

**IN THE BIRMINGHAM MAGISTRATES' COURT**

**THE GAMBLING COMMISSION**

**-v-**

**DYLAN RIGBY**

**First Defendant**

**CRAIG DOUGLAS**

**Second Defendant**

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**INITIAL CASE SUMMARY, PREPARED IN SUPPORT OF APPLICATION FOR SUMMONS**

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*For ease of reading, this document is structured as follows:*

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- B. *Introduction, Background and Key Concepts;*
- C. *Three forms of gambling: an overview;*
- D. *Legislative context;*
- E. *Initial investigation;*
- F. *Disruption attempts;*
- G. *Further website promotion;*
- H. *Ongoing provision of gambling facilities;*
- I. *Covert Investigation: October 2015 to February 2016;*
- J. *Execution of search warrants and interviews;*
- K. *Material seized;*
- L. *Monetary elements;*
- M. *Conclusion.*

**A. Case Overview**

1. FIFA Ultimate Team (FUT) is hosted by EA Games (Electronic Arts Inc). It is virtual football, played with characters based on real footballers. Futgalaxy ([www.futgalaxy.com](http://www.futgalaxy.com)) is an unaffiliated website which operates outside of the terms and conditions of the host site. The website used a virtual currency (called FUT Galaxy coins) which could be used by customers to gamble, by playing a game of chance for a prize; or as a stake to place bets on the outcome of live sporting events; or as payment to enter a lottery.

2. Neither the website itself, nor the individuals responsible for its operation, maintenance and promotion (the two proposed defendants) were licensed by the Gambling Commission. The first defendant, Mr Rigby, acted primarily as the controller of the website and the second defendant, Mr Douglas, primarily as an advertiser of the facility.
3. It is alleged that Dylan Rigby provided facilities for gambling (both gaming and betting), contrary to section 33 of the Gambling Act 2005 (the Act); that he promoted a lottery, contrary to section 258 of the Gambling Act; and that he advertised unlawful gambling, contrary to section 330 of the Act. In respect of Mr Douglas, it is alleged that he too promoted a lottery, contrary to section 258 of the Act; that he invited children to gamble, contrary to section 46 of the Act; and that he advertised unlawful gambling, contrary to section 330 of the Act.
4. Not only is there evidence of the participation in gambling of children, but this activity persisted following clear warnings from the Commission to Dylan Rigby that this conduct was criminal.

## **B. Introduction, Background and Key Concepts**

### *FIFA 16*

5. FIFA computer video games are football simulators based on worldwide football leagues. They allow gamers to control individual players and teams and to play against either the game itself or other gamers. FIFA 16 is produced and developed by Electronic Arts (EA) which is an American developer, publisher and distributor of computer video games. EA develops and publishes the FIFA series of video games under the EA Sports label.
6. There are two types of game within the FIFA game: the normal gameplay mode and FIFA Ultimate Team (FUT). The FIFA game is a software based virtual football game, that can be played on the gaming platforms PS4 and Xbox, PC's and on Android and iOS devices, with characters based on real footballers. It allows gamers to create and build teams using all available players from within FIFA 16 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 preset 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.
7. FUT enhances and broadens the players' gaming 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'.
8. Purchasing Packs within FUT can be done by players purchasing FIFA points from EA FIFA 16. 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 an EA currency known as 'FIFA coins'. Packs can also be purchased with FIFA coins. 500 FIFA coins are credited to players when they register and they can also be obtained by playing matches and selling players on the marketplace. If a player does not want the items from the Pack they have purchased, the items can either be sold to other players on the FUT marketplace by means of an auction or alternatively sold back

to EA through the FUT marketplace for a predetermined value. EA takes a commission in FIFA coins on any transfers between players.

