Australian Government | acma

VGCCC

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY

AND

THE VICTORIAN GAMBLING AND CASINO CONTROL COMMISSION

Contents

Clause Number	Heading	Page
A. Preliminary		3
1.	Background	3
2.	Definitions	3
3.	Purpose/Scope	4
B. Provision of information and documents		5
4.	Statement of Intent	5
5.	Requests for information, documents or assistance	6
6.	Procedure for requests for information, documents or assistance	7
7.	Procedure for provision of information, documents or assistance	8
8.	Permissible use of information or documents	9
9.	Confidentiality of requests and information provided	9
C. Miscellaneous provisions		10
10.	Contact points	10
11.	Term of Memorandum	10
12.	Commencement date	10
13.	Review of Memorandum	10
14.	Termination of Memorandum	10

A. Preliminary

1. Background

1.1 The Australian Communications and Media Authority (the ACMA) is a statutory agency established by section 6 of the *Australian Communications and Media Authority Act 2005* (ACMA Act). The ACMA regulates broadcasting and datacasting services, radiocommunications, telecommunications, nuisance telemarketing, spam and certain internet content in Australia.

1.2 Relevantly, the ACMA is responsible for:

- regulating telecommunications in accordance with the *Telecommunications Act 1997*;
- regulating interactive gambling under the *Interactive Gambling Act 2001* (the IGA), including the provision of Betstop - the National Self-exclusion Register (the Register);
- managing the outsourced arrangements for the operation of the Register with the Register operator; and
- monitoring and investigating compliance with the IGA and the *Interactive Gambling (National Self-exclusion Register) Rules 2022*;
- regulation and enforcement of commercial electronic messages under the *Spam Act 2003*; and
- the regulation of telemarketing within the meaning of, and in accordance with, the *Do Not Call Register Act 2006*.

1.3 The Victorian Gambling and Casino Control Commission (**VGCCC**) was established by the *Victorian Gambling and Casino Control Commission Act 2011*. The objectives of the Commission are:

- to maintain and administer systems for the licensing, supervision and control of gambling businesses and casinos, for the purpose of—
    - ensuring that the management and operation of gambling businesses and casinos remain free from criminal influence and exploitation through oversight of those gambling businesses and casinos and liaison with other regulatory agencies;
    - ensuring that gambling conducted or operated by a gambling business and gaming and betting in a casino are conducted or operated honestly;
    - reducing gambling harm experienced by patrons of gambling businesses and casinos; and
- to minimise gambling harm

1.4 The functions of the VGCCC include:

- performing the regulatory, investigative and disciplinary functions conferred on the VGCCC by or under the *Victorian Gambling and Casino Control Commission Act 2011*, the *Gambling Regulation Act 2003*, the *Casino Control Act 1991*, *the Racing Act 1958* or any other Act;
- undertaking licensing, approval, authorisation and registration activities under gambling legislation or any other Act;
- promoting and monitoring compliance with gambling legislation, and detecting and responding to any contraventions;
- ensuring Government policy in relation to gambling is implemented;
- informing and educating the public about the Commission's regulatory practices and requirements, and government policy in relation to gambling; and
- undertaking activities to minimise gambling harm.

2. Definitions

2.1 In this Memorandum, unless the context otherwise requires, the following words have the following meanings:

ACMA Act means the *Australian Communications and Media Authority Act 2005*;

agency means either the ACMA or the VGCCC as the context allows, and Agencies shall be construed accordingly;

attachment means an attachment to this Memorandum.

authorised disclosure information has the same meaning as in section 3 of the ACMA Act;

confidential information means information held or accessible by an Agency in circumstances where the Agency is subject to a duty of confidence, whether arising by the application of statute, common law or equity and includes authorised disclosure information and protected information;

IGA means the *Interactive Gambling Act 2001;*

IWP means a licensed interactive wagering provider as that term is defined under section 61GB of the IGA;

Memorandum means this Memorandum of Understanding;

person includes an individual, a natural person, a body corporate, an unincorporated association, a partnership, a government or political subdivision, a statutory authority or instrumentality of a government;

personal information means personal information as that term is defined by the *Privacy Act 1988*;

protected information means information that falls within the definition of that term in section 61NA of the IGA or section 10.1.29 of the *Gambling Regulation Act 2003*;

protocol means an agreed set of procedures as outlined in an Attachment.

relevant ACMA legislation means the legislation referred to in sections 1.1 and 1.2 and associated regulations, standards and codes of practice.

relevant VGCCC legislation means the legislation referred to in section 1.4 and associated regulations, directions and guidelines.

