

# Investigation Report – Entain Group Pty Ltd

Summary	
Entity	Entain Group Pty Ltd ( <b>Entain</b> )
Australian Company Number	151 956 768
Relevant legislation	<i>Interactive Gambling Act 2001</i>
Type of activity	Part 7B – National Self-Exclusion Register
Findings	<p>4 contraventions of subsection 61MA(2) [Opening a wagering account for a registered individual]</p> <p>59 contraventions of subsection 61KA(3) [Provision of licensed interactive wagering services to registered individuals]</p> <p>449 contraventions of subsubsection 61MB(5) [Not closing wagering accounts held by registered individuals – no outstanding bets]</p> <p>No contravention of subsection 61MC(5) [Not closing a wagering account held by a registered individual – outstanding bets]</p> <p>No contraventions of subsection 61LA(4) [Sending regulated electronic messages to registered individuals – recklessness of provider]</p> <p>23 contraventions of subsection 61JP(5) [Failure to promote the NSER as required by subsection 25(3) of the <i>Interactive Gambling (National Self-exclusion Register) Register Rules 2022</i>].</p>

Publication note: '[...]' indicates that text has been removed from the publication version of this report of investigation. The removed text is commercially or operationally sensitive information, or is personal information.

## Background

1. On 12 December 2024, the ACMA commenced an investigation into Entain’s compliance with the *Interactive Gambling Act 2001 (IGA)* following complaints received by the ACMA.
2. On 13 December 2024, under paragraph 173(b) of the *Broadcasting Services Act 1992 (BSA)*, the ACMA gave Entain a Notice requiring it to provide information pursuant to the investigation (the **Notice**). The investigation involves 7 complaints and a sample of 50 customers of Entain who registered with BetStop – the National Self-Exclusion Register™ (**NSER**).
3. Entain made 5 submissions in response to the Notice:
  - > 24 January 2025 (Submission 1);

- > 24 February 2025 (Submission 2);
  - > 18 March 2025 (Submission 3);
  - > 10 April 2025 (Submission 4); and
  - > 9 May 2025 (Submission 5).
4. The ACMA's findings are based on:
- > Submissions 1 – 5;
  - > NSER records, extracted by the ACMA, which record when individuals became registered individuals and when the Register operator informed Entain that the individuals were registered individuals in response to requests that Entain made in accordance with section 61NC of the IGA; and
  - > Entain submission of 11 August 2025 in response to the ACMA's preliminary findings (Submission 6).
5. The reasons for the ACMA's findings, including the key elements which establish the contraventions are set out below.

### **Complaints**

6. The ACMA has assessed 7 complaints alleging non-compliance with several provisions.
7. The investigation report is structured by considering each relevant provision in turn.

### **Relevant legislative provisions**

8. 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** including, where necessary, references to the *Interactive Gambling (National Self-exclusion Register) Register Rules 2022 (Register Rules)*. Unless otherwise specified all references to provisions within legislation in the report are a reference to provisions within the IGA.

### **Application of Part 7B of the IGA to Entain**

9. Part 7B of the IGA sets up a mechanism that allows individuals to exclude themselves from being provided with licensed interactive wagering services (section 61GA).
10. Subsections 61JP(5), 61LA(4), 61KA(3), 61MA(2), 61MB(5) and 61MC(5) are civil penalty provisions in Part 7B that apply to licensed interactive wagering service providers (**IWPs**).
11. 'Licensed interactive wagering service provider' is defined in section 61GB to mean a person who provides a licensed interactive wagering service.
12. A 'licensed interactive wagering service' is defined by section 61GB as a regulated interactive gambling service (see section 8E) that:
- > is a wagering service (as defined in section 4); and
  - > has an Australian customer link (as defined in section 8); and
  - > is not provided in contravention of subsection 15AA(3).

### **Is Entain an IWP for the purposes of the IGA?**

13. Entain, trading as Ladbrokes AU and Neds AU, was licensed by the Northern Territory Racing and Wagering Commission to provide licensed interactive wagering services in

Australia at the time each matter under investigation occurred.<sup>1</sup> For this reason, Ladbrokes and Neds were included on the ACMA's Register of eligible regulated interactive gambling providers (maintained under section 68) during the period subject to investigation.<sup>2</sup>

14. It is not disputed that Entain is an IWP for the purposes of the IGA.

### **NSER requests**

15. 'Registered individual' is defined in section 61GB to mean an individual registered in the National Self-exclusion Register under Part 7B of the IGA.

16. Section 61NC of the IGA provides that an IWP can check the registration status of an individual at any time of day or night by making a request to the Register operator (a **request**). Under subsection 61NC(6) an IWP must be 'connected'<sup>3</sup> to the NSER so that it can make such requests.

17. Subsection 23(1) of the Register Rules requires the Register operator to respond to such requests within:

- > 1 second where the request covers 1 individual; and
- > 15 minutes where the request covers multiple individuals.

18. In practice, the Register operator returns responses much quicker than the timeframes set out in the Register Rules, with a response to a single request returned, on average, in 0.003 seconds.

19. Under section 61NC, an IWP may request the Register operator to inform the IWP whether a specified individual is a registered individual as at the time when the request is made. Subsection 61NC(2) provides that a request under subsection 61NC(1) must include the individual's name and such other information as prescribed in the Register Rules.

20. Paragraph 22(1)(b) of the Register Rules provides that for each individual covered by the request by the IWP to the Register operator, their name, contact details, date of birth and residential postcode must be included. 'Contact details' is defined in section 4 of the Register Rules to mean one or more email addresses and one or more mobile numbers.

### **Reasonable precautions and due diligence**

21. The IGA provides a defence, of taking reasonable precautions and exercising due diligence, to a range of offence and civil penalty provisions applicable to IWPs, including the following considered in this investigation:

- > Opening a licensed wagering service account for a registered individual (section 61MA).
- > Providing interactive wagering services to a registered individual (section 61KA).

<sup>1</sup> A list of licensed providers is contained on the NTRC's website: [Sports bookmakers, betting exchange operators and totalisators | Department of Tourism and Hospitality](#). Accessed 7 July 2025.

<sup>2</sup> This register is available on the ACMA's website: <https://www.acma.gov.au/check-if-gambling-operator-legal>. Accessed 7 July 2025.

<sup>3</sup> Relevantly subsection 61NC(6) provides that a licensed interactive wagering service provider must take all reasonable steps to ensure that the provider: (a) has a computer system; and (b) is continuously supplied with an internet carriage service; that (when considered together) enable the provider to: (c) make requests under subsection (1) at any time of the day or night; and (d) be informed by the Register operator in compliance with those requests

- > Sending or causing to be sent, a regulated electronic message to an electronic address of a registered individual, where the electronic address is known by the provider to be an electronic address of a registered individual or the provider is reckless to the fact that the address is that of a registered individual (section 61LA).
  - > Not immediately closing the interactive wagering account/s of a registered individual with no outstanding or pending bets (section 61MB).
  - > Not immediately closing the interactive wagering account/s of a registered individual with outstanding/pending bets (section 61MC).
22. An IWP bears the evidential burden of establishing this defence – which includes being able to produce records and evidence that demonstrates it took reasonable precautions and exercised due diligence (section 96 of the *Regulatory Powers (Standard Provisions) Act 2014*).

#### *Entain submissions*

23. Entain submitted that the key question in assessing whether this defence is available is whether, at the time at which the relevant circumstances arose, it had taken reasonable precautions and exercised due diligence to avoid the contravention.
24. Entain has further submitted that an important element of taking reasonable precautions and exercising due diligence is monitoring the ways in which individuals seek to circumvent the registration process and, in light of those observations and learnings – adjusting and refining its compliance systems to avoid or minimise the risk of contraventions occurring. Entain submitted that this was particularly the case during the initial 12-18 month period of the Betstop registration process during which wagering service providers developed an enhanced understanding of the ways in which individuals sought to circumvent the scheme. This was the period during which each of the alleged contraventions occurred.
25. Entain notes the phrase ‘took reasonable precautions, and exercised due diligence’ as used within the context of Part 7B of the IGA has not been the subject of judicial or parliamentary consideration but that this wording appears in other statutory contexts including under Australian Consumer Law. Entain submitted:

*In the context of those regimes, the exercise of reasonable precautions and due diligence has been said to require defendants to show that they have established a **proper system to provide against a particular contravention** having regard to the risks that were known or reasonably expected at the relevant time, and that they have provided **adequate supervision** to ensure that the system was properly carried out.<sup>4</sup>*

26. Entain submitted that the key features of compliance programs are:
- (a) *Management commitment to compliance and clear accountabilities*
  - (b) *Risk assessments to identify potential exposures to risks of prohibited conduct*
  - (c) *Controls to identify, restrict and report on prohibited conduct*
  - (d) *Testing and auditing of the program and implementation of uplifts; and*
  - (e) *Training of front-line personnel.*
27. Entain provided details about the precautions and due diligence it says was undertaken prior to, and at the time of, the alleged contraventions. This included:
- > Entain’s ongoing investment into, and implementation of, technological measures to minimise gambling harm.

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<sup>4</sup> Emphasis added by Entain in its submission.

- > Intensive systems testing prior to commencement of the Betstop regime in August 2023 with ongoing testing, monitoring and reviews to ensure that the system is working as intended, and addresses new risks when and as they arise.
- > A considered systematic process of making requests to BetStop (including checking on receipt of application for a new account, on receipt of a request to re-open, on customer log-in, on receipt of a request to place a bet, and by conducting three daily washes).
- > The adoption of a Risk Management framework that aligns with ISO 31000:2028.<sup>5</sup>
- > Regular staff training.
- > Supervision of personnel.
- > A compliance focused culture of robust governance and oversight.
- > Ongoing proactive monitoring of ACMA guidance, compliance bulletins and decision notices to inform Entain's ongoing understanding of the regulatory obligations and commitment to inform Entain's understanding of the evolving regulatory posture and expectations.

#### *ACMA observations*

28. The ACMA accepts Entain's general submissions outlined above, including that a key consideration is whether, at the time the circumstances arose, Entain had taken reasonable precautions and exercised due diligence. The ACMA also acknowledges the steps that Entain has said it took prior to commencement of the NSER and agrees with the basic principle that compliance with these obligations is not static but that providers should demonstrate ongoing attention and effort to revise, refine and adjust their practices to address compliance risks. The ACMA has taken these submissions into account and makes the following general comments.
29. The NSER allows people experiencing gambling harm to take steps to address those harms by self-excluding. It is well documented that people experiencing gambling harm frequently suffer from gambling addiction with its associated behaviours. Given the existing obligations that apply to IWPs around safe gambling practices and harm minimisation, it should be well understood that someone with an addiction may well take the step of self-excluding but subsequently feel unable to control their compulsion and accordingly seek to circumvent their exclusions.
30. Entain has acknowledged that it is expected that motivated individuals may seek to circumvent their exclusions and its primary role is in protecting vulnerable individuals, that have self-excluded, from circumventing key measures.
31. The investigation takes into account what would have been reasonable efforts and due diligence measures implemented ahead of or by the time the scheme commenced on 21 August 2023. Separately, as it steps through each matter, it also takes account of the specific facts and circumstances particular to each complaint.

#### *Guidance and technical requirements provided to IWPs*

32. BetStop – the National Self Exclusion Register – commenced on 21 August 2023. IWPs had a considerable period of time to prepare for the commencement of the NSER from the passage of the legislation (in 2019) to the launch. This included the ACMA and Register operator issuing guidance and technical specifications to IWPs prior to launch:

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<sup>5</sup> An international standard that provides principles and guidelines for risk management.

- > On 30 May 2022, over 12 months before the NSER commenced, the ACMA issued *Guidelines on reasonable precautions and due diligence (May 2022 Guidelines)*<sup>6</sup> on matters the ACMA may take into account in considering this defence. These guidelines were issued with a caveat that the guidance was not definitive and that each provider had a responsibility to:
  - > review its systems, processes and practices
  - > use its own judgement or seek professional advice.
- > Amongst other things the guidelines reminded IWPs that the key purpose of the NSER is to minimise gambling harm in the community. It flows from this that if a person has self-excluded and is then allowed to wager, the harm can be considerable. The ACMA articulated the expectation, that in this context, IWPs would invest the appropriate time and effort to comply with the rules. We noted that when assessing reasonable precautions and due diligence we would consider all the circumstances and whether the measures taken were proportionate to the seriousness of the obligations.
- > The May 2022 Guidelines noted that the act of checking the NSER before opening a new account, alone, was unlikely to satisfy the test of reasonable precautions and due diligence.
- > Reasonable precautions and due diligence would also include IWPs having a system that ensures that the information provided by a new customer is accurate before using it to check the NSER.
- > Prior to launch of the NSER and as part of standard onboarding procedures, to assist IWPs make valid requests under section 61NC, the Register operator provided IWPs with technical requirements<sup>7</sup> for making such requests, including the data about customers to be included in each request and the format of such data. Amongst other things, the specifications state that:

*The customer's legal **full** first name and last name must be passed **exactly** as shown on an Australian government identity document. Do not use nicknames or shortened names as the first name. Do not include any middle name/s with the first name.*

33. The ACMA issued a Compliance Update on 19 March 2024 (**March 2024 Compliance Update**) that reinforced that requests to the NSER must follow the technical requirements specified by the Register operator.<sup>8</sup> In particular, the ACMA advised that wagering providers should review the technical requirements and make sure their systems – and the way they submit requests to the Register operator – comply with the requirements. The ACMA provided specific guidance that IWPs must pass a customer's legal first name and last name exactly as shown on an Australian Government identity document and that IWPs should not:

- > use nicknames or shortened names as the first name
- > include middle name/s with the first name.

34. A failure to adhere to the technical requirements poses the risk of not being able to identify a customer as a registered individual. In the March 2024 Compliance Update,

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<sup>6</sup> The current version of the May Guidelines are published on the ACMA's website here:

<https://www.acma.gov.au/guidelines-reasonable-precautions-and-due-diligence>. The ACMA has checked the version that was originally published and can confirm it includes the extracts that are provided in this investigation report.

<sup>7</sup> <https://iwp.betstop.gov.au/help-centre/technical-requirements/>

<sup>8</sup> [Compliance bulletin 19 March 2024](#)

the ACMA advised that it had seen evidence of wagering providers having inadequate processes to prevent registered individuals from opening an account. The following scenario was specifically flagged:

- > a person applies to open an account but is prevented from doing so because the provider receives a positive response that the person is self excluded.
- > the consumer then immediately re-applies to open an account using different information, until they are successfully able to open an account because their information no longer triggers a positive response from the NSER.

35. We reminded providers that they need to have robust processes in place to prevent registered individuals from opening accounts. We expect that these processes would take into account scenarios like this and that providers would not solely rely on a positive match from the Register operator. For example, this may involve applying flags to people who have been identified as self-excluded so they would be prevented from opening an account if they attempted to register with altered details.

### **ACMA's engagement with Entain**

36. From as early as 5 December 2023, the ACMA sent correspondence to Entain to alert it about consumer complaints that all appeared to relate to registered individuals that had multiple accounts with Entain.

37. The ACMA considers that this engagement should have increased Entain's awareness of:

- > the risk that certain customers may have multiple accounts with Entain across its wagering brands, Neds and Ladbrokes;
- > potential issues with Entain's processes and procedures to identify and link where customers had more than one account with Entain, including where customers were registered individuals; and
- > because of points 1 and 2 above, the need for Entain to review and implement improvements to its systems and processes so that it could identify and link where customers had more than one account with Entain, including registered individuals.

38. Entain submitted to the ACMA (in Submission 1) that Entain had implemented a 'single customer view' in December 2024 designed to strengthen its 'ability to detect customers with multiple Licensed Accounts'. The ACMA welcomes the change to Entain's systems and processes. However, the ACMA has pursued this investigation noting this single customer view was not in place at the time the circumstances in this investigation were considered (which all pre-dated December 2024).

## **Findings**

### **Finding 1 – Breach: Licensed interactive wagering service providers must not open accounts for registered individuals (subsection 61MA(2))**

#### Regulatory obligation

39. Subsection 61MA(2) provides that an IWP must not open a licensed interactive wagering service account for a registered individual.

40. Subsection 61MA(3) provides that subsection 61MA(2) does not apply where an IWP takes reasonable precautions and exercises due diligence to avoid contravention. The IGA does not stipulate what constitutes reasonable precautions and exercising due diligence for the purposes of this provision.

41. The ACMA has considered 2 of the 7 complaints relevant to this finding, being the complaints relating to Complainants 3 and 4.

