

22 March 2022

Mr Matthew Anderson  
Manager – National Self Exclusion Register Section  
Australian Communications and Media Authority  
via email – [nationalselfexclusionregister@acma.gov.au](mailto:nationalselfexclusionregister@acma.gov.au)

Dear Matthew,

**RE: Tabcorp Response to Consultation Paper and Feedback on National Self Exclusion Register Draft Register Rules**

Thank you for the opportunity to provide feedback on the draft NSER Rules ('the Rules'). Tabcorp has also taken the time to consider the issues raised in the Draft rules for the National Self-exclusion Register Consultation Paper and we provide our responses to the paper, and comment on the Rules, in the **attached** table.

We note that some amendments have been made to the Rules from the industry engagement version and appreciate the recent response you provided in relation to our feedback on those. Whilst we have considered this in the formulation of this submission, we note that many of our concerns remain – particularly around wagering providers not being provided with a reasonable period of time to implement a person's self-exclusion and the outstanding detail to understand the work required to promote and communicate the NSER to our customers.

Whilst committed to implementing the measures set out by the National Consumer Protection Framework (NCPF), Tabcorp has consistently drawn attention to the significant technology development work involved in creating (and obtaining state and territory-based regulator approval of) a technology solution to restrict the provision of wagering services to customers who are registered on the NSER. Combined with the significant technology development work, extensive change management processes to implement the operational and communications aspects of the Rules, Tabcorp will likely not be in a position to have a final technology solution in effect by mid-2022. Rather, we will take a staged approach evolving to a more automated process as specifications and requirements are finalised.

We will continue to work with yourselves, Engine and our state and territory-based regulators to ensure we are able to implement a usable system that makes all reasonable efforts to prevent a registered person from accessing wagering services.

Please do not hesitate to contact me on 03 9868 2256 / [alison.tehan@tabcorp.com.au](mailto:alison.tehan@tabcorp.com.au) or Alistair Michell on 07 3240 1739 / [alistair.michell@tabcorp.com.au](mailto:alistair.michell@tabcorp.com.au) if you have any queries on our feedback.

Yours sincerely,



**Alison Tehan**  
Head of Regulatory Strategy – Wagering & Media

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National Self Exclusion Register – Response to Consultation Paper and Feedback on draft Register Rules (Public Consultation version)

