
NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr A
Licensee:	Entain Group Pty Ltd - Ladbrokes
Proceedings:	Gambling Dispute for determination by NT Racing Commission (pursuant to section 85(2) of the <i>Racing and Betting Act 1983</i>)
Heard Before: (on papers)	Ms Cindy Bravos (Presiding Member) Ms Amy Corcoran Mr Kris Evans
Date of Decision:	24 February 2023

Background

1. On 22 October 2019, pursuant to section 85(2) of the *Racing and Betting Act* (the Act), the complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) against Ladbrokes - a sports betting platform that is currently operated under the sports bookmaker licence held by Entain Group Pty Ltd (Entain) and which also operates the sports betting platforms Betstar, bookmaker.com and neds.com.au. Given that the gambling dispute centres on the complainant's interactions with the sports bookmaker while interacting with the Ladbrokes betting platform, the Commission has determined to refer to the sports bookmaker as Ladbrokes throughout this decision notice.
2. The complainant has made a number of serious assertions against Ladbrokes, being that:
 - a. a betting account in the complainant's name was opened by a Ladbrokes' employee unknown to the complainant, without the complainant's knowledge or consent; utilising information obtained by the Ladbrokes' employee during his former employment with another corporate sports bookmaker;
 - b. once opened, the Ladbrokes' betting account was credited with approximately \$1,000 in bonus bets as an inducement for the complainant to commence betting with Ladbrokes; and
 - c. Ladbrokes did not interact with the complainant in a meaningful way despite the complainant engaging in behaviours that are commonly recognised as indicia of potential problem gambling issues - including the complainant's gambling activity rapidly escalating over several months, credit card deposits being regularly declined and a deposit of \$300,000 being made on a single day (being five times larger than any deposit previously made by the complainant).
3. The complainant has asserted that due to Ladbrokes' actions, he became addicted to gambling and lost a significant amount of money to Ladbrokes (which according to the complainant's submission was at least \$1.5 million over a two-year period).

In his submission, the complainant has posed the question as to whether he would have lost over \$1.5 million to Ladbrokes, “...if they didn't illegally solicit me?”

4. Prior to the lodgement of the gambling dispute with the Commission, the complainant with the assistance of a family member attempted to resolve the dispute directly with Ladbrokes. This attempt however, was not successful and resulted in the complainant's family member being advised by Ladbrokes that after having reviewed the issues raised, Ladbrokes, “...consider[s] that we have complied with our obligations, including under the NT Responsible Code of Practice and our own responsible gambling policy.”
5. 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

Opening of the Betting Account

6. The complainant has asserted that a betting account in his name was opened by a Ladbrokes' employee unknown to the complainant and without the complainant's knowledge or consent. The complainant has claimed that the information used to open the Ladbrokes' betting account was obtained by the Ladbrokes' employee during his former employment with another sports bookmaker.
7. In support of this assertion, the complainant has submitted that on 28 July 2017, he received a phone call from a person [Mr B] who he did not know and who stated that he now worked for Ladbrokes after having previously worked for another sports bookmaker company. The complainant alleges that Mr B advised the complainant that he could give the complainant more bonus bets and offers than he could get from the corporate sports bookmaker where Mr B had previously worked.
8. The complainant has submitted that following this conversation, he then received an email from Mr B which included a betting account username, a password for that betting account and approximately \$1,000 of bonus bets.
9. The Commission has sighted this email and notes that in that email in addition to providing a username and password, Mr B advises the complainant that, “[a]s already discussed you already have an active Ladbrokes account.” Mr B goes on to advise the complainant that if he wants to try out the account, that there are several bonus bets in the account and a \$1,000 deposit match for the first deposit made into the account. Mr B further advises the complainant that it is no issue if the complainant does not want to use the account and that if he wants the account closed, Mr B can action that.
10. Ladbrokes has advised the Commission that Mr B commenced work with Ladbrokes in June 2017 as a ‘business development manager’. Prior to this, Ladbrokes has submitted that Mr B was the complainant's betting account manager at another corporate sports bookmaker for a period of three to four years during which his role was to manage high value clients.
11. Ladbrokes has also submitted to the Commission that Mr B did not acquire any personal information relating to the complainant from his former employer nor from any other third-party rather, the complainant's contact details were already held by

Ladbrokes from 2015 when the complainant firstly opened a betting account with Betstar on 29 May 2015 and then another betting account opened with Ladbrokes on 6 June 2015. The Commission notes that at this time, Ladbrokes held a sports bookmaker licence in its own name and under which several betting platforms operated at that time, being Ladbrokes, Betstar and bookmaker.com.au.