### **Complainant 3**

#### Did Entain open a licensed interactive wagering service account for Complainant 3?

42. The NSER records confirm that Complainant 3 became a registered individual on 22 August 2023 at 00:39 AEST.
43. Entain submitted that Complainant 3 had 2 existing Entain accounts at the time they became a registered individual (Account 1 with Ladbrokes and Account 2 with Neds). [...]
44. In Submission 1, Entain submitted that, after it made requests to the Register operator in accordance with section 61NC, it:
- > identified Account 2 as belonging to a registered individual at 06:24 AEST on 22 August 2023 and the account was closed at that time; and
  - > identified Account 1 as belonging to a registered individual at 06:44 AEST on 22 August 2023 and the account was closed at that time.
45. The ACMA is of the view that at the first of these times, 06:24 AEST on 22 August 2023, Entain was aware that Complainant 3 was a registered individual.
46. NSER records show that Complainant 3 made 2 failed attempts to open an account around 7 months after becoming a registered individual. The ACMA considers that at this time, Entain was further advised by the Register operator that Complainant 3 was still a registered individual:
- > 22:02 AEDT on 27 March 2024.<sup>9</sup> Entain made a request to the Register operator at this time and the Register operator advised Entain that the Complainant was a registered individual (**Request 1**). The information contained in Request 1 matched the customer information included in Accounts 1 and 2, [...]. In accordance with the information in Submission 1, the ACMA understands that Complainant 3 would have received an automated popup message confirming that they could not open an account as they were registered with the NSER.
  - > 16:13 AEST on 25 May 2024. Entain made a request to the Register operator and the Register operator advised Entain that the Complainant was a registered individual (**Request 2**). The information contained in Request 2 was substantially similar to the information contained in Request 1 [...]. Similar to Request 1, it is understood that Complainant 3 would have been prevented from opening an account.
47. The ACMA is of the view that Entain was aware that Complainant 3 was still a registered individual as at the later of these times.
48. NSER records demonstrate that shortly after the failed attempts, Complainant 3 [...] successfully opened 2 new accounts (one each with Neds and Ladbrokes):
- > 16:13 AEST on 25 May 2024 (about 5 seconds after Request 2). Entain made a request to the Register operator and the Register operator advised Entain that the Complainant was not a registered individual. This is because the information in the request no longer sufficiently matched Complainant 3's NSER record (**Request 3**).

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<sup>9</sup> The ACMA is of the understanding that these were attempts to open an account as Entain's request used the wagerer ID: [...]. It is understood that this wagerer ID is used by Entain for new account requests.

The information was substantially similar to Request 2 [...].<sup>10</sup> In Submission 1, Entain detailed that it proceeded to open a Ladbrokes licensed interactive wagering service account for the Complainant (**Account 3**) at this time as a result of the response from the Register operator.

- > 16:40 AEST on 25 May 2024. Entain made a request to the Register operator and the Register operator advised Entain that the Complainant was not a registered individual. This is because the information no longer sufficiently matched Complainant 3's NSER record (**Request 4**). The information was the same as Request 3. In Submission 1, Entain said that it proceeded to open a Neds licensed interactive wagering services account for the Complainant (**Account 4**) at this time as a result of the response from the Register operator.
  - > Entain undertook no initial verification of the accuracy of [specified contact details], before opening Accounts 3 and 4, despite the fact that [it] is one of the fields required to be provided to make a valid request under section 61NC.
49. The ACMA is of the view that, by 16:13 AEST on 25 May 2024, Entain had been advised that the Complainant was a registered individual on 4 separate occasions, the most recent being on that day. Despite this:
- > Entain opened a licensed interactive wagering service account (Account 3, Ladbrokes) that shared [substantially similar information] to Request 2.
  - > Request 2 was made 5 seconds earlier and Entain was informed that Complainant 3 was a registered individual. [...] The fact that Request 3 was made so soon after a positive response to Request 2 suggests the ease with which the Complainant was able to open an account with Entain [...] after being prevented from opening an account because they were a registered individual.
  - > Entain opened a further account (Account 4, Neds), within 30 minutes of opening Account 3, that shared the same details as Account 3.
50. Entain submitted that as part of the account sign-up process, its systems and processes identified both of the 2 new accounts (Accounts 3 and 4) as 'potential BetStop match (or previous BetStop match)'. As discussed below, even though they were flagged for manual review, Complainant 3 was allowed to open accounts and wager.

#### *Account 3 (Ladbrokes account)*

51. Account 3 was identified by Entain's systems as a 'potential BetStop match (or previous BetStop match)' at 16:13 AEST on 25 May 2024 as part of the account sign-up. The account was created and the Complainant allowed to bet, however, the account was flagged for 'further manual review'. Entain submitted that its policy for the 'further manual review' process was that:
- > a mandatory deposit limit [...] was applied; and
  - > Entain's Safer Gambling team would make attempts to contact the customer 'within 24 hours of the new account creation, with the mandatory deposit limit to continue until such time as the Safer Gambling team has made contact with the customer to discuss Entain's Punter Assist tools and other safer gambling options available'.

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<sup>10</sup> Such a scenario mirrors the example provided by the ACMA in compliance guidance issued on [19 March 2024](#).

52. Entain submitted that Account 3 was suspended on 26 May 2024 as it determined [the invalidity of previous information provided].
53. As outlined in paragraph 48, [...] Entain did not perform any verification of the [contact information] used by the Complainant at the time of sign up [...]. This [...] significantly reduced the quality of the information Entain used to make a request to the Register operator which therefore reduced the likelihood of the Register operator being able to match the Complainant as a registered individual.

*Account 4 (Neds account)*

54. Similar to Account 3 above, Entain submitted that Account 4 was identified as a 'potential BetStop match (or previous BetStop match)' at 16:40 on 25 May 2024 as part of the account sign-up. The account was created and the Complainant allowed to bet, however, the account was flagged for 'further manual review'. The account was suspended on 26 May 2024 for the same reason as Account 3 above.
55. Entain submitted that it closed both accounts on 7 June 2024.
56. On the basis of the facts set out above, the ACMA finds that Entain opened 2 licensed interactive wagering service accounts for Complainant 3, after Complainant 3 became a registered individual.

Did Entain take reasonable precautions and exercise due diligence to avoid a contravention of subsection 61MA(2) for Complainant 3?

57. Entain's submission is that it took reasonable precautions and exercised due diligence. The ACMA acknowledges Entain's overarching submissions (canvassed in paragraphs 23 – 27 above) which address the general steps Entain took ahead of commencement of the NSER and subsequent process updates.
58. The ACMA has also considered the specific circumstances of Complainant 3.
59. Entain has submitted that the new accounts (Ladbrokes Account 3 and Neds Account 4) were created in a manner deliberately designed to circumvent Complainant 3's self-exclusion.
60. In the case of the circumstances relating to Complaint 3, the interactive wagering industry was on notice prior to commencement of the NSER that some customers who may be at risk of, or experiencing gambling harm, would very likely be motivated to circumvent the system. Such behaviour would reasonably be expected to be associated with addictive behaviours. Entain's submission acknowledges that 'motivated individuals will seek to circumvent BetStop exclusions and its primary role in protecting vulnerable individuals that have self-excluded from circumventing key measures'.
61. The ACMA has considered Entain's submissions and for the following reasons, has formed the view that Entain did not take reasonable precautions or exercise due diligence in the circumstances when it opened 2 wagering accounts for Complainant 3 while they were a registered individual, for the reasons outlined below.

*NSER Requests*

62. The ACMA is of the view that the act of submitting a request to the Register operator under section 61NC before opening a new wagering account for an individual alone does not amount, in and of itself, to reasonable precautions and due diligence for the purpose of subsection 61MA(3) in these circumstances. Rather, reasonable precautions and due diligence would have involved Entain considering all the available information about Complainant 3, including in relation to previous accounts and previous queries regarding registration and having a system to ensure the information

provided by the customer is accurate, before using it to make requests to the Register operator.

63. Entain's submissions demonstrate it had some systems in place to detect that the new accounts (Accounts 3 and 4) were associated and/or linked to Accounts 1 and 2 which had been previously identified as belonging to a registered individual. However, the ACMA considers these were not sufficient to demonstrate reasonable precautions and due diligence. The ACMA considers that a company with the size and maturity of Entain should have had additional processes in place. For example:
- > Applying flags to people who have been identified as self-excluded so they would be prevented from opening an account if they attempted to register with altered details, as referenced in the ACMA's March 2024 Compliance Update.<sup>11</sup>
  - > Having a system to ensure the information provided by a new customer is accurate before using the information to make requests to the Register operator. For example, undertaking an identity verification check to verify that the person opening the account is who they say they are and the information provided by them matches their identity document, and validating the contact details [...] belong to the person opening an account.<sup>12</sup>
  - > Considering what information the IWP already has about that customer, such as if they had existing accounts with that IWP.

#### *Pre-account opening NSER requests*

64. While the Notice required Entain to provide information about each account or attempt to open an account, information about Complainant 3's first 2 failed attempts to open an account (Requests 1 and 2) and associated attempts to open accounts by the Complainant were not included in Entain's submissions. This appears to suggest gaps in Entain's processes and procedures for identifying linkages between customers attempting to open accounts, including where a prospective customer is identified as a registered individual.

65. Entain submitted to the ACMA's preliminary findings that there are significant issues with relying on what it refers to as 'data from pre-registration calls' and;

*... to give effect to the ACMA's proposed approach would require Entain to take measures that significantly exceed the standard of 'reasonable precautions' required under the IGA.*

66. Entain submitted that this data is;

*... unstructured, uncleaned and incomplete – in part, as evidenced by the fact that the match was made under 'wagerer [an ID number]. To perform account matching against this dataset would require a fundamental reconfiguration of Entain's systems, at a significant additional impost (in terms of time and resources). Entain submits that the potential, incremental benefits, in doing so are unreasonably disproportionate to both the resources required to create such a system and the fact that there is no certainty that the following technical and practical issues set out below would be avoided. [...]*

*Entain submits that its failure to implement such a system does not constitute a failure to take reasonable precautions. Instead, Entain's implementation of its system controls, together with its continuous improvements and refinements to those controls, constitute the taking of reasonable precautions.*

<sup>11</sup> [Compliance bulletin 19 March 2024](#)

<sup>12</sup> *Ibid.*

67. The ACMA considers that Entain's reference to 'pre-registration checks' is more accurately described as 'pre-account opening NSER requests'. Choosing not to retain customer data from pre-account opening NSER requests, for potential new accounts, is a business decision that an IWP makes. In making this decision, the IWP should take into account the risks that this decision could have, in particular the risk that this could result in non-compliance with the IGA.
68. Not recording the pre-account opening NSER requests resulted in Entain not identifying attempts by Complainant 3 to open new accounts and enabled new accounts to be opened as evidenced by the following:
- > Entain made a request to the Register operator immediately prior to opening each account (at 16:13 AEST on 25 May 2024 for Account 3 and at 16:40 AEST on 25 May 2024 for Account 4). While at that point, the Register operator advised that Complainant 3 was not a registered individual, the ACMA notes the following considerations:
    - > Entain had been informed at 16:13 AEST on 25 May 2024 (Request 2) that Complainant 3 was a registered individual – about 5 seconds before Account 3 was opened.
    - > Accounts 3 and 4 shared details that were substantially similar to Request 2 that identified Complainant 3 as a registered individual [...]. In the ACMA's view, it was both reasonable and practicable for Entain to identify that Accounts 3 and 4 belonged to a registered individual based on the information available to it at the time.
69. Entain submitted that it had processes in place to identify where it should associate or link new accounts with existing accounts and information; however, in the case of Complainant 3, these systems did not enable a link to be made in circumstances where an individual had been blocked from opening an account due to registration with substantially the same [.....] details. The inability of the systems to make this link demonstrates a significant gap in the efficacy of Entain's underlying systems. The ACMA is of the view that the implementation of systems that could link the accounts in these circumstances would have been reasonable and proportionate and would have prevented the opening of the relevant accounts in circumstances where Entain had previously been made aware that Complainant 3 was a registered individual.
70. In the context of potential gambling harm and impacts on individuals, and the fundamental premise of the NSER regime, that risk should have been balanced more appropriately against the potential harm that Entain would have been aware can ensue from an individual being able to wager even for a short period of time.
71. It is also noted that the ACMA published compliance considerations for the interactive wagering industry upon commencement of the NSER on 21 August 2023 (**August 2023 Compliance considerations**) and these referred to the need to consider record keeping for compliance with section 61MA.<sup>13</sup>

#### *Entain's Manual Review*

72. Entain submitted that it had identified the 2 new accounts (Accounts 3 and 4) as a 'potential BetStop match' – we understand that this was because of the similarities of the information included in Accounts 3 and 4 to the information included in the two accounts which had been closed when Entain was informed Complainant 3 was a registered individual (Accounts 1 and 2).

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<sup>13</sup> <https://www.acma.gov.au/compliance-considerations>

73. Despite this awareness, Entain proceeded to open Accounts 3 and 4 and flagged the new accounts for manual review as a ‘potential BetStop match’. If Entain had formed the view that the new accounts potentially belonged to a registered individual, it would have been reasonable in the circumstances for Entain to complete its due diligence to satisfy itself whether Complainant 3 was a registered individual *before* opening the accounts, not after the accounts were opened and the complainant allowed to place wagers. Entain submitted that expecting it to “complete its due diligence to satisfy itself whether the Complainant was a registered individual before opening accounts... goes beyond taking ‘reasonable precautions’” because of the impact that would have on its overall customer base resulting in “a very large proportion of individuals being unfairly treated”.
74. To illustrate this point, Entain provided information of its analysis of almost 10,000 individuals who had been flagged as a potential match. Of these, no further action was required for 93% of the individuals. Entain argued that given the very high percentage of false positives returned, it would not have been reasonable to suspend activity of all these individuals. As an alternative, it implemented a ‘modest deposit limit’ and undertook additional manual checks – these steps, it submits strike an appropriate balance between managing the risk of harmful gambling for registered individuals while also not unfairly punishing unrelated customers.
75. Entain further submitted that its manual review ‘swiftly’ identified concerns with Accounts 3 and 4 and this resulted in the accounts being suspended the day after they were opened, and closed a short time after and that this was further evidence of taking reasonable precautions and due diligence to,
- ... identify registered individuals who had attempted to circumvent Entain's (and BetStop's) systems [...]*
76. The ACMA notes the actions taken. However, the contravention in subsection 61MA(2) involves an IWP opening a licensed interactive wagering service account for a registered individual, and subsection 61MA(3) operates where the IWP took reasonable precautions, and exercised due diligence, to avoid the contravention. Actions taken after the contravention occurs (here, opening the account) cannot be actions that are taken to avoid the contravention.
77. The ACMA considers that the actions taken by Entain after an account is opened are more appropriately directed at circumstances where an individual’s self-exclusion period has ended and they decide to return to wagering and open a new account with an IWP. In that situation, the processes that Entain had in place would have been appropriate measures to introduce to such accounts in order to limit or reduce the risk of harm to that formerly self-excluded consumer. However, in circumstances where the person remained registered, these measures were not sufficient, and were not (and could not be) actions taken by Entain to avoid opening a licensed interactive wagering service account for a registered individual.

#### *Conclusion*

78. On the basis that the ACMA does not consider the exception in subsection 61MA(3) applies, the ACMA has found that Entain contravened subsection 61MA(2) by opening 2 licensed interactive wagering service accounts for Complainant 3 on 25 May 2024.

#### **Complainant 4**

##### Did Entain open a licensed interactive wagering service account for Complainant 4?

79. The NSER records confirm that Complainant 4 became a registered individual at 20:55 AEST on 24 August 2024.

80. Entain submitted that, at the time of registration, Complainant 4 had 2 existing Entain accounts (Accounts 1 and 2). Accounts 1 and 2 were not closed during the period between 24 August 2024 and 20 October 2024. Despite these existing accounts remaining open, NSER records show that Complainant 4 attempted to open new accounts in October 2024.
81. Between 24 August and 20 October 2024, Entain made requests to the Register operator under section 61NC on whether Complainant 4 was a registered individual at the time of each request. The Register operator advised Entain that Complainant 4 was not a registered individual at the time of each request. This is because the information in the requests did not sufficiently match Complainant 4's NSER record.
82. The ACMA makes the following observations about similarities between the identifying information for Complainant 4's newly opened Entain accounts and the pre-account opening NSER requests:
- > The first attempt to open an account was unsuccessful at 20:19 AEDT on 20 October 2024,<sup>14</sup> when Entain made a request to the Register operator and the Register operator advised Entain that Complainant 4 was a registered individual (**Request 1**). Although Entain used a shortened first name for Complainant 4 in Request 1, there were still sufficient [details] for the Register operator to identify that Complainant 4 was a registered individual.
  - > Within 2 minutes of the first request, and an unsuccessful attempt to open a new account, the NSER records show that Complainant 4 made a successful attempt to open a new account at 20:21 AEDT on 20 October 2024. In response to this request, the Register operator advised Entain that Complainant 4 was not a registered individual. This is because the information about Complainant 4, provided by Entain to the Register operator, did not sufficiently match their NSER record (**Request 2**). The information was substantially similar to Request 1 (including use of a shortened first name) [...] Entain submitted that it proceeded to open a Neds account for Complainant 4 (**Account 3**)<sup>15</sup> at this time, as a result of the response from the Register operator.<sup>16</sup>
  - > Entain submitted that it 'suspended' the new Neds account the next day (at 13:03 AEDT on 21 October 2024) after Entain's Security (Fraud) team identified what Entain termed 'fraudulent activity' (the creation of a duplicate account by a customer, having identified that Account 3 belonged to the owner of an existing Neds account, Account 2).
  - > The NSER records show that Complainant 4 made another successful attempt to open a new account at 12:48 AEDT on 28 October 2024. In response to a request under section 61NC, the Register operator advised Entain that Complainant 4 was not a registered individual. This is because the information did not sufficiently match their NSER record (**Request 3**). The information was substantially similar to Request 2 [...]. This means that Request 3 substantially matched Request 1 – where Entain had been advised that Complainant 4 was a registered individual [...]. In Submission 1, Entain said that it opened a Ladbrokes account for

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<sup>14</sup> The ACMA is of the understanding that these were attempts to open an account as Entain's request used the wagerer ID [*an ID number issued by Entain*]. It is understood that this wagerer ID is used by Entain as part of any request to open a new licensed interactive wagering services account.

