

DECISION REVIEW JURY

Our Reference	EASA CBC Case 6746
Complaint by	Consumer. EASA Cross Border Complaints System. Forwarded to CARO by the UK Advertising Standards Authority (ASA).
Review Requested by	Gaijin Network Ltd / War Thunder game
Issue / Complaint initially filed	"A virtual good by Gaijin Entertainment for the video game War Thunder is being advertised with a star/value system. However, the good is not yet released to be rated on (https://store.gaijin.net/story.php?title=Pre-order_M1-KVT-Pack). I believe this to be misleading to potential customers and meets the standard of complaint."
Review Jury Discussion	Friday 14 July 2023
Decision issued on	Wednesday 19 July 2023

REVIEW REQUEST, FILED BY GAIJIN NETWORK LTD

- «1 The First Instance Jury resolved the case on the following complaint:
- "A virtual good by Gaijin Entertainment for the video game War Thunder is being advertised with a star/value system. However, the good is not yet released to be rated on (https://store.gaijin.net/story.php?title=Pre-order_M1-KVT-Pack). I believe this to be misleading to potential customers and meets the standard of complaint".
- 2 The Jury found that the presentation of the ratings for the pre-order pack may mislead the consumer. Thus, the presentation of the pre-order pack is in breach of articles 3 and 5(b) of the Cyprus Advertising Code.
- 3 With all due respect to the opinion of the First Instance Jury, Gaijin Network Ltd hereby appeals to the Review Jury to reconsider the case.
- I. The pre-order pack listing was honest and did not mislead consumers as to the content and availability of the included in-game items**
- 4 Gaijin Network Ltd submits that the offer obviously states that the tank is not yet available in the game, and the rating refers only to the pre-order.

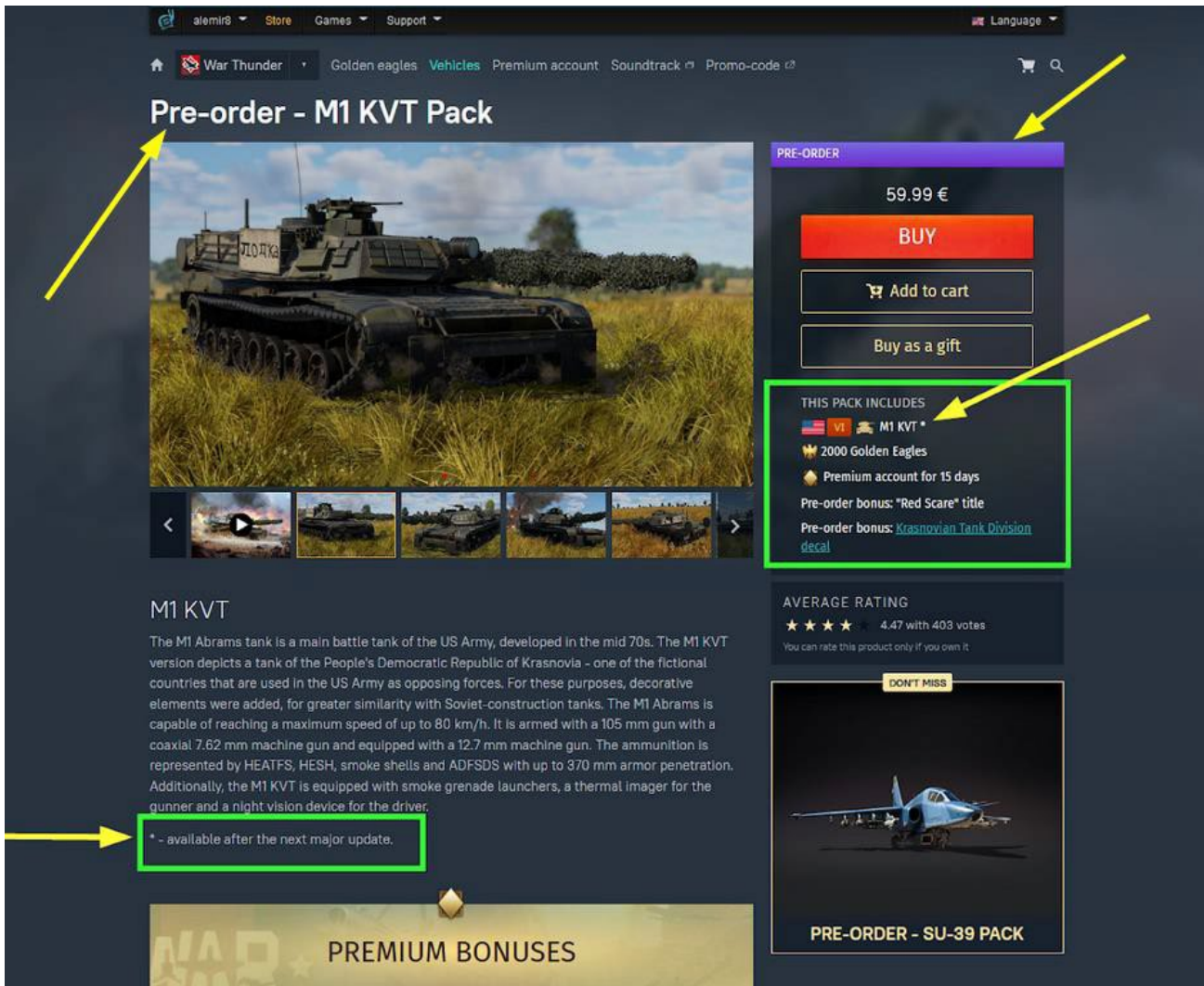
A. It is easily understandable for consumers that the pre-order pack contains multiple items, and the tank is not available in the game yet

