

LEGAL OPINION

To: Mr J Nordlund – Bidrivals Limited
From: WH Law
Date: 29th May 2009
Subject: Query re Penny Auctions

PRIVILEGED and CONFIDENTIAL

I refer to the Company's query with regards to the requirement or otherwise of being licensed with the local Lotteries and Gaming Authority to offer Penny Auctions through the internet. In our opinion, bearing in mind the below considerations, it is legal to operate the activity from Malta without obtaining a license from the Lotteries and Gaming Authority.

1. BACKGROUND

1.1 Penny auctions are a type of auctions, whereby bidders place bids for the right to buy an object or service, the price of which will be the highest bid. To enter the auction (i.e. place the bid) a user has to pay the participation fee. Once a bid is submitted, this constitutes the willingness of that user to enter into a binding contract with the Company, and in the event of a successful finishing of the auction, the claim to receive a purchase offer for the item of the auction under the conditions set out in the related auction.

1.2 Each new bid resets the 'remaining time' for an auction up to, but not above, the displayed countdown reset value. The auction ends when the remaining time reaches zero. The user who was the last to bid on the item would acquire the right to buy the item at the last bidding price.

2. CONSIDERATIONS

2.1 According to the Lotteries and Other Games Act, a “game of chance” is a game for money and, or prizes with a monetary value, the results of which are totally accidental, while a “game of chance and skill” is a game for money and, or prizes with a monetary value, the results of which are not totally accidental but depend, to a certain extent, on the skill of the participant. A “lottery” is described as any game of chance where prizes are distributed by lot or chance among participants in the game.

2.2 In penny auctions the fundamental requirements of a game or lottery under the Lotteries and Other Games Act are missing.

2.2.1 In penny auctions there is no chance or random element and the person placing the last bid is bound to purchase the product at the last bid price reached.

2.2.2 Furthermore, there is no element of prize as the last bidder has to pay for the full price to purchase the product.

2.3 Therefore, in our opinion, penny auctions are not to be considered a “game” or “lottery” as described by the Lotteries and Other Games Act and thus it is legal to operate the activity from Malta without obtaining a license from the Lotteries and Gaming Authority.