<sup>15</sup> Note: this is referred to as Licensed Account 4 in Submission 1. The account is presented as Account 3 in the investigation report to reflect the chronology in which accounts were opened.

<sup>16</sup> Entain submitted that the account was opened at '19:21'. The ACMA understands this to be 20:21 AEDT.

Complainant 4 (**Account 4**)<sup>17</sup> at this time, as a result of the response from the Register operator.

- > Entain submitted that it 'suspended' the new Ladbrokes account at 16:23 AEDT on 28 October 2024 after Entain's Security (Fraud) team identified what Entain termed 'fraudulent activity' (the creation of a duplicate account by a customer, having identified that Account 4 belonged to the owner of an existing Ladbrokes account, Account 1).
- > Entain submitted that at 10:48 AEDT on 29 October 2024, Complainant 4 emailed Entain to advise that they were a registered individual and that their accounts had not been closed. Entain's submission indicated that Accounts 1 and 2 were closed on 30 October 2024 at 12:52 AEDT.

83. The ACMA considers that by 20:19 AEDT on 20 October 2024, Entain had been advised that Complainant 4 was a registered individual, when Complainant 4's attempt to open a new account (which related to Request 1) was unsuccessful. Despite this:

- > Entain opened an interactive wagering service account (Account 3) that shared [substantially similar information] with Request 1 (made to the Register operator 2 minutes earlier that returned a positive match that Complainant 4 was a registered individual).
- > Entain proceeded to open a further account (Account 4) on 28 October 2024, that shared [substantially similar information] with Request 1.

84. Therefore, the ACMA finds that Entain opened 2 licensed interactive wagering service accounts for Complainant 4, after Complainant 4 became a registered individual.

85. The ACMA also makes the following observations about the new Ladbrokes account (Account 4) and the details Complainant 4 used to register with the NSER:

- > Complainant 4 registered with the NSER using their full first name, as is required.
- > Complainant 4 created Account 4 with Entain using a shortened version of that first name.
- > The details used to create Account 4 and the details used to register with the NSER, shared [substantially similar information].

Did Entain take reasonable precautions and exercise due diligence to avoid a contravention of subsection 61MA(2) for Complainant 4?

86. Entain has submitted that it took reasonable precautions and exercised due diligence to avoid contravening subsection 61MA(2) in relation to Complainant 4 by verifying the Complainant's information and checking their details against the NSER before proceeding to open wagering accounts for them.

87. The ACMA acknowledges Entain's overarching submissions ( canvassed in paragraphs 23 - 27 above) which address the general steps Entain took ahead of commencement of the NSER and subsequent process updates.

88. Having considered Entain's submissions and the specific circumstances of Complainant 4, for the following reasons, the ACMA has formed the view that Entain did not take reasonable precautions or exercise due diligence to avoid opening a licensed interactive wagering service account for a registered individual in the circumstances when it opened 2 wagering accounts for Complainant 4.

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<sup>17</sup> Note: this is referred to as Licensed Account 3 in Submission 1. The account is presented as Account 4 in the investigation report to reflect the chronology in which accounts were opened.

89. The ACMA considers that reasonable precautions and due diligence in these circumstances would have involved Entain considering all information that it knew about Complainant 4 and taking appropriate action to prevent them from opening new wagering accounts after Entain became aware that Complainant 4 was a registered individual.
90. The ACMA considers the relevant circumstances included Entain's identify verification provider informing Entain it was not using the complainant's full first legal name, as is required for checks against the NSER; similarities in information between pre-account opening NSER requests that identified Complainant 4 as a registered individual and the newly opened accounts; and similarities in information between an account that had been manually suspended by Entain's fraud team and a new account that was opened 8 days later. These matters are discussed below.

#### *Identity Verification*

91. While Entain submitted that it verified Complainant 4's identity prior to opening the new accounts (Accounts 3 and 4), which included a shortened version of Complainant 4's first name. Entain provided evidence, in the form of records from its identity verification provider, that it had been informed that the name provided by Complainant 4 was incorrect. In doing this, the identity verification provider provided Entain with Complainant 4's legal full first name. Despite this inaccuracy being identified and Entain informed of it, Entain did not act on this information and proceeded to use the shortened name to make requests to the Register operator, under section 61NC, before opening Accounts 3 and 4.

92. Entain submitted that:

*[...] To require the BetStop API request process to be reconciled against each customer's full name as provided by Entain's third party identity verification provider would be resource intensive [...] and cause significant friction for customers in the sign-up process.*

*Entain submits that the incremental benefit to implementing this measure is marginal at most, given Entain's existing controls, and is not proportionate or reasonable in the context of Entain's other systems and controls. In this context, Entain submits that it is unreasonable for Entain to use this additional dataset for the purposes of BetStop. Entain considers that its existing controls, and systems and processes, meet the required standard of reasonable precautions and due diligence.*

93. The ACMA has consistently advised industry that when querying the Register, a customer's legal full first name and last name must be passed exactly as shown on an Australian government identity document. This is detailed in the [technical requirements](#) issued by the Register operator<sup>18</sup> and the March 2024 Compliance Update.<sup>19</sup>
94. The ACMA maintains that it is reasonable for Entain to act on a notification from its identity verification provider to update any inaccurate or incomplete customer information it recorded, particularly a customer's legal full name, to ensure that it is subsequently making valid requests to the Register operator.
95. Therefore, the ACMA is of the view that Entain failed to adhere to the technical specifications for use of the NSER, as issued by the Register operator. By using what was known to be an incorrect first name for Complainant 4 in a request under section 61NC, Entain reduced the likelihood of the Register operator being able to match Complainant 4 as a registered individual.

<sup>18</sup> <https://iwp.betstop.gov.au/help-centre/technical-requirements/>

<sup>19</sup> <https://acma.createsend1.com/t/d-e-ezhllk-l-r/>

96. Entain was aware of the risk of not being able to identify a person as a registered individual. In its first submission, Entain stated that:

*... its ability to successfully detect Registered Individuals relies on the accuracy of the customer details recorded within the BetStop Register and within Entain's customer account management system.*

97. If Complainant 4's legal full first name had been submitted to the Register operator, consistent with the technical specifications issued by the Register operator, when making Request 3, the Register operator would have identified Complainant 4 as a registered individual and the new Ladbrokes account (Account 4) would not have been created. This is because there were enough similarities between the details used to create Account 4 and the details used by Complainant 4 to register with the NSER.

98. Entain submitted that even if it had used Complainant 4's legal full first name, it would not have resulted in a positive response for Request 2, that led to creation of the new Neds account (Account 3).

99. The ACMA acknowledges Entain's submission and considers Account 3 further under its discussion of the 'pre-account opening NSER requests'.

#### *Pre-account opening NSER requests*

100. While the Notice required Entain to provide information about each account or attempt to open an account, information about the first, unsuccessful attempt (Request 1) was not included in Entain's submissions (similar to Entain's submission about Complainant 3). Instead, Entain stated in Submission 1 that 'at no point' was it advised that Complainant 4 was a registered individual. Entain submitted that it first identified the Complainant as a registered individual at 12:48 AEDT on 29 October 2024, after being contacted by Complainant 4.

101. The ACMA is of the view that these statements from Entain are inconsistent with information provided by the Register operator, and Entain's submission suggests gaps in its processes and procedures to identify and link attempts to open accounts by customers.

102. Entain submitted that it had processes in place to identify where it should associate or link new accounts with existing accounts and information however, these systems did not enable a link to be made in circumstances such as these where an individual had been very recently blocked from opening an account due to being identified as a registered individual using substantially similar identity details.

103. Not recording the positive NSER matches in response to pre-account opening NSER requests resulted in Entain not identifying subsequent attempts by Complainant 4 to open new accounts and enabled new accounts to be opened as evidenced by the following:

- > Entain made a request under section 61NC to the Register operator immediately prior to opening each account (at 20:21 AEDT on 20 October 2024 for Account 3 and at 12:48 AEDT on 28 October 2024 for Account 4). While at that point, the Register operator advised Entain that Complainant 4 was not a registered individual, the ACMA notes that:
  - Entain had been informed by the Register operator at 20:19 AEDT on 20 October 2024 (Request 1) that Complainant 4 was a registered individual – about 2 minutes before Account 3 was opened by Entain.
  - Accounts 3 and 4 shared details that were substantially similar to Request 1 where the Register operator informed Entain that Complainant 4 was a registered individual [...].

104. The ACMA noted in its consideration of Complainant 3 above, that the inability of the systems to make this link demonstrates a significant gap in the quality of Entain's underlying systems. The ACMA is of the view that the implementation of systems that could link accounts in these circumstances would have been reasonable and proportionate, and part of what is required for an IWP to take reasonable precautions, and exercise due diligence.
105. As considered under Complainant 3 above, the ACMA acknowledges Entain's submission that retaining records of these pre-account opening NSER requests would be a 'significant additional impost'. Choosing not to retain customer data from pre-account opening NSER requests, for potential new accounts, is a business decision that an IWP makes. In making this decision, the IWP should take into account the risks that this decision could have, in particular the risk that this could result in non-compliance with the IGA.
106. In the context of potential gambling harm and impacts on individuals, and the fundamental premise of the NSER regime, that risk should have been balanced more appropriately against the potential harm that Entain would have been aware can ensue from an individual being able to wager even for a short period of time.
107. As outlined in paragraph 71, the ACMA's August 2023 Compliance considerations referred to the need to consider record keeping for compliance with section 61MA.<sup>20</sup>

#### *Manual Review*

108. Complainant 4 held a Neds account and a Ladbrokes account when they became a registered individual. Around 2 months later, Complainant 4 was able to open 2 new accounts. This meant that Complainant 4 held 4 Entain accounts, being 2 Neds accounts and 2 Ladbrokes accounts.
109. Entain submitted that it undertook a manual review of the new Neds account (Account 3) and suspended it within 24 hours of opening.
110. The fact that Entain's Security (Fraud) team performed a manual review indicates that Entain scrutinised Complainant 4's activity and had, or ought to have had, an awareness that Complainant 4 held other Entain accounts.
111. Despite this, Entain allowed Complainant 4 to open a new Ladbrokes account (Account 4) on 28 October 2024, that shared [substantially similar] information with the suspended Neds account (Account 3) [...].
112. Entain's submission evidenced that a review of Complainant 4's Accounts 1 and 2 was only triggered following receipt of an email from Complainant 4 at 10:48 on 29 October 2024 advising they were registered with Betstop and that their accounts had not been closed. Entain's submission indicated that Accounts 1 and 2 were closed the next day, on 30 October 2024.
113. Entain submitted that the 2 new accounts (Accounts 3 and 4) had been suspended before the Complainant advised they were a registered individual. The ACMA notes this but considers it does not alter the fact that Entain opened 2 licensed interactive wagering service accounts for Complainant 4 in contravention of subsection 61MA(2), and only took action after these accounts were opened.
114. The ACMA is of the view that the implementation of systems that could link accounts in these circumstances would have been reasonable and proportionate, and part of what is required for an IWP to take reasonable precautions, and exercise due diligence. Again, the contravention in subsection 61MA(2) involves an IWP opening a

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<sup>20</sup> <https://www.acma.gov.au/compliance-considerations>

licensed interactive wagering service account for a registered individual, and subsection 61MA(3) operates where the IWP took reasonable precautions, and exercised due diligence, to avoid the contravention. Actions taken after the contravention occurs (here, opening the account) cannot be actions that are taken to avoid the contravention.

### *Conclusion*

115. On the basis that the ACMA does not consider the exception in subsection 61MA(3) applies, the ACMA has found that Entain contravened subsection 61MA(2) by opening 2 licensed interactive wagering service accounts for Complainant 4, one on 20 October 2024 and one on 28 October 2024.

### **Summary**

116. The ACMA has found that Entain contravened subsection 61MA(2) by opening 4 licensed interactive wagering service accounts for registered individuals.

117. Details of the contraventions are listed in **Attachment B**.

### **Finding 2 – Breach: Prohibition of the provision of licenced interactive wagering services to registered individuals (subsections 61KA(3))**

#### Regulatory obligation

118. Subsection 61KA(3) provides that an IWP must not provide a licensed interactive wagering service to a registered individual.

119. Subsection 61KA(4) provides that a person commits a separate contravention of subsection 61KA(3) in respect of each day during which the contravention occurs.

120. Subsection 61KA(5) provides that subsection 61KA(3) does not apply if the licensed interactive wagering service provider took reasonable precautions, and exercised due diligence, to avoid the contravention.

121. The ACMA has considered all of the 7 complaints against this finding.

### ***Complainant 1***

#### Did Entain provide licensed interactive wagering services to Complainant 1, a registered individual?

122. The NSER records show that Complainant 1 became a registered individual on 25 August 2023 at 09:53 AEST. Entain submitted that, at the time of registration, Complainant 1 had 2 Entain accounts, one with Ladbrokes and one with Neds.

123. Entain submitted it was informed by the Register operator that Complainant 1 was a registered individual on 26 August 2023 at 06:19 AEST. Entain then closed the Complainant's Ladbrokes account at the same time (**Account 1**).

124. The Complainant's Neds account (**Account 2**) remained open. The ACMA notes:

- > The Neds account shared [substantially similar information] with the closed Ladbrokes account.
- > Entain submitted that it continued to check the details for Account 2 against the NSER and received negative responses from the Register operator. This is because the information within Account 2 did not sufficiently match Complainant 1's NSER record.

125. Entain submitted that it provided Complainant 1 with licensed interactive wagering services over 51 days between 5 September 2023 and 25 July 2024. [...]

126. The ACMA finds that Entain provided interactive wagering services to Complainant 1, after Complainant 1 became a registered individual.

Did Entain take reasonable precautions and exercise due diligence to avoid a contravention of subsection 61KA(3) for Complainant 1?

127. Entain submitted that it took reasonable precautions and exercised due diligence. The ACMA acknowledges Entain's overarching submissions (canvassed in paragraphs 23 – 27 above) which address the general steps Entain took ahead of commencement of the NSER and subsequent process updates.

128. Having considered Entain's submissions and the circumstances of Complainant 1, the ACMA has formed the view that Entain did not take reasonable precautions or exercise due diligence to prevent providing Complainant 1 with licensed interactive wagering services while they were a registered individual.

*The early days of the NSER*

129. Entain submitted that the reasonable precautions it took, and the due diligence exercised, should be considered in the context of the alleged contraventions occurring in August 2023, shortly after the NSER launched. It also submitted that measures that could have been taken, with the benefit of hindsight, does not mean that such measures were reasonable at the time of the alleged contraventions.

130. The ACMA noted at the start of this investigation report that the investigation takes into account what would have been reasonable efforts and due diligence measures implemented ahead of or by the time the scheme commenced on 21 August 2023. The ACMA noted that IWPs had a considerable period of time to prepare for the commencement of the NSER from the passage of the legislation (in 2019) to launch. This included:

- > the ACMA issuing May 2022 guidelines that canvassed requirements for reasonable precautions and due diligence
- > the Register operator providing IWPs with technical requirements.

131. The ACMA does not accept Entain's submission that the fact the alleged contraventions occurred in August 2023 is a relevant factor when considering whether Entain took reasonable precautions and exercised due diligence to avoid contravening subsection 61KA(3) with respect to Complainant 1. The ACMA considers that a company the size and maturity of Entain should have had reasonable expectations, at the commencement of the NSER, that its customers were likely to hold accounts with both its brands. In this circumstance, it is reasonable to expect that Entain would have processes in place to check and link customer details across both Neds and Ladbrokes accounts. The ACMA notes:

- > As a large, established wagering operator of 2 distinct brands – Ladbrokes and Neds – Entain provides customers with the ability to have both a Ladbrokes and Neds account.
- > In Submission 1, Entain indicated its awareness that customers may have accounts across both brands and that it needed to have systems and processes in place to identify where accounts belonged to the same individual.

