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Submission to the Statutory Review of BetStop – the National Self-Exclusion Register

Thank you for the opportunity to submit to the Department of Infrastructure, Transport, Regional Development, Communications & the Arts' (DITRDCA's) statutory review of BetStop – the National Self-Exclusion Register™ (the Register).

As the agency that administers the Register and manages the contract with the Register operator, we welcome the contribution that we can make to the Review to ensure that the program continues to support Australians who choose to stop gambling online or on the phone.

There is an ever-growing body of evidence that the impact of gambling harm can be significant. Protections such as those afforded by the Register are critical contributors to harm minimisation and providing consumers agency in how they manage their gambling.

Since the Register commenced on 21 August 2023, the ACMA has supported more than 40,000 Australians to exclude themselves from phone and online wagering services. The regulatory framework has been effective in supporting the operation of the Register and facilitating the decision by Australians to exclude from all licensed interactive wagering services in one quick and simple step.

This submission covers the following:

- consumer take-up
- industry compliance and use of the NSER
- recommended areas for regulatory improvement (noting the scope of the Review).

Consumer take-up

The registration process is quick and simple for users to complete, with more than half of registrations being completed in under 5 minutes. Consumers wishing to self-exclude only need access to their mobile phone, email address and an approved identity document. Registration can be completed online using a Medicare card, an Australian driver licence or an Australian passport. We also provide a contact centre to support users to register over the phone.

As of 30 April 2025, 41,612 Australians have registered for exclusion. We have received overwhelmingly positive feedback from users about the impacts the Register has made to their lives. As of 30 April 2025:

- Almost half of registrants are aged 30 or under, with around 80% aged 40 or under.
- Around 2 out of every 5 users sign-up for lifetime exclusion. Of current users, over half (55%) have self-excluded for life.
- There were 28,419 current registrants, with most people coming off the Register because they have completed their chosen exclusion period. Registrants can apply to cancel self-exclusion early, after they have completed at least 3 months. They must first discuss their decision to cancel their self-exclusion with a counsellor, psychologist or a general

practitioner and complete a statutory declaration. Only around 2% of users have cancelled early. Our experience engaging with consumers suggests that the requirement to speak to a health professional, complete a statutory declaration and serve a cooling off period, provides some friction that helps people consider whether cancellation is the right decision to make.

- Around 1 in 10 current users have nominated someone to support them. These support people are notified about key events, such when exclusion is about to end or if users apply to cancel their exclusion early. Current users with a support person are more likely to exclude for their lifetime (68% versus 53%) and users who have come off the register were less likely to have a support person.
- Many users are choosing to extend their exclusion or re-register. Around 3,500 registrants have extended their exclusion period, with a third extending to lifetime exclusion. Further, more than 4,700 users have reactivated their exclusion after they completed their initial exclusion.

While new registrations have remained stable, there is an ongoing need for the Australian, state and territory governments and other stakeholders to continue to promote and build awareness of the Register within the community to ensure that awareness is high.

Industry use of and compliance with the NSER

Checking the Register

Licensed interactive wagering service providers can check the Register to identify whether their current and prospective customers are self-excluded.

Since commencement, the Register has processed over 25 billion checks against the register submitted by wagering providers. The average response time for a check about a single customer is 2.5 milliseconds (0.0025 seconds).

The *Interactive Gambling Act 2001* (IGA) does not prescribe when a wagering provider must check a customer against the Register. Rather, the IGA prohibits certain activities such as opening accounts for excluded persons, and providing wagering services or marketing to excluded persons. This provides a framework for wagering providers to develop suitable processes to query their customers against the Register to ensure that they comply with their obligations.

We have issued compliance guidance – including after launch – to the industry on our expectations about when to query the Register. Robust processes involve regularly checking **all** customers against the Register, including inactive customers. This would include having processes to check the exclusion status of a customer before sending marketing material or making telemarketing calls.

Generally, we see this framework of not specifying when wagering providers should check the Register as appropriate. As noted above, this does rely on each wagering provider considering its business operations and developing appropriate processes.

The Register works by matching the information of registered individuals with the customer data held by wagering providers. As such, the effectiveness of exclusion depends on the efforts of the Register operator, wagering providers and consumers to keep and maintain accurate customer information. For a wagering provider, this would include undertaking robust verification of the personal information provided by customers before checking the exclusion status of a customer.

The Register operator has provided wagering providers with technical requirements for using the Register which details how customer information should be submitted to check the register. Following the technical requirements is a key part of ensuring compliance.

While checking the Register is a key step in the process, meeting the reasonable precautions and due diligence test in the IGA requires wagering providers to also demonstrate a range of

supplementary measures, as illustrated in the following paragraph. A provider is unlikely to demonstrate that it has exercised due diligence and taken reasonable precautions simply by only checking a customer's details against the Register.

