

**IN THE BIRMINGHAM MAGISTRATES' COURT**

**THE GAMBLING COMMISSION**

**-v-**

**DYLAN RIGBY**

**First Defendant**

**CRAIG DOUGLAS**

**Second Defendant**

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**OPENING NOTE FOR SENTENCING HEARING**

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**Background and pleas**

1. On 29<sup>th</sup> July 2016 the court issued summonses in this case, returnable on 16<sup>th</sup> September 2016.
2. The first hearing of the summons was adjourned to 14<sup>th</sup> October 2016 so that the defendants could consider their pleas.
3. On 14<sup>th</sup> October 2016, the defendants entered not guilty pleas, and the case was listed for a 5-day trial, to commence on 6 February 2017.
4. On 18<sup>th</sup> November 2016, the defendants served defence statements, setting out in general terms, the nature and particulars of their respective defences.
5. On 10<sup>th</sup> January 2017, the defendants notified their intention to enter guilty pleas to some of the charges. The pleas offered are acceptable to the prosecution in that they reflect the totality of the criminality alleged.
6. Mr Rigby will plead guilty to the following charges:

**CHARGE 4**

DYLAN RIGBY was an officer of Game Gold Tradings Limited, a body corporate which committed an offence against section 33(1) of the Gambling Act 2005 in that between the 21<sup>st</sup> day of July 2015 and the 11<sup>th</sup> day of February 2016 it provided facilities for gambling, namely betting, when no operating licence had been granted under Part 5 of the Gambling Act 2005 which authorised such

provision; and that offence was committed with his consent or connivance or as a result of his negligence.

CONTRARY to section 33(1) and section 341 of the Gambling Act 2005.

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#### CHARGE 9

DYLAN RIGBY was an officer of Game Gold Tradings Limited, a body corporate which committed an offence against section 33(1) of the Gambling Act 2005 in that between the 21st day of July 2015 and the 11th day of February 2016 it provided facilities for gambling, namely gaming, when no operating licence had been granted under Part 5 of the Gambling Act 2005 which authorised such provision; and that offence was committed with his consent or connivance or as a result of his negligence.

CONTRARY to section 33(1) and section 341 of the Gambling Act 2005.

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#### CHARGE 12

DYLAN RIGBY was an officer of Game Gold Tradings Limited, a body corporate which committed an offence against section 330(1) of the Gambling Act 2005 in that between the 21st day of July 2015 and the 11th day of February 2016 it advertised unlawful gambling; and that offence was committed with his consent or connivance or as a result of his negligence.

CONTRARY to section 330(1) and section 341 of the Gambling Act 2005.

### 7. Mr Douglas will plead guilty to the following charges:

#### CHARGE 13

CRAIG DOUGLAS was an officer of Game Gold Tradings Limited, a body corporate which committed an offence against section 330(1) of the Gambling Act 2005 in that between the 1st day of October 2015 and the 11th day of February 2016 it advertised unlawful gambling; and that offence was committed with his consent or connivance or as a result of his negligence.

CONTRARY to section 330(1) and section 341 of the Gambling Act 2005.

#### CHARGE 14

CRAIG DOUGLAS was an officer of Game Gold Tradings Limited, a body corporate which committed an offence against section 33(1) of the Gambling Act 2005 in that between the 1st day of October 2015 and the 11th day of

February 2016 it provided facilities for gambling, namely gaming, when no operating licence had been granted under Part 5 of the Gambling Act 2005 which authorised such provision; and that offence was committed with his consent or connivance or as a result of his negligence.

CONTRARY to section 33(1) and section 341 of the Gambling Act 2005.

8. On each charge, the defendants are liable to:

- (a) imprisonment for a term not exceeding 51 weeks,
- (b) a fine not exceeding level 5 on the standard scale, or
- (c) both.

9. As the Court will be aware, by section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, level 5 fines are now unlimited.

#### Summary of case

10. The prosecutor in this case is the Gambling Commission, which is the national regulator of all forms of gambling with the exception of spread betting.

11. The main legislation governing gambling is the Gambling Act 2005.

12. Section 1 of the Act sets out the three licensing objectives of the legislation: preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime; ensuring that gambling is conducted in a fair and open way; and protecting children and other vulnerable persons from being harmed or exploited by gambling.

13. Gambling under the Act consists of betting, gaming and lotteries.

14. In order to provide facilities for gambling, an "operating licence" is required. The licence is granted by the Gambling Commission. There are exemptions for softer forms of gambling, generally played for low stakes and prizes. None of the exemptions apply here.

15. The stringent criteria for the grant of operating licences are concerned in general with the promotion of the licensing objectives and in particular with the solvency, integrity and corporate systems of the operator.

16. Operating licences are subject to licence conditions and codes of practice imposed by the Act or the Commission so as to protect the consumer and promote the licensing objectives. These include strict systems to ensure that those under the age of 18 are not permitted to gamble.

17. In this case, a wholesale evasion of regulation occurred over a long period of time. Facilities for betting, gaming and lotteries were provided online. Very large numbers of underage people were permitted to gamble, some losing significant quantities of money. The provision

of facilities for gambling continued even after, and in blatant defiance of, Gambling Commission intervention and advice that the activities were unlawful.

18. The Gambling Commission therefore regards the breaches in this case as grave.

#### Case Overview

19. Put simply, this case is about a website called Futgalaxy, which used a virtual currency (called Futgalaxy coins) to allow its customers, including children, to gamble.
20. The Futgalaxy website came to the attention of the Gambling Commission (the Commission) on 20 August 2015 when it received a complaint suggesting that a 14 year old boy had been betting on the website. The complaint was in the following terms:

*"I overheard my 14 yr old son and his friends [talking] about the betting for this weekends football and how much they had won/lost the week before. Naturally I intervened and they told me about an online website that appears to be run by a UK company but who obviously have no betting licence at all...they offer a betfair style exchange format...it's clearly unlicensed but also they're encouraging teenagers...my son and his friends said there were no ID checks in place at all"*

21. Neither the website itself, nor the individuals responsible for its operation, maintenance and promotion (the two defendants) were licensed by the Gambling Commission. The first defendant, Mr Dylan Rigby, acted primarily as the controller of the website and the second defendant, Mr Craig Douglas, primarily as an advertiser of the facility. Both were directors of the company operating the website, Mr Douglas from 1<sup>st</sup> October 2015. They therefore had duties to ensure that the company complied with the law.
22. Not only is there evidence of the participation in gambling by children, but this activity persisted following clear warnings from the Commission to Mr Rigby that this conduct was unlawful.

