

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 E

LICENSEE: Entain Group Pty Ltd (Ladbrokes)

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

DATE OF DECISION: 20 June 2024

DECISION

1. For the reasons set out below, the Northern Territory Racing Commission (**the Commission**) is satisfied that Entain Group Pty Ltd (**the Licensee**) has acted in compliance with the *Racing and Betting Act 1983* (**the Act**), the licence conditions attached to the sports bookmaker licence issued to it by the Commission and the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (**the 2019 Code**) throughout its dealings with the Complainant between July 2019 (betting account opening) and January 2022 (betting account closing).
2. Given the Commission's determination in relation to Ladbrokes' dealings with the Complainant throughout the lifetime of the betting account that the Complainant held with Ladbrokes, the Commission has determined that all bets made and accepted during the period between July 2019 and January 2022 were lawful, regardless of the fact that the Complainant's overall wagering activity with Ladbrokes, resulted in a financial loss to him.

REASONS

Background

The Licensee

3. 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 sports bookmaker licence is due to expire on 30 August 2026.
4. Under that licence, the Licensee is currently authorised by the Commission to operate two online wagering platforms under the commercial branding of Ladbrokes and Neds. For ease of reference and given that the events complained of occurred while the Complainant interacted with the Licensee while using the Ladbrokes branded online wagering platform, the Commission has determined to refer to the Licensee as **Ladbrokes** throughout the remainder of this Decision Notice.

The Complaint

5. The Complainant lodged an online complaint with the Commission about his dealings with Ladbrokes on 25 January 2022. In addition to his initial submission, the Complainant also submitted several emails and participated in several telephone discussions with the Commission's betting inspector assigned to investigate the complaint during which, the Complainant expanded the scope of his complaint.
6. According to the Complainant:
 - i. after opening a betting account with Ladbrokes in July 2019, he lost \$75,000 during the first few weeks of operating the betting account;
 - ii. after that loss he stopped wagering for a few weeks however, when Ladbrokes offered him several promotional bonus bets, he recommenced wagering with Ladbrokes and lost a further \$25,000 over a two-day period in September 2019;
 - iii. he again stopped wagering with Ladbrokes however, after Ladbrokes sent him more promotional bonus bets and deposit match offers, he once again recommenced wagering;
 - iv. due to the offers provided to him by Ladbrokes, he gradually increased the size of his bets and the frequency of his wagering;
 - v. when he made several large winning bets, Ladbrokes contacted him but did not discuss in detail his wagering activity or the source of the funds that he was using for wagering;
 - vi. on 13 January 2022, he deposited and lost \$425,000 through his wagering activity;
 - vii. following that loss, Ladbrokes suspended his betting account however, he was able to have the betting account re-opened after telling Ladbrokes that he was okay; and
 - viii. he then lost a further \$200,000 through wagering with Ladbrokes over the next two weeks.
7. The Complainant asserts that Ladbrokes:
 - i. should have contacted him during the first few months of his betting account being opened when he lost \$100,000 to determine if he was wagering with money he could afford to lose;
 - ii. should not have encouraged him to continue to wager with Ladbrokes by offering him bonus bets and deposit matches;
 - iii. should not have allowed his betting account to be re-opened after he had lost \$425,000 in January 2022; and
 - iv. should have contacted him after he lost the last \$200,000 to determine if he was wagering with money he could afford to lose.
8. As a resolution to his complaint, the Complainant is seeking for Ladbrokes to return all of the money he lost during the lifetime of his wagering activity with Ladbrokes, being an amount just under half a million dollars.

Codes of Practice

9. 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 current Code of Practice 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 sports bookmakers to minimise the impact of 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 require licensees to adhere to any Codes of Practice approved by the Commission.

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 and verbal submissions to the Commission by both the Complainant and the Licensee, as well as additional evidence obtained by the Commission's betting inspectors.

Consideration of the Issues

12. In relation to the series of allegations the Complainant has raised regarding Ladbroke's dealings with him while he operated a Ladbrokes' betting account, the following clauses of the 2019 Code are relevant:

Clause 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.

Clause 8. Advertising and marketing

Advertising and marketing are to be delivered in an honest and responsible manner with consideration given to the potential impact on people adversely affected by gambling.

Early Account History (July 2019 – December 2020)

July 2019

13. The Complainant opened a betting account with Ladbrokes on 21 July 2019 and made a deposit of \$3,000. He immediately placed a bet for the full amount on an Australian National Rugby League (NRL) match alongside a bonus bet of \$260 received as a deposit match promotion. As both bets were winning bets, the Complainant's betting account balance increased to \$4,793. The Complainant then deposited a further \$5 into the betting account prior to withdrawing his earlier winnings of \$4,793 from the betting account. The Complainant then placed four bonus bets of \$25 that had been received as part of a NRL promotion, each of which resulted as a losing bet thereby leaving his betting account with a balance of \$5.
14. Four days later, the Complainant deposited \$5,000 into the betting account and shortly after placed a bet for \$5,005 on another NRL match, which resulted as a winning bet, leaving the

Complainant with a balance in his betting account of \$7,507.50. The Complainant withdrew this full amount from his betting account on the same day, leaving a zero balance in his betting account.

15. The next day being 26 July 2019, the Complainant deposited \$4,000 into his betting account which he used to place a losing bet. After that bet was resulted, the Complainant made a deposit of \$17,000 which he used to place two bets of \$15,789 and \$1,211 on another NRL match which resulted in the Complainant winning \$23,460, which he withdrew from the betting account on the same evening, leaving a zero balance in his betting account.
16. At this point in time, the Complainant was in profit from his wagering activities to the amount of \$6,755.50 and had shown a propensity towards betting the full balance of his betting account (of up to \$17,000) and if successful, withdrawing those winnings from his betting account shortly after the bets resulted.
17. The following day on 27 July 2019, a Ladbrokes' Responsible Gambling (RG) team member contacted the Complainant to discuss the activity that had occurred through the betting account to date. The Commission has listened to a recording of this telephone call which lasted for nearly eight minutes and notes that during that conversation, the Complainant assured the RG team member that:
 - i. his recent wagering activity was in line with his normal spend on wagering;
 - ii. his wagering was funded primarily from winnings from other wagering activities;
 - iii. his normal deposit range was up to \$50,000, which was his maximum limit;
 - iv. while he would occasionally attempt to recover losses through increased bets, if he could not afford to do that, he would stop wagering;
 - v. he was employed full-time and had put a lot of money to his mortgage;
 - vi. a \$20,000 spend was sustainable; and
 - vii. he knows when to stop wagering.
18. The RG team member discouraged the Complainant from adopting a strategy of 'chasing his losses' and advised the Complainant of the array of account management tools that were available for the Complainant to set up for his betting account, including deposit limits and time-outs.
19. At this point in time, it is evident to the Commission that Ladbrokes' tracking data processes identified the red flag behaviour exhibited by the Complainant (a large sum of money being deposited into a relatively new account) and then as required by the 2019 Code, took meaningful action to interact with the Complainant through direct person-to-person contact to assess his recent wagering activity.

August 2019

20. After not using his account for the next six days, the Complainant then deposited \$2,250 into his betting account on 2 August 2019 which he used to place a winning bet that resulted in a winning payout of \$3,600 and which the Complainant withdrew from the betting account shortly after the bet had resulted.
21. The following day, the Complainant placed an unsuccessful \$5 bonus bet.

22. On 5 August 2019, the Complainant deposited \$5,000 into his betting account which he used to place two bets on a men's professional tennis circuit match. Both bets were successful, resulting in a betting account balance of \$8,100 which the Complainant again withdrew shortly after the bets had resulted.
23. At this juncture, the Complainant was in profit on his betting account since its opening to the amount of \$11,205.50 and continued to show a propensity towards betting the full balance of his betting account and if successful, withdrawing those winnings from his betting account shortly after the bets resulted.

