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20 July 2022

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The logo for Ashurst, featuring the word "ashurst" in a lowercase, bold, sans-serif font.

**Attention: Ida Pereira**

Dear Registrar

**Australian Trade Mark Application No. 2275899**

**Trade Mark: BETSTOP**

**Classes: 9, 16, 35, 38 and 42**

**Applicant: The Commonwealth of Australia as represented by the Australian Communications and Media Authority**

We refer to your letter of 14 June 2022 and respond as follows on the Applicant's behalf.

**1. SECTION 41 – INHERENT DISTINCTIVENESS**

We note that the Examiner has objected to registration of the present application on the basis that the mark is not inherently adapted to distinguish the goods in Classes 9 and 16 or the services in classes 41, 42 and 45. The Examiner has expressed the view that the BETSTOP mark is likely to be seen as meaning goods and services that "*are aimed at preventing a consumer from stopping to place a bet*". As such, the Examiner has concluded that other traders have a right to use the same or a similar mark to describe their similar goods or services. This is a conclusion with which we respectfully cannot agree.

**2. TRADE MARK UNLIKELY TO BE NEEDED BY OTHER TRADERS**

As a preliminary matter, and contrary to the Examiner's assertion, registration of the subject application will not deprive other traders from the descriptive use of individual words including the words "bet" or "stop", nor indeed from descriptive use of any combination of these words given that such use is descriptive use of existing vocabulary and is therefore not trade mark use.

It is well accepted that registration of a trade mark does not preclude the usual English expression of certain phrases where they are not used in a trade mark context. This is what

was envisioned by Kitto J in *Clark Equipment* (1964) 111 CLR 511 (at 514). He stated that the question of inherent distinctiveness is to be assessed on the basis of other traders wishing to use the word "in a manner which would infringe a registered trade mark".

The question of the inherent adaptability of a mark to distinguish the designated goods or services does not depend upon the way the mark has been used but rather on the mark itself<sup>1</sup>. The trade mark BETSTOP is an unusual and striking linguistic blend invented by the Applicant and which conveys no immediately obvious or direct meaning. We submit that the only way that BETSTOP can operate in a trade mark sense, is as a badge of origin for the Applicant's goods and services.

As stated by the majority of the High Court in the decision of *Cantarella Bros*<sup>2</sup>, the question as to whether or not a trade mark is capable of distinguishing, requires a consideration of "the ordinary signification" of the proposed trade mark to any persons in Australia concerned with the goods [or service] to which the proposed trade mark is to be applied. In other words, the Examiner is required to determine the "ordinary signification" of the Applicant's mark in Australia. Only once that has been established, an enquiry can then be made into whether other traders might legitimately need to use that mark or a similar mark in respect of their own goods and services. Moreover there is an important distinction to be drawn between the ordinary signification of the goods and services themselves and the perceived attributes of those goods or services as they may be insinuated by the trade mark. As noted in paragraph [21] of the decision of *Amazon Technologies, Inc.*<sup>3</sup> "*the latter does not provide the correct viewpoint from which to gauge ordinary signification since it is already one step removed from the Services themselves*".

We submit that the BETSTOP mark is not descriptive of any of the goods or services provided by the Applicant and therefore the mark holds no ordinary signification. Notably, scientific apparatus, computer software, user manuals, promotional and telecommunication services or any of the other designated goods and services cannot be "aptly and legitimately described" as BETSTOP. We remind the Examiner that the Court in *Cantarella Bros* confirmed that "*the test does not encompass the desire of other traders to use words which in relation to the goods are allusive or metaphorical*"<sup>4</sup>. In fact we consider that if the reasonable consumer were to request "BETSTOP" during the course of ordinary conversation, this is likely to illicit a

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<sup>1</sup> *Phone Directories Co Australia Pty Ltd v Telstra Corp Ltd* [2014] FCA 373;

<sup>2</sup> *Cantarella Bros Pty Limited v Modena Trading Pty Limited* [2013] FCAFC 110

<sup>3</sup> *Amazon Technologies, Inc.* [2017] ATMO 44 (16 May 2017)

<sup>4</sup> *Cantarella Bros Pty Limited v Modena Trading Pty Limited* [2013] FCAFC 110 at paragraph [59]

confused response from another person, unless the word was operating as a badge of origin for the Applicant's product offerings.