#### Background and Key Concepts

23. The unlawful Futgalaxy website, the subject of this prosecution, operated with a form of virtual currency called Futgalaxy coins.
24. However, the Futgalaxy website was parasitic upon a lawful game known as FIFA, a popular game played on game consoles. The operator of FIFA, Electronic Arts (EA) did not authorise sites such as Futgalaxy to operate. However, Futgalaxy was so structured as to provide a means for players to realise the economic value of their coins through the FIFA website, but without the permission of EA.
25. For this reason, it is important to understand how FIFA works.
26. FIFA computer video games are football simulators based on worldwide football leagues. They can be played on the gaming platforms PS4 and Xbox, PCs and on Android and iOS devices, with characters based on real footballers. They allow gamers to control individual players and

teams and to play against either the game itself or other gamers. FIFA is released on an annual basis with the players and teams reflecting the current football season.

27. The Court will have seen references in the core bundle to 'FUT'. FUT, or FIFA Ultimate Team, is a form of virtual football which allows gamers to create and build teams using all available players from within FIFA leagues in order to play with the team created by the gamer in either single player or online games. A user can play individually in pre-set competitions or online against other registered users. When a user plays these games, they can be shared on the Internet so that other people are able to view them. FUT enhances and broadens the players' experience by being more interactive, allowing virtual player transfers between customers within a 'transfer market'. In addition, FUT allows players to purchase EA player packs (Packs) which contain virtual items for use 'in game'.
28. Purchasing Packs within FUT can be done by players purchasing FIFA points from EA. The points are credited to the players' FUT account and can then be used to purchase Packs which contain enhancements for game play such as: virtual players; equipment; and contracts associated with virtual players and managers. Each item within the Pack has a trading value. It can be sold on the FUT marketplace to other players. However, sellers do not receive FIFA points in payment but are instead paid in a "fun" EA currency known as 'FIFA coins'. This may be likened to Monopoly money. ie it is used to exchange commodities within the game, such as virtual football players, but cannot be exchanged for cash, at least not with the permission of EA FIFA.
29. Term 8 of EA's terms of service forbids gamers from buying and selling FIFA coins for cash. Gamers are also forbidden by Term 8 of EA's terms of service from transferring FIFA coins along with other in-game items earned, such as players and consumables, to other gamers for cash. In other words, FIFA coins are intended to simply be part of the fun of participating in the virtual games offered by EA, without any corresponding monetary value.
30. FIFA coins are sought after as they provide customers with the opportunity to improve game play and gain an enhanced status. This has resulted in the generation of an unauthorised secondary market where FIFA coins are bought and sold online for cash, in direct contravention of EA's terms and conditions.
31. There are numerous websites which operate independently of EA that offer to buy and sell FIFA coins as part of the said unauthorised secondary market.

#### *Futgalaxy*

32. In order to exploit the demand for FIFA coins, a number of websites use a mechanism within the FUT marketplace to conduct the transfer of FIFA coins as a part of transactions where they sidestep the controls imposed by EA and buy and/or sell FIFA coins for cash.
33. Futgalaxy is an unaffiliated website which operates outside of the terms and conditions of FUT. It uses a virtual currency called Futgalaxy coins and has offered unlawful facilities for gambling to customers in Great Britain. Futgalaxy coins could be purchased from the Futgalaxy website for cash and at the end of any gaming activity could be exchanged for FIFA coins (which could then be sold on the secondary market – including through websites controlled by or associated with Mr Rigby - for cash). The precise (contrived) process of conversion is explained in the witness statement of the Commission enforcement officer, [REDACTED]

34. The Futgalaxy website did not hold an operating licence from the Commission authorising it to provide facilities for gambling. In addition, the unlawful gambling facilities provided by the Futgalaxy website were being advertised on social media. The social media postings support the assertion that the Futgalaxy website was offering facilities for gambling.
35. The Futgalaxy website purported to be operated by a company called Game Gold Tradings Limited (Game Gold). Neither Game Gold, nor any of the associated companies identified in this investigation, hold operating licences that would permit them to carry out these activities lawfully.
36. The first defendant, Mr Rigby, became a director of Game Gold on 22 July 2015, one day after it was incorporated. He is also the holder of all 100 issued shares in respect of Game Gold. He has been identified by the Commission as the registrant for the Futgalaxy website and as the contact person for issues relating to the website.
37. The second defendant, Mr Douglas (also known by the alias NepentheZ) became a director on 1 October 2015.

#### *Futgalaxy-coins.com and thefutshop.com*

38. The Commission's investigation identified two further websites with which Mr Rigby is associated, [www.futgalaxy-coins.com](http://www.futgalaxy-coins.com) and [www.thefutshop.com](http://www.thefutshop.com). Both websites offer to buy and sell FIFA coins for cash from members of the public, and the domain name registrant for both websites is Mr Rigby.
39. So far as [futgalaxy-coins.com](http://futgalaxy-coins.com) is concerned, the 'about us' page states that it is managed by "Game Gold Tradings Ltd, Colchester". This website can be accessed directly from the Futgalaxy website; a general scrolling banner explained that the [futgalaxy-coins](http://futgalaxy-coins.com) website sells FIFA coins. The website's homepage advertises the sale of "FIFA 15 and FIFA 16 coins", "FIFA Packs, FIFA Betting and FIFA coin sports bets at [futgalaxy.com](http://futgalaxy.com)" and "FutGalaxy FIFA coins at [futgalaxy.com](http://futgalaxy.com)". The website had a number of hyperlinks along the top of it, one of which offered customers the opportunity to "sell your coins".
40. The home page of [www.thefutshop.com](http://www.thefutshop.com) contained a large advertisement for the sale of FIFA coins. There were a number of links along the top of the page. One of these links was titled "sell coins or accounts". The 'Contact Us' page also stated that [thefutshop.com](http://thefutshop.com) was owned and managed by Mr Rigby and [REDACTED] and was established in 2012. Another page on [www.futshop.com](http://www.futshop.com) displayed a hyperlink to [www.futgalaxy.com](http://www.futgalaxy.com).

