the period from 1 October 2021 to 30 September 2026.
10. Betent’s conduct of its business pursuant to the KSA Licence is subject to supervision by the KSA. The KSA has powers to investigate potential breaches of the terms of licences which it issues, and of applicable provisions of Dutch law, by licence holders. The measures available to the KSA in the event that it concludes that a licence holder has breached the terms of its licence or the relevant provisions of Dutch law include powers to:
 - (1) Issue instructions to the licence holder to ensure compliance with the relevant terms of the licence and/or provisions of Dutch Law;
 - (2) Issue cease-and-desist orders;
 - (3) Impose fines for a failure to comply with the relevant terms of the licence and/or provisions of Dutch Law; and



- (4) Suspend or revoke the licence.

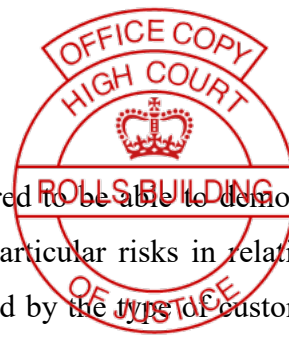
Relevant provisions of Dutch law

11. The provisions of Dutch law with which Betent was required to comply when organising remote gambling pursuant to the KSA Licence included the following provisions of the Dutch Gaming Act (*Wet op de kansspelen*) (the "**Act**"), and the regulations made pursuant to the Act (the Decree on the Acquisition, Advertising and Prevention of Addiction to Games of Chance (*Besluit werving, reclame en verslavingspreventie kansspelen*) the "**Regulations**"):

- (1) Article 4a(2) of the Act, pursuant to which Betent was required to shape recruitment and advertising activities in a careful and balanced manner, taking special care to prevent excessive participation;
- (2) Article 4c(1) and 31d(1)(b) of the Act, pursuant to which the KSA Licence could be revoked if Betent did not comply with the provisions of the Money Laundering and Terrorist Financing (Prevention) Act; and
- (3) Regulation 2(4)(a), pursuant to which Betent was prohibited from targeting advertising of games of chance at those aged between 18 and 24.

12. The Dutch Money Laundering and Terrorist Financing (Prevention) Act (*Wet ter voorkoming van witwassen en financieren van terrorisme*) (the "**Wwft**") includes (and at all relevant times included) the following provisions:

- (1) Article 1a(4)(n), pursuant to which each entity holding a KSA licence is subject to the provisions of the Wwft;
- (2) Article 3(2)(d), by which Betent was required to conduct ongoing monitoring of the business relationship with each client/customer, and the transactions carried out in the course of that relationship, to ensure that they were consistent with Betent's knowledge of that client/customer and their risk profile, and that it conducted an investigation into the source of funds used in the business transaction or relationship if necessary;



- (3) Article 3(8), by which Betent was required to be able to demonstrate that it tailored customer due diligence to the particular risks in relation to money laundering or terrorist financing presented by the type of customer, business relationship, product or transaction in question;
- (4) Article 16(1), by which Betent was required to report a completed or planned unusual transaction to the Financial Intelligence Unit (“FIU”) (being the entity to which those with reporting obligations under the Wwft are obliged to report unusual transactions) without undue delay after the unusual nature of the transaction became known; and
- (5) Article 16(4)(b), which imposed the same reporting requirement as that in Article 16(1) where Betent terminated a business relationship with a client/customer in circumstances where there were also indications that that client/customer was involved in money laundering or terrorist financing.

Relevant terms of the SPA

13. The express terms of the SPA included the following:

- (1) Clause 2.1, by which the Seller agreed to sell and the Buyer agreed to buy the shares in Betent and each right attaching to the shares at Completion (being the completion of the sale and purchase of the shares in Betent pursuant to the SPA).
- (2) Clause 3, which sets out the payment which was to be made by the Buyer for the shares (the “Total Consideration”) and which provided, by Clause 3.3, that the Total Consideration would not exceed €850 million.
- (3) Clause 5, which provided that Completion was conditional on, amongst other things, (i) the KSA Licence not having been suspended, revoked or otherwise invalidated or made subject to materially adverse additional conditions, and (ii) Betent not having received any written notice or other correspondence, notification or communication from the KSA that proceedings had been or would be initiated by the KSA which could result in such suspension, revocation, invalidation or imposition of materially adverse additional conditions.



