

Complaint and Investigation Assessment (CIA)

COMPLAINT / MATTER DETAILS – Gambling Promotion

Complainant Name	ACMA Complaint ID	Date Complaint received by ACMA	Summary of issue/s raised
Own motion	BM-014894	17 March 2025	Gambling advertising appearing in live sport stream

Name of streaming service	Stan
Streaming service type	Subscription video on demand streaming service
URL of streaming service	www.stan.com.au
Name(s) of Provider	Stan Entertainment Pty Ltd (part of Nine Entertainment Co.)
Sporting event streamed	Super Rugby Aupiki match between Matatu and Hurricanes Poua on Sunday 9 March 2025
Name of Gambling Service	8Xbet.com
Gambling service type	Sports betting
Complaint or matter description	Alleged advertising for 8XBet appearing during the broadcast of a Rugby match
Relevant provision/s of the Provider Rules to be pursued	<i>Broadcasting Services Act 1992 (Cth) (BSA)</i> <i>Broadcasting Services (Online Content Service Provider Rules) 2018 (the Online Rules)</i> <i>Interactive Gambling Act 2001 (the IGA)</i>
Relevant investigations in the last 12 months	BI-688 – Optus Sport – various football matches

Comments

Background

On 17 March 2025, the ACMA received a media enquiry from a reporter at the Guardian newspaper. In this enquiry the reporter stated that gambling ads for 8XBet could be seen during Stan's live coverage of a rugby match on Sunday 9 March 2025, between Matatu and Hurricanes Poua. The enquiry included attached images from the rugby match where advertising for 8XBet appeared on the field and around the perimeter of the field.

8XBet was previously investigated by the ACMA and found to be a prohibited service under the IGA. During that investigation, 8XBet withdrew from the Australian market and geo-blocked Australian IP addresses from accessing the service.

The following response was provided to the Guardian ([here](#)).

From this, the ACMA sent a request for information to Stan on 18 March 2025, asking for details and confirmation of the gambling advertisement appearing in the live stream.

Stan's submissions

On 3 April 2025 Stan provided a comprehensive [response](#) which included the following:

- > Confirmation that advertising for 8Xbet.com was included in the international feed for this rugby match.
- > That [REDACTED] is responsible for creating an international feed for Super Rugby Aupiki matches that are made available to third party broadcasters, such as Stan, who receive the feed as part of a contract they have with [REDACTED].
- > As part of this agreement, Rugby Australia is required to [REDACTED]
- > The advertising was shown for 56 seconds to approximately [REDACTED].
- > The incident occurred due to a [REDACTED]
- > [REDACTED]
- > [REDACTED]
- > Stan argued that the broadcast was not a breach of the section 14 of the BSA (Online Rules) or section 61DB of the IGA because the gambling advertising was provided as an accidental or incidental accompaniment to the provision of other content and because it did not benefit directly or indirectly (whether financial or other) from the advertising.

the Online Rules and subsection 61EA(1A) of the IGA applied (see BI-000688). However, the ACMA noted its expectation that if virtually overlaid advertising is a feature of international feeds going forward, Optus would need to demonstrate proactive efforts to seek to access a feed that is free of virtually inserted gambling advertisements from the relevant provider or any other provider.

Relevant Provisions

Broadcasting Services Act 1992 – Schedule 8 Online content services

- > Clause 2 provides that 'gambling promotion content' means:
 - (a) advertising content; or
 - (b) sponsorship content; or
 - (c) promotional content;that relates to a gambling service.
- > Clause 14 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).
- > Clause 25 provides that an online content service provider must not contravene the online content service provider rules.

Broadcasting Services (Online Content Service Provider Rules) 2018

- > Subsection 18(3) provides that 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

- > Under section 61EA of the IGA, 'designated' interactive gambling service advertisements are 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.
- > Under section 61ED of the IGA, there is an exception for accidental or incidental publication.
 - (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.