#### **Three forms of gambling**

41. By way of overview, the Commission has found that customers of the Futgalaxy website were able to gamble in the following three ways:
  - (i) **The Fut Jackpot:** Futgalaxy coins are used to participate in a draw which takes place when there are 10 entries. Each player can make up to three entries. The more Futgalaxy coins entered, the higher the player's chance of winning (expressed as a percentage on-screen). When the game has 10 entries the electronic name tag reel 'spins' landing on the winner. The winner takes the pot less a commission in Futgalaxy



coins that is taken by the Futgalaxy website. The Commission found that it was able to stake up to the equivalent of £100 in Futgalaxy coins per spin.

- (ii) **FUT Galaxy Bets:** Betting with Futgalaxy coins on real sporting events including Premier League football matches. Customers bet on who will win, lose or draw a match, with the Futgalaxy website acting as the bookmaker. The Commission found that it was able to stake up to the equivalent of £100 in Futgalaxy coins on each bet.
- (iii) **Fut Galaxy Pack Opening:** Futgalaxy coins are used to purchase a depiction of a 'player pack'. The player packs are similar to depictions within the FUT marketplace of the EA FIFA 16 game but customers do not receive the players themselves. Instead, the value of a player pack in FIFA coins is displayed and customers receive an equivalent value in Futgalaxy coins. This value may be higher or lower than the amount in Futgalaxy coins paid to purchase the player pack. Customers can remove the depiction of players altogether; this essentially creating a straight forward coin value (higher or lower). There is no age verification on this area of the website. The Commission opened numerous player packs and found that packs to the value of 2 million Futgalaxy coins were being advertised (stake up to the equivalent of £200).

42. Winnings in Futgalaxy coins could be converted into FIFA coins. Those FIFA coins have a value to players, both in that they can be used in the FUT marketplace to buy products which cannot be acquired with FIFA points (which would require a cash payment), and in that they can be sold through the secondary market for cash, including through websites controlled by or associated with Mr Rigby. Those websites included the futshop website, the futgalaxy-coins website, and a third website called ultimatecoinexchange.com (for which there was a hyperlink button on the Futgalaxy website).

#### Initial investigation

43. On 28 June 2015, the Commission established that a YouTube user with the profile name of "NepentheZ", (now known to be Mr Douglas), had published a video called "Betting on FUT games – FIFA 16 Ultimate Team". The video promotes gambling on [www.futgalaxy.com](http://www.futgalaxy.com). The opening graphic file showed a link to [www.thefutshop.com](http://www.thefutshop.com) in the description and also stated "Use the code 'NEPPO' for a discount". On the same day, Mr Douglas posted: "I bet 2,000,000 Coins on a victory for First goal score OPPONENT / Possible return 3,100,000 Coins ... via @Fut\_Galaxy" just placed a bet of 2,000,000 coins via "@Fut\_Galaxy".
44. In response, a Twitter user with a profile name [REDACTED] said: "...you do realise that fut galaxy can get sued for that right". A Twitter profile user with a profile name [REDACTED] responded to this stating, "...what how? Its Fifa coin betting lmao" and user [REDACTED] then responded stating, "other than the fact it is against EA's rules, betting is 18+ on most countries, even if fifa".
45. The Twitter user [REDACTED] also posted to "@NepentheZ" and "@fut\_galaxy" on 28 June 2015, "... the site doesn't ge. indocate betting is for over 18 only, as it is a type of gambling [sic]". The Twitter user "@NepentheZ" responded on 28 June 2015, "... Let us worry about that kind of stuff, yeah. Jesus, lmao. Go annoy someone else, somewhere else."

46. On 6 August 2015, Mr Douglas, again using the user name "NepentheZ", published a video on YouTube entitled, "FUT GALAXY – FIFA BETS, FIFA PACKS & FIFA 16 COINS!". The video again promoted gambling on the Futgalaxy website. In the course of promoting the website Mr Douglas indicates that it is available to persons under the age of 18 years:

*"so if you guys are into betting – and you don't have to be 18 for this because it's a virtual currency – this is the place for you."*

The opening shot of the video shows a graphic image displaying the URL "www.thefutshop.com" and advises users to use the code "NEPPO" for a discount.

47. On 15 August 2015, the Futgalaxy twitter account, @fut\_galaxy, retweeted a tweet from the second defendant, @nepenthez which stated "Have you guys got your bets up on @fut\_galaxy for todays games?! If not go now! <3".
48. On 7 September 2015, the Commission captured a copy of the website. The contact page identified two social media accounts that are used to advertise and promote the website to the public and to answer customer queries: Twitter - @fut\_galaxy and Facebook - 'TheFutGalaxy'. The Futgalaxy website's help page also described a concept called a "comfort trade". It did so in the following terms: "comfort trade is a method we use to deliver your FG Credits to your FIFA account. We log in to your FIFA account and add the coins to your account manually. The comfort comes from knowing that we do the hard work, while you relax and wait for your winnings".