- (4) Clause 6.2, by which Completion was to take place within a specified period of certain conditions being satisfied (or waived by the Buyer) or such other time and date as the Buyer and Seller might agree in writing.
- (5) Clause 7.2, by which SEM and the Covenantors jointly and severally warranted to the Buyer that each Warranty set out in Schedule 5 to the SPA was true and accurate at the date of the SPA, and that immediately before Completion the Seller and Covenantors were deemed to jointly and severally warrant to the Buyer that each “Fundamental Warranty” was true and accurate by reference to the facts and circumstances at Completion.
- (6) Clause 7.3, which provided that the Warranties were qualified by matters Disclosed in the Disclosure Letter (as defined in Clause 1.1 of the SPA), and that the actual knowledge of certain individuals at the date of the SPA might be invoked by the Defendants as a defence to a claim for breach of Clause 7.2 or to reduce the amount recoverable.
- (7) Clause 7.7, which provided that between execution of the SPA and Completion, the Seller and Covenantors would procure that Betent complied with the obligations set out in Schedule 7 to the SPA.
- (8) Clause 7.8, which provided that, if the Buyer initiated any proceeding, suit or action in respect of any claim under the SPA (other than a Fundamental Warranty Claim) it must use all reasonable efforts to jointly and simultaneously initiate the same proceeding, suit or action against the Seller and all of the Covenantors against which it had that claim.
- (9) Clause 9.4.1, pursuant to which the Claimant undertook not to procure that SEM terminate the employment of the Key Employees of Betent without the consent of the Seller’s Representative. The Key Employees of Betent pursuant to the SPA were the Fifth, Sixth and Eighth Defendants.



14. The Warranties in Schedule 5 to the SPA included the following:
- (1) Paragraph 15.1, which provided that Betent had, so far as SEM was aware, complied in all material respects with the terms and conditions of the KSA Licence (being a “Licence”, within the meaning of the SPA) (“**Warranty 15.1**”).
 - (2) Paragraph 15.2, which provided that no additional expenditure was or, so far as SEM was aware, would be necessary to comply with, maintain or obtain the KSA Licence, nor was SEM aware of any circumstances that were reasonably likely to result in the KSA Licence being revoked, suspended, cancelled varied or not renewed (“**Warranty 15.2**”).
 - (3) Paragraphs 18.2.1 and 18.2.2 which provided, among other things, that SEM was not aware of (i) any civil, criminal, administrative or other proceedings being pending or threatened against Betent; or (ii) any circumstances that might be reasonably likely to give rise to such proceedings (“**Warranty 18.2.1**” and “**Warranty 18.2.2**”).
 - (4) Paragraph 18.3, which provided that Betent had conducted its business in all material respects in accordance with applicable legal and administrative requirements (“**Warranty 18.3**”).
 - (5) Paragraph 18.4, which provided that Betent had at all times conducted its business in all material respects in accordance with all applicable legal and administrative requirements pursuant to the Act and the KSA Licence (“**Warranty 18.4**”).
 - (6) Paragraph 18.5, which specifically related to the KSA Licence, and which provided that Betent had at all times complied with (a) all material conditions to the KSA Licence and all material requirements that follow from holding the KSA Licence; and (b) all other conditions to and requirements that follow from holding the KSA Licence, which unless complied with could result in the termination, variation, suspension or revocation of the KSA Licence (“**Warranty 18.5**”).



- (7) Paragraph 18.11.3, which provided that since its incorporation Betent had conducted its operations in accordance with all anti-money laundering and prevention of terrorist financing laws and with all applicable financial record keeping and reporting requirements, rules, regulations laws and/or guidelines (defined in paragraph 18.11.3 as “Money Laundering Laws”), and no investigation by any governmental agency, authority or body involving Betent with respect to such Money Laundering Laws was pending and, so far as SEM was aware, no such actions, suits or proceedings were threatened or contemplated (“**Warranty 18.11.3**”).
- (8) Paragraph 18.11.4, which provided that Betent had conducted its business in all material respects in accordance with the requirements of the Wwft (“**Warranty 18.11.4**”).
15. The Fundamental Warranties which were deemed to have been repeated by the Defendants on the Completion Date were defined in Clause 1.1 of the SPA and included Warranty 18.4 and Warranty 18.5.
16. Schedule 6 to the SPA set out certain limits on the Defendants’ liability pursuant to the SPA, including notification requirements in relation to claims for breach of Warranty (paragraph 2.1) and time limits for commencing proceedings in relation to any claims so notified (paragraph 5.1).
17. Schedule 7 to the SPA provided that, unless otherwise directed by the Buyer, SEM and the Covenantors would ensure that Betent would, amongst other things:
- (1) Not operate the business in a way that would result in it breaching any of the conditions of the KSA Licence or the requirements that follow from holding the KSA Licence (paragraph 3); and
 - (2) Conduct its business in all material respects in accordance with all applicable legal and administrative requirements in any jurisdiction (paragraph 22).



The novation of the SPA to the Claimant

18. By a Deed of Novation and Guarantee dated 3 August 2022 between Entain UK, SEM, the Covenantors and the Claimant, the rights and obligations of Entain UK as Buyer pursuant to the SPA, were novated to the Claimant.