12. Ladbrokes has further submitted that the betting account for the complainant was opened in 2017, following the telephone conversation initiated by Mr B with the complainant and that the information used to set up this account was taken from the Ladbrokes system. Specifically in this respect, Ladbrokes submitted that:

Mr [B] knew [the complainant] from their past history, and around this time had a telephone conversation with him noting that he had started work at Ladbrokes. In this initial conversation, [the complainant] mention[ed] to Mr [B] that he would like to start betting with Ladbrokes again.

13. On the evidence before it, the Commission is satisfied that it is plausible as per the Ladbrokes' submission, that the complainant's contact information was retained on the Ladbrokes system due to the complainant firstly opening a Betstar account with Ladbrokes on 29 May 2015 and another account with Ladbrokes a week later on 6 June 2015.
14. The records provided to the Commission by Ladbrokes also show that the 2015 Ladbrokes account was closed on the same day as it was opened as the result of the complainant not being able to be provided with a bonus bet offer as he had already accessed the offer through the Betstar account. Of interest in this respect is that this same Ladbrokes' betting account was then re-opened on 3 July 2017, one day prior to the creation of the new Ladbrokes betting account subject of this gambling dispute.
15. Contrary to the Ladbrokes submission to the Commission that the 2017 betting account was opened following a conversation between Mr B and the complainant, Ladbrokes' records show that both the re-opening of the 2015 Ladbrokes betting account and the creation of the 2017 Ladbrokes betting account occurred some 24 days prior to Mr B contacting the complainant by telephone and email. The fact that the 2017 Ladbrokes' betting account in the complainant's name was opened well before the telephone contact initiated by Mr B with the complainant is also supported by the identity verification request submitted by Ladbrokes to its then provider of this service which at the time was Equifax, given that this request states that it was initiated on 4 July 2017.
16. Given the above, it would appear to the Commission that following Mr B's commencement at Ladbrokes (and presumably using his own knowledge of the complainant's interest in gambling gained through his former employment), Mr B initiated the re-opening of the complainant's 2015 Ladbrokes betting account on 3 July 2017 and the following day, caused the creation of a new Ladbrokes betting account in the complainant's name, well before making contact with the complainant and as such, it would appear that this occurred without the complainant's knowledge or consent.
17. Clearly there is a discrepancy in the evidence before the Commission as to whether the complainant and Mr B did or did not have a previous relationship during the time that Mr B was employed by another corporate sports bookmaker however, on the balance of probabilities the Commission is of a view that a relationship did exist

given Mr B's actions in re-opening the complainant's 2015 Ladbrokes' account and then the opening of the 2017 betting account.

18. Of some concern therefore to the Commission at this juncture, is that it would appear that following Mr B leaving his former employer to join a competitor, Mr B used his personal relationship with a former customer from his previous employment to solicit on behalf of his new employer. However, it is not within the regulatory remit of the Commission to determine whether Mr B had a duty not to use the confidential information of his former employer's customers to solicit them, even without having purloined the complainant's confidential personal information details from his previous employer and as such, the Commission makes no finding in this regard.
19. What does fall within the Commission's remit however, is determining whether the actions of Mr B as a Ladbrokes' employee in re-opening the complainant's 2015 account and the opening of the 2017 account (including selecting the username and password for the account) without the complainant's knowledge or consent is in breach of the Act and/or the licence conditions attached to the sports bookmaker licence that authorised the operation of the Ladbrokes' betting platform at the time.
20. In this respect, Condition 10 of the Ladbroke's licence in place in 2017 required Ladbrokes to "*...promulgate a set of clearly comprehensible terms and conditions (which shall include betting rules) on all betting contingencies and shall at all times adhere to those terms and conditions in its interaction with its customers*". The following clauses of Ladbrokes' terms of use in place at that time are relevant in this regard and stated:
 - 7.4 You must not open or attempt to open an Account using another person's identity (including but not limited to using another person's name, date of birth, address, telephone number and email address). You must not access, operate or use or attempt to access, operate or use another person's Account.
 - 8.1 Your Account is for your own personal use. You must not permit another person to access your Account and you must not use your Account on behalf of or for the benefit of another person.
 - 9.1 When you open your Account with us, you select your Access Details. You must not disclose your Access Details to anyone and you must ensure they are stored securely.
21. It is therefore clear to the Commission that under Ladbrokes own terms and conditions, the use of accounts by persons other than the account holder is prohibited. Contrary to these terms and conditions and in breach of Condition 10 of its licence, Ladbrokes permitted Mr B as a Ladbrokes' employee to firstly re-open the complainant's 2015 betting account without the complainant's knowledge or consent and then on the following day, to open the 2017 betting account in the complainant's name again without the complainant's knowledge or consent, which was then later used by the complainant for wagering activity. It is clear that the terms of the licence condition give force to those rules as an obligation of the licensee. While the Commission is not making a finding that Ladbrokes breached binding terms and conditions, it has reached a finding that Ladbrokes did not adhere to promulgated terms and conditions in its interactions with its customers as required by its sports bookmaker licence.