#### Disruption attempts

49. On 7 September 2015, the Commission sent Mr Rigby a letter outlining the Commission's concerns and pointing out that a criminal offence appeared to be being committed under section 33 of the Gambling Act 2005. The letter advised Mr Rigby to take immediate steps to cease any unlicensed activities, and that failure to do so may result in the Commission bringing criminal proceedings against the company and / or its officers.
50. Mr Rigby replied the same day, indicating that he was seeking legal advice about whether the website (www.futgalaxy.com) should remain unregulated. He indicated that 'wagers' or bets were accepted in FIFA coins and had no cash value without any opportunity to convert winnings into real currency. He indicated that he was in discussion with his payment processor regarding this aspect.
51. The devices subsequently seized from the defendants' homes revealed their correspondence about the Commission's 7 September letter:

*Rigby: In other news I had an email from the gambling commission today. I will let you know how it goes and what we have to do to avoid paying for a UK licence.*

*...*

*Rigby: Had confirmation from the gambling commission that the sports bets should be uk regulated which would mean making them 18+*

*Douglas: ahhh, that sucks. How strict would we have to be on verification of that? Like if someone lies about their age, is that on us or on them?*



*Rigby: Them. A huge amount of under 18 gamble even on the mainstream site I think. If they have a credit card that's all they need.*

52. On 8 September 2015, the twitter account, @fut\_galaxy tweeted, "Coins are delivered to your FUT Galaxy account first where they must be wagered once before the winnings can be withdrawn". The following day, the Facebook account for www.futgalaxy.com, had a post on the account which stated "we are pleased to announce the launch of the Fut Galaxy coin website". It also stated "buy your coins now at @futgalaxy-coins.com".

53. Between the 8 and 9 September an exchange of emails followed between the Commission and Mr Rigby, in which he indicated that he was seeking legal advice regarding the aspects of the website that concerned the Commission. It is to be noted that Mr Rigby's email contained hyperlinks, below his signature, to the following websites:

- i. [www.thefutshop.com](http://www.thefutshop.com);
- ii. [www.futgalaxy.com](http://www.futgalaxy.com);
- iii. [www.thegamewager.com](http://www.thegamewager.com).

54. On 9 September [REDACTED] Mr Rigby's then legal representative, asked for an opportunity to discuss the matter with General Counsel for the Gambling Commission, in particular so that he could consider the Commission's approach in the context of the Commission's report on Social Gaming in January 2015. Counsel recorded the conversation as follows:

*"I have just spoken to [REDACTED] He was interested to know what about this specific case had led to the Commission to intervene, as well as wanting to check the position if his client now decided to apply for a licence.*

*On the former, I explained that we had received a complaint (from a parent of teenage children), which had caused us to look at the site and that having done so it was clear to us that the 'coins' represented were likely to be money or money's worth – on the basis that whilst EA's terms and conditions purported to prevent resale, it was evident that they could nevertheless be bought and sold. John readily saw why this would make a difference to the position set out in the Social Gaming paper we put out."*

55. After further discussion with the legal representative acting for Mr Rigby, he agreed to close the sports betting area of the Futgalaxy website. The Commission was notified of this in an email from Mr Rigby's legal representative. The Commission confirmed that sports betting was no longer available. The closure of the site was referred to in a tweet on 9 September 2015 from @fut\_galaxy, which stated "Betting has been disabled until FIFA16. Thank you to anyone that bet with us for FIFA 15 and we hope to see you back with us for FIFA16!".

56. On 24 September 2015, @fut\_galaxy tweeted "FUT Galaxy is back open for FIFA16, bets and packs will be back very soon, coins and FUTjackpot available now!!!! Futgalaxy.com". On 28 September 2015 the Commission became aware that the Futgalaxy website had re-opened and appeared to still be offering gambling facilities. [REDACTED] captured a copy of the website depicting the gambling facilities being offered. He noted, inter alia, that:

- (i) there was a scrolling banner which stated "FUT JACKPOT IS THE GAME WHERE YOU CAN WIN HUGE AMOUNTS WITH SMALL STAKES WITHIN SECONDS";
  - (ii) he was able to click on a link titled "FUT JACKPOT", which directed him to a page offering the Fut jackpot product (a lottery product);
  - (iii) he was able to click on a link titled "PACKS", which directed him to a page offering the pack opening product (a straight-forward higher/lower game of chance);
  - (iv) the "Terms & Conditions" stated that: "FUT Galaxy (FG) is an online gaming community that was created to allow online gamers to locate other online gamers in order to engage into playing video games of many different nature and to place a wager, also to bet and wager virtual coins, as well as playing games of chance".
57. The next day, 29 September 2015, the second defendant, Mr Douglas (NepentheZ) posted a YouTube video describing how his FIFA 16 Ultimate Team account had been "hacked". In the course of that video he promoted the website [www.futgalaxy.com](http://www.futgalaxy.com), advertising to customers a "Neppo" discount code. In addition, the YouTube video had a post underneath it entitled "Buy FUT coins here" followed by a shortened URL. The shortened URL redirects to: <http://.futgalaxy-coins.com> – a website which offers to buy and sell FIFA coins.
58. On 2 October 2015 the Commission established that the website seemed to be offering unlicensed gambling facilities namely Fut Jackpot (a lottery type game), sports betting on real events (i.e. FA premier league) and pack opening (higher/lower- depicting football players).
59. The Commission sent Mr Rigby a further letter, referring to the Commission's previous letter of 7 September 2015, outlining the Commission's further concerns and pointing out that a criminal offence appeared to be being committed under section 33 of the Gambling Act 2005. The letter also pointed out that [www.futgalaxy.com](http://www.futgalaxy.com) appeared to be promoting a lottery and that it appeared to be used by participants in Great Britain without the appropriate licence. As such, it appeared that an offence under section 258 of the Gambling Act was being committed. Mr Rigby was advised to take immediate steps to cease any unlicensed gambling activities. He was also warned that the failure to cease such activities may result in the Commission bringing criminal proceedings against the company and /or its officers.
60. The Commission received a reply on the same day from Mr Rigby, in which he indicated that:
- a. the website was no longer operated by Game Gold;
  - b. the website was now registered under the name Gamewager International Corp G.W.I.C S.R.L, and the company is based in Costa Rica;
  - c. Gamewager International Corp GWIC were operating the website with an "international gambling licence";
  - d. he had a role in running the website but he was no longer the main beneficial owner;
  - e. the betting section did not currently take any cash payments, and customers could not use any kind of cash payment facilities (indicating that Skrill is currently approving payment facilities for when this occurs);
  - f. that no offence is being committed in that no cash is being taken;
  - g. age verification measures had been introduced to stop under 18 players from partaking in the games; and

