



Investigation Report – Interactive gambling – Sportsbet Pty Ltd GINV-2022-00048

Summary	
Entities involved in the service / advertisement	Sportsbet Pty Ltd
Name of service	Sportsbet
Date service was accessed	10 November 2022
URL	https://www.sportsbet.com.au
Relevant legislation	<i>Interactive Gambling Act 2001</i>
Date finalised	19/12/2022
Finding	<ul style="list-style-type: none"> > No contravention of subsection 15(2A) of the <i>Interactive Gambling Act 2001</i> – Sportsbet did not provide a prohibited interactive gambling service in the form of an in-play betting service > No contravention of subsections 61DA(1A) and (3) of the <i>Interactive Gambling Act 2001</i> – Sportsbet did not broadcast a designated interactive gambling service advertisement or authorise, or cause, a designated interactive gambling service advertisement to be broadcast in Australia

Background

1. The Australian Communications and Media Authority (the ACMA) conducted an investigation under section 21 of the *Interactive Gambling Act 2001* (the IGA) into the Sportsbet wagering service available at the website: <https://www.sportsbet.com.au>
2. The investigation was commenced in response to a complaint received on 3 November 2022 (**Attachment A**) alleging that the Brownlow Medal Count award ceremony (Brownlow Medal Count) broadcast by Channel 7 on 18 September 2022, contained a number of advertisements for Sportsbet which included:
 - market updates of live prices for the outcome of the Brownlow Medal Count.
 - information that customers were not required to place bets via the telephone as they could bet live via the Sportsbet App.
3. This investigation considered whether:
 - > Sportsbet provided a prohibited interactive gambling service, in the form of an online in-play sports betting service, to customers in Australia in contravention of subsection 15(2A) of the IGA.
 - > Sportsbet broadcast a designated interactive gambling service advertisement in Australia in contravention of subsection 61DA(1A) or authorised, or caused, a designated interactive gambling service advertisement to be broadcast in Australia in contravention of subsection 61DA(3) of the IGA.

The service and licensee

4. The service, Sportsbet, is accessed via the URL: <https://www.sportsbet.com.au>
5. Sportsbet is provided by Sportsbet Pty Ltd and is licensed by the Northern Territory Racing Commission. It is listed on the ACMA's register of [licensed interactive gambling providers](#).
6. Extracts of the key provisions of the IGA are provided at **Attachment B**.

Finding

7. No contravention of subsection 15(2A) of the IGA - Sportsbet did not provide a prohibited interactive gambling service, in the form of an in-play betting service.
8. No contravention of subsections 61DA(1A) or (3) of the IGA - Sportsbet did not broadcast a designated interactive gambling service advertisement in Australia or authorise or cause a designated interactive gambling service advertisement to be broadcast in Australia.

Reasons for decision

9. To assess whether the service is provided in contravention of subsection 15(2A) of the IGA, the ACMA considered the following questions:
 - > Is the service a prohibited interactive gambling service as defined in section 5 of the IGA?
 - > Does the service have an Australian-customer link as defined in section 8 of the IGA?

To answer these questions, staff considered the operation of the Sportsbet wagering service at <https://www.sportsbet.com.au> and the information provided by the complainant.

Did Sportsbet provide in-play betting on the Brownlow Medal Count, in contravention of the IGA?

Prohibited interactive gambling services

10. The key elements of a prohibited interactive gambling service are that:
- > it is a gambling service as defined in section 4 of the IGA
 - > it is provided in the course of carrying on a business (see paragraph 5(1)(a) of the IGA)
 - > it is provided to customers using certain services, including an internet carriage service (see subparagraph 5(1)(b)(i) of the IGA)
 - > it is not an excluded service listed in subsection 5(3) of the IGA.
11. The Sportsbet service available at <https://www.sportsbet.com.au> satisfies the first three elements of a prohibited interactive gambling service set out above, as:
- > it is a gambling service for the placing, making, receiving or acceptance of bets
 - > is provided in the course of carrying on a business, as evidenced by the provision of the service to the public, with an apparent view to making a profit (evidenced by the requirement to deposit funds as a condition of participation)
 - > it is provided to customers using an internet carriage service, as evidenced by the fact that the service was accessed using an internet connection.
12. However, it is not a prohibited interactive gambling service if it is an excluded service as listed in subsection 5(3) of the IGA, including an 'excluded wagering service' (paragraph 5(3)(aa) and section 8A of the IGA).