Table 1 - Response to Questions in Consultation Paper

Issue	Background Summary	Question / Feedback Sought from ACMA	Tabcorp Response
<b>ID Procedure</b>	<p>Section 8 defines the identity verification procedure that the Register operator must carry out when an individual attempts to register.</p> <p>Subsection 8(2) will require applicants to have access to:</p> <ul style="list-style-type: none"><li>government-issued identity documents, such as a driver's licence, so that the details can be verified against a government online verification service</li><li>both SMS and email to confirm the accuracy of the information they have provided.</li></ul> <p>Reliable identity verification and validation of the information provided by applicants is critical to the success of the Register. A robust verification process will also provide safeguards against unauthorised third-party registrations. However, this needs to be balanced against providing a quick and easy verification process to assist users to self-exclude efficiently.</p>	<p>We invite stakeholder views on the identity verification procedure and any barriers it may pose to users.</p> <p>Should the ACMA consider any flexibility in the verification process, including by providing discretion to the Register operator on how they action identity verification?</p>	<p>Tabcorp supports a robust identity verification procedure based on official documentation that ensures a consistent approach between the register operator and all LIWSP's. That is, the records being cross referenced are required to be universally acceptable as proof of ID.</p> <p>The rule sets under which matching with a record on the register occurs is also critical to ensure consistency. Each LIWSP currently has different processes and rules to comply with Know Your Customer (KYC) obligations whereby in some instances secondary IDV procedures are used that may allow for small variances in name or address (e.g. hyphenated last names may be used on driver's licence but not Medicare card or proof of age cards).</p> <p>It is also critical that data formats associated with the IDV process are considered and stipulated. See response to <i>Data Matching / Requests to Register</i> below.</p>
<b>Making entries</b>	<p>Section 10 will set the period in which the Register operator must include an individual on the Register after their identity has been verified.</p> <p>The Register is being developed so that a person is added within minutes of successfully completing their registration, to give close-to-immediate effect to a person's choice to self-exclude.</p> <p>The Register Rules propose that the Register operator must take all reasonable steps to register an individual as soon as practicable, and in any event within 24 hours.</p>	<p>We invite stakeholder views on the suitability of the proposed period in which the Register operator must add an individual to the Register after their identity has been verified.</p>	<p>While Tabcorp has no comment on the period it takes for the register operator to add an individual after IDV, we have serious concerns that LIWSP's are not afforded the same period by which to implement an exclusion within its systems and have the opportunity to 'take reasonable precautions and exercise due diligence' to prevent a registered individual accessing its services. As outlined in our submission on the industry engagement version of the draft Rules, having a period of 24 hours to take effect is particularly relevant to marketing campaigns, where up to 24 hours may pass from time the customer database is checked and scheduled to the time the campaign is delivered.</p>
<b>Data Matching / Requests to Register</b>	<p>Subsection 21(1) of the draft Register Rules specifies that the following customer information is included in a data-matching request:</p> <p>first and last name</p> <p>mobile phone number</p> <p>email address</p> <p>date of birth</p> <p>residential postcode.</p> <p>This information is essential for effective data-matching by the Register operator, and therefore requests that do not contain all of this information will not be valid under the regulatory arrangements. Providers should ensure that their customer database includes the required information so that they are able to submit valid requests once the Register commences.</p>	<p>Do interactive wagering providers see any barriers to providing this customer information to check against the Register? If so, please provide any suggestions to overcome any barriers</p>	<p>Whilst Tabcorp has no issues in providing the customer information to check the register, it is noted that the rules have been amended to reference 'mobile phone number' as opposed to 'telephone number'. Tabcorp's strong preference is that an additional field could be home / landline telephone number. We capture this field separately and often, especially for our older customers who may not provide a mobile number and rather use a home telephone. Home and mobile telephone number could be used interchangeably. Tabcorp's internal matching processes have seen good results with using both interchangeably for matching.</p> <p>As we work through the pilot programs with Engine we have identified potential issues with the data matching (and discussed these with Engine). For example, there are certain combinations that are resulting in a decrease in true positive matches or increase in false positives / negatives. Tabcorp's minimum matching data points for automated matching are first and last name, date of birth and one of either email, telephone number or postcode. Any other matches detected as part of Tabcorp's regular monitoring for potential duplicate records are manually reviewed as part of internal processes.</p> <p>To ensure accuracy, Tabcorp suggest that any matching rules should at minimum always include date of birth (except where all other attributes match) and at least one of first name or last name, in addition to other attributes.</p> <p>With respect to data formats, it is noted that this will be in operational documents to be prepared by Engine, however what scope is there for this</p>