- h. that the 'futjackpot' section would be moved to a part of the site marked as over 18 years and that the website would not take cash payments for this aspect.
61. There is no such concept as an "international gambling licence" and it is now apparent that Mr Rigby's assertion that Gamewager International was now operating the website was untrue.
62. Despite the Commission's correspondence, on 3 October 2015, the second defendant, Mr Douglas, using the profile name of "NepentheZ", published a further video on YouTube titled, "EPIC FUT JACKPOT GAME! FIFA 16 Ultimate Team". The video explains how to gamble on the three gambling products offered on the website [www.futgalaxy.com](http://www.futgalaxy.com). Opening graphics for the video show a "FutGalaxy.com" link in the description with 'Use the code "NEPPO" for discount!'. In response, an individual called [REDACTED] posted "FutGalaxy is paying you money to bet money on their website to promote it to an audience in which the majority of viewers are underage, it's just dishonest and unethical."
63. On 6 October the Twitter account of [www.futgalaxy.com](http://www.futgalaxy.com), @fut\_galaxy tweeted "Please don't forget, the only way to bet on real life games, and play FUT Jackpot, is to deposit your FUT coins here [futgalaxy.com/MyAccount/Depo...](http://futgalaxy.com/MyAccount/Depo...)"
64. On 7 October 2015 the Commission sent Mr Rigby a further letter stating that:
- a. criminal offences would be committed if facilities for gambling can be used in Great Britain (GB) or if the remote gambling equipment is located in GB or, in the case of a remote lottery, if it is promoted in GB or by means of remote gambling equipment situated in GB unless no person in GB becomes a participant or possesses tickets with a view to selling them there;
  - b. this would be the case even if a licence is held within another jurisdiction;
  - c. the Commission's position remained unaltered regardless of any age verification measures that may be put in place and whether or not the website took cash.
65. The letter asked Mr Rigby to provide contact details for the company operating the website. It again advised Mr Rigby to take immediate steps to cease any unlicensed activities, and that failure to do so may result in the Commission bringing criminal proceedings against the company and / or its officers.
66. The Commission captured the content of the Futgalaxy website, again, on 7 October. The website was still offering the facilities of Fut Jackpot and pack openings. The ability to place live sports bets was being advertised. From the homepage, it was possible to click on a link titled "BETS", which directed the user to a page offering sports betting. The page displayed a number of sports bets and odds that were on offer. It also displayed an "18+" sign and stated "Bets and FutJackpot are available to users who are over 18 only. If you would like to bet with deposited coins, you can verify your account as over 18. Please log in for further instructions!". From the homepage it was also possible to click on a link titled "FUT JACKPOT". That page similarly displayed an "18+" sign and stated that "Bets and FutJackpot are available to users who are over 18 only. If you would like to bet with deposited coins, you can verify your account as over 18. Please log in for further instructions!". It was also possible to click on a link titled "PACKS", which directed the user to a page offering the pack opening product.
67. The control on under 18s gambling was far less than the controls imposed under the aegis of operating licences.

68. On 8 October 2015, the Commission received a reply, by email, signed by Mr Rigby from the email address [REDACTED] giving his title as Managing Director. In his email, which he copied to [REDACTED] he indicated the following:
- a. the contact for the new holding company was [REDACTED]
  - b. as the manager of the website he could say that they aimed to be 100% compliant;
  - c. the option for UK citizens to use the gambling features of the website would be removed;
  - d. he was setting up Skrill payment methods.
69. He also queried if his proposed action would make him compliant.
70. On 9 October 2015 the Commission sent Mr Rigby a further email advising him to take immediate action to prevent GB customers from using gambling facilities on his website. The Commission indicated that failure to take such action would be likely to result in enforcement action / criminal proceedings.
71. Mr Rigby did not respond to that email.
72. It is to be noted that in a chat conversation on 16 October 2015, the second defendant, Mr Douglas is seemingly told by an unknown correspondent that, "if you sell coins...on a site called FUT Galaxy...Claiming ignorance might be hard there as well from their perspective". Mr Douglas appears to respond as follows: "the only interesting point RE: FUTGalaxy, is you don't actually bet with coins. You buy FutGalaxy credits. You play and bet with FUTGalaxy credits, and then you convert these in too [sic] FIFA coins. We both know you're actually playing with coins, but as a way to work around certain UK gambling licenses, (which we now have, btw ;) ) and as a way to avoid being sued / shut down by EA for using licensed products of theirs on our site, we had to convert the currency". By this date, of course, Mr Douglas was a director of Game Gold, with director's duties to ensure that the company complied with the law.
73. In an online chat on 21 October 2015, Mr Rigby observed that "grief from the gambling commission is regular", but added that the Commission were "semi powerless". Two days later, he said: "we are completely ignoring gambling regs... by allowing under 18s to bet...can you transfer the domain to someone far away....in case shit ever comes to meet fan...asap is good...got enough letters from the gambling commission to paper my wall." When asked "is it not allowed if its virtual" Mr Rigby replied "not really...but theres nothing they can do to stop it."

#### **Further website promotion**

74. Further examples of promotion of the web-site have come to light.
75. On 13 February 2015, a YouTube user with the profile name of [REDACTED] published a video titled, "FUTGALAXY PACKS". This video depicts a 12 year old boy, now identified as [REDACTED] apparently gambling on the Futgalaxy website. His father, [REDACTED] has provided a statement confirming that his son was 12 years of age at the time that the video was taken.

