



GAMING COMPANY TO REFUND MONEY LOST BY PLAYER IN GAME

An article about the recent judgement from the Swedish
Patent and Market Court of Appeal, PMT 4156-21

GAMING COMPANY OBLIGATED TO REFUND PLAYER

In December, the Swedish Patent and Market Court of Appeal issued a judgement in a case between a gaming company and an individual who gambled at an online casino. The judgement requires the gaming company to refund most of the money that the player lost in the game, i.e. approximately 530 thousand euros.

- | The individual played extensively at an online casino operated by the gaming company for approximately five years. The individual was subsequently diagnosed with gambling addiction. He filed a lawsuit against the gaming company demanding the return of the money he had betted in the game, as well as compensation for mental suffering.
- | To support his claims, the player alleged that the gaming company was aware of his gambling addiction but still directed extensive and aggressive marketing specifically at him for online casino games. In light of that, the player claimed that the gaming company made an unjust profit and that the transactions underlying the value transfers were invalid according to, among other things, Section 33 of the Swedish Contract Act. Thus, according to the player, there was no legal basis for the value transfers.

APPROXIMATELY 530,000 EUR TO BE REFUNDED

- | The gaming company contested the claims, denying knowledge about his gambling addiction and disputing that the marketing was aggressive. In the Patent and Market Court, the player lost the case.
- | The Patent and Market Court of Appeal on the other hand, altered the judgement and obligated the gaming company to refund most of the player's losses. The court found that the investigation clearly showed that the player had lost control over his gambling, and that these signs were obvious to the gaming company. As such, the company was considered aware of the player's gambling problems at least from the time when the player became a so-called VIP customer. According to the Patent and Market Court of Appeal, it is impossible to conclude anything other than that the player's gambling at the time "significantly deviated from what can be considered healthy gambling." Further, according to the court, it is sufficient that the gaming company was aware that the player had serious gambling problems for the company to be considered acting in bad faith under Section 33 of the Swedish Contracts Act. Therefore, it was not necessary for the gaming company to have known that he was medically diagnosed as addicted to gambling.
- | To summarize, the Patent and Market Court of Appeal ruled that the transactions made by the player during the time he was a VIP customer were void, and the gaming company must therefore refund approximately 530 thousand euros that the player lost during the period of his VIP membership. The court particularly noted that the gaming company continued with intrusive marketing of the game despite knowing that the player had serious gambling problems. Moreover, the specific form of gambling was not permitted in Sweden at the time, which, according to the court, should also be considered in the assessment. The Market Court of Appeal thereafter concludes that it would be contrary to good faith and honor under Section 33 of the Swedish Contracts Act to enforce the transactions against the player. The transactions are thus invalid according to the court and the gaming company must refund most of the money lost by the player in the game during the time the player was a VIP customer, i.e. approximately 530 thousand euros. The gaming company must also pay damages to the player amounting to approximately 1,000 euros for mental suffering.
- | The judgement has been appealed to the Supreme Court; however, the court has not yet disclosed whether it will undertake a review of the case.

Morris Law will closely follow if the Supreme Court will review the case and the potential implications of such judgement to come. Please contact us if you have any questions about this judgement or want to discuss games in general!



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QUICK TAKEAWAYS FOR GAMING COMPANIES

Know your game

Investigate whether your game is covered by gambling legislation.

Identify problematic behaviours

Put in place effective systems to identify indicators of problematic gambling.

Action plan for duty of care

Identify measures to be taken when problematic behavior is identified and at what stage the measures should be put in action.

Take measures to manage the situation

Offering support resources, limiting the player's access, or even closing the player's account.

Adapt marketing strategies

Limit or suspend marketing towards players with problematic gambling behaviours.



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