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			<p>to be amended without consultation? This format is also fundamental to enable the development of the LIWSP's technology systems which can take several months. The longer it takes to confirm these critical operational matters there is a real risk that these ongoing delays in finalising this detail place LIWSPs in the position where they may not be able to be operational on Day 1 due to their technology systems not being fully updated. In Tabcorp's case we are required to obtain approval from various state and territory regulators for our technology changes which adds additional time pressures.</p> <p>More importantly to the above it is critical that in situations where data is received in the incorrect format, that the data point is deemed a non-match rather than the entire query being rejected. Engine advised at this stage if we send a phone number in an incorrect format the entire query errors.</p>
	<p>The IGA does not specify when a provider must check the self-exclusion status of its customers. IWPs will need to determine, based on their business practices and their interactions with their customers, when a check against the Register should be undertaken to avoid providing a prohibited service to a self-excluded individual.</p> <p>While not a regulatory requirement, IWPs may consider checking against the Register:</p> <ul style="list-style-type: none"> <li>immediately before opening an interactive wagering service account for an individual</li> <li>before allowing an individual to place a bet or bets with the provider</li> <li>before sending direct marketing material to an individual.</li> </ul> <p>This guidance has not been included in the draft Register Rules for consultation as the IGA specifies when offences occur, and the Register Rules cannot establish an enforceable obligation about when checks are to be undertaken. The ACMA will provide further guidance to industry on this matter prior to commencement of the Register.</p>	Should guidance be included in the Register Rules on when a data-matching request should be undertaken?	<p>Tabcorp supports the removal of the references to when a LIWSP 'should' send a request to the Register in favour of LIWSP's utilising their own business practices to prevent an excluded person from accessing its services.</p> <p>In terms of guidance to industry, it is considered there are limited options available to the ACMA. The Act is clear that a LIWSP cannot provide services to a registered person. They key area of concern is that time from which a person's exclusion has effect.</p> <p>The critical risk of non-compliance are situations where a person tries to place a bet almost immediately after having their self exclusion confirmed. It is for this reason that LIWSP's need to be provided with a reasonable amount of time to capture and implement an exclusion. To reflect this in what is considered reasonable effort by a LIWSP, it would be feasible that there is a minimum standard to check the register when:</p> <ul style="list-style-type: none"> <li>Any person attempts to open an account</li> <li>An existing customer attempts to login to their account</li> <li>A marketing campaign is scheduled for release (24hours before)</li> </ul> <p>It is noted from the ACMA's response to Tabcorp's submission on the industry engagement version of the Rules that, based on the policy objective from the National Framework, a person's exclusion 'must take immediate effect upon registration/sign-up'. Providing a LIWSP with up to 24 hours (or at least 12 hours by 'sharing' some of the time afforded to the register operator) to implement an exclusion will not jeopardise this objective, but rather facilitate an effective and accurate system that is properly serving those wishing to exclude. Again, this is entirely consistent with existing state and territory based self exclusion programs.</p> <p>The expectations of persons who are registering themselves on the NSER also need to be suitably managed from the time they register to the time their exclusion takes effect.</p>
<b><i>Timeframe for operator to respond to request</i></b>	<p>The Register is being developed so that it can respond to requests within a fraction of a second. However, we propose building an appropriate buffer into this provision as we recognise that practical considerations may occasionally cause slight delays in the responsiveness of automated systems.</p> <p>Subsection 22(1) of the Register Rules specifies that the Register operator must take reasonable steps to respond to a data-matching request as soon as practicable and, in any event, within one second.</p>	We invite stakeholder views on the proposed timeframe for the Register operator to respond and any potential impacts this may have on your business. Stakeholders are welcome to propose alternative frameworks that could be considered.	No comments. Engagement with Engine has indicated response times will be suitable.