6 August 2019

24. On 6 August 2019, the Complainant engaged in a wagering session with Ladbrokes that lasted some 14 hours (having commenced at 5:59 p.m., on 6 August 2019 and ceasing at 8:17 a.m., the following day).
25. During this wagering session, the Complainant deposited \$87,000 into his betting account (\$2,000 at 5:59 p.m., \$7,000 at 8:18 p.m., \$64,000 via three deposits between 11:25 p.m., and 11:26 p.m., and a further \$14,000 at 5:59 a.m., the next morning).
26. Several minutes after the three deposits totalling \$64,000 were made, the Complainant placed two bets on a European ice hockey game, the first for \$3,333 and the second for \$30,000.
27. At 12:05 a.m., on 7 August 2019, prior to the above bets resulting, and when the Complainant's betting account had a balance of \$30,667, the Complainant contacted Ladbrokes via telephone and advised that the \$64,000 in deposits had been made in error and that he had only meant to deposit \$20,000 into his account. The Ladbrokes' client notes for the telephone call record that the Complainant was advised that he could request a credit card refund of the unused balance.
28. Given that the Complainant went on to place numerous bets on a variety of tennis, ice hockey and European football matches using the funds that he had earlier deposited, it is evident that he did not act on the advice provided to him by Ladbrokes.
29. At the end of this 14-hour wagering session, the Complainant had a balance of just \$565.72 in his betting account which he then withdrew, leaving a zero balance in his betting account and a total loss for a single session of wagering on that day of \$86,434.28.
30. On 7 August 2019, the Ladbrokes' RG team attempted to contact the Complainant by telephone but after not being successful, sent an email to him advising that they had noticed an increase in the deposits that he had made into his betting account and wanted to confirm that he was still wagering responsibly. In that email, Ladbrokes again detailed the various gambling management tools that were available for the Complainant to use and invited him to call them if he needed any help with those tools.
31. The Complainant contacted the RG team by telephone and when queried about the large amount of money deposited into his betting account overnight, the Complainant advised the RG team member that:
 - i. there had been a 'system glitch' with the deposits;
 - ii. he had not wanted to deposit as much money as he had;
 - iii. he had attempted to place a bet to recover the money; and

- iv. he understood that according to the rules, once the money was used, it couldn't be refunded.
- 32. When queried as to whether this had now caused him any financial stress, the Complainant replied that it was okay and that he understood that if Ladbrokes wanted to close his betting account, that there was nothing he could do - but that he didn't need for this to occur.
- 33. When the RG team member explained that Ladbrokes just wanted to check that he was still enjoying the account, not betting beyond his means, gambling responsibly and that "...everything is okay on your end," the Complainant replied, "Ok, thank you very much, it's alright, thank you."
- 34. The Commission notes that following the Complainant engaging in a lengthy wagering session during which he deposited what to most, would be considered a substantial sum of money (some of it which he says was in error), Ladbrokes identified that there had been a change in the Complainant's wagering behaviour and again, took meaningful action to interact with the Complainant through direct person-to-person contact to assess his behaviours from a responsible gambling perspective as was required by the 2019 Code, and to ensure that he was fully aware of the responsible gambling management tools that were available to him. When it did so, the Complainant again assured Ladbrokes that he was wagering with money that he could afford to lose and that he was in control of his wagering activity.
- 35. Given this RG contact and the earlier RG contact on 27 July 2019, the Commission has formed the view that the Complainant's allegation that Ladbrokes did not contact him during the early period of his betting account being opened when he lost \$100,000 to determine whether he was wagering with money he could afford to lose, is unfounded and does not align with the facts before the Commission.

September 2019

- 36. As per the Complainant's submissions to the Commission, after the wagering activity in August 2019 the Complainant then ceased to use the Ladbrokes betting account for several weeks. However, shortly after receiving a promotional \$250 free bet offer from Ladbrokes on 27 September 2019, the Complainant used this bonus bet to place a losing bet. Several hours later, the Complainant received a further promotional free bet offer from Ladbrokes to the value of \$2,000, which he immediately used to place a bet on a greyhound race that resulted in a winning payout of \$1,900 and which the Complainant immediately withdrew from his betting account.
- 37. The following day being 28 September 2019 and after receiving a promotional 100% deposit match offer for up to \$5,000, the Complainant deposited \$5,000 into the betting account at 9:09 a.m. The Complainant continued to use the betting account sporadically throughout the day, with the wagering session finishing at just after 6 p.m. During this time, the Complainant deposited a total of \$27,000 into the betting account and at the end of the wagering session, withdrew the remaining balance of \$910.31, resulting in a total loss of just over \$26,000 for his day of wagering activity with Ladbrokes. The wagers struck during this day ranged in stake value between \$1,250 through to \$17,000.
- 38. Given that the Complainant had not wagered with Ladbrokes since early August 2019, it is apparent to the Commission that the promotional bonus bet and deposit match offers sent to the Complainant by Ladbrokes on 27 and 28 September 2019 did as the Complainant has submitted, have the effect of causing the Complainant to re-engage with Ladbrokes.
- 39. While the Complainant took advantage of the promotional offers provided to him (the second of which he profited to the value of \$1,900), the Commission notes that promotional bonus

bets and other forms of promotional inducements are marketing tools commonly used by online sports bookmakers (and many other customer focused industries) to boost sales and generate loyalty. When engaging in promotional marketing in this manner, the Commission expects that these types of promotional offers will be provided within the context of responsible gambling practices and that they do not inadvertently encourage excessive or risky online wagering behaviour.

40. Given that the Complainant deposited an amount of money into his betting account after he received these promotional offers that fell within the deposit parameters that the Complainant had earlier informed Ladbrokes that he was comfortable depositing, there is no evidence before the Commission that these three promotional offers caused the Complainant to wager beyond his stated comfort level. This being the case, the Commission has determined that while the promotional offers had their desired effect of encouraging the Complainant to re-engage with Ladbrokes, the promotional offers were provided in a manner that complied with the regulatory environment within which Ladbrokes is licensed to operate.

October 2019

41. During the month of October 2019, the Complainant wagered with Ladbrokes over several days, as detailed below:
- i. 11 October 2019
 - Deposit of \$10,000, wagers of up to \$10,000 and a withdrawal of \$17,500 (profit of \$7,500);
 - ii. 19 – 20 October 2019
 - Two deposits of \$15,000 each, wagers of up to \$30,000 and a withdrawal of \$47,760 (profit of \$17,760); and
 - iii. 31 October 2019
 - Deposits of \$2,000, \$7,500, \$500, \$20,000 totalling \$30,000, wagers of up to \$20,000 and a withdrawal of \$32,400 (profit of \$2,400).
42. As can be seen, the Complainant's wagering activity for October 2019 again fell within the parameters that the Complainant himself had outlined to Ladbrokes several months earlier and while not indicative of whether or not a person is safely wagering with discretionary funds, resulted in an overall profit for the Complainant of \$27,660 for the month - noting that this successful wagering activity had now reduced the Complainant's overall losses for his three months of wagering activity with Ladbrokes to \$71,758.47.

November 2019 – February 2020

43. The Complainant's wagering activity with Ladbrokes significantly reduced over the next few months with:
- i. only one day of wagering in November 2019 where the Complainant deposited \$5,000, placed two bets - one of which was a winning bet and withdrew \$6,300 (profit of \$1,300);
 - ii. two days of wagering in December 2019, being 12 December 2019 during which he deposited \$2,000 and withdrew \$3,540 (profit of \$1,540); and 18 December 2019 during which he deposited \$2,850 and withdrew \$3,300 (profit \$450); and

- iii. one day of wagering in mid-January 2020 where he deposited \$500 and withdrew \$835 (profit of \$335).
44. With this substantial decline in wagering activity, it is apparent to the Commission that at this point in time, the Complainant was demonstrating the ability to exercise control over his wagering activities with Ladbrokes which included ceasing to wager even before his funds were exhausted. Given this, it is not surprising in the Commission's view that there was no need for an interaction with the Complainant by Ladbrokes from a responsible gambling perspective during this period.

March 2020

45. The Complainant did not engage in any further wagering activity with Ladbrokes until 7 March 2020 after receiving a promotional deposit match offer from Ladbrokes. On this day, he deposited \$10,000 into the account and placed a bet for the same amount as well as the deposit match offer bonus amount, resulting in winning payouts of \$16,750 which he immediately withdrew from his betting account resulting in a profit of \$6,750.
46. Although the Complainant again re-engaged with Ladbrokes following receipt of a promotional offer, the Commission is again not of the view that this offer violated the responsible gambling practices mandated by the 2019 Code.

April 2020

47. Similarly, April 2020 saw the Complainant choose to re-engage with Ladbrokes on each of the days that he received promotional offers from Ladbrokes, being:
- i. 9 April 2020 where he deposited \$5,000, placed two winning bets (one being from the bonus bet offer) and withdrew \$7,800 (profit \$2,800); and
 - ii. 24 April 2020 where he deposited \$500, placed two winning bets (one being from the bonus bet offer) and withdrew \$1,070 (profit \$570).

May 2020

48. On 3 May 2020, the Complainant deposited \$2,000 into his Ladbrokes account (the Commission notes that the Complainant had not received any form of promotional offer from Ladbrokes on this day) and after depositing a total of \$6,000 and placing two bets, withdrew \$7,320 (profit \$1,320).
49. On 22 May 2020 and after receiving a promotional offer from Ladbrokes, the Complainant deposited \$5,000, placed two winning bets (one being from the bonus bet offer) and withdrew \$9,200 (profit \$4,200).

June 2020 - July 2020

50. A very similar pattern of wagering behaviour continued during June and July 2020 with each day of wagering occurring after the Complainant received a promotional offer from Ladbrokes, and resulted as follows:
- i. 17 June 2020 – deposit of \$5,000 and a withdrawal of \$8,600 (profit \$3,600); and
 - ii. 26 July 2020 – deposit of \$10,000 and a withdrawal of \$16,150 (profit \$6,150).
51. At this juncture, the Complainant's overall losses from his 12 months of wagering activity with Ladbrokes had now reduced to \$42,443.47.

