

NORTHERN TERRITORY RACING COMMISSION

DECISION NOTICE AND REASONS FOR DECISION

LICENSEE: Betfair Pty Ltd

MATTER: Investigation by the Northern Territory Racing Commission
(Concerning Dealings with Gambler – Mr E)

HEARD BEFORE: Mr Alastair Shields (Presiding Member)
(on papers) Ms Cindy Bravos
Ms Susan Kirkman

DATE OF DECISION: 24 June 2024

DECISION

1. For the reasons set out below, the Northern Territory Racing Commission (**the Commission**) is satisfied that Betfair Pty Ltd (**Betfair**) contravened condition 15 of its licence, because it did not comply with clause 3.2 of the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (**the Code**) when it failed to identify and take action in regards to problem gambling red flag behaviours (being a significant increase in deposits and an unusually large exposure to a single betting contingency).
2. Disciplinary action available to be taken by the Commission against a betting exchange operator licensed by it ranges from the issuing of a reprimand, imposing a fine not exceeding 170 penalty units, or suspending or cancelling the betting exchange licence. The Commission has determined that it is appropriate in this matter to take disciplinary action against Betfair pursuant to section 109V of the *Racing and Betting Act 1983* (**the Act**) by imposing a fine equivalent to 153 penalty units, or 90% of the maximum penalty of 170 penalty units (in October 2020, the value of a penalty unit was \$158.00) which is equivalent to \$24,174.00.

REASONS

Introduction

3. The Commission first granted a licence to Betfair to conduct the business of a betting exchange operator pursuant to section 109C of the Act in September 2016, and Betfair's current licence expires on 30 June 2024.
4. The Commission provides practical guidance to the betting exchanges it licences on matters relating to the Act, through the approval of Codes of Practice. The Code, which came into effect on 26 May 2019, was approved by the Commission to provide guidance on responsible gambling practices that must be implemented by betting exchanges and sports bookmakers so as to minimise the impact of any harms that may be caused by online gambling. The Act and the licence conditions attached to all betting exchange licences

granted by the Commission require betting exchanges to adhere to any Codes of Practice approved by the Commission.

5. On 21 January 2021, the Gambler lodged a dispute with the Commission under section 109Y(2) of the Act against Betfair.
6. While the Commission investigation into the dispute was underway, the Gambler and Betfair advised that they had settled the dispute between themselves on confidential terms and without admission of any liability.
7. Although the Commission was pleased that the dispute was resolved between the parties, the Commission determined that it would continue to investigate the matters the subject of the dispute using the Commission's general power of investigation, given the subject matter of the original dispute.
8. These findings are based on the material contained in the submissions to the Commission by both Betfair and the Gambler and on materials obtained by the Commission during the course of its investigation.
9. To ensure procedural fairness, the Commission provided a draft of its initial findings to Betfair, seeking any comments that it wished to make in relation to the findings. Betfair has confirmed that it has accepted the Commission's findings, that Betfair did not meet the obligations that are set out in clause 3.2 of the Code in respect of the Gambler, and that Betfair will promptly pay the fine imposed by the Commission. Betfair has also stated that it has since made some significant changes to its responsible gambling processes and reporting. Other comments by Betfair have been taken into account when finalising these reasons for decision.

Background

10. The Gambler opened a betting account with Betfair on 6 October 2020. Although he was prompted to set a deposit limit when he opened his account, he elected not to do so.
11. In the approximately six-week period from 6 October 2020 to 16 November 2020, the Gambler made a total of 106 deposits, ranging in size from \$30.00 to \$5,000.00, totalling some \$431,520.00.
12. On 6 October 2020, the day he opened his account, the Gambler made six deposits of \$3,000.00, totalling \$18,000.00. Between 6 and 18 October 2020, he made a total of 30 deposits totalling \$100,000.00 of varying amounts and frequency, but his daily deposits did not exceed \$21,000.00.
13. On 21 October 2020, the Gambler made his highest daily deposit, a total of 12 deposits of \$5,000.00, totalling \$60,000.00 for that day. Over the six-day period from 21 until 26 October 2020, the Gambler made a total of 51 deposits totalling \$255,000.00.
14. Between 6 October 2020 and 3 December 2020, the Gambler placed a total of 1,558 wagers, all of them on the 2020 US Presidential Election, with the vast majority of the wagers on a Republican/Trump win. When the bets were settled by Betfair on 15 December 2020, all but 33 of his wagers were settled as losing wagers, with his account