The first KSA inquiry - Advertising Investigation

19. On 22 April 2022, the KSA wrote to Betent noting it had commenced an investigation into advertising practices and asking it to provide copies of all emails sent between 1 October 2021 and 1 April 2022 to active players aged between 18 and 24; the total number of players aged between 18 and 24 who were registered with it during that period; and copies of all emails sent to former players aged below 24, during that period. The KSA's investigation into these matters is referred to in these Particulars of Claim as the "**Advertising Investigation**".
20. On 4 May 2022, Betent provided the documents requested to the KSA.
21. On 20 October 2022, the KSA issued its report in light of the documentation provided by Betent in response to its letter of 22 April 2022.
22. By letter dated 7 November 2022, the KSA invited Betent to make representations to the KSA before the KSA made any decision in light of the report. Representatives of Betent (including the Eighth Defendant) did so at a meeting on 6 December 2022.

The second KSA inquiry - AML Investigation

23. On 3 May 2022, the KSA wrote to Betent informing it that it had commenced an investigation into Betent under the Wwft (the "**AML Investigation**"). By that letter the KSA requested that Betent provide it with documentation in relation to 15 of its clients/customers.
24. Thereafter:
- (1) On 24 May 2022, Betent responded to the KSA's letter of 3 May 2022.
 - (2) On 2 June 2022, representatives of Betent attended a meeting with the KSA (held remotely) to discuss the information provided on 24 May 2022.



- (3) In the period immediately following this meeting, Betent prepared a further response to the KSA's requests for documents, which response was provided on 16 June 2022 (3 days after the SPA was signed).
- (4) Thereafter, in the period to 1 September 2022 Betent provided further documentation to the KSA, attended meetings with the KSA, and made representations to the KSA in relation to the AML Investigation.

The KSA Instruction of 8 September 2022

25. On 8 September 2022, the KSA issued a decision (the "**September 2022 Instruction**") by which it determined that Betent had failed to comply with certain specified provisions of the Wwft.
26. The Claimant will refer to the September 2022 Instruction for its full meaning and effect. The KSA's findings in the September 2022 Instruction included that:
 - (1) Betent had violated Articles 3(2)(d) and 3(8) of the Wwft in relation to 12 of the 17 customer files reviewed. As a result, Betent was not able to guarantee that it exercised continuous control over the relationship with those customers and their transactions, or that it was able to match the risk profile of those players to its knowledge of their circumstances, and investigate the source of their funds if necessary. Particular findings in this regard included:
 - a. There were numerous players whose source of funds had not been investigated at all despite them suffering very significant losses;
 - b. There was a lack of clarity as to the reasons for initiating investigations into clients' sources of funds, or for changing a client's risk profile;
 - c. There was a complete absence of any risk analysis for nine players (despite a risk classification having been arrived at); and
 - d. Signs of possible gambling addiction had not been considered in the risk analysis.



(2) Betent had breached Article 16(1) of the Wwft on three occasions by failing to report transactions to the FIU, without delay.

27. The KSA concluded that Betent's breaches of the Wwft were serious and justified the issue of an instruction that it terminate its breaches of Articles 3(2)(d), 3(8) and 16(1) of the Wwft.

28. By the September 2022 Instruction therefore, the KSA instructed Betent to take certain steps in relation to the deficiencies in its processes identified in the September 2022 Instruction, within three months.

Events after the September 2022 Instruction

29. The Claimant only became aware of the AML Investigation on 15 November 2022:

(1) On 10 November 2022, the KSA published a statement by which it announced that it had clamped down on two "*unnamed operators*" for failing to comply with the requirements of the Wwft (the "**KSA Announcement**").

(2) By email on 14 November 2022, a representative of the Claimant sent the Eighth Defendant, Mr Kooiman, a copy of the KSA Announcement. He said he assumed that Betent was not one of the "*unnamed operators*" referred to in the KSA Announcement, but asked Mr Kooiman to confirm.

(3) Mr Kooiman responded to the Claimant's email on 15 November 2022, confirming in a conversation with the Claimant's representative and by email, that Betent was one of the two operators referred to in the KSA Announcement.

30. Further, on 29 November 2022, a representative of SEM informed the Claimant of the Advertising Investigation which was then ongoing (though it did not inform the Claimant that it had commenced before the date of the SPA).

31. By letter dated 10 December 2022, the Claimant wrote to the Second Defendant (on behalf of SEM and the Covenantors) in relation to the AML Investigation, noting that it had also been informed of another ongoing investigation by the KSA (the Advertising Investigation). Amongst other things, the Claimant:



- (1) Requested that SEM and the Covenantors agree to indemnify the Buyer's Group (as defined in the SPA) in relation to any fines, penalties or payment directions imposed by the KSA in connection with the subject matter of the AML Investigation, together with certain other costs including legal costs, incurred in connection with the subject matter of the AML Investigation; and
 - (2) Requested that, pursuant to Clause 6.2 of the SPA, the parties agree a Completion Date in early January 2023, in order to allow the Claimant sufficient time to obtain comfort in relation to the Investigation and any other matters recently disclosed or yet to be disclosed by SEM and/or the Covenantors.
32. By separate letter dated 10 December 2022, and in accordance with paragraph 2.1 of Schedule 6 to the SPA, the Claimant gave the Defendants notice of a Warranty Claim pursuant to the SPA, as a result of the Defendants' failure to disclose the AML Investigation prior to the SPA being signed (the "**December 2022 Warranty Notice**").