Excluded wagering services

13. A service is an 'excluded wagering service', as defined in section 8A of the IGA, if it provides for betting on racing, sporting events and other events or contingencies. For sporting events and other events or contingencies, the service is only an excluded wagering service to the extent to which it is not an in-play betting service (see paragraphs 8(3)(b) and 8(5)(b) of the IGA).
14. Section 10B of the IGA provides that a gambling service is an *in-play betting service* to the extent to which:
- (a) the service relates to betting on the outcome of a sporting event, where the bets are placed, made, received or accepted after the beginning of an event; or
 - (b) the service relates to betting on a contingency that may or may not happen in the course of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event.

Is the Brownlow Medal Count a sporting event (subsection 8A(3)) or an other event or contingency (subsection 8A(5))?

15. The Brownlow Medal Count is an awards ceremony which takes place at the conclusion of the Australian Football League (AFL) home and away season. The winner of the Brownlow Medal is determined by votes allocated by AFL umpires at the completion of each game. The votes are kept secure and only made known to the public during the awards ceremony.

16. The awards ceremony goes for approximately 3 hours. Votes for each round are read out and the updated tally is provided after each round. Wagering operators generally update their betting market after each round.
17. There is no definition of 'sporting event' in the IGA and it should consequently be given its ordinary meaning. The Macquarie Dictionary defines 'sport' as 'an activity pursued for exercise or pleasure, usually requiring some degree of physical prowess'.
18. While the Brownlow Medal Count relates to the performance of players during the season of AFL matches, the televised presentation of the count cannot be characterised as a sport itself. It follows that it is not a 'sporting event' given it does not involve an activity that is a sport (see subsection 8A(3) of the IGA).
19. Although it is not a sporting event, the Brownlow Medal Count is betting on a contingency related to the AFL season. That is, betting on the Brownlow Medal Count is betting on who is the best and fairest player in the AFL for a particular season. The outcome of the Brownlow Count is dependant on the contingency of which players have been awarded votes throughout the season by the umpires in relation to their individual performance, which is not reliant on the outcome or result of the sporting event itself. Therefore, the service relates to betting on a contingency (see subsection 8A(5) of the IGA).

Is the outcome of the Brownlow Medal Count a contingency that may or may not happen in the course of a sporting event?

20. While the Brownlow Medal Count is betting on a contingency under subsection 8A(5), a service only satisfies the definition of an excluded wagering service under that subsection to the extent that it is not an 'in-play betting service' (subsection 8A(5)(b)).
21. Paragraph 10B(b) provides that a gambling service is an in-play betting service to the extent that 'the service relates to betting on a contingency that may or may not happen in the course of a sporting event'.
22. The supplementary explanatory memorandum to the Interactive Gambling Bill 2001 assists with this consideration. It states, in part,
The proposed amendments to Part 1 of the Bill (Amendments (10), (18), (22) and (24)) give effect to the Government decision to exempt wagering from the scope of the Bill, with the exception of ball-by-ball or micro-event wagering, which will continue to be within the scope of the prohibition.
23. The intent of paragraph 10B(b) is to prohibit online in-play betting on a contingency which might occur at frequent intervals during the course of a sporting event. This is distinct from a decision made at the conclusion of an event by umpires about the relative merits of those who participated.
24. The outcome of the Brownlow Medal Count is a contingency which is determined by the votes awarded by umpires in relation to the individual performance of players. This is not a contingency which may or not happen in the course of a sporting event. Therefore, betting on the outcome of the Brownlow Medal Count in the course of the awards ceremony does not constitute betting on a contingency that may or may not happen in the course of a sporting event for the purpose of paragraph 10B(b).

Wagering on other awards which relate to a sporting event

25. We have also considered betting markets offered by Sportsbet on the Norm Smith medal ('best on ground' in the AFL grand final) and the Clive Churchill medal ('man of the match' in the NRL grand final).
26. These awards are made based on the performance of players during an individual match. Relevantly, the award winner of these medals is selected and announced at the completion

of the event by officials or independent persons such as members of the media. The selection of the winner is not dependant on the outcome of the event.