Inducement to Use Gambling Services

22. The complainant has also alleged that once the 2017 betting account was opened, the account was credited with approximately \$1,000 in bonus bets as an incentive for the complainant to commence betting with Ladbrokes.
23. In the email sighted by the Commission and which was sent by Mr B to the complainant on 28 July 2017 (some 24 days after the betting account in the complainant's name was opened), Mr B advised the complainant that if he wanted to try out the Ladbrokes' betting account, that there are several bonus bets in the account and a \$1,000 deposit match available for the first deposit made into the account.
24. Some 15 minutes after this email was sent, the complainant responded to Mr B stating, *"Give me a week or two and I'll start using the account. Can I get a 2k initial deposit bonus match please?"*
25. On 3 August 2017, Mr B again emailed the complainant stating that, *"Just to let you know they have put 2 x 250 bonus bets in your account, no rush on using them but just letting you know. The 2k deposit match is valid till 11th August but if [you] decide not to deposit by then and want to do it at a later date [it] won't be an issue just let me know."*
26. The Commission sought information from Ladbrokes in relation to the incentives offered to the complainant throughout the lifetime of the account (both by way of bonus bets and deposit matches) and notes that Ladbrokes' records show that in relation to the earlier period of the account activation, the following incentives were offered to the complainant:
 - 28 July 2017 - bonus bets to the value of \$500;
 - 28 July 2017 - deposit match to the value of \$2,000;
 - 3 August 2017 - bonus bets to the value of \$500; and
 - 6 August - deposit match to the value of \$200.
27. The Commission notes that the complainant's first deposit into the betting account was to the value of \$2,000 on 4 August 2017 however prior to this, the betting records for the account show that numerous bets were placed from 28 July 2017 onwards, being the date that Ladbrokes (through Mr B) first made contact with the complainant and not for the sake of repetition, but for emphasis was 24 days after the 2017 betting account in the complainant's name was opened.
28. The first of these bets involved two bonus bets, each with a stake of \$250 which resulted in winnings of \$206 and \$212.50 respectively being credited to the account (noting that it is usual practice for a betting account not to be credited with the stake used from bonus bets).
29. Numerous winning and losing bets were then placed by the complainant over the next two days with the initial winnings from the two bonus bets referred to above and which ultimately led to the betting account having a balance of just five cents. On 3 August 2017, the betting account was credited with another \$500 in bonus bets which the complainant then used to place more bets, some of which resulted in winnings again being credited to the account and some of which resulted in losses with the end result being that by the end of that day, the betting account had a balance of 45 cents. Following this, the complainant then deposited \$2,000 into the

betting account the next day and then continued to use the betting account for wagering activity up until shortly prior to the time of the lodgement of this gambling dispute with the Commission.

