

Reasons for decision

Disciplinary action against the bookmaker registration holders Norman Leonard Oke, Steven Craig McKay and Mark Bradley Opie, trading as bookmaking partnership OkeBet, under s4.5A.14(4) of the *Gambling Regulation Act 2003*.

Delegate	Glorija Kuzman Director Gambling Division, Victorian Gambling and Casino Control Commission
Date of decision	12 September 2024
Date of reasons	15 October 2024
Decision	<p>Pursuant to the Instrument of Revocation and Delegation dated 1 November 2023 and effective 13 November 2023, I, Glorija Kuzman, Director, Gambling Division of the Victorian Gambling and Casino Control Commission, make this decision under s 4.5A.14(4) of the <i>Gambling Regulation Act 2003</i>.</p> <p>For the reasons set out in the attached statement of reasons, on 12 September 2024 I found there are grounds for disciplinary action and have decided to take disciplinary action against the bookmaker registration holders Norman Leonard Oke, Steven Craig McKay and Mark Bradley Opie, trading as bookmaking partnership OkeBet, by:</p> <ul style="list-style-type: none"> - issuing a letter of censure in respect of ground 1; - imposing a fine of \$100,000 in respect of ground 3; and - taking no action in respect of grounds 2 and 4.
Signed	
	Glorija Kuzman
	Director Gambling Division
	VGCCC

Introduction

1. This is the statement of reasons of the Victorian Gambling and Casino Control Commission (**VGCCC**) for its 12 September 2025 decision regarding disciplinary action taken against the bookmaker registration holders Norman Oke, Steven Craig McKay and Mark Opie, trading as bookmaking partnership OkeBet under ss 4.5A.14(4) of the *Gambling Regulation Act 2003* (Vic) (**the Act**).
2. Pursuant to the Instrument of Revocation and Delegation dated 1 November 2023 and effective 13 November 2023, I, Glorjia Kuzman, Director of Gambling Division of the Victorian Gambling and Casino Control Commission, make this decision under ss 4.5A.14(4) of the *Gambling Regulation Act 2003*.
3. The breaches of the Act occurred during the period commencing 1 February 2023 until 30 August 2023. During that period, the OkeBet partnership comprised Norman Oke, Gary Oke, Mark Opie and Steven McKay. On the date this decision is issued, the OkeBet comprises Norman Oke and Mark Opie.
4. On 12 April 2024, the VGCCC issued a notice to OkeBet pursuant to ss 4.5A.14(2) of the Act to show cause why disciplinary action should not be taken on the grounds specified in the notice (**Notice**). The Notice included four grounds upon which I was considering taking disciplinary action.
5. By letter dated 10 June 2024, OkeBet through their lawyers, Pat Brown Legal, responded to the Notice (**Okebet response**), and has also responded, by way of provision of information and production of documents, to separate requests for information requested by the VGCCC.
6. The VGCCC has considered in detail the OkeBet response and other relevant material provided by OkeBet in determining whether there are grounds for disciplinary action.

Number of actions

7. I note that there were four grounds for disciplinary action against OkeBet for which the VGCCC served a single notice to show cause pursuant to section 4.5A.14(3).
8. It is open to the VGCCC to consider the appropriate disciplinary action for each ground that is made out and it can take disciplinary action as it sees fit. This means that more than 1 fine can be issued or that any combination of the available actions can be taken together, for example issuing a fine and varying the conditions of the licence.

Decision

9. I am satisfied that there exist sufficient grounds to take disciplinary action against the bookmaker registration holders Norman Leonard Oke, Steven Craig McKay and Mark Bradley Opie, trading as bookmaking partnership OkeBet, by:
 - a. issuing a letter of censure in respect of ground 1;
 - b. imposing a fine of \$100,000 in respect of ground 3.
10. I note that I do not propose to take any action in respect of grounds 2 and 4.
11. Accordingly, this statement of reasons addresses my reasons for taking action in respect of grounds 1 and 3, but does not address grounds 2 and 4.

Background

12. On 7 December 2021, Norman Oke, Mark Opie, Steven McKay and Gary Oke were approved by the VGCCC as parties to the registered bookmaking partnership OkeBet.
13. In April 2023, the VGCCC became aware of OkeBet had distributed inducement material to numerous local sporting clubs.
14. Between 21 July – 26 July 2023, the VGCCC received several complaints from individuals who alleged that they had received direct marketing from OkeBet on 21 July 2023 whilst their betting account was self-excluded.