9. As noted above, FIFA coins are a virtual currency used within the EA FIFA16 game to purchase consumables, such as virtual football players. As well as being acquired through the sale of items from Packs, FIFA coins can be won by players from 'in game play', i.e. when an individual wins a game they are awarded a set amount of FIFA coins. Coins are also "won" simply by playing the game.
10. 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.
11. FIFA coins are extremely 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 a secondary market where FIFA coins are bought and sold online for cash, in contravention of EA's terms and conditions. Gamers buy FIFA coins from the secondary market for a number of reasons. It is cheaper to buy FIFA coins from the secondary market than it is to buy FIFA points directly from EA. Furthermore, when gamers buy FIFA points they are only able to acquire players by purchasing Packs, however with FIFA coins gamers can instantly buy the player of their choice on the marketplace and do not have to spend time selling unwanted players or engaging in prolonged gameplay in order to accrue FIFA coins with which they can then purchase the player of their choice.
12. Gamers may choose to sell their FIFA coins as it means they can make a profit if they are good enough at the game, if they have acquired high value players, or if they become bored of the game and want to sell off any remaining FIFA coins they have. Furthermore, because FIFA coins are not transferrable between FIFA games, gamers may choose to sell FIFA coins prior to a new release of the FIFA game.
13. There are numerous websites which operate independently of EA that offer to buy and sell FIFA coins.
14. The result of increasing FIFA coins is that gamers are given the advantage of being able to rapidly enhance their team for FUT game play.
15. It is important to note that, despite FIFA coins being sold for cash through this secondary market, the FIFA coins themselves never leave the FUT platform. Rather, the transactions take place outside the FUT platform and the FIFA coins are then subsequently transferred between players within the platform itself.

#### *Futgalaxy*

16. In order to exploit the demand for FIFA coins, a number of websites, which includes a website called [www.futgalaxy.com](http://www.futgalaxy.com) (Futgalaxy), use a mechanism within the FUT marketplace to conduct the transfer of FIFA coins as a part of transactions where they buy and sell FIFA coins for cash. Futgalaxy is an unaffiliated website which operates outside of the terms and conditions of the EA host site. It uses a virtual currency called FUT coins. It is the prosecution case that it has offered unlawful facilities for gambling to customers in Great Britain.

17. 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"*

18. Under section 28 of the Gambling Act 2005 ("the Act"), the Commission has the power to investigate whether an offence has been committed under the Act and to commence legal proceedings in respect of such an offence.
19. The Commission's investigation confirmed that the Futgalaxy website was providing unlicensed facilities for gambling which could be used in Great Britain. The website used a virtual currency (called FUT Galaxy coins) which could be used by customers to play a game of chance for a prize; or as a stake to place bets on the outcome of live sporting events; or as payment to enter a lottery. FUT Galaxy 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 will be explained by a Commission enforcement officer, [REDACTED]
20. The Futgalaxy website did not hold an operating licence from the Gambling Commission authorising it to provide facilities for gambling.
21. 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.
22. 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.
23. The first defendant, Dylan 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.
24. The second defendant, Craig Douglas (also known by the alias NepentheZ) became a director on 1 October 2015.

*Futgalaxy-coins.com and thefutshop.com*

25. 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 Dylan Rigby. The precise (contrived) process of conversion will be explained by [REDACTED]

26. So far as 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 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" and "FutGalaxy FIFA coins at 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".

27. The home page of 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 was owned and managed by Dylan Rigby and [REDACTED] and was established in 2012. Another page on www.futshop.com displayed a hyperlink to www.futgalaxy.com.

### C. Three forms of gambling: an overview

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

(ii) **FUT Galaxy Bets:** Betting with FUT Galaxy 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 FUT Galaxy coins on each bet.

(iii) **Fut Galaxy Pack Opening:** FUT Galaxy 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 FUT Galaxy coins. This value may be higher or lower than the amount in FUT Galaxy 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 FUT Galaxy coins were being advertised (stake up to the equivalent £200).

29. Winnings in Fut Galaxy 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 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).

#### **D. Legislative context**

30. The provisions of the Gambling Act 2005 can be found in Stone's Justice Manual, from paragraph 7.4996 to 7.5312. For the sake of completeness and ease of reference, gambling is defined in the Act (section 3) as:

- (a) Gaming, within the meaning of section 6;
- (b) Betting, within the meaning of section 9; and
- (c) Participating in a lottery, within the meaning of section 14, and subject to section 15.

31. It is the prosecution case that the proposed defendants engaged in conduct relating to each of these three forms of gambling, by way of pack opening (gaming), sports betting (betting), and a Fut Jackpot (a lottery).

