



Date Published 03 March 2021 by Harrison Sayers

Swedish Ruling Raises Duty Of Care Questions

BLM Group ruled not to have exploited player's addiction

Different outcome under new duty of care, says lawyer

BOS welcomes discussions to understand duty of care

Stockholm-listed Betsson has won a court case in Sweden against a former customer, who argued the firm had continued to market products to them despite being aware of their gambling addiction.

The ruling means Betsson avoids paying the claimant a reimbursement of up to €700,000, their deposit amount between 2009 and 2014 with BLM Group, a subsidiary of the operator.

Additionally, the court ruled against the claimant's €100,000 demand in damages for physical and mental suffering caused by his gambling addiction.

The claimant argued BLM tracked his behaviour and enticed him to play with a personalised goodwill bonus in 2012, following a period in which his gambling frequency decreased during the year prior.

The court rejected that BLM would have such extensive knowledge of his play habits, denying the company would be aware of his addiction prior to his request to close his account in October 2014.

But the court did acknowledge BLM had, to some extent, been able to track his gambling.

Additionally, the Patent and Market Court concluded BLM Group could not be proven to have used a "special mishap or similar circumstance to influence his decision regarding the company's services".

"The marketing can therefore not be considered to have been aggressive," the court ruled.

“The legal effects of the ruling will be limited, since the marketing took place several years before the Swedish licence system went into power,” lawyer Ola Wiklund told VIXIO GamblingCompliance.

Wiklund explained that the extensive duty of care provisions Swedish licence holders are required to follow since the re-regulation of the gambling market on January 1, 2019 were not in place during the period in which the claim covers.

Under the current licensing system, the claimant would have to prove the operator was either aware of any gambling problems related to the player or had failed to carry out the required duty of care measures which, in turn, had revealed these problems, according to the lawyer.

“However, even under these circumstances the outcome of a similar claim is uncertain,” Wiklund said.

Additionally, Wiklund explained that if the case was brought against an unlicensed operator, there would be a risk that the customer agreement could be invalidated on grounds of illegality.

Swedish online trade group BOS general secretary Gustaf Hoffstedt said the “clarity” the case brings should be welcomed by all.

However, he believes there is a need for better guidance regarding the existing duty of care requirements for licensees.

“There is no purpose in itself that all complaints end up in courtrooms, quite the opposite. All stakeholders benefit from clarity from the legislator and the regulator. With clarity, the operator has a much better possibility to comply,” Hoffstedt said.

The BOS head said he welcomes the fact that the Swedish Gambling Authority held a workshop with selected stakeholders earlier this week with the specific aim to reach a common understanding on the duty of care.

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