NORTHERN TERRITORY WAGERING COMMISSION

DECISION NOTICE AND REASONS FOR DECISION

MATTER: Disciplinary Action against Licensee
(pursuant to section 228 of the *Racing and Wagering Act 2024)*

LICENSEE: MGB Australia Pty Ltd

LICENCE NUMBER: SBL1035

HEARD BEFORE: Mr Alastair Shields (Presiding Member)
Ms Cindy Bravos
Mr Ian Curnow
Ms Susan Kirkman
Mr Scott Perrin

DATE OF DECISION: 4 November 2026

DECISION

1. This decision is issued by the Northern Territory Wagering Commission (Commission), formerly known as the Northern Territory Racing and Wagering Commission, following commencement of the *Racing and Wagering Amendment Act 2026* on 22 June 2026. Any preliminary findings, correspondence or other documents previously issued in relation to this matter under the name Northern Territory Racing and Wagering Commission continue to have effect and should be read as references to the Northern Territory Wagering Commission.

2. For the reasons set out below, the Commission is satisfied that MGB Australia Pty Ltd **(the Licensee)** has during the period from 25 March 2025 to 2 April 2025, distributed marketing communications via email, to 139 individuals who had self-excluded from the Licensee's online wagering services, and allowed 15 self-excluded individuals to log onto their accounts and 13 of those customers to make deposits and place wagers. This conduct constitutes:

    i. a contravention of Clause 4.6 and Clause 8.9(c) of the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 **(Code of Practice)**, resulting in more than 139 breaches of each clause (noting that some individuals received more than one marketing message); and

    ii. a contravention of Clause 4.2(e) of the Code of Practice, resulting in 15 breaches of the Code of Practice.

3. These contraventions are not only in breach of the Code of Practice but also in contravention of:

    i. section 204 of the *Racing and Wagering Act* 2024 **(RWA)** which relates to non-compliance with codes of practice; and

    ii. section 155 of the RWA which relates to non-compliance with licence conditions.

4. The Licensee's conduct constitutes multiple regulatory contraventions under the RWA. The Commission has determined that it is appropriate to take disciplinary action against the

Licensee pursuant to section 228(2)(g) of the RWA by way of imposition of a monetary penalty of:

i. 400 penalty units for the contraventions of Clause 4.6 and 8.9(c) of the Code of Practice, and

ii. 500 penalty units for the contraventions of Clause 4.2(e) of the Code of Practice,

which represents 40% and 50% respectively of the maximum available penalty of 1,000 penalty units for each breach.

The value of a penalty unit at the time of the contraventions was $185.00, which for a total penalty of 900 penalty units equates to a total amount of $166,500.

5. The Commission acknowledges that the Licensee has surrendered its licence. However, the surrender of a licence does not affect liability for conduct occurring prior to the surrender taking effect. The Licensee remains liable for the contraventions identified in this decision.

6. The Licensee is required to pay this penalty within 28 days of the date of this decision.

BACKGROUND

The Licensee

7. At all relevant times, the Licensee was authorised by the Commission to conduct the business of a sports bookmaker under the online branding name of BetM. The sports bookmaker licence was granted by the former Northern Territory Racing Commission **(former Commission)** under the licensing regime contained within the now repealed *Racing and Betting Act* 1983 **(RBA)**. The Licensee has since ceased trading and has surrendered its sports bookmaker licence.

8. In accordance with the transitional arrangements contained within the RWA, any licence issued under the repealed RBA that was valid immediately before the commencement of the RWA, continues in effect on the commencement of the RWA as a licence under the RWA.

Notification to the Commission

9. On 3 April 2025, the Licensee notified the Commission in writing that an incident had been identified affecting self-excluded customers and that the incident was being investigated. On 7 April 2025, the Licensee provided a detailed letter providing further information about the incident and the steps taken by the Licensee to address it.