*NSER requests*

132. Entain further submitted, in Submission 6, that it was reasonable to rely on the NSER as 'the single source of truth' and that its,

*... ability to successfully detect registered individuals relies on the accuracy of the details provided by the individual to Entain and the accuracy of that same information on BetStop.*

133. As noted under Finding 1, the ACMA is of the view that the act of submitting a request to the Register operator under section 61NC does not amount, in and of itself, to reasonable precautions and due diligence. Rather, reasonable precautions and due diligence would have involved Entain considering all the available information about Complainant 1 including in relation to accounts it held across both Entain brands.
134. This view is informed by the following:
- > Entain was informed by the Register operator that Complainant 1 was a registered individual on 26 August 2023. As a result, Account 1 was closed; however, Account 2 remained open.
  - > Entain submitted that it continued to check the details for Account 2 against the NSER. The Register operator did not identify Complainant 1 as a registered individual. This is because the information that Entain had about Complainant 1 did not sufficiently match Complainant 1's NSER record.
  - > The 2 accounts shared [substantially similar information]. While the 2 accounts shared [substantially similar information], there is no information to suggest that Entain had internal systems or processes that Entain used to establish that Accounts 1 and 2 were related accounts.
  - > The ACMA considers Entain had been put on notice that Complainant 1 was a registered individual and in these circumstances, it would have been a reasonable precaution and exercise of due diligence to undertake further checks of its own systems for additional information, especially as Entain was aware that a customer may have multiple accounts.
  - > While Entain submitted that it had processes in place to identify where it should associate or link accounts, Entain did not identify that Accounts 1 and 2 belonged to the same individual.
  - > As a result, Entain failed to close Account 2 at the same time Account 1 was closed and Entain then provided Complainant 1, a registered individual, with licenced interactive wagering services over a period of more than 10 months through Account 2.
  - > The ACMA considers that the common details between Accounts 1 and 2 were sufficient for Entain to reasonably conclude that the 2 accounts were likely to belong to the same individual and link the 2 accounts. Had Entain undertaken this due diligence, it would have been a reasonable precaution for Entain to not provide wagering services through Account 2 after Entain was informed that Complainant 1 was a registered individual, given that it was in possession of information that was highly suggestive that both accounts belonged to the same person. Should further investigations have revealed that Account 2 was held by someone else, then wagering services could be resumed.
135. Notwithstanding its position on what was reasonable, Entain submitted that improvements to its systems and processes mean that if the same circumstances arose today, Complainant 1 would likely be identified as a registered individual by Entain as a 'hard match' (through [substantially similar information] across Account 1 and Account 2) and subjected to manual review and suspended. The ACMA welcomes these process improvements but notes that they do not affect the ACMA's findings in respect of the earlier contraventions.

### *Conclusion*

136. On the basis that the ACMA does not consider the exception in subsection 61KA(5) applies, the ACMA has found that Entain contravened subsection 61KA(3) on

51 occasions between 5 September 2023 and 25 July 2024 by providing licensed interactive wagering services to Complainant 1.

### **Complainant 2**

137. Complainant 2 held 2 accounts with Entain, a Neds and a Ladbrokes account.
138. The NSER records show that Complainant 2 became a registered individual on 13 September 2023 at 17:50 AEST. Submission 1 detailed that the Complainant had 1 Neds account with Entain that had been closed at the time the Complainant became a registered individual (**Account 1**). While Entain advised that this account had been closed, Entain continued to make requests to the Register operator to determine whether Complainant 2 was a registered individual.
139. Entain submitted that it was informed of Complainant 2's exclusion by the Register operator on 14 September 2023 at 06:19 AEST.
140. Complainant 2's Ladbrokes account (**Account 2**) remained open after Complainant 2's self-exclusion because there were not sufficient data point matches between Complainant 2's details recorded on Account 2 and the NSER.
141. The ACMA makes the following observations about the Ladbrokes account that remained open (Account 2) and Complainant 2's NSER profile:
- > Complainant 2 registered with the NSER using their legal full first name, as is required.
  - > Complainant 2 created Account 2 with Entain using a shortened version of that first name.
142. The ACMA makes the following observations about similarities between the 2 Entain accounts:
- > Account 1 and Account 2 shared the same last name and date of birth.
  - > Complainant 2's legal full first name was recorded on Account 1, while Account 2 had a shortened version of their first name.
  - > The bank account details Entain held for Account 2 had the Complainant's legal full first name.<sup>21</sup>
143. In Submission 1, Entain said that it provided Complainant 2 with licensed interactive wagering services over 79 days between 13 September 2023 and 16 February 2024. [...].
144. Entain submitted that it became aware that Account 2 likely belonged to a registered individual following [further investigation] by Entain [...]. The account was then closed on 16 February 2024.
145. The ACMA finds that Entain provided interactive wagering services to Complainant 2, after Complainant 2 became a registered individual.

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<sup>21</sup> The ACMA acknowledges that bank account details are not a prescribed data matching point for the purposes of matching with the NSER register. However, the ACMA considers that they could, nonetheless, be one of multiple data points used by Entain to run internal checks within its own database. This is discussed in more detail under the assessment of Complainant 5 for Finding 2.

Did Entain take reasonable precautions and exercise due diligence to avoid a contravention of subsection 61KA(3) for Complainant 2?

146. Entain has submitted that it took reasonable precautions and exercised due diligence to avoid contravening subsection 61KA(3) in relation to Complainant 2, including by checking their details against the NSER.
147. The ACMA acknowledges Entain's overarching submissions (canvassed in paragraphs 23 – 27 above) which address the general steps Entain took ahead of commencement of the NSER and subsequent process updates.
148. The ACMA has also considered the specific circumstances of Complainant 2.

*Use of a customer's full first name*

149. The NSER requires an individual to register using a full first and last name as shown on an Australian government identity document.
150. Complainant 2 had been able to create the Ladbrokes account, using a shortened version of their legal full first name.
151. If the legal full first name had been used by Entain in the requests generated from Account 2 and submitted to the NSER, consistent with the technical specifications issued by the Register operator, it would have assisted the Register operator to identify Complainant 2 as a registered individual, as it did in relation to Account 1.
152. This is because there were enough similarities between [...] Account 2 and the [...] NSER [profile], that if Entain had used the legal full first name in those requests, they would have produced a positive response from the Register operator.
153. However, the ACMA acknowledges that Account 2 was created in 2019, prior to the commencement of the NSER and prior to the IWP being advised to comply with the technical specifications issued by the Register operator that required use of a customer's legal full first name when checking the NSER.

*Checks between accounts*

154. Entain was informed by the Register operator that Complainant 2 was a registered individual on 14 September 2023. As a result, Account 1 remained closed and Entain updated the account to reflect that the Complainant was registered with the NSER. However, Account 2 remained open. The 2 accounts [shared similar details]. In addition] Account 2 included a shortened form of Complainant 2's first name. The bank account details Entain held for Account 2 contained Complainant 2's full first name which was the same as the name used for Account 1.
155. As a large, established wagering operator of 2 distinct brands – Ladbrokes and Neds – Entain provides customers with the ability to have both a Ladbrokes and Neds account. Submission 1 demonstrated Entain's awareness that customers may have accounts across both brands, and that it needed to have systems and processes in place to identify where accounts belonged to the same individual.
156. While Entain submitted that it had processes in place to identify where it should associate or link accounts, Entain did not identify and link that Accounts 1 and 2 belonged to the same individual who Entain knew was a registered individual. As a result, Entain failed to close Account 2 at the same time Account 1 was closed, and Entain then provided Complaint 2 with licensed interactive wagering services over a period of more than 3 months [...].
157. In response to the preliminary finding outlined above, Entain submitted that at the relevant time, in September 2023, it exercised reasonable precautions and undertook due diligence. Entain submitted that 'Entain's matching systems did not match the two

accounts because of the substantial discrepancies in information across BetStop, and Ladbrokes and Neds systems'. Entain submitted that if the same circumstances were to arise today, Account 2 would be flagged as a potential match, subjected to manual review and Entain would expect that the account would be closed.

158. The ACMA has considered Entain's submissions and accepts that at the time, in September 2023, [and with relatively limited common information ] across these particular accounts and [...] noting that Account 2 was created long before the commencement of the NSER and the publication of the Register operator's technical specifications, Entain took reasonable precautions and exercise due diligence to avoid contravening subsection 61KA(3).

#### *Conclusion*

159. On the basis that the ACMA considers the exception in subsection 61KA(5) applies, the ACMA has therefore found that Entain did not contravene subsection 61KA(3) by providing licensed interactive wagering services to Complainant 2.

#### **Complainant 3**

##### Did Entain provide licensed interactive wagering services to Complainant 3, a registered individual?

160. Finding 1 established that Entain opened 2 licensed interactive wagering services accounts (Accounts 3 and 4) for Complainant 3 on 25 May 2024, when they were a registered individual.
161. Entain submitted that it provided licensed interactive wagering services to Complainant 3 through Accounts 3 and 4 on 25 May 2024. [...]
162. The ACMA finds that Entain provided interactive wagering services to Complainant 3, after Complainant 3 became a registered individual.

##### Did Entain take reasonable precautions and exercise due diligence to avoid a contravention of subsection 61KA(3) for Complainant 3?

163. Entain submitted that it took reasonable precautions and exercised due diligence, including by checking their details against the NSER and closing the 2 existing accounts Complainant 3 had with Entain when they became a registered individual. The ACMA acknowledges Entain's overarching submissions (canvassed in paragraphs 23– 27 above) which address the general steps Entain took ahead of commencement of the NSER and subsequent process updates.
164. Having considered Entain's submissions and the circumstances of Complainant 3, the ACMA has formed the view that Entain did not take reasonable precautions or exercise due diligence to prevent providing Complainant 3 with licensed interactive wagering services. The interactive wagering services were provided through the 2 new accounts (Accounts 3 and 4) discussed in Finding 1, while they were a registered individual.
165. Consistent with Finding 1, the ACMA considers that reasonable precautions and due diligence in these circumstances would have involved Entain considering all information that it knew about Complainant 3 and taking appropriate action not to provide them with wagering services, after Entain became aware that Complainant 3 was a registered individual.
166. In summary under finding 1, the ACMA considered the following:
- > Entain submitted that the new accounts (Account 3 Ladbrokes and Account 4 Neds) were created in a manner deliberately designed to circumvent Complainant 3's self-exclusion. As noted above under Finding 1, the ACMA

acknowledges that registered individuals may seek to get around their exclusion; however, such motivations do not absolve the obligation on an IWP to not provide wagering services to a registered individual. In such circumstances, the ACMA will take into consideration what reasonable precautions were taken and due diligence exercised by the IWP.

- > The ACMA is of the view that the act of submitting a request to the Register operator under section 61NC does not amount, in and of itself, to reasonable precautions and due diligence.
- > Entain's submissions demonstrate that it had some systems in place to detect that the new accounts (Accounts 3 and 4) were associated and/or linked to Complainant 3's original accounts (Accounts 1 and 2) which had previously been identified as belonging to a registered individual. However, the ACMA considers these were not sufficient to demonstrate that Entain took reasonable precautions and exercised due diligence. The ACMA considers Entain should have had additional processes in place.
- > Choosing not to retain customer data from pre-account opening NSER requests, for potential new accounts, is a business decision that an IWP makes. In making this decision, the IWP should take into account the risks that this decision could have, in particular the risk that this could result in non-compliance with the IGA. Not recording the pre-account opening NSER requests resulted in Entain not identifying attempts by Complainant 3 to open new accounts and enabled new accounts to be opened.
- > In response to the preliminary findings report, Entain submitted that its process of implementing a modest deposit limit [...] and manually reviewing the accounts in question the next day constitutes taking reasonable precautions and due diligence. The ACMA notes the actions taken by Entain, however once it had flagged the 2 new accounts for manual review, Entain allowed Complainant 3 to continue to wager.

167. The ACMA's view is informed by the following similar considerations to those described in Finding 1, including that:

- > Entain had been informed at 16:13 AEST on 25 May 2024 (Request 2) that Complainant 3 was a registered individual – about 5 seconds before Account 3 was opened.
- > Accounts 3 and 4 shared details that were substantially similar to Request 2 that identified Complainant 3 as a registered individual [...]
- > It was both reasonable and practicable for Entain to identify that Accounts 3 and 4 belonged to a registered individual based on the information available to it at the time, particularly in the circumstances where Entain's systems had flagged Complainant 3 as a 'potential BetStop match' at the point of sign up. The ACMA is of the view that the implementation of systems that could link accounts in these circumstances would have been reasonable and proportionate and, along with completion of a manual review before providing wagering services, would have prevented the provision of licensed interactive wagering services through Accounts 3 and 4 after Entain had been advised by the Register operator that Complainant 3 was a registered individual.

168. In this case, the ACMA does not accept that Complainant 3's actions made it otherwise unreasonable or impracticable for Entain to identify that Complainant 3 was a registered individual and for Entain to not provide licensed interactive wagering services to Complainant 3. While the ACMA acknowledges and welcomes Entain's

subsequent system improvements as they may prevent future, similar, breaches, these are actions that Entain took after the alleged breaches of section 61KA. As such, these subsequent actions are not relevant considerations in this investigation.

### *Conclusion*

169. On the basis that the ACMA does not consider the exception in subsection 61KA(5) applies, the ACMA has found that Entain contravened subsection 61KA(3) on 1 occasion by providing licensed interactive wagering services to a registered individual on 25 May 2024.

### **Complainant 4**

#### Did Entain provide licensed interactive wagering services to Complainant 4, a registered individual?

170. Entain submitted that Complainant 4 had 2 existing accounts at the time they became a registered individual, one with Ladbrokes (Account 1) and one with Neds (Account 2), that remained open until 30 October 2024.
171. Finding 1 established that Entain opened 2 additional licensed interactive wagering services accounts for Complainant 4, one on 20 October 2024 and one on 28 October 2024 (Account 3 with Neds, and Account 4 with Ladbrokes, respectively).
172. As noted under Finding 1, the Register operator informed Entain that Complainant 4 was a registered individual at 20:19 AEDT on 20 October 2024. Based on the NSER records, the ACMA is of the view that from 20:19 AEDT on 20 October 2024, Entain had been advised by the Register operator that Complainant 4 was a registered individual.
173. Further, Entain submitted that it 'suspended' the new Neds account (Account 3) the next day (at 13:03 AEDT on 21 October 2024) after Entain's Security (Fraud) team identified [...] the creation of a duplicate account by a customer, having identified that Account 3 belonged to the owner of an existing Neds account, Account 2.
174. Entain submitted that it provided licensed interactive wagering services to Complainant 4 on:
- > 20 and 21 October 2024 through Account 3 [...];
  - > 22 October 2024 through Account 1 [...];
  - > 22 and 24 October 2024 through Account 2 [...]; and
  - > 28 October 2024 through Account 4 [...].
175. The ACMA finds that Entain provided interactive wagering services to Complainant 4, after Complainant 4 became a registered individual.

#### Did Entain take reasonable precautions and exercise due diligence to avoid a contravention of subsection 61KA(3) for Complainant 4?

176. Entain's submission is that it took reasonable precautions and exercised due diligence. The ACMA acknowledges Entain's overarching submissions (canvassed in paragraphs 23 – 27 above) which address the general steps Entain took ahead of commencement of the NSER and subsequent process updates.
177. Entain had been informed at 20:19 AEDT on 20 October 2024 (Request 1) that Complainant 4 was a registered individual. It was at this point that Entain should not have opened new accounts for Complainant 4 and should have linked the 2 existing accounts as now belonging to a registered individual. In not doing this, Entain allowed

Complainant 4 to open duplicate accounts and provided interactive wagering services to Complainant 4, through all 4 accounts, when they were a registered individual.

178. Having considered Entain's submissions and the circumstances of Complainant 4, the ACMA has formed the view that Entain did not take reasonable precautions or exercise due diligence to prevent providing Complainant 4 with licensed interactive wagering services, through the 2 new accounts (Accounts 3 and 4, discussed in Finding 1), and 2 existing accounts (Accounts 1 and 2), while they were a registered individual.

#### Account 4

179. As discussed under Finding 1, Entain recorded a shortened form of Complainant 4's first name for Account 4. Despite this inaccuracy being identified by Entain's identity verification provider and the provider informing Entain of this fact, Entain did not act on this information and proceeded to use the shortened first name to make requests to the Register operator for Account 4. By continuing to use the shortened first name in making requests to the Register operator, Entain failed to adhere to the technical specifications for the NSER as issued by the Register operator.

180. If Entain had taken the reasonable precaution of using Complainant 4's full first name as part of its due diligence to determine whether Complainant 4 was a registered individual, the ACMA is of the view that the Register operator would have advised Entain that the Complainant was a registered individual.

#### Account 3

181. Entain opened Account 3 around 2 minutes after it was informed that Complainant 4 was a registered individual. It was reasonable for Entain to have identified that Account 3 belonged to a registered individual based on the information available to it at the time. As described in Finding 1, Account 3 had substantially [similar] information [...] as used in the attempt to open an account 2 minutes earlier, that had been blocked because the Register operator informed Entain that Complainant 4 was a registered individual.

