

Investigation report no. BI-000739

Summary

Provider [service]	Netflix Australia Pty Ltd [Netflix Australia]
Findings	<p>No contravention of section 12 of the <i>Broadcasting Services (Online Content Service Provider Rules) 2018</i> and consequently no contravention of subclause 25(1) of Schedule 8 to the <i>Broadcasting Services Act 1992</i></p> <p>No contravention of subsection 61EA(1A) of the <i>Interactive Gambling Act 2001</i> — publishing a designated interactive gambling service advertisement in Australia</p>
Date finalised	18 June 2025
Relevant legislation	<i>Broadcasting Services Act 1992</i> (BSA) <i>Broadcasting Services (Online Content Service Provider Rules) 2018</i> (the Online Rules) <i>Interactive Gambling Act 2001</i> (IGA)
Live sporting events	Mike Tyson v Jake Paul boxing match
Date of stream	16 November 2024
Type of service	Online content service (audio-visual)
Attachments	A – Relevant legislative provisions

Background

On 6 March 2025, the Australian Communications and Media Authority (ACMA) commenced an investigation into whether Netflix had complied with relevant gambling advertising provisions of the Online Rules and IGA.

The ACMA had received a complaint in late 2024 about alleged gambling advertising for a gambling service during the live stream of the Mike Tyson v Jake Paul boxing match on the Netflix service on 16 November 2024.

The alleged gambling advertisement was the appearance of the DraftKings logo in the corners of the boxing ring and in clips shown throughout the coverage of the event. DraftKings is a service that offers online betting on sports.

Assessment

Under clause 25 of Schedule 8 to the BSA, an online content service provider must comply with the Online Rules. An 'online content service provider' means a provider of an 'online content service' (clause 2 of Schedule 8 to the BSA).

An 'online content service' includes a service that allows end users to access content using the internet, where the service is provided to the public, has a geographical link to Australia and is not an excluded service listed in paragraphs 3(1)(e) to (r) of Schedule 8 to the BSA (see subclause 3(1) of Schedule 8).

Netflix Australia allows end-users who are members of the public to access content using the internet. The service is targeted to individuals who are present in Australia. Additionally, content provided on the service is likely to appeal to the public, or a section of the public, in Australia. Therefore, the service has a geographical link to Australia as defined in clause 5 of Schedule 8 to the BSA. The service is not an excluded service under paragraphs 3(1)(e) to (r) of Schedule 8 to the BSA.

Therefore, Netflix Australia, as an online content service provider, is subject to the Online Rules.

The ACMA has investigated whether the advertising that was the subject of the complaint fell within the definition of 'gambling promotional content' in clause 2 of Schedule 8 to the BSA and if so, whether the advertisement was provided at a prohibited time, in contravention of section 12 of the Online Rules (**Issue 1**).

Part 7A of the IGA relevantly establishes a limited prohibition on the publication of 'designated interactive gambling service advertisements' in Australia, which is of general application. The ACMA also investigated whether the advertisements were designated interactive gambling service advertisements published in Australia, in contravention of subsection 61EA(1A) of the IGA (**Issue 2**).

Relevant provisions of the BSA, the Online Rules and the IGA can be found at **Attachment A**.

Issue 1: Was gambling promotional content provided in conjunction with live coverage of a sporting event in contravention of section 12 of the Online Rules?

Finding

The ACMA finds that Netflix Australia did not contravene section 12 of the Online Rules, and therefore did not contravene subclause 25(1) of Schedule 8 to the BSA. As discussed in detail below, this finding is based on the application of the exemption in clause 14 of Schedule 8.

Reasons

To assess compliance with the prohibition on gambling promotional content during live coverage of sporting events in section 12 of the Online Rules, the ACMA has addressed the following questions:

1. Did the content fall within the definition of 'gambling promotional content'?
If yes, then,
2. What were the relevant restrictions that applied to the live coverage of the sporting event?
3. Was gambling promotional content provided at prohibited times during live coverage of the sporting events?
4. Do any exceptions to the Online Rules apply?

Mike Tyson v Jake Paul boxing match

Did the content fall within the definition of 'gambling promotional content'?

'Gambling promotional content' means advertising, sponsorship or promotional content that relates to a gambling service (see clause 2 of Schedule 8). For the purposes of Schedule 8, 'gambling service' is defined in clause 18 of Schedule 8, and relevantly includes a service for the placing, making, receiving or acceptance of bets (see paragraph 18(a) of Schedule 8 to the BSA).