10. As a result of the notification, the Commission requested the Director of Racing and Wagering **(Director)** to investigate the conduct of the Licensee pursuant to section 225 of the RWA in relation to the possible commission of an offence by the Licensee or whether any grounds existed for the taking of disciplinary action by the Commission against the Licensee. Pursuant to section 225(2)(b) of the RWA, after the completion of that investigation, a report on the investigation was provided to the Commission for its consideration on 1 May 2025.

11. As a matter of procedural fairness, a draft of the Commission's preliminary findings was provided to the Licensee for comment. In response, the Licensee's legal representative provided a detailed submission raising issues concerning the interpretation of the terms 'knowingly', 'intentionally', 'suitable procedures' and 'reasonable excuse', together with submissions concerning the appropriate disciplinary response and publication of the decision, which have been taken into account when finalising this decision. The legal representative also stated that the Licensee acknowledges the importance of the Code of Practice and is genuinely remorseful.

Codes of Practice

12. Under the transitional arrangements contained within the RWA at section 313, any codes of practice made under section 148A of the now repealed RBA and in effect immediately before the commencement of the RWA continue to apply as if they were adopted or established under the RWA.

13. Section 204 of the RWA sets out that a person commits an offence if they intentionally engage in conduct that contravenes a code of practice, with the offence being one of strict liability and subject to a maximum penalty of 1,000 penalty units, unless the person can demonstrate a reasonable excuse.

14. As defined in section 4 of the RWA, a licensee is a person who holds a licence under the Act, and section 204 applies to the Licensee as a person.

15. The Code of Practice aims to ensure that online wagering is conducted responsibly, and gambling-related harm is minimised, through clear requirements for licensees in relation to customer protection and responsible gambling measures.

16. In relation to this matter, the Code of Practice requires that licensees must not knowingly permit self-excluded persons to open or re-open a wagering account, and that marketing materials must not be sent to customers who have self-excluded or those who are on a break from using the licensee's online gambling services. This ensures that self-excluded customers cannot access wagering accounts and that those who have opted out or paused their engagement with a licensee's wagering services are not inadvertently targeted by promotional or marketing communications.

17. Specifically, the Code of Practice sets out the following:

> **4.2 Self Exclusion Features**
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> …
>
> e. Where a person requests that they be permanently self-excluded for any reason or is permanently excluded by the online gambling provider due to problem-gambling concerns, the online gambling provider must not knowingly permit that person to re-open or open a new account.
>
> **4.6. Correspondence or promotional material**
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> Online gambling providers are to ensure they have in place suitable procedures to ensure correspondence or promotional material is not sent to any persons who are either excluded from their services, or who request that this information not be sent to them.
>
> **8.9. Direct marketing**
>
> …
>
> c. Where a person either unsubscribes from receiving direct marketing material, self-excludes or closes their account, the online gambling provider must not send marketing material to that person at any time after 24 hours from the receipt of that request.

Licence Conditions

18. The licence conditions attached to the licence issued to the Licensee by the former Commission, sets out at Condition 16, that the Licensee must comply with any Codes or Guidelines issued by the Commission and as amended from time to time.

19. The transitional arrangements set out that a condition on a licence issued under the repealed RBA that was valid immediately before the commencement of the RWA continues in effect after the commencement of the RWA as a condition under the RWA, unless inconsistent with a provision of the RWA.

20. Section 155 of the RWA sets out that a licensee who contravenes a condition of the licence commits an offence, with the offence being one of strict liability and subject to a maximum penalty of 2,500 penalty units, unless (in the case of a prosecution) the licensee can demonstrate a reasonable excuse. The note to section 155(1) sets out that a contravention of a licence condition may also lead to disciplinary action against a licensee.

CONSIDERATION OF THE ISSUES

Conduct of the Licensee

21. The Licensee advised that, following a change in technology platform providers and a migration of accounts to the new technology provider, there was potential for 471 permanently self-excluded customers to be able to log back into their accounts. The migration to the new technology provider occurred on or about 25 March 2025, and the issue was identified by the Licensee on 2 April 2025.

22. In the intervening period, some 139 self-excluded customers were sent marketing communications by email, including offers of generosities. None of these customers were registered on BetStop, or on the Commission's self-exclusion register. Of the 139 individuals, 116 customers received one email, 22 customers received two emails, and one customer received three emails.

