

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr K
Licensee:	Hillside (Australia New Media) Pty Ltd - Bet365
Proceedings:	Gambling Dispute for determination by Racing Commission (pursuant to section 85(2) of the <i>Racing and Betting Act 1983</i>)
Heard Before: (on papers)	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Mr Allan McGill
Date of Decision:	6 April 2021

Background

1. On 26 July 2019, pursuant to section 85(2) of the *Racing and Betting Act 1983* (the Act), the complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) against the licensed sports bookmaker, Hillside (Australia New Media) Pty Ltd (Bet365).
2. The complainant has submitted to the Commission that Bet365 took an unreasonable amount of time to identify that he was displaying red flag behaviours that indicated he was suffering from harms caused by his gambling activity. The complainant has submitted that during the period between 25 and 28 October 2018, he was able to deposit \$353,000 into his Bet365 betting account, yet it took Bet365 over 48 hours to identify this and make contact with him. The complainant has advised the Commission that during this period, the turnover on his Bet365 betting account amounted to just over two million dollars and that during the same period, he made withdrawals from the betting account to the value of \$206,000. The complainant has further submitted that Bet365 also failed to identify that he cancelled numerous withdrawal requests throughout the life of his betting account.
3. Information was gathered from the parties involved by Licensing NT officers appointed as betting inspectors by the Commission and provided to the Commission, which determined that there was sufficient information before it to consider the gambling dispute on the papers.

Consideration of the Issues

Responsible Gambling Practices

4. For many people, gambling is a harmless entertainment. The Commission however, recognises that this is not the case for all people who engage in gambling activity and that in some circumstances, some people are unable to control the urge to gamble despite knowing that it is having a negative impact on their lives. With this in mind and in order to minimise the harm that may be caused by online gambling, the Commission introduced the Northern Territory Code of Practice for Responsible

Service of Online Gambling 2019 (the 2019 Code) which came into effect on 26 May 2019, having replaced the Northern Territory Code of Practice for Responsible Gambling 2016 (the 2016 Code). While the gambling dispute was lodged after the commencement of the 2019 Code, the activity subject of this gambling dispute occurred in 2018 and as such the 2016 Code applied at that time.

5. Responsible gambling is a broad concept and involves the conduct of gambling in a manner whereby the potential for harm associated with gambling is minimised. It respects the responsibility of individuals for their own actions, but also acknowledges a responsibility on the part of the gambling operators. Responsible gambling has regard to the context in which gambling occurs, the inducements made to gamble, the way the gambling service operates and the integrity of the gambling operator. The aim is to enable persons to make informed decisions about their participation in gambling and, if harm has occurred, to provide access to gambling help services.

Identification of Red Flag Behaviours

6. The question before the Commission is whether Bet365 took an unreasonable amount of time to identify and respond to red flag behaviours, indicating a potential problem gambler under the 2016 Code. Red flag behaviours include but are not limited to gambling for extended periods, changing gambling patterns, increase in deposit frequency, multiple withdrawal cancellations, and escalating sums of money deposited.
7. In order to determine this, the Commission has reviewed the complainant's betting activity with Bet365 including deposits made into; and withdrawals made from the betting account. The Commission has also reviewed a number of emails between the complainant and Bet365 as well as listened to a number of telephone calls that occurred between the complainant and Bet365 in which responsible gambling was discussed. In addition, the Commission has reviewed Bet365's submission to the Commission which was made in response to the gambling dispute lodged by the complainant.
8. Having done so, the Commission notes that the complainant opened an account with Bet365 on 10 September 2016 and used the betting account until 13 January 2017 at which time the complainant ceased betting with Bet365. Subsequently Bet365 closed the betting account in line with its policy to close betting accounts after 365 days of inactivity.
9. Bet365 allows its customers to re-open a dormant betting account after completing additional security. The complainant requested Bet365 to re-open his betting account with it, which it did on 26 September 2018 after the complainant completed the required security process.
10. In the period from 26 September 2018 until 28 October 2018, the complainant deposited \$691,379.78 into the betting account. During this same period, the complainant made withdrawals from the betting account totalling \$794,000 which resulted in the complainant making an overall profit of just over \$100,000 during this period.

11. During the first five days of re-opening the betting account, the complainant made a number of deposits totalling \$91,379.78. During this same period, the complainant also made a withdrawal of \$24,000 and two further withdrawals of \$25,800 and \$20,000 respectively which he later cancelled on the same day.
12. During this time, the complainant made numerous winning and losing bets to the value of just over \$680,000 with stake values ranging from \$1,800 through to \$39,528. These bets resulted in winnings of some \$654,000 which means that the complainant's betting activity during this period resulted in an overall loss of \$26,000 against the bets made.