Whilst the Examiner has suggested that the mark is one which other traders are likely to need to use, our research simply does not bear out this assessment. Indeed, searches on the Google search engine for the mark "BETSTOP" limited to Australian websites before the filing date of the subject application (9 June 2022) did not disclose any use of the term "bet stop" including trade mark use in Australia. By contrast, searches of Google Australia conducted on 19 July 2022 showed a number of results for the Applicant and the goods and services provided under the BETSTOP mark. **Attached** are printouts of the Google search results for the Examiner's convenience.

The fact that there are no references found of BETSTOP supports the "practical evaluative judgement" that the phrase does not possess the ordinary signification that has been suggested by the Examiner. It follows that other traders are not using the subject mark and would not have a need to genuinely use the subject mark in connection with their own goods and services.

### 3. OTHER CIRCUMSTANCES

The Examiner will be aware that section 41(4) of the *Trade Marks Act* makes provision for the Applicant's use of the mark and any other circumstances including other legislative requirements, to be considered to satisfy the Registrar that the trade mark should be accepted.

To this end, we note that the Applicant, the Australian Communications and Media Authority (**ACMA**) is responsible for regulating interactive gambling activities under the *Interactive Gambling Act 2001 (IGA)*, among other things. Under Part 7B of the IGA, the ACMA has been mandated with establishing the National Self-Exclusion Register and to implement the arrangements for the Register, including offering the goods and services covered by the current application. Section 61HA(2) of the IGA legislates that this Register may also be known by a name specified in the Register Rules, which have been developed by the ACMA.

BETSTOP has been selected by the ACMA and is registered pursuant to section 61HA(2) of the IGA as the public facing brand that the National Self-Exclusion Register will be known by. A copy of the relevant provisions of the Interactive Gambling (National Self-exclusion Register) Register Rules 2022 as extracted from the Federal Register of Legislation is **attached**. As part of the implementation of the BETSTOP branded scheme, the ACMA has also secured a number of domain name registrations including <betstop.gov.au>; <betstop.net>; <betstop.org>; <betstop.net.au>; and <betstop.com.au>.

Since the ACMA is the only statutory body that is authorised to operate the BETSTOP branded scheme and to provide goods and services of this nature in Australia, the BETSTOP mark is synonymous with the Applicant and consumers would recognise the BETSTOP mark to emanate solely from the Applicant. By corollary we note that as a matter of practical reality other traders are unable to provide the same product offerings and are therefore unlikely to use the BETSTOP trade mark or a similar trade mark in relation to the same or similar goods and services without improper motive.

We submit that any adoption of the BETSTOP mark by another trader could lead to confusion such that this is a situation similar to that identified by Fletcher Molten J in *Joseph Crosfield & Sons Limited's Application* (1909) 26 RPC 837 where "*the Applicant's use of the trade mark has already limited the possibility of other traders safely or honestly using [the mark]*". Indeed, if another proprietor were to use the trade mark BETSTOP in relation to the goods and services provided by the Applicant, the Applicant would be in a strong position to stop such use on the basis of the rights accorded to it under the IGA. The use of the BETSTOP or a confusingly similar name by a third party in connection with the relevant goods and services now also risks giving the misleading impression that such third party is acting on behalf of the ACMA or with its authority and would therefore constitute conduct in breach of the Australian Consumer Law and/or the *Criminal Code Act 1995*.

#### 4. PRESUMPTION OF REGISTRABILITY

We also respectfully remind the Examiner that this application is entitled to the presumption of registrability under the *Trade Marks Act 1995* (Cth). As noted by French J (as his Honour then was) in *Kenman Kandy (Aust) Pty Ltd v Registrar of Trade Marks* (2001) 56 IPR 30, in relation to the effect of section 33 the grounds of rejection under the Act:

*"In that connection it is necessary to bear in mind that this trade mark is still at the registration stage. It enjoys the benefit of its presumption of registrability mandated by section 33. **To the extent that critical criteria upon which registrability might be rejected are in doubt, the application should be accepted.** Closer adversarial scrutiny may occur in opposition."* **[emphasis added]**

As set out above, it is our view that the Examiner cannot be reasonably satisfied that grounds under section 41 exist for rejecting registration of the mark and that, in light of his Honour's comments in *Kenman Kandy*, the mark should proceed to registration. This position is also supported by Part 22.2.2 of the Manual of Practice & Procedure.

