

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Licensee:	Amused Australia Pty Ltd
Proceedings:	Consideration of Disciplinary Action Pursuant to section 80(1)(d) of the <i>Racing and Betting Act</i>
Heard Before: (on papers)	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Ms Amy Corcoran Mr Kristopher Evans Ms Susan Kirkman
Date of Decision:	15 December 2022

Background

1. On 3 March 2022, the Northern Territory Racing Commission (**the Commission**) granted a licence to Amused Australia Pty Ltd (**Amused**) to conduct the business of a Sports Bookmaker, pursuant to section 90 of the *Racing and Betting Act* 1983 (**the Act**). Amused operates a sports bookmaking business under the trading name Bet Nation.
2. Licensing NT provides each new licensee with an electronic file containing the names and relevant details of each person who has requested to be self excluded from all current and future licensed wagering operators in the NT and, from time to time, provides updates as additional persons self exclude, for the purpose of that wagering operator putting in place measures to comply with the NT Code of Practice for Responsible Service of Online Gambling 2019 (**the 2019 Code**). These measures include preventing self excluded persons from opening a betting account, and putting in place measures to ensure that such persons do not receive correspondence or promotional material.
3. On 31 October 2022, Amused conducted a promotional campaign “Who wants to be a millionaire?”, which stated that Amused would accept bets up to \$1,000.00 on any horse in the Melbourne Cup, and provided customers with the opportunity to win bonus cash up to \$50.00 on bets on the Melbourne Cup, if their selected horse ran second to tenth.
4. The Commission almost immediately received a complaint from a self excluded person who had received the email, and the matter was immediately raised with Amused. The Commission, not Amused, subsequently received a number of additional complaints, and in total has received around ten complaints from persons who claimed that they should not have received the email. A number of complaints received by the Commission from self excluded persons indicated varying levels of distress and anger at having received the email.

Amused Response to enquiries

5. In response to the Commission’s enquires, Amused has advised that:

- 7,713 emails advertising the promotion were sent to persons not intended to receive such emails, including 772 persons who had self excluded, either through the Commission's self exclusion register or directly with Amused;
- Amused promptly sent an email retracting the promotional email, apologising for the error, and advising how to make a complaint about the error;
- No self excluded persons were able to open (or reopen) an account and place a bet;
- The emails were sent to the wrong client list due to human error; and
- Corrective and preventative measures have now been put in place to prevent a recurrence of this type of error in the future.

Consideration of the Issues

6. In order to minimise the harm that may be caused by online gambling, the Commission introduced the 2019 Code which came into effect on 26 May 2019.
7. Clause 4.6 of the 2019 Code provides that "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. It is a requirement of Amused's licence (condition 15) that Amused complies with the 2019 Code.

Decision

9. The Commission is satisfied that Amused was in breach of clause 4.6 of the 2019 Code when it sent promotional emails to self excluded persons and customers on 31 October 2022.
10. The Commission acknowledges that Amused's breach of the 2019 Code was brought about by error, rather than intentionally, and that Amused has acknowledged its breach of the 2019 Code and accepts that the breach is serious.
11. Nevertheless, the Commission considers this to be a serious breach, noting the potential for harm to persons who have admitted that they have a gambling problem and have taken positive steps to prevent themselves from opening and operating a betting account.
12. The Commission has therefore determined that Amused did not comply with clause 4.6 of the 2019 Code on 31 October 2022 and as a result, pursuant to section 80(1)(d) of the Act, has failed to comply with condition 15 of its licence.
13. Disciplinary actions available to the Commission for non-compliance with a condition of licence range from the issuing of a reprimand, imposing a fine not exceeding 170 penalty units, or suspending or cancelling the sports bookmakers licence.

14. In all of the circumstances, the Commission has determined to impose half of the maximum fine, that is 85 penalty units, which equates to \$13,770.
15. The Commission has also determined that given the serious nature of this breach, this decision will be published on the Commission's website so as to place all Northern Territory wagering operators on notice that the Commission treats such breaches seriously.



Alastair Shields
Chairperson
Northern Territory Racing Commission

15 December 2022