

NORTHERN TERRITORY RACING COMMISSION

DECISION NOTICE AND REASONS FOR DECISION

LICENSEE: BetEasy Pty Ltd

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

HEARD BEFORE: Mr Alastair Shields (Presiding Member)
(on papers) Ms Cindy Bravos
Ms Amy Corcoran

DATE OF DECISION: 24 April 2024

DECISION

1. For the reasons set out below, the Northern Territory Racing Commission (**the Commission**) is satisfied that BetEasy Pty Ltd (**the Licensee**):
 - a) contravened condition 15 of its licence, as it did not comply with clause 8.6 of the Northern Territory Code of Practice for Responsible Online Gambling 2016 (**the 2016 Code**) when it contacted the Gambler on 5 October 2018 and urged him to use its gambling services;
 - b) contravened condition 15 of its licence, as it did not comply with clause 3.1 of the 2016 Code when it failed to identify that the Gambler was displaying problem gambling red flag behaviours at the time the Gambler opened a BetEasy betting account on 5 October 2018 (being the known significant losses that it, through its employee, was aware of, that the Gambler had sustained previously with another bookmaker);
 - c) properly promulgated a set of terms and conditions for wagering which the Gambler agreed to when the Gambler opened a betting account with BetEasy on 5 October 2018;
 - d) properly obtained adequate evidence of the identity of the Gambler when the Gambler opened a betting account with BetEasy on 5 October 2018;
 - e) contravened condition 15 of its licence, as it did not comply with clause 3.1 of the 2016 Code or clause 3.2 of the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (**the 2019 Code**) when it failed to identify and take action in regard to problem gambling red flag behaviours (being significant deposits and losses at various stages throughout the lifetime of the betting account being 5 October 2018 to 5 March 2020, and in particular from July 2019 onwards - deposits and losses which BetEasy was aware of yet failed to undertake sufficient and appropriate levels of inquiry about).
2. Disciplinary action available to be taken by the Commission against a sports bookmaker licensed by it ranges from the issuing of a reprimand, imposing a fine not exceeding 170

penalty units or suspending or cancelling the sports bookmaker's licence. The Commission has determined that it is appropriate in this matter (particularly given that a suspension of licence would have little effect as the Licensee is no longer actively operating an online wagering platform) to take disciplinary action against the Licensee pursuant to section 80(1)(d) of the *Racing and Betting Act 1983 (the Act)* as follows:

Urge to Buy (contravention of clause 8.6 of the 2016 Code)

- a) impose a fine equivalent to 100% of the maximum penalty of 170 penalty units (in October 2018, a penalty unit's value was \$155), which is equivalent to **\$26,350**;

Red Flag Behaviours (contravention of clause 3.1 of the 2016 Code)

- b) impose a fine equivalent to 100% of the maximum penalty of 170 penalty units (in October 2018, a penalty unit's value was \$155) which is equivalent to **\$26,350**;

Red Flag Behaviours (contravention of clause 3.1 of the 2016 Code and 3.2 of the 2019 Code)

- c) impose a fine equivalent to 100% of the maximum penalty of 170 penalty units (in July 2019, a penalty unit's value was \$157) which is equivalent to **\$26,690**.

3. The Commission has determined that the bets placed by the Gambler throughout the lifetime of the betting account being 5 October 2018 to 5 March 2020, are lawful despite the Licensee's breaches, noting that this determination does not in any way diminish the severity or significance of those breaches.

REASONS

Introduction

4. On 13 August 2020, the Commission informed BetEasy Pty Ltd (**BetEasy**) that it had commenced an investigation pursuant to the Act into its dealings with a Gambler through its BetEasy online wagering platform. At that time, the Commission advised BetEasy that while the Gambler had not lodged a gambling dispute directly with the Commission, the Commission had determined to use its general statutory powers to investigate BetEasy's dealings with the Gambler due to a number of media articles and public statements made by the Gambler, about his online wagering activity with BetEasy; and as a result of a number of earlier inquiries made by the Commission.
5. The Commission has granted a licence to BetEasy to conduct the business of a sports bookmaker pursuant to section 90 of the Act. While BetEasy's sports bookmaker's licence is still valid with an expiry date of 30 June 2024, BetEasy is not currently trading as a sports bookmaker having merged with Sportsbet Pty Ltd (**Sportsbet**) in April 2020. Following the merger, BetEasy customers were migrated to the Sportsbet online wagering platform after which the BetEasy online wagering platform ceased to operate. As has been the case for previous Commission approvals of mergers and acquisitions of sports bookmakers licenced by the Commission, the acquiring licensee (most recently in this matter being

Sportsbet) remains liable for any misconduct that occurred before the closing of the merger and/or acquisition of BetEasy.

6. While the Commission investigation was underway, the Gambler did make contact with the Commission on several occasions and while not lodging a formal dispute with the Commission under the Act on those occasions, the Gambler did raise a number of concerns with the Commission about his dealings with BetEasy and another online wagering operator licensed by the Commission, being Entain Group Pty Ltd trading as Ladbrokes. The Commission also determined to conduct an investigation into Ladbrokes' dealings with the Gambler with the outcome of that investigation being handed down by the Commission on 27 February 2023¹.
7. The Commission also notes that since the matters subject of the Commission's investigation into BetEasy's dealings with the Gambler first came to its attention, the Gambler has since plead guilty to multiple criminal charges in the District Court of New South Wales in relation to dishonestly obtaining a financial advantage by deception contrary to section 192E(1)(b) of the *Crimes Act 1900 (NSW)* between October 2016 and March 2020². In his 21 April 2023 sentencing remarks for the Gambler, His Honour Judge C. G. O'Brien AM noted the following:
 - a) the Gambler *"...offended against 12 individual victims who had trusted him with their savings and investments"* (paragraph 2);
 - b) the Gambler's *"...crimes involved frauds of significant sums of money ranging between \$60,000 and \$745,000 and occurred in the period October 2016 to March 2020. The total amount of his individual frauds was \$3,355,026.20"* (paragraph 2);
 - c) *"[e]ach of the personal loans the offender received from the victims was dishonestly obtained. They were not repaid, the funds were not used as represented, and the funds were predominantly used by the offender for gambling without the knowledge of the victims"* (paragraph 20);
 - d) in February 2020, clients of the Gambler raised concerns with the Gambler's then employer via email about an investment opportunity provided to them by the Gambler (paragraph 206);
 - e) *"[a]s a result of the email..."*, the Gambler's then employer *"...met with the offender...and asked if he was under financial pressure"* (paragraph 207);
 - f) in March 2020, the Gambler admitted to his then employer *"...to having a gambling addiction and being in debt."* He admitted *"...that he had borrowed money from family, friends, and clients which he had lost..."* (paragraph 208);
 - g) the Gambler's then employer nor each of his victims *"...had no prior knowledge of the offender's gambling and debts until the offender came forward in March 2020"* (paragraph 214);