Netflix Australia provided evidence that the appearance of the DraftKings logo in the full coverage of the boxing match was part of a sponsorship arrangement between Netflix, Inc. (US holding company of Netflix Australia) and DK Crown Holdings Inc. and Crown Gaming Inc. (DraftKings).

It is not disputed that the DraftKings logo appeared during the coverage of the boxing match:

- > on the padding in the four corners of the boxing ring,
- > in clips shown from the weigh-in where the logo was displayed on LED signage
- > and in clips from other fights where DraftKings was an event sponsor of those fights;

and promoted the DraftKings service which is a service for the placing, making, receiving or acceptance of bets. The logo is gambling promotional content for the purposes of the Online Rules.

What were the relevant restrictions that applied to the live coverage of the sporting event?

The full live coverage of the boxing match (full coverage) streamed live in Australia by Netflix Australia commenced at 12 pm (AEDT) and concluded at 4:49 pm (AEDT).

Section 12 of the Online Rules provides that:

An online content service provider must not provide gambling promotional content on an online content service in conjunction with live coverage of a sporting event in the period beginning at 5:00 am and ending at 8:30 pm.

Section 12 of the Online Rules therefore applied to the provision of the boxing match content by Netflix Australia" or similar (i.e. it is the stream of the sporting event that is subject to the rules, as opposed to the sporting event itself).

Was gambling promotional content provided at prohibited times during live coverage of the sporting events?

Netflix submitted that the gambling promotional content for DraftKings appeared in the full coverage of the event, in the ways outlined above, and was shown at various times throughout the event, depending on the camera direction and angle shown.

Accordingly, the ACMA is satisfied that that gambling promotional content was provided at prohibited times during the full coverage of the boxing match.

Do any exceptions to the Online Rules apply?

Although Netflix Australia did not dispute that gambling promotional content was shown during the boxing match, it submitted that the exception in clause 14 of Schedule 8 of the BSA applies to the provision of that content.

Clause 14 of Schedule 8 provides that:

The online content service provider rules do not apply in relation to the provision of gambling promotional content on an online content service if:

- (a) the gambling promotional content is provided as an accidental or incidental accompaniment to the provision of other content; and
- (b) the provider of the online content service does not receive any direct or indirect benefit (whether financial or not) for providing the gambling promotional content (in addition to any direct or indirect benefit that the provider receives for providing the other content).

Was the gambling promotional content provided as an accidental or incidental accompaniment to the provision of other content?

Netflix has not submitted that the gambling promotional content was provided as an accidental accompaniment.

The phrase ‘incidental accompaniment’ is not defined in the BSA or Online Rules. However, the ACMA has previously considered whether an advertisement is an incidental accompaniment in the context of investigations into tobacco advertisements (for example, BI-262, BI-458). The word ‘incidental’ in this context has been interpreted by the ACMA, with reference to case law¹, as “*happening... in fortuitous or subordinate conjunction*” with other matter. The ACMA considers that the same (ordinary) meaning of ‘incidental accompaniment’ also applies in the context of clause 14 of Schedule 8 to the BSA. That is, promotional content will be an incidental accompaniment to the provision of other content (as contemplated by clause 14 of Schedule 8 to the BSA) if the relevant promotional content is subordinate to the other content being provided. If gambling promotional content dominates or forms a substantial feature of relevant content provided by an online content service provider, it will not be regarded by the ACMA as an ‘incidental accompaniment’.

In the case of the boxing match, the DraftKings logo appeared on the corners of the boxing ring and in clips throughout the full coverage of the event. As a result, the gambling promotional content was shown at various times throughout the event, depending on the camera direction and angle shown.

Although the gambling promotional content was visible at times throughout the live stream, it is the ACMA’s view that the content, in these circumstances, was peripheral and provided in subordinate conjunction with the concurrently provided content of the boxing match and associated commentary.

Accordingly, the ACMA is of the view that, in the circumstances outlined above, the gambling promotional content provided during the boxing match was an incidental accompaniment to other content (being the boxing match).