182. In response to the preliminary findings report, on reasonable precautions taken by Entain in circumstances involving Complainant 4, Entain submitted that:

*Entain has implemented a comprehensive and robust compliance system which it reviews and refines taking into account new information it receives... The fact that Entain actioned the closure of all Complainant 4's accounts upon notification is itself evidence of this [...].*

183. The ACMA notes these general actions taken by Entain however, as outlined above for Account 4, by allowing Complainant 4 to open an account using their shortened first name despite Entain's identity verification provider informing Entain of their full legal name, Entain failed to adhere to the technical specifications when making requests to the NSER, and also reduced Entain's own ability to identify at the point of signing up that Complainant 4 already had an existing Neds account (Account 2). Further, the 'checks' conducted by Entain the following day, on 21 October 2024, were limited to the checks of its own systems and led only to identification that Account 3 is a duplicate of the existing account. Collectively, these failures led to Entain providing wagering services to Complainant 4 whilst they were a registered individual.

184. The ACMA considers that, based on the information available to Entain, it was reasonable to conclude that Account 3 belonged to a registered individual by linking the account to the attempt to open an account at 20:19 AEDT on 20 October 2024, in

addition to identifying that Complainant 4 had existing accounts, before providing them with wagering services across 2 days through Account 3.

#### *Accounts 1 and 2*

185. The NSER allows people experiencing gambling harm to take steps to address those harms by self-excluding. As noted above, it is well documented that people experiencing gambling harm frequently suffer from gambling addiction with its associated behaviours. Given the existing obligations that apply to IWPs around safe gambling practices and harm minimisation, it would be well understood that someone with an addiction may well take the step of self-excluding but subsequently feel unable to control their compulsion and accordingly seek to circumvent their exclusions by opening other accounts.
186. Entain has acknowledged that it is expected that motivated individuals may seek to circumvent their exclusions and its primary role is in protecting vulnerable individuals, that have self-excluded, from circumventing key measures.
187. In these circumstances, there is a reasonable risk that a motivated individual may be associated with multiple accounts, as was the case with Complainant 4.
188. Entain has submitted that an important element of taking reasonable precautions and exercising due diligence is monitoring the ways in which individuals seek to circumvent the registration process.
189. As noted under Finding 1, the ACMA is of the view that the act of submitting a request to the Register operator under section 61NC does not amount, in and of itself, to reasonable precautions and due diligence. Rather, reasonable precautions and due diligence, in these particular circumstances, would have involved Entain undertaking a check of its own records for any other accounts, when it was notified that Complaint 4 was a registered individual at 20:19 AEDT on 20 October 2024.
190. Accounts 1 and 2 included Complainant 4's full first name and shared [substantially similar information] with Account 3.
191. In addition, Accounts 1 and 2 contained the full first name of the Complainant, which Entain knew was the full first name of the Complainant based on information from its identity verification provider.
192. The ACMA considers that the common details between these accounts were sufficient for Entain to reasonably conclude that the 3 accounts belonged to the same individual and to link the accounts. Had Entain exercised due diligence in taking steps to make that link, it would have been able to take reasonable precautions to not provide wagering services through Accounts 1 and 2 after Entain was informed Complainant 4 was a registered individual, knowing that the accounts belonged to the same person.
193. Further, Accounts 1 (Ladbrokes) and 2 (Neds) shared [substantially similar information]. While the 2 accounts shared [substantially similar information], there is no information to suggest that Entain had internal systems or processes that Entain used to establish that accounts across its 2 brands were related accounts. In these circumstances, the ACMA considers that such systems or processes were necessary to avoid contravention of subsection 61KA(3).
194. The ACMA considers Entain had been put on notice that Complainant 4 was a registered individual and in these circumstances, it was a reasonable precaution and exercise of due diligence for Entain to undertake further checks of its own systems for additional information about a customer that Entain had been informed was self-excluded. Entain's checks in this context were limited to internal checks that only

identified Complainant 4 held duplicate accounts, which were carried out only after Complainant 4 was provided wagering services.

195. While Entain submitted that it had processes in place to identify where it should associate or link accounts, Entain did not identify that Account 3 was linked to Accounts 1 and 2 until the day after Account 3 was opened and did not identify that it belonged to the same registered individual.
196. The ACMA is of the view that the implementation of systems that could link accounts in these circumstances would have been reasonable and proportionate and would have prevented the Complainant from continuing to place wagers using Accounts 1 and 2.

### *Conclusion*

197. On the basis that the ACMA does not consider the exception in subsection 61KA(5) applies, the ACMA has found that Entain contravened subsection 61KA(3) on 5 occasions by providing licensed interactive wagering services to a registered individual through 4 accounts on 5 days between 20 and 28 October 2024.

### **Complainant 5**

#### Did Entain provide licensed interactive wagering services to Complainant 5, a registered individual?

198. The NSER records show that Complainant 5 became a registered individual on 31 August 2023 at 08:45 AEST.
199. Submission 1 detailed that Complainant 5 had 2 accounts with Entain. While their Ladbrokes account (**Account 1**) was closed, their Neds account (**Account 2**) remained open and the complainant was able to place wagers using Account 2, after having become a registered individual. The ACMA notes that:
- > Account 1 was closed at the time Complainant 5 became a registered individual. Entain continued to make requests to the Register operator about Account 1 to determine whether Complainant 5 was a registered individual.
  - > Entain submitted that it was informed of Complainant 5's self-exclusion by the Register operator on the morning after they registered, on 1 September 2023 at 06:17 AEST, and Account 1 was permanently closed.
  - > Entain submitted that Account 2 remained open. This is because the information within Account 2 did not sufficiently match Complainant 5's NSER record.
200. Entain said that it provided Complainant 5 with licensed interactive wagering services through Account 2 on 5 November 2024. [...]
201. The ACMA finds that Entain provided interactive wagering services to Complainant 5, after Complainant 5 became a registered individual.

#### Did Entain take reasonable precautions and exercise due diligence to avoid a contravention of subsection 61KA(3) for Complainant 5?

202. Entain's submission is that it took reasonable precautions and exercised due diligence. The ACMA acknowledges Entain's overarching submissions (canvassed in paragraphs 23 – 27 above) which address the general steps Entain took ahead of commencement of the NSER and subsequent process updates.
203. Having considered Entain's submissions and the circumstances of Complainant 5, the ACMA has formed the view that Entain did not take reasonable precautions or

exercise due diligence to prevent providing Complainant 5 with licensed interactive wagering services while they were a registered individual.

204. Entain submitted in response to the preliminary findings that:

*... at the relevant time it took reasonable precautions and exercised due diligence to avoid contravening the relevant IGA provisions with Complainant 5, for the same reasons outlined ... for Complainant 1.*

205. As per the discussion for Complaint 1 above, the relevant considerations included the following.

*The early days of the NSER*

206. Entain submitted that the reasonable precautions it took and the due diligence exercised should be considered in the context of the alleged contraventions occurring shortly after the NSER launched.

207. The ACMA does not accept Entain's submission that due to the fact some of the alleged contraventions of other provisions of the IGA occurred in August 2023 is a relevant contextual factor when the ACMA considers if Entain took reasonable precautions and exercised due diligence to avoid contravening subsection 61KA(3) with respect to Complainant 5. While Account 1 was closed in September 2023, the relevant wagering using Account 2 occurred in November 2024 more than 12 months after the launch of the NSER.

*NSER requests*

208. Entain submitted that Account 2 had [a range of different information] compared to Account 1, and as a result, no match was triggered on the Register when checking the Complainant's details for Account 2.

209. Entain submitted it was reasonable for it to rely on the register as 'the source of truth for registered individuals' and by doing so it demonstrated reasonable precautions and due diligence. The ACMA is of the view that the act of submitting a request to the Register operator under section 61NC does not amount, in and of itself, to reasonable precautions and due diligence. Rather, reasonable precautions and due diligence would have involved Entain considering all the available information about Complainant 5 including in relation to accounts it held across both Entain brands.

210. The ACMA considers it would be a reasonable precaution for an entity the size of Entain, that operates 2 distinct brands, upon becoming aware that a customer was registered with the NSER, to check its system for other accounts that might match the registered individual, particularly given the ACMA had alerted Entain about consumer complaints, that all appeared to relate to registered individuals that had multiple accounts with Entain, from as early as 5 December 2023 (as detailed in paragraph 36 above).

211. This view is informed by the following:

- > Entain was informed by the Register operator that Complainant 5 was a registered individual on 1 September 2023. As a result, Account 1 was closed, however, Account 2 remained open.
- > The 2 accounts shared [substantially similar information].
- > Further, Submission 1 indicated that Complainant 5 also used the same bank account details to facilitate payments to and from Entain across both Accounts 1 and 2.

- > Further, in the preliminary investigation report, the ACMA noted that the same bank account details were recorded against both Accounts 1 and 2 to facilitate payments to and from Complainant 5 and Entain. Entain had the Complainant's banking and transaction records on file, as evidenced by the payment details provided to the ACMA in response to the Notice.
- > Despite these linkages across the 2 accounts, Entain did not identify that Accounts 1 and 2 belonged to the same individual and link the accounts.
- > In response to the ACMA preliminary findings, Entain submitted, in Submission 6, that it 'disagrees with the ACMA's assertion that it is reasonable for Entain to use bank account details to match and update customer's details. Accordingly, Entain's failure to use bank account details as part of its 'matching' process did not constitute a failure to take reasonable precautions.'
- > In making this submission, Entain noted bank account details are not a prescribed data point for the purposes of the NSER. Entain also referred to 'practical challenges with using bank account details to facilitate account matching', including that bank account information:
  - is only collected by Entain when an individual elects to provide the information
  - is provided by the customer in a free text field which is subjected to manual input errors and shortened names
  - can be opened in joint names making the data set imperfect.
- > The ACMA agrees that bank account details are not a prescribed data matching point for the purposes of matching with the NSER. However, the ACMA considers that in circumstances where Entain:
  - became aware that a customer was a registered individual
  - was already aware that customers could hold more than 1 account across its brands

it would be evidence of reasonable precautions and due diligence to check its internal records, including bank account details where held, to see if that registered individual held other Entain accounts.

- > Accordingly, the ACMA considers that where Entain had bank account details for a registered individual, it could be considered reasonable for it to undertake a data match across its records to consider if there were other wagering accounts with the same bank details. If this was the case, then it could be considered reasonable for Entain to undertake further checks to ascertain if the same bank account was being used by a registered individual for multiple betting accounts.
- > In this respect while banking details may not be a key data set, they could, nonetheless, be one of multiple data points used by Entain to run internal checks within its own database as a reasonable precaution to avoid providing wagering services to a registered individual that held multiple accounts across its brands.
- > While Entain submitted that it had processes in place to identify where it should associate or link accounts, Entain did not identify and link that Accounts 1 and 2 belonged to the same individual who Entain had been advised by the Register operator was a registered individual. As a result, Entain failed to close Account 2, which meant that the complainant was able to return to the account, more than 12 months after becoming a registered individual, and wager. This resulted in Entain providing Complainant 5 with licenced interactive wagering services, via Account 2, after Entain was informed Complainant 5 was a registered individual. There is

no evidence to suggest that at any time during the period between the closing of Account 1 and the closing of Account 2 on 5 November 2025 (more than 12 months after closing Account 1) did Entain take any steps to identify that these accounts were associated with the same individual.

- > The ACMA considers that the common details between Accounts 1 and 2 were sufficient for Entain to reasonably conclude that the 2 accounts belonged to the same individual and link the two accounts. Had Entain exercised due diligence in taking steps to make that link, it would have been able to take reasonable precautions to not provide wagering services through Account 2 after Entain was informed Complainant 5 was a registered individual, knowing that both accounts belonged to the same person.

212. The ACMA notes Entain's submission that should the circumstances of Complaint 5 arise now, its improved systems and processes would mean that Account 2 would have been immediately 'flagged' and subjected to manual review, during which time the account would have been suspended, and likely closed following that review.

#### *Conclusion*

213. On the basis that the ACMA does not consider the exception in subsection 61KA(5) applies, the ACMA has found that Entain contravened subsection 61KA(3) on 1 occasion by providing licensed interactive wagering services to a registered individual on 5 November 2024.

#### **Complainant 6**

Did Entain provide licensed interactive wagering services to Complainant 6, a registered individual?

214. The NSER records show that Complainant 6 became a registered individual on 29 September 2024 at 22:34 AEST. Submission 1 said that Entain provided Complainant 6 with wagering services by allowing them to place [...] bets between 22:35 AEST on 29 September 2024 and 03:47 AEST on 30 September 2024. The last bet was placed more than 5 hours after Complainant 6 became a registered individual.

215. The ACMA finds that Entain provided interactive wagering services to Complainant 6, after Complainant 6 became a registered individual.

Did Entain take reasonable precautions and exercise due diligence to avoid a contravention of subsection 61KA(3) for Complainant 6?

216. Entain's submission is that it took reasonable precautions and exercised due diligence to avoid a contravention. The ACMA acknowledges Entain's overarching submissions (canvassed in paragraphs 23 – 27 above) which address the general steps Entain took ahead of commencement of the NSER and subsequent process updates.

217. The ACMA has also considered the specific circumstances of Complainant 6.

218. In Submission 1, Entain submitted that it took reasonable precautions and exercised due diligence to avoid contravening subsection 61KA(3) in relation to Complainant 6, including by checking their details against the NSER.

219. In Submission 6, Entain further submitted that it took reasonable precautions and exercised due diligence by conducting 'Active Account Washing on a 6-hour basis'. Entain referred to its 'account washing cadence' practices, and argued that it is 'unreasonable' to expect hourly account washing to be conducted on active accounts

and referred to 'the ACMA's initial guidance on this matter, being a compliance update published by the ACMA in September 2023 (**September 2023 Compliance update**).<sup>22</sup>

220. The ACMA referred in the September 2023 Compliance update to 'Frequency of queries to the self-exclusion system', in particular highlighting:

*From our compliance discussions and review of system activity, it is apparent that some providers are relying on querying the register:*

- *For new accounts: on account sign-up.*
- *For existing customers: periodically of the entire customer database.*

221. The ACMA used the September 2023 Compliance update to caution IWPs to not just rely on periodic 'washes' of their customer database and to check the NSER in a more tailored way noting, relevantly,

*Individuals are added to the self-exclusion register almost immediately and this is discoverable to wagering providers if they query the register.*

*...*

*Appropriate arrangements must be in place to prevent self-excluded customers from placing a bet or being sent marketing material. This may include querying the register when a customer logs in / places a bet or before marketing material is sent.*

222. This advice highlighted the importance of regularly checking the NSER for customers given a person can exclude at any time, with immediate effect. It was released by the ACMA following early observations of NSER operations.

223. The ACMA acknowledges that it did not provide prescriptive advice in the September 2023 Compliance update about how frequently an IWP should check the NSER. The ACMA considers that the circumstances for each customer and each IWP may vary. This flexibility was canvassed in the initial guidance provided to industry prior to the launch of the NSER in the May 2022 Guidelines<sup>23</sup>:

*Providers could check the Register before each bet is taken and/or before direct marketing occurs. However, a provider may consider this frequency of checking is not warranted. This may depend on how the provider's customers interact with them and the controls and assurances within its business systems.*

*If a customer is placing bets sequentially, the provider may determine it will check Register when the first bet is placed or when the customer logs in to their account instead of checking the register before each bet is accepted.*

*In these circumstances, we would have a minimum expectation that a provider will have customer account controls that require customers to log back in at reasonably short intervals and/or establish a new session so that a new check of the Register can occur.*

*How 'reasonable' an interval is will depend on how likely it is that a customer may have been able to self-exclude while logged on.*

224. Entain submitted that its 'washing cadence' accorded with the ACMA's published guidance and when 'paired with Entain's additional compliance measures', it 'was reflective of it having taken reasonable precautions'. Entain submitted that it:

<sup>22</sup> [Compliance updates | ACMA](#), Issued 22 September 2023

<sup>23</sup> The current version of the May Guidelines are published on the ACMA's website here: <https://www.acma.gov.au/guidelines-reasonable-precautions-and-due-diligence>. The ACMA has checked the version that was originally published and can confirm it includes the extracts that are provided in this investigation report.

*... was a carefully considered and measured approach designed to address the risks of customers continuing to wager in the immediate aftermath of having registered with BetStop, and balancing this against the economic costs of undertaking the washes.*

225. The ACMA notes Complainant 6 placed the following sequential wagers:
- > 22:34 AEST 29 September 2024, the complainant registered with the NSER
  - > 22:35 AEST 29 September 2024, bet placed
  - > 22:39 AEST 29 September 2024, bet placed
  - > 3:39 AEST 30 September 2024, bet placed
  - > 3:47 AEST 30 September 2024, bet placed
  - > 04:16 AEST 30 September 2024, Entain checked the NSER.
226. The ACMA does not accept that a process of checking the NSER every 6 hours for a customer that is actively betting accorded with the ACMA's guidance, or is indicative of reasonable precautions and due diligence in the context of the obligation under section 61KA to not provide licensed interactive wagering services to registered individuals.
227. While Entain submitted that more frequent checking was unreasonable, the ACMA notes that Entain has submitted that it has now implemented 'hourly active account washing'.