76. On 20 November 2015 @fut\_galaxy retweeted a post from a Twitter user with the account profile name [REDACTED] saying he had won 237,792 coins on FutJackpot.
77. On 20 November 2015 [REDACTED] tweeted, "Sorry I'm not tweeting a lot, I've been really busy with school and stuff, I'll try and tweet more".
78. On 2 December 2015 a Twitter user with a profile name of [REDACTED] posted, "@fut\_galaxy I'm really addicted to your website". This post was retweeted by @fut\_galaxy. [REDACTED] appears to be a boy under the age of 14 years.
79. On 29 January 2016 Mr Douglas, using the profile name on YouTube NepentheZ, published a video titled, "FUT GALAXY FRIDAYS! – 10,000,000 COIN challenge", promoting gambling on www.futgalaxy.com.
80. On 5 February 2016, Mr Douglas, using the profile name on You Tube NepentheZ, published a video titled, "FUT GALAXY FRIDAYS! #2 – 10,000,000 COIN challenge #2", promoting gambling on www.futgalaxy.com.

#### **Ongoing provision of gambling facilities**

81. The witness [REDACTED] explains that he gambled on Futgalaxy.com around September / October 2015 after becoming aware of its existence from a YouTube promotional video. He states that he deposited cash into his Futgalaxy.com account and proceeded to gamble using Futgalaxy coins purchased from the website. He explains that he gambled on Fut Jackpot and also placed two bets on the outcome of live football events in the Brazilian and German football leagues using Futgalaxy coins.

#### **Covert investigation: October 2015 to February 2016**

82. At various times between October 2015 and February 2016, [REDACTED] engaged with the Futgalaxy website and websites linked to it [REDACTED]. Throughout that covert investigation, he used a pseudonym.

#### **Purchasing FUT coins**

83. Once he had registered on the website, in order to use the gambling facilities, Futgalaxy.com required [REDACTED] to make a cash deposit in exchange for FutGalaxy coins, using a debit or credit card.
84. The price range for these FutGalaxy coins fluctuated: on one occasion a 10k FutGalaxy coins pack was advertised as costing £1.50 and a 250K FutGalaxy coins pack advertised as costing £37.50. At a later point in the 250K FutGalaxy coins were advertised for sale at £28.75, 1 million FutGalaxy coins were advertised as costing £100 and 2 million FutGalaxy coins were advertised as costing £190.
85. [REDACTED] was not asked to confirm his age at any point and was immediately able to carry out a pack opening.

86. In order to gamble within the other two areas on Futgalaxy.com (Fut Jackpot/FUT Galaxy bets), [REDACTED] was required to go through a purported age verification process. This process involved the input of a credit card number or the submission of an identity document to the website. After inputting the credit card number, [REDACTED] was able to gamble on all three areas of the website using the Futgalaxy coins purchased.

#### *Three forms of gambling*

87. As noted above, the Commission's investigation into Futgalaxy revealed that three separate methods of gambling facilities were being offered: pack opening, sports betting and Fut Jackpot.
88. On 17 November 2015, the second defendant, Mr Douglas (under the user name of "NepentheZ"), published a YouTube video called "EPIC 100k PACK! – FIFA 16 Ultimate Team Pack Opening (FG Pack Opening)", which depicted and advertised the gambling facilities offered by Futgalaxy. It demonstrates and explains all three gambling products available on [www.futgalaxy.com](http://www.futgalaxy.com).

#### *Player packs*

89. During the course of his covert activity, [REDACTED] was able to click on a link on the homepage of [www.futgalaxy.com](http://www.futgalaxy.com) entitled "PACKS". He was directed to the page of the website on which pack opening was being offered. He was able to purchase a player pack while on this screen. He did this by clicking on the "Open the next pack" button and selecting the value of the pack he wished to open. Player packs up to the value of 2 million Futgalaxy coins were available. One million Futgalaxy coins was equal to £100 on the PS4 platform.
90. After purchasing a player pack, an animation of eight cards appeared on the screen, each card containing the image and name of a football player, the player's individually assigned attributes, and the value of the card in Futgalaxy coins. The total value in Futgalaxy coins of the eight cards was shown as a balance, in the centre of the top of the screen. This total value may be either higher or lower than the original price paid to purchase the pack.
91. The player animations in the pack opening product looked exactly the same as player animations which are shown when players and consumables are purchased on FIFA 2015 and FIFA 2016. The main difference is that, when players and consumables are purchased in the FIFA platform, the purchaser actually receives the virtual players and is able to use them within the FIFA game. The player packs purchased on the Futgalaxy website only give the purchaser their listed value back in Futgalaxy coins and nothing more than that. The virtual players merely act as a visual representation similar to the appearance of bells on a fruit machine.
92. [REDACTED] was able to gamble by purchasing and opening player packs without being required to produce any identification or go through any means of age verification.
93. He found that having opened a pack, the total pack balance was credited to his [www.futgalaxy.com](http://www.futgalaxy.com) account in Futgalaxy coins.



94. He noted that on the "PACKS" page, once player packs had been purchased, there was a button available to cancel the animation of the player cards appearing. If this button is clicked the animation does not take place and the player cards just appear on the screen. Essentially the purchaser is presented with a straight higher or lower value of Futgalaxy coins. This button had the title "I'm impatient skip animation". When this button is activated each pack opening takes approximately 5 seconds allowing rapid repeat play.

#### *Sports betting*

95. [REDACTED] was likewise able to click on a link on the website entitled "BETS". He was directed to the page of the website on which sports betting was being offered. He was able to place multiple bets on live sporting events at set odds using a stake of Futgalaxy coins. These events included Premier League football matches, the Champions League football matches, National Hockey League matches and Ultimate Fighting Championship bouts. Bets were offered for numerous other live sporting events from time to time.
96. He was able to place a number of bets on the outcome of individual events and he also placed accumulator bets on the outcome of multiple live events. In respect of the football bets he was able to bet on the outcome of games based on odds set by the website for win, lose or draw. The betting markets offered are similar to those offered by mainstream licensed betting operators.
97. A winning bet was credited to [REDACTED] Futgalaxy account in Futgalaxy coins. When he lost, Futgalaxy coins were deducted from his account.