August 2020

52. On 20 August 2020, the Complainant was sent a promotional offer from Ladbrokes which the Complainant availed himself of by depositing \$10,000 into his betting account. After a series of predominantly losing bets and having a balance in his betting account of \$2,674.50, the Complainant deposited a further \$20,000 into his betting account which he then used to place a single losing bet with a stake of \$22,674.50, leaving the Complainant with a zero balance.
53. The Complainant then deposited \$60,000 into his betting account and placed two \$30,000 wagers on a table tennis match. Both bets resulted as winning bets which returned a total of \$90,300, which the Complainant immediately withdrew from his betting account after the match was resulted. Given the Complainant's betting earlier in the day, these two bets put the Complainant into profit for his day's wagering activity in the amount of \$300.
54. The Complainant's wagering activity on this day also triggered a responsible gambling alert with Ladbrokes which it recorded in its Gambling Incident Register (a register that is required through the 2019 Code to be kept by licensees and in which the licensee is to record all actions taken by the licensee in assisting its customers with any responsible gambling concerns). The Gambling Incident Register records that the Complainant's deposit activity and stake amounts caused a responsible gambling assessment to be undertaken by Ladbrokes which resulted in Ladbrokes determining that while he was in profit by 6% for the past 30 days and that his lifetime statistics were "...not concerning, the increase in average bet/deposits [was]."
55. As a result of this assessment, Ladbrokes determined to call the Complainant and "...check in, as it ha[d] been over 12 months since he last received a call from the RSG team." The Gambling Incident Register records that as the Complainant did not answer the Ladbrokes call, a responsible gambling email regarding an increase in deposits was sent to the Complainant. That email advised the Complainant that Ladbrokes had noticed an increase in his deposits and that Ladbrokes wanted to ensure that he was not depositing more money than he could afford to lose. The email also prompted the Complainant to again consider utilising a variety of available gambling management tools.
56. Ladbrokes advised the Commission that there is no record of the Complainant responding to the email nor of it making any further attempts to contact the Complainant to discuss its responsible gambling concerns. Ladbrokes submitted that a:
- "...further follow up call or email may not have occurred for reasons such as:*
- *on 20 August 2020, [the Complainant] only placed four cash wagers on three selections and then his wagering ceased;*
 - *in the prior six months, [the Complainant]:*
 - *was winning by \$25,690; and*
 - *gambled sporadically with low volume betting having only wagered between one to two days per month...*
 - *[Ladbrokes] continued to review the account for potential red flags but no further betting occurred for approximately three weeks."*
57. While it may have been beneficial for Ladbrokes to persist with its attempt to directly contact the Complainant as had been first assessed by it as an appropriate customer interaction

following its responsible gambling review, the Commission does note that Ladbrokes has advised that the Complainant's betting account continued to be monitored and as a result it was noted among other things, that the Complainant took a short break from wagering.

58. Given this, it could be argued that the attempted telephone contact and subsequent email with the Complainant had an appropriate responsible gambling impact in that the Complainant ceased for a short time to wager with Ladbrokes. As such, the Commission has formed the view that at this time, Ladbrokes' actions met the minimum threshold required of an 'appropriate customer interaction' to assist or protect the customer which reasonably corresponds to the circumstances' as was required by the 2019 Code.

September 2020

59. The Complainant's next wagering activity occurred on 8 September 2020 when he first deposited \$2,000 into his account at 4:26 p.m., and then placed a losing bet for the same amount. This was quickly followed by a \$6,000 deposit which was also lost immediately.
60. The Complainant then deposited \$40,000 into his account at 5:35 p.m., which he used to place a bet on an Australian Football League match which later that evening, he cashed out for \$3,466.67. The Complainant then deposited \$45,000 into his betting account which he used (coupled with the previously cashed out bet amount) to place a bet for \$48,466.67 on a Chinese Super League match. This bet resulted in a winning payout of \$106,626.67 which the Complainant immediately withdrew from his account once the bet had resulted, and which left the Complainant in profit from his wagering activities for the day in the amount of \$13,626.67.
61. The Complainant's activity on this day while resulting in profit (and which had reduced his overall losses for the lifetime of the account to \$28,816.80), had seen the Complainant deposit \$93,000 into his betting account in a single day and place a wager with a stake of just under \$50,000.
62. The Complainant's wagering activity on this day again triggered a responsible gambling alert which Ladbrokes recorded in its Gambling Incident Register. This entry records that, "*[e]ven though client won overall for the day, this is a big deposit*" and that telephone contact had been attempted but went unanswered and that a voicemail had been left for the Complainant to call Ladbrokes, as well as a responsible gambling email having been sent to the Complainant.
63. While again, it may have been more prudent for Ladbrokes to persist with its attempt to directly contact the Complainant as had been assessed by it as an appropriate customer interaction following its responsible gambling review, the Commission does note that the Complainant again took a short break from wagering with Ladbrokes.
64. The Commission is again of the view that it could be argued that the attempted telephone contact and subsequent email to the Complainant had an appropriate responsible gambling impact in that the Complainant again ceased for a short time to wager with Ladbrokes and when he did re-engage during the latter part of the month, the level of his wagering activity had substantially reduced. As such, the Commission has formed the view that Ladbrokes' actions again met the minimum threshold required of an 'appropriate customer interaction' to assist or protect the customer which reasonably corresponds to the circumstances' as was required by the 2019 Code.
65. The Complainant engaged in two further days of wagering with Ladbrokes in September 2020, being:

- i. 14 September 2020 where he deposited \$2,200 and withdrew \$3,476 (profit \$1,276); and
- ii. 27 September 2020 where he deposited \$4,000 and withdrew \$6,000 (profit \$2,000).

October 2020

66. In October 2020, the Complainant wagered on seven occasions being:
- i. 2 October 2020 where he deposited \$2,200 and lost this amount;
 - ii. 4 October 2020 where he deposited \$40,000 and withdrew \$46,500 (profit \$6,500);
 - iii. 8 October 2020 where he deposited \$2,180 and withdrew \$3,941.48 (profit \$1,761.48);
 - iv. 11 October 2020 where he deposited \$2,400 and withdrew \$4,176 (profit \$1,776);
 - v. 16 October 2020 where he deposited \$3,200 and withdrew \$4,544 (profit \$1,344);
 - vi. 29 October 2020 – 30 October 2020 where he deposited \$10,025 and withdrew \$17,222.50 (profit \$7,197.50);
 - vii. 30 October 2020 where he deposited \$50 and broke even with the balance remaining in his account; and
 - viii. 31 October 2020 where he made no deposits and withdrew \$50.
67. There is no evidence before the Commission that the Complainant's deposit of \$40,000 on 4 October 2020 triggered any form of scrutiny from Ladbrokes however, the Commission notes that this amount fell within the parameters that the Complainant himself had previously detailed to Ladbrokes that he would be comfortable depositing into his betting account on any one day.
68. By the end of October 2020, the Complainant's overall losses from his betting activity with Ladbrokes since he opened the account in July 2019 had reduced to just over \$9,000.

November 2020

69. In November 2020, the Complainant wagered on four separate occasions being 2, 3, 13 and 23 November 2020. On the first three of these occasions the Complainant deposited a total of \$4,100 and withdrew \$6,369 resulting in a profit of \$2,269.
70. On 23 November 2020, the Complainant deposited a total of \$90,000 into his betting account (\$10,000, \$20,000, \$60,000) and withdrew \$91,500, resulting in a \$1,500 profit for the day. On this day the Complainant also placed bets with stakes up to \$30,000 and following his wins, his overall total wagering losses for the lifetime of the account were now just over \$5,000.
71. The Complainant's wagering activity prompted a responsible gambling alert which is recorded in the Gambling Incident Register. The entry detailing the assessment of the alert records that the Complainant "*...has bet similar amounts in the past and is a high turnover client.*" The entry further records that while the Complainant's average bet size had decreased over the past 30 days, that due to the recent bets, a decision had been made to contact the Complainant by telephone.

72. The Gambling Incident Register entry further records that a telephone call was attempted that went unanswered and that a voicemail was left for the Complainant to return the call as well as an email being sent requesting the same. There is no evidence before the Commission that the Complainant did so or that there was any further follow up action initiated by Ladbrokes.
73. The Complainant's wagering activity on 23 November 2020 clearly fell well outside of the financial parameters that the Complainant had advised Ladbrokes that he would be comfortable depositing into his betting account on any one day, so it is somewhat concerning that despite that activity prompting a responsible gambling interaction by Ladbrokes, that no further follow up action was taken by Ladbrokes to speak directly with the Complainant.
74. The Commission's concerns however, must be tempered with the fact that the Complainant's wagering activity on this day had now reduced his overall losses for the lifetime of his betting account to date to just over \$5,000, his average bet size had decreased over the previous 30 days, approximately a third of his deposit activity on that day equated to winnings he had withdrawn from his betting account over the past two months and the Complainant again took a short break from wagering following Ladbrokes' attempted contact. Given this, the Commission has formed the view that Ladbrokes' actions on this occasion met the absolute minimum threshold required of an 'appropriate customer interaction' to assist or protect the customer which reasonably corresponds to the circumstances' as was required by the 2019 Code.