¹ Commission Decision – Entain Group Pty Ltd (Ladbrokes) – Investigation Concerning Dealings with Gambler Mr F, 27 February 2023 (https://industry.nt.gov.au/data/assets/pdf_file/0006/1208166/decision-notice-entain-group.pdf)

² R v Fineff [2023] NSWDC 108

- h) *"I am satisfied the motive for the crimes was the offender's addiction to gambling..."* (paragraph 235);
- i) *"the offender's gambling disorder... provides an explanation for the offending but is no more than indirectly responsible for it. I have reached this conclusion for the following reasons, all of which point in the opposite direction to impulsivity:*
- *the lengthy period over which the offending occurred;*
 - *the fact that during this period he continued to operate in a highly responsible position as a financial advisor without any apparent suspicion of wrongdoing by his superiors;*
 - *the necessary and inherent planning involved;*
 - *the serious level of ongoing deception in which the offender engaged; and*
 - *the fact the evidence does not allow me to conclude the offender was unable to exercise judgment. On the contrary, he consistently exercised judgment and made targeted deliberate decisions intended to obtain the money of the victims for his own purposes" (paragraph 237).³*

8. His Honour Judge C. G. O'Brien AM convicted the Gambler of all criminal charges and sentenced the Gambler to an aggregate term of imprisonment consisting of a total term of 9 years with a non-parole period of 5 years and 4 months⁴.
9. As is the regulatory role of the Commission, the Commission has contained its investigation to an examination of the actions of BetEasy against its compliance with the Act, its licence conditions and the relevant Codes of Practice that were in place at the time. With this in mind, the Commission notes that His Honour also noted that:
- a) *"[t]he records obtained by police from Ladbrokes and Sportsbet indicate that in the period June 2014 to March 2020, [the offender's] total loss to those two betting agencies was in an amount of \$4,418,353.08. On any view, this is a huge amount of money to have lost gambling, particularly in circumstances where there does not appear to have been any attempt by these betting agencies to verify the source of the funds he was wagering with them" (paragraph 253);*
- b) *"[w]hile there is no doubt the responsibility for the offender's criminal behaviour lies squarely with him, one cannot ignore as a matter of context, that the companies with whom he gambled promoted an environment which provided him not only with the opportunity to do so, but actively encouraged him. To the extent this conduct of providing incentives to VIP customers is typical of the approach taken by gambling*

³ The Gambler submitted that subparagraph 7(i) should be removed, arguing that the Commission should not rely on his Honour's reasons at sentence in relation to general findings as to the Gambler's gambling disorder. The Commission does not agree with that submission as it considers it appropriate to be able rely on comments made by the Judiciary to aid in its deliberations.

⁴ The Gambler has advised that his sentence is subject to an upcoming appeal.

companies, then in my opinion, it warrants review, by both the industry itself, and those charged with the responsibility of regulating it.” (paragraph 254)⁵

10. On 24 July 2023, the Gambler requested for the Commission to consider him as a formal complainant for the purposes of the Commission’s investigation into BetEasy. While the Commission notes that no formal dispute as envisaged by section 85(2) of the Act was lodged by the Gambler with the Commission, the Commission has determined to treat the Gambler as a complainant for the purposes of the Act so as to ensure as much fairness in the Commission’s proceedings as possible.
11. These findings are based on the material contained in the submissions to the Commission by both BetEasy and the Gambler and on materials obtained by the Commission during the course of its investigation.
12. To ensure procedural fairness, the Commission provided a draft of its initial findings to Sportsbet on 17 November 2023, seeking any comments that it wished to make in relation to those findings. By way of correspondence to the Commission dated 1 December 2023 and 11 December 2023, Sportsbet advised the Commission that it did not wish to provide any comments at that time however, it wished to make representations to the Commission before the Decision Notice was finalised.
13. On 3 January 2024, a draft of the Commission’s Decision Notice was supplied to the Gambler, the former BetEasy VIP account manager for the Gambler who is referred to as Mr K in this draft Decision Notice and again to Sportsbet for comment.
14. On 16 January 2024, Sportsbet advised the Commission that it:
 - a) accepted that “...there were several shortcomings in regard to BetEasy’s historical conduct”;
 - b) acknowledged the Commission’s determination to find that BetEasy’s actions were in breach of condition 15 of its licence; and
 - c) acknowledged the imposition on it of fines totalling \$79,390.
15. On 14 March 2024, the Gambler through his legal representative XD Law, provided extensive comments to the Commission against the draft Decision Notice. These comments have been taken into account by the Commission while finalising this Decision Notice and are referred to throughout the Decision Notice where considered appropriate⁶.
16. At the time of publishing the Decision Notice, no response has been received from the former BetEasy VIP account manager for the Gambler.

The Gambler’s Submissions as to his Dealings with BetEasy

17. The Commission has observed that the Gambler has made numerous public statements since early 2020, expressing various viewpoints and perspectives about his dealings with BetEasy, as well as having been the subject of a number of media articles. As these statements have contained a significant degree of variance, and media articles often do

⁵ *Ibid.*

⁶ Numerous comments made by the Gambler which advocate for a change in the policies regulating the online wagering industry have not been referred to in the Decision Notice.

not capture the full complexity of the issue at hand, the Commission has determined not to rely on these statements or media articles as a primary source of information for its investigation. Rather, the Commission has chosen to focus on the formal written submissions made by the Gambler to the Commission as to his dealings with BetEasy, as the Commission is of the view that these submissions have been typically more thorough, are mostly well documented and offer more in-depth details regarding the Gambler's interactions with BetEasy.