Requested Agency means the Agency:

(a) to which a request has been made under this Memorandum; or

(b) that is otherwise providing information, documents or assistance to the other Agency under the Memorandum.

Requesting Agency means the Agency:

(a) making a request under this Memorandum; or

(b) that is otherwise receiving information, documents, or assistance from the other Agency under this Memorandum.

Victorian IWP means an IWP that is licensed by Victoria.

3. Purpose and Scope

3.1 The purpose of this Memorandum is to build a strategic relationship between ACMA and the VGCCC (**the Agencies**) and assist each Agency in the performance of its regulatory responsibilities.

3.2 This Memorandum establishes a framework for mutual assistance to enable the Agencies to effectively perform their respective duties according to law.

3.3 This Memorandum establishes the framework to facilitate strategic engagement, collaboration, and the exchange of information between the Agencies while recognising the legal, policy and administrative limits on the powers of each Agency to exchange such information.

3.4 The general areas of mutual assistance, collaboration and information exchange under this Memorandum include compliance monitoring, complaints management, enforcement and education in connection with:

(a) the ACMA's powers and functions under the relevant ACMA legislation; and

(b) the VGCCC's powers and functions under relevant VGCCC legislation.

3.5 Specific areas of cooperation, information sharing and the activities that will support that cooperation will be agreed by the Agencies from time to time and documented in a Protocol to this MOU.

3.6 The areas of priority concern under this Memorandum may include circumstances where an Agency:

(a) receives a complaint or has information that suggests a Victorian IWP may have contravened relevant ACMA legislation or relevant VGCCC legislation;

(b) has commenced, or is considering commencing, an investigation into a Victorian IWP or other matters that it considers relevant to the other Agency;

(c) is considering taking, or has decided to take, enforcement action against a Victorian IWP or an entity that it considers relevant to the other Agency;

(d) becomes aware that a new entity is to be licensed as a Victorian IWP or a Victorian IWP may be subject to license cancellation or change by the VGCCC;

(e) has been notified by a Victorian IWP that an investigation has commenced by a regulatory or governing body;

(f) receives a complaint or has information that suggests a person/entity may have contravened relevant ACMA legislation; and

(g) any other matters identified for priority attention from time-to-time by an Agency.

3.7 Information sharing under this Memorandum may also include circumstances where an Agency has identified that an IWP registered elsewhere but providing gambling products to Victorians has contravened relevant ACMA legislation or VGCCC legislation.[1]

B. Provision of information and documents

4. Statement of Intent

4.1 This Memorandum is a voluntary statement of the intent of the Agencies to cooperate with and assist each other, and accordingly does not create any enforceable rights or impose any legally binding obligations on either Agency.

4.2 This Memorandum does not modify or supersede any laws in force applying to either Agency.

[1] This is relevant to the VGCCC's enforcement of the National Consumer Protection Framework. The VGCCC has jurisdiction over IWPs operating under the IGA and registered outside of Victoria that provide interactive wagering and betting services to Victorian residents

4.3 This Memorandum does not affect the right or ability of either Agency to obtain information from any person in connection with the powers and functions of either Agency.

4.4 This Memorandum does not prevent either Agency from collaborating or sharing information providing mutual assistance to the other Agency on any other matter to the extent permitted by law.

5. Requests for information, documents or assistance

5.1 The Agencies will use their best endeavours to comply with the terms of this Memorandum.

5.2 Either Agency may, in accordance with this Memorandum, request documents, information or assistance from the other Agency relevant to the Requesting Agency's powers and functions.