30. All Northern Territory licensed sports bookmakers' licence conditions and the Act require licensees to comply with the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (the 2019 Code). The 2019 Code came into effect on 26 May 2019, having replaced the Northern Territory Code of Practice for Responsible Online Gambling 2016 (the 2016 Code), with both Codes providing guidance to online gambling providers on responsible gambling practices so as to minimise the harm that may be caused by online gambling.
31. Given the inducements offered to the complainant by Ladbrokes initially occurred in 2017, the 2016 Code applied to the actions of Ladbrokes at that time. In this respect, while the 2019 Code has a specific clause prohibiting the offering of inducements to a person to open a betting account or to an account holder as an inducement to refer another person to open a betting account, this is not the case for the 2016 Code. Rather, clause 8.6 of the 2016 Code required that, *"Online gambling operators are not to call or otherwise urge non-gambling clients to use their gambling services"*.
32. In this respect, the Commission is of the view that both the telephone call made by Mr B to the complainant on 28 July 2017 and the subsequent email reflecting the content of that telephone conversation need to be considered by the Commission in its determination as to whether Ladbrokes was in breach of the 2016 Code when it first made unsolicited contact with the complainant and offered both bonus bets and deposit matches to the complainant.
33. It is clear to the Commission that the contact with the complainant initiated by Mr B was for no other purpose than to encourage the complainant to engage in wagering activity with Ladbrokes.
34. The Commission considers that consistent with the context and purpose of the 2016 Code, clause 8.6 of the 2016 Code through the use of the qualifying word 'non' before the descriptor 'gambling clients' was intended to provide protection to both a person who is not a current gambling customer of the licensee; and a person who while being an existing customer of the licensee is not currently gambling. Thus, in line with the core harm-minimisation strategies contained within the 2016 Code, clause 8.6 of the Code must be interpreted as a clause that prevents a licensee from urging any person who is not a 'gambling customer' to utilise its gambling services.
35. While it may be arguable that the complainant cannot be considered to be a 'non-gambling client' at the time of the contact given the complainant had two recently opened or activated betting accounts registered in his name with Ladbrokes, the Commission considers that this view has little weight given that these accounts were opened or re-opened by a Ladbrokes' employee, Mr B, without the knowledge or consent of the complainant and that neither of the accounts were active. At the time of the initial contact during which bonus bets and deposit matches were offered to the complainant by Ladbrokes through its employee Mr B, the complainant was unaware that his 2015 betting account with Ladbrokes had been re-opened by Mr B nor was he aware that Mr B had also initiated the opening of a further betting account in his name with Ladbrokes.

36. As such, the Commission has reached a finding that Ladbrokes' actions in urging the complainant to 'use their gambling services' through its contact with the complainant in July 2017 were in breach of the 2016 Code.
37. The Commission notes that following the actions of Mr B in setting up the account and crediting it with bonus bets, the complainant commenced wagering activity utilising the account on 28 July 2017 through initially accessing those bonus bets and then several days later, with his first deposit of \$2,000 into the account. The complainant's wagering activity then continued up until 20 November 2017 at which time the complainant initiated a closure of the betting account which was actioned by Ladbrokes on the same day. The Commission notes that during this period that the account was active (28 July 2017 to 20 November 2017), the complainant made numerous deposits into the betting account totalling \$71,020 and several withdrawals totalling \$14,120.
38. Given the findings of the Commission that firstly the actions of Ladbrokes in opening the betting account subject of this gambling dispute in 2017 was in breach of its licence conditions and secondly that the urging of the complainant to 'use their gambling services' was in breach of the 2016 Code, the Commission has turned its mind as to whether the betting transactions that occurred through the complainant's betting account during this period were lawful.
39. The Act has as its objects the promotion of probity and integrity in racing and betting in the Territory; to maintain the probity and integrity of persons engaged in betting in the Territory; to promote the fairness, integrity and efficiency in the operations of persons engaged in racing and betting in the Territory; and to reduce any adverse social impact of betting. Thus, and quite rightly in the Commission's view, the lawfulness of a particular bet is an integral aspect in considering the probity and integrity of betting.
40. The Commission has long taken the view that it is a matter of the Commission's judgement as to whether a contravention of the Act, a Code of Practice, a condition of licence or other circumstance may be regarded as being so serious as to undermine the integrity of the betting transaction itself and in such circumstances, conclude that the betting transaction to be not lawful. By way of example, the Commission has often determined that the betting transactions involving a self-excluded person are not lawful given the importance the Commission places on self-exclusion provisions being enforced by licensees so as not to allow persons to place bets after they have had the foresight to exclude themselves from using the services of a gambling provider due to recognising the risk to themselves of financial or other harm. Similarly, the Commission has determined bets to be not lawful where a licensed sports bookmaker has failed to take action in circumstances where it has identified (or should have identified) that a customer may be engaging in excessive gambling and the sports bookmaker has not taken sufficient action to help that customer to reduce or cease their wagering activity.
41. The Commission is however, of the view that it was also the intention of the legislature to provide the Commission with jurisdiction to also enable bets to be enforced when it furthers the objects of the integrity and probity of betting and racing to do so, and to accept a bet as being lawful even if there is some breach of the Act, a Code of Practice or a licence condition by the licensed sports bookmaker. In this respect, the Commission notes that the breaches of licence conditions and the 2016 Code by Ladbrokes do not involve issues surrounding self-exclusion or red flag behaviour and that once the complainant commenced using the Ladbrokes betting account, he did so often and willingly over the next two years. It also appears that

