



## **Broadcasting Services (Online Content Service Provider Rules) 2018**

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The Australian Communications and Media Authority makes the following instrument under clauses 11, 16(2), 19, 22 and 23 of Schedule 8 to the *Broadcasting Services Act 1992*.

Dated: 23 August 2018

James Cameron  
[signed]  
Member

Creina Chapman  
[signed]  
Member/~~General Manager~~

Australian Communications and Media Authority

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# Contents

<b>Contents .....</b>	<b>2</b>
<b>Part 1 — Preliminary.....</b>	<b>3</b>
1 Name .....	3
2 Commencement .....	3
3 Authority .....	3
4 Application of this instrument .....	3
5 References to other instruments .....	3
<b>Part 2 — Interpretation.....</b>	<b>4</b>
6 Definitions.....	4
7 References to time.....	5
8 Sporting events.....	5
9 Play .....	5
10 Scheduled start of a sporting event.....	6
<b>Part 3 — Prohibition on gambling promotional content - 5:00 am to 8:30 pm.....</b>	<b>7</b>
11 Prohibition of gambling promotional content that consists of commentator betting odds promotions or representative venue-based promotions .....	7
12 Prohibition of gambling promotional content (other than a commentator betting odds promotion or a representative venue-based promotion).....	7
<b>Part 4 — Rules for gambling promotional content – 8:30 pm to 5:00 am.....</b>	<b>8</b>
13 Prohibition of gambling promotional content that consists of commentator betting odds promotions or representative venue-based promotions .....	8
14 Restrictions on promotion of odds .....	8
15 Restrictions on other gambling promotional content .....	9
<b>Part 5 — Safeguards and exceptions .....</b>	<b>12</b>
16 Restrictions relating to representatives of gambling organisations .....	12
17 Gambling promotional content to be socially responsible .....	12
18 Exceptions for certain circumstances beyond the control of the service provider .....	12
19 Exceptions for certain kinds of gambling promotional content .....	13
<b>Part 6 — Record-keeping .....</b>	<b>14</b>
20 Copies of commercial arrangements relating to gambling promotional content.....	14
21 Record of placement of gambling promotional material to be kept .....	14
22 Make records available to the ACMA.....	14
<b>Part 7 — Class Exemption.....</b>	<b>15</b>
23 Exemption for Australian licensed wagering services .....	15

## Part 1 — Preliminary

### 1 Name

These are the *Broadcasting Services (Online Content Service Provider Rules) 2018*.

### 2 Commencement

These rules commence on the day that is 30 days after these rules are registered on the Federal Register of Legislation.

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

### 3 Authority

These rules are made under clauses 11, 16(2), 19, 22 and 23 of Schedule 8 to the *Broadcasting Services Act 1992*.

### 4 Application of this instrument

The rules in Parts 2 to 6 apply to online content service providers who provide gambling promotional content on online content services in conjunction with live coverage of a sporting event. A class exemption from the rules in Parts 3 and 4 is included in Part 7.

### 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 this instrument.

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 — Interpretation

### 6 Definitions

In these rules:

*Act* means the *Broadcasting Services Act 1992*.

*adult* means an individual who is 18 years of age or older.

*Australian licensed wagering service* means a gambling service provided by way of an online content service by an operator licensed under the law of a State, the Northern Territory or the Australian Capital Territory to provide a gambling service.

*child* means an individual who has not reached 18 years of age.

*conclusion*, in relation to a sporting event, means the conclusion of live coverage of play.

*odds* means odds offered for a bet on the chance of any occurrence or outcome within a particular game or event, or the overall outcome of a game or event.

*play* has the meaning given by section 9.

*promotion of odds* means gambling promotional content to the extent to which it is a distinct promotional reference that provides odds and includes any writing, still or moving picture, sign, symbol, other visual image, any audible message, or any combination of those things.

*responsible gambling message* means a short statement that can reasonably be taken to encourage responsible gambling in order to minimise the harm caused by problem gambling.

*scheduled break* has the meaning given by subsection 15(4).

*scheduled start*, in relation to a sporting event, has the meaning given by section 10.

*session* means

- (a) in relation to tennis, the day, twilight, or evening session of matches as scheduled by the organisers of the relevant tournament or competition;
- (b) in relation to Olympic and Commonwealth Games, the day, twilight and night group of events as scheduled by the organisers;
- (c) in relation to test cricket, any of the three distinct sessions of a match that are divided by lunch, tea and dinner breaks;
- (d) in relation to one-day cricket, each innings; and
- (e) in relation to motorsport, an individual race or practice session or qualifying session.