As matching an excluded person is reliant on matching customer information, a provider must undertake robust customer verification so that they have complete, accurate and reliable information about a customer to check against the Register. Further, we also expect providers to have comprehensive processes in place to assist in detecting potential circumvention. This should include processes that prevent users from successively changing some of their details with a wagering provider to open a new account after previously being identified as excluded.

We will continue to review these arrangements with the Register operator and work with stakeholders to ensure that the Register is operating effectively to support consumers. This includes working with the Register operator to implement measures to identify and prevent avenues that consumer may take to circumvent their exclusion and access wagering services.

Permanent closure of wagering accounts

The IGA requires wagering providers to permanently close the wagering account of a person that registers for exclusion. If that person ceases to be a registered individual, that wagering account cannot be reopened, reactivated or reinstated. Instead, a wagering provider would need to open a new account for that person.

This is a critical safeguard as it means a person must make an active choice to open a new account, rather than immediately access an old account, if they choose to recommence gambling at the end of their exclusion period.

The ACMA has found cases where former customers have ceased to be excluded and have been able to recommence gambling with ease by using an old account. Consumer complaints have suggested that the lack of friction caused by this non-compliance has been a contributing factor to gambling losses after they have come off the Register.

Some wagering providers have raised concerns about this requirement. We understand that this concern has been raised in the context of closing an account and the view that the wagering provider would lose the historical records of that customer. We do not accept this concern and we have provided advice to the industry that there is no requirement for customer information to be permanently deleted. Rather, wagering providers would be able to link the old and new accounts to ensure that they have a full picture of the customer's behaviour. More generally, this speaks to the duty of care that providers should exhibit in choosing to allow the formerly excluded persons to recommence gambling, including consideration of the controls that they should put in place to reduce the potential for future harm.

Cost Recovery

Costs associated with the Register are recovered from the industry based on the proportion of checks of the Register a wagering provider is responsible for. This is consistent with the Australian Government's cost recovery policy which is that, where appropriate, non-government recipients of specific government activities should be charged some or all of the costs of those activities.

To support the cost recovery arrangements, the ACMA made the *National Self-Exclusion Register (Cost Recovery Levy) Determination 2022*¹ to establish the cost recovery arrangements for the program. This follows engagement and consultation on the model for the recovery of costs.

¹ *National Self-Exclusion Register (Cost Recovery Levy) Determination 2022* - <https://www.legislation.gov.au/F2022L01073/latest/text>

The ACMA further consulted on the cost recovery arrangements through a draft Cost Recovery Implementation Statement (CRIS) in February and March 2025. We received 1 submission from the most recent consultation process. The final CRIS was published in March 2025.² The ACMA will shortly issue invoices for recovery of the 2023-24 levy.

In the initial consultation on the proposed cost recovery framework, several stakeholders claimed that cost recovery of Register costs may provide a disincentive for operators to make requests. However, this is offset by the risk to operators of not using the Register and being found in non-compliance with the IGA with the significant penalties that would apply. The ACMA therefore considers that recovering costs based on a provider's portion of overall requests to the Register operator remains the most appropriate and efficient manner for the recovery costs associated with the program.

Industry compliance

Industry compliance with the rules for the Register is essential given the significant consumer harm that can occur. For this reason, monitoring and enforcing compliance with the IGA has been a compliance priority for the ACMA in both 2023-24 and 2024-25. The ACMA has consulted on compliance priorities for 2025-26 and these will be announced over the coming weeks.

We have commenced 16 investigations into compliance with the IGA, 8 of which have been completed. Associated public announcements will follow in due course as enforcement action is settled. Where non-compliance is found, the ACMA will take enforcement action commensurate with the scope of non-compliance, including the extent of consumer harm, and the enforcement measures available at the time the investigation is completed. We will also continue to issue compliance guidance and alerts to the industry to ensure a high rate of compliance, including the lessons from these first investigations.

We expect high levels of industry compliance, particularly as investigation reports are published and their findings can be taken into account by providers. It is important that wagering providers continue to review, and improve, systems and processes to avoid non-compliance and protect consumers.

Recommended areas for regulatory improvement.

Marketing to users after exclusion

The IGA is largely silent on obligations on a wagering provider when a person ends their exclusion. The main obligation, as discussed above, is that the wagering provider must not reopen an old account. We have received reports that some wagering providers have recommenced marketing to people when they come off the Register. This included one provider that emailed around 170 customers shortly after they had ended their self-exclusion. While this is not currently prohibited by the IGA, we consider that such conduct is counter to the policy objectives of the program as it involves marketing to a person when they may be particularly vulnerable.

