

NORTHERN TERRITORY RACING COMMISSION

DECISION NOTICE AND REASONS FOR DECISION

MATTER: Gambling Dispute for determination by the Northern Territory Racing Commission (pursuant to section 85(2) of the *Racing and Betting Act 1983*)

COMPLAINANT: Mr I (represented by Dr S)

LICENSEE: Sportsbet Pty Ltd

HEARD BEFORE: Ms Cindy Bravos (Presiding Member)
(on papers) Mr James Pratt
Ms Susan Kirkman

DATE OF DECISION: 8 March 2024

DECISION

1. For the reasons set out below, the Northern Territory Racing Commission (**the Commission**) is satisfied that Sportsbet Pty Ltd (**the Licensee**) has:
 - i. contravened condition 15 of its licence by not complying with clause 3.2 of the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (**the 2019 Code**) through not having sufficient responsible gambling procedures in place to allow staff to detect and assist customers in a timely manner who may be experiencing problems with gambling (in that it did not take action in a timely manner following the Complainant's deposit and betting activity on 18 October 2020).
2. The Commission has determined that it is appropriate to take disciplinary action against the Licensee pursuant to section 80(1)(d) of the *Racing and Betting Act 1983* (**the Act**) as follows:
 - i. for its contravention of condition 15 of its licence, a fine of 136 penalty units being 80% of the maximum penalty available, equating to \$21,488 (for the 2020/2021 financial year a penalty unit's value was \$158).
3. The Commission has determined that all bets placed by the Complainant following the deposit of \$19,381 on 18 October 2020, to be not lawful under the regulatory framework in place at that time.
4. Given this, the Commission is of the view that Sportsbet should return all deposits made by the Complainant into his Sportsbet betting account following the \$19,381 deposit until its closure, minus all withdrawals made during this period, which according to the data before the Commission equates to \$52,032.35 (being deposits of \$109,088.23 minus withdrawals of \$57,055.88).

REASONS

Background

The Licensee

5. The Commission has granted a licence to the Licensee to conduct the business of a sports bookmaker pursuant to section 90 of the Act. The Licensee's current licence is due to expire on 30 June 2025.
6. As Sportsbet is the trading name of the Licensee, the Commission has determined to refer to the Licensee as **Sportsbet** throughout this Decision Notice.

The Complaint

7. On 28 September 2021 and with the assistance of a family member, the Complainant lodged a complaint with the Commission via the Northern Territory Government's Licensing NT online portal in relation to his dealings with Sportsbet.
8. The substance of the Complainant's allegations are that:
 - i. between July 2020 and April 2021, the Complainant was able to accumulate over \$116,000 in losses due to his online wagering activity with Sportsbet;
 - ii. during this period of wagering activity, he was actively targeted by Sportsbet by way of emails, text messages and phone calls and encouraged to wager through the offering of bonus bets; and
 - iii. following the placement of a wager for \$70,000 on 2 April 2021 with monies that he had deposited only days earlier, Sportsbet suspended his betting account for a responsible gambling review but did not suspend or void the \$70,000 wager.
9. The Complainant is seeking for the Commission to:
 - i. declare that the \$70,000 wager struck on 2 April 2021 to be 'not lawful' and for Sportsbet to return that money to him.

Commission Hearing

10. Pursuant to section 85(4) of the Act, the Commission determined to hear the dispute and make its determinations in the absence of the parties, based on the evidence before it.
11. That evidence includes written submissions to the Commission by both the Complainant and the Licensee, as well as additional evidence obtained on behalf of the Commission by Licensing NT officers appointed as betting inspectors by the Commission.

Consideration of the Issues

Account Activity between July 2020 and April 2021

12. The Complainant opened a betting account with Sportsbet on 29 July 2020. At the time of opening the betting account and as is required by the Commission through the 2019 Code, the Complainant was prompted by Sportsbet to set a deposit limit however, the Complainant chose not to do so.

