

# Investigation Report – BetChamps

## Summary

Entity	Carl Millett trading as BetChamps ( <b>BetChamps</b> )
Australian Business Number	N/A
Relevant legislation	<i>Interactive Gambling Act 2001</i>
Type of activity	Part 7B – National Self-Exclusion Register
Findings	1 contravention of subsection 61LA(2) [Sending regulated electronic messages to registered individuals – knowledge of provider]

## Background

- On 16 January 2025, the Australian Communications and Media Authority (**ACMA**) commenced an investigation into the wagering service trading as BetChamps and BetChamps's compliance with the *Interactive Gambling Act 2001* (**IGA**) following a consumer complaint.
- The complaint alleged that the consumer (the **Complainant**) received a marketing email from BetChamps at 5:43 pm on 21 December 2024 to their email address.
- The ACMA's findings are based on:
  - BetChamps's submission of 20 February 2025 in response to the ACMA's notification that it had commenced an investigation, including a copy of the email sent to the complainant on 21 December 2024; and
  - records from BetStop – the National Self-Exclusion Register™ (**NSER**) extracted by the ACMA which demonstrate when the Complainant was a registered individual and when the Register operator informed BetChamps that the Complainant was a registered individual.
- The reasons for the ACMA's findings, including the key elements which establish the alleged contraventions are set out below.

## Relevant legislative provisions

- Obligations related to the NSER are set out in Part 7B of the IGA. The provisions relevant to this investigation are provided at **Attachment A**. Unless otherwise specified, all references to provisions within legislation in the report are a reference to provisions within the IGA.

### **Finding – Breach: A regulated electronic message must not be sent to an electronic address of a registered individual (subsection 61LA(2))**

#### Regulatory Obligation

- Subsection 61LA(2) provides that a licensed interactive wagering services provider (**IWP**) must not send, or cause to be sent, a regulated electronic message to an electronic address that is known by the IWP to be an electronic address of a registered individual.

7. A regulated electronic message is defined by section 61GF as an electronic message where, having regard to:

- a) the content of the message; and
- b) the way in which the message is presented; and
- c) the content that can be located using the links, telephone numbers or contact information (if any) set out in the message;

it would be concluded that the purpose, or one of the purposes, of the message is:

- d) to offer to provide licensed interactive wagering services; or
- e) to advertise or promote licensed interactive wagering services; or
- f) to advertise or promote a provider, or prospective provider, of licensed interactive wagering services.

Is BetChamps a licensed interactive wagering service provider for the purposes of the IGA?

8. Carl Millett (trading as BetChamps) is licensed by the NSW Greyhound Welfare and Integrity Commission and is provided with authorisation by Liquor & Gaming NSW to provide interactive wagering services through the website [www.betchamps.com.au](http://www.betchamps.com.au). For this reason, BetChamps is included on the ACMA's Register of IWPs maintained under section 68 of the IGA.<sup>1</sup>

9. Accordingly, BetChamps is an IWP for the purposes of the IGA and the obligations under Part 7B apply.

Did BetChamps send, or cause to be sent, electronic messages?

10. BetChamps submitted that an email promoting BetChamps' wagering services was emailed to the Complainant on 21 December 2024. The submission noted that BetChamps contracts a third-party marketing business to manage its email marketing. As such, the ACMA is of the view that the message was sent, or caused to be sent, by BetChamps.

11. Section 61GE of the IGA defines an electronic message as a message sent:

- a) using:
  - i) an internet carriage service; or
  - ii) any other listed carriage services, and
- b) to an electronic address in connection with:
  - i) an email account; or
  - ii) an instant messaging account; or
  - iii) a telephone account; or
  - iv) a similar account.

12. Email messages are sent using an internet carriage service to an email address associated with an email account. The ACMA is therefore of the view that the message sent by BetChamps to the Complainant, is an electronic message under subparagraphs 61GE(1)(a)(i) and (b)(i).

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<sup>1</sup> This register is available here on the ACMA's website: <https://www.acma.gov.au/check-if-gambling-operator-legal>.

Was the message a regulated electronic message?

13. The email sent to the Complainant was titled “The PHOENIX Runner by Runner Preview” and contained information about an upcoming race and included links titled ‘CLICK HERE TO BET’ and ‘BET NOW’ that directed the recipient to the BetChamps’ website.
14. The ACMA is of the view that the email is a regulated electronic message as the purpose of the message, or one of the purposes, was to advertise or promote licensed interactive wagering services to the Complainant.

Was the regulated electronic message sent to an electronic address of a registered individual?

15. The submission from BetChamps conceded that it sent, or caused to be sent, an email to the Complainant’s email address on 21 December 2024.
16. NSER records confirm that the Complainant registered on the NSER on 23 June 2024 and was a registered individual when the email was sent on 21 December 2024. The email address to which the email was sent was listed in the Complainant’s NSER entry.
17. The ACMA’s finding is that the electronic address was the electronic address of the registered individual because the electronic address was listed in the individual’s NSER entry and was the address to which BetChamps sent, or caused to be sent, the regulated electronic message.

Was the electronic address known by BetChamps to be an electronic address of the registered individual?