The Amendment Agreement

33. Further to the Claimant's letter of 10 December 2022, and the December 2022 Warranty Notice, on 22 December 2022 the Claimant as "Buyer", and the Defendants (as the "Seller" and the "Covenantors" respectively) entered into an agreement by which the SPA was amended (the "**Amendment Agreement**") as follows:
- (1) By Clause 2.1.1, Clause 6.2 of the SPA was deleted and replaced with a provision for a Completion Date of 12 January 2023.
 - (2) By Clause 2.1.2, certain definitions were inserted into Clause 1.1 of the SPA, including a definition of the "KSA Investigation" as follows:

"... the direction given by the KSA to the Company on 8 September 2022 in relation to the anti-money laundering policies, protocols or practices of the Company and the related investigation by the KSA, and any subsequent investigation or direction by the KSA (whether prior to or after Completion) in relation to the anti-money laundering policies, protocols or practices of the Company prior to Completion"



- (3) By Clause 2.1.3, new Clauses 7.13 and 7.14 were inserted into the SPA. Clause 7.13 provided as follows:

“The Seller and the Covenantors shall indemnify and keep indemnified any Buyer’s Group Company against:

7.13.1: any fine, penalty or payment direction imposed by the KSA in connection with the subject matter of any KSA Investigation; and

7.13.2: [...] and

in each case, all associated third party costs (including legal costs and expenses) that the Company is liable to pay or that fall due following Completion”

- (4) By Clause 2.1.5, a new paragraph 1.6 was inserted into Schedule 6 of the SPA, which provided that the Defendants’ aggregate liability in respect of all claims under the new Clause 7.13 would be limited to €5 million.

- (5) By Clause 3.4, the Claimant confirmed to the Defendants that, amongst other things:

*“it will not pursue its Warranty Claim dated 10 December 2022 or related claims set out in the Letter (the “**December Claims**”) to the extent that the indemnity to be inserted as a new clause 7.13 of the SPA pursuant to clause 2.1.3 above compensates the Buyer for the loss that would otherwise be recoverable pursuant to such Warranty Claim and, accordingly, the Buyer hereby confirms that, to that extent only, it withdraws and rescinds the December Claims (without prejudice to the ability of the Buyer to serve and additional Warranty Claim or other claim it may have under the SPA or otherwise in respect of the anti-money laundering policies, protocols or practises of the Company.”*

- (6) By Clause 4.3, the parties agreed that the Amendment Agreement would be considered a “Transactional Document” for the purposes of the SPA.

The third KSA inquiry – Further AML Investigation

34. On the expiry of the three-month period for compliance with the September 2022 Instruction, by letter dated 23 December 2022, the KSA informed Betent that it intended to conduct an assessment as to whether Betent had complied with the September 2022 Instruction (the “**Further AML Investigation**”), and requested further documentation from Betent.



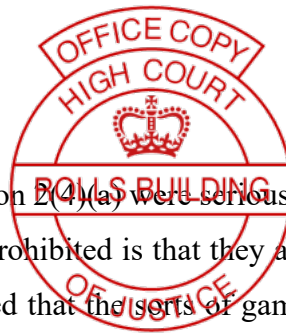
35. Betent responded to the KSA's request for documentation in the letter of 23 December 2022 on 5 January 2023.
36. The KSA indicated it may make further document requests on 9 January 2023 and did make further requests for documents on 16 and 31 January 2023. Betent delivered further documents to the KSA on 20 and 30 January 2023, and on 21 February 2023.
37. The KSA requested additional information by letter dated 13 April 2023, and made a supervisory visit to Betent's office on 18 April 2023. Betent provided further documentation to the KSA on 1 May 2023.
38. The KSA produced a report dated 30 May 2023 (the "**May 2023 AML Report**"), on which Betent was invited to comment. Betent did so both orally and in writing, in September 2023.

Completion of the SPA

39. Completion pursuant to the SPA as amended by the Amendment Agreement took place on 12 January 2023.
40. The Defendants are therefore deemed to have repeated the Warranties at paragraphs 18.4 and 18.5 of Schedule 5 to the SPA on that date.