December 2020

75. On 8 December 2020, the Complainant deposited a total of \$30,000 (the first deposit of which activated a deposit match promotional offer) and withdrew \$33,250, a profit of \$3,250 for the day and bringing his overall losses for the lifetime of the account to just over \$2,000.
76. This activity again caused the Complainant to appear on a Ladbrokes' responsible gambling alert, the assessment of which is recorded in the Gambling Incident Register as follows:
- Client appeared on the 10k report today after depositing \$30k, avg bet increased from \$5,625 to \$10k and he withdrew 33,250 in this period. Possible signs of chasing. client has done a few times recently lost a bet of 10k+ and then deposited 20k+ bet and won.*
77. The subsequent action taken as also recorded in the Gambling Incident Register was that Ladbrokes had "...elect[ed] to send the follow up email."
78. On 14 December 2020, the Complainant deposited \$300 and withdrew \$590, a profit of \$290.
79. On 18 December 2020 and overnight into 19 December 2020, the Complainant deposited a total of \$29,200 and withdrew \$32,000, a profit of \$2,800. This activity also now brought the Complainant's overall wagering activity for the lifetime of the betting account into profit, with winnings of just over \$900.
80. On the evening of 21 December 2020, the Complainant commenced his wagering activity at 11:21 p.m., with a deposit of \$2,200 which he used to place a losing bet. Just after midnight, the Complainant deposited a further \$7,000 which he used to again place a losing bet. At 12:51 a.m., on 22 December 2020, the Complainant deposited \$20,800 with which he placed a winning bet, resulting in a return of \$34,736 which he withdrew from the account shortly after the bet had resulted.

81. Later in the afternoon of the same day (and after a break of approximately 13 hours), the Complainant engaged in another wagering session where he deposited a total of \$48,000 and after placing several winning and losing wagers of up to \$20,000, withdrew \$51,100. This wagering activity left the Complainant in the position of being \$8,783.18 in profit since his activation of the betting account in 2019.
82. The last wagering activity that the Complainant engaged in for December 2020 was on 29 December 2020 during which he deposited \$7,300 and withdrew \$11,315, a profit of \$4,015.
83. At this point in time, the Complainant had now realised an overall profit from his wagering activity with Ladbrokes of \$12,798.18, having now re-couped his earlier losses from the first few months of his wagering activity with Ladbrokes.
84. In reviewing the Complainant's wagering activity during the earlier part of the Complainant's usage of his betting account with Ladbrokes (being July 2019 through to the end of December 2020), the Commission has formed the view that during this period:
 - i. the Complainant demonstrated that he wanted to wager with Ladbrokes as much as Ladbrokes wanted his custom;
 - ii. the Complainant on numerous occasions when questioned, advised Ladbrokes that he was wagering with funds that were readily available to him as a result of his other wagering activity, his savings and money he had been provided with by his family;
 - iii. the Complainant on many occasions, demonstrated that he was able to exercise control over his wagering activity by either withdrawing all of his winnings (some of which could be considered to be substantial by the average person) or ceasing to wager once his funds were depleted; and
 - iv. Ladbrokes consistently monitored the Complainant's wagering activity which resulted in it not only providing allowable promotional offers to him in line with those expected by a customer wagering to the level he was, but also promptly identified those occasions where the Complainant displayed 'red flag' behaviour and took appropriate action to assess and respond to those activities in compliance with the regulatory environment in which it is licensed.

Latter Account History (January 2021 – January 2022)

January 2021

85. In January 2021, the Complainant engaged in four distinct wagering sessions, the most significant of which occurred during the evening and early morning of 15 and 16 January 2021 respectively. During this wagering session, the Complainant commenced wagering at 11:26 p.m., when he first deposited \$7,300 into his betting account, followed by further deposits of \$20,000, \$40,000 and \$50,000, totalling \$117,300. Due to several successful wagers at the end of the session, the main one being a wager of \$38,001.15 on a European football match that resulted in a winning payout of \$87,402.64, the Complainant withdrew \$123,590.40 at the end of this wagering session, resulting in an overall profit of \$6,290.40 for the day and an overall profit of over \$19,000 from his wagering activity with Ladbrokes.
86. The activity engaged in by the Complainant resulted in the Complainant appearing on a Ladbrokes' responsible gambling alert, the assessment of which as recorded in the Gambling Incident Register notes that the Complainant's bet size over the past 30 days had increased from \$12,294.47 to \$21,571.05. The Ladbrokes' RG team member also recorded that he was:

"...not overly concerned by this, as [the Complainant] continues to stake up on short odds table tennis beats (sic), many of which have been successful. Given that he is +2.00% (+\$19,433.57) overall, and continues to reinvest winnings, I am electing to send the RG 1.2 'Winning Check In' email today."

February 2021 - April 2021

87. During February 2021 through to the end of April 2021, the Complainant engaged in only three wagering sessions with Ladbrokes, with a total spend of \$3,200 which resulted in a profit of \$2,056.49.
88. Given the limited wagering activity during this period, it is arguable that the responsible gambling email sent by Ladbrokes in January 2021 to the Complainant may have been sufficient to cause the Complainant to reflect on his wagering activity with Ladbrokes on 15 and 16 January 2021 and to reduce that activity significantly.

May 2021

89. On 3 May 2021, the Complainant engaged in a wagering session that involved deposits being made into his betting account totalling \$93,050 (including a single deposit of \$60,000). At the end of this wagering session which ultimately ended up being a successful one, the Complainant withdrew \$109,326.01 from the account, resulting in an overall profit of \$16,276.01 for the day. At this juncture, the Complainant's betting account status from its opening was that he was in profit overall to the amount of \$38,286.08.
90. The Gambling Incident Register entry for this day records that the Complainant's deposit activity triggered several responsible gambling alerts and that a manual review of the Complainant's activity was warranted. The outcome of that review as recorded in the Gambling Incident register was that:

"The client is currently winning overall on the account, however the withdrawal of \$109,326.01 was made following the \$93,050 in deposits. The client withdrew \$124K in January so it's possibly re-investment of those funds, however due to the time elapsed, its (sic) difficult to determine. He also holds a winning Neds account which is currently dormant. The client has continued to place large bets on shorter odds sports bets. We have had RG contact previously with this client where he confirmed he is comfortable with spend at this level. Ave bet has increased from lifetime \$6,410.58 to \$10,059.47 for the week. As he is currently winning, not overly concerned but as we have had no RG contact since January, electing to send winning check in as a reminder of the available tools."

91. On 9 May 2021 and 10 May 2021, the Complainant deposited a total of \$500 and after several bets including bonus bets, withdrew \$1,450 over the two days activity.
92. Another relatively small day of wagering activity for the Complainant occurred on 20 May 2021 during which the Complainant deposited \$500, placed a winning bet and withdrew those winnings in the amount of \$740.

21 - 22 May 2021

93. The following day on 21 May 2021, the Complainant commenced a wagering session at 2:09 p.m., with a deposit of \$2,400 which he used to place a losing bet. This same pattern followed with deposits of \$7,000, \$12,000, \$28,000 and \$60,000 – a total of \$109,400 having been deposited and lost through six bets in less than eight hours – with the last and largest of these bets having a stake of \$60,000.