*sporting event* has the meaning affected by clause 19 of Schedule 8 to the Act, and section 8 of these rules.

*unscheduled break* means a break when play is suspended or delayed due to weather or other uncontrollable events, and participants are yet to enter the arena of play or have left the arena of play.

Note 1: A number of other expressions used in these rules are defined in Schedule 8 to the Act, including the following:

- (a) account;
- (b) Australia;

- (c) commentator betting odds promotion;
- (d) coverage;
- (e) gambling promotional content;
- (f) in conjunction with;
- (g) live;
- (h) online content service;
- (i) online content service provider;
- (j) representative venue-based promotion.

Note 2: Clause 22 of Schedule 8 to the Act provides that these rules may provide that *scheduled start* for a specified sporting event (or class of sporting events) has a particular meaning, as set out in the rules. Clause 23 of Schedule 8 to the Act provides that these rules may provide that *conclusion* for a specified sporting event (or class of sporting events) has a particular meaning, as set out in the rules.

## 7 References to time

In these rules a reference to time is a reference to the legal time where the end-user of the online content service is located.

## 8 Sporting events

(1) Without limiting what might otherwise be a sporting event, the following things are a sporting event:

- (a) a single sports event, match or game;
- (b) a single sports event, match or game that extends over multiple days;
- (c) tournaments for a single sports event that involves concurrent or consecutive games or matches, whether over single or multiple days; and
- (d) an electronic sports competition.

Note: Subclause 19(2) of Schedule 8 to the Act provides that these rules may provide that a specified thing is taken to be a sporting event for the purposes of Schedule 8 to the Act. Subclause 19(1) of Schedule 8 to the Act specifies that the Summer Olympic Games, the Winter Olympic Games, the Commonwealth Games, and any similar games are a sporting event.

(2) The following things are not sporting events:

- (a) horse racing;
- (b) harness racing; and
- (c) greyhound racing.

Note: Subclause 19(3) of Schedule 8 to the Act provides that these rules may provide that a specified thing is taken not to be a sporting event for the purposes of Schedule 8 to the Act.

## 9 Play

(1) For the purposes of these rules, play means the period of actual play or active progress of the sporting event and includes:

- (a) stoppages for injuries;
- (b) stoppages for adjudication of matters concerning play by game officials or other parties; and
- (c) time outs and substitutions.

(2) For the avoidance of doubt, and notwithstanding the use of multiple streams by an online content service provider to deliver live coverage of a particular sporting event, play:

- (a) commences at the formal start of the first match, game, race or similar of a sporting event on each day of play; and

- (b) concludes at the formal end of the final match, game, race or similar of a sporting event on each day of play.

Note: The commencement or conclusion of play, depending on the sport involved, may be ascertained by reference to a siren or whistle indicating that play should commence or cease.

## **10 Scheduled start of a sporting event**

For the purposes of these rules, the scheduled start of a sporting event to be provided on an online content service is:

- (a) the specified time of commencement of the live coverage of play of the sporting event, which must be earlier than or at the commencement of actual play, as published or notified in a manner that is clear and prominent to potential end-users of the online content service at least 24 hours before the commencement of the coverage; or
- (b) otherwise, the time the live coverage of the sporting event commences.

Note 1: Paragraph (a) may be satisfied, for example, by including the specified time on the webpage where end-users are likely to access the online content service, by including it in an electronic program guide (if one is available to end-users), or by sending an email or push notification to end-users.

Note 2: For the avoidance of doubt, for the purposes of paragraph (b), any content that is part of the coverage of the sporting event, including, without limitation, content that:

- is hosted at, or takes place at the venue of the live sporting event;
- contains commentary or analysis on the live sporting event;
- contains highlights or replay coverage of the live sporting event; or
- involves or profiles participants in the live sporting event;

which is provided on the service before play has commenced, or during play, is content that consists of live coverage of the sporting event.

## **Part 3 — Prohibition on gambling promotional content - 5:00 am to 8:30 pm**

### **11 Prohibition of gambling promotional content that consists of commentator betting odds promotions or representative venue-based promotions**

An online content service provider must not provide gambling promotional content that consists of a commentator betting odds promotion or a representative venue-based promotion, on an online content service in conjunction with live coverage of a sporting event in the period beginning at 5:00 am and ending at 8:30 pm.

Note: Gambling promotional content that consists of a commentator betting odds promotion or a representative venue-based promotion is provided on an online content service in conjunction with live coverage of a sporting event if, and only if, the content is provided on the service during the period:

- (a) beginning 30 minutes before the scheduled start of the sporting event; and
- (b) ending 30 minutes after the conclusion of the sporting event. (See subclause 21(3) of Schedule 8 to the Act.)