*Bets placed on 29 September 2024*

228. The ACMA has considered Entain's submissions and formed the view that Entain took reasonable precautions and exercise due diligence to avoid contravening subsection 61KA(3) on 29 September 2024. This view is informed by the following:
- > Entain submitted that it made a request to the Register operator at 22:20 AEST on 29 September 2024, 14 minutes before Complainant 6 registered.
  - > The bets were placed at 22:35 AEST and 22:39 AEST, mere minutes after Complainant 6 registered at 22:34 AEST.
  - > Entain had taken steps to check the exclusion status of Complainant 6 at a reasonable period prior to providing Complainant 6 with wagering services.

*Bets placed on 30 September 2024*

229. The ACMA has considered Entain's submissions and formed the view that Entain failed to take reasonable precautions and exercise due diligence to prevent Complainant 6 from accessing wagering services on 30 September 2024 while they were a registered individual. This view is informed by the following:
- > Entain submitted that it made a request to the Register operator at 22:20 AEST on 29 September 2024, 14 minutes before Complainant 6 registered.
  - > The next request was at 04:16 AEST on 30 September 2024, nearly 6 hours after their registration commenced. In this period, Complainant 6 placed bets at 3:39 and 3:47 AEST on 30 September 2024, about 5 hours after they registered.
  - > As noted above, Entain's policy of submitting requests to the Register operator at the time was every 6 hours whilst a customer was placing bets. Entain submitted that it had determined 6 hours to be a reasonable period over which to undertake 'Active Account Washes'.

- > An individual, including any customer of Entain, may register at any time. This means that Entain would not have been able to rely with confidence on out-of-date information about a customer's registration status to meet its obligation to not provide wagering services to a registered individual. Checking the NSER only once every 6-hours while someone is actively betting runs the risk of providing licensed interactive wagering services during this period in contravention of subsection 61KA(3).
- > As noted in paragraphs 15 to 18, the Register operator provides a system that is quick and efficient, providing that IWPs can check the NSER regularly to ensure that they can comply with their obligations. The ACMA does not accept that checking the NSER every 6 hours represents Entain taking reasonable precautions and exercising due diligence, and that it was both reasonable and practicable to make requests to the Register operator on a more frequent basis to comply with subsection 61KA(3) in these circumstances.

### *Conclusion*

230. On the basis that the ACMA does not consider the exception in subsection 61KA(5) applies, the ACMA has found that Entain contravened subsection 61KA(3) on 1 occasion by providing licensed interactive wagering services to a registered individual on 30 September 2024.

### ***Complainant 7***

#### Did Entain provide licensed interactive wagering services to Complainant 7, a registered individual?

231. The NSER records show that Complainant 7 became a registered individual on 28 July 2024 at 19:07 AEST. Entain submitted it identified Complainant 7 as a registered individual on 29 July 2024 at 04:15 AEST.
232. Submission 1 detailed that Entain provided Complainant 7 with wagering services by allowing them to place [...] [bets on 28 July 2024 at 19:10 and 19:11 AEST, 3 and 4 minutes respectively after becoming a registered individual.

#### Did Entain take reasonable precautions and exercise due diligence to avoid a contravention of subsection 61KA(3) for Complainant 7?

233. Entain has submitted that it took reasonable precautions and exercised due diligence to avoid contravening subsection 61KA(3) in relation to Complainant 7, including by checking their details against the NSER.
234. The ACMA has considered Entain's submission and has formed the view that Entain took reasonable precautions and exercised due diligence to avoid contravening subsection 61KA(3) on 28 July 2024. This view is informed by the following:
- > Entain submitted that it made a request to the Register operator at 18:15 AEST, less than 1 hour prior to Complainant 7 becoming a registered individual.
  - > The bets were placed at 19:10 and 19:11 AEST, mere minutes after the individual excluded at 19:07 AEST.
  - > Entain had taken steps to check the exclusion status of Complainant 7 at a reasonable period prior to providing Complainant 7 with wagering services in these circumstances.

235. On the basis that the ACMA considers the exception in subsection 61KA(5) applies, the ACMA has therefore found that Entain did not contravene subsection 61KA(3) by providing licensed interactive wagering services to Complainant 7.

**Sample of 50 customers**

236. Based on the information provided in Submission 1, the ACMA found no evidence that any customer within this sample was provided with wagering services in contravention of section 61KA.

**Summary**

237. The ACMA has formed the view that Entain contravened subsection 61KA(3) on 59 occasions by providing licensed interactive wagering services to registered individuals on 59 days between 5 September 2023 and 5 November 2024.

238. Details of the contraventions are listed in **Attachment C**.

**Finding 3 – Breach: Failure to close a licensed interactive wagering service account of a registered individual – no outstanding bets (subsection 61MB(5))**

Regulatory obligation

239. Under subsection 61MB(5) an IWP must, as soon as practicable after an individual with no outstanding or pending bets becomes a registered individual:

- > close the individual's account;<sup>24</sup> and
- > pay the individual:
  - the credit balance of the individual's account (if any);<sup>25</sup> or
  - the credit balance of the individual's account remaining after the deduction of any debts owed to the IWP immediately prior to the individual becoming a registered individual (if any).<sup>26</sup>

240. What is regarded as 'as soon as practicable' may vary on a case-by-case basis depending on relevant circumstances.

241. Subsection 61MB(7) provides that subsection 61MB(5) does not apply if the licensed interactive wagering service provider took reasonable precautions, and exercised due diligence, to avoid the contravention.

242. Subsection 64B(1) provides that each civil penalty provision of the IGA is enforceable under Part 4 of the *Regulatory Powers (Standards Provisions) Act 2014 (RPA)*, including subsections 61MB(5) and 61MC(5).

243. Subsection 93(1) in Part 4 of the RPA provides that if an act or thing is required under a civil penalty provision to be done within a particular period or before a particular time, then the obligation to do that act or thing continues until the act or thing is done (even if the period has expired or the time has passed). Subsection 93(2) of the RPA provides that a person who contravenes a civil penalty provision that requires an act or thing to be done within a particular period or before a particular time commits a separate contravention of that provision in respect of each day during which the contravention occurs.

<sup>24</sup> See subparagraphs 61MB(5)(c)(i) & (d)(i), with the former applicable where the individual did not owe any debts to the IWP immediately prior to becoming a registered individual and the latter applicable where such debts were owed to the IWP.

<sup>25</sup> See subparagraph 61MB(5)(c)(ii).

<sup>26</sup> See subparagraph 61MB(5)(d)(ii).

244. Accordingly, an IWP that contravenes subsection 61MB(5) by failing to close a wagering service account of a registered individual that has no outstanding bets and failing to pay any credit balance as soon as practicable after the individual becomes a registered individual will be committing a separate contravention of that provision for each day that it fails to close the account after the expiration of the 'as soon as practicable' period.

Did individuals hold licensed interactive wagering service accounts before becoming registered individuals?

245. The ACMA's analysis of Submission 1 confirmed that the 57 customers within the scope of this investigation had 80 Entain licensed interactive wagering services accounts between them at the time they became registered individuals.

Did individuals have any outstanding or pending bets attributable to the provision of a licensed interactive wagering service by the provider?

246. Of the 80 licensed interactive wagering service accounts, Submissions 2 and 5 confirmed that:

- > 3 accounts had outstanding or pending bets immediately before the relevant individuals became registered individuals; and
- > the remaining 77 accounts had no outstanding or pending bets.

247. The 3 accounts with outstanding or pending bets are considered in Finding 4 below.

Did Entain close the accounts and pay any credit balance as soon as practicable after the individuals became registered individuals?

*What is considered to be "as soon as practicable" for Entain to close accounts after an individual becomes a registered individual?*

248. Submission 1 stated that accounts are 'automatically' closed by Entain when a customer is identified as a registered individual. The ACMA reviewed the time taken for Entain to close accounts after customers are identified as registered individuals. This review confirmed that account closure is automatic as submitted by Entain and occurs immediately when Entain is informed by the Register operator that a relevant customer is a registered individual. For example, Account 1 of Complainant 1 was closed at the same time Entain submitted that it became aware that Complainant 1 was a registered individual.<sup>27</sup>

249. Further, Entain submitted that its processes were to regularly check customers against the NSER, including checking all open accounts (including inactive or dormant accounts) against the NSER 3 times a day, such that it could identify registered individuals in a timely manner and subsequently close accounts to comply with its obligations.

250. Based on the evidence Entain provided in its submissions, the ACMA's view is that it was practicable for Entain to close all accounts held by a registered individual within 24 hours of Entain identifying a person as self-excluded. This would include any required steps to link accounts and subsequently close additional accounts.

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<sup>27</sup> Entain recorded that it identified Complainant 1 as a registered individual at 6:19 on 26 August 2023. Entain submitted that Account 1 of Complainant 1 was closed at 6:19 on 26 August 2023.

*Were registered individual's accounts closed "as soon as practicable" after they became a registered individual?*

### **Complainants 6, 7 and the sample of 50 customers**

251. The ACMA found that Entain closed the 70 accounts of these 52 customers within 24 hours of the relevant individuals becoming registered individuals. The ACMA's view is that Entain closed these 70 accounts as soon as practicable.

### **Complainants 1 to 5**

252. Of the 7 accounts belonging to Complainants 1 to 5 that were open at the time each person became a registered individual:

- > 3 accounts were closed within 24 hours of the relevant individuals becoming registered individuals. The ACMA's view is that Entain closed these accounts as soon as practicable.
- > As set out under Finding 2, the ACMA found no contravention in the specific set of circumstances that applied to Complainant 2, at the time. The ACMA, therefore, has not considered Complaint 2 further under this provision.
- > 3 accounts, belonging to Complainants 4 and 5, were closed between 9 to 432 days after the relevant individual became a registered individual.
  - The 2 accounts linked to Complainants 4 are considered below.
  - One account linked to Complainant 5 is considered below.

### **Further consideration of Complainants 4 and 5**

#### **Complainant 4**

253. Finding 2 set out that Complainant 4 had 2 accounts (Accounts 1 and 2) with Entain at the time they became a registered individual on 24 August 2024. Submission 1 said that Entain made requests to the Register operator under section 61NC for these 2 accounts, including after Complainant 4 registered with the NSER from 24 August 2024. The Register operator did not identify Complainant 4 as a registered individual. This is because the information that Entain had about Complainant 4 did not sufficiently match Complainant 4's NSER record. Finding 1 set out that Entain was informed that Complainant 4 was a registered individual on 20 October 2024 when Complainant 4 attempted to open a new wagering account (Request 1).

254. The ACMA's view is that:

- > It was reasonable for Entain to identify that Accounts 1 and 2 belonged to a registered individual when Entain was informed Complainant 4 was a registered individual on 20 October 2024, through linking Accounts 1 and 2 to the attempt to open a new account that was prevented when Entain was informed that Complainant 4 was a registered individual (Request 1).
- > This is because Accounts 1 and 2 shared [substantially similar information] with the request to the Register operator that identified Complainant 4 as a registered individual (Request 1). In addition, Accounts 1 and 2 contained the full first name of Complainant 4, which Entain knew was the full first name of Complainant based 4 on information from its identity verification provider.
- > The implementation of systems that could link accounts in these circumstances would have been reasonable and proportionate and would have meant Entain closed Accounts 1 and 2 as soon as practicable after being notified Complainant 4 was a registered individual.

- > It was practicable for Entain to close these accounts within 24 hours of the response from the Register Operator on 20 October 2024.

255. Entain submitted that these accounts were not closed until 30 October 2024.

#### *Complainant 5*

256. Finding 2 set out the ACMA's view that Entain was advised that Complainant 5 was a registered individual on 1 September 2023 in connection with Account 1. At this time the Complainant held 2 accounts (Ladbrokes, with Account 1, and Neds, with Account 2).

257. When Complainant 5 became a registered individual, Entain updated Account 1 to reflect that Complainant 5 was registered with the NSER. However, Account 2 remained open. While Entain submitted that it continued to make requests to the Register operator about Account 2, the ACMA's view is that, from 1 September 2023, it was reasonable for Entain to identify that Account 1 and 2 were associated with the same individual, as the wagering accounts shared [substantially similar information that] was linked to both wagering accounts. Account 2 was subsequently closed on 5 November 2024, 431 days after Complainant 5 became a registered individual. The ACMA's view is that it was:

- > reasonable for Entain to identify that Account 2 belonged to a registered individual at the time Entain was informed Complainant 5 was a registered individual through linking the 2 accounts given the amount of information it held about the Complainant; and
- > practicable for Entain to close this account within 24 hours of the response from the Register operator on 1 September 2023.

258. As outlined in Finding 2, the ACMA has considered Entain's further submissions about the circumstances of Complainant 5 and does not accept that, in the circumstances, it was unreasonable for Entain to have identified that Account 1 (Ladbrokes) and Account 2 (Neds) belonged to the same customer at the time it first became aware the Complainant 5 was a registered individual.

#### Did Entain take reasonable precautions and exercise due diligence to avoid a contravention of subsection 61MB(5)?

259. Entain's submission is that it took reasonable precautions and exercised due diligence. The ACMA acknowledges Entain's overarching submissions, as detailed above in paragraphs 23 – 27, which address the general steps Entain took ahead of commencement of the NSER and subsequent process updates. The ACMA does not consider that, in these circumstances, Entain took reasonable precautions and exercised due diligence to avoid contravening subsection 61MB(5).

#### *Conclusion*

260. As noted in paragraph 244, a separate contravention occurs each day where an IWP fails to close a customer's wagering account beyond when it was reasonably practicable to close the account.

261. On the basis that the ACMA does not consider the exception in subsection 61MB(7) applies, the ACMA's view is that Entain did not close 3 interactive wagering service accounts as soon as practicable after those individuals became registered individuals. The obligation to close those accounts was an ongoing one, pursuant to subsection 93(1) of the RPA. Accordingly, it is the ACMA's view that this conduct constitutes 449 breaches of subsection 61MB(5) in relation to the 3 licensed interactive wagering service accounts where Entain did not close the accounts as soon as practicable after those individuals became registered individuals.

262. Details of these contraventions can be found at **Attachment D**.

**Finding 4 – No Breach: Failure to close a licensed interactive wagering service account of a registered individual – outstanding bets (subsection 61MC(5))**

Regulatory Obligation

263. The requirements under section 61MC are materially the same as section 61MB as described in paragraphs 239 to 244, except this provision applies where a customer had outstanding or pending bets. Under this provision, an IWP must close the account as soon as practicable after any outstanding or pending bets are finalised.

Did individuals have any outstanding or pending bets attributable to the provision of a licenced interactive wagering service by the provider?

264. Finding 3 established that 3 accounts had outstanding or pending bets at the time the relevant individuals became registered individuals.

Did Entain fail to close the accounts of registered individuals with outstanding bets?

265. The ACMA considered the time taken to close each account after the outstanding or pending bet was resolved:

- > For two accounts, the outstanding or pending bet was resolved and the account closed within 24 hours of the individual becoming a registered individual or within 24 hours of outstanding or pending bet resolving. The ACMA's view is that Entain closed these accounts as soon as practicable.
- > For one account, the outstanding or pending bet remained unresolved when Entain responded to the Notice.

266. The ACMA is of the view that Entain did not contravene subsection 61MC(5).

**Finding 5 – No Breach: Regulated electronic message must not be sent to an electronic address of a registered individual – recklessness of provider (subsection 61LA(4))**

Regulatory obligation

267. Subsection 61LA(4) of the IGA provides that an IWP must not send, or cause to be sent, a regulated electronic message to an electronic address if:

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

268. In Submission 1, Entain provided details of the 235 electronic messages it sent during the relevant period within the scope of the investigation,<sup>28</sup> including the date, time and content of each message. The breakdown of these messages included:

- > 52 push notifications;
- > 116 emails; and
- > 67 SMS messages.

*Are the messages electronic messages?*

269. Subsection 61GE(1) of the IGA defines an electronic message as a message sent:

- (a) using:

<sup>28</sup> Electronic messages to Complainants 1, 2 and 3 were within the scope of the investigation.

- (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.

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

### *SMS and email messages*

270. SMS messages are messages sent using a listed carriage service or internet carriage service to a telephone number in connection with a telephone account. The ACMA is therefore of the view that the 67 SMS messages that were sent by Entain are electronic messages under subparagraphs 61GE(1)(a)(i) and (b)(iii) or subparagraphs 61GE(1)(a)(ii) and (b)(iii).

271. Email messages are messages sent using an internet carriage service to an email address in connection with an email account. The ACMA is therefore of the view that the 116 email messages that were sent by Entain are electronic messages under subparagraphs 61GE(1)(a)(i) and (b)(i).

### *Push notifications*

272. Push notifications are a type of message sent to a software application (app) that has been downloaded to a device.

273. For electronic messages sent via the Neds app to Complainant 1, Entain provided information including the electronic address to which the message was sent (being a push token) and a copy of the content of its message. Entain submitted that the push notifications are sent through its centralised digital marketing system.