18. In those submissions the Gambler has stated to the Commission that:

- a) in October 2018, he received a mobile telephone call from an employee of BetEasy (Mr K) whom he did not know, offering him "...incentives to try them out";
- b) to open an account, he was "offered a lump sum of free betting money (bonus cash) as well as an ongoing program of further bonus cash when [he] made new deposits to [his] account";
- c) after collecting some information from him, the betting account was opened for him by Mr K - accordingly he was never prompted to read and accept BetEasy's terms and conditions;
- d) the lump sum inducement from BetEasy to open the betting account was \$50,000 which he lost within 40 minutes; and then he received a further \$50,000 the following day;
- e) Mr K told him he had to make a deposit and place a bet before Mr K could credit his newly opened betting account with \$50,000 bonus cash;
- f) he received a further \$100,000 in bonus cash the following month;
- g) BetEasy did not request any identification from him until the end of 2019;
- h) he deposited over \$6 million into his BetEasy betting account between 5 October 2018 and 5 March 2020; turned over "...tens of millions of dollars"; and withdrew over \$2 million resulting in an overall loss of \$3,686,843 to BetEasy in 17 months;
- i) "...in the 17 months [he] had an account with BetEasy, [he] was given bonus cash of \$3,170,793";
- j) BetEasy never made him "...aware of or alerted [him] to [his] abnormal and problem gambling activity" or encouraged him to gamble responsibly;
- k) his betting activity was:
 - i) "...intense, frequent, uncommon, uncontrolled and desperate. There is no evidence of sophisticated betting strategy, because there wasn't any. Betting plans were always abandoned, just as any wins would be lost";
 - ii) "[o]n occasions [he] requested 'withdrawals to be reversed, re-deposited after withdrawal'";
 - iii) "[m]ore times than I can remember I asked [Mr K] for free betting cash to be deposited into my account (I would make up a reason for not having any cash and promise to make up for it with deposits later);

l) he requested a record of his betting activity from BetEasy which was received on 25 February 2020. *"Seeing these numbers along with distress from some creditors at the time, triggered an indirect but significant intervention for me. I stopped gambling in 9 days."*

19. The Gambler has further submitted that he *"...came forward voluntarily and disclosed my gambling and debt situation"* in February 2020 to March 2020.

20. The Gambler has submitted to the Commission that he is seeking for the Commission to find that:

- a) BetEasy's conduct was in breach of the Act, its licence conditions and/or the relevant Codes of Practice;
- b) all deposits made by him into his BetEasy betting account be declared *"...void"*; and
- c) instruct BetEasy to return the funds he *"...dishonestly obtained to innocent victims."*

Consideration of the Issues

Codes of Practice

21. The Commission provides practical guidance to the sports bookmakers it licences on matters relating to the Act, through the approval of Codes of Practice. The 2019 Code came into effect on 26 May 2019 having replaced the 2016 Code. Both the earlier 2016 Code and the current 2019 Code were approved by the Commission to provide guidance on responsible gambling practices that must be implemented by sports bookmakers so as to minimise the potential for any harms that may be caused by online gambling. The Act and the licence conditions attached to all sports bookmaker licences granted by the Commission, make it mandatory for sports bookmakers to adhere to any Codes of Practice approved by the Commission.

Code Requirements - Opening of Account

22. As the events surrounding the opening of the Gambler's BetEasy betting account occurred in October 2018, BetEasy were required at that time to adhere to the 2016 Code. The relevant clauses of the 2016 Code for the purposes of this aspect of the Commission's investigation are set out below:

1.4 Terms and conditions

Online gambling operators must ensure their terms and conditions are easily located on their website, with a link to them on each page. Terms and conditions must be clear with regards to how betting is managed, particularly where maximum payout limits exist. Staff should be appropriately trained to ensure client questions regarding terms and conditions are answered correctly, readily and clearly.

[...]

6.3 Identification verification

Online gambling operators are to obtain adequate evidence of identity within 45 days of an account being opened or before winnings made may be withdrawn, whichever occurs first.

- online gambling operators must suspend the account if identification verification is not obtained within 45 days
- online gambling operators are to return deposited funds and close the account immediately if identification shows that a person is not over 18 years of age.

8.6 Urging to buy

Online gambling operators are not to call or otherwise urge non-gambling clients to use their gambling services.

Code Requirements – Provision of Responsible Gambling Environment

23. As the Gambler's BetEasy betting account was active during the period between 5 October 2018 and 5 March 2020, both the 2016 Code and the 2019 Code applied to the activities of BetEasy. Both Codes set out similar responsibilities for the sports bookmaker with respect to the provision of a responsible gambling environment, with these including that the sports bookmaker must:

- a) ensure that it details in its policies and procedures, a commitment to responsible gambling practices on its betting platform;
- b) ensure that all of its staff engaged in direct dealings with customers be trained to recognise behavioural activity that may be indicative of customers experiencing harms from their gambling;
- c) maintain a gambling incident register that records actions taken by its staff to assist customers that have been identified as experiencing harms from their betting activity; and
- d) offer voluntary harm minimisation measure to protect the interests of its customers (i.e. pre-commitment facilities such as deposit, spend and time limits).

24. Specific to the 2016 Code (which applied to the Gambler's BetEasy betting account from its creation until 26 May 2019) are the following clauses:

3.1 New Staff

All new staff engaged in client interaction, must complete appropriate responsible gambling training within three (3) months of commencement of employment. Training should include:

- identifying problem gambling Red Flag behaviours
- [...]

25. Specific to the 2019 Code (which applied to the Gambler's BetEasy betting account from 26 May 2019 onwards) are the following clauses:

3.2 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.

4.1 Customer responsibility

The provider's customers will be encouraged to take responsibility for their gambling activity through the online gambling provider's provision of clearly defined terms and conditions, rules, odds and player returns and pre-commitment features.

5.1 Voluntary pre-commitment features

[..]

(c) Online gambling providers must ensure each customer is prompted to review and set a deposit limit at least once within the first 12 months of opening their account and then at least once every 12 months thereafter unless that account has not been utilised to place a bet within that preceding 12 months. The prompt must be made via the same method being used by the customer for placing bets at the time the prompt is due.

[...].