32. The draft charges fall into five broad categories, as follows:

- (i) Dylan Rigby **providing facilities for gambling (namely gaming by virtue of the player packs)**, contrary to section 33(1) of the Gambling Act 2005 (charge 1). Charge 2 is an alternative charge pursuant to section 341 of the Gambling Act 2005 (consent, connivance or neglect by an officer of the company), should Mr Rigby maintain (and the Court accept) that if the section 33 offence was committed, it was done so by the company.
- (ii) Dylan Rigby **providing facilities for gambling (namely betting by virtue of the sports bets)**, contrary to section 33(1) of the Gambling Act 2005 (charge 3). Charge 4 is an alternative charge pursuant to section 341 of the Gambling Act 2005.
- (iii) Dylan Rigby and Craig Douglas **promoting a lottery**, contrary to section 258 of the 2005 Act (charge 5). Charges 6 and 7 are alternative charges pursuant to section 341 of the Gambling Act 2005. Charges 8 and 9 are themselves alternative charges to charges 5 and 6, to allow for the categorisation of the Fut Jackpot as a game of chance, rather than a lottery. For the avoidance of doubt, the prosecution alleges that it is a lottery.
- (iv) Craig Douglas **inviting a child to gamble**, contrary to section 46 of the 2005 Act.
- (v) Dylan Rigby and Craig Douglas **advertising unlawful gambling**, contrary to section 330 of the Ac. Charges 12 and 13 are alternative charges pursuant to section 341 of the Gambling Act 2005.



33. Whilst a magistrates' court may ordinarily not try an accused for a summary offence unless the information was laid (i.e. served on the magistrates' court) within six months of the time when the offence was allegedly committed (Magistrates' Court Act 1980, s. 127(1)), section 127 of the MCA is vitiated by section 347 of the Act, which provides that:

*(1) A magistrates' court may try an information for an offence under this Act provided that the information was laid within the period of twelve months beginning with the date (or last date) on which the offence is alleged to have been committed.*

*(2) Section 127(1) of the Magistrates' Courts Act 1980 (c. 43) shall not apply to an offence under this Act.*

#### E. Initial investigation

34. On 28 June 2015, the Commission established that a YouTube user with the profile name of "NepentheZ", (now known to be Craig 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".
35. 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.
36. 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".
37. On 7 September 2015, the Commission captured a copy of the website. Each page of the website clearly stated "all rights reserved and referred to Game Gold Trading Limited". The website appeared to be offering gambling facilities. The contact page also 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'. As noted above, the registrant for the futgalaxy domain is the first defendant, Dylan Rigby.
38. The Futgalaxy website's help page 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".

## F. Disruption attempts

39. 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.
40. Mr Rigby replied the same day, indicating that he was seeking legal advice about whether the website ([www.futgalaxy.com](http://www.futgalaxy.com)) should remain unregulated. He indicated '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.
41. 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](http://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](http://@futgalaxy-coins.com)".
42. 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).
43. 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 not available. However, 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!".
44. Furthermore, 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](http://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] [REDACTED] obtained 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".

45. The next day, 29 September 2015, the second defendant, Craig 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.

46. On 2 October 2015 the Commission established that the website seemed to be offering unlicensed gambling facilities namely Futjackpot (a lottery type game), sports betting on real events (i.e. FA premier league) and pack opening (higher/lower- depicting football players).

47. The Commission therefore 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. In addition, the letter 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 or registration authorising the activity. 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, and that the failure to do so may result in the Commission bringing criminal proceedings against the company and /or its officers.

48. 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 Tradings Limited;
- 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.

49. Enquiries were made in respect of the company GameWager International Corp G.W.I.C of 15 Montes de Oca, San Pedro, and San Jose 11501 Costa Rica. The Commission made extensive

enquiries but there did not seem to be any record of this company trading. However, during a search of Mr Rigby's property on 11 February 2016, a company incorporation certificate for a company called GW International in Costa Rica was identified. Also recovered was an unsigned acceptance letter appointing Mr Rigby as a company officer.

50. There is no such concept as an "international gambling licence". The Commission could find no evidence that supports Mr Rigby's assertion that Gamewager International was now operating the web-site.
51. 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!'. 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...)"
52. On 7 October 2015 the Commission sent Mr Rigby a further letter stating that:
- 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 in there;
  - this would be the case even if a licence is held within another jurisdiction;
  - 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.
53. 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.
54. The Commission captured the content of the Futgalaxy website again on 7 October. The website was still offering the facilities of Futjackpot and pack opening. 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.
55. 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:
- 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.

56. He also queried if his proposed action would make him compliant.

57. 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.

58. Mr Rigby did not respond to that email.

#### **G. Further website promotion**

59. 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

60. 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.