Basis for disciplinary action

Ground 1 – contravention of the harm minimisation direction

15. **SECTION 4.5A.14(1)(c) – OKEBET HAS CONTRAVENED SECTION 4.8A.6 OF THE ACT BY FAILING TO COMPLY WITH A HARM MINIMISATION DIRECTION**
16. The Harm Minimisation Direction dated 6 July 2022 states at clause 5.1 the following:

A wagering service provider or person acting on behalf of a wagering service provider must not send any direct marketing to a person unless that person has provided his or her express consent to receive direct marketing.
17. On 21 July 2023, OkeBet sent a promotional email to 1,030 people (the **Email**). The Email:
 - a. offered, 'enhanced odds', 'cash-back up to \$100 if a selection runs 2nd on selected races across Caulfield & Rosehill', 'the best market odds for #8 Chayse N Artie in Race 2 at Doomben' and 'boosted odds for Rolls and Mollynickers to both win their races';¹ and
 - b. was sent by an OkeBet staff member via email.
18. Five of the recipients of the Email complained to the VGCCC about receiving it. Each of those complainants were individuals who had informed OkeBet that they did not wish to be permitted to bet with OkeBet and were accordingly "self-excluded" at the time.
19. In a 13 September 2023 response to a notice to produce, OkeBet informed the VGCCC that the Email was distributed to 1,030 self-excluded customers.
20. I have formed the view that sending the Email comprised "direct marketing" within the meaning of clause 5.1 of the Harm Minimisation Direction.
21. I have also formed the view that the 1030 self-excluded customers who received the Email had not provided express consent to receiving the Email.
22. OkeBet, in its 10 June 2024 response to the Show Cause Notice, has submitted that the VGCCC is applying clause 5.1 in a way that goes beyond the words on the page in the Ministerial Direction and that the VGCCC is alleging that OkeBet has breached an implied law in this ground. I reject those submissions.
23. In my view, the fact that a customer has self-excluded from holding a betting account with OkeBet is clear evidence that the customer does not consent to receiving direct marketing from OkeBet, and has

communicated their lack of consent to the receipt of direct marketing to OkeBet. That is the case even if the customer had previously consented to receiving direct marketing. Put another way, it is open to a customer to withdraw their consent to receipt of direct marketing. By executing a self-exclusion, the customer has (in my view) plainly withdrawn any previously conferred express consent to receiving direct marketing. It follows that a customer who has self-excluded is a customer who has not provided his or her express consent to receive direct marketing; and that OkeBet's conduct in sending the Email to self-excluded customers constitutes a direct (and not implied) breach of clause 5.1 of the Direction.

24. It follows that a ground for disciplinary action exists under ss 4.5A.14(1)(c) of the Act, in that (by contravening cl 5.1 of the Direction) the registration holder has contravened s 4.8A.6 of the Act.
25. I have decided, in respect of that ground for disciplinary action being established, to issue a letter of censure under ss 4.5A.14(1)(c) of the Act. While I considered imposing a fine for this breach, I have concluded that a letter of censure alone will suffice to achieve the protective purposes of the imposition of disciplinary action for this contravention. I have formed this view having regard to OkeBet's acknowledgement that the Email was inadvertently sent to unintended recipients as well as its submission that it has taken significant steps to take corrective and preventative measures to ensure there is no repeat of this error.

Ground 3 – inducement to open a betting account

26. **SECTION 4.5A.14(1)(c) – OKE BET HAS CONTRAVENED SECTION 4.7.10 OF THE ACT BY OFFERING AN INDUCEMENT TO OPEN A BETTING ACCOUNT**
27. Section 4.7.10 of the Act provides that a wagering service provider must not offer any credit, voucher or reward as an inducement to open a betting account.
28. OkeBet offered rewards of money as an inducement to open a betting account on four occasions, as set out below.
29. On 13 February 2023, the Ocean Grove Football and Netball Club was sent an email from Tim Donoghue, the CEO of OkeBet. The email attached a copy of the agreement dated 13 February 2023 and signed by OkeBet on 23 February 2023 making the offer that Ocean Grove Football Netball Club would receive \$100 per member or associate of the club who opens a betting account with OkeBet and becomes an active client.