Opening of the Betting Account

26. As detailed earlier in this Decision Notice, the Gambler has submitted to the Commission that a representative from BetEasy (Mr K) contacted him via mobile phone and encouraged him to open a betting account with BetEasy. To incentivise him to do so, the Gambler has submitted that the BetEasy representative offered \$50,000 in bonus cash as well as ongoing bonus cash when making deposits into the betting account. The Gambler further submitted that the BetEasy representative advised that the initial \$50,000 bonus cash would be credited to the Gambler's betting account once the Gambler had made his first deposit into the betting account and placed his first bet.
27. BetEasy has submitted to the Commission that while several BetEasy employees were aware that the Gambler was a large customer of another bookmaker (not licensed by the Commission), the Gambler's contact details were obtained through publicly available sources online⁷.


⁷ The Gambler has argued that the Commission should seek evidence as to the public sources claimed to have been used by BetEasy. The Commission has chosen not to do so as the elements of the regulatory breach do not require a finding by the Commission as to how BetEasy obtained the Gambler's contact details.

28. In its submission to the Commission, BetEasy has provided the Commission with a record of the notes made of the interactions between the Gambler and his VIP account manager (Mr K). BetEasy has advised the Commission that Mr K uploads all text messages with the customers that he manages on a daily basis to the BetEasy record keeping system, with this being used to record notes on each BetEasy customer's account.

29. Of relevance to the circumstances leading up to the opening of the betting account are the following notes uploaded by the Gambler's VIP account manager:

5 October 2018 - [The Gambler] and I exchanged the following text messages today

Mr K	<i>Hi [Gambler], I trust you are well. I apologise for contacting you unannounced - [Mr K], Head of VIP at BetEasy. I wanted to reach out prior to spring carnival and invite you to trial our platform. We have recently merged the CrownBet and William Hill Australia businesses and offer the industry benchmark in wagering. Our business is competitive on price - we offer best tote on all metro thoroughbred racing, we stream all Sky Racing vision through our app and have the most aggressive loyalty program in Australia. I am happy to extend five x \$10,000 bonus bets - \$50,000 total, to you once the account is opened, with an additional [XX]% rebate on your spend paid monthly, until the end of November. I am personally available on this number should you require anything further.</i>
Gambler	<i>Hi [Mr K]. Your offer of 5 * \$10,000 bonus bets is a fair incentive to trial your offering. I would be happy to open an account and trial the account over the weekend using these bonus bets. If it goes well, I would then put some money in. What is required to open an account? I don't really want documents sent out etc.</i>
Mr K	<i>Hi [Gambler]. Thanks for you[r] response. Simply open an account through the app - I will ensure there is no correspondence sent to your address. In order to withdraw we'll need a copy of the card you fund the account from - first six and last digits only, please click the remainder out. I managed the TAB high value business eight years - unlike TAB we have no daily deposit limit and our business will be able to commercially incentivise you much more aggressively. Please advise once the account is open and I will have the bets loaded.</i>
Gambler	<i>At lunch now so just opened an account, seemed easy enough. Username is [XXXX]. Happy for you to check in with me next week to see how I used it. If like it, might have a catch up early November. Cheers.</i>
Mr K	<i>Good man. I'll have them loaded by 5pm. Best wishes and good luck.</i>
Mr K	<i>Hi [Gambler]. Bonus bets are in. In the event you do wish to deposit please reach out prior to making the transaction. I am happy to extend a 10% rebate on your deposits. Enjoy</i>

Gambler	
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30. The BetEasy betting account registration logs have been examined by the Commission and show that the Gambler's betting account was registered on 5 October 2018 at 12:38 p.m. This is supported by a record provided to the Commission by BetEasy showing that the Gambler's identity was verified through its electronic identity verification service provider, Equifax, at 12:48 p.m. on the same day.
31. Upon reviewing the Gambler's betting records with BetEasy, the Commission notes that they record that a deposit of \$10 was made into the account by the Gambler on 5 October 2018 at 12:39 p.m. and that the Gambler's first bet with a stake of \$1 was placed at 12:41 p.m. That bet was then followed by the placement of six free bets with a value of \$50,025, with only one of those bets resulting in a winning payout of \$27,000. Two losing bets totalling \$27,000 were then placed by the Gambler followed by a further free bet valued at \$100.
32. The following day being 6 October 2018 commencing just after midday, the Gambler then placed seven free bets totalling \$50,000 resulting in winning payouts of just under \$55,000. The Gambler then continued to bet with these winnings until 9:24 p.m. that night, without any further deposits into the betting account being made on that day.
33. The above betting activity accords with the Gambler's submission to the Commission that he was incentivised to open a betting account with BetEasy through the offering of an inducement by way of bonus bets to a significant value.
34. BetEasy has advised the Commission that in relation to contacting a potentially new customer, that:
- a) *its "...staff are required to act in accordance with BetEasy's Code of Conduct and responsible gambling policies, and must comply with regulatory obligations such as those under the Northern Territory Code of Conduct for Responsible Online Gambling";*
 - b) *"BetEasy's initial contact and early dealings with [the Gambler] sought to offer him an excellent customer experience in order to try and win a share of his existing betting wallet."*

Urging to Buy

35. The 2016 Code at clause 8.6 prohibited sports bookmakers licensed by the Commission from calling or otherwise urging non-gambling clients to use their gambling services anytime from the 2016 Code's commencement until it was replaced by the 2019 Code on 26 May 2019.
36. It is evident from the above (and not denied by BetEasy) that a BetEasy representative being Mr K, contacted the Gambler (who was not a customer of BetEasy at that time) on 5 October 2018 and encouraged him to open a betting account with BetEasy by way of offering him an inducement of at least \$50,000 in bonus bets if he opened a betting account with BetEasy.

37. It is clear therefore to the Commission that the contact by a BetEasy representative with the Gambler was for no other purpose than to encourage the Gambler to open a betting account with BetEasy and to commence wagering.
38. BetEasy has submitted to the Commission that the 'Urging to Buy' provisions of the 2016 Code *"...are not enlivened on the basis that [the Gambler] was a non-gambling client of BetEasy."* In support of this submission, BetEasy has proffered that:
- *BetEasy's understanding is that this clause is specific to existing account holders who are not actively betting and are therefore "non-gambling clients" of the bookmaker;*
 - *This clause is designed to protect clients of a bookmaker (who the bookmaker can otherwise freely market to) from being called and otherwise urged to engage in gambling activity when they have not been actively gambling; and*
 - *Given [the Gambler] was not a client of BetEasy, the urging to buy provisions of the Code do not apply."*
39. As has previously been found by the Commission, 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.
40. Given the Commission's view, at the time the Gambler was contacted by BetEasy for the primary and only purpose of urging him to use its gambling services, by way of offering enticing inducements, the Gambler was captured by the 2016 Code and as a result, BetEasy's actions in doing so were in breach of clause 8.6 of the 2016 Code.