Deposits and Withdrawals

13. During the lifetime of the betting account (being just 10 months), the Complainant deposited a total of \$184,664 into the betting account and withdrew \$67,856. At the time of closure of the account, the Complainant wagering activity had resulted in him having an overall position of \$116,808 in gambling losses.
14. In response to the complaint, Sportsbet has submitted to the Commission that the Complainant's average deposit size into the account was \$810.
15. The table below details the monthly deposit and withdrawal activity for the Complainant's betting account:

MONTH	DEPOSITS (\$)	WITHDRAWALS (\$)	ACCOUNT BALANCE (\$)	PROFIT/LOSSES (\$)
July 2020	600	0	0	-600
August 2020	9,775	7,400	301	-2,074
September 2020	22,799	3,400	17,885	-1,815
October 2020	45,540	47,890	0	-15,535
November 2020	25,805	2,699	15,221	-7,885
December 2020	849	0	0	-16,070
January 2021	3,576	884	0	-2,692
February 2021	1,220	700	1,810	1,290
March 2021	4,300	0	0	-6,110
April 2021	70,200	4,883	0	-65,317
TOTALS	184,664	67,856		-116,808

16. Prior to the depositing and wagering of \$70,000 in April 2021 that forms part of this complaint, the Complainant had deposited \$114,464 over a nine-month period and withdrawn \$62,973, resulting in a loss of \$51,491 for that period. Sportsbet has submitted that this wagering activity did not warrant Sportsbet undertaking any form of source of wealth inquiries with the Complainant.

Betting Activity

17. Sportsbet has advised the Commission that the average stake wagered by the Complainant was \$336 however, the Complainant did also on occasion place wagers with larger stakes. Sportsbet submitted that it was common for the Complainant to place occasional larger bets at short prices and then leave the winnings in the betting account or to withdraw a portion of the funds and leave an amount in the account to bet with.
18. The wagers that the Complainant placed with a stake of \$10,000 or more throughout the lifetime of the betting account were as follows:

- 20 September 2020 - \$10,000 at \$1.64 – won \$6,503.48;

- 18 October 2020 - \$42,981 at \$1.25 – won \$10,745.25;
- 29 November 2020 - \$14,875 at \$1.03 – won \$446.25;
- 4 December 2020 - \$14,081.25 at \$1.15 – won \$2,112.19;
- 8 December 2020 - \$15,828.44 at \$1.005 – won \$79.14;
- 14 December 2020 - \$18,000 at \$1.06 (cash out \$252.52); and
- 2 April 2021 - \$70,000 at \$1.43 (cash out \$4,883.20).

Inducements to Wager

19. During the lifetime of the betting account, the Complainant has submitted to the Commission that he was actively targeted by Sportsbet by way of emails, text messages and phone calls and encouraged to wager through the offering of bonus bets.
20. An inducement is generally considered to be something that is offered or provided, to encourage or persuade someone to take a particular action or make a certain decision. In the context of online gambling worldwide, an inducement typically refers to an incentive or promotion that online wagering operators offer to attract new customers or retain existing ones. As is required by the Act in performing its functions, the Commission must have regard to among other things, minimum regulatory intervention by government; performance-based risk management controls; proactive and competitive industry positioning and a balanced approach to problem betting. Given this and in order to strike a balance between consumer protection and industry competitiveness, the Commission has not prohibited the offering of inducements by its Licensees to their existing customers - contingent on its Licensees offering those bonuses, promotions or rewards in a responsible way.
21. Sportsbet has submitted to the Commission that the Complainant was the recipient of only four personalised inducement offers over a nine-month period.
22. Sportsbet has advised the Commission that the Complainant would also have received other *"...communications via email and sms as he was subscribed to receive them. These communications would have been generic in nature and advised him of upcoming events and specials (eg. Upcoming racing money back specials – if your selection runs 2nd or 3rd, receive a bonus bet back up to \$50 etc.)"*