27. As discussed above, the award itself, being selection of the man of the match, is not a sporting event.
28. Furthermore, while selections are based on a player's performance during a sporting event, they are made on completion of the match and are therefore, not something that occurs during, or in the course of, the sporting event.
29. Therefore, online betting on the outcome of these awards during the course of the sporting event does not constitute an in-play betting service in terms of section 10B of the IGA.

Did Sportsbet contravene subsections 61DA(1A) and (3) of the IGA?

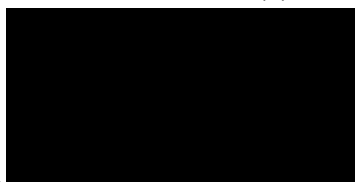
30. To assess whether the service is provided in contravention of subsections 61DA(1A) or (3) of the IGA, the ACMA considered the following question:
 - > Is the service a designated interactive gambling service as defined by section 4 of the IGA?
31. Subsection 61DA(1A) provides that a person must not broadcast or datacast a designated interactive gambling service advertisement in Australia, and subsection 61AD(3) provides that a person must not authorise or cause a designated interactive gambling service advertisement to be broadcast or datacast in Australia.
32. The definition of a designated gambling service (section 4) in the IGA is:
 - (a) *a prohibited interactive gambling service: or*
 - (b) *an unlicensed regulated interactive gambling service*
33. Given the finding that betting on the Brownlow Medal Count is not a prohibited interactive gambling service, it follows that Sportsbet did not broadcast a designated interactive gambling service advertisement in contravention of subsection 61DA(1A) or authorise or cause a designated interactive gambling service advertisement to be broadcast in contravention of subsection 61DA(3) of the IGA.

Decision

I, [REDACTED], Manager, Interactive Gambling Team, being the appropriate delegated officer of the Australian Communications and Media Authority, determine for the reasons detailed in this report that:

- > Sportsbet did not provide a prohibited interactive gambling service in the form of an in-play betting service in contravention of subsection 15(2A) of the IGA
- > Sportsbet did not broadcast a designated interactive gambling service in contravention of subsection 61DA(1A) or authorise or cause a designated interactive gambling service advertisement to be broadcast in contravention of subsection 61DA(3) of the IGA

Signed:



Dated

19/12/2022

List of Attachments

Attachment A	Complaint from IRPSX
Attachment B	Relevant provisions of the IGA

Attachment A



IRPSX Pty Limited trading as Bet Right
ABN: 41 087 708 898
Level 3, 7 Bridge Street
Sydney NSW 2000

3 October 2022

Manager, Interactive Gambling Team
Australian Communications and Media Authority
PO BOX Q500 Queen Victoria Building NSW 1230

Sent by email: info@acma.gov.au

Complaint about Prohibited Interactive Gambling Services

I am writing to lodge a complaint under s 16 of the *Interactive Gambling Act 2001* (Cth) (Act) in relation to an event, the Brownlow Medal Awards Ceremony and the advertisements which were broadcast during the ceremony on television, and the activities of certain online gambling service providers allowing in-play betting on the Brownlow Medal.

A. Facts

On Sunday 18th September 2022, Channel Seven broadcast the 2022 Brownlow Medal Awards Ceremony (Brownlow). The live broadcast contained a number of advertisements for Sportsbet. These advertisements included market updates of live prices and stated that clients were not required to place bets via the telephone as they could bet live via the Sportsbet App.

B. The provisions in the Act

1. The Act prohibits the intentional provision of a prohibited interactive gambling service (see sections 5 and 15 of the Act).
2. A service is an excluded wagering service to the extent to which the service relates to betting on, or on a series of, sporting events, and to the extent to which the service is not an in-play betting service.
3. A gambling service is an in-play betting service to the extent to which the service relates to betting on the outcome of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event; or the service relates to betting on a contingency that may or may not happen in the course of a sporting event, where the bets are placed, made, received or accepted after the beginning of the event.
4. There is no definition of sporting event in the Act, therefore the natural and ordinary meaning will apply. Under s 10A, the Minister may, by legislative instrument, determine that a specified thing is taken to be or not to be a sporting event. The only example of such determination is the *Interactive Gambling (Sporting Events and Excluded Wagering Services) Determination 2017*.