balance showing as \$16,247.83 after the small number of winning wagers were credited to his account.

15. On 21 January 2021, the Gambler contacted Betfair by telephone to state that he had placed a large number of wagers on the US Election and that it was his view that Betfair should not have accepted such a large number of deposits from him. As a result of that telephone call, Betfair immediately closed the Gambler's account due to problem gambling concerns, provided gambling helpline details to him, and returned his account balance of \$16,247.83.
16. The Gambler's dispute lodged with the Commission on 21 January 2021 stated that "Betfair allowed me to deposit \$430,000.00 in quick succession on their website during October/November 2020".
17. Betfair's response to the dispute stated that the gambler's account had not been opened for a long enough period of time to establish a baseline of deposits and wagering behaviour, and that because none of his wagers were settled until the outcome of the US Presidential Election was known, there were no actual losses or ways to know if the Gambler would suffer financially until the relevant markets were settled on 15 December 2020.
18. Betfair also included the following commentary in its submission to the Commission: "Betfair offers a peer-to-peer betting exchange platform where customers anonymously match bets with other customers – who can either "back" or "lay" a particular selection. Betfair does not "take" bets – we simply provide a technology platform for customers to exchange bets and subsequent winning or losing monies. We note it would have been inappropriate to void the bets in the present case, as legitimate bets were matched against the [Gambler's] bets. If the bets were voided, the customers on the other side of the bets would have raised disputes to recover losses from their fairly struck bets".

Consideration of the Issues

19. Clause 3.2 of the Code provides:

"Recognising potential problem gamblers

Where appropriate, a customer who displays some, or a number, or a repetition of red flag behaviours should be monitored by an online gambling provider and appropriate customer interaction should take place to assist or protect that customer which reasonably corresponds to the circumstances. Online gambling providers should ensure responsible gambling policies and procedures are in place to allow staff to detect and assist customers who may be experiencing problems with gambling."

20. The Commission does not agree with the submission by Betfair that there was no sufficient pattern of depositing behaviour by the Gambler to detect red flag behaviour. In the Commission's view, the sharp spike in daily deposits from a previous daily maximum of \$21,000.00 to a new maximum of \$60,000.00 on 21 October 2020 should have prompted Betfair to consider whether an appropriate customer interaction should have taken place.

21. The consideration as to whether a customer interaction was required should have triggered a review of the wagering history of the Gambler and identified that the vast majority of the Gambler's wagering activity hinged upon a particular outcome of a single contingency, namely the US Presidential Election.
22. It follows from the Commission's finding in the above paragraph that the Commission does not accept that a pattern of gambling behaviour is not capable of being assessed as exhibiting red flag behaviours simply because none of the wagers have been settled – a pattern of wagering activity that has an unusually large number of wagers on the outcome of a single contingency may give rise to the requirement for an appropriate customer interaction, particularly when there is also a sharp increase in deposit size at the same time.
23. Of course, the Commission recognises that even if Betfair had undertaken an appropriate interaction with the Gambler, the Gambler may have been able to satisfy Betfair that the Gambler was betting within his means and that he understood the exposure that he had with a single contingency.
24. However, had such an appropriate interaction occurred, there would be no question as to whether Betfair had complied with the Code on that occasion, and therefore the issue as to whether any wagers should be voided would not be raised.



Alastair Shields
Chairperson
Northern Territory Racing Commission

On behalf of Commissioners Shields, Bravos, and Kirkman