The \$70,000 Wager

23. On 2 April 2021, the Complainant deposited \$70,000 into his betting account and one minute later, placed a wager with a stake to the same value on a two-leg Australian Football League (AFL) multi-bet for Western Bulldogs and St Kilda to win with a price of \$1.43.
24. Six minutes later, the Complainant deposited an additional \$150 and placed a further multi-bet across six AFL games and a National Rugby League game.
25. The first leg of the Complainant's \$70,000 bet commenced 15 minutes after the bet had been struck.
26. Sportsbet has advised the Commission that the deposit of \$70,000 triggered a responsible gambling alert - *"due to the deposit falling outside [the Complainant's] established deposit and gambling behaviours with Sportsbet."* As a result, it attempted to contact the Complainant via phone within an hour of the deposit being made however, the Complainant did not answer the

call. As a result, Sportsbet suspended the Complainant's betting account, advising him of this via email and requesting that he contact Sportsbet.

27. Just under an hour and a half later, the Complainant contacted Sportsbet but disconnected the call while he was on hold and waiting to speak to a responsible gambling officer. Sportsbet attempted to call the Complainant back immediately, but the Complainant did not answer the call.
28. The first leg of the multi-bet was settled as winning leg later that afternoon.
29. The following afternoon, the second leg of the multi-bet commenced. Prior to the end of that game, the Complainant cashed out the bet for \$4,883.20. Shortly after, the Complainant texted his Sportsbet relationship manager asking him if he was able to get his betting account 'unblocked'.
30. While the Complainant did cash out the bet on 3 April 2021, the Commission notes that the suspension of the Complainant's account by Sportsbet the day before resulted in the Complainant not being able to deposit any further monies nor place any further bets but did not prohibit him from accessing his betting account or cashing out the bet at an earlier stage than he chose to do (and likely for a larger amount).
31. Sportsbet has submitted to the Commission that its responsible gambling alerts are:

...actioned in real time, 24 hours a day. The expectation with the activity alert [the Complainant] triggered on 2 April, is that the alert is actioned within 60 minutes of it being triggered (which it was). Sportsbet aim to proactively contact customers who may be experiencing harm from gambling to prevent further harm.

Commission Assessment

32. Responsible gambling practice as outlined in the 2019 Code necessitate that licensees closely monitor the account activities of their customers (including deposit, withdrawal and betting activity) and intervene where necessary to limit the harm to customers who may be wagering beyond their financial capabilities. In particular, 3.2 of the 2019 Code requires that:

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.
33. The Commission expects, that when identified, licensees will then reach out to these customers with information about the responsible gambling management tools available to them and if necessary, ascertain whether the customer has sufficient financial sources to be engaged in the online wagering activity with the licensee to the level that they are. While there is no guarantee that the monitoring of wagering behaviours and subsequent interactions will identify all customers who are experiencing harm from their online wagering behaviours, attempts should be made by all sports bookmakers licensed by the Commission to reduce harm at the earliest opportunity.
34. While an inherent risk in the activity of gambling is the loss of money by the gambler, the failure of Sportsbet to assess and/or engage with the Complainant from a responsible gambling

perspective at any stage in the latter part of 2020 despite large deposits having been made, large wagers being struck and large losses being sustained by the Complainant raises the Commission's concerns about the adequacy of the Sportsbet responsible gambling practices and procedures that were in place at that time.