¹ *Rothmans of Pall Mall (Australia) Ltd v Australian Broadcasting Tribunal* (1985) 58 ALR 675; *Director of Public Prosecutions v United Telecasters Sydney Limited* (1989) 168 CLR 594

Did the provider receive any direct or indirect benefit (whether financial or not) for providing the gambling promotional content, in addition to any direct or indirect benefit that the provider receives for providing the live coverage of the sporting event.

Netflix Australia submitted it did not receive any benefit (financial or not) from providing the gambling content as the sponsorship agreement was between Netflix, Inc. (the US holding company of Netflix Australia) and DraftKings. Therefore, any benefit received in connection with the sponsorship of the boxing match by DraftKings was obtained by Netflix, Inc. and not Netflix Australia. Further, Netflix Australia stated that no benefit was shared between these two entities.

In support, Netflix Australia provided documentation including the sponsorship agreement between Netflix, Inc. and DraftKings for the integration of the logo in the boxing match (the Agreement). The ACMA did not find evidence in the Agreement, or other documents provided, to suggest that any benefit to Netflix Australia would occur directly or indirectly, or that the Australian audience was considered in determining the value of the Agreement. DraftKings does not operate in Australia, which is consistent with Netflix Australia's position that the value of the sponsorship arrangement to Netflix, Inc. is not something which should be wholly or partly attributed to Netflix Australia.

Netflix conceded that while it is possible that some people in Australia subscribed to Netflix to watch the boxing match, any benefit derived from this would be from providing the event and not from the gambling promotional content.

The direct or indirect benefit contemplated by cl 14 of Schedule 8 must be a direct or indirect benefit arising from the provision of gambling promotional content, rather than the other content that is also provided. The ACMA considers that any additional subscribers Netflix may have obtained because of the boxing match would not be relevant to the assessment of whether Netflix Australia has obtained a benefit from the provision of the gambling promotional content.

The ACMA notes that arrangements within the same corporate grouping which attempt to isolate the benefit derived from sponsorship or advertising arrangements to a particular entity or entities within the group will not be determinative in an assessment as to whether another entity in the group has obtained a direct or (in particular) indirect benefit from the sponsorship or advertising. The ACMA has assessed the relevant evidence provided by Netflix Australia, and noting that DraftKings does not operate in Australia, accepts that this evidence is sufficient to demonstrate, in this case, that Netflix Australia did not receive any direct or indirect benefit in relation to the DraftKings gambling promotional content.

Therefore, the ACMA finds that the exception in clause 14 of Schedule 8 applies to the gambling promotional content that appeared in the full coverage of the boxing match.

Issue 2: Was the advertisement a designated interactive gambling service advertisement published in Australia, in contravention of subsection 61EA(1A) of the IGA?

Finding

The advertisement shown during the full coverage of the boxing match on Netflix Australia is not a designated interactive gambling service advertisement published in Australia in contravention of subsection 61EA(1A) of the IGA. As discussed in detail below, this finding is based on the application of the exemption in subsection 61ED(1) of the IGA.

Reasons

Is the content a designated interactive gambling advertisement?

Subsection 61BA(1) of the IGA defines designated interactive gambling service advertisement broadly to include any writing, still picture, sign, symbol or other visual image, or any audible message, or any combination of two or more of those things, that gives publicity to, or otherwise promotes or intends to promote:

- > a designated interactive gambling service
- > designated interactive gambling services in general
- > a domain name or URL that relates to a designated interactive gambling service
- > any words that are closely associated with a designated interactive gambling service.

In this instance, the content is the logo for the DraftKings gambling service streamed as part of the live coverage of the boxing match, because it appeared on the corner posts of the boxing ring and in clips from previous boxing matches and weigh ins.

The ACMA is satisfied that the DraftKings logo included with the boxing match coverage on Netflix is advertising within the ordinary meaning of that term.

The next question is whether the advertising is for 'designated interactive gambling services'. Section 4 of the IGA defines a designated interactive gambling service to mean a prohibited interactive gambling service or an unlicensed regulated interactive gambling service.

DraftKings offers in-play betting on sporting events, which is not an excluded wagering service (see paragraph 8A(3)(b) of the IGA) and is therefore a prohibited interactive gambling service to that extent. Accordingly, it is a designated interactive gambling service for the purpose of the gambling advertising provisions in the IGA,

DraftKings also offers sports wagering which is a type of regulated interactive gambling service under section 8E of the IGA. However, as it is not provided to customers in Australia it is therefore not an 'unlicensed regulated interactive gambling service' as defined by the IGA.