The KSA Decision of 5 April 2023

41. On 5 April 2023 the KSA issued to Betent a decision dated 4 April 2023 (the "**April 2023 Decision**") by which it determined, in light of the Advertising Investigation, that Betent had failed to comply with Regulation 2(4)(a).
42. The Claimant will refer to the April 2023 Decision for its full meaning and effect. In summary, the KSA found that in the period from 8 October 2021 to 16 March 2022 Betent had breached the requirements of Regulation 2(4)(a) by sending frequent promotional emails to young adult players registered with it, promoting offers including bonuses (defined under Regulation 1(f) of the Regulations as a good or service, including a free gaming credit, offered to recruit or retain players for the licensed games of chance or to advertise those games).



43. The KSA found that Betent’s breaches of Regulation 2(4)(a) were serious. It noted that the reason that such targeting of young adults is prohibited is that they are at a higher risk of becoming gambling addicts. It further noted that the sorts of games offered in the advertising emails were short-odd games, which were the sorts of games to which players were more likely to become addicted.
44. In light of its findings, by the April 2023 Decision the KSA imposed a fine on Betent of €400,000.
45. The KSA published the April 2023 Decision on 19 April 2023.
46. Betent launched an objection procedure against the April 2023 Decision on 16 May 2023. On 24 October 2023, the KSA dismissed Betent's objections to the April 2023 Decision.

The KSA Decision of 14 November 2023

47. By Decision dated 14 November 2023, issued to Betent on 15 November 2023, the KSA found that in the period from 8 December 2022 to 1 May 2023 Betent had committed a number of repeated and significant breaches of the requirements of the Wwft (the “**November 2023 Decision**”). The Claimant will refer to the November 2023 Decision for its full meaning and effect. The KSA’s findings included that:
 - (1) Betent had violated Articles 3(2)(d) and 3(8) of the Wwft in relation to 28 out of 30 client assessments reviewed by the KSA in the course of the Further AML Investigation. As a result, Betent was not able to guarantee that it exercised continuous control over the relationship with those customers and their transactions, nor was it able to match the risk profile of those players to its knowledge of their circumstances, and investigate the source of their funds if necessary. Particular failings in this regard included commencing investigations into sources of funds too late, or not adequately conducting such investigations; assessing transactions too late; and not requesting the information required to assess the source of funds at all.
 - (2) Betent had violated Article 16(1) of the Wwft by failing to report unusual transactions made or intended to be made to the FIU without undue delay after



the unusual nature of the transaction became known. In the course of the Further AML Investigation, the KSA identified 53 transactions which had wrongly not been reported across 14 of the 30 customer files reviewed.

- (3) Betent had also violated Article 16(4) of the Wwft on four occasions by failing to report the termination of client relationships as a result of a client's failure to comply with the requirements of its screening process where there were also indications of money laundering.

48. For the 30 customer files which the KSA considered in the course of the Further AML Investigation, the periods in which the customer was registered with Betent and suffered losses were identified in Annex 1 to the May 2023 AML Report, as summarised in Annex 2 to these Particulars of Claim.

49. Annex 1 to the May 2023 AML Report showed that 22 of the 30 such customers had registered with Betent in the period prior to the date of the SPA, and 28 of the 30 had registered in the period before Completion of the SPA. For the significant majority of such customers, the period in which they were registered with Betent and suffered loss ended in January – mid-February 2023 (with that period ending earlier in the other cases).

50. In the November 2023 Decision, the KSA further noted the importance of compliance by Betent with its obligations under the Wwft in identifying and combatting the risks of money laundering and terrorist financing. It said that Betent had knowingly run the risk of long-term money laundering, in addition to neglecting its reporting obligation in a large number of cases. It concluded that Betent's structural violation of these core obligations was very serious. It further concluded that, in light of the threat to society, the economy, and the integrity of the gaming and financial services posed by money laundering, there was a high risk that Betent's offences would cause significant damage to society as a whole.

51. The KSA further noted that the breaches identified in the November 2023 Decision were of the same kind as those identified in the September 2022 Instruction, such that even if Betent had not been aware of its obligations under the Wwft before then (as it



should have been) it was aware of its ongoing failures to comply with the Wwft from that date, but had nevertheless failed to take the necessary steps to ensure compliance. The KSA stated that it was not satisfied that Betent would comply with its obligations under the Wwft going forward.

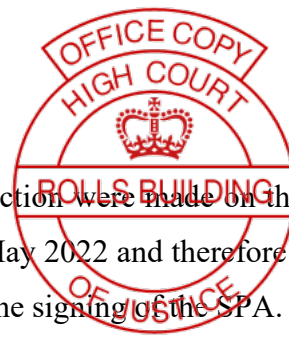
52. By the November 2023 KSA Decision the KSA fined Betent €3 million in respect of the breaches identified therein.
53. The November 2023 KSA Decision was published by the KSA on 30 November 2023.

The Defendants' breaches of Warranty at the date of the SPA

54. The Warranties in Schedule 5 to the SPA were not all true at the date of the SPA.
55. Contrary to Warranty 15.1, at the date of the SPA, Betent had not complied in all material respects with the terms and conditions of the KSA Licence.