#### *Fut Jackpot*

98. [REDACTED] was also able to click on a link entitled "FUTJACKPOT". He was directed to the page of the website on which the Fut Jackpot product was being offered. He then attempted to play Fut Jackpot but was presented with a verification screen which included an 18+ sign in a red circle underneath which was written "Bets and Fut Jackpot are available to users who are over 18 only. If you would like to bet with deposited coins, you can verify your account as over 18. There are two ways to verify your account." For option 1 there was written: "Verification via credit card (unlocks your account instantly)." Underneath this there was a box in which a credit card number could be entered. Underneath that box was written "As we don't ask for your full name and the CRC code, we're not able to abuse your credit card account. We only use it for age verification!" For option 2 was written: "Verification via ID Card/Driving license (manual process). Please send us an email (thefutgalaxyuk@gmail.com) with your passport, ID card or driving license as attachment. Don't forget to provide us your username. This process may take several hours."
99. [REDACTED] undertook age verification by means of option 1 and was required to input a credit card number only and not a name or CRC code. He inputted the required details and his account was unlocked immediately enabling him to gamble from a GB IP address without any need for further verification.
100. The Fut Jackpot game allowed him to wager Futgalaxy coins on a virtual spin of a wheel. The Fut Jackpot game consists of either a low, medium or high stakes game.
101. [REDACTED] found that he could gamble up to a maximum of three times on the outcome of a spin of the virtual wheel. The spin itself takes place when a total of ten individual

entries have been placed. His chances of winning were increased depending upon the amount he wagered. The winner received the total amount of coins wagered minus a fee charged by [www.futgalaxy.com](http://www.futgalaxy.com). [REDACTED] gambled on the Fut Jackpot game several times throughout the investigation period. His stakes ranged in value between 1000 and one million plus Futgalaxy coins. One million Futgalaxy coins was equal to £100 on the PS4 platform.

102. Winning spins were credited to [REDACTED] Futgalaxy account in Futgalaxy coins, whilst losing bets were deducted from his account.

#### *Withdrawal of funds*

103. The process of converting Futgalaxy coins into cash is broken into two parts. First, the conversion of Futgalaxy coins to FIFA coins and then the conversion of FIFA coins to cash.

104. [REDACTED] was able to withdraw his funds in the following way:

- (i) By converting Futgalaxy coins to FIFA coins. That process was started by clicking on the "withdrawal player trade" button on the Futgalaxy website;
- (ii) By converting his FIFA coins into cash. [REDACTED] had become aware of the links between [futgalaxy.com](http://futgalaxy.com) and a number of FIFA coin selling/buying websites, in particular [www.futgalaxy-coins.com](http://www.futgalaxy-coins.com) and [www.futshop.com](http://www.futshop.com), both of which were operated by the first defendant. Once the FIFA coins had been credited to his EA account, he had the option of selling them using one of the two websites he had identified. It is to be noted that the website [www.futgalaxy.com](http://www.futgalaxy.com) was sign posted from [www.futshop.com](http://www.futshop.com) website. There were two methods of realising the FIFA coins for a cash value: a player trade or via the "account method".

105. Material obtained during the investigation shows that correspondence was received from, 'thefutgalaxyuk@gmail.com' stating "please add the discoburglar on skype. He can arrange buying the coins. Thank You, the FutGalaxy Team". The username 'thediscoburglar' is believed to be Mr Rigby.

106. [REDACTED] also identified a YouTube Channel with the user name Dylan Rigby. The channel logo was "Ultimate Coin Exchange". There were two videos posted on the channel with the user name Dylan Rigby. The second was called, "How to buy coins - THEFUTSHOP.com". This advises users about how to buy coins from [www.thefutshop.com](http://www.thefutshop.com).

107. On 10 February 2016, [REDACTED] visited the Futgalaxy website; the homepage showed a link titled "BUY COINS". By hovering over the link [REDACTED] was shown a hyperlink to the website [www.ultimatecoinexchange.com](http://www.ultimatecoinexchange.com). [REDACTED] conducted a similar exercise on 14 April 2016. On that occasion, there was a hyperlink on the homepage titled "SELL COINS". This link had a further hyperlink titled "SELL COINS PLAYER METHOD". By clicking on this link [REDACTED] was taken to [www.ultimatecoinexchange.com/pages/sell-fut-coins-automated](http://www.ultimatecoinexchange.com/pages/sell-fut-coins-automated). In the centre of this page was written "Through our automated system, you can sell coins to us via the Transfer Market within minutes! Follow the step by step procedure to see what to do." This page enabled a user to sell FIFA 16 coins, by selecting the game console type and the payment method which was either Skrill or PayPal. This appears to be the same process that was used to sell FIFA 16 coins to the website, 'thefutshop.com'.

108. The home page for [www.ultimatecoinexchange.com](http://www.ultimatecoinexchange.com) had a hyperlink entitled "HOW IT WORKS" which described the process of coin purchase via the website. On 25 May 2016 [REDACTED] revisited [www.ultimatecoinexchange.com](http://www.ultimatecoinexchange.com) and selected the "HOW IT WORKS" hyperlink. He was taken to a page which was titled "HOW IT WORKS" which explained in detail a process of buying and selling FIFA coins.

#### **Execution of search warrants and interviews**

109. On 11 February 2016, search warrants were executed at the home addresses of Mr Rigby and Mr Douglas.

##### *Dylan Rigby*

110. Having been cautioned when enforcement officers entered his premises, Mr Rigby agreed that he was still working on the website, which he said was being administered and developed in Germany. He confirmed that he could not produce a licence. He stated that he remained of the view that he was not doing anything wrong.
111. On 23 March 2016, Mr Rigby was interviewed under caution. He provided a prepared statement, in which he denied committing the offences alleged.
112. Thereafter Mr Rigby answered 'no comment' to all questions put.