The definition of designated interactive gambling service advertisement in subsection 61BA(1) of the IGA is subject to a number of exceptions (see subsection 61BA(2) and sections 61BB – 61BGA). The ACMA is satisfied that none of these exceptions apply to the advertisement in this case.

For the purposes of this investigation, the ACMA is satisfied that the content of the boxing match included a designated interactive gambling service advertisement.

Were the designated interactive gambling services advertisements published in Australia?

Subsection 61CA(1) of the IGA provides that a person publishes a designated interactive gambling service advertisement if the person does any of the things listed in paragraphs 61CA(1)(a) – (f).

Relevantly, paragraph 61CA(1)(a) of the IGA provides that a person publishes a designated interactive gambling service advertisement if the person includes the advertisement or something that contains the advertisement on a website.

Subsection 61EA(3) provides that a designated interactive gambling service advertisement that is included on a website is taken to be published in Australia if and only if the website is accessed, or is available for access, by end users in Australia; and, having regard to the content of the website and the way the website is advertised or promoted, it would be concluded that it is likely that the majority of persons who access the website are physically present in Australia.

The Netflix service is available to end users on a website in Australia via the URL <https://www.netflix.com/au>. Therefore, the ACMA is satisfied that the DraftKings advertisement (logo) shown during the boxing match is a designated interactive gambling service advertisement published in Australia for the purposes of subsection 61EA(3) of the IGA.

Subsection 61CA(1) of the IGA has effect subject to the exceptions in sections 61CB-61CF. The ACMA is satisfied that these exceptions do not apply to the publication of the designated interactive gambling service advertisements in this case.

Therefore, the ACMA is satisfied that the designated interactive gambling service advertisements were published in Australia.

Was the publication permitted by the IGA?

Subsection 61EA(1A) of the IGA provides that a person must not publish a designated interactive gambling service advertisement in Australia if the publication is not permitted by section 61EB, 61ED, 61EE or 61EF.

Subsection 61ED(1) of the IGA provides:

- (1) A person may publish a designated interactive gambling service advertisement if:
 - (a) the person publishes the advertisement as an accidental or incidental accompaniment to the publication of other matter; and
 - (b) the person does not receive any direct or indirect benefit (whether financial or not) for publishing the advertisement (in addition to any direct or indirect benefit that the person receives for publishing the other matter).

In the ACMA's view, the "incidental accompaniment" exceptions contained in subsection 61ED(1) the IGA and clause 14 of Schedule 8 to the BSA are materially identical. For the reasons provided above in respect of clause 14 of Schedule 8 to the BSA, the ACMA considers that in this case, the relevant advertising material shown by Netflix Australia was an incidental accompaniment, for which Netflix Australia received no direct or indirect benefit. The ACMA is therefore satisfied in this case that the exception in subsection 61ED(1) of the IGA applies.

Relevant provisions

Schedule 8 to the *Broadcasting Services Act 1992*

2 Definitions

gambling promotional content means:

- (a) advertising content; or
- (b) sponsorship content; or
- (c) promotional content;

that relates to a gambling service. [...]

online content service has the meaning given by clause 3.

online content service provider means a person who provides an online content service.

Note: See clause 6.

3 Online content service

(1) For the purposes of this Schedule, online content service means:

- (a) a service that delivers content to persons having equipment appropriate for receiving that content, where the delivery of the service is by means of an internet carriage service; or
- (b) a service that allows end-users to access content using an internet carriage service;

where the service:

- (c) is provided to the public (whether on payment of a fee or otherwise); and
- (d) has a geographical link to Australia;

but does not include a service to the extent to which it is:

- (e) an exempt online simulcast service; or

[...]