## 5. CONCLUSION

Given that BETSTOP is an invented word and as borne out by our search results which indicate that there has been no use in Australia whatsoever of the phrase "bet stop", we submit that that the subject application has the necessary inherent adaptation to distinguish the relevant goods and services. Furthermore pursuant to section 61HA(2) of the IGA, the BETSTOP mark is associated with the Applicant as the only statutory body that can provide the claimed goods and services in association with the BETSTOP branded scheme. The BETSTOP mark is therefore unable to be used by other traders in Australia for the claimed goods and services nor should another trader be likely to desire to use the subject application without improper motive.

We respectfully request that the Examiner reconsider the objection raised under section 41 and to allow the present application to proceed to acceptance.

Yours faithfully

A handwritten signature in black ink that reads "Ashurst". The script is cursive and fluid, with the 'A' being particularly large and the 't' having a long, sweeping tail.

**Ashurst**



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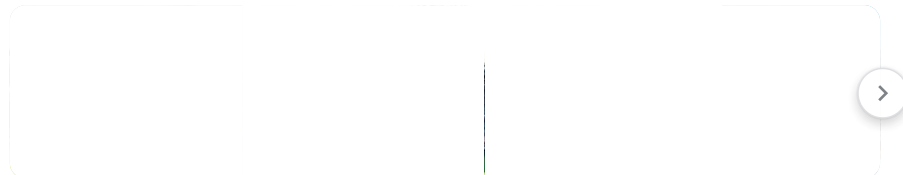
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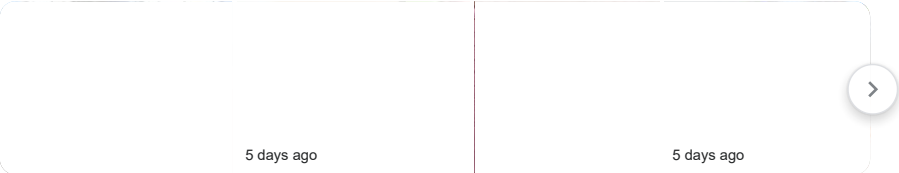
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## Interactive Gambling (National Self-exclusion Register) Register Rules 2022

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The Australian Communications and Media Authority makes the following rules under subsection 61QH(1) of the *Interactive Gambling Act 2001*.

Dated: 4 July 2022

James Cameron

[signed]

Member

Cathy Rainsford

[signed]

~~Member~~/General Manager

Australian Communications and Media Authority

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## Part 1—Preliminary

### 1 Name

These are the *Interactive Gambling (National Self-exclusion Register) Register Rules 2022*.

### 2 Commencement

These Rules commence at the start of the day fixed by Proclamation for the purposes of subsection 61GC(1) of the *Interactive Gambling Act 2001*.

Note: The Federal Register of Legislation may be accessed free of charge at [www.legislation.gov.au](http://www.legislation.gov.au).

### 3 Authority

These Rules are made under subsection 61QH(1) of the *Interactive Gambling Act 2001*.

### 4 Definitions

In these Rules:

**ACMA** means the Australian Communications and Media Authority.

**Act** means the *Interactive Gambling Act 2001*.

**activity statement** means a statement prepared by a licensed interactive wagering service provider that gives customer information about each bet, wins, and losses among other matters.

**application to correct an entry** means an application referred to in paragraph 7(f).

**application to deregister** means an application referred to in paragraph 7(g).

**application to extend the duration of registration** means an application referred to in paragraph 7(b).

**application to nominate a new nominated support person** means an application referred to in paragraph 7(c).

**application to register** means an application referred to in paragraph 7(a).

**application to remove a nominated support person** means an application referred to in paragraph 7(d).

**application to update information** means an application referred to in paragraph 7(e).

**BetStop** means the name specified in section 6 for the purpose of subsection 61HA(2) of the Act.

**BetStop telephone number** means the telephone number: 1800 238 786.

**BetStop website** means the website: [www.betstop.gov.au](http://www.betstop.gov.au).

**business day** means a day that is not a Saturday, a Sunday or a public holiday in the place concerned.

**contact details** means:

- (a) one or more email addresses; and
- (b) one or more digital mobile numbers.