94. Two hours later at 11:51 p.m., that night, the Complainant deposited a further \$120,000 into the betting account with which he again placed a \$60,000 bet and several other smaller bets. Due to some success, at 4:43 a.m., on 22 May 2021, the Complainant's betting account had a balance of \$202,594.53 which although seems substantial, the Commission notes still placed the Complainant in a deficit for the wagering session at that point in time of some \$26,000. After cashing out a bet and placing a further winning bet with a stake of \$100,000, the Complainant's betting account balance rose to \$237,744.12 which he withdrew as soon as the bet resulted. Given this last activity, the Complainant's overall position for the wagering session after depositing a total of \$229,400 was a profit of \$8,344.12 and an overall profit for the lifetime of the betting account of \$47,820.20.
95. The Gambling Incident Register entry for 22 May 2021 records that the Complainant's deposit and betting activity for that evening again triggered several responsible gambling alerts that once more caused Ladbrokes to examine the Complainant's wagering activity. The notes for that assessment include that:
- i. the Complainant's average bet size had increased from \$7,624.07 to \$24,988.59 in the past 24 hours;
 - ii. the Complainant had at the time of the assessment lost \$14,304.80 but had been *"...winning prior to last nights (sic) session"*; and
 - iii. the \$120,000 deposit is *"...the largest deposit we've seen from the client however the low overall loss is indicative of a reinvestment."*
96. The notes also make reference to the Complainant having *"...just under \$200k in his bank account."* As the Commission understands it, this information was obtained from the Complainant by Ladbrokes when on 10 May 2021, it requested the Complainant to update his profile with Ladbrokes. At that time, the Complainant advised Ladbrokes that the source of funds for his Ladbrokes betting account came from employment income and savings with his annual salary being just over \$85,000 and him having just under \$200,000 in savings. At Ladbrokes' request, the Complainant provided evidence to it, to support these statements.
97. As recorded in the Gambling Incident Register, following this assessment Ladbrokes determined to *"...call the client today due to the large increase in AVG bet and deposit size."* The Complainant did not answer the call, so Ladbrokes left a message and a 'please return my call' email. There is no evidence before the Commission that the Complainant returned the call, nor that Ladbrokes initiated any further follow up action.
98. The Commission notes that this was the fourth time in less than 12 months that an assessment of the Complainant's wagering activity that had been 'red flagged' prompted Ladbrokes to decide that a telephone conversation with the Complainant was warranted to discuss his deposit and betting activity however, once again Ladbrokes did not speak directly with the Complainant.
99. This in the Commission's view, causes the Commission to again need to consider whether Ladbrokes was effectively discharging its responsibilities under the 2019 Code to engage in 'appropriate customer interactions' with the Complainant. In doing so, the Commission must also look forward to the Complainant's ongoing wagering activity with Ladbrokes to assess what effect its interaction (in this case a voicemail and email to return Ladbrokes' call) had with the Complainant. In this respect, the Complainant's next four months of wagering activity with Ladbrokes is discussed below.

June 2021 - September 2021

100. Over the next four months between June 2021 and September 2021, the Complainant wagered sporadically with Ladbrokes, engaging in just 11 wagering sessions. Each of these wagering sessions saw deposits of \$10,000 or less being made into the betting account and the Complainant's profits from each session reaching up to \$3,300.
101. By the end of September 2021, the Complainant's lifetime profit for the betting account was \$55,106.70.
102. While in hindsight, it again may have been more prudent for Ladbrokes to persist with its attempts to contact the Complainant by telephone as had been determined by it as an appropriate customer interaction following the responsible gambling assessment in May 2021, it again could be argued that the attempted telephone contact and subsequent email with the Complainant had the impact of significantly reducing the Complainant's wagering activity and as such, Ladbrokes' actions could be considered to have reached the minimum threshold of an 'appropriate customer interaction' to assist or protect the customer which reasonably corresponds to the circumstances' as was required by the 2019 Code.

October 2021

103. The Complainant participated in wagering activity with Ladbrokes more extensively in the month of October 2021, with deposit and betting activity occurring on his account on 15 days of that month and with three of those days having deposits being made of \$10,000 to \$15,200.
104. By the end of the month, the Complainant's profit for the lifetime of the betting account had increased to \$65,157.54.

November 2021

105. From 1 November 2021 to 15 November 2021, the Complainant deposited monies into his account on all but three days, with total deposits being made of \$24,050. The Complainant's wagering activity was again profitable and by the end of the day on 15 November 2021, the Complainant's profit for the lifetime of the betting account had increased to \$69,096.54.

16 - 17 November 2021

106. On 16 November 2021, the Complainant commenced wagering at 2:37 p.m., when he deposited \$200 into his betting account. The Complainant continued to deposit monies into his account whenever his balance reached zero after placing unsuccessful wagers. The size of these deposits mainly increased throughout the day as follows - \$400, \$600, \$2,800, \$8,000, \$18,000 and \$2,000 (totalling \$32,000).
107. At 8:13 p.m., the Complainant deposited \$68,000 into the betting account with which he placed a bet for the full amount on a doubles' tennis match. He later cashed out that bet for \$2,152.55.
108. At 9:27 p.m., the Complainant deposited a further \$60,000 into his betting account which he used, coupled with the remaining balance in his account to place a bet for \$62,152.55 on a FIFA world cup qualifying game. The Complainant also cashed this bet out, receiving \$22,883.44.
109. At 11:48 p.m., the Complainant deposited \$140,000 into his betting account bringing his balance to \$162,883.44 which he used to place a single bet on a European football match with a price of \$1.91. This bet was successful and less than a minute after receiving his

winning payout of \$311,107.37 early the next morning, the Complainant withdrew the full amount from his betting account. At this point in time, the overall profit for the Complainant for the lifetime of the betting account was now \$80,203.91.

110. The Complainant's wagering activities on this day generated a responsible gambling alert (total deposits of \$300,000 and very large bets) which once again prompted Ladbrokes to attempt to contact the Complainant by telephone to discuss his wagering activities. The telephone call again went unanswered and another 'please return my call' email was sent to the Complainant. On this occasion however, the Complainant did return the call. The entry recorded in the Gambling Incident Register summarises the conversation between the Ladbrokes' RG team member and the Complainant as follows:

"I said I was checking in due to the activity overnight. He said it was a bi[g] risk. I asked if he was to lose the money would it cause any financial pressure and [he] said it should be right. I spoke about Punter's assist and he was aware of the tools and knows how to access them, he has used them at times. He declined to set any deposit limit. The client works as a [...]. He said his source of income is from his savings. He said it was his family money with his parents. He is aware of the risks involved in gambling. He was polite on the phone and thanked me for checking."

111. The Commission has listened to a recording of this telephone conversation and notes that the Gambling Incident Register entry accurately reflects the content of the conversation.

26 - 27 November 2021

112. Between the activity on 16 and 17 November 2021 and 25 November 2021, the Complainant wagered on four more occasions with total deposits of \$4,880 and winnings of \$832.
113. On 26 November 2021, the Complainant commenced wagering at 7:34 p.m., with a deposit of \$200 followed by deposits of \$800, \$1,800, \$5,200 and \$12,000 with which he used to place both losing bets and bets that he cashed out.
114. At 12:43 a.m., on 27 November 2021, the Complainant deposited \$60,000 which he used to place a bet on the outcome of a Bahrain Premier Football League match. Prior to the match finishing, the Complainant cashed out the bet for \$23,333.33.
115. At that time, the Complainant also made a further deposit of \$120,000 which he used coupled with the cash out from the previous bet to place a bet for \$143,333.33 on an American College football match. This bet was unsuccessful.
116. At 6:04 a.m., the Complainant deposited \$300,000 into his betting account which he used to place a series of bets ranging in stakes of \$6,000 to \$110,389.61, all of which were successful. The winning payouts from these bets resulted in the Complainant withdrawing a total of \$512,543.90.
117. The Complainant's activities during this wagering session again prompted several responsible gambling alerts which resulted in Ladbrokes making the decision to contact the Complainant by phone. The entry in the Gambling Incident Register for the responsible gambling assessment includes the following:

"10 days ago, Client said that he funded the 300k in deposits with savings... in May the client said that he has \$190,000 in savings and adds a max \$50k to it per annum. The client's winnings plus savings information... does not substantiate the client's 300k deposits let alone a 500k in deposits."

Client has again managed to get himself out of hole by winning a few bets but the behaviour could potentially be chasing”.

118. Ladbrokes left a message for the Complainant to return its call, which the Complainant subsequently did. The telephone call between the Ladbrokes’ representative and the Complainant is summarised in the Gambling Incident Register as follows:

“I explained the call was due to him increasing his spend again from last week and that it will be more of a follow up on some of the questions. I got him to confirm the funds used this week and last week were savings. I said that the note for the last call said that it was family money. I asked for him to expand on that. He said that it is all his money, that some of the money his parents gave to him as a gift and some is money he has saved himself. I mentioned that... in May [he] said he only had 190k in savings, I asked if he could explain the additional 100k-300k needed? He said that he has 2 accounts, 1 is with the 190k and the other has the rest of the money, both accounts are only in his name...Said he was still ok betting at this level. Said he might bet at this level in the future depends on his situation and if he sees something he likes. I asked if he was chasing his losses? he said no, he has his betting under control.”

119. The Commission has also listened to a recording of this telephone conversation and notes that the Gambling Incident Register does reflect most of the conversation. In addition to what is recorded, the Complainant advised when asked if he was still comfortable betting at these levels, that *“...yeah I think it is comfortable but just sometime need a rest.”* When questioned as to whether he was likely to spend at these levels again, the Complainant said, *“...normally I don’t spend so much money just sometimes you know you want to take risk to get money back...actually it’s still comfortable...should be alright cause sometimes I do spend that much.”* When asked if he was chasing his losses, the Complainant said, *“Actually I didn’t chasing my losses (sic), its just like you know like that feel, chasing losses is a gambling problem and this is still under control I think, its just like err, just sometimes you feel like you want to win, so it’s just like that, not chasing the loss actually...”*

120. From the wagering session during which the Complainant had deposited half a million dollars, the Complainant took a profit of just \$12,543.90. As can be seen, the actual profit earned by the Complainant for this wagering session is relatively small compared to the investment of \$500,000 and in the Commission’s view, the risk taken by the Complainant was disproportionate to the reward obtained. The Complainant (similar to his activity on 16-17 November 2021 and several earlier occasions), appears to have tried to recoup money that he had already lost by placing further, predominantly larger bets, a not uncommon behaviour in wagering known as ‘chasing losses’ and which can often be a sign of a gambling problem or addiction. Using such large sums of money (\$60,000, \$120,000 and then the final deposit of \$300,000) after placing losing bets demonstrated in the Commission’s view, that the Complainant was engaging in risky gambling.