Acceptance of Terms and Conditions

41. The Gambler has submitted to the Commission that:
- a) BetEasy opened his betting account after collection of some information from him - accordingly he was never prompted to read and accept BetEasy's terms and conditions; and
 - b) BetEasy did not request any identification from him until the end of 2019.
42. The Gambler's submission to the Commission regarding the Gambler not opening the betting account himself (and that a BetEasy representative did it for him) contradict with the BetEasy record of the notes of interactions between the Gambler and his VIP account manager. As detailed at paragraph 25, the BetEasy notes detail that the Gambler texted to BetEasy that, *"[a]t lunch now so just opened an account, seemed easy enough. Username is [XXXX]."*
43. Given this, it is apparent to the Commission that the Gambler's submission to the Commission regarding this aspect of his dealings with BetEasy is either untrue; or at the

very least, his recollection of some events as submitted to the Commission has been coloured by the passage of time (or by the impending jail sentence then looming before him when he made his submissions to the Commission).⁸

44. BetEasy has submitted to the Commission that as part of the registration process for opening a new account, customers agree to accept BetEasy's terms and conditions. The Commission has sighted the BetEasy mobile registration screen that was in use in October 2018 and notes that a new customer was required to input their identification details and choose a password prior to selecting the 'Register and Continue' option. The form also details the following:

I am over 18 and agree to receive promotional material from BetEasy and its related entities I understand that my BetEasy account includes my BetEasy Rewards membership. I agree to the BetEasy and BetEasy Rewards terms and conditions.

45. It is the Commission's view that in opening the betting account, the Gambler entered into a contract for wagering services with BetEasy, in which he agreed to be bound by BetEasy's terms and conditions. Each wager that was then placed by the Gambler was an individual contract which was governed by those terms and conditions.

Identity Verification

46. As detailed at paragraph 18, in compliance with the 2016 Code, sports bookmakers licensed by the Commission at that time were required to obtain adequate evidence of identity within 45 days of an account being opened or before winnings made by the customer could be withdrawn, whichever occurred first.
47. Online wagering providers usually complete the identify verification process by cross-checking the information provided by the customers with various government and non-government data sources such as (but not limited to) the Australian Electoral Roll and the Australian Government Documentation Verification Service (which enables checks of biographic information against government issued identity documents including birth certificates, driver licences, passports and visas). Generally, online wagering providers will outsource these verification checks to third party providers.
48. The Commission has sighted evidence that shows that in order to verify the identity of the Complainant, BetEasy sent the details provided by the Gambler to register the betting account to its third-party identity verification provider, Equifax on 5 October 2018 (being the same day the Gambler opened the betting account). Equifax then provided BetEasy with the advice that following a process of cross-checking the information provided by the Complainant against various government and non-government data sources, the Complainant's identity was verified.
49. Given the identity of the Gambler was verified by BetEasy through its third-party provider on the same day that the Gambler opened his betting account with BetEasy, it is clear to

⁸ The Gambler has advised that he now wishes to withdraw his complaint in relation to his allegation that the betting account was opened by BetEasy as he accepts that his recollection is incorrect and that at no point did he attempt to knowingly submit untrue information to the Commission. While the Commission acknowledges the Gambler's admission, it has determined that the Decision Notice should accurately document the findings of its investigation into BetEasy's dealings with the Gambler, regardless of whether those findings are adverse toward either party.

the Commission that BetEasy fulfilled its obligations under the 2016 Code well within the 45 days provided to it at that time, to verify the identity of the Gambler.

Identifying Gamblers at Risk

50. As detailed earlier in the introductory section of this Decision Notice, the Gambler submitted to the Commission that during the lifetime of his betting account with BetEasy, he deposited over \$6 million into his BetEasy betting account between 5 October 2018 and 5 March 2020; turned over “...tens of millions of dollars”; and withdrew over \$2 million resulting in an overall loss of \$3,686,843 to BetEasy in 17 months.

51. The Gambler has submitted that despite his betting activity being “...intense, frequent, uncommon, uncontrolled, and desperate,” coupled with numerous cancelled withdrawal requests and a great many requests for bonus bets where he gave false information as to why he did not have cash available to deposit, BetEasy never made him “...aware of or alerted [him] to [his] abnormal and problem gambling activity” or “encouraged him to gamble responsibly”.

52. The Gambler has submitted to the Commission that he has:

“...absolutely no issue with wagering operators making a profit. My only issue is with them making a profit from sick people and criminals. A customer with gambling disorder is a mentally sick person described by the medical world with (but not limited to) narrowed consciousness, diminished risk awareness, delusion, etc. There must be intervention on this individual and the symptoms are obvious, but only to wagering operators. A customer with gambling disorder will also commit crime, again easily substantiated by statistics and the academic world.”

53. In contrast to the Gambler’s assertions, BetEasy has submitted to the Commission that in accordance with its regulatory obligations:

- a) the Gambler’s betting account was appropriately monitored and reviewed by BetEasy including:
 - i) on a regular basis by the VIP account manager;
 - ii) as part of BetEasy’s transaction monitoring program; and
 - iii) by BetEasy’s Responsible Gambling Committee at its December 2019 meeting; and
- b) appropriate customer interactions and welfare checks took place as follows:
 - i) on 2 October 2019, in a text message exchange between the Gambler and his VIP account manager following the Gambler advising he had won back losses on the day’s activity;
 - ii) on 5 February 2020, following the VIP account manager identifying the Gambler’s activity for the previous day had been larger than normal;
 - iii) on 20 February 2020, following the Gambler advising the VIP account manager he would make a large deposit following the receipt of funds following an asset sale he was finalising at work; and

- iv) on 5 March 2020, following the Gambler advising the VIP account manager that his personal situation had been destroyed, leading to the Gambler's account being permanently closed by BetEasy.