5.3 The Requested Agency may, in the exercise of its discretion, decline a request, in whole or in part. Noting that information should be shared under this Memorandum where possible having regard to the matters in clause 5.5.

5.4 Information sharing under this Memorandum may be established under Protocols.

5.5 In deciding whether to accept or decline a request the Requested Agency will consider whether:

(a) the request was made in accordance with this Memorandum, in particular clause 6, and

(b) the provision of the information, documents, or assistance would or may:

(i) be contrary to the national or public interest, or to the law;

(ii) be beyond the statutory powers of the Requested Agency;

(iii) involve dealing with the administration of a law, regulation or requirement that does not exist, and has no parallel within the jurisdiction of the Requested Agency;

(iv) put the Requested Agency in breach or at risk of being in breach of a legal or equitable duty owed to any person (particularly in relation to the treatment of confidential information and personal information, or an obligation to afford procedural fairness);

(v) expose the Requested Agency to the threat of legal proceedings;

(vi) place a strain on its resources or substantially or unreasonably divert its resources from priorities; or

(vii) impact adversely on any enforcement or compliance action being undertaken or contemplated by the Requested Agency.

5.6 An Agency may provide information, documents, or assistance to the other Agency for the purpose of this Memorandum in the absence of a request as permitted by law and in accordance with its own processes.

---

6. Procedure for requests for information, documents or assistance

6.1 An Agency may request information, documents, or assistance from the other Agency in the manner specified in this Memorandum.

6.2 Subject to clause 6.5, all requests for information, documents or assistance must be made in writing.

6.3 Requests should specify details of:

(a) the information, documents, or assistance required;

(b) the purpose for which the information, documents, or assistance is sought (identifying the provisions of any relevant law or other legal basis for the Requesting Agency seeking the information);

(c) to whom, if anyone, the documents and information provided may be disclosed or released by the Requesting Agency (specifying the reasons and legal basis for the subsequent disclosure by the Requesting Agency);

(d) any information in the possession of the Requesting Agency that may:

(i) assist the Requested Agency in identifying persons who may be adversely affected by the disclosure; and

(ii) may affect the Requested Agency's obligations to afford procedural fairness (if any) (including specifying whether the request is confidential, and the nature of any such affect); and

(e) the suggested period for reply and, if the request is urgent, the reasons for the urgency.

6.4 If the request for documents, information, or assistance is for the purpose of actual or possible investigation and/or enforcement action, then the following details must also be provided:

(a) a description of the conduct or suspected conduct which gives rise to the request;

(b) details of the relevant legislation (identifying provisions), laws or requirements,

(c) where appropriate, the subject of the investigation or enforcement activity;

(d) the role of the Requesting Agency and the relevant regulatory functions to which the request relates; and

(e) the sanctions or penalties that may be imposed in the event of enforcement action.

6.5 In urgent cases, a request for information, documents or assistance may be made orally, provided the request contains the information set out in clauses 6.3 and 6.4 (if applicable) and is followed by a written request containing all the required information within 7 days.

---

7. Procedure for provision of information, documents or assistance

7.1 The Requested Agency will consider each request on a case-by-case basis to determine whether the Requested Agency is able to provide the information, documents or assistance requested under this Memorandum.

7.2 The Requested Agency will use its best endeavours to advise the Requesting Agency within 7 days of receipt of the request the estimated timeframe for deciding whether to accept or decline the request and respond to the request.

7.3 Where the Requested Agency must consult on a request, requires the consent of a person, or is otherwise required to advise a person of the request before it is able to comply with the request, the Requested Agency will advise the Requesting Agency of this fact before contacting that person.

7.4 The Requested Agency may provide information, documents, or assistance to the Requesting Agency subject to any conditions that the Requested Agency considers appropriate, including:

(a) written restrictions or limitations as to the use, access, or storage of the requested information or documents;

(b) confidentiality requirements relating to the information or documents provided; and

(c) if the Requested Agency is likely to incur significant costs and expenses in complying with the request, a requirement that the Requesting Agency contribute to the costs and expenses.