121. As can be seen from the above, on 16 November 2021, the Complainant deposited and wagered \$300,000 with Ladbrokes (which resulted in winnings of \$11,107.37) and on 26 and 27 November 2021, the Complainant deposited and wagered \$500,000 with Ladbrokes (which resulted in winnings of \$12,543.90). Both total deposit amounts on each of these days to the average person engaged in online wagering or any wagering activities for that matter, would seem to be an extraordinary amount of money to risk on a recreational activity for which a recognised inherent risk, is the loss of money. In saying that however, both the \$11,000 plus and \$12,000 plus in winnings on each of these days would also be considered by the average person to be a substantial sum of money to win on a day-to-day basis through online wagering activity.

122. On both of these occasions, the data tracking/monitoring that Ladbrokes had in place identified these significant spends by the Complainant and despite the Complainant ultimately profiting from each of these wagering sessions (and on the converse, engaged in wagering sessions that resulted in a loss to Ladbrokes), caused a responsible gambling assessment of the Complainant's wagering activities to be undertaken by Ladbrokes.
123. On each occasion, Ladbrokes determined to engage in a direct person-to-person interaction with the Complainant via telephone during which, the Complainant assured Ladbrokes that he was aware of the risks of engaging in online wagering activity, that he was comfortable betting at the level that he was, that he was not chasing his losses and that his wagering was under control.
124. During both interactions, the Commission is satisfied on the evidence before it that Ladbrokes did not merely engage in a 'tick-box exercise' to demonstrate that it had met its regulatory responsibilities should they be under scrutiny by the regulator in the future. Rather, they actively engaged with the Complainant and undertook a level of inquiry that was designed to ascertain whether the Complainant was a person who could or could not control his wagering activities at the level he was currently engaging in.
125. In viewing the Complainant's wagering activity with Ladbrokes at this point in time, one question before the Commission is whether Ladbrokes could have done more? In the Commission's view and with the benefit of hindsight, the answer is yes! But does the level at which Ladbrokes engaged with the Complainant to ascertain whether the Complainant was wagering with funds that would or would not impact on his financial well-being demonstrate that Ladbrokes was so negligent or reckless to this fact, that it ignored the Complainant's wagering activity with it – in the Commission's view, the answer is no.
126. It is also relevant to note that the Complainant in lodging a gambling dispute with the Commission, has expressed his dissatisfaction with how Ladbrokes responded to his early losses following the opening of his betting account, the offering of promotional offers by Ladbrokes and how Ladbrokes responded to his losses at the latter end of his operation of the betting account. While the Commission has determined to review the entirety of Ladbrokes' dealings with the Complainant (commencing from the opening of the betting account by the Complainant in July 2019 through to the closure of the betting account by Ladbrokes in January 2022), the Complainant has not raised with the Commission any specific concerns about his wagering activity with Ladbrokes in November 2021 despite the sums involved. Of interest in this respect, is that during this period, the Complainant was winning.

December 2021

127. The Complainant's wagering activity again decreased somewhat over the month of December 2021, particularly in value. The Complainant deposited monies into his account on seven days, totalling \$28,399. By the end of December 2021, the Complainant's profit for the lifetime of the betting account was sitting at \$97,337.95.

January 2022

128. The Complainant engaged in wagering activity with Ladbrokes in early January 2022 as follows:
 - i. 4 January 2022 where he deposited \$300 and withdrew \$561 (profit \$261);
 - ii. 5 January 2022 where he deposited \$2,000 and withdrew \$3,500 (profit \$1,500);
 - iii. 6 January 2022 where he deposited \$1,000 and withdrew \$1,152 (profit \$152);

- iv. 7 January 2022 where he deposited \$200 and withdrew \$374 (profit \$174);
 - v. 10 January 2022 where he deposited \$13,000 and withdrew \$14,067.06 (profit \$1,067.06); and
 - vi. 11 January 2022 where he deposited \$200 and withdrew \$374 (profit \$174).
129. At the conclusion of the Complainant's wagering session on 11 January 2022, the Complainant had an overall profit for his betting account since he opened it in 2019 of \$100,846.01.

12 - 13 January 2022

130. On 12 January 2022, the Complainant commenced his wagering activity at 7:41 p.m., with a deposit of \$200. Similar to his November 2021 activity, the Complainant made deposits into his betting account each time he placed an unsuccessful bet or cashed out a bet, being \$500, \$1,800, \$3,500, \$12,000, \$32,000, \$5,000, \$95,000, \$130,000, \$20,000 and \$125,000. By 12:17 p.m., on 13 January 2022, the Complainant had a balance of just \$4,225.39 in his betting account after cashing out a bet, despite having deposited \$425,000 throughout the duration of the wagering session and on one occasion through the evening, having a balance of over \$320,000 in his betting account.
131. Following this wagering session, the Complainant's lifetime betting account result was in deficit for the first time since December 2020 to the amount of \$324,153.99.
132. The Complainant's wagering activity again prompted a number of responsible gambling alerts to be generated. Ladbrokes assessment of this activity as recorded in the Gambling Incident Register was that while:
- "...the client confirmed that he was comfortable with a 300k spend in Nov 21 (2 months ago)... given that this is the highest 24 hr, spend we have seen, I am calling the client again today. No answer at 10.08 am, Left a voicemail and sent the PRMC email."*
133. The Gambling Incident Register entry also records that on this occasion, the details of the account activity were sent to *"...Management for review"* who *"...confirmed suspension is necessary."*
134. Ladbrokes submitted to the Commission that the decision to suspend the Complainant's account was made *"...to prevent further gambling until Ladbrokes were confident [the Complainant] was in control and comfortable with the level of spend on the account."*
135. The Commission makes no criticism of Ladbrokes' decision to suspend the Complainant's account following his wagering activity on 12 - 13 January 2022 given the large losses that the Complainant had incurred. Suspending the account ensured that the Complainant would need to take proactive action and speak directly with Ladbrokes about his most recent wagering activity, if he wished to access his Ladbrokes' betting account again.
136. On 14 January 2022, the Complainant contacted Ladbrokes on several occasions to request that the suspension on his betting account be lifted. On each of these occasions he was advised by the Ladbrokes' customer service representative that they could not unlock the betting account and he would need to speak with a Ladbrokes' compliance officer.
137. The Ladbrokes' compliance officer contacted the Complainant later that day. The telephone call between the Ladbrokes' representative and the Complainant is summarised in the Gambling Incident Register as follows:

"client called in today - he started the call by saying he knows he lost lots of money but it's fine. There was a bit of a language barrier with him but he confirmed a number of times the spend/losses were not an issue nor would they leave him in any financial difficulty.

He said the funds were half gambling winnings half "his family" money, I couldn't get a more clarified answer on what the family money is only that he has all the money now he doesn't receive it monthly or quarterly. I asked is this how the money is supposed to be spent or is it supposed to be for other bills/ things - he just said again that he knows what he's spent and it's all good.

I asked was he likely to spend like this again he said again it's fine sometimes you lose that's gambling, I didn't want to keep asking the same questions as there was a slight barrier but the client said numerous times he was comfortable. He referenced the call we had with him previously and (sic) said he'd already answered the questions I told him we just wanted to make sure he wouldn't regret spending the money in the future - he said he understood, we spoke about Punter Assist he declined adding any tools at this stage."

138. The Commission has listened to a recording of this telephone conversation and notes that the Gambling Incident Register entry does reflect most of the conversation. In addition to what is recorded, the Complainant advised when asked if he was chasing losses, "...no I just wanted my money back." The Complainant was also asked whether the money should be spent on other things, to which he replied, "...that is the question, it is lost. I accept it" and whether he still had savings after the loss to which he replied, "I still have money, it's okay."
139. Ladbrokes has submitted to the Commission that as it had "...no reason to suspect that [the Complainant] was not telling the truth or that he was not in control of his gambling, a decision was made to reopen [the Complainant's] account."