### **12 Prohibition of gambling promotional content (other than a commentator betting odds promotion or a representative venue-based promotion)**

An online content service provider must not provide gambling promotional content on an online content service in conjunction with live coverage of a sporting event in the period beginning at 5:00 am and ending at 8:30 pm.

Note 1: Gambling promotional content (other than a commentator betting odds promotion or a representative venue-based promotion) is provided on an online content service in conjunction with live coverage of a sporting event if, and only if, the content is provided on the service during the period:

- (a) beginning 5 minutes before the scheduled start of the sporting event; and
- (b) ending 5 minutes after the conclusion of the sporting event. (See subclause 21(1) of Schedule 8 to the Act.)

Note 2: For the avoidance of doubt, promotion of odds is a kind of gambling promotional content to which this section applies. Section 11 deals with commentator betting odds promotions and representative venue-based promotions.

## Part 4 — Rules for gambling promotional content – 8:30 pm to 5:00 am

### 13 Prohibition of gambling promotional content that consists of commentator betting odds promotions or representative venue-based promotions

An online content service provider must not provide gambling promotional content that consists of a commentator betting odds promotion or a representative venue-based promotion, on an online content service in conjunction with live coverage of a sporting event in the period beginning at 8:30 pm and ending at 5:00 am.

Note: Gambling promotional content that consists of a commentator betting odds promotion or a representative venue-based promotion is provided on an online content service in conjunction with live coverage of a sporting event if, and only if, the content is provided on the service during the period:

- (a) beginning 30 minutes before the scheduled start of the sporting event; and
- (b) ending 30 minutes after the conclusion of the sporting event. (See subclause 21(3) of Schedule 8 to the Act.)

### 14 Restrictions on promotion of odds

- (1) Subject to subsections (2) and (3), an online content service provider must not provide promotion of odds on an online content service in conjunction with live coverage of a sporting event in the period beginning at 8:30 pm and ending at 5:00 am.
- (2) An online content service provider is permitted to provide promotion of odds on an online content service in conjunction with live coverage of a sporting event in the period beginning at 8:30 pm and ending at 5:00 am:
  - (a) in the five minutes before the scheduled start of the sporting event; and
  - (b) in the five minutes after the conclusion of the sporting event.
- (3) An online content service provider is permitted to provide promotion of odds on an online content service in conjunction with live coverage of a sporting event, during play of a sporting event listed in column 1 of the following table, in the manner described in column 2 of the corresponding row of the table, provided that:
  - (a) it occurs in the period beginning at 8:30 pm and ending at 5:00 am;
  - (b) it is part of a distinct break of at least 90 seconds; and
  - (c) the promotion is not for a race, match or game that has already commenced.

Column 1 – Sporting event	Column 2 – Permitted promotion of odds
Tennis	Not more than once per session. To be placed between matches.
Golf	Not more than once each day of competition.
Formula 1, Moto GP and supercars	Not more than once each day. To be placed no later than the end of the warm up lap for the relevant feature race.
Cricket	Not more than once each day. To be placed between sessions.
Olympic and Commonwealth Games	Not more than once every three hours.



## Section 15

Rugby Union Sevens, Rugby Union Tens and Rugby League Nines Tournaments (or other similar tournaments)	Between matches and not more than 4 times on each day of competition.
Another single sport event, match or game continuing over multiple days; or Another tournament involving concurrent or consecutive games or matches continuing over single or multiple days	Not more than once each day.

Note 1: Gambling promotional content (other than a commentator betting odds promotion or a representative venue-based promotion) is provided on an online content service in conjunction with live coverage of a sporting event if, and only if, the content is provided on the service during the period:

- (a) beginning 5 minutes before the scheduled start of the sporting event; and
- (b) ending 5 minutes after the conclusion of the sporting event. (See subclause 21(1) of Schedule 8 to the Act.)

Note 2: Promotion of odds is the kind of gambling promotional content to which this section applies. Section 13 deals with commentator betting odds promotions and representative venue-based promotions. Section 15 deals with other gambling promotional content.