Gambling Incident Register

54. In addition to the responsibilities for the sports bookmaker with respect to the provision of a responsible gambling environment as set out in the 2016 and 2019 Codes and detailed at paragraphs 21 to 25 above, BetEasy was also required to maintain a Gambling Incident Register. In this respect, clause 2.2 of both the 2016 and 2019 Code set out that:

Online gambling operators will ensure they record all actions taken by staff in assisting clients/customers in accordance with this Code through a Gambling Incident Register. This register will need to include, as a minimum, the following information:

- time, date and nature of problem gambling related issue or incident
- name and address of the person the incident relates to
- the name of the staff member involved
- the action they took.

55. Based on the information recorded in the BetEasy Gambling Incident Register, it first became concerned about the online wagering activities of the Gambler on 20 March 2019, some five months after the betting account was opened. That entry details that following the Gambler explaining why he had not deposited into his betting account recently (as he was waiting for a private equity deal to go through), the VIP account manager (Mr K) advised the Gambler that, "...I don't apply any pressure. And simply want you to be happy and comfortable."

56. The next entry in the Gambling Incident Register does not occur until 2 October 2019, being nearly seven months after the first entry into the Gambling Incident Register. In that entry, the VIP account manager recorded that following the Gambler seeking bonus bets on recent activity and advising that he had won back some losses, the VIP account manager asks the Gambler whether he is comfortable and "...not going harder than [he] should be?" In response, the Gambler advises:

Yeah sweet. Bit silly on two bets earlier but otherwise good. Appreciate the check in bud.

57. The VIP account manager responds to the Gambler with:

Mate I don't want you, or anybody else I look after to crash and burn. I understand you're successful and this is an outlet for you however if it becomes an issue I am happy to put tools in place to ensure you're not going harder than you like.

In response, the Gambler texts a thumbs up emoji to the VIP account manager.

58. Several more entries appear in the Gambling Incident Register, being:

6 Feb 2020 – following a large amount of activity the previous day, the VIP account manager checks in with the Gambler to confirm he is comfortable with his spending. The

Gambler advised that he had a large win with another sports bookmaker and that he appreciated the check-in.

20 Feb 2020 – the Gambler advises the VIP account manager that a planned deposit of \$100,000 will take a week or two due to “...*the asset [he is] selling has a capital raise at moment so slower to liquidate some.*” In response, the VIP account manager advises that there is no pressure to deposit and queries whether the Gambler is ok, to which the Gambler responds that he is.

59. On 2 March 2020, the Gambling Incident Register records that the Gambler advised the VIP account manager that he had made a deposit into the betting account and requested the associated bonus bets attached to his deposit activity. The VIP account manager advises the Gambler that he had put the bonus bets into the account and to not “...*go silly.*” Later that night, the Gambler asked for an advance of \$15,000, advising that he would deposit \$70,000 a few days later. The VIP account manager records that he didn’t respond to the Gambler.

60. On 6 March 2020, the Gambling Incident Register records that the VIP account manager received a text from the Gambler in which the Gambler advises that his “...*personal situation will be destroyed and it will be public if I can’t come up with \$500,000 within 5 days – I can’t pay that.*” The Gambler then requests a large bonus to give him a chance to raise the funds needed and advises that if he could get the \$500,000, he would stop gambling. In response, the VIP account manager advises the Gambler that he has suspended the Gambler’s betting account and referred the Gambler to the BetEasy legal team. The Gambling Incident Register further records that the Gambler sent the following to the VIP account manager:

My debt basically reflects the short-falls with BE...It is all so surreal and I’m becoming uncertain of how it actually happened. My thoughts turn to my behaviour. I wonder if it occurred at any point that my behaviour and activity ever triggered alerts. Whilst I had more money in the early days, I’ve got no doubt my desperation increased dramatically probably since the beginning of this financial year but certainly in recent months.

61. Following the above interaction between the Gambler and the VIP account manager, BetEasy permanently self-excluded the Gambler, thereby prohibiting the Gambler from being able to gamble with BetEasy any further.

62. The following table summarises the gambling related issue and the action taken by BetEasy in response:

DATE	INCIDENT	ACTION TAKEN
20 March 2019	Gambler advises BetEasy that he hasn’t deposited into the betting account recently due to waiting for a business transaction to be completed	VIP account manager advises Gambler that there is no pressure to deposit monies into the betting account and that he wants the Gambler to be happy and comfortable

2 October 2019	Gambler seeks bonus bets & advises that he has won back some losses	VIP account manager asks whether Gambler is betting at a comfortable level to which the Gambler responds that he is. VIP account manager offers to put tools in place to manage Gambler's level of activity to which the Gambler replies with a 'thumbs up' emoji
6 February 2020	Gambler engaged in a large amount of activity the previous day	VIP account manager asks whether Gambler is betting at a comfortable level to which the Gambler responds that he is & that he had a win of \$80,000 from another sports bookmaker
20 February 2020	Gambler advises that a planned deposit of \$100,000 will take a week or two as he is waiting on the sale of an asset	VIP account manager advises that there is no pressure to make a deposit and queries whether the Gambler is comfortable with his level of spend and not liquidating asset to cover his gambling to which the Gambler responds that he is ok
2 March 2020	Gambler requests an advance of \$15,000 on a \$70,000 deposit he would make in a few days	VIP account manager chose not to respond
6 March 2020	Gambler advises that he is in significant debt and requests a large bonus so as to be able to gamble his way out of the debt	VIP account manager suspends Gambler's betting account
6 March 2020	Gambler raises concerns as to whether his activity, (mainly since the beginning of the financial year and particularly in the past few months) triggered any alerts with BetEasy	BetEasy permanently self-excludes the Gambler from using its online wagering services