***digital mobile number*** has the same meaning as in the *Telecommunications Numbering Plan 2015*.

***entry*** means a registered individual's entry in the Register made by the Register operator under paragraph 61JC(1)(c) of the Act.

***government online verification service*** means an online service which allows users of that service to confirm the validity of information recorded on certain identification documents against the databases of the government agency that issued the relevant identification documents, in a manner authorised by that government agency or its representatives.

***Register*** means the National Self-exclusion Register kept under section 61HA of the Act.

***request for access by a licensed interactive wagering service provider*** means a request to the Register operator under subsection 61NC(1) of the Act.

***request for access by a nominated support person*** means a request to the Register operator under subsection 61NE(1) of the Act.

***request for access by a registered individual*** means a request to the Register operator under subsection 61ND(1) of the Act.

***responsible gambling page*** means a page on a licensed interactive wagering service provider's website that outlines the provider's policies and procedures in relation to responsible gambling practices.

***SMS*** means short message service.

***voice call*** has the meaning given to that term in subsection 8AA(3) of the Act.

Note: A number of other expressions used in these Rules are defined in various sections of the Act, including the following:

- (a) bet (section 4 of the Act);
- (b) electronic message (section 61GE of the Act);
- (c) former nominated support person (subsection 61JI(4) of the Act);
- (d) levy (section 61GB of the Act);
- (e) licensed interactive wagering service (section 61GB of the Act);
- (f) licensed interactive wagering service provider (section 61GB of the Act);
- (g) name (section 61GB of the Act);
- (h) National Self-exclusion Register (section 61GB of the Act);
- (i) nominated support person (section 61GB of the Act);
- (j) registered individual (section 61GB of the Act);
- (k) Register operator (subsection 61HA(1) of the Act);
- (l) Register rules (section 61GB of the Act);
- (m) regulated electronic message (section 61GF of the Act); and
- (n) send (section 61GB of the Act).

## 5 References to other instruments

In these Rules, unless the contrary intention appears:

- (a) a reference to any other legislative instrument is a reference to that other legislative instrument as in force from time to time; and
- (b) a reference to any other kind of instrument is a reference to that other instrument as in force at the commencement of these Rules.

Note 1: For references to Commonwealth Acts, see section 10 of the *Acts Interpretation Act 1901*; and see also subsection 13(1) of the *Legislation Act 2003* for the application of the *Acts Interpretation Act 1901* to legislative instruments.

Note 2: All Commonwealth Acts and legislative instruments are registered on the Federal Register of Legislation.

## **Part 2—The Register**

### **6 Name of the Register**

The Register will also be known as BetStop.

## Part 3—Applications to the Register operator

### 7 Applications

The following applications may be made to the Register operator via the BetStop website or by telephone using the BetStop telephone number:

- (a) an application to register made under subsection 61JA(1) of the Act;
- (b) an application to extend the duration of registration made by a registered individual under subsection 61JG(1) of the Act;
- (c) an application to nominate a new nominated support person made by a registered individual under section 14;
- (d) an application to remove a nominated support person made by a registered individual, or by the relevant nominated support person, under subsection 15(1);
- (e) an application to update information in an entry in the Register made under section 17 by:
  - (i) a registered individual relating to information about that individual; or
  - (ii) a nominated support person relating to information about that person;
- (f) an application to correct an entry made by a registered individual or by a nominated support person under section 18; and
- (g) an application to deregister made by a registered individual under subsection 61JK(1) of the Act.

Note 1: The ACMA and the Register operator are required to comply with the *Privacy Act 1988*.

Note 2: No fee is payable for making an application referred to in section 7.

### 8 Information required to be included in an application to register

- (1) An application to register must include the following information relating to the applicant:
  - (a) their name;
  - (b) their contact details;
  - (c) their date of birth;
  - (d) their residential address including postcode; and
  - (e) any information required by the Register operator to verify the identity of the person making the application for the purpose of section 9.

Note: Subsection 61JA of the Act sets out other information that must be included in an application.