Issue	Background Summary	Question / Feedback Sought from ACMA	Tabcorp Response
<b><i>Interactions with self excluded customers</i></b>	<p>Section 23 of the Register Rules specifies that a provider must:</p> <ul style="list-style-type: none"><li>• inform the individual that they are on the Register</li><li>• tell the individual what action the IWP is taking in response, such as:<ul style="list-style-type: none"><li>○ not taking their bet and closing their account if they are a current customer</li><li>○ not letting them open an account if they are a prospective customer</li></ul></li><li>• provide the individual with information about appropriate support services.</li></ul> <p>This provision is in addition to obligations detailed in the IGA, primarily that if a customer has self-excluded, an IWP must close the individual's account and refund any credit, subject to outstanding bets being resolved.</p>	<p>We invite stakeholder views on the effectiveness of this provision and whether an IWP should take any other action once becoming aware that a current or prospective customer has self-excluded.</p>	<p>It is understood that the details of customer messaging are to be discussed in a Communications Working Group that has yet to meet. Whilst Tabcorp has no concerns with informing the customer of the exclusion and actions taken, understanding the practicalities and effectiveness of the messaging will not be known until the working group has been consulted.</p> <p>Importantly, the ACMA must be aware of the time constraints to operationalise and implement change processes. There is also the possibility that including any messaging in electronic formats (eg on the App) would be a regulated technology change requiring approval from some State / Territory based regulators. This adds more time to when it would be able to be utilised.</p>
<b><i>Promotion of the Register</i></b>	<p>Section 24 details the proposed requirements for IWPs to promote the Register via the following channels:</p> <ul style="list-style-type: none"><li>• on their websites and apps</li><li>• through their contact centres, for example, where a provider receives a call or electronic message from a customer to discuss placing limits or controls on their gambling</li><li>• commercial electronic messages</li><li>• activity statements.</li></ul> <p>Section 24 also proposes obligations on IWPs regarding the prominence, sizing and positioning of the promotional messaging.</p>	<p>We invite stakeholder views on the proposed promotion requirements, including whether:</p> <ul style="list-style-type: none"><li>• the requirements on prominence and placement in subsection 24(2) will suit the needs of consumers and be workable with IWPs' platforms. Further, should any similar requirements apply to subsections 24(3)–(4)?</li><li>• the proposed channels in which IWPs must promote the Register are appropriate, whether any channels pose significant challenges for industry, or whether there are additional channels available that should be specified to reach consumers, including those at-risk?</li><li>• the Register Rules should specify the precise wording IWPs must use. If so, what considerations should inform this messaging?</li></ul> <p>Outside of obligations that the Register Rules will place on IWPs, how else should the Register be promoted to target consumers? What matters should the ACMA be aware of in promoting the Register to consumers?</p>	<p>It is understood that the details of Register promotion requirements are to be discussed in a Communications Working Group that has yet to meet. Tabcorp's feedback on each of the channels to promote to Register is provided in the corresponding sections of the following table. The channel posing the greatest challenge is SMS.</p> <p>In response to the questions on the specification of wording in the Rules and what the ACMA should be aware of in promoting the Register:</p> <p>Tabcorp's strong preference is to determine our own wording in order to align it closely to our internal tools, processes and language used across channels. In any case, information provided to customers on the NSER should be provided with the right context and an explanation of what it is. Simply providing a link is generally not very effective with customers. Given self exclusion is one in a suite of responsible gambling tools, it is likely to be more effective to have the NSER referenced on responsible gambling pages.</p> <p>Any suggested messaging should be of positive nature and avoid stigmatising language.</p> <p>We would also suggest that all relevant community groups and counselling services are provided with information about the NSER in order to expand their service offering to customers. Inclusion in relevant gambling help websites would also benefit customers.</p>



Table 2 – Comments on draft Register Rules

Rule number	Rule	Tabcorp Comments
<b>Part 2 – Applications to the Register</b>		
<b>8 Applicable identification procedure</b>	<p>(1) Where the Register operator receives an application to register, it must verify the information provided by the applicant under subsection 7(1) in accordance with the procedure specified in subsection (2) to confirm that the:</p> <p>(a) person making the application is who they claim to be; and</p> <p>(b) information provided in their application is accurate.</p> <p>(2) The Register operator must verify the information provided by the applicant under subsection 7(1) using:</p> <p>(a) a government online verification service; and</p> <p>(b) a unique verification code which is sent via SMS message to the digital mobile number associated with the applicant; and</p> <p>(c) a unique verification code or unique link which is sent via email to the email address associated with the applicant.</p>	<p>Identification verification processes must recognise that each LIWSP will have different rules to comply with Know Your Customer (KYC) obligations. As such, in some instances secondary IDV procedures are used that may allow for small variances in name or address (e.g. hyphenated last names may be used on a driver's licence but not medicare card or proof of age cards). This could result in variations in the data held by the Register Operator and LIWSP's, increasing chances of false matches.</p> <p>We also note that the Department of Home Affairs is making changes to the Document Verification Service (DVS) to capture driver's licence card number (in addition to driver's licence number) from 1 July which the register operator will need to be aware of (and Tabcorp are working through). Where the changes can't be made in time driver's licences will no longer be able to be used for DVS. This is fundamental and must be resolved prior to the implementation of the NSER.</p>
<b>Part 3 – Register Operator Processes – entries in the Register</b>		
<b>17 Correction of entries</b>	<p>(1) If the Register operator receives an application to correct an entry from a registered individual and is satisfied that:</p> <p>(a) the application was made in accordance with section 6; and</p> <p>(b) the corrected information is accurate,</p> <p>the Register operator must:</p> <p>(c) correct any inaccurate information in the registered individual's entry that is identified in the application; and</p> <p>(d) do so as soon as practicable after being satisfied of the matters in paragraphs (a) and (b).</p> <p>(2) If an entry is corrected under subsection (1), the Register operator must notify the registered individual that the entry has been corrected as soon as practicable after correcting the entry.</p> <p>(3) If the Register operator receives an application to correct an entry from a nominated support person made in accordance with section 6, the Register operator must:</p> <p>(a) correct information that relates to the nominated support person in the entry that is identified as incorrect in the application; and</p> <p>(b) do so as soon as practicable after receiving the application.</p> <p>(4) If an entry is corrected under subsection (3), the Register operator must notify the nominated support person that the entry has been corrected as soon as practicable after correcting the entry.</p>	<p>Tabcorp suggests that this section should include a provision that requires the Register Operator to verify the information in accordance with section 8(2). We also submit that a timeframe to carry out the correction should be nominated (e.g. within 24 hours as per timeframes for making an entry). This is to ensure consistency between data held by the Register Operator and LIWSP and to improve match accuracy.</p>
<b>Part 5 – Complaints Management</b>		
Rule number	Rule	
<b>20 - Register operator procedures for dealing with</b>	<p>(1) A person may make a complaint about the administration or operation of the Register to the Register operator via the Register website or by telephone using the number specified on that website.</p>	<p>Tabcorp remains concerned with the likelihood of receiving complaints from customers as a result of false matches. What communication channels are proposed to ensure such complaints are directed to the ACMA / Register Operator and LIWSP's are not overwhelmed with calls they are not able to resolve?</p>