C. Complaint (section 16)

1. I work at IRPSX Pty Ltd trading as Bet Right, a sports bookmaker licensed in the Northern Territory.
2. Bet Right is careful to comply with all its regulatory obligations including obligations under the Act.
3. Bet Right was careful to close the betting markets on the Brownlow before the start of the Brownlow Medal Awards Ceremony.
4. It is unfair competition and not a level-playing field if a bookmaker such as Sportsbet is allowed to offer in-play betting online whilst others, like Bet Right, more circumspectively, have refrained from offering such in-play betting markets.
5. Bet Right is of the opinion that Sportsbet's actions are wrong and in breach of the online in-play betting prohibition under the Act.
6. This complaint is lodged pursuant to section 16 of the Act.

D. Request for Determination

1. Pursuant to section 10A(1), the Minister may, by legislative instrument, determine that a specified thing is taken to be a sporting event for the purposes of the Act.
2. Section 10(3) states that the Minister may, by legislative instrument, determine that a specified thing is taken not to be a sporting event for the purposes of this Act
3. Bet Right requests the Minister to make a determination under s 10A(1) or s 10A(3) that the Brownlow Medal Awards Ceremony is or is not a sporting event for the purposes of the Act.

Yours sincerely,



Legal Governance
IRPSX Pty Ltd trading as Bet Right.

ATTACHMENT B

Key provisions of the IGA

4 Definitions

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 or else 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.

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.

8A Excluded wagering service

Racing

- (1) For the purposes of this Act, a service is an excluded wagering service to the extent to which the service relates to betting on, or on a series of, any or all of the following:
- (a) a horse race;
 - (b) a harness race;
 - (c) a greyhound race;
- so long as the other conditions (if any) determined under subsection (2) have been satisfied.
- (2) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subsection (1).

Sporting events

- (3) For the purposes of this Act, a service is an excluded wagering service :
- (a) to the extent to which the service relates to betting on, or on a series of, sporting events; and
 - (b) to the extent to which the service is not an in-play betting service;
- so long as the other conditions (if any) determined under subsection (4) have been satisfied.
- (4) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subsection (3).

Other events or contingencies

- (5) For the purposes of this Act, a service is an excluded wagering service :
- (a) to the extent to which the service relates to betting on:
 - (i) an event; or
 - (ii) a series of events; or
 - (iii) a contingency;that is not covered by subsection (1) or (3); and
 - (b) to the extent to which the service is not an in-play betting service; and
 - (c) to the extent to which the service is not covered by any of the following subparagraphs:
 - (i) a service for the conduct of a scratch lottery or other instant lottery;
 - (ii) a service for the supply of tickets in a scratch lottery or other instant lottery;
 - (iii) a service relating to betting on the outcome of a lottery;
 - (iiia) a service relating to betting on a contingency that may or may not happen in the course of the conduct of a lottery;
 - (iv) a service for the conduct of a game covered by paragraph (e) of the definition of gambling service in section 4;
 - (v) a service relating to betting on the outcome of a game of chance or of mixed chance and skill;
- so long as the other conditions (if any) determined under subsection (6) have been satisfied.
- (6) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subsection (5).
- (7) For the purposes of paragraph (5)(a):
- (a) assume that no conditions have been determined under subsection (2) or (4); and
 - (b) disregard paragraph (3)(b).

10B In-play betting service

For the purposes of this Act, a gambling service is an **in-play betting service** to the extent which:

- (a) the service relates to betting on the outcome of a sporting event, where the bets are placed, made, received or accepted after the beginning of an event; or

- (b) service relates to betting on a contingency that may or may not happen in the course of a sporting event, where the bets are placed, made, received or accepted after the beginning of an event.

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

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- (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*).

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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.

61DA Designated interactive gambling service advertisements not to be broadcast or datacast in Australia

.....

- (1A) A person must not broadcast or datacast a designated interactive gambling service advertisement in Australia if:

- (a) the broadcast or datacast is not permitted by section 61DB; and
- (b) the broadcast or datacast is not permitted by section 61DC.

Civil penalty: 180 penalty units.

.....

- (3) A person must not authorise or cause a designated interactive gambling service advertisement to be broadcast or datacast in Australia if:

- (a) the broadcast or datacast is not permitted by section 61DB; and
- (b) the broadcast or datacast is not permitted by section 61DC.

Civil penalty for contravention of this subsection: 180 penalty units.