the complainant continued to engage in wagering activity with at least one other sports bookmaker during this period (or at the very least, intimated to Ladbrokes that he was doing so). In this respect, it is difficult for the Commission to come to the view that the lodgement of a gambling dispute by the complainant with the Commission some two years after the betting account was opened and following the complainant suffering significant losses should be reason to form the view that the integrity of the numerous betting transactions initiated by the complainant have been undermined by Ladbrokes' earlier (albeit significant) breaches of its licence conditions and the 2016 Code, especially given that an inherent risk in wagering activity is the loss of money.

Unrecorded Telephone Conversation

42. As part of the licence conditions of a sports bookmaker licence issued by the Commission is the requirement that all telephone conversations with sports bookmaker customers are to be recorded. Specifically in relation to the sports bookmaker licence held by Ladbrokes in 2017, Condition 20 required the licensee to ensure *"...all conversations with customers involving discussions relating to wagers, complaints or disputes, regardless of medium, are recorded on approved recording equipment."* There would in the Commission's mind, be very few conversations with a customer of a sports bookmaker which did not relate broadly to a 'wager, complaint or dispute'.
43. As detailed earlier in this decision notice, the Commission has found that at the time of the telephone conversation between Mr B and the complainant on 28 July 2017, the complainant should have been considered to be a 'non-gambling client' given that the complainant had no knowledge that either the 2015 betting account had been re-opened or that the 2017 betting account had been opened in his name. However, it is evident that Ladbrokes did not consider this to be the case at the time of the telephone conversation given that in the subsequent email recording that conversation, Mr B advises the complainant that, *"[a]s already discussed you already have an active Ladbrokes account."*
44. Given Mr B's discussion included reference to bonus bets and deposit matches and that at that time Ladbrokes considered the complainant to be a customer, ordinarily it would be the Commission's view that the telephone conversation of 28 July 2017 included matters that related to 'wagers' and therefore such discussions should have been duly recorded in accordance with the sports bookmaker's licence conditions. However, given the Commission's determination above that at the time of Mr B's telephone call to the complainant, the complainant should have been considered to be a 'non-gambling client' and therefore not a 'customer', the Commission has determined on this occasion that it could be argued on a technicality that there was no lawful requirement for Ladbrokes to record the telephone conversation between Mr B and the complainant and as a result, the Commission has determined to take no further action on this aspect of the matter before it.

Red Flag Behaviour

45. The complainant has submitted to the Commission that during the life of the betting account, Ladbrokes did not interact with the complainant in a meaningful way despite the complainant engaging in behaviours that are commonly recognised as indicia of potential problem gambling issues - including the complainant's gambling

activity rapidly escalating over several months, credit card deposits being regularly declined and a deposit of \$300,000 being made on a single day (being five times larger than any deposit previously made by the complainant).