Recommendation: The Review should consider the need for a new obligation that a wagering provider can only recommence marketing to a former customer if that individual actively approaches a provider and provides consent to receive marketing after that person comes off the Register. Consents to marketing that were provided pre-registration should not be able to be relied upon by wagering providers.

² Cost recovery implementation statement: National Self-Exclusion Register – Cost Recovery Levy 2024–25 - <https://www.acma.gov.au/sites/default/files/2025-03/Cost%20recovery%20implementation%20statement%20-%20National%20Self-Exclusion%20Register%202024-25.pdf>

Enforcement powers

The IGA provides the ACMA with a suite of enforcement powers where non-compliance is identified.

For the most serious matters, the provision of wagering services to registered individual (section 61KA), a civil penalty of 750 penalty units can apply. This equates to a maximum penalty of \$247,500 for individuals and \$1,237,500 for businesses. However, the issuing of infringement notices is subject to the *Regulatory Powers (Standard Provisions) Act 2014* (RPA).³ Section 104(2) of the RPA provides that the maximum penalty available to the ACMA is 12 penalty units where the person is an individual (\$3,960), or 60 penalty units where the person is a body corporate (\$19,800) – just 2% of the maximum penalty specified in the IGA.

While it is open to the ACMA to take matters to court to seek the maximum penalty, there are a range of factors that need to be considered in making such decision, including the time and resourcing involved in taking such action.

There is a risk that the current infringement notice arrangements could be seen as the cost of doing business by some industry participants, noting that consumers can lose significant sums of money in a short period.

Recommendation: The Review may wish to consider whether the cap on infringement notice amounts is consistent with the policy intention of having significant penalties available to the ACMA to act where significant consumer harm has occurred.

Further, subsection 103(2) of the RPA provides that an infringement notice must be given within 12 months of when the contravention occurred. While the ACMA is committed to undertaking timely and efficient investigations, this provides a limitation on whether the ACMA can take actions, including where:

- complex investigations must occur, including consideration of new or novel issues of law
- a consumer does not make a complaint to the ACMA for an extended period (for example, they have attempted to first settle a matter with a provider before complaining to the ACMA).

Recommendation: The Review may wish to consider the implications of these restrictions on the ACMA's enforcement powers and whether this is consistent with the policy intent of the program.

Administrative arrangements

Subsection 61HA(1) of the IGA requires the ACMA to arrange a body corporate (the Register operator) to keep the Register on behalf of the ACMA. As a comparison, the *Do Not Call Register Act 2006*⁴ requires the ACMA to keep the Do Not Call Register (DNCR) or arrange for another person to keep the DNCR.

This requirement poses a risk to the operation and continuity of the NSER if the Register operator can no longer operate the register (for example, a conflict emerges contrary to the objectives of subsections 61HA(6) and 61HA(7) of the IGA).

Such events may mean that the Register cannot continue to operate, presenting a risk to all registered individuals.

³ *Regulatory Powers (Standard Provisions) Act 2014* - <https://www.legislation.gov.au/C2014A00093/latest/text>

⁴ *Do Not Call Register Act 2006* - <https://www.legislation.gov.au/C2006A00088/latest/text>

Recommendation: The Review should consider whether the IGA should be amended to provide the option that a government department or agency could provide the Register to mitigate against this risk, similar to the arrangements for the DNCR.

Record keeping

Through our investigations, we have found varying quality levels of record keeping by wagering providers regarding interactions with their customers and compliance with the IGA. Accurate and comprehensive record keeping is a key way in which wagering providers can demonstrate that they have taken reasonable precautions and exercised due diligence to comply with their obligations.

The IGA would benefit from an explicit and enforceable obligation on IWPs to ensure that they – and any service providers they use – keep and maintain accurate records to be able to demonstrate compliance.

Recommendation: The Review should consider the need for record keeping obligations on wagering providers.

Protected information

The IGA appropriately provides for the robust protection of the personal information of registrants and includes criminal and civil penalties for the unauthorised disclosure of information, including by ACMA staff. The ACMA and the Register operator have put in place extensive arrangements to ensure that consumer information is protected.

The IGA's disclosure obligations do not permit the ACMA or the Register operator to provide the information of a consumer to law enforcement or emergency services where they are dangers to health and safety of the individual or others. This may mean that the ACMA or the Register operator would need to breach the IGA in cases where disclosures are necessary to protect the health and safety of the individual or others.

Recommendation: The Review may wish to consider whether disclosure to law enforcement or emergency services should be authorised to manage these circumstances, while appropriately limiting when information about users can be disclosed.

I trust this information is of assistance to the review. We look forward to continued engagement within government, and with jurisdictions, industry, advocates and continue to support the effective operation of the Register.

We would be happy to provide any further assistance to support the Review.

Yours sincerely



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