Rule number	Rule	Tabcorp Comments
<i>complaints about the administration or operation of the Register</i>		
<b>Part 6 - Licensed interactive wagering service providers – access, notifications and promotion</b>		
<b>21</b> <b>Request for access by licensed interactive wagering service provider</b>	<p>(1) A request for access by a licensed interactive wagering service provider must:</p> <p>(a) be made to the Register operator via the application programming interface operated by the Register operator; and</p> <p>(b) for each individual covered by the request, include the following information relating to the individual:</p> <p>(i) name;</p> <p>(ii) contact details;</p> <p>(iii) date of birth; and</p> <p>(iv) residential postcode.</p>	See response to <i>Data Matching / Requests to Register</i> in Table 1.
<b>22</b> <b>Obligations on Register operator to comply with a request for access by licensed interactive wagering service provider</b>	<p>(1) The Register operator must take reasonable steps to comply with a request for access by a licensed interactive wagering service provider by sending the notification in subsection (2) to that provider as soon as practicable, and in any event within 1 second.</p> <p>(2) The Register operator must comply with a request for access by a licensed interactive wagering service provider via the application programming interface operated by the Register operator, and send a notification to the provider advising, in relation to each individual covered by the request, that:</p> <p>(a) the individual is a registered individual as at the time the request was made;</p> <p>(b) the individual is not a registered individual as at the time the request was made; or</p> <p>(c) there is an error, and it is unknown whether the individual is a registered individual as at the time the request was made,</p> <p>whichever is applicable.</p>	Tabcorp recognises there will be circumstances where an error may be returned when a request to the Register is made – whether that be a system error or a LIWSP has not provided a valid request. We submit that 'error' should be defined and a provision or note added that a LIWSP has met their obligation by sending the request to the Register, despite the error response.
<b>23</b> <b>Notifications where current or prospective customer is a registered individual</b>	<p>(1) If a licensed interactive wagering service provider is informed by the Register operator that a current customer is a registered individual, the provider must:</p> <p>(a) inform the individual that the provider has been advised by the Register operator that the customer is registered on the Register; and</p> <p>(b) inform the individual that the provider is prevented from providing licensed interactive wagering services to the customer; and</p> <p>(c) inform the individual that their licensed interactive wagering service account with the provider will be closed in accordance with section 61MB or section 61MC of the Act (whichever is applicable), and that any credit in the account will be refunded to them under section 61MC (if applicable); and</p> <p>(d) provide the individual with information about relevant available support services, as soon as practicable after being so informed.</p> <p>(2) If a licensed interactive wagering service provider is informed by the Register operator that a prospective customer is a registered individual, the provider must:</p> <p>(a) inform the individual that they are registered on the Register; and</p>	See response to <i>Interactions with self excluded customers</i> in Table 1.