7.5 Where the Requested Agency seeks to impose a condition it must advise the Requesting Agency of that condition prior to providing the information, documents, or assistance. If the Requested Agency seeks to impose a condition of the kind described in clause 7.4(c) it must:

(a) provide the Requesting Agency with an estimate of costs and expenses within 14 days; and

(b) obtain an agreement from the Requesting Agency as to a contribution to the costs and expenses.

8. Permissible use of information or documents

8.1 The Requesting Agency shall not use any documents or information provided pursuant to this Memorandum for any purpose other than the purposes stated in the request or any applicable conditions imposed under clause 7.4 unless:

(a) it has asked the Requested Agency for its consent to use the information or documents for the other purpose; and

(b) the Requested Agency has indicated its consent in writing to such use.

9. Confidentiality of requests and information or documents provided

9.1 The Requested Agency shall endeavour to keep confidential all requests made under this Memorandum, the content of such requests and any other matters arising from consultation about the requests, if requested to do so by the Requesting Agency.

9.2 The Requesting Agency shall, subject to legal obligations requiring or authorising the disclosure or production, maintain the confidentiality of the information or documents supplied by the Requested Agency under this Memorandum.

9.3 In exchanging confidential information, the Agencies acknowledge the confidentiality requirements of the laws and regulations under which each Agency operates. The Requesting Agency will comply with any confidentiality conditions and will not, subject to clause 9.4, release or disclose information or documents supplied to it under this Memorandum to a third party without the express written consent of the Requested Agency or as specified in the

Request. Any unauthorised disclosure of information exchanged under this Memorandum must be reported to the Requested Agency as soon as possible after becoming aware of the unauthorised disclosure.

9.4 The Requesting Agency will notify the Requested Agency of any legally enforceable demand for disclosure of confidential information or documents supplied under this Memorandum before complying with the demand and will assert such appropriate legal exemptions or privileges with respect to such information as may be available.

C. Miscellaneous provisions

10. Contact points

10.1 So far as is practicable, all communications between the Agencies associated with matters under this Memorandum should be between the principal points of contact as notified by either Agency in writing, which may be amended by written advice provided by either Agency to the other Agency from time-to-time.

11. Term of Memorandum

11.1 This Memorandum will be ongoing and subject to periodic review unless terminated in accordance with clause 13.

12. Commencement date

12.1 This Memorandum commences on and from the date when it has been signed by both Agencies.

13. Review and Amendment of Memorandum

13.1 The Agencies will review the Memorandum annually from the date it has been signed by both Agencies. The Agencies will consult with a view to improving its operation and resolving any matters or differences that may arise as a result of the interpretation, construction, or operation of this Memorandum.

13.2 The Agencies will consult for the purpose of reviewing this Memorandum at a time mutually agreed between both parties.

13.3 Any term of this Memorandum may be amended, waived, varied or modified by the Agencies' mutual consent in writing.

14. Termination of Memorandum

14.1 Either Agency may terminate this Memorandum by giving 30 days' written notice to the other Agency.

14.2 In the event that this Memorandum is terminated, this Memorandum shall continue to have effect with respect to all requests for information or documents that were made before the date of such notice of termination, and with respect to the confidentiality of all documents and information supplied under this Memorandum.

15. Media Relations

15.1 Where appropriate, both Agencies will consult with each other in relation to media relations which may be of mutual interest to both Agencies, and which may acknowledge the work of both Agencies in achieving an outcome.

Signed on this..25....day of September 2024

Signed for and on behalf of the ACMA

[redacted]

Nerida O'Loughlin (Sep 25, 2024 08:37 GMT+10)

Nerida O'Loughlin

Chair and Agency Head

Australian Communications and Media Authority

Signed for and on behalf of the VGCCC

[redacted]

Adam Ockwell (Sep 24, 2024 21:41 GMT+10)

Adam Ockwell

Acting Chief Executive Officer

Victorian Gambling and Casino Control Commission