14 January 2022 - 15 January 2022

140. On 14 January 2022 at 11:20 a.m., and less than 10 minutes after the suspension was lifted from the Complainant's betting account, the Complainant placed a bet for \$4,225.39, using all but \$10 of the balance of his betting account that remained from his betting activity over 12 and 13 January 2022. Following cashing out that bet and several more that he subsequently placed, the Complainant had a nil balance in his account.
141. The Complainant then deposited \$8,000 which he bet and lost. At 11:55 a.m., the Complainant deposited \$50,000 and after placing several more bets which resulted in an account balance of \$71,600, he withdrew the full amount of his account.
142. Later that evening after a break of approximately six hours, he deposited \$600 and placed a winning bet that paid out \$1,092 and that he subsequently withdrew from the account.
143. On 15 January 2022, the Complainant deposited \$500 at 3:37 a.m., placed a winning bet that paid out \$865, and then subsequently withdrew that amount from the account.
144. Later that morning at 9:13 a.m., he deposited \$2,000 and followed a pattern of placing a bet and withdrawing its winnings before depositing another amount. In total, by the end of the wagering session at 7:44 p.m., that evening, the Complainant had deposited \$4,700 and withdrawn \$6,935.
145. Following these wagering sessions, the Complainant's overall account deficit as it had been on 13 January 2022, had reduced by some \$17,000 to \$307,461.99

16 January 2022 – 19 January 2022

146. Between 16 January and 20 January 2022, the Complainant engaged in an extended period of wagering - commencing at 1:13 a.m., on the morning of 16 January through to 19 January 22.
147. During this period, the Complainant:
- i. took only relatively brief breaks from either depositing money into his account, placing bets, requesting withdrawals or cancelling those requests, with the lengthiest of those breaks lasting just over four and a half hours;
 - ii. made 66 deposits totalling \$227,014.14, including individual deposits of \$50,000 and \$60,000;
 - iii. cancelled 19 withdrawal requests;
 - iv. made 16 withdrawals totalling \$249,246.88 (including \$97,200 withdrawn just after midnight on 19 January 2022 which were winnings from a \$60,000 bet placed just several hours before); and
 - v. made a profit of \$22,232.74.
148. The Complainant's wagering activity generated several responsible gambling alerts during this period which as recorded in the Gambling Incident Register, prompted Ladbrokes on 18 January 2022 to again review the Complainant's account. The note for that review records that Ladbrokes noted that the Complainant was "...down \$418,094 for the month from a total of \$629,214 in deposits" and that the "...average bet has increased from \$9,666 to \$15,850...". The note also records that Ladbrokes had spoken with the Complainant "...4 days ago and he confirmed that he was comfortable with this level of spend" and that "...due to the sheer volume of deposits", a responsible gambling email was being sent.
149. The Commission has sighted this email and notes that in it Ladbrokes said, "*We checked in with you recently regarding the activity on your account, and just wanted to follow up with you to ensure you are still enjoying our service*". The email also reminds the Complainant about several of the responsible gambling account management tools available and invites the Complainant to contact it, should he need any assistance or if he has any questions.
150. The Complainant was also sent a further email on the morning of 19 January 2022, in which he was advised that due to his recent spend, Ladbrokes required further details as to his source of income and was requested to provide documentation such as a tax summary or bank statement to verify that information.
151. In response to that email, the Complainant telephoned Ladbrokes. The Commission has listened to a recording of that telephone conversation and notes that the Complainant:
- i. asked whether he needed to send the information requested given that he had done so in the past and that he had recently spoken to a Ladbrokes officer about his latest wagering activity after he had spent and "...lost lots of money";
 - ii. asked whether his account would be blocked if he did not send in the information;
 - iii. advised when asked for an updated bank statement that:
 - with the recent loss of money, his bank "...balance is very low now";

- he used to have around \$400,000 but he has lost that money;
 - of that money, \$200,000 had been from winning bets and \$200,000 was from savings and family money;
 - he now has around \$50,000 in his bank account;
 - his bank statement was sensitive and personal information;
- iv. advised that he is now using a different strategy and placing smaller bets;
 - v. advised when asked whether his activity would increase or decrease, that it would decrease as he did not have enough money to increase;
 - vi. advised that he still wanted to wager, just with a different strategy; and
 - vii. advised that if Ladbrokes really needed the bank statement, he would provide it.

152. Ladbrokes has submitted to the Commission that during this telephone call:

- i. the Complainant had ample opportunity to inform Ladbrokes that he was not in control of his wagering; and
- ii. as the Complainant was “...*able to substantiate his source of funds*” and he “...*confirmed that he was in control of his wagering from an RG perspective*”, it allowed the Complainant’s account to continue.

20 January 2022 – 23 January 2022

153. Between 20 January 2022 and 23 January 2022, the Complainant engaged in the following wagering activity:

- i. 20 January 2022 where he deposited \$6,600 and withdrew \$5,170 (loss \$1,430);
- ii. 21 January 2022 where he deposited \$12,600 and withdrew \$24,932 (profit \$12,332);
- iii. 22 January 2022 where he deposited \$9,700 and withdrew \$4,150 (loss \$5,550); and
- iv. 23 January 2022 where he deposited \$25,300 and withdrew \$36,933.08 (profit \$11,633.08).

154. As noted earlier, on 13 January 2022, the Complainant’s betting account had showed a deficit for the first time since December 2020 - amounting to \$324,153.99. By the end of the Complainant’s wagering activity on 23 January 2022, the Complainant’s total losses on the account since its opening now stood at \$268,244.17. As can be seen, since the suspension had been lifted on the betting account on 14 January 2022, the Complainant had recovered over \$55,000 of the losses that he had sustained due to his wagering activity on 12 and 13 January 2022.

24 January 2022

155. On 24 January 2022, the Complainant commenced wagering at 2:43 a.m., by depositing \$200 and then placing a winning wager on a European table tennis tournament. After placing several more winning and losing bets and depositing a further \$4,100 in increasing amounts, the Complainant withdrew \$5,139 from the betting account, leaving a balance of zero.

156. The Complainant then took the following actions:

- i. at 7:38 a.m., – deposit of \$200 used to place a losing bet of the same amount;
 - ii. at 8:14 a.m., – deposit of \$500 used to place a losing bet of the same amount;
 - iii. at 8:35 a.m., - deposit of \$1,300 used to place a losing bet of the same amount;
 - iv. at 9:02 a.m., - deposit of \$5,000 used to place a losing bet of the same amount;
 - v. at 11:28 a.m., - deposit of \$25,000 used to place a losing bet of the same amount;
 - vi. at 2:41 p.m., - deposit of \$55,000 used to place a losing bet of the same amount;
 - vii. at 2:42 p.m., - deposit of \$5,000 used to place a losing bet of the same amount;
 - viii. at 4:49 p.m., - deposit of \$120,000 used to place a losing bet of \$25,873.56 and a bet of \$94,126.44 which he later cashed out for \$2,690.91; and
 - ix. at 4:55 p.m., - deposit of \$20,000 used to place a bet to the same amount which he later cashed out for \$571.76, leaving a balance of \$3,262.67 in his account which he then withdrew.
157. Of interest is that after the deposits of \$55,000 and \$5,000 had been made at 2:41 p.m., and 2:24 p.m., respectively and the associated bets had been placed, the Complainant again came to the attention of the responsible gambling unit who again assessed the Complainant's wagering activity. On this occasion, the Gambling Incident Register records:
- “...assessed & sent an email. We spoke to him 10 days ago and he confirmed he was comfortable with the spend at that stage, as he has on previous RG calls. Since then, he is winning and has withdrawn \$406,062 and deposited \$441,314 so is likely mostly reinvesting. He has \$60K in two pending bets for Mens (sic) Volleyball at odds of 1.6, one of which is \$55K. Showing some indications of chasing with a deposit-loss bet pattern and this is a very large bet and substantially larger than previous activity we have seen, however may be due to staking up with winnings...we have made a number of recent contacts and...requested a bank statement. He said he is fine with the spend and currently winning in the period so electing to send a follow up email today and continue to monitor via reports.”*
158. The Complainant's wagering activity on this day, resulted in him depositing a total of \$236,300 into his betting account - \$200,000 of which was deposited in just over two hours between 2:41 p.m., and 4:55 p.m., with the final \$140,000 of this amount being deposited after another responsible gambling assessment had been undertaken. As a combination of the Complainant's predominantly losing wagers and the withdrawals he made, the Complainant's overall losses on this day were \$227,898.33 which brought his overall losses for the account since its opening to \$496,142.50
159. At 8:17 p.m., one minute after cashing out the last two of his bets (being the wager of \$94,126.44 and the wager of \$20,000) and withdrawing those funds, the Complainant contacted the Ladbrokes customer support team by telephone and advised that he thinks that he has a gambling problem and that he wanted to check whether it was possible to get a refund of the money that he had lost.
160. The Commission has listened to a recording of this telephone call and notes that throughout that conversation the Complainant is clearly distressed and remorseful about his recent wagering activity, particularly the loss of \$200,000. During the conversation, the Complainant states to the Ladbrokes representatives that:

- i. *I think I have a gambling problem...*
 - ii. *I just check is there any possible (sic) to give some refund for me because recently I know I lost it, I lost it, yeah...but previously I lost a total, total I lost \$600, \$600k. But \$400k... that is just yeah. And then at that moment you, you stopped my account but at least I talked to you and think I'm alright and just open the account and now today I also lost another \$200k...*
 - iii. *I accept the \$400k at first but today, I lost another \$200k and this was like the last of the money for my mortgage, I can't afford my mortgage...*
 - iv. *One week ago, I lost \$400k already, and then you keep stopped my account and then I asked them to open it, I mention I'm okay because I say a lie, because I still chase a lot...by losing so I use my last 200 today, just lost everything, so this is my mortgage...*
 - v. *I say a lie because I mentioned that I want to get money back so I say a lie I'm okay I just play the game, so today I lost the \$200k...*
 - vi. *I know I have gambling issue but I didn't mention that to your team. Why I lost last week, why I lost or two weeks ago, lost \$400k, they closed my account temporarily and then they checked with me I okay, I say I'm okay but I keep gambling again and lost the last \$200k...*
 - vii. *...I have gambling issue two weeks ago, lost \$400k, you close my account and now I lost another \$230k, this is my last money. So during that time yeah, I think you, you, you, your company sent some email or think give, me a call but I mention I am okay, but you should, if you see my account details, you should know my gambling issue...*
 - viii. *...by gambling I should take responsibility, but the issue is my lost money...*
 - ix. *...they should know if I tell them lies because I want to chase my payments, chase my losings...*
 - x. *...I put too much big bets...when I want to stop it...it just catch up...I just want to bet to catch up, and the money is just less and less and I can't catch up...*
 - xi. *...my last \$200k, they shouldn't let me do that...they should know I have a gambling issue...*
161. During that conversation, the Complainant also advised Ladbrokes that he had previously lost around \$300,000 with another sports bookmaker and after that, they had closed his account and referred him to a gambling helpline but the sports bookmaker had denied his request for a refund of the monies he had lost.
162. The above information has been confirmed for the Commission through inquiries undertaken by its betting inspector with the sports bookmaker concerned. Those inquiries also revealed that at the time of the Complainant's self-exclusion with that sports bookmaker in May 2019, he was advised of the ability to self-exclude with all sports bookmakers licensed in the Northern Territory and provided with a link to access the Commission's self-exclusion form to do so; as well as being provided with an offer of financial assistance towards seeking professional help with respect to his gambling behaviours.
163. Inquiries of the Commission's self-exclusion database show that the Complainant did not lodge a self-exclusion form with the Commission at that time however, since the lodgement of the complaint subject of this Decision Notice, he has now finally done so. Of importance

in that respect is that had the Complainant self-excluded from all Northern Territory licensed sports bookmakers in May 2019 when he was prompted to do so, the Complainant would have not been able to open a betting account with Ladbrokes and the Commission would not now be dealing with this complaint.

164. In summary, as a result of the Complainant's wagering activity with Ladbrokes over a 12-day period in January 2022, he lost just under \$600,000, having:
- i. on 12 and 13 January 2022, deposited and lost \$425,000;
 - ii. over the next 10 days, continued wagering and recouped just under \$60,000 of these losses; and
 - iii. on 24 January 2022, deposited \$236,300 and lost \$227,893 of this amount.
165. Following this final loss, the Complainant contacted Ladbrokes and advised it that he was not in control of his gambling and requested a refund of his losses from that day. As a result of that telephone call, Ladbrokes closed the Complainant's betting account, recording the Complainant as a permanently self-excluded customer and advised him that it would not be returning any of the monies that he had lost through his wagering activity.
166. This activity again necessitates the Commission's scrutiny to determine whether Ladbrokes has complied with its regulatory responsibilities as required of it by the Act, its licence conditions and the 2019 Code.
167. On the one hand, the Complainant submits that Ladbrokes has not acted in compliance with its regulatory responsibilities, arguing that Ladbrokes should have done more to stop him from wagering with it. While on the other, Ladbrokes submits that the Complainant was aware of the risks of wagering, was aware of the gambling management tools available to him to limit that risk, often refrained from wagering with it when he wished to do so, continually advised it when asked - that he was in control of his wagering activity and failed to advise it that he had been self-excluded from gambling with another sports bookmaker due to concerns about his wagering activity with that bookmaker.
168. With respect to Ladbrokes submission that the Complainant was aware of the risks of wagering, the Commission notes that when the Complainant opened the betting account with Ladbrokes in 2019, he also accepted the terms and conditions on which his wagering activity with Ladbrokes would be governed, including:

3.5 You acknowledge that there is a risk of losing money when gambling through our Betting Platforms and you accept full responsibility for any such loss. Your use of our Betting Platforms and your Account are at your sole option, discretion and risk. You may close your Account at any time in accordance with clause 21.1.

10.1 By opening an Account with us and every time you access or use our Betting Platforms you warrant to us and agree that you:

...

(n) will be wholly responsible and liable for any transactions (including bets, deposits and withdrawals) conducted using your Account...

169. In determining this matter, the Commission has turned its mind to the High Court of Australia decision in the case of *Kakavas v Crown Melbourne Limited* [2013] 250 CLR 392 which involved an unsuccessful attempt by a casino high roller to recoup \$20 million of losses on a turnover of \$1.4 billion over a 14-month period of gambling at the casino. In rejecting the appeal, the High Court emphasised:

- i. the importance of the principle that there must be an unconscientious 'taking advantage' by one party of some disabling condition or circumstance that seriously affects the ability of the other party to make a rational judgement as to his or her own best interests; and
 - ii. the essence of the doctrine of unconscionable conduct is not to relieve parties against improvident or foolish transaction but to prevent victimisation.
170. The High Court did not accept there had been any victimisation of Kakavas by Crown Casino - with a key factor influencing the decision being that gambling is by its very nature, a risky transaction for both of the parties involved - with the primary goal for each party being to cause a loss to the other. Through this case, the High Court confirmed that in the absence of relevant laws, there is no legal obligation on gambling operators to protect problem gamblers from themselves.
171. Thus, the Commission must once again consider Ladbrokes' dealings with the Complainant during the month of January 2022 in relation to whether those actions were in compliance with the 2019 Code, to determine whether there was a duty upon Ladbrokes to protect the Complainant from his own worst impulses.
172. As detailed several times in this Decision Notice, Ladbrokes when dealing with the Complainant was required to comply with clause 3.2 of the 2019 Code. To do so, it needed to monitor the Complainant's wagering activity in order to identify whether the Complainant was displaying 'some, or a number, or a repetition of red flag behaviours' and if so, Ladbrokes was then required to monitor the Complainant's wagering activity and engage in an 'appropriate customer interaction' which reasonably corresponded to the circumstances.
173. In this respect the Commission notes that during January 2022, the data tracking/monitoring that Ladbrokes had in place to track the Complainant's wagering activity including his deposit activity, his betting activity and his withdrawal activity triggered responsible gambling alerts on three separate occasions, being 13 January 2022, 18 January 2022 and 24 January 2022. The first two of these occasions resulted in Ladbrokes speaking directly with the Complainant by telephone about his wagering activity during which, the Complainant assured Ladbrokes on both occasions that he was in control of his wagering activity and that he was not spending more money than he could afford to lose. The third occasions resulted in a responsible gambling assessment being undertaken and a responsible gambling email being sent to the Complainant.
174. There is no evidence before the Commission that Ladbrokes was not acting in an honest manner during this series of interactions with the Complainant nor that it had intentionally 'shut its eyes' to the possibility that the Complainant may be experiencing harm from his wagering activity with it. On the converse, Ladbrokes repetitively engaged with the Complainant to query him as to whether his wagering activity was causing him any financial harm, to which the Complainant on numerous occasions, assured Ladbrokes that it was not. The Commission notes that the Complainant also chose to conceal from Ladbrokes that he had earlier been self-excluded from wagering with another sports bookmaker due to problem gambling concerns.
175. The Commission has formed the view that despite Ladbrokes' best attempts to find otherwise, there was no actual knowledge gained by Ladbrokes that the Complainant was not making responsible decisions in his own best interest or that he was wagering beyond his financial means.

176. Given this, the Commission is of the view that the Complainant's losses in January 2022 were not as a result of a deliberate or unfair exploitation by Ladbrokes of the Complainant's weaknesses as they related to online gambling nor were they as a result of a predatory state of mind on its behalf. Rather by continuing to allow the Complainant to wager with it, Ladbrokes, after intervening appropriately, was merely pursuing its normal course of business in compliance with the regulatory environment in which it was licensed to operate.

LAWFULNESS OF BETS

177. Given the Commission's findings in relation to Ladbrokes' dealings with the Complainant throughout the lifetime of the betting account the Complainant held with it, has determined that all bets made and accepted during the period between July 2019 (account opening) and January 2022 (account closing) were lawful, regardless of the fact that the Complainant's wagering activity with Ladbrokes ultimately resulted in a financial loss to him.

NOTICE OF RIGHTS

178. 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