4 Exempt online simulcast service

(1) For the purposes of this Schedule, exempt online simulcast service means a service, or a part of a service, that is provided to end-users using an internet carriage service, and that:

(a) does no more than provide a stream of content that is identical to the stream of programs transmitted on:

- (i) a commercial television broadcasting service provided under a commercial television broadcasting licence; or
- (ii) a commercial radio broadcasting service provided under a commercial radio broadcasting licence; or
- (iii) a subscription television broadcasting service provided under a subscription television broadcasting licence; or
- (iv) a subscription radio narrowcasting service; or
- (v) a subscription television narrowcasting service; or
- (vi) a broadcasting service provided by the Special Broadcasting Service Corporation; and

- (b) provides that stream of content simultaneously, or almost simultaneously, with the transmission of that stream of programs.
- (2) For the purposes of subclause (1), in determining whether a stream of content is identical to a stream of programs, disregard any differences that are attributable to the technical characteristics of the provision or transmission (for example, video resolution or sound quality).
- (3) For the purposes of subclause (1), in determining whether a stream of content is identical to a stream of programs, disregard the presence or absence of:
 - (a) a watermark-type logo; or
 - (b) a watermark-type insignia;

that is not gambling promotional content. [...]

6 Online content service provider

- (1) For the purposes of this Schedule, a person does not provide an online content service merely because the person supplies an internet carriage service that enables content to be delivered or accessed.
- (2) For the purposes of this Schedule, a person does not provide an online content service merely because the person provides a billing service, or a fee collection service, in relation to an online content service.

[...]

14 Accidental or incidental provision of gambling promotional content

The online content service provider rules do not apply in relation to the provision of gambling promotional content on an online content service if:

- (a) the gambling or promotional content is provided as an accidental or incidental accompaniment to the provision of other content and;
- (b) the provider of the online content service does not receive any direct or indirect benefit (whether financial or not) for providing the gambling promotional content (in addition to any direct or indirect benefit that the provider receives for providing the other content).

25 Compliance with the online content service provider rules

- (1) An online content service provider must not contravene the online content service provider rules.

Civil penalty provision

- (2) Subclause (1) is a civil penalty provision.

[...]

Broadcasting Services (Online Content Service Provider Rules) 2018

10 Scheduled start of a sporting event

For the purposes of these rules, the scheduled start of a sporting event to be provided on an online content service is:

- (a) the specified time of commencement of the live coverage of play of the sporting event, which must be earlier than or at the commencement of actual play, as published or notified in a manner that is clear and prominent to potential end-users of the online content service at least 24 hours before the commencement of the coverage; or
- (b) otherwise, the time the live coverage of the sporting event commences.

Note 1: Paragraph (a) may be satisfied, for example, by including the specified time on the webpage where end-users are likely to access the online content service, by including it in an electronic program guide (if one is available to end-users), or by sending an email or push notification to end-users.

Note 2: For the avoidance of doubt, for the purposes of paragraph (b), any content that is part of the coverage of the sporting event, including, without limitation, content that:

- is hosted at, or takes place at the venue of the live sporting event;
- contains commentary or analysis on the live sporting event;
- contains highlights or replay coverage of the live sporting event; or
- involves or profiles participants in the live sporting event;

which is provided on the service before play has commenced, or during play, is content that consists of live coverage of the sporting event.

12 Prohibition of gambling promotional content (other than a commentator betting odds promotion or a representative venue-based promotion)

An online content service provider must not provide gambling promotional content on an online content service in conjunction with live coverage of a sporting event in the period beginning at 5:00 am and ending at 8:30 pm.

Note 1: Gambling promotional content (other than a commentator betting odds promotion or a representative venue-based promotion) is provided on an online content service in conjunction with live coverage of a sporting event if, and only if, the content is provided on the service during the period:

- (a) beginning 5 minutes before the scheduled start of the sporting event; and
- (b) ending 5 minutes after the conclusion of the sporting event. (See subclause 21(1) of Schedule 8 to the BSA.)

Note 2: For the avoidance of doubt, promotion of odds is a kind of gambling promotional content to which this section applies. Section 11 deals with commentator betting odds promotions and representative venue-based promotions.

[...]

[...]18 Exceptions for certain circumstances beyond the control of the service provider

- (2) An online content service provider that provides gambling promotional content on an online content service, in conjunction with live coverage of a sporting event, will not contravene Parts 3, 4 or this Part, where all of the following circumstances exist:
 - (a) the sporting event originates from outside Australia;
 - (b) the online content service provider did not add the gambling promotional content;

- (c) it is not reasonably practicable for the provider to remove the gambling promotional content; and
 - (d) the provider does not receive any direct or indirect benefit (whether financial or not) for providing the gambling promotional content in addition to any direct or indirect benefit that the provider receives for providing the live coverage of the sporting event.
- (3) An online content service provider that provides gambling promotional content on an online content service in conjunction with live coverage of a sporting event will not contravene Parts 3, 4, or this Part, where the reference to gambling promotional content occurs as part of live coverage of the sporting event, and consists of the name of the sporting venue, or of a player's or official's uniform, or of advertising signage, such as a field barrier, big screen or scoreboard, at the venue of the sporting event, and the provider does not receive any direct or indirect benefit (whether financial or not) for providing the gambling promotional content, in addition to any direct or indirect benefit that the provider receives for providing the live coverage of the sporting event.