23. 15 of the 139 self-excluded customers subsequently logged into their accounts, and 13 of those made deposits and placed wagers on their accounts. There were 334 separate wagers placed by self-excluded persons to a total value of $9,128.33.

24. The issue was identified by a compliance team member of the Licensee shortly after midday on 2 April 2025, and 3 hours and 21 minutes afterwards, all of the 471 self-excluded customers were again blocked from their accounts. The following morning, all bets placed were voided in accordance with the Licensee's terms and conditions, and all deposits made were returned later that day. Impacted customers were also notified of the incident by email on 3 April 2025.

25. The Licensee advised that it ceased marketing activities to all customers from 2 April 2025, to enable an investigation and audit to be undertaken to determine the cause of the issue. The investigation determined that the issue arose because of data inconsistencies during the change in technology platform providers. The Licensee also commissioned additional training for staff and a review of data controls.

FINDINGS

26. The Licensee, by its own admission, distributed marketing messages between 25 March 2025 to 2 April 2025 to 139 customers who had previously self-excluded from using the Licensee's online wagering services, and allowed 15 of those customers to log into their accounts (and 13

of those customers to make a deposit and place wagers). These actions constitute direct breaches of Clauses 4.2, 4.6 and 8.9 of the Code of Practice, as referenced above.

27. Each instance of the marketing message being sent constitutes a separate breach, as does each instance of a self-excluded customer logging onto their accounts, resulting in multiple breaches of Clauses 4.2, 4.6, and 8.9 of the Code of Practice.

28. Any breach of the Code of Practice as a result of intentionally engaging in conduct is a direct contravention of section 204 of the RWA (as set out above), as well as a breach of the Licensee's licence conditions and therefore also a breach of section 155 of the RWA. In this case, it is the intentional conduct of the Licensee in distributing marketing materials that gives rise to the breach of section 204, and it is not relevant that the Licensee did not specifically intend that the marketing material be sent to self-excluded persons.

29. The Licensee's legal representative submitted that the breaches of Clause 4.2(e) of the Code of Practice were not made out, because Clause 4.2(e) requires a finding that the Licensee "knowingly" permitted the self-excluded customers to reopen or access their accounts. It was submitted that the inclusion of the word 'knowingly' was deliberate and that knowledge of the relevant conduct was a necessary element before a breach of Clause 4.2(e) could be established. The Licensee submitted that it did not knowingly permit the system issue to occur, was unaware of the technical defect arising from the migration of customer data and therefore, could not be found to have knowingly permitted self-excluded customers to regain access to their accounts. The Licensee relied upon the ordinary meaning of 'knowingly' and the decision in *Yorke v Lucas* [1985] HCA 65 in support of this position. The Commission has carefully considered those submissions but does not accept them.

30. The Commission accepts that the inclusion of the word 'knowingly' in Clause 4.2(e) is significant and that it requires consideration of the Licensee's state of knowledge. The Commission also accepts that the Licensee did not knowingly create, cause or permit the technical issue that resulted from the migration of customer data between platforms. However, the Commission considers that the Licensee's submission incorrectly identifies the conduct to which the word 'knowingly' applies. Clause 4.2(e) does not require a finding that the Licensee knowingly permitted the underlying technical failure to occur. Rather, the relevant question is whether the Licensee knowingly permitted a person who had permanently self-excluded to reopen or access a wagering account.

31. The Commission has considered the Licensee's reliance on *Yorke v Lucas*. In that matter, the High Court considered the meaning of the expression 'knowingly concerned' in the context of accessorial liability under consumer protection legislation. The Commission accepts that the decision confirms that a person cannot be knowingly involved in a contravention without knowledge of the essential facts constituting that contravention. However, the Commission considers that the circumstances and statutory context of *Yorke v Lucas* are distinguishable from the operation of Clause 4.2(e), which forms part of a responsible gambling regulatory framework designed to prevent self-excluded persons from accessing wagering services. The Commission considers that Clause 4.2(e) must be interpreted having regard to its purpose of ensuring that licensees maintain control over access to wagering accounts by persons who have chosen to self-exclude.