- (2) If subsection 61JA(7) of the Act applies, an application to register must include:
  - (a) the name and email address of each other individual nominated to be a nominated support person of the applicant; and
  - (b) a statement from the registered individual that they consent to the Register operator notifying each other individual nominated to be a nominated support person of the applicant of the information, if any, referred to in section 12.

Note: An application may include a maximum of 5 other individuals nominated to be a nominated support person under subsection 61JA(7) of the Act.

## **9 Applicable identification procedure**

- (1) Subject to subsection (3), where the Register operator receives an application to register, it must verify the information provided by the applicant under subsection 8(1) in accordance with the procedure specified in subsection (2) to confirm that the:
  - (a) person making the application is who they claim to be; and
  - (b) information provided in their application is accurate.
- (2) Subject to subsection (3), the Register operator must verify the information provided by the applicant under subsection 8(1) using:
  - (a) a government online verification service; and
  - (b) a unique verification code which is sent via SMS message to the digital mobile number associated with the applicant; and
  - (c) a unique verification code or unique link which is sent via email to the email address associated with the applicant.
- (3) Subsections (1) and (2) do not apply in the circumstances set out in subsections 61JB(2) and 61JB(3) of the Act.

## **10 Information prescribed to be included in an application to nominate a new nominated support person**

An application to nominate a new nominated support person must include:

- (a) the name and email address of each other individual nominated to be a new nominated support person of the applicant; and
- (b) a statement from the registered individual that they consent to the Register operator notifying each other individual nominated to be a nominated support person of the applicant of the matters identified in subsection 14(2).



## **Part 4—Register operator processes - entries in the Register**

### **11 Timeframes for making an entry**

The Register operator must take reasonable steps to register the relevant individual under paragraph 61JC(1)(c) of the Act as soon as practicable, and in any event within one hour, after taking any steps required under paragraph 61JC(1)(b) of the Act.

### **12 Information prescribed to be included in an entry**

- (1) An entry must include the information provided in the application for registration under paragraphs 8(1)(a) to (d).

Note: Subsection 61JC(2) of the Act sets out other relevant information an entry must include.

- (2) If paragraph 61JC(2)(b) of the Act applies, an entry must also include the email address included in the application for registration under paragraph 8(2)(a).

### **13 Requirement to notify nominated support person after registration**

If subsection 61JC(3) of the Act applies, the Register operator must also notify the other individual of:

- (a) the information that has been included in the registered individual's entry that relates to that other individual; and
- (b) the duration of the registered individual's self-exclusion period.

Note 1: The Register operator is required to notify the other individual of the information set out in paragraph 61JC(3)(a) of the Act and the other information prescribed for the purpose of subparagraph 61JC(3)(a)(iii) of the Act as soon as practicable after registering the relevant individual.

Note 2: Where the Register operator collects personal information about an individual, it is required to notify or make the individual aware of certain matters relating to the collection of personal information in accordance with Australian Privacy Principle 5 in Schedule 1 to the *Privacy Act 1988*.

### **14 Variation of entry - new nominated support person**

- (1) If the Register operator receives an application to nominate a new nominated support person made in accordance with section 7, the Register operator is authorised to vary the registered individual's entry by including:

- (a) a statement to the effect that another individual is a nominated support person of the registered individual; and
- (b) the email address of the other individual nominated to be a nominated support person of the registered individual.

Note: The Register operator must not vary an entry if doing so would result in the registered individual having more than 5 nominated support persons: see subsection 61JI(6) of the Act.

- (2) If an entry is varied under subsection (1), the Register operator must notify the other individual of:

- (a) the information that has been included in the registered individual's entry that relates to that other individual; and
- (b) the duration of the registered individual's self-exclusion period.

Note: Where the Register operator collects personal information about an individual it is required to notify or make the individual aware of certain matters relating to the collection of personal information in accordance with Australian Privacy Principle 5 in Schedule 1 to the *Privacy Act 1988*.

- (3) The Register operator must notify the other individual under subsection (2) as soon as practicable after the relevant individual becomes a nominated support person of the registered individual.

Note: Where an entry has been varied under subsection 14(1) of these Rules, subsection 61JJ(2) of the Act provides that the Register operator must notify:

- (a) the relevant individual that they have become a nominated support person of the registered individual; and
  - (b) do so as soon as practicable after the relevant individual becomes a nominated support person of the registered individual.
- (4) If an entry is varied under subsection (1), the Register operator must notify the registered individual that their entry has been varied to include the new nominated support person as soon as practicable after varying the entry.