- 5 The pre-order pack at issue was marked as a “pre-order” multiple times [*the screenshot of the offer attached below*]:
- (i) the preview of the pre-order pack at the main War Thunder page at store.gaijin.net had a bright plate of violet color expressly stating “PRE-ORDER”, and this plate is very visible considering the overall dark blue color scheme of the page and all neutral colors of all the listed offers;
 - (ii) the name of the offer is “Pre-order – M1 KVT Pack”, with “pre-order” notification at the first place even before the actual name of the pack;
 - (iii) when one open the page of the pre-order pack, the title states again that this is a pre-order;
 - (iv) M1 KVT is mentioned in the list with a *-reference to the footnote, and this footnote is placed right after the short description of the tank;
 - (v) the footnote “* - available after the next major update” is written in plain language, in the same font and size as the description of the offer.
- 6 The pre-order pack was also listed as a set of multiple items: not only the M1 KVT tank which became available in the game later, but also Golden Eagles, premium account for 15 days, as well as the special title and decal as bonuses for buying a pre-order.
- 7 Any offers for vehicles at store.gaijin.net go as a pack. It is always stated in an offer name that it is a pack. Such packs contain in-game currency (Golden Eagle) and premium account for an exact term. This means that War Thunder users are aware that all the vehicles always go with the other in-game goods and premium account.
- 8 Moreover, pre-orders for games and in-game items is a very common practice in the video game industry. Players are well aware of how pre-orders work: they expect getting the actual good later, usually with some bonus, and those players would be the first to experience a game or an in-game item right after its launch.
- 9 Therefore, it is reasonable for a consumer to clearly understand that (1) the pre-order pack contains the tank which will be available later, and (2) the pack is a set of items, most of which are available to use in the game right away. Thus, there is no option for a consumer to think that the rating refers to anything except for exactly this pre-order offer, with a part of the items not yet available to experience in the game.

B. The pre-order pack’s rating clearly refers to the pre-order only, and does not affect the rating of the new pack once K1 KVT is launched

- 10 The First Instance Jury argued that the rating is exactly the same for the pre-order pack and the order with the tank available.
- 11 However, these two offers never appear in the store simultaneously. The pre-order pack is erased from the website exactly before the ordinary pack is launched. The rating for the new pack with K1 KVT available starts from zero.

- 12 All the votes given for the pre-order pack are not accessible anywhere, so they cannot affect consumers checking the new offer for M1 KVT Pack.
- 13 Thus, the rating for the pre-order pack would never be mixed with the pack after launch of the vehicle, so it does not mislead a consumer.
- 14 The pre-order pack has a good-faith rating system clearly offering customers to rate the special limited offer, but not the tank which is not available in the game yet. Thus, it complies with articles 3 and 5(b) of the Cyprus Advertising Code.»