61. 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".

62. 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.

63. 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.

64. 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.

#### **H. Ongoing provision of gambling facilities**

65. 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 FUT Galaxy coins purchased from the website. He explains that he gambled on Futjackpot and also placed two bets on the outcome of live football events in the Brazilian and German football leagues using FUT Galaxy coins.

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

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

### *Purchasing FUT coins*

67. 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 credits, using a debit or credit card.
68. The price range for these FutGalaxy credits fluctuated: on one occasion a 10k FutGalaxy credits pack was advertised as costing £1.50 and a 250K FutGalaxy credits pack advertised as costing £37.50. At a later point in the 250K FutGalaxy credits were advertised for sale at £28.75, 1 million FutGalaxy credits were advertised as costing £100 and 2 million FutGalaxy credits were advertised as costing £190.
69. As part of the initial deposit process [REDACTED] was directed to the checkout process on the 'myshopify' ecommerce payment platform. He was not asked to confirm his age. After making his deposit, [REDACTED] received a response from Futgalaxy.com thanking him for his purchase. He was subsequently informed by Skrill that the transaction would appear on his bank statement against the named identifier 'SKR onefifa.com'. He later received confirmation from Skrill that his initial payment had gone to Game Gold Tradings Limited. It is to be noted that the website [www.onefifa.com](http://www.onefifa.com) appears to be another FIFA coin selling website. That website's "Terms/Privacy Policy" includes: "Game gold tradings LTD: Official business name of onefifa.com".
70. [REDACTED] found that his Futgalaxy.com account was shown with credits which equated to FUT Galaxy coins. At this point he was able to gamble by being allowed to immediately carry out a pack opening (described above) without any further verification procedure.
71. 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 FUT Galaxy coins purchased.
72. Following the initial deposit, further cash deposits were made via payment provider Skrill. When the discount code, 'NEPPO' was applied, a 10% discount was received on the purchase price of the credits.

### *Three forms of gambling*

73. 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 Futjackpot.

74. On 17 November 2015, the second defendant, Craig Douglas (under the user name of "Nepenthe2"), 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*

75. 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 FUT Galaxy coins were available. One million FUT Galaxy coins was equal to £100 on the PS4 platform.
76. 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 FUT Galaxy coins. The total value in FUT Galaxy 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.
77. 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 FUT Galaxy 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.
78. [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.
79. He found that having opened a pack, the total pack balance was credited to his [www.futgalaxy.com](http://www.futgalaxy.com) account in FUT Galaxy coins.
80. 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 FUT Galaxy 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*

81. [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 FUT Galaxy 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.

82. 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.
83. A winning bet was credited to [REDACTED] Futgalaxy account in FUT Galaxy coins. When he lost, FUT Galaxy coins were deducted from his account.

#### *Futjackpot*

84. [REDACTED] was also able to click on a link entitled "FUTJACKPOT". He was directed to the page of the website on which the Futjackpot product was being offered. He then attempted to play FutJackpot but was presented with a verification screen which included an 18+ sign in a red circle underneath which was written "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. 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."
85. [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.
86. The Futjackpot game allowed him to wager FUT Galaxy coins on a virtual spin of a wheel. The Futjackpot game consists of either a low, medium or high stakes game.
87. [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. [REDACTED] gambled on the Futjackpot game several times throughout the investigation period. His stakes ranged in value between 1000 and one million plus FUT Galaxy coins. One million FUT Galaxy coins was equal to £100 on the PS4 platform.
88. Winning spins were credited to [REDACTED] Futgalaxy account in FUT coins, whilst losing bets were deducted from his account.



### *Withdrawal of funds*

89. The process of converting FUT Galaxy coins into cash is broken into two parts. First, the conversion of FUT Galaxy coins to FIFA coins and then the conversion of FIFA coins to cash. For that process to take place, a user must have an EA Sports FIFA 16 user account.

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

- (i) By converting FUT Galaxy 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 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".
- (iii) The player trade method involves, at Stage (i), either selling FIFA players for a gross overvalue or selling multiple players at the same time, in exchange for FIFA coins, at Stage (ii), either buying FIFA players for a gross overvalue or buying multiple players at the same time, with FIFA coins. At Stage (i), the corresponding transaction involves the expenditure of FUT Galaxy coins. At Stage 2, the corresponding transaction involves the receipt of actual money. The corresponding transactions take place outside the legitimate FIFA site, and are neither contemplated nor permitted by EA Sports. It is a means of converting FUT Galaxy coins to cash through the use of the FIFA site and FIFA coins but without the consent of its operator.