Suspension of Betting Account

13. Bet365 has advised the Commission that as a result of the complainant depositing a total of \$81,000 between 26 and 29 September 2018, the complainant's betting account was flagged to its specialist team which resulted in the complainant's account being suspended on 30 September 2018 while a process known as Enhanced Verification was undertaken to establish that the complainant had sufficient funds to support his gambling activity. As part of this process, Bet365 advised that the complainant was contacted by a Bet365 representative by telephone and during this conversation the complainant confirmed that he was in control of his gambling. The complainant also completed a 'problem gambling self-assessment' online which did not raise any areas of concern with Bet365.
14. The Commission has listened to this telephone call and notes that the complainant advised the Bet365 representative that he had been a VIP customer of another sports bookmaker with which he had made similar types of bets to those he was making with Bet365 that had resulted in around \$90,000 in winnings over the past year however, he had changed to Bet365 due to the greater range of markets and sports offered. The complainant gave the Bet365 representative details of his income and savings as well as advising the Bet365 representative that he was comfortable with the exposure amount (being the amount of money he could lose) of the bets he was making. The Bet365 representative advised the complainant that his betting account would remain suspended until the complainant provided documentation to Bet365 confirming his wins with the other sports bookmaker and proof of his income and savings.

Betting Account Re-activated

15. Bet365 advised the Commission that the complainant's betting account was re-activated on 5 October 2018 after the complainant provided the documentation requested.
16. The Commission notes that following the complainant's betting account being re-activated that the complainant re-commenced betting with Bet365 in a similar matter as previously noted with the bets being struck between 5 October 2018 and 28 October 2018 ranging from \$1,500 through to \$81,225. These bets were both winning and losing bets with the winning bets ranging up to \$110,598 in payouts. During this period the complainant made deposits totalling \$600,000 and withdrawals totalling \$770,000, resulting in an overall profit of \$170,000. Also during this period, the complainant cancelled 18 withdrawal requests to the value of \$796,000.

Suspension of Betting Account

17. Bet365 advised the Commission that following a further deposit review on 28 October 2018, Bet365 suspended the complainant's betting account until it could make contact with the complainant to discuss his betting account from a responsible gambling perspective.
18. Bet365 further advised the Commission that telephone contact was not made with the complainant until 3 November 2018 and that during that call, the complainant confirmed that he was in "...full control of his gambling and recent activity". During that call however, Bet365 advised that the complainant also stated that he "...sometimes chased his losses". As a result, Bet365 advised the Commission that the Bet365 representative offered the complainant a period of self-exclusion which he accepted for six months.
19. The Commission has also listened to this telephone call and notes that the Bet365 representative identified herself as being from the Bet365 Responsible Gambling Team and that Bet365 undertakes regular reviews of all of its customers' activities. Bet365 advised the complainant that it had noticed that the deposit activity on the complainant's account had increased recently and queried whether there was a reason as to why this had occurred to which the complainant advised that there wasn't any really and that, "...it's just if I lose, my account would be empty and so I just deposit more in." The Bet365 representative advised the complainant that over the last 48 hours, the complainant had expended nearly \$300,000 and queried whether this caused the complainant any concern to which the complainant responded that it did not. The Bet365 representative then asked a number of questions focusing on responsible gambling, to which the complainant responded indicating that he was not concerned about his gambling activities with Bet365 and was not experiencing any financial difficulties associated with his gambling. The Bet365 continued to question the complainant and when she asked the complainant whether after losing, he feels that he needs to win back his losses as soon as possible, the complainant responded, "A little bit" and that sometimes he does this despite the negative consequences this may have on his financial situation.

Self-Exclusion applied to Betting Account

20. The Commission notes that as a result of the responses made by the complainant and after undertaking a review of the complainant's betting account, the Bet365 representative actively encouraged the complainant to consider taking a period of self-exclusion from betting with Bet365 to which the complainant ultimately agreed to self-exclude for a period of 6 months. The Bet365 representative processed the self-exclusion and provided the complainant with contact details for Gambling Help Online.

