

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** [REDACTED]  
**Date:** Monday, 29 January 2024 5:15:32 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.jpg](#)  
[image006.jpg](#)

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Hi [REDACTED]

There is more to unpack here, but to set out what I think I know so far for discussion tomorrow or soon.

61DB of the IGA permits accidental or incidental broadcast or datacast of a gambling ad if they don't receive a financial benefit.

***61DB Accidental or incidental broadcast or datacast permitted***

*(1) A person may broadcast or datacast a designated interactive gambling service advertisement if:*

*(a) the person broadcasts or datacasts the advertisement as an accidental or incidental accompaniment to the broadcasting or datacasting of other matter; and*

*(b) the person does not receive any direct or indirect benefit (whether financial or not) for broadcasting or datacasting the advertisement (in addition to any direct or indirect benefit that the person receives for broadcasting or datacasting the other matter).*

The BSA has the same exception for broadcasts or datacasts.

**125A ACMA must determine a gambling promotion program standard if directed by the Minister**

*Accidental or incidental broadcast of gambling promotional content*

*(9) A gambling promotion program standard does not apply in relation to the broadcasting of gambling promotional content on a broadcasting service if:*

*(a) the gambling promotional content is broadcast as an accidental or incidental accompaniment to the broadcasting of other matter; and*

*(b) the licensee or provider of the broadcasting service does not receive any direct or indirect benefit (whether financial or not) for broadcasting the gambling promotional content (in addition to any direct or indirect benefit that the licensee or provider receives for broadcasting the other matter).*

However, a live stream is different from a broadcast or datacast. The Broadcasting Services (Online Content Service Provider Rules) 2018 apply to a live-stream if it isn't an exact simulcast of a broadcast.

***18 Exceptions for certain circumstances beyond the control of the service provider***

*(2) An online content service provider that provides gambling promotional content on an online content service, in conjunction with live coverage of a sporting event, will not contravene Parts 3, 4 or this Part, where all of the following circumstances exist:*

- (a) the sporting event originates from outside Australia;*
- (b) the online content service provider did not add the gambling promotional content;*
- (c) it is not reasonably practicable for the provider to remove the gambling promotional content; and*

It seems from this that more is required to activate the exception, including that the game be outside Australia. [REDACTED]

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Monday, January 29, 2024 3:26 PM  
**To:** [REDACTED]  
**Subject:** [REDACTED]

Any thoughts???

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**From:** [REDACTED]  
**Sent:** Monday, January 29, 2024 3:24 PM  
**To:** [REDACTED]  
**Subject:** [REDACTED]

Sorry, a follow up question/clarification on this one (having looked more closely at the legislation).

- I am clear on the exception for broadcasting or datacasting in 61DB
- Where does this leave a live stream of the cricket (as distinct from a broadcast or datacast) and;
- Could a live stream be similarly excepted by section 61ED (accidental/incidental)?

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**From:** [REDACTED]  
**Sent:** Monday, January 29, 2024 2:39 PM  
**To:** [REDACTED]  
**Subject:** [REDACTED]

[REDACTED]

This is where we landed last week on this matter.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Thursday, January 18, 2024 4:32 PM

To: [REDACTED]

Subject: [REDACTED]

[REDACTED]

The prohibition in the Part 7A of the IGA on broadcasting 'designated interactive gambling services ads has an exception for 'Accidental or incidental broadcast' (s61DB) where its an accidental or incidental accompaniment to the broadcast and the broadcaster doesn't receive any direct or indirect benefit (in addition to the benefit they get from providing the coverage).

On that basis, it probably doesn't offend.

The same exception applies to the prohibition under the BSA.

Just included the previous responses you pulled together last time this matter came up.

[REDACTED]

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The response we provided [REDACTED] in relation to the advertising of Stake.Com at the Formula 1 was:

The prohibition of 'betting advertising' during live sport do not apply to incidental or accidental advertising. This is defined in the broadcasting industry codes of practice and the rules applicable to online streaming services as material which occurs or is included in the normal course of broadcasting a Live Sporting Event for which the Licensee does not receive any direct or indirect benefit. Examples include the name of the sporting venue, branding on player uniforms, and signage at the sporting venue.

The publication or broadcast of advertisements in Australia for illegal gambling services are prohibited under the IGA. This includes:

- prohibited interactive gambling services (such as an online casino-style service or online wagering service that accepts in-play betting on sporting events) or
- unlicensed regulated interactive gambling services (such as an online wagering service provided without a licence issued by an Australian state or territory and provided to customers physically present in Australia).

Our responses to [REDACTED] have been limited to:

Part 7A of the *Interactive Gambling Act 2001* prohibits the publication or broadcast of advertisements for 'designated interactive gambling services' in Australia. That is, either:

- prohibited interactive gambling services (such as an online casino-style service or online wagering service that accepts in-play betting on sporting events) or
- unlicensed regulated interactive gambling services (such as an online wagering service provided without a licence issued by an Australian state or territory and *provided to customers physically present in Australia*).

[Redacted]

*The ACMA acknowledges First Nations peoples as the Traditional Owners and Custodians of Australia. We respect and celebrate First Nations peoples as the original storytellers and content creators of the lands on which we work and honour the enduring strength and commitment of Aboriginal and Torres Strait Islander peoples to the land, waters and their communities. We pay our respects to Elders past, present, and emerging.*



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**From:** [Redacted]  
**Sent:** Thursday, January 18, 2024 2:56 PM  
**To:** [Redacted]  
**Subject:** [Redacted]

I just took a photo from the TV.