## 15 Restrictions on other gambling promotional content

- (1) Subject to subsections (2) and (3), an online content service provider must not provide gambling promotional content (other than promotion of odds, a commentator betting odds promotion or a representative venue-based promotion) on an online content service in conjunction with a live coverage of a sporting event in the period beginning at 8:30 pm and ending at 5:00 am.
- (2) An online content service provider is permitted to provide gambling promotional content (other than promotion of odds, a commentator betting odds promotion or a representative venue-based promotion) on an online content service in conjunction with live coverage of a sporting event in the period beginning at 8:30 pm and ending at 5:00 am provided that it is:
  - (a) during an unscheduled break in play;
  - (b) in the five minutes before the scheduled start of the sporting event; or
  - (c) in the five minutes after the conclusion of the sporting event.
- (3) An online content service provider is permitted to provide gambling promotional content (other than promotion of odds, a commentator betting odds promotion or a representative venue-based promotion) on an online content service, in conjunction with live coverage of a sporting event, during a scheduled break (within the meaning of subsection (4)) in a sporting event in the period beginning at 8:30 pm and ending at 5:00 am.
- (4) For each sporting event listed in column 1 of the following table, the break in play referred to in column 2 of the corresponding row of the table is deemed to be a scheduled break in that sporting event in the period beginning at 8:30 pm and ending at 5:00 am.

## Section 15

<b>Column 1 – Sporting event</b>	<b>Column 2 – Scheduled Break</b>
Test Cricket	Between each session (For example, the lunch break and the tea break). Drinks break. Change of innings.
One Day International Cricket	Between each session (that is, the change of innings). Drinks break.
T20 Cricket	Between each session (that is, the change of innings). Between the conclusion of the second innings and any super overs. Between super overs.
Rugby League and Rugby Union	Half time. Between full time and commencement of extra time.
Soccer	Half time. Between full time and extra time. Between extra time and the commencement of a penalty shoot-out.
AFL	Quarter time, half time and three-quarter time. Between full time and extra time.
Tennis	Between each set. In a break of at least 90 seconds between two matches during a session (including when during a session the coverage switches from one match still in play to another match in play at the same time).
Formula 1, Moto GP and Supercars (non-endurance races)	Between each practice round, qualifying round and race.
Basketball	Between each quarter. Between full time and overtime.
Netball	Between each quarter. Between full time and overtime.
Golf, Supercars (endurance races), Swimming Championships	Not more than once every hour as part of a distinct break of at least 90 seconds.
Olympic and Commonwealth Games	Between each day, twilight and night session. Not more than once every two hours as part of a distinct break of at least 90 seconds (including when during a session the coverage switches from one event still in play to another event in play at the same time).
Where the rules and regulations of sports not otherwise listed in this table do provide for scheduled	During scheduled breaks as determined by the rules and regulations of the sport.

## Section 15

breaks	
Where the rules and regulations of sports not otherwise listed in this table do not provide for any scheduled breaks	Not more than once every hour as part of a distinct break of at least 90 seconds.

Note 1: Gambling promotional content (other than a commentator betting odds promotion or a representative venue-based promotion) is provided on an online content service in conjunction with live coverage of a sporting event if, and only if, the content is provided on the service during the period:

- (a) beginning 5 minutes before the scheduled start of the sporting event; and
- (b) ending 5 minutes after the conclusion of the sporting event. (See subclause 21(1) of Schedule 8 to the Act.)

Note 2: This section deals with gambling promotional content other than promotion of odds, commentator betting odds promotions and representative venue-based promotions. Promotion of odds is dealt with in section 14. Section 13 deals with commentator betting odds promotions and representative venue-based promotions.

## Part 5 — Safeguards and exceptions

### 16 Restrictions relating to representatives of gambling organisations

If an online content service provider provides gambling promotional content on an online content service in conjunction with live coverage of a sporting event as permitted by these rules, any representative of a gambling organisation who features in that content must:

- (a) be clearly identified;
- (b) not appear as a commentator; and
- (c) not appear at or around the venue, or be represented as being at or around the venue, where the sporting event is taking place.

### 17 Gambling promotional content to be socially responsible

- (1) If an online content service provider provides gambling promotional content on an online content service in conjunction with live coverage of a sporting event as permitted by these rules, that content must not:
  - (a) be directed to children;
  - (b) portray children as participating in betting or gambling;
  - (c) portray betting or gambling as a family activity;
  - (d) make exaggerated claims;
  - (e) promote betting or gambling as a way to success or achievement;
  - (f) associate betting or gambling with alcohol; or
  - (g) mislead the audience.
- (2) If an online content service provider provides gambling promotional content on an online content service in conjunction with live coverage of a sporting event, as permitted by these rules, that content must conclude with a responsible gambling message.