“The Ocean Grove Inducement”

30. The covering email confirms the terms of the offer, that:
- a. supporters of the Ocean Grove Football Netball Club sign up with OkeBet;
 - b. with their first deposit, supporters must use the unique promo-code;
 - c. the Ocean Grove Football Netball Club will be rewarded \$100 per active customer, per annum;
 - d. OkeBet will provide the Ocean Grove Football Netball Club with quarterly advice to raise an invoice for the number of active customers and will make the payment into your nominated account; and
 - e. the Ocean Grove Football Netball Club is eligible for a payment every 12 months for each active customer.

31. On 15 March 2024, in response to a request from the VGCCC, seven Victorian sporting clubs confirmed that they had received contact from OkeBet about the same offer, but had rejected the proposal. Three clubs confirmed that they been offered rewards of money as inducements for their club members and associates to open betting accounts and had entered agreements with OkeBet to this effect.
32. OkeBet made an offer to Chelsea Football Club that it would receive \$100 per member or associate of the club who opens a betting account with OkeBet and becomes an active client. The commencement date of the offer from OkeBet to Chelsea Football Club was 8 February 2023 and it was signed by OkeBet on 28 February 2023.
33. OkeBet made an offer to Dandenong Football and Netball Club that it would receive \$100 per member or associate of the club who opens a betting account with OkeBet and becomes an active client. The commencement date of the offer was 28 February 2023 and it was signed by OkeBet on 28 February 2023.
34. OkeBet made an offer to Macedon Football Netball Club that it would receive \$100 per member or associate of the club who opens a betting account with OkeBet and becomes an active client. The commencement date of the offer was 20 March 2023 and it was signed by OkeBet on 20 March 2023.

“The Chelsea, Dandenong and Macedon Inducements”

35. Section 4.7.10 of the Act provides “A wagering service provider must not offer any credit, voucher or reward as an inducement to open a betting account.”
36. In my view, OkeBet contravened this provision on the 4 occasions described above in relation to the Ocean Grove Inducement and the Chelsea, Dandenong and Macedon Inducements.
37. That is, and as described above, OkeBet made offers to each of the sporting clubs described above. The offer was of a reward in the form of cash payment to the club. The offer was made as an inducement to members or associates of each sporting club to open and/or maintain a betting account.
38. The fact that the reward was offered to an entity (the sporting club) which was a different legal person from the individual being induced to open a betting account does not detract from my conclusion. Rather, I interpret s 4.7.10 as covering the scenario where (as here) the reward offered as an inducement to open a betting account is a reward offered to a third party.
39. OkeBet submitted, in its 19 May 2023 response to the VGCCC’s notice to produce (relied upon in OkeBet’s 10 June 2024 response to the proposed disciplinary action), among other things:

My clients were careful to ensure compliance with their obligations under section 4.7.10 of the [Act] by avoiding making an offer as an inducement to open a betting account.

Arrangements with the Club and any club were never limited to new customers only. At all times, arrangements with clubs included existing OkeBet customers. ...

40. Similar submissions were made in OkeBet’s 10 May 2023 response to the VGCCC.
41. I do not accept OkeBet’s submission to the effect that because the offer was not limited to new customers, it did not comprise an inducement to open a betting account. That is because the agreement states that the clubs are to “introduce customers” to OkeBet. Further, the cover email

referred to in paragraph 30 above states that the reward is offered for when supporters of the club “sign up with OkeBet” and use the promo code with their “first deposit”.

42. OkeBet also submitted, in its 10 June 2024 submission:

30. *The ‘effect’ of the VGCCC allegation appears to be that if an action has the potential outcome of a person opening a betting account, then it contravenes section 4.7.10 of the Act. This approach would result in the anomalous outcome that:*

- a) *all bookmaker advertising in Victoria is prohibited (which is clearly not a legally supportable argument) because that advertising can have the effect of resulting in the opening of betting accounts; and/or*
- b) *that the thousands of affiliate arrangements under which affiliates of bookmakers interact with a Victorian resident are prohibited (which is clearly not a legally supportable argument).*

43. I do not accept this submission. OkeBet’s conduct does not contravene s 4.7.10 of the Act merely because it was advertising which might have had the effect of prompting a person to open a betting account. Rather, the conduct contravenes s 4.7.10 because it constituted the offer of a reward (to a third party) if in certain circumstances a new customer opened and then maintained a betting account with OkeBet. Conduct (including advertising) that does not offer a reward as an inducement for opening a betting account would not contravene s 4.7.10.

