

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr G
Licensee:	Hillside (Australia New Media) Pty Ltd – bet365
Proceedings:	Gambling Dispute for determination by Northern Territory Racing Commission (pursuant to section 85(2) of the <i>Racing and Betting Act 1983</i>)
Heard Before: (on papers)	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Ms James Pratt
Date of Decision:	2 December 2022

Background

1. On 1 July 2020, pursuant to section 85(2) of the *Racing and Betting Act 1983* (the Act), the complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) in relation to his dealings with bet365 - a sports betting platform that is operated under the sports bookmaker licence issued by the Commission to Hillside (Australia New Media) Pty Ltd. For ease of reference, the sports bookmaker will be referred to as bet365 throughout this decision notice.
2. The substance of the complainant's gambling dispute is that during a period of betting activity in August 2015, the complainant asserts that due to a typographical error and a failure in the bet365 online in-play betting processes, he erroneously placed a bet with bet365 with a stake of \$97,078.05.
3. Information was gathered from the parties involved by Licensing NT officers appointed as betting inspectors by the Commission and provided to the Commission, which determined that there was sufficient information before it to consider the gambling dispute on the papers.

Consideration of the Issues

Historical Complaint

4. In the first instance, the Commission notes that the complainant has submitted this gambling dispute just shy of five years after the bet in dispute was struck.
5. While customers of betting companies occasionally wish to submit historical disputes to the Commission where the pertinent event happened a number of years ago, due to a variety of factors, it is usually not feasible for the Commission to investigate historical disputes except in exceptional circumstances.
6. The complainant in this matter has submitted to the Commission that he had raised his dispute with bet365 both in writing and orally at the time of the event however, this action had not only not resolved his dispute but had led to bet365 closing his bet365 betting account permanently several days later in what the complainant submits was an action taken by bet365, "...to try and prevent me from taking this matter further."
7. The complainant has further submitted that he was unaware at that time that he could lodge a gambling dispute with the Commission and that additionally, he had now received legal advice

that his dispute was now more likely to be found in his favour due to a number recent Court findings.

8. While the Commission notes that the complainant did not provide any supporting information in relation to the legal cases that he claims have established new precedents (noting that if any do in fact exist, any such precedents may have been persuasive to the Commission but would not be binding), the Commission was concerned about the complainant's assertion that as a result of submitting a complaint directly with bet365, his betting account was permanently closed.
9. Given this concern, the Commission determined to undertake an investigation into the issues of complaint despite the fact that the dispute involved historical events.

Closing of Betting Account

10. As noted above, the complainant submitted to the Commission that as a direct result of lodging a gambling dispute with bet365, his betting account with that sports bookmaker was closed on a permanent basis.
11. During the Commission's investigation into this gambling dispute, bet365 initially advised the Commission that:
 - it had been unable to locate any evidence of contact from the complainant at the time of the bet being placed nor in the days following, where the complainant raised any concerns about the bet in question;
 - it did contact the complainant on 26 August 2015 in relation to a separate issue and during that conversation and in response to a question being asked, the complainant confirmed that he had made a typing mistake when placing a recent bet however at no time did the complainant ask for the matter to be investigated nor did he raise the issue as a complaint;
 - the complainant's bet365 betting account was suspended as a result of this conversation due to its 'social responsibility policy' and it was not until February 2016 when the complainant contacted bet365 and asked that his betting account be re-instated that bet365 determined to exclude the complainant from using their wagering services on a permanent basis; and
 - that during this conversation in February 2016, the complainant again confirmed that he had placed the bet subject of this gambling dispute by accident and did not ask for the matter to be looked into.
12. In a later submission to the Commission, bet365 advised it that it had further reviewed the complainant's correspondence to it during the course of the Commission's investigation and had now located an email sent by the complainant on 24 August 2015 from a secondary email attached to the complainant's betting account. Bet365 has submitted to the Commission that the main purpose of this email was for the complainant to provide feedback on the functionality of its website when being used on an iPad. Bet365 further submitted that the complainant, *"...was clear that the placement of the bet was his error and the purpose of contacting was to provide feedback."*
13. The Commission has reviewed the complainant's email to bet365 dated 24 August 2015 and notes that its contents supports bet365's submission as detailed in the paragraph above, in that the email's main purpose was to provide feedback to bet365 and was not the lodgement of a dispute with it.