### **15 Variation of entry – ceasing to be a nominated support person**

- (1) If the Register operator receives an application to remove a nominated support person made in accordance with section 7, the Register operator is authorised to vary the registered individual's entry to delete:

- (a) a statement to the effect that the other individual is a nominated support person of the registered individual; and
- (b) any information relating to that nominated support person.

Note: Where an entry has been varied under subsection 14(1) of these Rules, subsection 61JJ(4) of the Act provides that the Register operator must notify the former nominated support person of the cessation and do so as soon as practicable after the cessation.

- (2) For the purpose of subsection (1), the Register operator must vary the registered individual's entry as soon as practicable after receiving the application to remove the nominated support person.
- (3) If an entry is varied under subsection (1), the Register operator must notify the registered individual that the other individual has ceased to be a nominated support person as soon as practicable after the entry is varied.

### **16 Variation of entry – death of a nominated support person**

- (1) If the Register operator becomes aware that a nominated support person has died, the Register operator must vary the registered individual's entry by deleting:
- (a) the statement to the effect that the other individual is a nominated support person of the registered individual; and
  - (b) any information relating to the nominated support person.
- (2) The Register operator must vary the registered individual's entry under subsection (1) as soon as practicable after becoming aware that the nominated support person has died.

## **17 Variation of entry – update information**

- (1) If the Register operator receives an application to update information from a registered individual and is satisfied that:
  - (a) the application was made in accordance with section 7; and
  - (b) the updated information is accurate,the Register operator must vary the registered individual's entry to update the relevant information set out in the application and do so as soon as practicable after being satisfied of the matters in paragraphs (a) and (b).
- (2) The Register operator may satisfy itself of the accuracy of the updated information under paragraph (1)(b) in a manner that it sees fit.
- (3) If an entry is varied under subsection (1), the Register operator must notify the registered individual that the entry has been varied as soon as practicable after varying the entry.
- (4) If the Register operator receives an application to update information from a nominated support person made in accordance with section 7, the Register operator must:
  - (a) vary the information that relates to the nominated support person in the entry that is identified in the application for the update; and
  - (b) do so as soon as practicable after receiving the application.
- (5) If an entry is varied under subsection (4), the Register operator must notify the nominated support person that the entry has been varied as soon as practicable after varying the entry.

## **18 Correction of entries**

- (1) If the Register operator receives an application to correct an entry from a registered individual and is satisfied that:
  - (a) the application was made in accordance with section 7; and
  - (b) the corrected information is accurate,the Register operator must:
  - (c) correct any inaccurate information in the registered individual's entry that is identified in the application; and
  - (d) do so as soon as practicable after being satisfied of the matters in paragraphs (a) and (b).
- (2) The Register operator may satisfy itself of the accuracy of the corrected information under paragraph (1)(b) in a manner that it sees fit.
- (3) If an entry is corrected under subsection (1), the Register operator must notify the registered individual that the entry has been corrected as soon as practicable after correcting the entry.

- (4) If the Register operator receives an application to correct an entry from a nominated support person made in accordance with section 7, the Register operator must:
- (a) correct information that relates to the nominated support person in the entry that is identified as incorrect in the application; and
  - (b) do so as soon as practicable after receiving the application.

Note: The Register operator may also be required to correct personal information held on the Register under the *Privacy Act 1998* and the *Freedom of Information Act 1982*.

- (5) If an entry is corrected under subsection (4), the Register operator must notify the nominated support person that the entry has been corrected as soon as practicable after correcting the entry.

## **Part 5—Access to the Register – registered individuals and nominated support persons**

### **19 Requests for access**

A request for access by a registered individual and a request for access by a nominated support person may be made to the Register operator via the BetStop website or by telephone using the BetStop telephone number.

Note: The ACMA and the Register operator are required to comply with the *Privacy Act 1988*.

### **20 Obligations on Register operator to comply with request for access**

- (1) Where the Register operator receives a request referred to in section 19 it must take reasonable steps to verify the information provided by the requestor to confirm that the person making the request is who they claim to be.
- (2) The Register operator may comply with a request referred to in section 19 in such manner as it sees fit and must do so as soon as practicable after the verification referred to in subsection (1).

