

ENFORCEABLE UNDERTAKING GIVEN TO THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY BY BETFAIR PTY LIMITED (ACN 110 084 985) UNDER SECTION 38 OF THE SPAM ACT 2003

1. Definitions

- 1.1. In this Undertaking:
- 1.1.1. **ACMA** means the Australian Communications and Media Authority;
 - 1.1.2. **Betfair** means Betfair Pty Limited (ACN 110 084 985);
 - 1.1.3. **Betfair Board** means Betfair's Board of Directors;
 - 1.1.4. **Betfair+ Program** means the program run by Betfair where certain eligible customers receive personalised, direct communications regarding Betfair products or services from a Betfair Personnel or agent;
 - 1.1.5. **CEM** means commercial electronic message and has the same meaning as in the Spam Act. CEMs include, but are not limited to, SMS, email and push notifications to the extent that they meet the definition of a "commercial electronic message" under the Spam Act;
 - 1.1.6. **CEM complaint** means a complaint received by Betfair that relates to a CEM sent/caused to be sent, or alleged to have been sent/caused to be sent, by Betfair and includes complaints notified to Betfair by the ACMA;
 - 1.1.7. **Commencement date** has the meaning given in subclause 2.1;
 - 1.1.8. **Independent Consultant** means a qualified and independent consultant with expertise in audits relating to risk and compliance, processes, procedures, systems, governance and controls;
 - 1.1.9. **Implementation Plan** means the Betfair Board approved plan in response to the Independent Consultant's Report referred to in subclause 6.1;
 - 1.1.10. **Personnel or agent** means any staff, contractors or any other paid or authorised representatives of Betfair;
 - 1.1.11. **Report** means the report produced by the Independent Consultant referred to in subclause 5.1;
 - 1.1.12. **Review** means a review conducted by the Independent Consultant 11 months after the Implementation Plan has been approved by the Betfair Board referred to in subclause 7.1; and
 - 1.1.13. **Spam Act** means the *Spam Act 2003* (Cth).

2. Term of the Undertaking

- 2.1. This Undertaking commences when:
- 2.1.1. it has been signed by an appropriately senior representative of Betfair; and
 - 2.1.2. so signed, it has been accepted by the ACMA (**Commencement date**).
- 2.2. This Undertaking continues for a period of 24 months from the Commencement date or until it is withdrawn by Betfair, with the approval of the ACMA, pursuant to section 38 of the Spam Act, whichever is earlier.

- 2.3. This Undertaking may be varied by Betfair, with the consent of the ACMA, pursuant to subsection 38(2) of the Spam Act.
- 2.4. Any notice or approval required or permitted to be given by the ACMA under this Undertaking must be in writing and may be given by any ACMA Authority member or by any ACMA staff member who is a member of the Senior Executive Service.

3. Background

- 3.1. On 5 May 2025, the ACMA notified Betfair that the ACMA has reasonable grounds to believe that, during the relevant period, Betfair sent, or caused to be sent, commercial electronic messages without consent, in contravention of sections 16 and 18 of the Spam Act.
- 3.2. Betfair acknowledges the ACMA's findings, and in response to the ACMA's concerns regarding Betfair's compliance with the Spam Act, offers this Undertaking to the ACMA aimed at addressing future compliance with the Spam Act.

4. Undertaking

- 4.1. Betfair undertakes to take the following specified actions to ensure Betfair complies with the Spam Act and does not contravene the Spam Act in the future.

5. Independent Consultant Report

- 5.1. Betfair undertakes to appoint an Independent Consultant to:
 - 5.1.1. Review all Betfair's current governance, quality assurance processes,¹ policies, procedures, and systems (including ICT systems) applicable to its compliance with the Spam Act, including in relation to its direct marketing systems and the Betfair+ Program, and to identify any deficiencies and/or improvements to ensure that:
 - a. all CEMs are sent, or caused to be sent, by Betfair with the consent of the relevant account holder;
 - b. Betfair receives, records and actions all unsubscribe requests within the periods specified in Schedule 2 to the Spam Act for when withdrawal of consent takes effect;
 - c. all CEMs sent, or caused to be sent, by Betfair contain the information required by paragraphs 17(1)(a) and (b) of the Spam Act;
 - d. all CEMs sent, or caused to be sent, by Betfair contain a functional unsubscribe facility as required by subsection 18(1) of the Spam Act, and, by reference, the *Spam Regulations 2021* (Cth);
 - e. Betfair analyses its records of CEM complaints received to identify systemic and recurring problems and trends to act upon;
 - f. change management processes and changes to policies, procedures and systems (including ICT systems) do not lead to non-compliance;