274. The ACMA is of the view that the 52 push notifications are electronic messages as:

- > the messages are sent using an internet carriage service
- > the messages are sent to an electronic address (the addresses provided by Entain in Submission 1), being a push token issued by Apple or Google for the purposes of Apple and Google facilitating the transmission of push notifications to a user's device. These push tokens are in connection with an Apple or Google account (dependent on the type of device being used by the end-user), being a similar account to an email, instant messaging or telephone account as such accounts, amongst other purposes, provide that a user can receive electronic messages to their electronic address.

275. The ACMA is therefore of the view that the 52 push notifications that were sent by Entain are electronic messages under subparagraphs 61GE(1)(a)(i) and (b)(iv).

### Were the messages regulated electronic messages?

276. A regulated electronic message is defined, in section 61GF. Relevantly, subsection 61GF(1) provides that:

- (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.

277. In Submissions 1 and 3, Entain provided the details and content of each message sent to Complainants 1, 2 and 3.

278. Entain submitted that the purposes of the electronic messages were variously 'marketing', 'admin' and 'account management'.

279. The ACMA has reviewed the content of these electronic messages and formed the following views.

#### *Email messages*

280. Entain described the purpose of 100 of the 116 emails to be marketing. The ACMA agrees with this assessment as the purpose or one of the purposes was to promote or advertise licensed interactive wagering services. Of the remaining 16 emails, 14 are referred to below:

- > 11 emails were activity statements, required to be provided monthly by an IWP. Based on the content of these messages, the ACMA is of the view that these messages were not regulated electronic messages.
- > 1 email was from the safer gambling team advising of responsible gambling options. Based on the content of these messages, the ACMA is of the view that this message was not a regulated electronic message.
- > 2 emails were to confirm that the recipient had commenced a temporary exclusion with Entain. Based on the content of these messages, the ACMA is of the view that these messages are not regulated electronic messages.

281. The ACMA is of the view that these 14 emails were not regulated electronic messages.

282. The remaining 2 emails were to inform a customer that their account had been opened and included links prompting a customer to log in to their account and start wagering (welcome emails). Based on the content of these messages, the ACMA considers these messages are regulated electronic messages as one of the purposes was to promote or advertise licensed interactive wagering services.

283. In response to the preliminary findings, Entain submitted that the two welcome emails 'were not sent for any commercial purpose' and further that:

*...each Welcome Email displayed the Complainant's username with underlying hyperlinks to the Ladbrokes and Neds login pages – however such hyperlinks themselves do not give the overall message any commercial purpose.*

*Entain submits that the ACMA has, incorrectly in this instance, focused its analysis on*

*paragraph 61GF(1)(c). Instead, s 61GF(1) requires an assessment of **each of** paragraphs 61GF(1)(a)-(c) in order to determine whether one of the purposes of the message has the required commercial purpose identified in paragraphs 61GF(1)(d)-(f). There is no intent on the face of the legislation that sub-section 61GF(1)(c) be given more weight than sub-sections 61GF(1)(a) or (b).*

*Considered holistically, Entain submits that the purpose of the Welcome Emails was not to promote or advertise licensed interactive wagering services, or otherwise offer to provide these services, but instead to provide the Complainant with important administrative and support information.*

284. The ACMA notes that the IGA does not use the term ‘commercial’ in the definition of a regulated electronic message. Rather, in accordance with section 61GF, consideration as to whether a message is a regulated electronic message has regard to whether the purpose, or **one of the purposes**, of the message is to:

- > offer to provide licensed interactive wagering services; or
- > to advertise or promote licensed interactive wagering services; or
- > to advertise or promote a provider, or prospective provider, of licensed interactive wagering services.

285. To assess this, the ACMA has had regard to each consideration but the weight given to each may vary on a case-by-case basis. The ACMA had regard to:

- > the content of the message – being information about a newly created licensed interactive wagering service account, including a username for the account;
- > the way in which the message is presented – including prominent branding of Ladbrokes and Neds (each of which are betting businesses operated by an IWP); and
- > the content that can be accessed – including a link to the log-in page for the Ladbrokes and Neds websites.

286. While the ACMA acknowledges Entain’s submission that ‘a’ purpose of the message was administrative in nature, it considers that another purpose was to promote an offer to provide licenced interactive wagering services. The ACMA maintains that an administrative email can have more than one purpose, such as to advertise or promote, and offer, licenced interactive wagering services. This was the case in this instance given that one of the purposes was to promote or advertise licensed interactive wagering services available from Ladbrokes or Neds, accessible through the newly created account.

287. Therefore, the ACMA is of the view that the remaining 2 emails were regulated electronic messages. Accordingly, it considers that a total of 102 emails sent by Entain were regulated electronic messages.

#### *SMS messages*

288. Entain described the purpose of the 67 SMS messages it sent to be ‘account management’. The ACMA’s review of the content of these messages shows that these messages variously included promotions and correspondence with an Entain employee who the ACMA understands to be a ‘VIP manager’. Some of the messages between the VIP manager and Complainant 2 include discussions about various offers and incentives. For example:

- i. ‘Just extended your current offer for another week’
- ii. ‘Probably can match it 50%’.

289. The ACMA is of the view that 40 of the 67 SMS messages are regulated electronic messages as the purpose, or one of the purposes, was to promote or advertise licensed interactive wagering services. A majority of the remaining messages found not to be regulated electronic messages were automated messages advising that the VIP manager was not available at the time.

#### *Push Notifications*

290. Entain described the purpose of 52 push notifications to be marketing. The ACMA agrees with this assessment as the purpose, or one of the purposes, was to promote or advertise licensed interactive wagering services.

291. Entain further submitted that, before the publication of an ACMA investigation in May 2025 that made findings on push notifications, Entain was of the belief that push notifications did not constitute electronic messages. Entain stated that it was unaware of the 'ACMA's new position'. The ACMA does not accept that this was a new position by the ACMA. The ACMA published guidance to the industry on the marketing prohibition in the IGA that included explicit reference to push notifications on 29 November 2023.<sup>29</sup> Entain has acknowledged that it has now updated its processes and procedures to ensure that push notifications satisfy the requirements of section 25 of the Register Rules.

#### *Summary*

292. The ACMA is of the view that 194 of the messages sent by Entain are regulated electronic messages (102 emails, 40 SMS messages, 52 push notifications).

#### Did Entain send, or cause to be sent, the regulated electronic messages?

293. Entain submitted that it sent each of the messages. Copies of the electronic messages provided by Entain evidenced that the sender of the electronic messages was Entain through one of its businesses, Ladbrokes and/or Neds, and the content of the messages includes references and imagery of Ladbrokes and Neds. On this basis, it is the ACMA's view that Entain sent, or caused to be sent, the regulated electronic messages.

#### Were the regulated electronic messages sent to electronic addresses of registered individuals?

294. Submissions 1 and 3 provided information about electronic messages sent within the scope of the investigations, including the information about the customers to which the messages were sent, including their electronic addresses.

295. The ACMA has cross referenced this customer information with the NSER entries of the complainants. The ACMA then investigated the date and time each complainant became a registered individual to determine if the messages were sent to the complainants when they were registered individuals.

296. Through this information, the ACMA considers that 194 regulated electronic messages were sent by Entain to electronic addresses that belonged to, were related to, or were associated with Complainants 1, 2 and 3 who were registered individuals at the time the respective messages were sent.

297. The ACMA's finding is that the electronic addresses were electronic addresses of registered individuals, because they were either:

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<sup>29</sup><https://theacma.createsend.com/campaigns/reports/viewCampaign.aspx?d=d&c=FD7B03C7E457100A&ID=CA78A3A37340800D2540EF23F30FEDED&temp=False&tx=0&source=Report>, published on 29 November 2023.

- > listed in an individual's NSER record; and/or
- > recorded as an electronic address of the customers by Entain.

Was Entain reckless to the fact that the electronic addresses belonged to registered individuals?

298. Subsection 61LA(4) prohibits IWPs from sending, or causing to be sent, regulated electronic messages where the IWP is reckless to the fact that the electronic address is an electronic address of the registered individual.
299. Subsection 61LA(5) sets out the relevant test for recklessness, where, for the purposes of subsection 61LA(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.

*Complainant 1*

300. As set out in Finding 2, Entain first became aware that Complainant 1 was a registered individual on 26 August 2023. An account sharing [substantially similar information] remained open and was eligible to receive marketing. Entain submitted that it sent 86 regulated electronic messages to Complainant 1 between 26 August 2023 and 25 July 2024.

*Complainant 2*

301. Entain first became aware that Complainant 2 was a registered individual on 14 September 2023 when Entain was advised by the Register operator that Account 1 belonged to a registered individual. Account 2, which shared [substantially similar information] as Account 1, remained open and eligible to receive marketing. Entain submitted that it sent 106 regulated electronic messages to Complainant 2 between 14 September 2023 and 16 February 2024.

*Complainant 3*

302. Entain first became aware that Complainant 3 was a registered individual on 22 August 2023 and this was confirmed in March 2024, when the complainant made 2 failed attempts to open new accounts. Despite this, Entain allowed Complainant 3 to open 2 new accounts on 25 May 2024, using substantially similar information to the failed attempt [...]. Entain submitted that it sent 2 regulated electronic messages to Complainant 3 on 25 May 2024.
303. The NSER was established to provide a one-stop process for consumers to exclude themselves from all IWPs. Consumers registered with the service have a reasonable expectation that by registering, IWPs will comply with their legal obligations to not open wagering accounts, provide wagering services, or market to them.
304. The ACMA is required to assess, for the purposes of subsection 61LA(4) and 61LA(5) whether Entain was reckless to the fact that it was sending an electronic message to the address of a registered individual considering whether:
- > Entain was aware of a substantial risk that the relevant individuals were registered individuals
  - > having regard to the circumstances known to Entain, it was unjustifiable to take the risk.

305. Entain is a large, sophisticated IWP operating in a regulated environment that requires it to put in place robust consumer protection measures under relevant Commonwealth, State and Territory law, including the IGA, to protect its users.
306. The ACMA considers the nature of Entain's systems and processes is an important factor in determining whether Entain was aware that an individual was a registered individual. Also relevant is the fact that Entain is a large, established wagering operator that operates 2 distinct brands – Ladbrokes and Neds. Entain allows customers to have both a Ladbrokes and a Neds account. The ACMA has, therefore, also considered the systems and processes Entain has in place to manage the fact that its customers may hold multiple accounts.
307. In Submission 1, Entain provided a detailed manual of procedures setting out its systems and processes to comply with its obligations.
- > Entain submitted that any accounts identified and closed under the category of 'BetStop' are [sorted] automatically [by] [...] Entain's [systems to ensure that] marketing messages are not sent to registered individuals. Entain further submitted that:
 

*The relevant marketable flag is applied [...] to ensure that messages are only sent to customers that have an open Licensed Account and are still subscribed to receive the relevant message type. [...].*
  - > Entain submitted that it has robust processes in place to prevent it from sending regulated electronic messages to registered individuals, including that its employees receive annual marketing compliance refresher training to ensure compliance with all legal requirements.
308. Entain's submissions also demonstrated Entain's awareness of the risk that customers may attempt to open duplicate accounts and/or have accounts across both brands, and that it needed to have systems and processes in place to identify these scenarios such that it could comply with its obligations, including to not send regulated electronic messages to registered individuals.
- > In Submission 1 Entain submitted that:
 

*To mitigate the risk of an Entain Customer holding multiple or duplicate accounts within the same brand, Entain's technology systems were designed to prevent our customers from being able to create multiple and/or duplicate Licensed Accounts within each brand.*
  - > Where a match is identified within the same Entain brand, Entain submitted that its:
 

*... system is configured to automatically reject the account application and prevent a potential customer from moving forward with a new Licensed Account with those details.*
  - > Entain submitted that a similar process existed to link accounts across its brands:
 

*For every new Licensed Account that is created, Entain's system performs a search across the customer database for each Entain brand to identify if the new Licensed Account should be "matched" to any associated or related accounts across another brand.*

*Where a match is identified, a record is created in Entain's customer management system noting the Licensed Account match(es) and the relevant search parameters which returned the positive result.*

309. As outlined in Findings 1 to 4, the ACMA's view is that Entain's systems and processes were ineffective in identifying registered individuals in the following scenarios:
- > Where individuals identified as registered individuals held multiple accounts with Entain (as is the case of Complainants 1 and 2):
    - when Entain became aware that Complainant 1 was a registered individual, it closed only one of the complainant's accounts, despite the 2 accounts sharing [substantially similar information]; and
    - when Entain became aware that Complainant 2 was a registered individual, it only closed one of the complainant's accounts, despite the 2 accounts sharing [similar identifying information] and shortened version of their first name.
  - > Where a consumer attempted to open a new account shortly after Entain was informed that the individual was a registered individual, whilst providing substantially similar information to the failed account opening attempt (as is the case of Complainant 3).
    - Complainant 3 was able to open 2 new accounts within approximately 5 seconds of Entain being advised the individual was a registered individual – using substantially similar information to the second failed attempt [...].
310. The ACMA considers that Entain was aware of the general risk that an electronic address could belong to a registered individual from 21 August 2023, when the NSER was launched, as Entain's customers were able to become registered individuals from this time. This awareness was demonstrated in Entain's submissions, its engagement with the ACMA and the Register operator ahead of the delivery of the program, and the ACMA's compliance guidance and other educative material sent to Entain personnel.
311. Entain submitted that for the purposes of subsections 61LA(4) and (5) it was not reckless as to the fact that the relevant electronic address was an electronic address of a registered individual on the basis that:
- Although Entain was aware of the potential that [Complainants] could be registered – by virtue only of the fact that Complainant could, at any time, become a registered individual - in and of itself, this risk does not constitute a 'substantial risk'. To illustrate, any adult over 18 is theoretically a potential BetStop registrant, irrespective of whether or not they have an account with Entain. Instead, Entain submits that to satisfy the test of 'substantial risk', additional knowledge is required over and above knowledge of the existence of an active Entain account.*
312. Further, Entain submitted that it was not unjustifiable for it to send the relevant regulated electronic messages to the relevant electronic address, having regard to Entain's awareness of the relevant circumstances and processes Entain had in place. Entain submitted that the alleged breaches of subsection 61LA(4) only occurred as a consequence of Complainant 1 and Complainant 2's accounts remaining open and that the messages ceased once the accounts were closed.
313. The ACMA accepts Entain's submission that having knowledge that a customer could, at any time, become a registered individual, was not 'in and of itself' awareness of a substantial risk.
314. However, the ACMA also considers Entain demonstrated an awareness that it needed systems and processes in place to identify circumstances where an individual may hold multiple accounts and to address the risk that an individual may attempt to open duplicate accounts with one or both Entain brands. Entain's internal systems and processes were not sufficient to identify registered individuals – either by not being

able to identify similarities between accounts held by an individual across its 2 brands or not being able to identify when a registered individual attempts to open a duplicate account.

315. The ACMA considers that, having regard to the possibility that a registered individual may hold multiple accounts or attempt to open duplicate accounts, it could be argued that Entain was aware of the risk that the electronic addresses were electronic addresses of registered individuals. If this were the case, then if that risk amounted to a substantial risk that this fact exists, and having regard to the circumstances known to Entain, then it would have been unjustifiable for it to take the risk of sending regulated electronic messages to the electronic addresses of customers that were registered individuals.
316. The ACMA accepts that, in this case, while Entain was aware of a risk that the electronic addresses it was sending regulated electronic messages to were electronic addresses of registered individuals, that risk does not rise to a level that meets the test of being a substantial risk of that fact. Therefore, for the purposes of subsections 61LA(4) and (5), Entain was not reckless as to the fact that the relevant electronic addresses were electronic addresses of registered individuals.
317. While the ACMA has found that 194 regulated electronic messages were sent to the electronic addresses of registered individuals, the ACMA accepts that in the circumstances Entain was not reckless to the fact that the electronic addresses belonged to registered individuals and did not contravene subsection 61LA(4).

**Finding 6 – Breach: Licensed interactive wagering service providers must promote the NSER (Section 61JP)**

Regulatory obligation

318. Under section 61JP, an IWP is required to promote the NSER in accordance with rules specified by the ACMA. On 4 July 2022, the ACMA made the Register Rules.
319. Subsection 25(3) of the Register Rules requires an IWP to promote the NSER in regulated electronic messages by including, at a minimum (see subsection 25(1)):
- > a reference to 'BetStop';
  - > a statement to the effect that BetStop is the national self-exclusion register; and
  - > a hyperlink to the BetStop website.
320. Where an activity statement is sent, the same information as referred to in paragraph 319 is required, in accordance with subsection 25(5) of the Register Rules.

Did Entain engage in conduct that contravenes the Register Rules?

321. Entain submitted that it sent a total of 235 electronic messages to Complainants 1, 2 and 3 between 22 August 2023 and 12 December 2024. The ACMA has reviewed all electronic messages submitted to determine whether Entain complied with section 61JP.

Were the messages regulated electronic messages or involve activity statements?