46. Ladbrokes on the other hand has submitted to the Commission that it has complied with its responsible gambling obligations under both the 2016 and 2019 Codes throughout the lifetime of the complainant's betting account. In support of this proposition, Ladbrokes has submitted that at the time of the opening of the complainant's account, it had knowledge of the complainant's occupation and source of wealth. Contact was also made with the complainant on numerous occasions for responsible gambling checks during which the complainant acknowledged that he was fully aware of and comfortable with the level of his gambling spend and as a result, Ladbrokes was satisfied that the complainant could exercise control over his gambling activity including making use of the gambling management tools available and taking extended breaks from his account.
47. As noted earlier, the complainant initiated a closure of the betting account subject of this gambling dispute on 20 November 2017. However on 4 April 2018, the complainant contacted Mr B and after a discussion on what Ladbrokes could offer him in the way of bonuses and promotional offers compared to other sports bookmakers that he was then betting with, the complainant requested that his Ladbrokes betting account be re-opened.
48. Ladbrokes has submitted to the Commission that throughout the lifetime of the complainant's betting account, *"Ladbrokes had in place monitoring systems to identify red flag behaviour, and processes and policies in place to action those red flags where appropriate."* Ladbrokes has further submitted to the Commission that on several occasions, the complainant confirmed to Mr B that he received significant income from his business activities and presented himself as a person, *"...who was fully aware of and comfortable with the level of his gambling spend, and as someone who could exercise control, including by making use of account management tools and taking extended breaks from his account."*
49. In support of its submission, Ladbrokes has advised the Commission that during the period under examination by the Commission that:
 - on 19 May 2018, the complainant initiated a time-out on his betting account until 31 October 2018;
 - on 16 February 2019, the complainant initiated a one-day time-out on the account;
 - on 1 March 2019, Mr B contacted the complainant via SMS to ask whether he was gambling within his means due to the amount that the complainant was turning over to which the complainant responded that his business made \$8.5 million the previous year and that he received around \$100,000 in wages/commission each month and *"...hence all good"*;
 - on 9 March 2019, the complainant initiated a time-out on his account for one month;
 - as a result of appearing on Ladbrokes internal reports on 17 May 2019 due to an increase in deposits and losses of \$115,000, the complainant's betting account was investigated by the Ladbrokes' responsible gambling team; the outcome of which resulted in a telephone call being made to the complainant during which the complainant confirmed that:

- he had a significant source of funds being an earn of \$2 million a year through his business;
 - he was “fine;”
 - he was aware of the responsible gambling tools available on his account;
 - while the amount might seem large, it was not as big as it seemed as it would for other people;
- on 25 May 2019, the complainant advised Mr B that he was buying further business assets;
 - on 25 May 2019, the complainant initiated a time-out on his account for one week;
 - on 6 June 2019 and again on 4 July 2019, the complainant was reminded of the deposit limit responsible gambling tools available on his account;
 - as a result of appearing on Ladbrokes internal reports on 6 July 2019 due to the complainant having deposited \$250,000 in a 24 hour period, Mr B again spoke with the complainant who advised that he understood how much he was spending and did not raise any concerns;
 - on 7 July 2019, an email was sent to the complainant by the Ladbrokes responsible gambling team reminding the complainant of the responsible gambling tools available to him;
 - on 9 July 2019, the complainant again appeared on the Ladbrokes internal reports but no contact was made due to the recent conversation with Mr B and the responsible gambling team email;
 - on 3 October 2019, the complainant again appeared on the Ladbrokes internal reports as he had spent \$300,000 in 24 hours and as a result was contacted by the responsible gambling team by telephone who the complainant advised that:
 - while the amount of spend was not great, it was from savings; and
 - he was aware of deposit limits and time-outs but would just stop using the account.
45. The following day on 4 October 2019, the complainant emailed the Ladbrokes responsible gambling team and advised that the previous day’s activities had put him in severe financial difficulty and asked that his account be closed. As a result, the complainant’s Ladbrokes’ account was closed and he was permanently excluded from using any other betting platforms operating under the sports bookmaker’s licence.
46. Having reviewed the complainant’s betting account from 4 April 2018, it is the view of the Commission that the complainant was an active and experienced gambler who at varying times had a betting account balance of over \$50,000 to \$60,000 due to the placement of winning bets which regularly ranged up to and over \$10,000 in winnings per bet. Conversely though, the complainant also placed numerous bets that were not successful and which have ultimately led to the lodgement of this gambling dispute due to the complainant’s overall losses.

47. The Commission has reviewed the declined credit card transactions for the lifetime of the complainant's betting account and notes that while a number of declined transactions do appear on the account, given the high level of deposit and withdrawal activity on the account, the number of declined transactions for the account (of which only three are recorded as being due to insufficient funds) do not appear to be overly significant in number nor to warrant a specific interaction by Ladbrokes.
48. In relation to the deposit of \$300,000 made by the complainant on 3 October 2019, the Commission notes that following this deposit the complainant made a significant number of higher value bets ranging upwards of \$10,000 (including a single bet of \$89,500) some of which resulted in winnings of \$15,000 to \$57,000 however, the majority of these bets were losing bets that appear to the Commission as though the complainant was chasing his losses which, ultimately led to the complainant losing the full amount of this deposit.
49. As is often articulated in Commission decisions, an inherent risk that cannot be avoided in the activity of gambling, is a loss of money. The Commission's role in dealing with gambling disputes is not to simply rectify self-inflicted economic losses from gambling following the lodging of a gambling dispute with the Commission but rather, to make a finding as to whether a bet is lawful or not lawful and whether the sports bookmaker has acted in compliance with the Act, the conditions attached to its sports bookmaker licence and the relevant Codes of Practice in place at the time.
50. On the weight of the evidence before it, the Commission is satisfied that while the complainant's gambling activity from 4 April 2018 onwards resulted in significant losses for him, Ladbrokes did have in place appropriate policies and procedures that led to identifying that the complainant may be at risk of experiencing harms from his gambling activity and as a result, caused Ladbrokes to meet the minimum standards of the 2016 and 2019 Codes through engaging directly with the complainant at various stages through the lifetime of the account to ascertain whether he was experiencing harm. During these customer interactions, the complainant presented himself to Ladbrokes as a person who was a high value customer heavily engaged in gambling and importantly, one that was betting with lawfully acquired disposable income and who was engaged in spending that was an affordable and sustainable part of his leisure spend.