32. In the context of Clause 4.2(e), the Commission considers that a licensee knowingly permits access where it is aware that it operates wagering accounts, including accounts belonging to customers who have permanently self-excluded, and intentionally operates systems through which customers may access those accounts. The Commission does not consider that the provision requires a licensee to have actual knowledge of the particular technical failure, system defect or data issue that subsequently enables access. If that were the case, the

operation of Clause 4.2(e) would depend upon whether a licensee was aware of the precise cause of a failure in its exclusion controls, rather than whether it knowingly permitted access to accounts that were subject to self-exclusion restrictions.

33. In this matter, the Licensee was aware that certain customers had permanently self-excluded from its wagering services and that those customers' accounts were subject to restrictions preventing them from accessing wagering services. The Licensee subsequently migrated customer accounts to a new technology platform and continued to operate that platform, through which customers were able to access their account. Although the Commission accepts that the Licensee was unaware that the migration had affected the operation of its self-exclusion controls, the Commission considers that the relevant conduct for the purposes of Clause 4.2(e) was the continued operation of the wagering platform and the resulting permission for self-excluded customers to access their accounts, not the creation or occurrence of the technical issue itself.

34. The Commission therefore does not accept that the absence of knowledge of the technical issue prevents a finding that Clause 4.2(e) was contravened. The Licensee did not knowingly permit the system issue to occur, but the Commission is satisfied that it knowingly operated the wagering service and permitted access to accounts held by self-excluded customers through systems under its control. Accordingly, the Commission is satisfied that the conduct constituted 15 breaches of Clause 4.2(e) of the Code of Practice.

35. The Licensee's legal representative also submitted that the breach of Clause 4.6 of the Code of Practice, which requires licensees to have in place "suitable procedures" to ensure that marketing material is not sent to self-excluded customers, is not made out because the Licensee had in place procedures which were suitable for ensuring that, in the ordinary course of business, marketing was not sent to self-excluded customers. The legal representative submitted that the sending of marketing materials in this case was a result of a very rare process of changing technology platforms and that the procedures adopted by the Licensee were risk-proportionate and suitable in the normal course and that the Commission should therefore find that they met the requirements of Clause 4.6 of the Code of Practice.

36. The Commission does not accept this submission. The Commission accepts that the requirement in Clause 4.6 for licensees to have 'suitable processes' does not require procedures that are incapable of failure or guarantee that no technical issue will ever occur. The Commission also accepts that the occurrence of an isolated system failure does not of itself, establish that a licensee did not have suitable procedures in place. However, the assessment of whether procedures are suitable must be undertaken having regard to the nature of the risk sought to be managed and the circumstances in which the procedures are relied upon.

37. In this matter, the relevant risk was not merely the ordinary operation of the Licensee's wagering platform, but the preservation of critical responsible gambling controls during migration of customer data and account information between technology platforms. Self-exclusion controls are a fundamental harm-minimisation measure and require a high degree of reliability because they exist specifically to prevent access by customers who have elected to exclude themselves from wagering services. Accordingly, when undertaking a material system change affecting customer accounts and self-exclusion information, suitable procedures required the Licensee to implement appropriate migration controls, including verification, testing or other measures reasonably directed towards confirming that self-exclusion restrictions had transferred accurately and remained effective before the new platform was placed into operation.

38. The Commission accepts that the Licensee had procedures in place, which in the ordinary course of business, were intended to prevent marketing communications being sent to self-excluded customers and to prevent self-excluded customers accessing wagering services. However, the Commission considers that those procedures did not adequately address the additional risk arising from the migration of customer data and information to the new technical platform. The procedures were therefore insufficient in the circumstances in which they were relied upon.