91. 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 Dylan Rigby.

92. [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).

93. 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 FIFA16 coins to the website, 'thefutshop.com'.

94. 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.

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

95. On 11 February 2016, search warrants were executed at the home addresses of Dylan Rigby and Craig Douglas.

##### *Dylan Rigby*

96. Having been cautioned, 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.
97. Mr Rigby was reminded that if Futgalaxy continued to offer gambling facilities to GB customers, then those controlling the website would be committing offences. Mr Rigby indicated that he controlled the website as part of a consortium but that he could not 'switch it off'. He said that could only currently be done by the website developer and coder [REDACTED]. He indicated that [REDACTED] and could be contacted on email address [REDACTED]. An email was subsequently sent to [REDACTED] requesting certain categories of documentation, however no response was received.
98. Mr Rigby was fully cooperative during the search of his premises.
99. On 12 February 2016, the Commission received an email from Mr Rigby, in which he made two proposals:
- a. That the Futgalaxy website be re-launched for the UK with packs only as well as other free to play features;
  - b. That the main Futgalaxy website be re-launched as was, but with access to all UK I.P addresses prohibited and with any UK aimed or viewed advertising concerning the disputed features (jackpots, bets) discontinued.
100. On the same day, the Commission responded to Mr Rigby making it clear that the Commission believed that the selling of FUT packs does amount to the provision of facilities for gambling and stating that the Commission could not:
- (i) advise in respect of his proposals;
  - (ii) authorise continued activity which is or may be illegal.
101. On 23 March 2016, Dylan Rigby was interviewed under caution. He provided a prepared statement, in which he denied committing the offences alleged. He then set out

legal advice that he had received and asserted that he had sought to comply with the Commission's requirements, despite having received advice that Fut Galaxy was not breaching gambling law. Furthermore:

- (iii) He explained that he is a director of Game Gold Tradings Limited, that he was acting in that capacity and stated that he has not traded on his own behalf;
- (iv) He referenced using 'FUT Coins' but did not distinguish between FUT Galaxy coins and FIFA coins, seeming to suggest that any gambling activities on Futgalaxy.com take place with FIFA coins. He put forward the view that FUT Galaxy coins are not money or monies worth and that therefore, as such, there is no betting within the meaning of the Act. He therefore made the case that if Futgalaxy.com is providing gambling facilities then EA Sports must also be doing so on a much greater scale. He gave a specific example of the EA FUT Draft game and he likened the Futgalaxy.com pack to this game. He denied any knowledge that persons under the age of 18 gambled;
- (v) He stated that the business was transferred to a company in Costa Rica and had been granted a gambling licence there. He explained that he believed the website was compliant in respect of the betting and Futjackpot being offered. He indicated the action that he had taken following the execution of the warrant at his address in that he put IP blocking in place on the Futgalaxy.com website to prevent UK customers from accessing the site.
- (vi) He stated he was surprised that the Commission commenced a criminal investigation without a period of further engagement, given the legal complexities of the case.

102. Thereafter Mr Rigby answered 'no comment' to all questions put.

#### *Craig Douglas*

103. 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 and he just promotes it." 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."

104. Mr Douglas was fully cooperative during the search of his premises.

105. On 23 March 2016, Craig 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 'You Tuber' 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.

106. 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 Gambling

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.

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

108. It is right to say that there is some evidence from the material seized from the defendants' homes that might lend support to part of Mr Douglas's account in interview:

- (i) he is told by Mr Rigby, on the topic of "the gambling nature of futgalaxy" that he, Rigby, is in discussions with lawyers;
- (ii) he is told by Mr Rigby that the coins have no cash value; that no cash pay-out is offered and that "it cannot be classed as gambling";
- (iii) following receipt of the Commission's first letter, Mr Douglas said: "shame about the betting stuff though, you think an 18+ site would be worth it?" Dylan Rigby responds, "yea I'm working on it already...keeping it separate and have all the over 18 bits on there";
- (iv) in chats in early October 2015, Mr Rigby tells Mr Douglas that he has heard from the Commission and that FutJackpot is now 18+. He also says, "so any streams or vids just push that over 18 users can bet this way. I'm having grief with the gambling commission but I think they will be fine with a couple of changes". In response, Douglas says "sweet" and that he will push "bets/packs/jackpot";
- (v) he is told by Mr Rigby, "so I'm talking to the lawyers in Gibraltar about, moving our licence there, atm ours is cost rican, it works but isnt the best". Mr Douglas later says, "shame it would have to be 18+". Rigby replies, "yea we would have to be seen to be 18+ strictly";
- (vi) Rigby makes reference in his chats with Douglas to having a gambling licence, and Douglas later refers to "the gambling licence", including on 13 October: "it's tough to do what FG does, especially now that we have a UK Gambling License and not an offshore one".

109. However:

- (i) in September 2015, in discussions about the first letter from the Gambling Commission, Mr Douglas says: "sucks as we will definitely lose a % of income from it. But hopefully we will find **another work around**";
- (ii) Furthermore in a chat conversation in October 2015, 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 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 by the way ;) ) 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”;

- (iii) He is later told by Mr Rigby, “the coins are meh anyway, galaxy is the earner, it will make coins and even if we aren’t selling then we can wholesale for a stupid rate”;
- (iv) On 14 October 2015, he asks Mr Rigby, “would Coin & Cash deposits, and then cash withdrawals only be a thing we could do (then we could sell the coin deposits elsewhere) and just take like an 8% fee on withdrawals to make another margin” and later that day, “would love to have a cash only site if that’s where this ended up”;
- (v) Mr Douglas appears to take no steps whatsoever to discover what terms and conditions apply to the licence he claims to believe is in place. He does not ask to see a copy, for example.

#### **K. Material seized**

110. The digital items seized from the defendants’ homes were subject to an analysis process by Commission officials to identify relevant material. It supports the prosecution case.

111. Material found on Mr Rigby’s seized devices includes:

- i. Emails that show control of www.futgalaxy.com and Game Gold Tradings Ltd;
- ii. Apparent customer database from www.futgalaxy.com (and thefutshop.com);
- iii. Skrill documentation;
- iv. A Fut Galaxy 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, advertising, letters from the Gambling Commission and references to moving domains;
- ix. Website motifs relating to Ultimate Coin Exchange;
- x. Miscellaneous email/chat re Fut Galaxy, sale of players and the employment of [REDACTED];
- xi. Staff rota of duties;
- xii. Documents showing control of Game Gold Tradings Ltd;
- xiii. E mail re taking payment from a 15 year old;
- xiv. Extract of a skype chat between Mr Douglas and Mr Rigby regarding the website www.futgalaxy.com in which they discussed the gambling licence, the Commission action, linkage to the coin selling site, the fact that under age customers use the website and age verification.

112. 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 and payment of staff [REDACTED]
- iv. SMS discussion between Mr Douglas and [REDACTED] re payment/hours of work at www.futgalaxy.com;
- v. Chat conversation between Mr Douglas and other regarding advertising sponsorship on YouTube, how betting works and why a gambling licence is not required;
- vi. Chat involving Mr Douglas and Mr Rigby regarding the website 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;
- vii. A chat involving Mr Douglas in which he indicates that he believes www.futgalaxy.com is licensed by the 'UK Gambling licence' (dated 13.10.15);
- viii. An employee forum chat involving Mr Douglas, [REDACTED] and Mr Rigby discussing aspects of the website www.futgalaxy.com;
- ix. Skype chat discussions between [REDACTED] Mr Douglas and Mr Rigby (11 Jan-11 Feb 16) discussing advertising, problems/bugs on www.futgalaxy.com, deposits/withdrawals, margins for profit and advertising/marketing.

#### **L. Monetary elements**

113. From the Defendants' representations it is considered likely that an argument will be raised that the requisite monetary elements for the provision of gambling facilities were not present. The Commission has received written representations from both proposed defendants, who assert that the Futgalaxy coins were not money or money's worth. They say, *inter alia*, that:

- (i) Futgalaxy coins could not be "cashed out" and they are not the equivalent of money;
- (ii) Realising a cash value is dependent on a merchant in the secondary market or a private gamer being prepared to pay for FIFA coins (thereby putting themselves at risk of action by EA);
- (iii) The Commission's interpretation does not accord with limited case authority (for which they cite, *R v Burt & Adams* [1999] 1 AC 247 and, if right, would suggest that EA Sports' FIFA football game is illegal gambling.

