

Australia’s National Consumer Protection Framework update – Victorian Regulator (VGCCC) reviews activity statements and provides new expectations to operators.

1. Background

The National Consumer Protection Framework (**NCPF**) outlines the requirements for activity statements which are to be provided to active wagering customers of each wagering service provider in Australia.

In Victoria, the requirements of the NCPF in relation to activity statements were implemented via the Ministerial Direction issued pursuant to section 4.8A.2 of the *Gambling Regulation Act 2003* (Vic) (**GRA**) on 6 July 2022 relating to, among other things, wagering customer activity statements (**Ministerial Direction**). The Ministerial Direction applies to any customers located in Victoria.

In January 2023, the Victorian Gambling and Casino Control Commission (**VGCCC**) undertook a review of activity statements and produced the *National Consumer Protection Framework Activity statements – review findings* (**Review**) as well as the *National Consumer Protection Framework Activity statements – VGCCC expectations* document (**Expectations**) in late September 2023. These documents have been shared with wagering service providers and were made publicly available on the VGCCC website on 18 April 2024.

The Expectations sets out the VGCCC requirements to ensure that activity statements are compliant with the Ministerial Direction and to ensure “account holders receive clear statements on their activity and spend that are easy to understand”. The Expectations took effect on 1 December 2023 however many operators were granted extensions until 31 March 2024.

2. The VGCCC Expectations

Below is the table highlighting the VGCCC expectations as outlined in the Expectations against what is listed in the Ministerial Direction.

Ministerial Direction requirement	VGCCC Expectations	Consideration
Clause 8.2 - The activity statement must provide information using plain English so that it can be clearly and easily understood by account holders	<p>The activity statement must provide information in clear and concise language and avoid unnecessary jargon and technical terms.</p> <p>The information in the activity statement should be easily understood by an account holder without specialised knowledge.</p> <p>A WSP must use plain English including for account holders from culturally and linguistically diverse backgrounds.</p> <p>Where the activity statement includes specialised terms, the licensee should provide clear definitions.</p>	This includes additional clarification on <i>clearly and easily understood</i> .
Clause 8.3 - The activity statement must include:	Activity statements must meet the requirements as outlined in the VGCCC activity statement	<i>Operators should consider how these definitions can</i>

Ministerial Direction requirement	VGCCC Expectations	Consideration
<p>a) segmented information clearly showing monthly information on betting activity and account transactions about:</p> <ul style="list-style-type: none"> (i) amount spent (ii) wins and losses (iii) number of bets placed (iv) overall net win/loss for the specified period of the activity statement (v) opening and closing balances (vi) deposits and withdrawals (vii) the account balance 	<p>prototype at Attachment 1 of the Expectations and below.</p> <p>Activity statements must include the following information and their definitions as follows:</p> <ul style="list-style-type: none"> • <i>You Spent</i> is the sum of <i>Stakes</i> and <i>Free Bets</i> for the statement period. • <i>You Won</i> is the sum of <i>Net Results</i> from winning bets (<i>Pay Out</i> less <i>Stake</i>). Wins from <i>Free Bets</i> are included in <i>Pay Out</i>. • <i>You Lost</i> is the sum of <i>Net Results</i> from losing bets (<i>Stake</i>). A losing <i>Free Bet</i> gives a zero <i>Net Result</i>. • <i>Your Net Result</i> for the period is the sum of <i>Net Results</i> from all bets, or <i>You Won</i> less <i>You Lost</i>. <p>Free bets/bonus bets must be clearly identifiable and displayed separately from other bets and include:</p> <ul style="list-style-type: none"> • Both the total value and number of free bets/bonus bets for <i>You Spent</i> and <i>You Won</i>. <p>The number of bets placed must be provided for <i>You Spent</i>, <i>You Won</i>, <i>You Lost</i> and <i>Free Bets</i>.</p> <p>If a bet spans more than the activity statement period it must be displayed as follows and with the following explanation:</p> <ul style="list-style-type: none"> • The <i>Stake</i> is recorded in the period in which the bet is placed. If a bet is not finalised by the end of a statement period, there will be a negative <i>Net Result</i> to the value of the <i>Stake</i> for that period. If that bet is subsequently a winning bet, it is treated as a <i>Pay Out</i> with no associated <i>Stake</i> in the period of the win. 	<p><i>be included into the activity statement.</i></p>
<p>Clause 8.3 - The activity statement must include:</p> <p>b) a column graph to illustrate wagering activity comparing amount spent against net result over time for the last six months (cumulative), and shows a clear comparison tracking to the same time from the last year</p>	<p>The column graph illustrating wagering activity must meet our requirements as outlined in the VGCCC activity statement prototype at Attachment 1 of the Expectations and below.</p> <p>Red text and column graphs must be used to show losses and black must be used to show wins. Green text or column graphs must not be used.</p>	<p><i>Operators to review and confirm compliance.</i></p>