Transaction Monitoring Program

63. BetEasy submitted to the Commission that part of its active monitoring of the Gambler's betting account was through its transaction monitoring program. The Commission notes that each sports bookmaker that it licenses has a transaction monitoring program in place to manage the regulatory obligations imposed by the Commonwealth's *Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Act 2006* and the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*.
64. BetEasy submitted that the Gambler's deposit activity triggered a number of transaction monitoring alerts, two of which caused BetEasy to undertake an 'Enhanced Customer Due Diligence' (ECDD) process for the Gambler in July 2019 and January 2020. BetEasy further submitted that as a result of its ECDD processes, it identified that the Gambler owned equity in a major financial planning business.
65. The Commission notes that ECDD in the context of anti-money laundering and counter-terrorism financing refers to the process of gathering additional information and conducting a more thorough analysis of customers who are considered to be of higher risk for money laundering, fraud or other illicit activities.
66. Having sighted the BetEasy records relating to the two ECDD processes it undertook, the Commission notes that in relation to the ECDD undertaken in:
- a) July 2019 -
 - i) BetEasy identified that the Gambler had sustained losses of over \$700,000 during the previous three-month period;
 - ii) BetEasy identified that the Gambler's turnover for the previous three-month period was in excess of \$11 million;
 - iii) BetEasy identified that the Gambler had sustained losses of over \$1.7 million since the opening of the betting account; and
 - iv) BetEasy rated the risk for the Gambler as 'High' as the Gambler had "*...not directly provided comfort on source of wealth*"; and
 - b) January 2020 -
 - i) BetEasy identified that the Gambler had sustained losses of just under \$700,000 during the previous three-month period;
 - ii) BetEasy identified that the Gambler's turnover for the previous three-month period was in excess of \$3.5 million;
 - iii) BetEasy identified that the Gambler had sustained losses of over \$2.8 million since the opening of the betting account; and
 - iv) BetEasy rated the risk for the Gambler as 'High' as the Gambler "*...has equity in financial planning business, but we haven't had other SoW provided by the customer.*"
67. The Commission also notes that the January 2020 ECDD record also details that the VIP account manager who had previously worked at another sports bookmaker not licensed

by the Commission (Bookmaker A), was aware of the Gambler's betting activity with Bookmaker A and noted that the Gambler had been wagering with BetEasy at levels consistent with his wagering activity with Bookmaker A.

68. While the VIP account manager may have had knowledge of the Gambler's previous betting activity with another sports bookmaker, there is no evidence before the Commission that as a result of these two separate ECDD assessments, BetEasy took any action from a responsible gambling viewpoint to interact with the Gambler to ascertain whether he had a sufficient source of wealth to fund his wagering activity with it.

BetEasy Responsible Gambling Escalation Committee

69. BetEasy has submitted to the Commission that part of its active monitoring of the Gambler's betting activity occurred though its Responsible Gambling Escalation Committee meeting in December 2019.

70. The Commission has sighted redacted version of the minutes of this meeting and note that they record that:

- a) the Gambler had a significant win overnight;
- b) the Gambler *"...could reasonably be considered to be betting with winnings from this point until he reached his net position of Tuesday. Any further concerns about SoW regarding the account should be considered at that point"*;
- c) a Responsible Service of Gambling message to the Gambler should be drafted; and
- d) an updated residential address for the Gambler should be obtained and further open source searches should be undertaken.

71. The Commission notes that while the minutes for the meeting record that the action items should be undertaken in time for the next Responsible Gambling Escalation Committee meeting, the Commission has not been provided with any evidence that this in fact occurred.

Commission Assessment

72. The Commission has undertaken a thorough review of the Gambler's betting account statements detailing his gambling activity with BetEasy, as well as the various BetEasy records of its interactions with the Gambler.

73. The Commission has (not unsurprisingly given its previous investigation into Entain Group Pty Ltd's dealings with the Gambler) formed the view that the Gambler was clearly a very active and highly engaged online gambler. This is evidenced by the fact that between 5 October 2018 and 5 March 2020, the Gambler placed bets to the value of some \$50 million with BetEasy.

74. To be able to do so, the Gambler deposited \$6.04 million into the betting account and used these deposits as well as winnings from the bets that he placed, to place further bets. In recognition of the Gambler's activity, BetEasy also provided the Gambler with bonus bets to the value of \$3.3 million. Throughout the lifetime of the betting account, the Gambler

withdrew \$2.35 million from the account, taking his overall loss during the lifetime of the account to just under \$3.69 million.

75. The Commission has formed the view that the Gambler was actively targeted by a BetEasy VIP betting account manager being Mr K, due to his knowledge through his former employment that the Gambler had engaged in high volume betting activity with another bookmaker. Rather than making any inquiries of substance as to whether the Gambler could afford to gamble to these levels, Mr K instead encouraged the Gambler to open a betting account with it by providing attractive bonus and deposit rebate incentives as inducements. It then appears to the Commission that BetEasy became more focused on realising its own profits from the Gambler, rather than ensuring that it was providing a responsible gambling environment to him. Simply knowing that the Gambler had engaged in high volume betting activity with another bookmaker previously, cannot be considered sufficient to having undertaken an appropriate level of inquiry as to whether the Gambler had sufficient wealth to do so.
76. The Commission has sighted a position description for the role undertaken by Mr K with BetEasy, signed and dated by Mr K on 18 May 2018. Of interest to the Commission is that while the 'Core Competencies and Technical Skills' detailed for the position included a "*Hunger to Win - to achieve personal and team targets*" and the 'Accountabilities' for the position included "*Maintain and grow a portfolio of state specific high value customers*"; "*Prospect and acquire new customers through your networks and sales opportunities*" and "*Improve customer retention and increase share of wallet*", nowhere within the position description is it mentioned that the occupant should ensure that they create and sustain an environment where clients can enjoy gambling activities responsibly and without harm.
77. The Commission has also been advised by Sportsbet that while Mr K is no longer employed by it, a component of Mr K's remuneration when employed by BetEasy was a commission based on the revenue of the clients that he managed. In the Commission's view, a significant ethical dilemma arises when commission-based compensation is directly linked to the gambling losses incurred by clients. This type of financial arrangement generally provides a strong incentive for VIP account managers to encourage clients to gamble more, potentially disregarding signs of problem gambling behaviour. In the Commission's view, this tension between commission-based compensation and the regulatory requirements to respond appropriately to red-flag behaviours is a complex challenge that requires the sports bookmaker's ongoing attention. It is imperative in the Commission's view, that sports bookmakers foster a culture of responsible gambling and ethical decision-making so as to ensure that they can mitigate the challenges caused by commission-based remuneration, while still maintaining financial sustainability.
78. It is clearly apparent that the betting activity came to the attention of BetEasy on numerous occasions during the lifetime of the Gambler's betting account and when it did, BetEasy discussed its concerns regarding the lack of confirmed knowledge of the Gambler's source of wealth. Despite this, no meaningful interactions with the Gambler occurred from a responsible gambling perspective apart from an occasional 'check in' with the Gambler through his VIP account manager.
79. The Commission does not consider the number of interactions with a customer as an accurate measure for assessing whether a licensee has met its regulatory responsibilities

in relation to a customer's online wagering welfare as it is the Commission's view that the frequency of responsible gambling interactions is just part of the bigger picture. The quality of any interactions, the promptness of any interventions, the easy accessibility to responsible gambling management tools and the overall commitment by the sports bookmaker to safeguard the well-being of its customers contribute to the sports bookmaker's compliance with its regulatory responsibilities.