39. The Commission considers that a technology migration of this nature was a foreseeable operational event requiring specific risk management measures. The fact that the system issues were not identified by the Licensee or the technology providers before implementation does not alter the fact that maintaining the integrity of self-exclusion controls remained the Licensee's responsibility. The Commission therefore finds that while the Licensee had responsible gambling procedures generally in place, it did not have suitable procedures within the meaning of Clause 4.6 to ensure that correspondence or promotional material was not sent to self-excluded persons in the circumstances of the platform migration.

40. Accordingly, the Commission does not consider that the breach arose because the procedures were entirely absent or inherently defective. Rather, the breach arose because the procedures did not adequately address the foreseeable risks associated with transferring critical self-exclusion data and controls to a new technology environment.

Section 204 of the RWA – Meaning of 'Intentionally Engages in Conduct'

41. The Licensee's legal representative submitted that section 204 of the RWA was not contravened because the section requires that a person *"intentionally engages in conduct"* that contravenes a code of practice. It was submitted that the word 'intentionally' was deliberately included by the legislature and having regard to the Explanatory Statement to the Racing and Wagering Bill 2024, requires that a person intentionally engage in conduct that itself constitutes the contravention. The Licensee submitted that because the sending of the marketing communications to self-excluded persons and the restoration of access to self-excluded accounts occurred as a result of an unintended system issue, the Licensee did not intentionally engage in conduct contravening the Code of Practice. The Commission has carefully considered that submission but does not accept it.

42. The Commission accepts that section 204 requires the conduct giving rise to the contravention to be intentional and that the inclusion of that word is significant. However, the Commission considers that the relevant distinction is between an intention to engage in the conduct and an intention to bring about the particular consequence or breach arising from the conduct. Section 204 does not require proof that a person intended that a code of practice be contravened, or that the person intended the specific harm or consequence that resulted from the conduct. Rather, the section requires that the person intentionally engage in the conduct which, objectively assessed, contravenes the relevant code provision.

43. The Commission has considered the Explanatory Statement relied upon by the Licensee. The Commission accepts that the Explanatory Statement identifies that the first physical fault element is that a person 'intentionally engages in conduct'. However, the Commission considers that this confirms the intentional element attached to the conduct itself, rather than requiring an intention that the conduct have the prohibited consequence. To interpret section 204 otherwise would require the Commission to find that a licensee must intend to breach a code of practice before section 204 could apply, which would significantly limit the operation of the provision and would be inconsistent with its purpose as a regulatory compliance provision.

44. In this matter, the relevant conduct was the intentional operation of the Licensee's wagering platform, the intentional distribution of marketing communications to customers, and the intentional continuation of account access functionality following the migration of the customer data to the new technology platform. The Commission accepts that the Licensee did not intend that self-excluded customers receive marketing communications or regain access to their accounts and accepts that the system issue was not deliberate. However, the absence of an intention to cause those outcomes does not mean that the underlying conduct was not intentional for the purposes of section 204.

45. Accordingly, the Commission is satisfied that the Licensee intentionally engaged in conduct that contravened the Code of Practice. The fact that contraventions arose from an unintended system issue is relevant to the assessment of mitigation and penalty, but does not prevent section 204 from being engaged.

Reasonable Excuse under sections 155(4) and 204(3) of the RWA

46. Sections 155(4) and 204(3) of the RWA provide that it is a defence to a prosecution for an offence under those sections if the defendant has a reasonable excuse, the evidential burden for which is with the defendant. The defence is not available in the current circumstances because the breach has been dealt with by the Commission as a disciplinary matter, and the Commission has relevantly considered the submissions made on behalf of the Licensee as mitigating factors in determining the appropriate disciplinary response.

DISCIPLINARY ACTION

47. Section 226 of the RWA sets out that following consideration of a report provided to it regarding an investigation undertaken on behalf of the Commission, the Commission may accept any recommendation made by the Director, enter into an enforceable undertaking, take disciplinary action, issue a notice or direction, or make a declaration, or schedule a hearing.

48. The Commission is satisfied that grounds exist to take disciplinary action against the Licensee pursuant to section 227(1)(c)(i) of the RWA, due to the Licensee's multiple contraventions of the RWA (being sections 204 and 155).

