

THE CODE COMPLIANCE PANEL OF PHONEPAYPLUS TRIBUNAL DECISION

Thursday 4 AUGUST 2011 TRIBUNAL SITTING No. 82/ CASE 2
CASE REFERENCE: 857142/DL

Service provider:	Nova Telecom Limited, London
Information provider:	Rentabiliweb Europe Sarl, Lyon, France
Type of service:	Gambling and competition service
Service title:	'Primescratchcards.com'; 'Primegrattage.com'
Service number:	09090241602 plus mobile network shortcode
Cost:	£1.53 per minute
Network operator:	Atlas Interactive Group Limited, All Mobile
Network	Operators
Number of complainants:	2

THIS CASE WAS BROUGHT AGAINST THE SERVICE PROVIDER UNDER PARAGRAPH 8.5 OF THE CODE

BACKGROUND

PhonepayPlus was notified of an online gambling service operating in the UK, and in other parts of Europe, using a fixed-line number and mobile network shortcode for UK premium rate service payments. The fixed-line premium rate number (09090241602) was supplied by Nova Telecom Limited, which was the Service Provider, and the number was operated by Rentabiliweb Europe Sarl, which was the Information Provider.

The Executive was concerned that the Service Provider did not appear to have the requisite prior permission certificate for gambling services. There was also evidence of individual users being charged more than £30 in a single 24-hour period using the premium rate number.

The Service

The service was accessed online via a number of website addresses, including 'primescratchcards.com' and 'primegrattage.com', which were operated by one of the Information Provider's clients. The service provided a number of online games for consumers to play. Consumers could sign up to the service for free, but were required to purchase virtual currency in order to play games in which they could win prizes, including cash prizes.

The service provided a number of means by which consumers could purchase the virtual currency, including the use of a premium rate number (09090241602). If the consumer called the premium rate number, they were provided with a code. If a consumer then entered this code on the service websites, they would be credited with virtual currency which they could use to play games in which prizes could be won.

The Investigation

The Executive conducted this matter as a Standard Procedure investigation in accordance with paragraph 8.5 of the Code. The Executive issued a breach letter to the Service Provider dated 19 July 2011. The Service Provider responded to the breach letter in a letter dated 26 July 2011.

The Tribunal made a decision on the breach raised by the Executive on 4 August 2011. The Service Provider did not make any informal representations to the Tribunal.

SUBMISSIONS AND CONCLUSIONS

ALLEGED BREACH ONE

PRIOR PERMISSION (Paragraph 5.1.1)

'PhonepayPlus may require that particular categories of service must not be provided without its prior written permission for any service within that category. PhonepayPlus will give reasonable notice of such a requirement and the category of service to which it applies, and will publish a full list of such service categories from time to time. Prior permission may be granted subject to the imposition of additional conditions. Such permission may be withdrawn or varied upon reasonable grounds and with notice in writing.'

1. The Executive submitted that certain categories of premium rate service require prior permission from PhonepayPlus before the service can start operating, and that a list of such services was, and is, available on the PhonepayPlus website. The Executive said that the requirement for prior permission was brought to the attention of the industry in:
 - March 2008, via a published "Help Note for service providers requiring prior permission";
 - August 2010, via the monthly PhonepayPlus 'NewsPlus' newsletter; and
 - September 2010, via a news item on the PhonepayPlus 'NewsPlus' newsletter providing compliance information on remote gambling services.

All three publications had stated that remote gambling services (i.e. services which enable gaming or betting to take place at a distance electronically or via voice telephony) require prior permission from PhonepayPlus before a service can start operating. The news item of September 2010 had informed the industry that:

"It is important to note that consumers are not permitted to bet more than **£30** using premium rate payment in any **24-hour period**, as this is a condition imposed on all certificates for remote gambling services."

The Executive submitted that the service under investigation fell within the definition of 'remote gambling service' under the Gambling Act 2005 (the 'Act'). Section 3 of the Act defines gambling as gaming, betting or participating in a lottery. The Executive submitted that the games available on the service websites, which required virtual currency to play and in which prizes could be won by consumers, either fell within the definition of 'gaming' (under section 6 of the Act) or 'participating in a lottery' (under section 14 of the Act).

