
NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Licensee:	Mailbag Wagering Pty Ltd (trading as Baggybet)
Proceedings:	Consideration of Disciplinary Action Pursuant to section 80(1)(d) of the <i>Racing and Betting Act 1983</i>
Heard Before:	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Ms Amy Corcoran Mr James Pratt Mr Kristopher Evans Ms Susan Kirkman
Date of Decision:	20 April 2023

Background

1. On 27 July 2022, the Northern Territory Racing Commission (**the Commission**) granted a license to Mailbag Wagering Pty Ltd, trading as Baggybet (**Baggybet**) to conduct the business of a Sports Bookmaker, pursuant to section 90 of the *Racing and Betting Act 1983* (**the Act**).
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 Sports Bookmakers in the NT and, from time to time, provides updates as additional persons self-exclude, for the purpose of that Sports Bookmaker putting in place measures to comply with the NT Code of Practice for Responsible Service of Online Gambling 2019 (**the 2019 Code**).
3. 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.
4. On 16 and 23 December 2022, the Commission received complaints from a self-excluded person, Mr M, who forwarded a copy of marketing material emailed to him by Baggybet on those dates, in spite of him never having had an account with Baggybet.
5. On 22 December 2022, the Commission received a complaint by a self-excluded person, Mr P, who stated that he had received marketing material from Baggybet on 16 December 2022, in spite of him never having had an account with Baggybet. Mr P further stated that when he raised the issue with Baggybet, he was offered a \$250.00 bonus bet.
6. On 6 January 2023, the Commission received another complaint from a self-excluded person, Mr L, who forwarded a copy of marketing material received from Baggybet on that date.

Baggybet Response to enquiries

7. In response to the complaints received by Licensing NT, Baggybet submitted that:
 - a. BaggyBet is “deeply regretful” that these issues occurred and has taken both preventative and corrective steps to address them;
 - b. In response to the complaint dated 23 December 2022, BaggyBet immediately commenced an investigation into the issue, subsequently ceased all email direct marketing from 6 January 2023, and did not reinstate email direct marketing until satisfied that the issue was rectified;
 - c. Baggybet accepts responsibility for the error, which was caused by technology issue by a third-party technology provider;
 - d. In the case of Mr P, the offer of a bonus bet was a mistake that occurred while the operator was dealing with two customers simultaneously, and the bonus bet offer was intended for the other customer.

Consideration of the Issues

8. 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.
9. 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.”
10. Clause 8.9 (a) of the 2019 Code provides that “Online gambling providers must not send any direct marketing material to a person without their express consent to receive such material.”
11. It is a requirement of Baggybet’s licence (condition 15) that Baggybet complies with the 2019 Code.

Decision

12. The Commission is satisfied that Baggybet was in breach of clause 4.6 and 8.9(a) of the 2019 Code on three separate dates, namely 16 and 23 December 2022, and 6 January 2023, when it sent marketing materials by email to self-excluded persons.
13. The Commission notes that none of the marketing material provided to the complainants contained an invitation to open an account, but rather promoted the wagering products offered by Baggybet. The Commission also notes that none of the complainants opened an account or placed bets following receipt of the marketing material, however the Commission is mindful of the distress that may be caused if a self-excluded person receives marketing material from a sports bookmaker, and the potential for harm to be caused by marketing material being sent to a self-excluded person.

14. Baggybet is a relatively new licensee, however any reduction in penalty that might be expected to be allowed in those circumstances is balanced by the fact that Baggybet was found by the Commission to have breached clause 4.6 of the 2019 Code when it sent SMS messages to 272 self-excluded persons in October 2022.
15. 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.
16. In all of the circumstances, the Commission has determined to impose the following fines:
 - For the 16 December 2022 breach, the maximum fine of 170 penalty units (\$27,540);
 - For the 23 December 2022 breach, the maximum fine of 170 penalty units (\$27,540);
 - For the 6 January 2023 breach, the maximum fine of 170 penalty units (\$27,540).
17. The Commission has also determined that should Baggybet breach clause 4.6 and/or 8.9(a) of the 2019 Code again, the Commission will consider carefully whether other disciplinary options under section 80(1)(d) of the Act should be imposed.
18. 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 bookmakers on notice that the Commission treats such breaches very seriously.

Alastair Shields



Chair
Northern Territory Racing Commission