



Case No: U20231779

**IN THE CROWN COURT AT SOUTHWARK
IN THE MATTER OF s. 45 OF THE CRIME AND COURTS ACT 2013**

Royal Courts of Justice
Strand, London, WC2A 2LL
Date: 5 December 2023

Before :

THE PRESIDENT OF THE KING'S BENCH DIVISION
(THE RT. HON DAME VICTORIA SHARP)

Between :

REX

Applicant

- and -

ENTAIN PLC

Respondent

Jane Bewsey KC, Cameron Brown KC, Hal Watson and Angus MacDonald (instructed by
the **Crown Prosecution Service**) for the **Applicant**

David Perry KC, Katherine Hardcastle and Leila Gaafar (instructed by **Addleshaw
Goddard and McDermott Will & Emery**) for the **Respondent**

Hearing dates : 5 December 2023

Approved Summary of Judgment

This judgment was handed down at 2pm on 5 December 2023 by circulation to the parties or
their representatives by e-mail and by release to the National Archives

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Dame Victoria Sharp, P :

1. This public judgment contains a summary only of my reasons for giving provisional and final approval to the Deferred Prosecution Agreement (DPA) between the parties to this application and for making the declarations to which I refer.
2. On 24 November 2023 I heard an application in private in which I was asked to make a declaration giving preliminary approval to a DPA reached between the Crown Prosecution Service (the CPS) and Entain plc (Entain). At that hearing, I made a declaration in accordance with para 7 of Schedule 17 (Schedule 17) to the Crime and Courts Act 2013 (the 2013 Act) that it was likely to be in the interests of justice for such agreement to be made, and that its proposed terms were fair, reasonable and proportionate. I also gave leave for Entain to make an appropriate stock market announcement in accordance with its obligations under The Market Abuse Regulation (EU) No. 596/2014. At the para 7 hearing I heard submissions from Ms Jane Bewsey KC, on behalf of the CPS, and Mr David Perry KC, on behalf of Entain.
3. I reserved my reasons for reaching this conclusion until the final hearing, held pursuant to para 8 of Schedule 17. The CPS has now applied for a declaration, pursuant to para 8 of Schedule 17, that the DPA is in the interests of justice, and that the terms are fair, reasonable, and proportionate. Nothing has happened which has caused me to change the view I took at the para 7 hearing. I have therefore given final approval to the DPA, and made a final declaration and an Order to that effect. The hearing today was in public, as required under para 8. It was placed in the list for Southwark Crown Court.
4. The financial terms of the DPA amount to £615 million. The terms require Entain to pay the following amounts: (i) a financial penalty of £465 million; (ii) a disgorgement of profits of £120 million; (iii) costs of £10 million and (iv) a charitable donation of £20 million.
5. DPAs provide a mechanism by which an organisation can avoid prosecution for certain economic offences through an agreement with the relevant prosecuting authority. In England and Wales the prosecuting authorities are the Director of Public Prosecutions and the Serious Fraud Office (the SFO). The legislative mechanism is provided by Schedule 17. The relevant rules of court are contained in Part 11 of the Criminal Procedure Rules (CrPR); and a Deferred Prosecution Code of Practice (the DPA Code) is issued by the DPP and the Director of the SFO pursuant to para 6(1) of Schedule 17.
6. The CPS is the principal public agency for conducting criminal prosecutions in England and Wales and is responsible for prosecuting criminal cases referred to it by investigative bodies. All previous DPAs in this jurisdiction have been entered into by the SFO (acting as both investigator and prosecutor). This is the first time in which a DPA has been entered into by the CPS as the prosecutor. The separate investigating body is HM Revenue and Customs (HMRC).
7. Entain is a global online sports betting and gaming business, with its headquarters in London. Entain is currently licensed in more than 40 territories, including in many US states, and is subject to extensive regulatory scrutiny. At the date of this application, the business employs circa 30,000 people in more than 20 countries, approximately 50 percent of whom are employed in the United Kingdom. In 2022 Entain paid £1.272 billion in taxes and levies globally of which £525 million was paid in the United

Kingdom, where Entain is resident for tax purposes. During the period of the alleged offending, Entain was known as GVC Holdings plc (GVC). GVC was renamed Entain in December 2020.

