

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr B
Licensee:	Betfair Pty Ltd
Proceedings:	Gambling Dispute for determination by Racing Commission (pursuant to section 109Y(2) of the <i>Racing and Betting Act 1983</i>)
Heard Before: (on papers)	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Mr Kris Evans
Date of Decision:	31 August 2021

Background

1. On 8 January 2020, the complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) against the licensed betting exchange operator Betfair Pty Ltd (Betfair) pursuant to section 109Y(2) of the *Racing and Betting Act 1983* (the Act).
2. The substance of the complainant's gambling dispute is that he was able to open multiple betting accounts with Betfair contrary to Betfair's terms and conditions. The complainant has submitted that he understands that he has a responsibility to control his own gambling behaviours however, he asserts that as he was able to open three betting accounts with Betfair using the same identification details he has in turn suffered financial harm as he was able to deposit and subsequently lose \$6,000 utilising one of the betting accounts that he had been able to open. In addition, the complainant has expressed his dissatisfaction that Betfair did not ask him whether he had other betting accounts with them or why those accounts were "shutdown".
3. The complainant has further submitted to the Commission that as he had previously self-excluded from a sports bookmaker that he understands is owned by a company that at the time of the lodgement of this gambling dispute part owns Betfair, that Betfair should have had knowledge of this self-exclusion.
4. Information was gathered from both parties by a Licensing NT officer appointed as a betting inspector by the Commission and provided to the Commission, which determined there was sufficient information before it, to consider the gambling dispute on the papers.

Consideration of the Issues

5. All sports bookmakers and betting exchange operators which have gambling disputes lodged against them with the Commission have the opportunity to respond to the substance of the gambling dispute. In this respect, Betfair has submitted to the Commission that:

- a. the complainant operated a betting account with Betfair between 13 December 2019 and 18 December 2019 during which he deposited \$5,725 into the betting account;
 - b. upon receipt of an email from the complainant on 18 December 2019 in which he detailed that he was experiencing harms from his gambling, Betfair closed the betting account;
 - c. the complainant had opened three separate betting accounts with Betfair over a ten year period being:
 - i. Account 1
 - account opened on 27 October 2009;
 - betting activity undertaken until 3 November 2009;
 - account closed on 19 February 2018.
 - ii. Account 2
 - account opened on 19 February 2018;
 - betting activity undertaken until 27 February 2018;
 - lifetime account winnings of \$2,089;
 - account closed on 27 February 2018 due to unusual logins.
 - iii. Account 3
 - account opened 13 December 2019;
 - betting activity undertaken until 16 December 2019;
 - lifetime account losses of \$4,685;
 - account closed 18 December 2019 due to red flag behaviour.
 - d. Betfair did not identify any red flag behaviour for any of the betting accounts until the complainant contacted Betfair on 17 December 2019 and 18 December 2019 in relation to betting account 3, after which Betfair closed the complainant's betting account; and
 - e. Betfair and the sports bookmaker that the complainant states that he self-excluded from are separate operating entities and as such, information relating to the betting accounts held by each entity is not shared.
6. The Commission notes that the opening of multiple betting accounts with a sports bookmaker or a betting exchange operator is not specifically prohibited by the Commission. Rather, the prohibition on the operation of multiple betting accounts is a business decision of the online gambling operator and it often appears in an online gambling operator's terms and conditions that a person will not operate multiple betting accounts with the same online gambling operator. Should an online gambling operator allow the opening of multiple betting accounts, the Commission's primary concern would be that the betting accounts are linked so that the activity on each of the betting accounts is monitored in a way that is able to detect any red flag behaviours of the holder of the betting accounts rather than being limited to the individual activity occurring on each of each the betting accounts.

7. However, and contrary to the complainant's assertions, it is clearly apparent to the Commission that while the complainant has operated three betting accounts with Betfair over a ten year period, none of these betting accounts were open at the same time.
8. The Commission does however, through the *Northern Territory Code of Practice for Responsible Service of Online Gambling 2019* (the 2019 Code), prohibit a betting exchange operator from allowing a self-excluded customer to open a new account.
9. While the complainant has stated to the Commission that he had self-excluded from a sports bookmaker that he understands is owned by a company that at the time of the lodgement of this gambling dispute part owned Betfair, the Commission has articulated in previous Commission decisions that the Commission is of the view that it is the individual licensee who is responsible for compliance with the Act, its licence conditions and any Codes issued by the Commission and not any parent company or business entity that may be associated with multiple licensees.
10. Given this and noting that the Commission has not sought any evidence as to the veracity of the complainant's claims of his self-exclusion with the sports bookmaker claimed to have an association with Betfair due to corporate business structures, the Commission is not of the view that any self-exclusion with another online gambling operator licensed by the Commission should have resulted in Betfair firstly, being aware of the self-exclusion nor secondly of being bound by the 2019 Code to not allow the complainant to open a betting account with it due to the self-exclusion that is asserted by the complainant to have existed.

Decision

11. The Commission is authorised, following an investigation, to declare that a disputed bet is lawful or not lawful so far as the requirements of the Act are concerned. In deciding whether a bet is lawful, the Commission must look to the substance of the transaction and whether it should be enforced or not.
12. On the weight of the evidence before it, the Commission is satisfied that each of the bets that were struck during the lifetime of the complainant's third betting account with Betfair (being between 13 December 2019 and 18 December 2019) are lawful bets pursuant to section 109Y(9) of the Act and that Betfair has settled the bets correctly.
13. As a result of this determination, the Commission is not of the view that any monies are payable to the complainant.

Review of Decision

14. Section 109Y(7) of the Act provides that a determination by the Commission of a dispute referred to it pursuant to section 109Y(2) of the Act shall be final and conclusive as to the matter in dispute.



Alastair Shields
Chairperson
Northern Territory Racing Commission