PARTICULARS OF BREACH OF WARRANTY 15.1

- (1) Pursuant to paragraph 1 of the KSA Licence, Betent was required to organise remote gambling in accordance with all applicable legal requirements.
- (2) Pursuant to Articles 4c(1) and 31d(1) of the Act, and Article 1a(4)(n) of the Wwft, those requirements included Articles 3(2)(d), 3(8), 16(1) and 16(4) of the Wwft.
- (3) Those requirements also included Article 4a(2) of the Act itself, and Regulation 2(4)(a).
- (4) As at the date of the SPA, Betent had failed to comply with Articles 3(2)(d), 3(8), 16(1) and 16(4) of the Wwft, and Regulation 2(4)(a), as set out in the September 2022 Instruction, the April 2023 Decision, and the November 2023 Decision, the contents of which are summarised at paragraphs 26 - 28, 41 - 44 and 47 - 52 above.



- (5) The findings in the September 2022 Instruction were made on the basis of the KSA's inspection of files requested on 3 May 2022 and therefore related to the conduct of the business of Betent prior to the signing of the SPA.
 - (6) The findings in the April 2023 Decision were made on the basis of the KSA's inspection of emails sent to customers between 8 October 2021 and 16 March 2022, and therefore related to the conduct of the business of Betent prior to the signing of the SPA.
 - (7) The findings in the November 2023 Decision were made on the basis of the KSA's inspection of the files of customers who had been registered with Betent and suffered losses in the periods identified in the May 2023 AML Report and set out at Annex 2 to these Particulars of Claim and paragraphs 48 - 49 above. The Claimant will rely on the fact that the periods in which clients suffered such losses continued even after the commencement of the AML Investigation, and the September 2022 Instruction, as demonstrating that the flaws in Betent's processes identified by the KSA were a well-established feature of its business, which existed at the date of the SPA.
56. At the date of the SPA, SEM was aware that Betent had not complied in all material respects with the terms and conditions of the KSA Licence, because it knew of the Advertising Investigation and the AML Investigation (together, the "**Investigations**"), and of the misconduct by Betent to which they related. The Claimant pleads as follows in relation to the knowledge of SEM, without prejudice to its right to further particularise the Defendants' knowledge as necessary, on receipt of the Defendants' disclosure in these proceedings:

PARTICULARS OF KNOWLEDGE OF SEM

- (1) When the Investigations were commenced, the Second and Fifth Defendants were the only directors, and the Fifth Defendant was a key employee, of Betent. They remained as such at the date of the SPA.
- (2) As the only directors of SEM, the Second and Fifth Defendants would have been aware of the commencement of those Investigations, and closely involved in the



communications between Betent and the KSA in relation to them, the documentation provided, and representations made, by Betent to the KSA, in the course of both Investigations.

- (3) At the date of the SPA, the Second and Fifth Defendants would therefore have been aware of:
- a. The letter from the KSA to Betent of 22 April 2022, which was addressed to the Fifth Defendant, Mr Bostelaar, informing it of the Advertising Investigation and its subject matter, and requesting the provision of documents by Betent in response to the investigation;
 - b. The work undertaken by Betent to collate the documents requested by the KSA's letter of 22 April 2022;
 - c. The letter from Betent to the KSA of 4 May 2022, by which it responded to the KSA letter of 22 April 2022 and provided the documentation sought in response to the Advertising Investigation;
 - d. The content of the documents enclosed with the letter of 4 May 2022, from which it must have been obvious that Betent was in fact repeatedly targeting advertisements to 18 – 24 year olds, contrary to the provisions of Article 4a(2) of the Act, and Regulation 2(4)(a);
 - e. The letter from the KSA to Betent of 3 May 2022, which was also addressed to Mr Bostelaar (the Fifth Defendant), and which informed Betent of the AML Investigation and its subject matter, and requested the provision of documents;
 - f. The work undertaken by Betent to collate the documents requested by the KSA's letter of 3 May 2022;
 - g. The content of the documents provided to the KSA by Betent on 24 May 2022;



- h. The meeting between representatives of the KSA and Betent of 2 June 2022, and that at that meeting the KSA discussed the documentation it required, with Betent in detail;
 - i. The work which followed that meeting, and which was nearing completion at the date of the SPA, to provide further documentation to the KSA in relation to the AML Investigation; and
 - j. The content of those documents, from which it must have been obvious that Betent was failing to conduct the client and transactional checks, investigations, monitoring and reporting, which were required by Articles 3(2)(d), 3(8), 16(1) and 16(4) of the Wwft.
- (4) The Second and Fifth Defendants would also have known of the terms of the KSA Licence itself, that it required Betent to organise remote gambling in accordance with applicable provisions of Dutch law, and that those provisions included those, compliance with which was the subject of the Investigations.
- (5) The Second and Fifth Defendants' knowledge of the Investigations, and the misconduct by Betent which they related to, was attributed to SEM, of which they were the only directors at the date of the SPA.
57. Contrary to Warranty 15.2, at the date of the SPA additional expenditure was necessary to comply with and/or maintain the KSA Licence, and/or SEM was aware that such additional expenditure would be necessary to comply with and/or maintain the KSA Licence:

PARTICULARS OF BREACH OF WARRANTY 15.2

- (1) The Claimant repeats paragraph 55 above.
- (2) In light of Betent's failures to comply with Articles 3(2)(d), 3(8), 16(1) and 16(4) of the Wwft, Betent needed to incur additional expenditure, including but not limited to, the following: expenditure to improve its client checks, its monitoring of clients and their transactions, its processes for documenting such matters, its identification of cases in which it was necessary to investigate a



client's source of funds, the quality of those investigations, and its identification and timely reporting of unusual transactions and indications of money laundering or terrorist financing by clients.

- (3) Betent also needed to incur additional expenditure to improve its email targeting processes, to ensure that 18 – 24 year olds were not sent emails in breach of Regulation 2(4)(a).
- (4) Further or alternatively, SEM was aware that such expenditure would be necessary to comply with the KSA Licence by reason of the knowledge pleaded at paragraph 56 above.

58. Contrary to Warranty 18.2.1, Betent was involved in an administrative (alternatively, other form of) proceeding at the date of the SPA.

PARTICULARS OF BREACH OF WARRANTY 18.2.1

- (1) At the date of the SPA, Betent was involved in the Advertising Investigation, which had commenced on 22 April 2022.
- (2) At the date of the SPA Betent was involved in the AML Investigation, which had commenced on 3 May 2022.

59. Alternatively, if, which is denied, on the proper construction of Warranty 18.2.1 Betent was not involved in an administrative or other proceeding by virtue of the commencement of the Advertising and/or AML Investigation, SEM was aware that such administrative or other proceeding was pending against Betent at the date of the SPA:

ALTERNATIVE PARTICULARS OF BREACH OF WARRANTY 18.2.1

- (1) The Advertising Investigation was pending at the date of the SPA (and commenced with the April 2023 Decision by which the KSA imposed a €400,000 fine on Betent).



- (2) The AML Investigation was pending at the date of the SPA (and commenced with the September 2022 Instruction by which Betent was required to take measures to rectify the deficiencies in its processes identified in that Decision).
- (3) SEM was aware of the Investigations and was therefore aware that an administrative or other proceeding was pending against Betent within the meaning of Warranty 18.2.1. The Claimant repeats paragraph 56 above.
60. Further, or alternatively, contrary to Warranty 18.2.2, at the date of the SPA, SEM was aware that facts or circumstances existed which might be reasonably likely to give rise to a civil, criminal, arbitration, administrative or other proceeding involving Betent. The Claimant repeats paragraphs 55 and 56 above.
61. Contrary to Warranty 18.3, at the date of the SPA, Betent had not conducted its business in all material aspects in accordance with all applicable legal and administrative requirements. The Claimant repeats paragraph 55 above.
62. Contrary to Warranty 18.4, at the date of the SPA, Betent had not conducted its business in all material respects in accordance with all applicable legal and administrative requirements pursuant to the Act and the KSA Licence. The Claimant further repeats paragraph 55 above.
63. Contrary to Warranty 18.5, at the date of the SPA, Betent had not at all times complied with the KSA Licence and all material requirements that follow from holding the KSA Licence, and with all other conditions to and requirements that follow from holding the KSA Licence which, unless complied with could result in the termination, variation, suspension or revocation of the KSA Licence:
- (1) The Claimant further repeats paragraph 55 above.
- (2) The failures identified by the KSA in the September 2022 Instruction, the Advertising Decision and/or the AML Decision, were so serious that if Betent failed to rectify them this could result in the variation, suspension or revocation of the KSA Licence pursuant to Article 4c(1) and/or Article 31d(1) of the Act.



64. Contrary to Warranty 18.11.3, at the date of the SPA the operations of Betent had not at all times since its incorporation been conducted in compliance with all anti-money laundering and prevention of terrorist financing laws and with all applicable financial record keeping and reporting requirements, rules, regulations laws and/or guidelines. The Claimant repeats paragraph 55 above.
65. In further breach of Warranty 18.11.3, at the date of the SPA, the AML Investigation was ongoing and therefore, an investigation by a governmental body in relation to Betent with respect to those Money Laundering Laws was pending.
66. Contrary to Warranty 18.11.4, at the date of the SPA Betent had not conducted its business in all material respects in accordance with all applicable legal and administrative requirements pursuant to the Wwft. The Claimant repeats paragraph 55 above.
67. None of the matters set out at paragraphs 54 - 66 above were Disclosed in the Disclosure Letter or in the Data Room within the meaning of Clause 7.3 of the SPA.
68. As a result of the breaches of Warranty identified at paragraphs 54 - 66 above, the Defendants breached Clause 7.2 of the SPA.