Decision

Opening of the Betting Account

51. On the weight of evidence before it, the Commission is satisfied that pursuant to section 80(1)(d) of the Act, Ladbrokes has failed to comply with Condition 10 of its licence given that Ladbrokes permitted Mr B as a Ladbrokes' employee to firstly re-open the complainant's 2015 betting account without the complainant's knowledge or consent and then on the following day, to open the 2017 betting account in the complainant's name, again without the complainant's knowledge or consent. While the Commission is not making a finding that Ladbrokes breached binding terms and conditions, it has reached a finding that Ladbrokes did not adhere to promulgated terms and conditions in its interactions with its customers as required by its sports bookmaker licence.

52. Disciplinary action available to be taken by the Commission in these circumstances range from the issuing of a reprimand, imposing a fine not exceeding 170 penalty units or suspending or cancelling the sports bookmaker's licence.
53. Given the serious nature of this matter, the Commission has determined to impose a fine equivalent to 70% of the maximum penalty of 170 penalty units, being 119 penalty units (in July 2017 a penalty unit's value was \$154) which is equivalent to \$18,326.

Inducement to Use Gambling Services

54. On the weight of evidence before it, the Commission is satisfied that pursuant to section 80(1)(d) of the Act, Ladbrokes has failed to comply with Condition 16 of its licence through its actions in urging the complainant to 'use their gambling services' in July 2017 which was in breach of the 2016 Code.
55. Disciplinary action available to be taken by the Commission in these circumstances range from the issuing of a reprimand, imposing a fine not exceeding 170 penalty units or suspending or cancelling the sports bookmaker's licence.
56. The Commission has determined to impose a fine equivalent to 50% of the maximum penalty of 170 penalty units, being 85 penalty units (in July 2017 a penalty unit's value was \$154) which is equivalent to \$13,090.

Unrecorded Telephone Conversation

Condition 20 of the Ladbrokes licence in place at the time, required it to ensure "*all conversations with customers involving discussions relating to wagers, complaints or disputes, regardless of medium, are recorded on approved recording equipment.*"

57. As detailed earlier, ordinarily it would be the Commission's view that the telephone conversation of 28 July 2017 included matters that related to 'wagers' and therefore such discussions should have been duly recorded in accordance with the sports bookmaker's licence conditions and the actions of Ladbrokes in not doing so would be a breach of Condition 20 of its licence.
58. However, given the Commission's determination that at the time of Mr B's telephone call to the complainant, the complainant should have been considered to be a 'non-gambling client' and therefore not a 'customer', the Commission has determined on this occasion that it could be argued on a technicality that there was no lawful requirement for Ladbrokes to record the telephone conversation between Mr B and the complainant and as a result, the Commission has determined to take no further action on this aspect of the matter before it.

Red Flag Behaviour

59. On the weight of the evidence before it, the Commission is satisfied that Ladbrokes' numerous engagements with the complainant with respect to whether his gambling activities were causing him harm met the minimum standards of the Codes of Practice that were in place at the time. As such, the Commission has determined that in this respect, Ladbrokes has acted in compliance with the Act, the conditions attached to its sports bookmaker licence and the relevant Codes of Practice in place at that time.

Lawfulness of Bets

60. Given the above findings, the Commission has determined that all bets struck on the account were lawful bets and as a result, is not of the view that any monies deposited by the complainant into the betting account should be returned to him.

Review of Decision

61. 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.



Cindy Bravos
Presiding Member
Northern Territory Racing Commission