Interactive Gambling Act 2001

4 Definitions

designated interactive gambling service means:

- (a) a prohibited interactive gambling service; or
- (b) an unlicensed regulated interactive gambling service.

gambling service means:

- (a) a service for the placing, making, receiving or acceptance of bets; or
- (b) a service the sole or dominant purpose of which is to introduce individuals who wish to make or place bets to individuals who are willing to receive or accept those bets; or
- (c) a service for the conduct of a lottery; or
- (d) a service for the supply of lottery tickets; or
- (e) a service for the conduct of a game, where:
 - (i) the game is played for money or anything of value; and
 - (ii) the game is a game of chance or of mixed chance and skill; and
 - (iii) a customer of the service gives or agrees to give consideration to play or enter the game; or
- (f) a gambling service (within the ordinary meaning of that expression) that is not covered by any of the above paragraphs.

Unlicensed regulated interactive gambling service means a regulated interactive gambling service that is provided in contravention of subsection 15AA(3).

5 Prohibited interactive gambling services

(1) For the purposes of this Act, a **prohibited interactive gambling service** is a gambling service, where:

- (a) the service is provided in the course of carrying on a business; and
- (b) the service is provided to customers using any of the following:
 - (i) an internet carriage service;
 - (ii) any other listed carriage service;
 - (iii) a broadcasting service;
 - (iv) any other content service;
 - (v) a datacasting service

Note: This definition relates to the offence provisions and civil penalty provisions set out in section 15 and Part 7A.

(2) Subsection (1) has effect subject to subsection (3).

Excluded services

(3) For the purposes of this Act, none of the following services is a **prohibited interactive gambling service**:

- (a) a telephone betting service;
- (aa) an excluded wagering service (see section 8A);
- (ab) an excluded gaming service (see section 8B);
- (aba) a place-based betting service (see section 8BA);
- (ac) a service that has a designated broadcasting link (see section 8C);
- (ad) a service that has a designated datacasting link (see section 8C);
- (ae) an excluded lottery service (see section 8D);
- (b) a service to the extent to which it relates to the entering into of contracts that are financial products within the meaning of Chapter 7 of the *Corporations Act 2001*;
- (ba) a wholesale gambling service;
- (bb) a trade promotion gambling service (see section 8BB);
- (c) an exempt service (see section 10).

8 Australian-customer link

For the purposes of this Act, a gambling service has an Australian-customer link if, and only if, any or all of the customers of the service are physically present in Australia.

8E Regulated interactive gambling service

- (1) For the purposes of this Act, a **regulated interactive gambling service** is:
- (a) a telephone betting service (see section 8AA); or
 - (b) an excluded wagering service (see section 8A); or
 - (c) an excluded gaming service (see section 8B); or
 - (d) a place-based betting service (see section 8BA); or
 - (e) a service that has a designated broadcasting link (see section 8C); or
 - (f) a service that has a designated datacasting link (see section 8C); or
 - (g) an excluded lottery service (see section 8D); or
 - (h) an exempt service (see section 10);
- where:
- (i) the service is provided in the course of carrying on a business; and
 - (j) the service is provided to customers using any of the following:
 - (i) an internet carriage service;
 - (ii) any other listed carriage service;
 - (iii) a broadcasting service;
 - (iv) any other content service;
 - (v) a datacasting service; and
 - (k) in the case of an exempt service—a determination under subsection (2) is in force in relation to the service.
- (2) The Minister may, by legislative instrument, determine that each exempt service included in a specified class of exempt services is covered by paragraph (1)(k).
- (3) Subsection (1) has effect subject to subsection (4).
- (4) For the purposes of this Act, neither of the following services is a **regulated interactive gambling service**:
- (a) a wholesale gambling service;
 - (b) a trade promotion gambling service (see section 8BB).