18. Subsection 61LA(2) provides that an IWP must not send, or cause to be sent, a regulated electronic message to an electronic address that is known by the provider to be an electronic address of a registered individual.
19. The Register operator is the body corporate engaged to provide and operate the NSER. Under section 61NC an IWP may request the Register operator to inform it whether a current or prospective customer is a registered individual.
20. BetChamps submitted that it became aware that the electronic address belonged to a registered individual on 26 June 2024. NSER records confirm this. Between 26 June 2024 and 21 December 2024, BetChamps did not make further requests under section 61NC concerning the Complainant.
21. The ACMA is satisfied that, from 26 June 2024, BetChamps knew that the electronic address it had for the Complainant, being their email address, belonged to a registered individual.
22. Accordingly, the ACMA finds that BetChamps sent, or caused to be sent, 1 regulated electronic message to an electronic address that was known to be an electronic address of a registered individual in contravention of subsection 61LA(2).

## Conclusion

23. The ACMA finds that BetChamps has contravened subsection 61LA(2) of the IGA in relation to 1 regulated electronic message that it sent to an electronic address it knew belonged to a registered individual.

## Attachments

### Attachment A – Extract of relevant provisions

## ATTACHMENT A

### Key provisions of the IGA

#### Section 61GB Definitions

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**licensed interactive wagering service** means a regulated interactive gambling service that:

- (a) is a wagering service (see section 4); and
- (b) has an Australian-customer link (see section 8); and
- (c) is not provided in contravention of subsection 15AA(3).

....

**licensed interactive wagering service provider** means a person who provides a licensed interactive wagering service.

...

**registered individual** means an individual registered in the National Self-exclusion Register under this Part.

**Register operator** means the body corporate who keeps the National Self-exclusion Register as mentioned in subsection 61HA(1).

...

#### 61GE Electronic messages

(1) For the purposes of this Part, an **electronic message** is a message sent:

- (a) using:
  - (i) an internet carriage service; or
  - (ii) any other listed carriage service; and
- (b) to an electronic address in connection with:
  - (i) an email account; or
  - (ii) an instant messaging account; or
  - (iii) a telephone account; or
  - (iv) a similar account.

Note: Email addresses and telephone numbers are examples of electronic addresses.

(2) For the purposes of subsection (1), it is immaterial whether the electronic address exists.

(3) For the purposes of subsection (1), it is immaterial whether the message reaches its intended destination.

(4) Subsection (1) has effect subject to subsection (5).

#### *Excluded messages—voice calls*

(5) If a message is sent by way of a voice call, the message is not an **electronic message** for the purposes of this Part.

## 61GF Regulated electronic messages

(1) For the purposes of this Part, a **regulated electronic message** is an electronic message, where, having regard to:

- (a) the content of the message; and
- (b) the way in which the message is presented; and
- (c) the content that can be located using the links, telephone numbers or contact information (if any) set out in the message;

it would be concluded that the purpose, or one of the purposes, of the message is:

- (d) to offer to provide licensed interactive wagering services; or
- (e) to advertise or promote licensed interactive wagering services; or
- (f) to advertise or promote a provider, or prospective provider, of licensed interactive wagering services.

(2) Paragraphs (1)(d), (e) and (f) are to be read independently of each other.

### **Section 61LA Regulated electronic message must not be sent to an electronic address of a registered individual**

#### *Offence—knowledge of provider*

(1) A person commits an offence if:

- (a) the person is a licensed interactive wagering service provider; and
- (b) the person sends, or causes to be sent, a regulated electronic message to an electronic address; and
- (c) the electronic address is known by the person to be an electronic address of a registered individual.

Penalty: 120 penalty units.

#### *Civil penalty provision—knowledge of provider*

(2) A licensed interactive wagering service provider must not send, or cause to be sent, a regulated electronic message to an electronic address that is known by the provider to be an electronic address of a registered individual.

Civil penalty: 180 penalty units.

#### *Offence—recklessness of provider*

(3) A person commits an offence if:

- (a) the person is a licensed interactive wagering service provider; and
- (b) the person sends, or causes to be sent, a regulated electronic message to an electronic address; and
- (c) the electronic address is an electronic address of a registered individual; and
- (d) the person is reckless as to the fact that the electronic address is an electronic address of the registered individual.

Penalty: 60 penalty units.

*Civil penalty provision—recklessness of provider*

(4) A licensed interactive wagering service provider must not send, or cause to be sent, a regulated electronic message to an electronic address if:

- (a) the electronic address is an electronic address of a registered individual; and
- (b) the person is reckless as to the fact that the electronic address is an electronic address of the registered individual.

Civil penalty: 90 penalty units.

(5) For the purposes of subsection (4), a person is **reckless** as to the fact mentioned in paragraph (b) of that subsection if:

- (a) the person is aware of a substantial risk that the fact exists; and
- (b) having regard to the circumstances known to the person, it is unjustifiable to take the risk.

*Exception*

(6) Subsections (1), (2), (3) and (4) do not apply if the licensed interactive wagering service provider took reasonable precautions, and exercised due diligence, to avoid the contravention.

Note 1: The Register operator must, if requested to do so by a licensed interactive wagering service provider, inform the provider whether an individual is a registered individual (see section 61NC).

Note 2: In a prosecution for an offence against subsection (1), a defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code*).

Note 3: In proceedings for a civil penalty order for a contravention of subsection (2) or (4), a defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

*Offences—extended geographical jurisdiction*

(7) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (1) or (3).