##### *Craig Douglas*

113. Mr Douglas was likewise cautioned when enforcement officers attended his premises on 11 February 2016. He replied: "I know about Game Gold Tradings and Futgalaxy but that as far as I'm aware we are licensed, that they took it offline when the Gambling Commission sent them letters but that Dylan Rigby sorted it out and he just promotes it." He confirmed that he uses the names, "Nepenthez" and "Neppo". During the search of his home, Mr Douglas asked "why he was being done for this as Dylan was the main man". He stated that he wanted to be "open and honest" and that he didn't know that he was doing anything wrong. He added: "I haven't got anything to hide and I want to co-operate with you. It's my livelihood, it's how I earn my money."
114. On 23 March 2016, Mr Douglas was interviewed under caution. He provided a prepared statement, in which he stated that his primary role in Futgalaxy was to promote the site. He described his occupation as a 'YouTuber' who performs a promotional role for a number of websites receiving income from advertising revenue. He stated that he stopped promoting Futgalaxy.com after Commission officers visited his home address on 11 February 2016.
115. In addition, Mr Douglas said that prior to September 2015, he did not believe that a licence was required. He was told by Mr Rigby that he had received a letter from the Commission that stated that a licence was required. He was subsequently told by Mr Rigby that it was "all sorted". He was subsequently told by Mr Rigby that age restrictions were required but that he (Mr Rigby) had "taken care of it". He stated that he was unaware of subsequent correspondence between Mr Rigby and the Commission. He reiterated his belief

that Futgalaxy does not involve gambling – Futgalaxy coins cannot be converted to cash and have no real world value.

116. Mr Douglas thereafter answered 'no comment' to all questions put.

#### Material seized

117. The digital items seized from the defendants' homes were subject to an analysis process by Commission officials to identify relevant material.

118. Material found on Mr Rigby's seized devices includes:

- i. Emails that show control of www.futgalaxy.com and Game Gold;
- ii. Apparent customer database from www.futgalaxy.com (and thefutshop.com);
- iii. Skrill documentation;
- iv. A Futgalaxy Business Plan;
- v. Documentation relating to Gamewager International Corp GWIC;
- vi. E-mails relating to taking payment from children;
- vii. Skype chats between Mr Douglas and Mr Rigby regarding the www.futgalaxy.com website, marketing and bets;
- viii. Chat extracts from skype regarding income from betting, percentage pay outs, keeping tweets simple for kids ("basic tweets are fine and simple and kids understand"), advertising, letters from the Commission and references to moving domains;
- ix. Website motifs relating to Ultimate Coin Exchange;
- x. Staff rota of duties;
- xi. Documents showing control of Game Gold;
- xii. E mails re taking payment from a 15 year old.

119. The latter emails were sent by [REDACTED] who contacted thefutshopUK having discovered that her 15 year old son had purchased £586 worth of coins from that website. She explained that "he was a child who didn't know any better and was using a debit card...You need to put some controls in place to prevent children from doing this". The ultimate response that she received was:

*"...how do we know he was a child? If they pay via credit card then we have no reason to challenge this, plenty of youngsters use our site & all with permission either from their parents or card holder, maybe you should have regulated his spending if you were concerned about how many coins he was buying".*

120. Other similar emails were found on the devices seized:

*"My son purchased coins....he has an account. [To] date, the coins are not in his account. Please let us know how he can get the coins into his account for use in his game."*

*"I contacted you some weeks ago to say after paying £26 for 3 million coins for my grandson [REDACTED]...only 1.5 million were delivered....you assured me you would deliver him the balance....as yet you still haven't..."*

*"Hi there, sadly my 12 year old son bought coins without my knowledge. He saw a link on Instagram and understood they were free – as long as he input credit card details....my son is hysterical and incoherent..."*

*"Hello I ask you for a refund about the order....my child just used my credit card."*

121. Material found on Mr Douglas's seized devices includes:

- i. Items that confirm that Mr Douglas is Nepenthez and has in excess of 1 million YouTube followers;
- ii. Photographs of bundles of cash;
- iii. Documents linking Mr Douglas to [www.futgalaxy.com](http://www.futgalaxy.com) and payment of staff [REDACTED];
- iv. SMS discussion between Mr Douglas and [REDACTED] re payment/hours of work at [www.futgalaxy.com](http://www.futgalaxy.com);
- v. Chat involving Mr Douglas and Mr Rigby regarding the website [www.futgalaxy.com](http://www.futgalaxy.com) including comments that it is used by 'underage users to bet with coins' and mentions 'kids stealing cards'- to use on the website;
- vi. An employee forum chat involving Mr Douglas, [REDACTED] and Mr Rigby discussing aspects of the website [www.futgalaxy.com](http://www.futgalaxy.com);
- vii. Skype chat discussions between [REDACTED] Mr Douglas and Mr Rigby discussing advertising, problems/bugs on [www.futgalaxy.com](http://www.futgalaxy.com), deposits/withdrawals, margins for profit and advertising/marketing.

## Conclusion

122. Mr Rigby was the 'moving force' behind the Futgalaxy website. By comparison, Mr Douglas's role appears to have been as an advertising 'front-man' for the business - albeit that chat activity suggests that there was later a greater degree of control and facilitation by him; a number of the YouTube videos also suggest that administration rights had been vested in Mr Douglas. He was a director of Game Gold from 1st October 2015.

123. The defendants' conduct was aggravated by:

- a. The involvement of children, and the lack of regard for their protection both before and after written warnings from the Commission.
- b. The long period over which offending continued.
- c. Persistence in the activity following clear warnings from the Commission.
- d. Evidently large sums earned from the offending behaviour.
- e. The almost total lack of controls applied to the activity, in comparison with the controls applicable to all other online gambling operators (see Licence Conditions and Codes of Practice).

124. It is understood that the defendants may seek to mitigate their conduct by reference to a Commission paper on Social Gaming dated January 2015, in which the Commission suggested that, in "social gaming", the winning of additional spins, credits, tokens or chips does not amount to a prize of money or money's worth, which would make it licensable gambling. However, that cannot credibly be taken to apply to participation in obvious gambling activities, including betting, gaming and lotteries, for prizes which are exchangeable for cash through an unauthorised monetary exchange facility. Moreover, any potential mitigation fell away in September 2015, when the Commission gave clear notice to Mr Rigby that the activity was criminal, and Mr Douglas seemingly took no steps as a director of Game Gold to investigate the lawfulness of the activity.