322. Finding 5 sets out the ACMA's view that:
- > 194 of the 235 messages sent by Entain were regulated electronic messages as the purpose, or one of the purposes, of the messages was to offer to provide licensed interactive wagering services or to advertise or promote licensed interactive wagering services. This includes 102 emails, 40 SMS, and 52 push notifications; and

- > 11 messages sent by Entain were activity statements.

Did the messages include a reference to the NSER as required by section 25 of the Register Rules?

*Email messages*

323. 100 of the 102 email messages sent by Entain contained the required reference to the NSER including a link to the website, as set out in the Register Rules. Further, the 11 emails that provided activity statements included the required information about the NSER.
324. The remaining 2 emails were 'welcome emails'.
325. Under Finding 5 above, the ACMA acknowledged Entain's submission that 'a' purpose of the message was administrative in nature. However, another purpose was to promote and offer to provide licenced interactive wagering services. The ACMA maintains that an administrative email can have more than one purpose, such as to advertise or promote, and offer, licenced interactive wagering services. Accordingly, the ACMA found that these 'welcome emails' were regulated electronic messages.
326. These messages did not contain information referencing the NSER as required by the Register Rules. The ACMA is of the view that 2 email messages were sent in contravention of subsection 61JP(5).
327. The ACMA acknowledges Entain's confirmation in Submission 6 that it has implemented changes to all email messages to its customers, which from 5 August 2025 satisfy the BetStop messaging requirements under section 25 of the Register Rules.

*SMS messages*

328. Of the 40 SMS messages sent, 33 include the required references to the NSER or this information could be located through a link to the Neds or Ladbrokes websites (as provided for under subsection 25(4) of the Register Rules).
329. 7 SMS messages sent by an Entain VIP Manager did not include the information about the NSER required by the Register Rules. Consequently, the ACMA is of the view that 7 SMS messages were sent in contravention of subsection 61JP(5).
330. In response to the preliminary findings, Entain stated that it considers it unreasonable and impractical to expect that every message sent by a VIP Manager should contain a reference to the NSER (i.e. the relevant statement and hyperlink).
331. Entain argued that these messages are 'highly bespoke in nature' and involve numerous messages being exchanged with the customer. In that context, Entain argued that it is unreasonable to expect that each message would include information as required by section 25 of the Register Rules.
332. Entain further submitted that the ACMA had not issued guidance on the requirement to include this information in 'every message of a human-to-human' exchange. The ACMA notes that it consulted publicly on the development of the Register Rules and that Entain had not previously sought guidance on these requirements or expressed concern about its ability to comply.
333. The ACMA does not accept Entain's claim that such requirements are unreasonable or not practicable.
334. Further, it is noted that Entain has confirmed that it has now uplifted its SMS messaging compliance practices to ensure compliance with section 61JP of the IGA and paragraphs 25(1)(a)-(c) and subsection 25(4) of the Register Rules.

*Push notifications*

335. 38 of the 52 push notifications sent by Entain included information about the NSER as required by the Register Rules. The remaining 14 did not include information about the NSER required by the Register Rules.
336. In response to the preliminary findings, Entain submitted that it was unaware that the ACMA considered push notifications were regulated electronic messages prior to the publication of the ACMA's Investigation Report with respect to Pointsbet on 16 May 2025.<sup>30</sup> As highlighted under Finding 5, the ACMA published compliance guidance to the industry on 29 November 2023<sup>31</sup>, which highlighted that:

*A regulated electronic message is a message where the purpose, or one of the purposes, of which is to offer, advertise or promote a licenced interactive wagering service. These messages can include SMS, email and app push notifications.*

337. The ACMA has therefore found that 14 push notifications were sent in contravention of subsection 61JP(5).

**Summary**

338. The ACMA has found that Entain sent 23 regulated electronic messages in contravention of subsection 61JP(5).
339. Details of these contraventions are at **Attachment E**.

**Conclusions**

340. The ACMA has found that Entain:
- > Has contravened subsection 61MA(2) by opening 4 licenced interactive wagering service accounts for registered individuals.
  - > Has contravened subsection 61KA(3) on 59 occasions in relation to the provision of licensed interactive wagering services to registered individuals over 59 days.
  - > Has contravened subsection 61MB(5) on 449 occasions by failing to close 3 licensed interactive wagering service accounts that had no outstanding or pending bets as soon as practicable after the account holders became registered individuals.
  - > Has not contravened subsection 61MC(5) in relation to the failure to close licensed interactive wagering service accounts of registered individuals with outstanding or pending bets.
  - > Has not contravened subsection 61LA(4) by sending regulated electronic messages promoting its wagering services to registered individuals.
  - > Has contravened subsection 61JP(5) on 23 occasions by failing to include a reference to the NSER in 23 regulated electronic messages.

**Attachments****Attachment A – Extract of relevant provisions**

<sup>30</sup> [PointsBet breaches spam and gambling self-exclusion laws | ACMA](#)

<sup>31</sup> [BetStop – the National Self-Exclusion Register – compliance update | The Australian Communications and Media Authority](#)

## Key provisions of the IGA

### ***Interactive Gambling Act 2001 Section 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.

### ***Interactive Gambling Act 2001 Section 61JP Licensed interactive wagering service providers must promote the National Self-exclusion Register etc***

(1) The Register rules may require licensed interactive wagering service providers to take specified action for the purposes of promoting the National Self-exclusion Register to their customers.

(2) The Register rules may require licensed interactive wagering service providers to take specified action directed towards ensuring that their customers are aware of, and can readily access, the following:

- (a) the website of the National Self-exclusion Register;
- (b) if there is an app for the National Self-exclusion Register—that app.

#### ***Offence***

(3) A person commits an offence if:

- (a) the person is a licensed interactive wagering service provider; and
- (b) the person engages in conduct; and
- (c) the person's conduct contravenes Register rules made for the purposes of subsection (1) or (2).

Penalty: 120 penalty units.

(4) A person who contravenes subsection (3) commits a separate offence in respect of each day (including a day of conviction for the offence or any later day) during which the contravention continues.

*Civil penalty provision*

(5) A licensed interactive wagering service provider must not contravene Register rules made for the purposes of subsection (1) or (2).

Civil penalty: 180 penalty units.

(6) A person who contravenes subsection (5) commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

*Exception*

(7) Subsections (3) and (5) do not apply if the contravention occurred in circumstances prescribed by the Register rules.

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

Note 2: In proceedings for a civil penalty order for a contravention of subsection (5), a defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

*Offence—extended geographical jurisdiction*

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

***Interactive Gambling Act 2001 Section 61KA Prohibition of the provision of licensed interactive wagering services to registered individuals****Offence*

(1) A person commits an offence if:

- (a) the person is a licensed interactive wagering service provider; and
- (b) the person provides a licensed interactive wagering service to an individual; and
- (c) the individual is a registered individual.

Penalty: 500 penalty units.

(2) A person who contravenes subsection (1) commits a separate offence in respect of each day (including a day of conviction for the offence or any later day) during which the contravention continues.

*Civil penalty provision*

(3) A licensed interactive wagering service provider must not provide a licensed interactive wagering service to a registered individual.

Civil penalty: 750 penalty units.

(4) A person who contravenes subsection (3) commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

*Exception*

(5) Subsections (1) and (3) 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 (3), a defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

*Offence—extended geographical jurisdiction*

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

***Interactive Gambling Act 2001 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).

***Interactive Gambling Act 2001 61MA Licensed interactive wagering service account must not be opened for a registered individual***

*Offence*

(1) A person commits an offence if:

- (a) the person is a licensed interactive wagering service provider; and
- (b) the person opens a licensed interactive wagering service account for an individual; and
- (c) the individual is a registered individual.

Penalty: 120 penalty units.

*Civil penalty provision*

(2) A licensed interactive wagering service provider must not open a licensed interactive wagering service account for a registered individual.

Civil penalty: 180 penalty units.

*Exception*

(3) Subsections (1) and (2) 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), a defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

*Offence—extended geographical jurisdiction*

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

***Interactive Gambling Act 2001 Section 61MB Closure of a licensed interactive wagering service account held by a registered individual—no outstanding or pending bets***

*Offence*

(1) If:

- (a) an individual becomes a registered individual; and
- (b) immediately before becoming a registered individual:
  - (i) the individual had a licensed interactive wagering service account with a licensed interactive wagering service provider; and

(ii) the individual did not have any outstanding or pending bets that are attributable to the provision of a licensed interactive wagering service by the provider;

then:

(c) if, immediately before becoming a registered individual, the individual did not owe any debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the individual becomes a registered individual:

(i) close the account; and

(ii) if the account has a credit balance—pay the individual an amount equal to the credit balance; and

(d) if, immediately before becoming a registered individual, the individual owed one or more debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the individual becomes a registered individual:

(i) close the account; and

(ii) if the account would have a credit balance if the total amount of those debts were deducted from the account—pay the individual an amount equal to the difference between the balance of the account and the total amount of those debts; and

(e) if the individual ceases to be a registered individual before the closure of the account—the provider must ensure that the account is not used in relation to the provision, or prospective provision, of one or more licensed interactive wagering services to the individual after the cessation; and

(f) if the account has been closed—the provider must not reopen, reactivate, or reinstate the account.

(2) Paragraph (1)(e) does not prevent the licensed interactive wagering service provider from opening a new licensed interactive wagering service account for the individual if the individual ceases to be a registered individual.

(3) A person commits an offence if:

(a) the person is subject to a requirement under subsection (1); and

(b) the person engages in conduct; and

(c) the person's conduct breaches the requirement.

Penalty: 120 penalty units.

(4) Subsection (3) does not apply if the person 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 (3), a defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code*).

*Civil penalty provision*

(5) If:

(a) an individual becomes a registered individual; and

b) immediately before becoming a registered individual:

(i) the individual had a licensed interactive wagering service account with a licensed interactive wagering service provider; and

(ii) the individual did not have any outstanding or pending bets that are attributable to the provision of a licensed interactive wagering service by the provider;

then:

(c) if, immediately before becoming a registered individual, the individual did not owe any debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the individual becomes a registered individual:

(i) close the account; and

(ii) if the account has a credit balance—pay the individual an amount equal to the credit balance; and

(d) if, immediately before becoming a registered individual, the individual owed one or more debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the individual becomes a registered individual:

(i) close the account; and

(ii) if the account would have a credit balance if the total amount of those debts were deducted from the account—pay the individual an amount equal to the difference between the balance of the account and the total amount of those debts; and

(e) if the individual ceases to be a registered individual before the closure of the account—the provider must ensure that the account is not used in relation to the provision, or prospective provision, of one or more licensed interactive wagering services to the individual after the cessation; and

(f) if the account has been closed—the provider must not reopen, reactivate, or reinstate the account.

Civil penalty: 180 penalty units.

(6) Paragraph (5)(e) does not prevent the licensed interactive wagering service provider from opening a new licensed interactive wagering service account for the individual if the individual ceases to be a registered individual.

(7) Subsection (5) does 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 proceedings for a civil penalty order for a contravention of subsection (5), a defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

*Offence—extended geographical jurisdiction*

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

*Debt recovery not affected*

(9) To avoid doubt, the closure of a licensed interactive wagering service account under this section does not prevent the recovery of a debt owed by an individual to a licensed interactive wagering service provider.

*Acquisition of property*

(10) The provisions of this section have no effect to the extent (if any) to which their operation would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph).

***Interactive Gambling Act 2001 Section 61MC Closure of a licensed interactive wagering service account held by a registered individual—outstanding or pending bets***

*Offence*

(1) If:

(a) an individual becomes a registered individual; and

(b) immediately before becoming a registered individual:

(i) the individual had a licensed interactive wagering service account with a licensed interactive wagering service provider; and

(ii) the individual had one or more outstanding or pending bets that are attributable to the provision of one or more licensed interactive wagering services by the provider; and

(c) those bets are subsequently resolved (whether at the same time or at different times);

then:

(d) if, at the time, or the latest time, when those bets were resolved, the individual did not owe any debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the time, or the latest time, when those bets were resolved:

(i) close the account; and

(ii) if the account has a credit balance—pay the individual an amount equal to the credit balance; and

(e) if, at the time, or the latest time, when those bets were resolved, the individual owed one or more debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the time, or the latest time, when those bets were resolved:

(i) close the account; and

(ii) if the account would have a credit balance if the total amount of those debts were deducted from the account—pay the individual an amount equal to the difference between the balance of the account and the total amount of those debts; and

(f) if the individual ceases to be a registered individual before the closure of the account—the provider must ensure that the account is not used in relation to the provision, or prospective provision, of one or more licensed interactive wagering services to the individual after the cessation; and

(g) if the account has been closed—the provider must not reopen, reactivate, or reinstate the account.

(2) Paragraph (1)(f) does not prevent the licensed interactive wagering service provider from opening a new licensed interactive wagering service account for the individual if the individual ceases to be a registered individual.

(3) A person commits an offence if:

(a) the person is subject to a requirement under subsection (1); and

(b) the person engages in conduct; and

(c) the person's conduct breaches the requirement.

Penalty: 120 penalty units.

(4) Subsection (3) does not apply if the person 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 (3), a defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code*).

*Civil penalty provision*

(5) If:

(a) an individual becomes a registered individual; and

(b) immediately before becoming a registered individual:

(i) the individual had a licensed interactive wagering service account with a licensed interactive wagering service provider; and

(ii) the individual had one or more outstanding or pending bets that are attributable to the provision of one or more licensed interactive wagering services by the provider; and

(c) those bets are subsequently resolved (whether at the same time or at different times);

then:

(d) if, at the time, or the latest time, when those bets were resolved, the individual did not owe any debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the time, or the latest time, when those bets were resolved:

(i) close the account; and

(ii) if the account has a credit balance—pay the individual an amount equal to the credit balance; and

(e) if, at the time, or the latest time, when those bets were resolved, the individual owed one or more debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the time, or the latest time, when those bets were resolved:

(i) close the account; and

(ii) if the account would have a credit balance if the total amount of those debts were deducted from the account—pay the individual an amount equal to the difference between the balance of the account and the total amount of those debts; and

(f) if the individual ceases to be a registered individual before the closure of the account—the provider must ensure that the account is not used in relation to the provision, or prospective provision, of one or more licensed interactive wagering services to the individual after the cessation; and

(g) if the account has been closed—the provider must not reopen, reactivate, or reinstate the account.

Civil penalty: 180 penalty units.

(6) Paragraph (5)(f) does not prevent the licensed interactive wagering service provider from opening a new licensed interactive wagering service account for the individual if the individual ceases to be a registered individual.

(7) Subsection (5) does 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 proceedings for a civil penalty order for a contravention of subsection (5), a defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

*Offence—extended geographical jurisdiction*

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

*Debt recovery not affected*

(9) To avoid doubt, the closure of a licensed interactive wagering service account under this section does not prevent the recovery of a debt owed by an individual to a licensed interactive wagering service provider.

*Acquisition of property*

(10) The provisions of this section have no effect to the extent (if any) to which their operation would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph).

## **Key Provisions of the Interactive Gambling (*National* Self-exclusion Register) Register Rules 2022**

### ***Section 25 Promoting the Register to customers***

(1) Where a licensed interactive wagering service provider operates a website or an app in connection with its licensed interactive wagering services, it must, at a minimum, include:

- (a) reference to BetStop;
  - (b) a statement to the effect that BetStop is the national self-exclusion register; and
  - (c) a hyperlink to the BetStop website,
- on:
- (d) the home page; and
  - (e) responsible gambling pages; and
  - (f) other pages promoting the provider's self-exclusion service, if any,
- of that website or app.

(2) The information referred to in paragraphs (1)(a), (b) and (c) must be:

- (a) prominently displayed;
- (b) clear and legible;
- (c) in a font size consistent with other text on the page; and
- (d) positioned in close proximity to information about other responsible gambling or consumer protection measures.

(3) Where a licensed interactive wagering service provider sends a regulated electronic message, it must, at a minimum, include the information identified in paragraphs (1)(a), (b) and (c).

(4) Where a regulated electronic message referred to in subsection (3) is sent via SMS message, the message will comply with the requirements of that subsection if it contains a hyperlink to a separate webpage that includes the information referred to in paragraphs (1)(a), (b) and (c).

(5) Where a licensed interactive wagering service provider provides customers with activity statements, it must, at a minimum, include the information identified in paragraphs (1)(a), (b) and (c).

(6) Where a licensed interactive wagering service provider receives a voice call or electronic message from a customer to discuss:

- (a) placing limits or controls on their gambling;
- (b) responsible gambling options, including self-exclusion; or
- (c) general assistance with problem gambling behaviour,

it must:

- (d) inform the customer of the existence of BetStop; and
- (e) provide them with the BetStop telephone number and the BetStop website address,

as soon as practicable after receiving the voice call or electronic message.

Note 1: The requirements in this section are made for the purpose of subsections 61JP(1) and (2) of the Act.

Note 2: It is an offence under subsection 61JP(3) of the Act to engage in conduct that contravenes Register rules made for the purpose of subsections 61JP(1) or (2) of the Act.