T15 Prohibited interactive gambling services not to be provided to customers in Australia

[...]

- (2A) A person must not provide a prohibited interactive gambling service that has an Australian-customer link (see section 8).

Civil penalty: 7,500 penalty units.

- (3) Subsections (1) and (2A) do not apply if the person:
- (a) did not know; and
 - (b) could not, with reasonable diligence, have ascertained;
- that the service had an Australian-customer link.

Note: In the case of proceedings for an offence against subsection (1), the defendant bears an evidential burden in relation to the matters in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

{...}

15AA Unlicensed regulated interactive gambling services not to be provided to customers in Australia

[...]

- (3) A person must not provide a particular kind of regulated interactive gambling service if:
- (a) the service has an Australian-customer link (see section 8); and

- (b) the person does not hold a licence (however described) under a law of a State or Territory that authorises the provision of that kind of service in the State or Territory.

Civil penalty: 7,500 penalty units.

[...]

61BA Basic meaning of designated interactive gambling service advertisement

- (1) For the purposes of this Part, a designated interactive gambling service advertisement is any writing, still or moving picture, sign, symbol or other visual image, or any audible message, or any combination of 2 or more of those things, that gives publicity to, or otherwise promotes or is intended to promote:
 - (a) a designated interactive gambling service; or
 - (b) designated interactive gambling services in general; or
 - (c) the whole or part of a trade mark in respect of a designated interactive gambling service; or
 - (d) a domain name or URL that relates to a designated interactive gambling service; or
 - (e) any words that are closely associated with a designated interactive gambling service (whether also closely associated with other kinds of services or products).
- (2) This section has effect subject to sections 61BB, 61BC, 61BD, 61BE, 61BF, 61BG and 61BGA.

61CA Basic meaning of publish a designated interactive gambling service advertisement

- (1) For the purposes of this Part, a person ***publishes*** a designated interactive gambling service advertisement if the person does any of the following things:
 - (a) the person includes the advertisement, or something that contains the advertisement, on a website;
 - (b) the person includes the advertisement in a document (including, for example, a newspaper, magazine, program, leaflet or ticket) that is available, or distributed, to the public or a section of the public;
 - (c) the person includes the advertisement in a film, video, television program or radio program that is, or is intended to be, seen or heard by the public or a section of the public;
 - (d) the person:
 - (i) sells, hires or supplies the advertisement, or something containing the advertisement, to the public or a section of the public; or
 - (ii) offers the advertisement, or something containing the advertisement, for sale or supply to, or hire by, the public or a section of the public;
 - (e) the person displays, screens or plays the advertisement, or something that contains the advertisement, so that it can be seen or heard in or from:
 - (i) a public place; or
 - (ii) public transport; or
 - (iii) a workplace;
 - (f) the person otherwise:
 - (i) brings the advertisement, or something that contains the advertisement, to the notice of; or
 - (ii) disseminates the advertisement, or something that contains the advertisement, to;
the public, or a section of the public, by any means (including, for example, by means of a film, video, computer disk or electronic medium).
- (2) This section has effect subject to sections 61CB, 61CC, 61CD, 61CE and 61CF.

61EA Designated interactive gambling service advertisements not to be published in Australia

[...]

(1A) A person must not publish a designated interactive gambling service advertisement in Australia if:

- (a) the publication is not permitted by section 61EB; and
- (b) the publication is not permitted by section 61ED; and
- (c) the publication is not permitted by section 61EE; and
- (d) the publication is not permitted by section 61EF.

Civil penalty: 180 penalty units.

[...]

(3) For the purposes of this section, a designated interactive gambling service advertisement that is included on a website is taken to be published in Australia if, and only if:

- (a) the website is accessed, or is available for access, by end-users in Australia; and
- (b) having regard to:
 - (i) the content of the website; and
 - (ii) the way the website is advertised or promoted;

it would be concluded that it is likely that a majority of persons who access the website are physically present in Australia.

61ED Accidental or incidental publication permitted

(1) A person may publish a designated interactive gambling service advertisement if:

- (a) the person publishes the advertisement as an accidental or incidental accompaniment to the publication of other matter; and
- (b) the person does not receive any direct or indirect benefit (whether financial or not) for publishing the advertisement (in addition to any direct or indirect benefit that the person receives for publishing the other matter).

(2) Subsection (1) only has effect for the purposes of this Part.