

4 February 2022

Confidential

**The Manager
National Self-Exclusion Register Section
Australian Communications and Media Authority
PO Box 13112 Law Courts
Melbourne Victoria 8010**

BY EMAIL: Nationalselfexclusionregister@acma.gov.au

Re: National Self-exclusion Register Cost Recovery

We refer to the draft Cost Recovery Implementation Statement (CRIS) published by ACMA in December 2021 and the invitation to licenced wagering operators to provide feedback.

BlueBet has had the opportunity to consider the matters raised therein, with particular attention on the proposed model under which the costs of the NSER will be apportioned between different operators. Generalised feedback on the rollout of the NSER is below, however we note from the outset that there is insufficient detail provided in any of the modelling which would allow operators to comment on the cost recovery model with the desired specificity.

It is apparent that the priorities in designing the cost recovery model are:

1. Ensuring that wagering customers who are registered for self-exclusion are effectively and efficiently prevented from placing wagers with licenced operators.
2. In achieving the objective set out in paragraph 1, the cost recovery model should:
 - a. Encourage licenced wagering operators to actively engage with the NSER.
 - b. Equitably and efficiently distribute the costs of providing the NSER to those whose business activities contribute to the need for the NSER.
 - c. Avoid unnecessary costs and administrative burdens for wagering operators.

The current model proposed in the CRIS apportions costs in accordance with the number of 'requests' made of the NSER by each operator. In its current form, we are of the view that this approach is flawed for the reasons stated below:

1. To our knowledge:
 - a. there is no framework which outlines when an operator should/must make a 'request' of the Register. For example, it is not mandated that an operator must reference the NSER at the time of sign-up, sign-in or bet placement (or any combination of these, or any other touchpoints, in a customer's user journey);

- b. no guidance has been provided from a regulatory body as to expectations in this regard, except to say that operators will be liable for significant penalties if they are of the view that a breach of the legislation has occurred.
2. This ambiguity will lead to competing operators taking different approaches to their engagement with the NSER. Under a model where those who engage most heavily with the NSER are subject to higher payments, it will serve as an active disincentive for operators to engage. By discouraging engagement, the primary objective of the NSER (i.e. to make sure excluded persons do not bet) will be undermined.
3. Where there is inconsistent application of the Register as between different operators, it will result in some operators shouldering an unfair portion of costs. It will also make it difficult for operators to properly forecast the likely cost of the NSER for inclusion in their budgets.

A more effective costs recovery model would be based on the number of active customers betting with each operator. The NSER functions at an individual level. It is concerned with preventing individuals from betting who should not be allowed to do so. It should follow that those with the greatest number of active customers betting on their platform should bear the greatest share of the cost.

In the CRIS, such a model was dismissed on the basis that *“the ACMA does not have this information and we will not gather it in operating the Register. As such, this method would require additional reporting from IWPs.”* Whilst this information is not currently held by the ACMA (and the attempt to minimise administrative burden is greatly appreciated), this information can be generated from any software by any operator in a matter of minutes. Similarly, the ACMA can then easily apportion the costs on this basis through a very simple calculation. For the sake of clarity, our view is that the definition of ‘active customer’ should be *‘A registered customer that has placed a cash bet in the preceding 12-month period’*. This definition is widely accepted within the online wagering industry.

Using the metric of ‘Active Customers’ as the basis for cost recovery would achieve the objectives of the NSER, enhance user engagement and promote equitable costs sharing. Whilst we maintain the view that much further detail is required and further guidance from the ACMA would be of assistance, we believe that such a model, properly formulated and expanded is the appropriate starting point.

Should you wish to discuss any of the above please do not hesitate to contact us at any time.

Yours sincerely

Alexander Richmond
Head of Legal & Regulatory
Level 9 8 Spring St Sydney NSW 2000
alexanderr@bluebet.com.au
www.bluebet.com.a