Compliance with the 2016 Code

21. The complainant has submitted to the Commission that during the period between 25 and 28 October 2018, he was able to deposit \$353,000 into his Bet365 betting account, yet it took Bet365 over 48 hours to identify this and make contact with him. In this respect the Commission notes that on:
 - 25 October 2018, the complainant made three deposits totalling \$58,000 valued at \$18,000, \$20,000 and \$20,000 respectively. During this same day, the complainant also made two withdrawals being for \$80,000 and \$46,000. The complainant did not cancel any withdrawal requests on this day;
 - 26 October 2018, there was no deposit or withdrawal activity;
 - 27 October 2018, the complainant made seven deposits ranging in value from \$4,000 to \$40,000 and totalling \$225,000. The complainant requested to withdraw \$51,000 but cancelled this withdrawal request on the same day;
 - 28 October 2018, the complainant made four deposits totalling \$70,000 and no withdrawals.
22. As can be seen, between 25 October 2018 and 28 October 2018 (the latter of which is the day that Bet365 suspended the complainant's betting account), the complainant did deposit a total of \$353,000 into his Bet365 betting account and also withdrew \$126,000 from it.
23. The complainant has suggested to the Commission that the betting activity that he engaged in during the period between 25 October and 28 October 2018 was so significantly different to his previous betting patterns, that Bet365 should have identified that the complainant was experiencing a problem gambling issue and should have intervened earlier so as to limit or alleviate the affect the complainant's betting activity was having on him.
24. It is apparent to the Commission from viewing the complainant's betting records with Bet365, that the complainant is an experienced gambler who at times has won significant sums of money as a result of his betting activity and who has then subsequently chosen to bet the majority (but not all) of those winnings on further betting outcomes. It is relevant to note that from when the complainant re-opened his betting account with Bet365 on 26 September 2018 to 24 October 2018 (which is the day prior to the activity that the complainant has lodged the gambling dispute about), the complainant made deposits into his betting account ranging in value from \$2,000 to \$40,000 and anywhere between a total of \$10,000 to \$80,000 on a single day.
25. As identified in previous Commission decisions, the Courts have set a very high threshold of responsibility for the gambler as to their own actions. The Courts have ruled that the duty to cease gambling remains with the individual gambler and not the gambling operator. It is also suggested by the Courts, that only in the most extreme cases of deliberate and gross misconduct by the operator who has knowledge of the vulnerability of the problem gambler, that there would be any duty owed to prevent loss.

26. The 2016 Code amongst other things, required that licensed sports bookmakers must provide responsible gambling training including regular refresher training, to all employees engaged in client interaction and that this training should include tools to identify gambling red flag behaviours. This red flag behaviour training was mandated so that licensed sports bookmakers could identify and assist clients with gambling related problems.
27. As noted earlier in this decision, it is clearly apparent to the Commission that Bet365 identified that the complainant had displayed a number of possible red flag behaviours on 30 September 2018 and after having suspended his betting account and in accordance with the 2016 Code, made contact with the complainant to confirm that he was betting within his limits (which he confirmed he was). In this regard, the Commission is of the view that Bet365's actions in undertaking an Enhanced Verification process so as to verify that the complainant had sufficient wealth to engage in the betting activity that he was undertaking promoted a responsible gambling environment as required by the 2016 Code.
28. After this contact, the complainant continued to be a very active Bet365 customer, both winning and losing significant amounts of money. Up until the betting period of 25 October 2018 to 28 October 2018 subject of this gambling dispute, the complainant did not raise any concerns about his betting activity with Bet365 nor did it form any part of his dispute.
29. It is apparent to the Commission, that Bet365 again identified that the complainant was again displaying a number of possible red flag behaviours and on 28 October 2018, suspended his betting account for the second time. The subsequent contact made with the complainant, resulted in Bet365 strongly encouraging the complainant to take a break from his gambling activities with Bet365, to which the complainant agreed. The Commission is of the view that Bet365 was at that time, acting in a manner which promoted a responsible gambling environment as required by the 2016 Code.

Decision

30. It is not a matter for the Commission to comment on the size of the bets placed by the complainant nor on his betting activities in totality. The complainant is responsible for his own betting activity albeit that in this case, the resultant overall betting wins and losses to many, would seem excessively large.
31. The Commission's role in dealing with this gambling dispute is to make a finding as to whether Bet365 acted in compliance with the Act, its licence conditions and the relevant Code in place at the time. If the Commission finds this to be the case, then the Commission must find that the bets struck were lawful bets and that their outcome should stand. If on the other hand, the Commission finds that the bets struck were not lawful, the Commission would necessarily form the view that all the bets should be voided and monies returned to the relevant parties, which in this case given that the complainant has made an overall profit of approximately \$100,000 during his betting activity with Bet365, would be a finding that may be to the financial detriment of the complainant.

32. On the weight of evidence provided, the Commission is satisfied that Bet365 adhered to the 2016 Code and implemented sufficient proactive measures to verify that the complainant was wagering in a responsible manner in September and October 2018. These actions by Bet365 were in line with the 2016 Code's requirement to promote a responsible gambling environment.
33. The Commission is firmly of the view that during the betting activity participated in by the complainant between 26 September 2018 until 28 October 2018, there are no indicators that Bet365 breached the Act, its licence conditions or the 2016 Code.

Review of Decision

34. 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
Chair
Northern Territory Racing Commission

6 April 2021