RISK RATING & DECISION MAKER LEVEL FOR INVESTIGATION

The ACMA has established a system of risk oversight and management by virtue of the [AAI](#) on Risk Management and the *ACMA Risk Management Guide*. The risks assessed in this CIA are operations level risks associated with the investigations undertaken by the Content Safeguards Branch. Once identified, risks and consequences will generally be reduced by the use of integrated, everyday controls.

Low to medium risk decisions will generally be made under delegation. High risk matters will generally be considered by the Authority. Extreme risk matters will always be considered by the Authority. The risk level will be determined by completing the below table with reference to the risk level matrix at **Attachment B**. The level of risk may change in the course of an investigation and the level of decision-maker changed accordingly.

Risk category and key examples	Key risk and consequence	Current Controls	Likelihood	Consequence
Compliance , e.g. the matter: - is of significant public interest - may impact on the community at large - may be novel and/or have precedent value - may concern systemic non-compliance - may involve formal enforcement action - may raise concerns about the adequacy of the relevant Provider Rules or involve policy considerations.	Decision not to investigate not adequately informed by Authority views / Level of compliance and safeguards not adequate and/or consistent	The ACMA will make decisions in accordance with the Provider Rules. Authority oversight of investigation outcomes and delegated decisions enables monitoring of the effectiveness and relevance of the Provider Rule. Work with industry to ensure it is fully aware of the obligations of the Provider Rules and assist Industry in compliance.	Likely	Minor
Stakeholder management , e.g. the matter has, or may: - develop, strong community, political, media or industry sensitivity - involve a wider context and/or broader environmental considerations.	Stakeholder expectations not met and/or not managed at appropriate level / Reduced confidence in ACMA and/or legislative framework	Work with industry to develop a culture of Provider Rules compliance and reduce costs of compliance over time. Educate citizens, proactively via published decisions, social media and website information. Quality assurance monitoring of complaints processing and CSC interaction including adherence to ACMA customer service charter and complaints handling manual.	Possible	Minor

Given the above, the risk level in not investigating is medium as the ACMA is aware of increasing concerns in the community about international live sporting feeds being streamed into Australia and containing advertising of online gambling services, in particular for offshore services. This includes inquiries from journalists about such matters. To address these concerns, the ACMA published an investigation report towards the end of last year which had similar outcomes and set out the ACMA's reasoning and expectations going forward around streamers making efforts to provide clean feeds. ACMA has also notified industry individually, including now Stan and will be putting the industry on notice of its expectations in a compliance alert in May 2025.

It is anticipated that the decision maker will be:

- ☐ **A delegate**, where the power is delegated in the *Instrument of Delegation*; or
☐ **The Authority**; or
☒ **Not applicable** (for matters that will not be investigated).

DECISION WHETHER TO INVESTIGATE MATTER

I, being the appropriately delegated officer of the Australian Communications and Media Authority, noting the public interest considerations at **Attachment A** and the following factors:

- > The resources used to investigate the complaint are unlikely to be proportionate to the public interest, considering:
 - o further investigation will unlikely result in a contravention finding of the BSA or IGA, given the accidental and incidental and other exceptions under the relevant legislation
 - o Stan had no control over the errors and had demonstrated proactive efforts to seek access to clean live sports feeds by taking additional steps to contractually acquire feeds free of virtually inserted gambling advertisements.
- > Stan's response indicates it takes its compliance seriously and has general compliance measures in place for gambling advertising.

decide that the matter:

- ☒ **will not be investigated.**



Date: 20/05/2025



Manager
Gambling Compliance Team

The ACMA's discretion to investigate matters

The ACMA has a broad discretion to commence an investigation into content matters.¹ It can do so upon receipt of a complaint², on its own initiative³ or at the direction of the Minister⁴. The scope is also a matter for the ACMA's discretion.