## **Part 6—Complaints Management**

### **21 Register operator procedures for dealing with complaints about the administration or operation of the Register**

- (1) A person may make a complaint about the administration or operation of the Register to the Register operator via the BetStop website or by telephone using the BetStop telephone number.
- (2) Where a complaint referred to in subsection (1) is received, the Register operator must:
  - (a) acknowledge that it has received the complaint in writing to the complainant within 3 business days after receiving the complaint; and
  - (b) provide a written response to the complainant within 28 days after receiving the complaint setting out how the complaint was investigated and the outcome of the investigation.
- (3) If a complainant is dissatisfied with the outcome of an investigation notified under paragraph (2)(b), they may request the Register operator to review the investigation.
- (4) Where a request referred to in subsection (3) is received, the Register operator must:
  - (a) acknowledge in writing to the complainant that it has received the request within 3 business days after receiving the request; and
  - (b) provide a written response to the complainant within 28 days after receiving the request setting out how the request was reviewed and the outcome of the review.
- (5) If a complainant is dissatisfied with the outcome of a review notified under paragraph (4)(b), they may request the Register operator to transfer the matter to the ACMA for further consideration.

Note: The Register operator must refer a complaint made under subsection 61QB(2) of the Act about alleged contraventions of Part 7B of the Act or these Rules to the ACMA.

## **Part 7—Licensed interactive wagering service providers – access, notifications and promotion**

### **22 Request for access by licensed interactive wagering service provider**

- (1) A request for access by a licensed interactive wagering service provider must:
  - (a) be made to the Register operator via the application programming interface operated by the Register operator; and
  - (b) for each individual covered by the request, include the following information relating to the individual:
    - (i) name;
    - (ii) contact details;
    - (iii) date of birth; and
    - (iv) residential postcode.

### **23 Obligations on Register operator to comply with a request for access by licensed interactive wagering service provider**

- (1) After receiving a request for access by a licensed interactive wagering service provider, the Register operator must take reasonable steps to comply with the request by sending the notification in subsection (2) to that provider as soon as practicable, and in any event:
  - (a) within one second, where the request covers one individual; or
  - (b) within 15 minutes, where the request covers more than one individual.
- (2) The Register operator must comply with a request for access by a licensed interactive wagering service provider via the application programming interface operated by the Register operator, and send a notification to the provider advising, in relation to each individual covered by the request, that:
  - (a) the individual is a registered individual as at the time the request was made;
  - (b) the individual is not a registered individual as at the time the request was made; or
  - (c) there is an error and it is unknown whether the individual is a registered individual as at the time the request was made,whichever is applicable.

### **24 Notifications where current or prospective customer is a registered individual**

- (1) If a licensed interactive wagering service provider is informed by the Register operator that a current customer is a registered individual, the provider must:
  - (a) inform the individual that the provider has been advised by the Register operator that the customer is registered on BetStop; and
  - (b) inform the individual that the provider is prevented from providing licensed interactive wagering services to the customer; and

- (c) inform the individual that their licensed interactive wagering service account with the provider will be closed in accordance with section 61MB or section 61MC of the Act (whichever is applicable), and that any credit in the account will be refunded to them under section 61MC (if applicable); and
  - (d) provide the individual with information about relevant available support services,
- as soon as practicable after being so informed.

Note: Licensed interactive wagering service providers have various obligations relating to the closure of an account where an individual becomes a registered individual, which are set out in sections 61MB and 61MC of the Act.

- (2) If a licensed interactive wagering service provider is informed by the Register operator that a prospective customer is a registered individual, the provider must:
  - (a) inform the individual that they are registered on BetStop; and
  - (b) inform the individual that they cannot open a new licensed interactive wagering service account; and
  - (c) provide the individual with information about relevant available support services,as soon as practicable after being so informed.

## **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.

## **Part 8— Collection of cost recovery levy**

### **26 When levy is due and payable**

The levy is due and payable 30 days after the date the relevant invoice was issued to the person.

Note: The levy is imposed by the *National Self-exclusion Register (Cost Recovery Levy) Act 2019*. Under section 61PA of the Act the levy is due and payable at the time ascertained in accordance with these Rules.