The Executive noted that the 'Primescratchcards.com' website (Appendix A) included a 'responsible gaming' webpage, which offered advice to users regarding gambling and made protection mechanisms available to users.

The Executive submitted that the Service Provider was therefore responsible for the provision of a remote gambling service, which required prior permission from PhonepayPlus before operating, and that the Service Provider had failed to obtain such prior permission before operation of the service had begun. The Executive submitted that, as such, the Service Provider was in breach of paragraph 5.1.1 of the Code.

The Executive noted that there was evidence that there was no £30 daily cap in place and that at least one complainant had incurred more than £30 for premium rate payments in a single 24-hour period.

2. The Service Provider submitted that, when it first started working with Rentabiliweb Europe Sarl, it had not been aware that the service would be used for remote gambling purposes. The Service Provider also explained that, despite the PhonepayPlus publications referred to by the Executive, it had not been aware of the requirement to obtain prior permission for the service, and that its breach of the Code was due to ignorance and was not deliberate. The Service Provider asked the Tribunal to take into account the fact that it had co-operated quickly with PhonepayPlus when it was first contacted, and that it had cancelled the service and had engaged in dialogue. Furthermore, the Service Provider pointed out that it had provided refunds to complainants.
3. The Tribunal considered the evidence, including the Service Provider's acceptance of the breach. The Tribunal accepted the Executive's submission that the service constituted a remote gambling service within the meaning of the Gambling Act 2005 and thereby required a gambling licence, and that, as such, the Service Provider required prior permission from PhonepayPlus to operate the service. The Tribunal found that the Service Provider had failed to obtain the necessary prior permission before commencing the service, and the Tribunal accordingly upheld a breach of paragraph 5.1.1 of the Code.

Decision: UPHELD

SANCTIONS

The Tribunal's initial assessment was that, overall, the breaches taken together were **significant**.

In determining the sanctions appropriate for the case, the Tribunal took into account the following aggravating factors:

- The behaviour of the Service Provider was reckless, either in relation to its obligations under the Code to obtain prior permission before operation of the service, or in relation to being aware of the intended or actual use of the premium rate number by the Information Provider.
- The cost of the service to individual consumers was high. The absence of a £30 spend limit in any 24-hour period, which would have been a condition of prior permission had it been granted, meant that at least two consumers had incurred charges above the spend limit.

The Tribunal took into account the following mitigating factors:

- The Service Provider co-operated with PhonepayPlus and switched off the service immediately when contacted by PhonepayPlus.
- The Service Provider said it had made refunds to complainants.

The revenue in relation to this service was in the range of Band 6 (£1-£5,000).

Having taken into account the aggravating and mitigating factors, the Tribunal concluded that the seriousness of the case should be regarded overall as **significant**.

Having regard to all the circumstances of the case, including the revenue of the service, the Tribunal decided to impose the following sanctions:

- A Formal Reprimand;
- A fine of £2,500.

The Tribunal commented that it expected claims for refunds to continue to be paid by the Service Provider for the full amount spent by complainants, except where there is good cause to believe that such claims are not valid.

The Tribunal strongly recommended that the Service Provider reviews its compliance procedures to ensure it meets all of its obligations under the Code.

Appendix A – screenshots of ‘Primescratchcards.com’ website

The screenshot shows the Primescratchcards.com website in a Windows Internet Explorer browser window. The address bar displays 'https://primescratchcards.com/'. The website has a yellow and white color scheme.

Navigation Menu: Home, About Us, Fair Play, Invite A Friend, Promotions, Players Club, Help, Affiliates, Our Blog

Main Banner: ROAD RACING. New Players Get £5 Free. £1,000,000. No Deposit Required. Play now >>

Winners Section:

Winners	Featured Games	Players Club	£5 Free
	Ouria S. won 20,000€ Playing X&O	Current Winners Alexander H. 20700.00kr (13/07 - 23:21) Debbie E. £500.00 (14/07 - 01:16) David C. £480.00 (13/07 - 15:19) Rui V. 400.00€ (13/07 - 19:08) Tamara R. 310.00€ (13/07 - 17:45)	

Right Sidebar:

- Today@PrimeScratchCards
- Like: Help us reach 5,000 'Likes'
- Prime Features: Exciting New Games!
- Contact Us: UK: 08082-387557, Int: +356-2258-5000, support@primescratchcards.com, Live Chat: Click here
- Social media icons: BLOO, YouTube, Facebook, Twitter

Footer: Terms of use | Security Privacy | Responsible Gaming | Affiliates | Contact Us | Media PR & Promotions | Blog

PrimeScratchCards.com is leading the market of online scratch cards also known as scratch off tickets or instant win games. PrimeScratchCards offers instant win prizes of up to £1,000,000 per card with more than 100 unique amazing games, including among others the 'classic' scratchcard and our unique 3wow game where you can win up to £1,000,000 in ONE SECOND. Our PrimeScratchcards team are committed to 'Customer Care' - our customers really are our business and we ensure that we offer top of the line customer service at all times - a 24/7 chat, phone and email support, fast payouts and a very rewarding VIP program. Get started today and take advantage of our £5 FREE for new players offer to try your luck and win the jackpot!

Logos at the bottom: powered by, Licensed by Lotteries, ADIME



Choose your language:

English



Play Now »

Home About Us Fair Play Invite A Friend Promotions Players Club Help Affiliates Our Blog

Responsible Gaming

Prime ScratchCards is committed to support Responsible Gaming.

Prime ScratchCards takes the issue of responsible gaming very seriously and is committed to providing a responsible gaming service for all our players. We want you to have fun and enjoy your online experience with Prime ScratchCards while all the time making sure is does not take over.

For millions of people Scratch cards are a form of entertainment, but for some individuals who may have gambling problems, it can be like a liquor store for an alcoholic.

Whilst the majority of people do gamble responsibly, for some, gambling can become a problem. It may help you to keep control by remembering the following:

- Please try and establish limits for purchasing, wagering and losses before you commence gambling.
- Gambling is not advised if it interferes with your daily responsibilities.
- Gambling is not advised if you are in recovery for any dependency or are under the influence of alcohol or any other substance.
- Gambling is not advisable if you are attempting to make up for any prior losses.
- You are of the legal age to gamble responsibly.

To ensure you enjoy your online experience with Prime ScratchCards and stay in control of your gaming, we provide members with a range of options to assist them to gamble responsibly:

Self-Exclusion - On request, Prime ScratchCards will close any account by simply contacting one of our trained operators or sending an email to care@PrimeScratchCards.com, or by simply setting a cooling period in your Prime ScratchCards account on your own.

Deposit limits - We at Prime ScratchCards believe that having fun while playing is the at most important and are happy to help you the player set your own limits and free your mind from worries. Play the game by your own rules, you may limit your deposit amounts on a daily and weekly basis yourself or by simply contacting your Personal Account Manager at care@PrimeScratchCards.com.

Access to Account History - Members can easily access a full history of deposit. Members can view their account at anytime through the "History" section of their account.

Today@PrimeScratchCards



Prime Features



Contact Us

UK: 08082-387557

Int: +356-2258-5000

support@primescratchcards.com

Live Chat: [Click here](#)



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Deposit limits - We at Prime ScratchCards believe that having fun while playing is the most important and are happy to help you the player set your own limits and free your mind from worries. Play the game by your own rules, you may limit your deposit amounts on a daily and weekly basis yourself or by simply contacting your Personal Account Manager at care@PrimeScratchCards.com.

Access to Account History - Members can easily access a full history of deposit. Members can view their account at anytime through the "History" section of their account.

Staff Training - All our Customer Service staff are aware of this issue and will react accordingly if the problem comes to their attention, as well as giving any account and cashier information on players request.

Getting Further Help:

There are many organisations that can provide support and assistance to individuals who develop a problem with gambling. If you feel this has happened to you we recommend that you contact one of the following professional organisations for guidance:

- [Gambling Therapy Helpline](#)
- [Gamblers Anonymous](#)
- [Helping Hand/IGC](#)
- [Gambleaware \(UK\)](#)

Scratching Cards are fun, however, if you find yourself with a compulsive gambling problem please seek professional help.

We encourage you to **PLAY RESPONSIBLY** at Prime ScratchCards and free your mind. As always our support team will be glad to answer any further questions, just click on [Contact Us](#)

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