49. Section 284 of the RWA provides that where two or more contraventions of the RWA arise from the same set of circumstances, they may be dealt with as a single offence, or as separate offences. In this case, while multiple customers were affected by the same underlying circumstances, and multiple provisions of the RWA were contravened, the Commission considers that the conduct arose from a single underlying systems issue associated with the migration of customer data between technology platforms. Applying the principle of proportionality, the Commission has determined that the conduct should be treated as two categories of contravention for penalty purposes:

    i. the distribution of marketing communications to self-excluded customers, contrary to Clauses 4.6 and 8.9 of the Code of Practice; and

    ii. the permitting of self-excluded customers to access their wagering accounts, contrary to clause 4.2(e) of the Code of Practice.

50. The Commission may impose a range of disciplinary action against a licensee as set out in section 228 of the RWA, including suspension or cancellation of a licence, amendment of licence conditions, disqualification from holding a licence, issuance of formal warnings, reprimands or cautions, directions to change business practices, and the imposition of monetary penalties. Such actions may also be subject to specific conditions. The amount of any monetary penalty imposed must not exceed 1,000 penalty units.

51. In determining the appropriate disciplinary action to take, the Commission has taken into account:

    i. the seriousness and nature of the contraventions;

    ii. the extent of the actual and potential harm arising from the conduct;

    iii. the degree of culpability involved;

    iv. the need for general deterrence and maintaining confidence in the regulatory framework;

    v. the aggravating circumstances; and

    vi. the mitigating circumstances arising from the Licensee's conduct before, during and after the incident.

52. The Commission considers the contraventions to be serious regulatory failures. As the Commission has previously noted, it is imperative that marketing communications are not directed to individuals who have self-excluded or are taking a break from the use of online wagering services, as such actions risk undermining their efforts to manage gambling-related harm and may contribute to relapse. The Commission considers that wagering operators have a primary duty to protect from harm those individuals who have bravely and pro-actively made the decision to self-exclude.

53. The Commission has also considered the scale and impact of the conduct. Between 25 March 2025 and 2 April 2025:

    i. 139 self-excluded customers received marketing communications;

    ii. 15 self-excluded customers accessed their wagering accounts;

    iii. 13 of those customers deposited funds and placed wagers; and

    iv. 334 wagers were placed with a total value of $9,128.33.

54. While the Commission acknowledges that the conduct arose from a single systems issue and that the Licensee did not intend for these events to occur, the number of affected customers and the nature of the affected protections are significant considerations.

Aggravating Factors

55. The Commission has identified the following aggravating factors:

    i. the conduct affected customers who had taken proactive steps to self-exclude from wagering services, representing a particularly vulnerable customer group;

    ii. the contraventions involved failures of core responsible gambling controls rather than administrative requirements;

    iii. the issue affected a substantial number of customers over a period of several days; and

    iv. the migration of customer data between technology platforms represented a significant operational change requiring appropriate validation and assurance processes to ensure the critical customer protection measures remained effective.

56. The Commission considers these matters increased the seriousness of the conduct and requires a meaningful regulatory response.

Mitigating Factors

57. However, having considered the Licensee's submissions, the Commission accepts that significant weight should be given to the mitigating circumstances. In particular, the Commission has taken into account:

    i. the conduct resulted from a system issue, rather than deliberate or wilful action by the Licensee;

    ii. the Licensee took immediate action to rectify the issue once it became aware of it, with all self-excluded accounts being blocked within approximately three hours and twenty-one minutes;

    iii. the Licensee expressed genuine remorse over the incident and acknowledged the importance of its responsible gambling obligations;

    iv. the Licensee promptly self-reported the conduct to the Commission and cooperated with the Director's investigation;

    v. the multiple contraventions resulted from the same underlying factual circumstances;

    vi. the issue was identified by the Licensee's own compliance staff rather than through customer complaint, regulatory intervention or external detection;

    vii. the Licensee suspended all marketing activity while the cause of the issue was investigated and remedial measures were implemented;

    viii. all affected wagers were voided and all deposits made by affected customers were refunded, ensuring that the Licensee did not receive any financial benefit as a result of the conduct;

    ix. affected customers were promptly notified of the incident; and

    x. the Licensee undertook additional staff training, reviewed its data controls and implemented further measures to reduce the risk of recurrence.