8. The conduct which is the subject of this DPA relates to the alleged failure by GVC, as a relevant commercial organisation, to prevent bribery contrary to section 7 of the Bribery Act 2010 (the 2010 Act). The indictment period is from July 2011 (the date when the 2010 Act came into force) to December 2017 (the date that GVC disposed of its Turkish business).
9. The alleged bribery offences occurred primarily in Turkey. During the indictment period, Turkey was a jurisdiction in which gambling was non-legal. The phrase non-legal in this context refers to services that were considered illegal by the Turkish authorities, or designated as illegal by Turkish domestic legislation, but which would not be illegal if offered in England and Wales where the provision of facilities for gambling (i.e. gaming, betting and/or lotteries) is legal if appropriately licensed and complies with the requirements of the Gambling Act 2005 (the 2005 Act).
10. There were two significant precursors to the DPA process subsequently entered into.
11. First, Entain provided (and has continued to provide) significant co-operation to the investigation and made significant admissions for the purposes of section 7 of the 2010 Act. The admission and the voluntary provision of material by Entain had the effect of significantly narrowing the issues in the investigation of GVC. Though there was no initial “self-report” in this case the CPS considered that the extent of the voluntary production of material by Entain was akin to self-reporting and that Entain’s standard of co-operation has been exemplary. Entain also made a commitment to assist in the identification of other relevant material, including for the purposes of any criminal (and allied asset recovery/confiscation) proceedings. The parties entered into DPA negotiations which I am told have been concluded “in a spirit of co-operation and expeditiously”.
12. Secondly, there has been a wholesale change of senior management and approach and an acknowledgment by Entain that it was necessary to overhaul its culture and practices. The Chairman of Entain has set out publicly that there has been a complete overhaul of the business model, strategy, and culture in the last few years so that “the Entain of today bears no resemblance to the GVC of yesterday”. In submissions made to me on behalf of the CPS, it is said in terms that the process of ensuring that Entain now holds the highest standards of ethical business practice is substantially complete. The Turkish business was sold in December 2017. Since November 2020, Entain has exited approximately 160 international markets. Of those, approximately 140 were exited where there was no clear path to domestic gambling regulation. The DPA includes a binding commitment to complete that process one year after the date of the para 8 declaration. This date is subject to possible extension by agreement with the CPS.
13. The CPS has satisfied itself in accordance with para 1.2 of the DPA Code, that the public interest is properly served, not by prosecution, but by the CPS seeking to enter into the DPA. In reaching the decision, the CPS has had regard to the Code for Crown Prosecutors, the 2010 Act; the Joint Prosecution Guidance; the DPA Code; the UK’s Commitment to abide by the Organisation for Economic Co-operation and Development Convention on “Combating Bribery of Foreign Public Officials in

International Business Transactions”, in particular article 5; and the Sentencing Guideline and the Totality Guideline.