44. In light of the above, I am satisfied the conduct set out in Ground 3 above gives rise to grounds for disciplinary action within the meaning of ss 4.5A.14(1)(c) of the Act. I have therefore decided to take disciplinary action pursuant to ss 4.5A.14(4) of the Act.

Appropriateness of a fine

45. Subsection 4.5A.14(1) provides that the disciplinary action that the VGCCC may take is any of the following:

- . *The cancellation or suspension of the bookmaker’s registration;*
- . *The variation of the conditions of the bookmaker’s registration;*
- . *The issuing of a letter of censure; and*
- . *The imposition of a fine not exceeding an amount that is 50,000 times the value of a penalty unit fixed by the Treasurer under s 5(3) of the Monetary Units Act 2004 (Vic).*

46. Subsection 4.5A.14(5) confers a broad discretion on me to take appropriate disciplinary action for allows the VGCCC to take disciplinary action against OkeBet as it sees fit.

47. I consider that a letter of censure would not be a sufficient and proportionate action in the circumstances, and would not achieve the objectives of general and specific deterrence.

48. Ultimately, I have concluded that disciplinary action in the form of a fine is warranted for the following reasons:

- a. Firstly, general deterrence would not be achieved by anything less than a fine. The penalty should serve as a measurable and effective deterrent, rather than being perceived as merely a

“cost of doing business”¹. Registered bookmakers must understand that there are financial consequences for contraventions of the Act, particularly where bookmakers can derive not insignificant revenue from conduct of this nature; and

- b. Secondly, specific deterrence would not be achieved by anything less than a fine. OkeBet must be deterred from again engaging in the conduct that formed the basis of the Ocean Grove Football Netball Club Inducement and the Chelsea, Dandenong and Macedon Inducements.

Setting the fine in this case

49. I conclude that a fine of \$100,000 is an appropriate penalty in all the circumstances of this case.
50. The maximum fine available when taking disciplinary action against a registered bookmaker is 50,000 times the value of a penalty unit. Taking the penalty unit at the time of the contravening conduct of \$184.92, the maximum penalty that may be imposed in this case is \$9,6246,000.
51. The size of the maximum penalty that may be imposed indicates that Parliament intended for serious consequences to be available to the VGCCC when a ground of disciplinary action is established and in taking disciplinary action warranting the imposition of a fine.
52. The need for deterrence, both specific and general, weighs heavily on the VGCCC when setting the appropriate level fine. It is the case that a lesser disposition is appropriate.
53. I consider that the conduct here is such that it falls within the lower end of the scale of the maximum penalty. I consider that a fine of \$100,000 is appropriate. However, a fine at the lower range should not be misunderstood to suggest that the contraventions giving rise to the ground for disciplinary action were not serious.
54. In arriving at this position, I have given consideration to the following factors.
55. OkeBet is a partnership bookmaker, employing approximately 10 people.
56. For the financial year 2022 – 2023, OkeBet made net revenue of approximately \$4.3 million. For the financial year 2023 – 2024, OkeBet made net revenue of approximately \$5.5 million.
57. Even though only a small number of clubs have accepted the offers made by OkeBet, the VGCCC remains deeply concerned that these offers were made at all, especially to local sporting clubs. The connection between sport and gambling creates an environment that can expose participants, fans, and even children to gambling and the associated risks of harm.
58. I am not aware of any of Norman Leonard Oke, Steven Craig McKay and Mark Bradley Opie committing other breaches of the Act.
59. The objective seriousness of the matter. The act of inducing persons to open betting accounts has the potential to encourage persons who otherwise may not have gambled to gamble and poses a real risk of harm.
60. The need for deterrence, where serious contraventions of the Act are involved.

Review of a Decision

61. Under ss 4.5A.15(h), a person whose interests are affected by a decision to take disciplinary action against a registered bookmaker may apply to the Victorian Civil and Administrative Tribunal for review.
62. An application for review must be made within 28 days after the day the decision was made.

¹ *TPC v CSR Limited* [1990] FCA 762; [1990] FCA 521; (1991) 13 ATPR 41-076