114. The Commission does not agree with that interpretation of the law for *inter alia* the following brief reasons.

115. For betting, section 9 of the Gambling Act 2005 requires a person to make or accept a bet. It does not specify the kind of stake required. There is nothing in the Act requiring the stake to be actual money. In this case, one bets with Fut Galaxy coins originally purchased for cash or won through gambling or moved out of a FIFA site, and one can win more Fut Galaxy coins. The Fut Galaxy coins can then be converted to FIFA coins which can then be converted back to cash, including through other sites also controlled by the first defendant. Thus the Fut Galaxy coins have a real world value by reason of the illegal secondary market in FIFA coins operated by the first defendant.



116. Similarly, in the case of lotteries, section 14 states that one has to pay in order to participate in the arrangement, with the chance of winning a prize. Prize is widely defined in section 14(4) to include money, articles or services. I.e. it does not need to be money, articles or services. In this case, paying with Fut Galaxy coins that one has purchased for cash or won through gambling or moved out of a FIFA site amounts to paying; and the Fut Galaxy coins have an ultimate monetary value, and are so viewed by the first defendant. Further, in the context of a game which is won and the player rewarded with more Fut Galaxy coins which can then be exchanged for other things of value to the player, namely FIFA coins, the points won are prizes.
117. Gaming is defined as playing a game of chance for a prize and the definition of prize includes money or money's worth: section 6, Gambling Act 2005. For the reasons given above, winning Fut Galaxy coins which are convertible to FIFA coins and, at the player's option, thence to cash, amounts to money's worth.
118. The case is clearly distinguishable from *R v Burt and Adams*, which concerned whether a soft toy was money's worth. Here, Fut Galaxy coins are convertible to FIFA coins, which are commodities of value, through an illegal market operated by the first defendant and thence to cash by the same illegal market.
119. So far as the case that if the first defendant is operating illegal gambling then so is EA, the case is completely different. EA does not intend or permit that FIFA coins should be convertible to cash. The first defendant actually set out to enable such conversion by illegal means. For EA, FIFA coins are simply a means of exchange to enhance the playing experience within their site. The first defendant used them as a conduit to enable illegal gambling to occur. Further and in any event, it is plainly not a defence to a prosecution that someone else might be but is not being prosecuted.

## **M. Conclusion**

120. There is a significant body of evidence that Dylan Rigby was the 'moving force' behind the Futgalaxy website. In addition to the email and 'chat' evidence:
- a. he is the registrant of the website;
  - b. he is identified as the contact person for issues relating to Futgalaxy;
  - c. he is a director of Game Gold Tradings Limited (and his father is the third director);
  - d. he is shown as the holder of all 100 issued shares in respect of Game Gold Tradings Limited;
  - e. his email signature contains or contained links to the Futgalaxy and futshop websites;
  - f. he is a company director of the futshop;
  - g. his twitter account is [https://twitter.com/Dylan\\_Futshop](https://twitter.com/Dylan_Futshop);

- h. checks on mobile numbers provided on the Futgalaxy and fut-galaxy-coins.com websites show Dylan Rigby to be the subscriber;
- i. on 8 September 2015, he indicated he was the managing director of the futshop;
- j. on 8 October 2015, he described himself as "manager of the website";
- k. his correspondence with the Gambling Commission suggests ongoing control and management of the site; and
- l. on 27 November 2015 open source research identified a YouTube Channel with the user name Dylan Rigby. The channel logo was 'Ultimate Coin Exchange'.

121. 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 also a director of Game Gold from 1st October 2015. Mr. Douglas quite clearly advertised Futgalaxy on-line on 6th August 2015, during which he invited children to gamble. He also advertised it on-line on 28 June 2015, 29th September 2015, 3 October 2015, 17 November 2015, 29 January 2016 and 5 February 2016.

122. There is overwhelming evidence that gambling was occurring, with Mr Rigby acting primarily as the controller and Mr Douglas primarily as an advertiser of the facility. It is to be noted that their conduct is 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. Persistence in the activity following clear warnings from the Commission.
- c. Evidently large sums earned from the offending behaviour.
- d. The almost total lack of controls applied to the activity, in comparison with the controls applicable to all other on-line gambling operators.

**THE GAMBLING COMMISSION**

**21 JULY 2016**