14. As the CPS identifies, the conduct alleged in the Indictment and described in the Statement of Facts is serious, and in reaching its conclusion with regard to this DPA it has had regard to the public interest factors in favour of prosecution identified in para 2.8.1 of the DPA Code. Specifically, these are serious harm; established business practice; scope of conduct; failure to report; and adverse impact of conduct on the integrity or confidence of markets and local or national governments. The CPS considers that those factors which favour prosecution, are clearly outweighed by the public interest factors tending against prosecution, including those identified in para 2.8.2 of the DPA Code. These include co-operation (both historical and in the future); the existence of a “proactive” corporate compliance programme, and a substantial remedial programme; the offending is not recent; the company in its current form is effectively a different entity from that which committed the offence; and the disproportionate consequences of prosecution.
15. Whilst the seriousness of the offences in this case may suggest that a prosecution is appropriate, this factor on its own is not determinative. The key question is whether, in the circumstances, and given the high level of seriousness, the interests of justice are nevertheless served by a DPA rather than a prosecution.
16. There has been extensive co-operation with the investigation by the new executive team and there have been significant admissions prior to and for the purposes of the DPA negotiations/proceedings. Under the terms of the DPA, Entain is required (i) to conduct its gambling operations only in regulated markets (and subject to the scrutiny of authorities such as the KSA); (ii) to continue to review and, where necessary, enhance its compliance procedures; and (iii) to engage PwC to conduct an external compliance review, the terms of reference for which will be agreed with the CPS and the product of which will be shared with the CPS. Positive steps have been and are being taken, including the engagement of external bodies to assist with ensuring that the compliance frameworks are effective. It is to be noted that the CPS has conducted its own review and evaluation of Entain’s Ethics & Compliance Programme and has found it to be “robust and fit for purpose.” As set out above, the Entain Group is part of the FTSE 100. It is subject to extensive regulation. It is licensed in over 40 territories, including in multiple US states. Critically, there has been a wholesale change to the senior management since the indictment period who have cooperated with the CPS in investigating the conduct to which the DPA pertains. The risk of any repetition of the conduct can properly be considered to be remote.
17. I am satisfied that the prosecution of Entain would have disproportionate consequences. In particular, if convicted, Entain would risk losing its licenses to operate in territories in the United States, and in other jurisdictions. This in turn, would put at risk thousands of jobs in this jurisdiction and elsewhere; and the revenue losses would risk damaging the interests of shareholders, pension fund holders, contractual counterparties, and those in its supply chain.
18. Having considered these factors and all the material before me, I am satisfied that the DPA applied for is in the interests of justice. The facts agreed between the parties to it reflect the gravity and breadth of the relevant conduct. Whilst that conduct is undoubtedly serious, the other factors suggest that the interests of justice are best served

by the DPA. One significant factor in this conclusion is that Entain is, both in form and substance, a different entity to GVC. There have been sweeping changes to the compliance procedures in place. Entain have taken significant steps to assist HMRC with their investigations and have committed to continuing to do so. The DPA requires Entain to pay a very significant financial penalty, calculated to reflect the revenue from the whole of its Turkish operations at the material time.

19. Further, the operation of the DPA will also have the effect of extending Entain's current co-operation and self-reporting obligations for a four-year period, and will ensure compliance with its commitment to exit regulating/non-regulating markets. It also offers Entain, a major employer in the United Kingdom, the opportunity to demonstrate its commitment to the promotion of open and transparent gambling operations, to the improvement of corporate governance over the next four years, and to operating at the highest ethical and compliance standards in the industry. The DPA avoids the significant costs in time and money of prosecution (the CPS and HMRC costs are £10 million which are to be paid as part of the DPA). The DPA should encourage self-reporting, which is of vital importance in the context of the investigation and prosecution of complex corporate crime.
20. I am satisfied that Entain has demonstrated significant co-operation. It has undertaken an extensive remediation programme and significantly enhanced – indeed transformed - its compliance procedures. The appropriate starting point for a discount or reduction of the proposed fine is one-third applying conventional sentencing principles. However that deduction is subject to the application of an additional discount reflecting the scheme and purpose of section 45 of the 2013 Act and the approach taken in previous DPAs. I am satisfied that an overall discount of 50 per cent to the financial penalty that would otherwise be appropriate, properly reflects Entain's exemplary co-operation and remediation.
21. These are a summary of my reasons for concluding that I was satisfied at the para 7 hearing that it was likely that the proposed DPA was in the interests of justice, and that its terms were fair, reasonable, and proportionate; and for making the para 8 declaration that the DPA is in the interests of justice and that its terms are fair, reasonable and proportionate. I have therefore consented to the preferring of a Bill of Indictment charging Entain with four counts under section 7 of the 2010 Act. Pursuant to para. 2(2) of Schedule 17. These proceedings are automatically suspended. The terms of the DPA now fall to be enforced in default of which an application can be made under para. 9(1) of Schedule 17 to the 2013 Act.