¹ Any reference to "quality assurance processes" in this Undertaking means processes for verifying the effectiveness of any Spam Act compliance-related policies, procedures and systems.

- g. Betfair personnel and agents comply with policies, procedures and system requirements; and
 - h. Betfair personnel and agents are appropriately trained;
- 5.1.2. produce a report (**the Report**) making recommendations about any improvements to the governance, quality assurance processes, policies, procedures and systems (including ICT systems) to ensure Betfair takes reasonable and timely steps to address any identified issues:
- a. relevant to each of the items at subparagraphs 5.1.1. (a) to (h) above, including specific matters that relate to the Betfair+ Program; and
 - b. to ensure Betfair's ongoing monitoring of Spam Act compliance.
- 5.2. Betfair undertakes to seek written approval from the ACMA for the appointment of the proposed Independent Consultant within 30 business days after the Commencement date. The written approval must be accompanied by the proposed terms under which the Independent Consultant will be engaged to ensure their independence. The terms do not need to include details of the Independent Consultant's remuneration.
- 5.3. Betfair undertakes to appoint the Independent Consultant, and to provide written notification of that appointment to the ACMA, within 10 business days after the ACMA has given its written approval.
- 5.4. The Independent Consultant will provide the Report to the Betfair Board, and at the same time to the ACMA, within six months of their appointment.
- 5.5. Subject to the ACMA's written agreement, Betfair may remove the Independent Consultant at any time and replace the Independent Consultant with a new Independent Consultant approved by the ACMA.
- 5.6. If the ACMA does not approve an Independent Consultant, or new proposed Independent Consultant, Betfair will repeat the process at subclause 5.2 above until it has the ACMA's approval.

6. Implementation Plan

- 6.1. Within 60 business days of receiving the Report, Betfair will:
- 6.1.1. develop an Implementation Plan setting out the steps Betfair has taken, or will take, to implement all recommendations made by the Independent Consultant in the Report, including timeframes (unless the ACMA specifically agrees that any recommendation need not be implemented); and
 - 6.1.2. provide a copy of the Betfair Board approved Implementation Plan to the ACMA.
- 6.2. Betfair undertakes to comply with the approved Implementation Plan in accordance with the timeframes specified in the plan.
- 6.3. The Implementation Plan may be modified at any time subject to the ACMA's written approval. Any request for a modification must be made in writing to the ACMA accompanied by a business case.

7. Independent Consultant Review

- 7.1. The Independent Consultant will Review Betfair's governance, quality assurance

processes, change management processes, policies, procedures and systems (including ICT systems) relating to Betfair's Spam Act compliance 11 months after the Implementation Plan has been approved by the Betfair Board. The Implementation Plan will be provided to the Independent Consultant by Betfair at the commencement of the Review.

- 7.2. The Independent Consultant will provide the results of their Review in writing to the Betfair Board and, at the same time, the ACMA within 2 months of the commencement of the Review, including a statement about whether they are satisfied that Betfair's governance, quality assurance processes, change management processes, policies, procedures and systems (including ICT systems) are effective in ensuring compliance with the Spam Act and a statement about outstanding matters or new recommendations.