Ministerial Direction requirement	VGCCC Expectations	Consideration
<p>Clause 8.3 - The activity statement must include:</p> <p>c) a link to an account holder's transaction list</p>	<p>The transaction list must meet our requirements as outlined in the VGCCC activity statement prototype at Attachment 1 of the Expectations and below.</p> <p>The activity statement must be presented first, prior to the transaction list.</p> <p>The transaction list must clearly identify:</p> <ul style="list-style-type: none"> • all wagering activity with sufficient detail to identify the betting activity (e.g., detail about the sport/event) • free bets and bonus bets in a way that consumers can easily distinguish between these bets and other bets • any stakes that have been returned or refunded (e.g., for events which are cancelled due to inclement weather) <p>losses in red text and wins in black text, and not use green text.</p>	<p><i>The VGCCC has considered that a linked activity statement may be acceptable if it follows immediately from the activity statement.</i></p> <p><i>We would suggest operators confirm their proposed template with the VGCCC if in doubt.</i></p>
<p>Clause 8.3 - The activity statement must include:</p> <p>d) links and information on support services and a safe gambling messaging that promotes available consumer protection tools</p>	<p>The links and information on support services available to account holders must include:</p> <ul style="list-style-type: none"> • information on the type of services and how it may assist the customer • a link to the national self-exclusion register • a link to any operator run exclusion program, and information on setting deposit limits <p>taglines outlined in Schedule 1 (2) of the Ministerial Direction gazetted on 24 March 2023.</p>	<p><i>Links and information should continue to reference all consumer protection tools available to the customer.</i></p> <p><i>VGCCC have proposed that taglines and responsible gambling messaging should be placed immediately following the activity statement and as relevant, again following an embedded transaction list.</i></p>
<p>Clause 8.10 - Activity statements must not include any advertising or direct marketing information. They must use red text to show losses and black to show wins and must not use green text.</p>	<p>Activity statements and transaction lists must not include any advertising or direct marketing information.</p> <p>Red text must be used to show losses and black must be used to show wins:</p> <ul style="list-style-type: none"> • for all activity statement and transaction list text • for all column graph imagery. 	<p><i>Unchanged.</i></p>
<p>Currently implemented.</p>	<p>Applicable from 1 December 2023.</p>	<p><i>Operators should reach out to the VGCCC if they have not met this timeframe.</i></p>

3. Potential penalties

At the time of writing, an offence under section 4.8A of the GRA carries a maximum penalty of 60 penalty units (or \$11,538.60) for each breach. The VGCCC has indicated in a public statement that this maximum penalty is for **each** non-compliant activity statement issued.

In addition, the GRA also provides the VGCCC with broad disciplinary powers. This includes, for those licensed in Victoria, the ability of the VGCCC to suspend or cancel a licence if it satisfied that an offence against the GRA has been committed.

4. What to do next?

We recommend that licensees urgently review their current activity statements to confirm that they comply with both the Ministerial Direction and the Expectation.

If you are unsure, please contact Senet to discuss this matter – www.senetlegal.com.

We have experienced team members that can assist with reviewing your activity statements and ensuring compliance with your legal and regulatory obligations.