Rule number	Rule	Tabcorp Comments
	(b) inform the individual that they cannot open a new licensed interactive wagering service account; and  (c) provide the individual with information about relevant available support services, as soon as practicable after being so informed.	
<b>24 Promoting the Register to customers</b>	(1) Where a licensed interactive wagering service provider operates a website or an app in connection with its licensed interactive wagering services, it must include: (a) reference to the Register; and (b) a hyperlink to the website of the Register, on: (c) the home page; and (d) responsible gambling pages; and (e) other pages promoting the provider's self-exclusion service, if any, of that website or app.	<p>It is understood that the details of promoting the Register are to be discussed in a Communications Working Group that has yet to meet.</p> <p>The TAB App does not contain a footer on its front screen, rather responsible gambling information is provided on an easy to navigate, dedicated responsible gambling microsite that contains all of the relevant responsible gambling tools. In the case of the App, it is considered more appropriate for NSER references to be located with other responsible gambling material so that customers are aware of the full suite of tools available to them. We request that the requirement to have the NSER referenced on the 'home page' of the App be removed.</p>
	(2) The reference and hyperlink referred to in subsection (1) must be: (a) prominently displayed; (b) in a font size consistent with other text on the page; and (c) positioned in close proximity to information about other responsible gambling or consumer protection measures.	<p>It is understood that discussion around copy and style are to be held in a Communications Working Group that has yet to meet.</p> <p>Rather than the reference and hyperlink to the Register being 'prominently displayed', Tabcorp submits that that it would be more appropriate to be 'clear and legible'. This is on the basis that TAB current includes responsible gambling information across various website pages, including the home page, that reflects various state based requirements and it would be intended to include reference to the NSER in the same manner.</p>
	(3) Where a licensed interactive wagering service provider sends a regulated electronic message, it must include: (a) reference to the National Self-exclusion Register; and (b) a hyperlink to the website of the Register.	
	(4) Where a regulated electronic message referred to in subsection (3) is sent via SMS message, the message will comply with the requirements of that subsection if it contains a hyperlink to a separate webpage that includes the information referred to in paragraphs (3)(a) and (b).	<p>Tabcorp notes the addition of this subsection, however concerns remain around the effectiveness of explicitly referencing the NSER in an SMS, unless the SMS is related to responsible gambling. In SMS communications, it is more appropriate to have a generic responsible gambling reference and link to the NSER from there. Without context or an additional explanation customers will likely just skip over the link, therefore the impact for customers would be greater if this is incorporated in locations where additional details can be provided. This approach is similar to how deposit limits are promoted.</p>
	(6) Where a licensed interactive wagering service provider receives a voice call or electronic message from a customer to discuss: (a) placing limits or controls on their gambling; (b) responsible gambling options, including self-exclusion; or (c) general assistance with their gambling behaviour, it must: (d) inform the customer of the Register; (e) and provide them with the phone number and website address for the Register, as soon as possible after receiving the voice call or electronic message.	<p>Tabcorp notes the change to this clause. Whilst it goes some way to clarify the intent of the provision, our preference would be to use the term 'potential problem gambling behaviour' or where potential indicators are raised rather than simply 'gambling behaviour'.</p>

Rule number	Rule	Tabcorp Comments
<i>Part 7 Collection of Cost Recovery Levy</i>		
25 When Levy is Due and Payable	The levy is due and payable 30 days after the date the relevant invoice was issued to the person.	Tabcorp is concerned that the amount payable as part of the cost recovery levy is unknown given it is to be based on a proportion of the total number of requests sent to the Register by all LIWSP's. We would appreciate any modelling or guidance that the ACMA may have to assist with estimating likely costs based on our current proposed methodologies to check the Register.