80. The Commission considers that at the heart of the matter lies how a licensee manages the overall account activity of a customer. Providing a responsible gambling environment is not merely a numbers game, rather it is a holistic approach that the licensee should be taking and one that encompasses various strategies and measures aimed at preventing and mitigating harms that may be caused by a customer's online wagering activities.
81. With this in mind, it is the Commission's view that given that BetEasy were clearly aware of the level to which the Gambler was incurring losses from his gambling activity with it, at the very minimum, BetEasy should have undertaken some form of rigorous inquiry as to the Gambler's source of wealth.
82. Whether or not those inquiries would have led BetEasy to the conclusion that the Gambler did not have a sufficient source of wealth to undertake his gambling activities is mere speculation however, what is of concern to the Commission is that BetEasy failed (apart from undertaking a customer identity verification check and some minor open source inquiries via the internet) to undertake any form of verification at any stage during the lifetime of the betting account, as to the Gambler's source of wealth.
83. Rather than requesting source of wealth documents from the Gambler such as bank statements, savings account records, credit/debit card statements, taxation returns or pay slips, BetEasy relied on its own employee's (who also happened to be the Gambler's VIP account manager) assumptions of the Gambler's betting activity with another bookmaker, the Gambler's alleged own assertions as to his level of wealth, several successful winning bets with it and other sports bookmakers and several 'google searches' as being sufficient in nature to be comfortable that the Gambler was betting within his means and that BetEasy as a result, was providing a responsible gambling environment.
84. The views of the Commission regarding the lack of inquiry initiated by BetEasy regarding the Gambler's betting affordability however, must be tempered with the fact that the Gambler knowingly and willingly opened a betting account with BetEasy and actively used that betting account over the next 18-months. It is essential for both a customer and the online gambling provider to recognise that gambling can have significant financial consequences, and affordability should be the key for both parties. Customers should assess their own financial situation and set limits on their gambling activities to ensure they are betting within their means.
85. Both the 2016 and 2019 Code detail that the customers of sports bookmakers "*...will be encouraged to take responsibility for their gambling activity through the online gambling provider's provision of clearly defined terms and conditions, rules, odds and player returns and pre-commitment features.*"

86. While the Gambler's activity resulted in significant losses for him, it is not the role of the Commission to rectify self-inflicted losses from gambling (regardless of where the source of the funds used to gamble came from)⁹, but rather to make findings as to 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.
87. Based on the records contained within the BetEasy Gambling Incident Register (particularly the record for 6 March 2020), it would appear that the Gambler himself, did not consider that his betting activity prior to the beginning of the 2019-2020 financial year should have caused BetEasy too much concern as he "*...had more money in the early days.*"¹⁰
88. With this in mind, the Commission notes that the two BetEasy ECDD processes that occurred, were initiated after the beginning of the 2019-2020 financial year and while they both identified concerns about the Gambler's source of wealth, as did the BetEasy Responsible Gambling Escalation Committee's discussion about the activities of the Gambler in December 2019, BetEasy still did not cause any meaningful inquiries to be undertaken to ascertain whether the Gambler could afford to sustain the significant losses he was predominantly experiencing through his gambling activity with BetEasy.
89. Given this, the Commission has formed the view that BetEasy did not initiate appropriate customer interactions that reasonably corresponded to the circumstances and has therefore failed to comply with the responsible gambling components of both the 2016 and 2019 Codes that were required of it.

LAWFULNESS OF BETS

90. Given the findings of the Commission above, the Commission has turned its mind as to whether the betting transactions that occurred through the Gambler's BetEasy betting account were lawful.
91. As has been articulated in previous determinations, 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 harm.
92. 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

⁹ The Gambler has advised that he has disavowed any private claim to have his gambling losses returned to him. The Gambler has also requested that the Commission consider whether BetEasy should be divested of the profits realised from the Gambler however, the Commission notes that divestment is not a disciplinary action available to it under the legislation in which it regulates the activities of online wagering providers.

¹⁰ The Gambler submitted that the Commission should not be able to rely on what he said at that time as he was a problem gambler.

accept a bet as being lawful even if there is a breach of the Act, a Code of Practice or a licence condition by a sports bookmaker.

93. The views of the Commission regarding the sub-standard level of inquiry initiated by BetEasy regarding the Gambler's betting affordability must be tempered with the fact that the Gambler presented himself to BetEasy as a man of wealth and it is unknown as to whether more detailed inquiries would have led BetEasy to form the view that the Gambler was not betting within his means given as Justice O'Brien stated in his sentencing remarks (and as detailed earlier in this Decision Notice) that the Gambler "...continued to operate in a highly responsible position as a financial advisor without any apparent suspicion of wrongdoing by his superiors...", "...the necessary and inherent planning involved..." and "the serious level of ongoing deception in which the offender engaged...". His Honour further found that "the evidence does not allow [him] to conclude the offender was unable to exercise judgment. On the contrary, he consistently exercised judgment and made targeted deliberate decisions intended to obtain the money of the victims for his own purposes".
94. The Commission notes that the Gambler himself, considered that his betting activity would likely not have come to the attention of BetEasy until at least the beginning of the 2019-2020 financial year if not later. Additionally and giving further weight to the Commission's comment that it is unknown whether more detailed inquiries by BetEasy would have led it to form the view that the Gambler was not betting within his means, is the Gambler's submission when providing his response to the draft Decision Notice, that "[i]t is completely unrealistic to expect that a person who has stolen millions to fund a gambling addiction will disclose that he was obtaining funds illegally."
95. Given this, the Commission has formed the view that despite the failings of BetEasy with respect to its compliance with its licence conditions and the 2016 and 2019 Codes, the integrity of each bet placed by the Gambler with BetEasy has not been undermined to the extent where each bet should not be enforced regardless of the fact that the Gambler's activity resulted in significant losses for him.

NOTICE OF RIGHTS

96. 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

On behalf of Commissioners Shields, Bravos, and Corcoran