The ACMA's primary consideration is whether it is in the public interest having regard to the subject matter, and the purpose of the BSA.⁵ Importantly, each matter must be considered on its merits. A consideration of the public interest in any given case may be informed by a range of factors, including one or more of the considerations noted below.

Public interest considerations
Significance: <ul style="list-style-type: none"> > What is the nature and seriousness of the issues raised? > Does the matter concern a possible or likely contravention of legislative provisions? > Does the matter raise matters of substance rather than issues of a trivial or technical nature? > Is an issue of principle or precedent raised? > Does the matter raise potential aspects of the regulatory framework that should be considered as a matter of priority?
Systemic issues: <ul style="list-style-type: none"> > Is the ACMA aware of matters that may indicate a potential systemic issue or pattern of conduct? > Is the alleged misconduct potentially ongoing? > Has a similar issue been investigated recently? Was a contravention or no no-contravention finding involved?
Compliance history: <ul style="list-style-type: none"> > Has the service provider been the subject of contravention findings in relation to similar matters? > Is intervention by the ACMA warranted because the conduct suggests a poor compliance culture or that previous regulatory intervention was ineffective?
Efficiency and effectiveness: <ul style="list-style-type: none"> > Would the resources used in an investigation be proportionate to the public interest matters involved? > Would an investigation disproportionately divert resources from other priority matters? > Is the matter the subject of current legal, administrative or regulatory proceedings that may be complicated or compromised by opening an investigation at this time? > Has the entity demonstrated any willingness to address the issue without investigation by the ACMA?
Timing: <ul style="list-style-type: none"> > How long ago did the alleged gambling promotion occur (e.g. was it more than a six months)?
Complaints process (where relevant): <ul style="list-style-type: none"> > Is the complaint vexatious, frivolous and/or not made in good faith?

¹ The ACMA may conduct investigations for the purposes of the performance or exercise of any of its broadcasting, content and datacasting functions and related powers under s170 of the BSA.

² Where it is 'desirable to do so', the ACMA may investigate a complaint made under clause 24 of Schedule 8 to the BSA.

³ The ACMA may investigate any kind of complaint or part of a complaint, or without a complaint, under s170 of the BSA.

⁴ Section 171 of the BSA.

⁵ The objects of the BSA (s3), the regulatory policy (s4) and the ACMA's role (s5) are particularly relevant.

Using the ACMA's risk matrix⁶

The level of risk, or risk rating, is calculated by combining the consequence and likelihood ratings. For any risk, there may be a number of different consequence/likelihood scenarios. Within each category there may be multiple scenarios ranging from "minor but likely" to "catastrophic but very unlikely."

It is important to rate what is the realistic worst-case scenario, and which is the worst-case level of risk considering both consequences and likelihood. In these instances, it may be appropriate to rate the same consequence category more than once. Where there are multiple ratings for a risk, the highest combination of consequence/likelihood is taken as the level of risk.

Once you have evaluated the likelihood and consequence, each risk should be plotted against the ACMA's risk matrix to determine its overall risk rating.

	Insignificant	Minor	Moderate	Major	Catastrophic
Very Likely	Medium	High	High	Extreme	Extreme
Likely	Medium	Medium	High	High	Extreme
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Very Unlikely	Low	Low	Low	Medium	Medium

The ACMA uses the following definitions to evaluate risk against our acceptable level of risk tolerance:

Extreme	The risk is well above tolerable limits and must be further treated to reduce it to the lowest level practicable. Quarterly or monthly monitoring is required if the risk is accepted.
High	The risk is above tolerable limits, and further treatment is required to reduce the risk to the lowest level practicable. Quarterly monitoring is required if the risk is accepted.
Medium	The risk is tolerable, but should be reduced if practical. The risk should be monitored through routine operational and management practices.
Low	The risk is acceptable and no further treatment is required.

⁶ See further the ACMA's *Management Instruction for Risk and the Risk Management Guide*, available at: <http://intranet/leading-at-the-acma/aps-and-acma-governance/risk-management>