The Defendants' breaches of covenant

69. Contrary to Clause 7.7 of the SPA, between execution and Completion of the SPA the Defendants did not procure that Betent operate its business in compliance with the requirements that follow from holding the KSA Licence, as required by paragraph 3 of Schedule 7; nor did they procure that Betent conduct its business in all material respects in accordance with all applicable legal and administrative requirements in the Netherlands, as required by paragraph 22 of Schedule 7.

PARTICULARS OF BREACH OF CLAUSE 7.7 OF THE SPA

- (1) Pursuant to paragraphs 3 and 22 of Schedule 7, the Defendants were required to procure that between execution and completion of the SPA Betent complied with Articles 3(2)(d), 3(8), 16(1) and 16(4) of the Wwft; and with the September 2022 Instruction.



- (2) Betent failed to comply with Articles 3(2)(d), 3(8), 16(1) and 16(4) of the Wwft, or the September 2022 Instruction in that period, as set out in the November 2023 Decision, and the May 2023 AML Report, the contents of which are summarised at paragraphs 47 - 52 above.

The Defendants' breaches of Fundamental Warranty at the Completion Date

70. The Fundamental Warranties at paragraphs 18.4 and 18.5 of Schedule 5 to the SPA were not true at the Completion Date. The Claimant repeats paragraphs 62 and 63 (save that references to the date of the SPA are to be read as references to the Completion Date), together with sub-paragraph 69(2) above.
71. By those breaches of Fundamental Warranty the Defendants further breached Clause 7.2 of the SPA.

The Notice of Warranty Claims dated 8 December 2023

72. By letter dated 8 December 2023, the Claimant gave the Defendants notice pursuant to paragraph 2.1 of schedule 6 to the SPA, of their further claims for breach of Warranty arising out of the findings in the April 2023 Decision and the November 2023 Decision, and their claims for breach of Fundamental Warranty.

Loss and damage caused to the Claimant by the Defendants' breaches of Warranty at the date of the SPA

73. As a result of the Defendants' breaches of Warranty, the shares in Betent were worth less at the date of the SPA than they would have been had those Warranties been true.
74. The Claimant claims damages from the Defendants to put it in the position it would have been had the SPA been performed in accordance with its terms, namely, the difference between the actual value of the shares at the date of the SPA, and their value had the Warranties all been true at that date.
75. The quantification of such loss will be a matter of expert evidence. Such loss significantly exceeds the amount of the indemnity to which the Claimant is entitled pursuant to Clause 7.13 of the SPA (as inserted by the Amendment Agreement).



Loss and damage caused to the Claimant by the Defendant's breaches of covenant

76. As a result of the Defendants' breaches of Clause 7.7 of the SPA, Betent continued to fail to comply with the requirements of the Wwft and therefore, the requirements of the KSA Licence, in the seven-month period between execution and Completion of the SPA.
77. The Defendants' breaches of covenant caused loss and damage to the Claimant. The Claimant is in the process of considering the particular sources and amounts of such loss and damage, but it anticipates that they will include:
- (1) Losses caused by the significantly increased regulatory risk which resulted from Betent's ongoing breaches of Dutch law and the KSA Licence during the pre-Completion period; and
 - (2) Losses caused by the costs of rectifying Betent's breaches during the pre-Completion period.

Loss and damage caused to the Claimant by the Defendant's breaches of Warranty at the date of Completion

78. As a result of the Defendants' breaches of Fundamental Warranty, the shares in Betent were worth less at the date of Completion than they would have been worth had those Warranties been true.
79. The Claimant therefore claims damages from the Defendants to put it in the position it would have been had the SPA been performed in accordance with its terms, namely, the difference between the actual value of the shares at the date of Completion, and their value had the Warranties all been true at that date.
80. The Claimant will elect at judgment between its right to damages for breach of Warranty at the date of the SPA, and its right to damages for breach of the Fundamental Warranties at the date of Completion (whichever is the higher).



Interest

81. Further, the Claimant is entitled to and claims interest on the damages awarded to it, pursuant to Section 35A of the Senior Courts Act 1981, for such periods and at such rate as the Court thinks fit.

AND the Claimant claims:

- (1) Damages
- (2) Interest
- (3) Costs

SONIA TOLANEY KC

ELEANOR CAMPBELL

STATEMENT OF TRUTH

The Claimant believes that the facts stated in these Particulars of Claim are true. The Claimant understands that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am authorised by the Claimant to sign this statement.

Signature:

Name: Simon Zinger

Date: 19 January 2024

Title: Director of Entain Holdings (Netherlands) B.V.