Pre-order - M1 KVT Pack

59.99 €

BUY

Add to cart

Buy as a gift

THIS PACK INCLUDES

- VT M1 KVT *
- 2000 Golden Eagles
- Premium account for 15 days

Pre-order bonus: "Red Scare" title

Pre-order bonus: [Krasnovian Tank Division decal](#)

M1 KVT

The M1 Abrams tank is a main battle tank of the US Army, developed in the mid 70s. The M1 KVT version depicts a tank of the People's Democratic Republic of Krasnovia - one of the fictional countries that are used in the US Army as opposing forces. For these purposes, decorative elements were added, for greater similarity with Soviet-construction tanks. The M1 Abrams is capable of reaching a maximum speed of up to 80 km/h. It is armed with a 105 mm gun with a coaxial 7.62 mm machine gun and equipped with a 12.7 mm machine gun. The ammunition is represented by HEATFS, HESH, smoke shells and ADFSDS with up to 370 mm armor penetration. Additionally, the M1 KVT is equipped with smoke grenade launchers, a thermal imager for the gunner and a night vision device for the driver.

* - available after the next major update.

PREMIUM BONUSES

AVERAGE RATING

★★★★ 4.47 with 403 votes

You can rate this product only if you own it

PRE-ORDER - SU-39 PACK

REVIEW JURY DECISION

- I. The Review Jury discussed the issue extensively with the representatives of Gaijin Network Ltd.
- II. As mentioned during the discussion, the practice of selling pre-order items is common in the gaming industry and the industry allows for rating of pre-ordered content.
- III. The jury notes the following:
 - a. The War Thunder game has two sets of consumer ratings for Vehicles' Packs.
 - b. One rating is for **Pre-order Packs** which usually include items that are immediately available (e.g., game currency, access to premium account for a limited time and pre-order bonuses) and the tank/vehicle that is available after an update.
 - c. The second rating is for **packs available after the pre-order period**, which include the tank/vehicle and items such as in game currency and premium account access for a limited time.
 - d. The **main component of both packs is the tank/vehicle**; that is evident from the **name of both packs** which clearly reference the tank/vehicle (e.g., Pre-order - M1 KVT Pack, M1 KVT Pack), as well as the offer's **promotional images and video**.
 - e. The packs have the same price; the differences are the timing of the tank availability and the pre-order bonuses.
 - f. The packs have separate ratings; once the pre-order period is over, the rating count goes back to zero and starts over.
 - g. A player can only rate a pack if they have bought it.
 - h. If a consumer buys the pack at the pre-order phase, they cannot acquire it again, since a player can only own a specific tank once.
- IV. The question is whether the average consumer can easily understand that the rating of the Pre-order pack refers to just that and not to the tank.
- V. Gaijin points out that the pre-order pack at issue is marked as a "pre-order" multiple times. However, we note that there is no specific pre-order reference in the average rating box.
- VI. As pointed out by the First Instance Jury, "In our experience of how consumers ordinarily interact with websites and games, they do not generally read the information presented in its entirety. Moreover, their perception of ratings usually refers to ratings of items and/or services *experienced*, rather than *anticipated*." The Review Jury also shares this view.



- VII. Furthermore, "The visual presentation of both ratings is exactly the same, and the asterisk disclosing the fact that in the pre-order pack the tank is not yet available, is not in direct proximity with the ratings box.". As pointed out above, we believe that the tank is the main component of the offer.
- VIII. Given the above, the Review Jury believes that a clarification of the rating at the pre-order phase would be beneficial and finds that the current presentation of the pre-order pack rating is in breach of article 3 of the Cyprus Advertising Code.
- IX. The Jury acknowledges the good faith of the advertiser and their willingness to make the changes needed. To that end, it proposes that the heading "AVERAGE RATING" for the pre-order packs be renamed to "AVERAGE RATING FOR PRE-ORDER PACK".
- X. Amendments should be made within 5 working days of the dispatch of this decision. Please note that, for the purpose of assessing the deadline, the count begins the working day following the dispatch of this decision.