8. Ongoing assurance and reporting

- 8.1. Every three months from the Commencement date, Betfair will conduct a quality assurance audit of Betfair+ Program messages to confirm compliance with Spam Act obligations. This will consist of an audit of a statistically relevant random sample of Betfair+ Program messages for compliance undertaken and overseen by personnel or agents with legal or regulatory responsibilities that do not work directly in the Betfair+ Program.
- 8.2. The results of the audit, the methodology used, any identified Spam Act non-compliance and any planned remediation or action taken, and applicable dates, will be reported to the Betfair Board within one month of the audit completion, which in each instance will be prior to the completion of the subsequent quarterly audit.
- 8.3. Six months from the Commencement date, and every six months from that point on for the duration of this Undertaking, Betfair will provide a compliance report, approved by the Betfair Board, to the ACMA that covers the previous 6 months. The report will not contain any name or detail that could reasonably identify an individual. The report will include:
- 8.3.1. the results of the audits at subclause 8.1, including the methodology used, any identified Spam Act non-compliance and any planned remediation or action taken, and applicable dates;
 - 8.3.2. all complaints made to Betfair about alleged non-compliance with the Spam Act, including the date of the complaint and a unique identifier for each complaint;
 - 8.3.3. any action Betfair has taken on each complaint the ACMA has notified Betfair about or Betfair has received directly. For any action taken, or proposed to be taken, the applicable dates will be provided;
 - 8.3.4. all Betfair-identified instances of non-compliance with the Spam Act, including the cause of the compliance issue and any remediation action taken or planned to be taken and applicable dates; and
 - 8.3.5. compliance with reporting obligations under subclause 9.5 of this Undertaking.
- 8.4. The second such report (required 13 months after the Commencement date) and each subsequent report will state the status of actions Betfair has taken or will take under the Implementation Plan, or subsequently raised in the Review, including any delays and reasons for the delays.

9. Training

- 9.1. Within 60 business days of the Commencement date, Betfair undertakes to train all personnel or agents that may be, or are currently responsible for creating, sending or authorising CEMs, and their direct line manager, to ensure compliance with the Spam Act.
- 9.2. Within 30 business days of the Commencement date, Betfair undertakes to train all personnel or agents that may be, or are currently responsible for creating, sending or authorising Betfair+ Program CEMs, and their direct line manager, to ensure compliance with the Spam Act. This training must cover Spam Act compliance in circumstances where messages may be tailored and communications may occur via multiple channels.
- 9.3. Betfair undertakes to design or update the training provided under subclause 9.1 and 9.2 with regard to alignment with relevant aspects of industry-recognised standards relating to the training of its personnel or agents, and relevant methodologies for the measurement and recording of training efficacy.
- 9.4. Betfair undertakes to provide training similar to that described in subclauses 9.1 and 9.2, as applicable, for all new personnel or agents that may be, or are currently responsible for creating, sending or authorising CEMs, or are a line manager for such personnel or agents, within 6 weeks of their commencement in such roles.
- 9.5. Betfair undertakes to repeat the training, described in subclause 9.1, at least every 12 months after Betfair has undertaken the training referred to in subclause 9.1 for the term of this Undertaking.
- 9.6. Betfair undertakes to repeat the training, described in subclause 9.2, at least every 6 months after Betfair has undertaken the training referred to in subclause 9.2 for the term of this Undertaking.
- 9.7. Betfair undertakes to provide the ACMA with written confirmation that the training has been undertaken in the terms set out in subclauses 9.1 to 9.6 above (as applicable) in its 6 monthly reporting to the ACMA (under subclause 8.3).

10. Record-keeping

- 10.1. Betfair undertakes to:
 - 10.1.1. keep accurate records of the consent given by electronic account-holders to the sending of CEMs by Betfair to those account-holders, including any terms and conditions associated with that consent;
 - 10.1.2. keep accurate records of withdrawal of consent requests;
 - 10.1.3. keep accurate records of CEM complaints; and
 - 10.1.4. provide copies of records referred to in this clause 10 to the ACMA upon request by the ACMA.

11. Acknowledgment of publication

- 11.1. Betfair acknowledges that the ACMA may publish these Undertakings.

SIGNED by **David Skene** as authorised representative for **Betfair Pty Limited (ACN 110 084 985)**:



Signature of authorised representative

*Legal & Compliance Director and
Company Secretary*

16/07/2025

Date of signature

SIGNED by **Jeremy Fenton** as authorised representative for the **Australian Communications and Media Authority**:



Signature of authorised representative

*Executive Manager
Unsolicited Communications and Scams
Branch*

17/07/2025

Date of signature