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

- (1) 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 or 4, where all of the following circumstances exist:
  - (a) the sporting event commences at a different time to the scheduled start of the sporting event, as publicised in accordance with paragraph 10(a);
  - (b) the provider was only made aware less than one hour prior to the scheduled commencement of the sporting event that the actual commencement of the sporting event would be different to the scheduled start of the sporting event, as publicised in accordance with paragraph 10(a); and
  - (c) the provision of the gambling promotional content would not have contravened Parts 3 or 4, had the sporting event commenced at the scheduled start of the sporting event, as publicised in accordance with paragraph 10(a).
- (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
  - (d) the provider does not receive any direct or indirect benefit (whether financial or not) for providing the gambling promotional content in addition to any direct or indirect benefit that the provider receives for providing the live coverage of the sporting event.
- (3) 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 the reference to gambling promotional content occurs as part of live coverage of the sporting event, and consists of the name of the sporting venue, or of a player's or official's uniform, or of advertising signage, such as a field barrier, big screen or scoreboard, at the venue of the sporting event, and the provider does not receive any direct or indirect benefit (whether financial or not) for providing the gambling promotional content, in addition to any direct or indirect benefit that the provider receives for providing the live coverage of the sporting event.
- (4) 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 or 4, where both of the following circumstances exist:
- (a) based on all the information reasonably ascertainable, the end-user appeared to be at a particular location (*the purported location*); and
  - (b) the provision of the gambling promotional content would not have contravened Parts 3 or 4 had the end-user been at the purported location.

## 19 Exceptions for certain kinds of gambling promotional content

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 in respect of any gambling promotional content that:

- (a) relates solely to Government sanctioned lotteries, lotto, keno or competitions;
- (b) relates to entertainment or dining facilities at places where betting or gambling takes place, provided that the promotional content does not draw attention to betting or gambling; or
- (c) relates to tourism, provided that the promotional content does not draw attention to betting or gambling.

## Part 6 — Record-keeping

### 20 Copies of commercial arrangements relating to gambling promotional content

An online content service provider who provides gambling promotional content on an online content service in conjunction with live coverage of a sporting event must:

- (a) keep a copy of any contracts or written arrangements in place or entered into under which the provider agrees to provide gambling promotional content in conjunction with live coverage of the sporting event; and
- (b) ensure that a copy of each contract or written arrangement referred to in paragraph (a) is kept while the agreement or contract is in place, and for 6 months following the expiry or termination of the agreement or contract.

### 21 Record of placement of gambling promotional material to be kept

- (1) An online content service provider who provides gambling promotional content on an online content service in conjunction with live coverage of a sporting event must make records sufficient to enable the provider's compliance with these rules to be readily ascertained, including without limitation:
  - (a) written records of the date and duration of the content stream of the live coverage of the sporting event and the location of the relevant end-users where known; and
  - (b) audio or audio-visual records, as the case may be, of the stream of the live coverage of the sporting event.
- (2) A written record, made in accordance with paragraph (1)(a), must be retained in the online content service provider's custody for at least 6 months after the day the live coverage of the sporting event to which the record relates was provided on the online content service.
- (3) An audio or audio-visual record, made in accordance with paragraph (1)(b), must be retained in the online content service provider's custody:
  - (a) for at least 6 weeks after the day the live coverage of the sporting event to which the record relates was provided on the online content service; or
  - (b) if, before the end of those 6 weeks, the provider becomes aware that a complaint has been made about compliance with these rules, in respect of that sporting event—for at least 90 days after the day the live coverage of the sporting event was provided.

### 22 Make records available to the ACMA

An online content service provider must make available to the ACMA, any records retained by the provider under this Part (whether or not the minimum period for retaining the records has passed) within 10 business days of receipt of a written request from the ACMA for those records.

Note: For the avoidance of doubt, online content service providers who provide gambling promotional content on an online content service in conjunction with live coverage of a sporting event, that are exempt under Part 7, must still comply with this Part 6— see section 4.

## **Part 7 — Class Exemption**

### **23 Exemption for Australian licensed wagering services**

- (1) Subject to subsections (2) and (3), an online content service that is an Australian licensed wagering service is exempt from Parts 3 and 4 if the provision of the service is limited to customers who are adults and who are logged into their wagering account before access to the content stream is available.
- (2) A service is not exempt under subsection (1) unless it includes the following in the terms of use for all content streams it provides:
  - (a) a notification that the service is exempt from Parts 3 and 4 of these Rules; and
  - (b) a reminder that the customer must take all reasonable steps to prevent a child from viewing the content stream.
- (3) A service is not exempt under subsection (1) unless each advertisement promoting the live coverage of the sporting event includes a notice that the online content service is exempt from Parts 3 and 4 of these Rules.