35. As can be seen from the table at paragraph 15 above, the Complainant's deposit activity escalated quite quickly after opening the betting account. In particular, the months of September 2020, October 2020 and November 2020 saw the Complainant depositing a total of \$94,144 into his betting account. For this three-month period, the Complainant had a net position of minus \$24,934 having withdrawn \$53,989 and with a balance of \$15,221 remaining in the account.
36. Of concern to the Commission is that despite these large monthly deposit amounts (and regardless that the average deposit size was \$810 as submitted by Sportsbet), Sportsbet has advised the Commission that the first time the Complainant came to the attention of Sportsbet from a responsible gambling perspective was when the Complainant made the \$70,000 deposit in April 2021.
37. This is despite the Complainant having made a deposit of \$19,381 on 18 October 2020 (the month where he had deposited over \$45,000) and a further deposit of \$14,875 on 29 November 2020 (being the month in which the Complainant deposited over \$25,000).
38. The Commission also notes that there is no evidence before the Commission that the placing of the \$10,000 wager by the Complainant on 20 September 2020 prompted Sportsbet to initiate any form of assessment, inquiry or interaction with the Complainant from a responsible gambling perspective.
39. Further, the Commission also notes that just prior to the striking of the \$42,981 wager on 18 October 2020, the Complainant made the deposit of \$19,381 into his betting account as discussed at paragraph 37 above. While the Commission notes that shortly after the resulting of the 18 October 2020 winning wager, the Complainant requested a withdrawal of \$20,500 from the betting account - it also notes that like the deposit, this large wager did not prompt Sportsbet to initiate any form of assessment, inquiry or interaction with the Complainant from a responsible gambling perspective.
40. This lack of assessment or interaction with the Complainant from a responsible gambling perspective by Sportsbet continued through to the 29 November 2020 bet of \$14,875 which followed the deposit of the same amount shortly before the placement of the bet (and was deposited when the Complainant's account balance was zero). Again, no action was initiated by Sportsbet at any stage after the placement of the three large bets on 4, 8 and 14 December 2020.
41. The Commission notes that rather than engaging with the Complainant from a responsible gambling perspective following the Complainant's activity on 18 October 2020, 29 November 2020 or 4, 8 and 14 December 2020, Sportsbet determined to assign a personal relationship manager to the Complainant in February 2021.
42. The Commission also notes that the Sportsbet personal relationship manager's contact with the Complainant did not occur during the period in the latter end of 2020 when the Complainant was depositing relatively high volumes of money into his betting account, making a number of large bets and sustaining relatively large losses but rather, after this activity had diminished somewhat. Following sustaining losses of over \$16,000 in December 2020, the Complainant's deposit activity in January totalled just over \$3,500 and shortly after, Sportsbet assigned a relationship manager to the Complainant.

43. While the Commission understands that customer engagement and relationship marketing is an important part of an online wagerer's business practices so as to remain profitable - the timing of such an initiative by Sportsbet in relation to the Complainant raises questions about the motive behind the initiation of the personalised attention. In the context of responsible gambling practices, it is essential for online wagering operators to prioritise customer well-being and proactively interact with a customer when signs of possible gambling harms emerge. Assigning a personal relationship manager shortly after a decrease in deposit activity can be interpreted as an approach that raises significant questions about the true motivations of the online wagering provider - and in this case, casts doubt on the sincerity of Sportsbet at that time to promote a responsible gambling environment among its customer base.
44. The Commission does not agree with the submission by Sportsbet that there was not a sufficient level of concerning activity from a responsible gambling perspective prior to the \$70,000 deposit in April 2021 to warrant Sportsbet assessing the Complainant's behaviour and making a determination as to whether an appropriate customer interaction should take place.
45. At the very least, it is the Commission's view that the Complainant's deposit of \$19,381 on 18 October 2020 (the month where he deposited over \$45,000) which was shortly followed by the Complainant placing a \$42,981 wager should have triggered a responsible gambling alert with Sportsbet for it to consider whether a review was required to assess whether the customer has sufficient financial sources to be engaged in the online wagering activity with Sportsbet to the level that he was.
46. Of course, the Commission recognises that even if Sportsbet had undertaken an appropriate interaction with the Complainant following the deposit and betting activity on 18 October 2020, the Complainant may have been able to satisfy Sportsbet that he was betting within his means and that he understood the financial risks associated with his wagering activity.
47. However, had such an appropriate interaction action occurred at that time and again in November 2020 (as it did and rightly should have following the \$70,000 deposit and subsequent wager on 2 April 2021), there would be no question as to whether Sportsbet had complied with the 2019 Code in October 2020 and November 2020, and therefore the issue as to whether the \$70,000 wager should be voided would likely not have arisen.
48. Given the above, the Commission is satisfied that following the Complainant's deposit and betting activity on 18 October 2020, Sportsbet failed to take an appropriate assessment and/or customer interaction to assist or protect the Complainant that reasonably corresponded to the circumstances before it, which was in breach of clause 3.2 of the 2019 Code and condition 15 of its licence that was in place at that time.