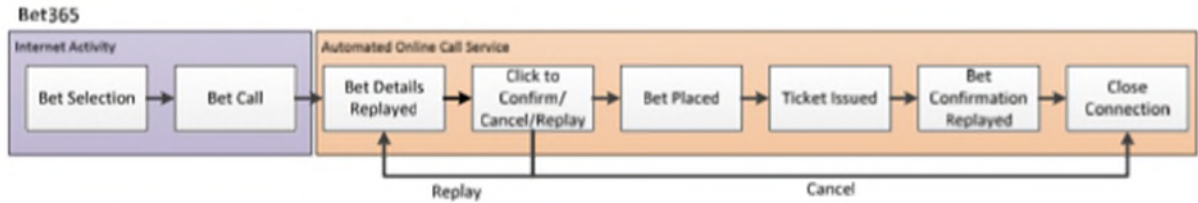
14. The Commission has also reviewed a transcript of the telephone call between bet365 on 26 August 2015 and notes that this call was initiated by a member of bet365's responsible gambling team and while the bet subject of this gambling dispute is discussed on a number of occasions, the primary purpose of this conversation centred around whether the complainant was in control of his gambling activity and betting with money that he could afford to lose. As a result of the responses provided by the complainant to the bet365 responsible gambling team member, bet365 determined to temporarily suspend the complainant's betting account until his activity and responses could be reviewed by the bet365 management team.
15. While it appears that bet365 then tried to make contact with the complainant in the days after it decided to temporarily suspend the complainant's betting account, it was unable to contact him and the betting account remained in a suspended state.
16. On 28 January 2016, the complainant sent a Web Message to bet365 in which he noted that his account had been suspended due to losing a, "...lot of money in a short period of time" and requested whether there was any information available as to when his betting account might be reactivated.
17. On 18 February 2016, bet365 again contacted the complainant by telephone (a transcript of which has been sighted by the Commission) and discussed his betting account from a responsible gambling perspective. Once again the complainant was advised that his betting account activity and his responses provided to the bet365 responsible gambling team would be referred to the bet365 management team for review.
18. The following day, an email was sent to the complainant by bet365 advising the complainant that following a review, the bet365 management team had decided to close the complainant's betting account on a permanent basis with no option for it to be re-opened.
19. On the evidence detailed above, it is clear to the Commission that contrary to the complainant's submission that his bet365 betting account was closed permanently as a direct result of lodging a complaint about the bet subject of this gambling dispute with bet365, the complainant's betting account was first temporarily suspended and then later closed permanently by bet365 due to the concerns it had about the complainant from a responsible gambling perspective and not as a direct result of any issues that the complainant raised with bet365 about the bet subject of this gambling dispute.

The Bet in Dispute

20. The complainant has submitted to the Commission that in the very early hours of the morning of 24 August 2015 and following the placement of a number of winning and losing in-play bets with stakes ranging from \$4,736 to \$10,000 on a soccer match being played between Chelsea and West Bromwich, he decided to place an online in-play bet with a stake of \$7,078.05 on another goal being scored in the final remaining minutes of the Chelsea and West Bromwich soccer match.
21. However, instead of typing \$7,078.05 as the staked amount for the bet, he has submitted that he inadvertently and unknowingly typed \$97,078.05 as the stake for the bet (an amount being the remaining balance of his betting account). The complainant has submitted to the Commission that he would have become aware of his error had the bet365 software read the bet stake amount back to him as he submits was required at the time for the placement of online in-play bets. The complainant has submitted that he only became aware of the stake of the bet that had been placed when he checked his account balance when there were only a few minutes remaining in the soccer match and found that he had a zero account balance.
22. The Commission notes that the online in-play bet resulted as a losing bet.

23. The complainant has submitted that the feedback he received from bet365 in relation to this bet is that as per bet365's terms and conditions, it is the responsibility of the bet365 customer to verify the amount of the bet being placed.
24. The complainant has proffered the following arguments to the Commission in support of his desire for bet365 to refund to him, firstly the \$90,000 that he asserts was over and above the amount of the bet stake that he had intended to bet (and more recently in a submission to the Commission in February 2021 - the full bet of \$97,078.05 plus interest and compensation):
 - a. the error would not have occurred had he placed the bet over the telephone as the bet would not have been accepted until the telephone operator read the bet back to him and confirmed that the stake was correct;
 - b. given the above, why wasn't there the same level of protection afforded to him as an online customer in that, the bet should have required verification prior to it being accepted;
 - c. bet365's terms and conditions protect bet365 from outcomes resulting from obvious errors (including typographical errors for the odds on offer) and given this, why aren't bet365 customers protected in the same manner.
25. The complainant has acknowledged (correctly) in the submission of his gambling dispute to the Commission, that he understands that the system that was in use for online in-play betting in 2015 is no longer used by bet365 and has queried whether this is due to regulatory or usability issues.
26. Of note is that the complainant has also submitted to the Commission that he has:

"...absolutely no quarrel with their [bet365's then] bet placement system for every other bet I made as I either had made no errors myself and/or informed consent was provided, noting that I make this declaration given I incurred further losses of \$50,000 after this event."
27. Supporting the Commission's view that it is often not feasible to investigate historical complaints is that the regulatory environment for the placing of online in-play bets has changed since the complainant placed the 2015 bet subject of this gambling dispute.
28. In this respect, in September 2017, the Interactive Gambling Act (Cth) (IGA Act) was amended in response to claims from various factions that the then existing Commonwealth legislation was ineffective as a means of deterring unlicensed offshore gambling operators from providing services to Australian residents. The amendments, among other things clarified the prohibition on the use of 'Voice Over Internet Protocol' (VoIP) technology by licensed wagering operators to facilitate online in-play betting services.
29. Prior to that legislative amendment, a number of sports bookmakers licensed by the Commission had developed and with approval from the Commission, implemented VoIP technology that enabled the placement of online in-play bets by their customers without the need for the customer to place an in-play bet directly over the telephone. As a result of the legislative change at the Commonwealth level, the Commission subsequently amended the licence conditions of each of its licensees to also prohibit the acceptance of online in-play bets using VoIP technology.
30. However, at the time that the bet subject of this gambling dispute was struck, bet365 was lawfully allowed by the Commission, to utilise VoIP technology as part of its processes for the striking of an online in-play bet, the process of which is outlined below:



1. Make sure your speakers are turned on
2. Add your selections to your bet slip and click on the "Make a betCall" button
3. An automated call to request your bets is initiated
4. A computerised voice will summarise your bets and ask you to confirm you request
5. You can then either confirm your bets, have the request repeated or cancel your bet.

31. The Commission notes that in the email of 24 August 2015 from the complainant to bet365 referred to earlier in this decision notice and in which the complainant suggests a number of improvements to bet365 regarding its online in-play betting process at that time, the complainant states:

"How it happened is that when I made the obvious typ[o] on my iPad in placing the bet , I accidentally double tapped the place bet icon. This immediately places the bet and confirms the call (without any actual voice confirmation occurring) so before I realised my mistake the bet had been placed."

32. In addition, reviewing the telephone call initiated by bet365 on 26 August, the Commission is drawn to the complainant's admissions as follows:

"Erm, yeah, no it's, it's fine apart from the erm... basically I made a big, big typo on the weekend and, and put in er, \$97,000 instead of \$7,000, and did it over Bet Call and double clicked, and it all went through, and erm, that (unclear) I'm at a massive loss, loss over where I've expected to so, but I do realise it's me, no recourse about who it is, so it's fine."

33. The complainant has asserted in his submissions to the Commission that:

"[e]vidence has now been obtained with Bet365 staff confirming that no functionality was ever built in to the "click to accept" online verification system that required a user to listen to the wager details read back from start to finish before they could confirm a wager."

34. In reviewing the investigation report and the numerous attachments provided to it by the Commission's betting inspector, the Commission has not sighted any evidentiary material that supports this assertion by the complainant.
35. Rather, the Commission has reviewed records of an audit undertaken by the gambling systems team within Licensing NT (a team which provides technical support to the Commission) that was undertaken in June 2015 and notably just months prior to the bet subject of this gambling dispute was struck. The purpose of that audit was to evaluate bet365's wagering system and included testing of bet365's online in-play processes through the placement of several online in-play bets. The outcome of that audit detailed that on placement of an online in-play bet, the bet confirmation screen was displayed.
36. However, the Commission does note that the audit undertaken does not record that an examination took place as to whether or not the bet details were replayed to the gambler and/or whether a gambler could confirm the bet without listening to the details of the bet being read to them from start to finish prior to confirming the bet.

37. As noted earlier, by the time that the complainant lodged this gambling dispute, the use of VoIP technology to place online in-play bets had been prohibited by the Commission for a number of years and given this, there has been no opportunity for the Commission to again test bet365's wagering system to verify or refute the complainant's claims that he was able to confirm the bet without listening to the details of the bet being read to him.
38. What is not in doubt however, through the complainant's own admissions is that he placed an online in-play bet with bet365 on 24 August 2015 and during the placement of that bet, he confirmed the bet by 'clicking' on the appropriate button on his iPad computer, noting at this point in time of the process he also had the option to 'click' on the cancel bet button as well. It is only at a later stage, either after or just prior to the bet resulting as a losing bet that the complainant asserts that he made a typographical error when placing the bet.
39. The Commission notes that in 2015, the complainant regularly placed online in-play bets with bet365 and was certainly familiar with the procedures for placing a bet in this manner.
40. Given the above, the Commission is of the view that even if the bet365 wagering system that was in place at that time did not prevent a customer from overriding the need to listen to the details of in-play bet being read back to them (noting that this is unable to be verified by the Commission one way or the other), the complainant must bear some culpability for the placement of the bet given that he consciously opted to select the confirmation button to confirm the bet after having entered into the bet365 wagering system, the details of the bet he wished to place.

Decision

41. On the weight of the evidence before it and for the reasons set out above, the Commission has determined that pursuant to section 85(1A) of the Act, the bet placed by the complainant on 24 August 2015 for \$97,078.05 was a lawful bet and was resulted correctly by bet365 as a losing bet.
42. As such, the Commission has formed the view that there are no monies that should be returned to the complainant by bet365.

Review of Decision

43. Section 85(6) of the Act provides that a determination by the commission of a dispute referred to it pursuant to section 85 of the Act shall be final and conclusive as to the matter in dispute.



Alastair Shields
Chairperson
Northern Territory Racing Commission