58. The Commission considers that these mitigating factors are substantial and materially distinguish this matter from cases involving deliberate, reckless or ongoing failures by an online wagering operator to comply with responsible gambling obligations.

Penalty Determination

59. In the Preliminary Findings, the Commission proposed a monetary penalty of 600 penalty units in respect of the contraventions involving marketing communications to self-excluded customers and 600 penalty units in respect of the contraventions involving access by self-excluded customers to wagering accounts.

60. Following consideration of the Licensee's submissions, the Commission has determined that the penalty proposed in the Preliminary Findings should be reduced. While the Commission remains satisfied that the conduct was serious and required a meaningful regulatory response, the Commission accepts that the Preliminary Findings did not sufficiently reflect the full extent of the Licensee's post-incident response, including its self-reporting, immediate remediation, customer restitution, internal detection of the issue and implementation of further controls.

61. Having regard to the seriousness of the conduct, the aggravating factors identified above and the significant mitigating factors, the Commission considers that a proportionate and balanced disciplinary response is to impose a monetary penalty of:

    i. 400 penalty units for the contraventions of Clause 4.6 and 8.9(c) of the Code of Practice relating to marketing communications sent to self-excluded customers (being 40% of the maximum available penalty of 1,000 penalty units); and

    ii. 500 penalty units for the contraventions of Clause 4.2 of the Code of Practice relating to self-excluded customers accessing wagering accounts (being 50% of the maximum available penalty of 1,000 penalty units).

62. The total monetary penalty imposed is therefore 900 penalty units, being $166,500 (the value of a penalty unit for 1 July 2024 to 30 June 2025 is $185).

63. The Commission considers this penalty appropriately balances the need to protect the integrity of the self-exclusion framework and promote compliance by licensed online wagering operators, while recognising that the conduct was not deliberate, the Licensee's immediate action to rectify the situation, co-operation in self-reporting the incident, and the fact that the conduct was caused by a system issue. The penalty is intended to reflect the seriousness of the contravention, while also acknowledging the Licensee's efforts to address the issue responsibly.

64. The Commission has also considered the Licensee's submission that publication of the decision should not occur. The Commission acknowledges the Licensee's cooperation and the fact that the matter has been remediated. However, the Commission considers publication remains appropriate given the importance of ensuring transparency in regulatory decision-making and providing guidance to other licensees regarding the risks associated with technology migrations affecting responsible gambling controls.

65. The Commission acknowledges that the Licensee has surrendered its licence. However, the surrender of a licence does not affect the Licensee's liability for conduct occurring prior to the surrender taking effect. Section 143 of the RWA provides that a former licensee remains liable for any act or omission done, caused, permitted or made by the person before the surrender took effect, and for liability incurred under the Act prior to surrender.

66. The conduct the subject of this decision occurred while the Licensee held a valid licence and the Licensee therefore remains liable for the contraventions identified in this decision. The Commission has considered the fact that the Licensee is no longer operating, and that there is no need to consider specific deterrence because there is no question of the Licensee offending further. However, the Commission considers that the seriousness of the matter requires a significant penalty.

67. The Licensee is required to pay this penalty within 28 days of the date of this decision.

NOTICE OF RIGHTS

68. Section 239(1)(h) of the RWA sets out that the Northern Territory Civil and Administrative Tribunal (NTCAT) has jurisdiction to review any disciplinary action taken by the Commission under section 228 of the RWA.

69. Section 239(4) of the RWA sets out that an application to the NTCAT for review must be made within 14 days after the day the person making the application received the decision notice or was subject to the action that is the subject of the review.

70. In accordance with section 239(2) of the RWA, the person who may apply to NTCAT for a review of the Commission's decision is the Licensee.



Alastair Shields
Chair
Northern Territory Wagering Commission

On behalf of Commissioners Shields, Bravos, Curnow, Kirkman, and Perrin