DISCIPLINARY ACTION

49. On the weight of evidence before it, the Commission is satisfied that pursuant to section 80(1)(d) of the Act, Sportsbet has failed to comply with a condition of its licence that was in place on 18 October 2020, specifically that it:
- i. contravened condition 15 of its licence by not complying with clause 3.2 of the 2019 Code through not having sufficient responsible gambling procedures in place to allow staff to detect and assist customers in a timely manner, who may be experiencing problems with gambling (in that it did not take any action following the deposit and betting activity on 18 October 2020).

50. 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.
51. The Commission has determined that it is appropriate to take disciplinary action against the Licensee pursuant to section 80(1)(d) of the Act as follows:
- a. for its contravention of condition 15 of its licence, a fine of 136 penalty units being 80% of the maximum penalty available, equating to \$21,488 (for the 2020/2021 financial year a penalty unit's value was \$158).

LAWFULNESS OF BETS

52. The Commission has found that Sportsbet has breached its regulatory obligations in relation to failing to have sufficient responsible gambling procedures in place to allow staff to detect and assist customers who may be experiencing problems with gambling following the Complainant's deposit and betting activity on 18 October 2020.
53. Given these findings, the Commission has turned its mind as to whether the betting transactions that occurred through the Complainant's Sportsbet betting account following this date were lawful.
54. According to the 2019 Code, Sportsbet was required to monitor the Complainant's wagering behaviour and take decisive action when signs of potential problem gambling emerged. In this matter, the Complainant's betting and deposit activity on 18 October 2020 should have prompted Sportsbet to assess that activity and to engage with the Complainant from a responsible gambling perspective to ascertain whether he was wagering with funds that he could afford to lose. No evidence is before the Commission that any form of assessment or any interactions of this nature took place at any time prior to April 2021.
55. In the Commission's view and as is regulated by the 2019 Code, it is incumbent upon licensees to proactively monitor customer behaviour and implement responsible gambling measures. In this matter, the absence of any action let alone something of substance from the licensee is a breach of its responsible gambling obligations.
56. While the Commission recognises that setting a specific date for declaring bets to not be lawful is often challenging, the Commission has determined that a reasonable point for intervention of some nature should have been after the Complainant's deposit and betting activity on 18 October 2020. At this juncture, Sportsbet failed to engage with the Complainant from a responsible gambling perspective, failed to assess his financial situation and failed to implement appropriate responsible gambling measures, all of which represent a significant regulatory breach.
57. In light of this, the Commission has determined that all bets placed by the Complainant after the Complainant's deposit of \$19,381 on 18 October 2020 and placement of the wager of \$42,981 to be not lawful under the prevailing regulatory frameworks in place during that period of time.
58. Given this, the Commission is of the view that Sportsbet should return all deposits made by the Complainant into his Sportsbet betting account after the \$19,381 deposit on 18 October 2020 (minus all withdrawals), which according to the data before the Commission equates to \$52,032.32 (being deposits of \$109,088.23 minus withdrawals of \$57,055.88).
59. This determination has not been made lightly and has been made so as to ensure a fair and proportionate response to the breach involved in this matter.

NOTICE OF RIGHTS

60. 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

On behalf of Commissioners Bravos, Kirkman and Pratt