

DECISION NOTICE AND REASONS FOR DECISION

MATTER:	Gambling Dispute for determination by the Northern Territory Racing Commission (pursuant to section 85(2) of the <i>Racing and Betting Act 1983</i>)
COMPLAINANT:	Mr C
LICENSEES:	IRPSX Pty Ltd trading as Bet Right
HEARD BEFORE: (on papers)	Mr Alastair Shields (Presiding Member) Ms Amy Corcoran Ms Susan Kirkman
DATE OF DECISION:	11 December 2023

DECISION

1. For the reasons set out below, the Northern Territory Racing Commission (**the Commission**) is satisfied that IRPSX Pty Ltd (**the Licensee**) has:
 - a. contravened condition 15 of its licence by not complying with clause 3.2 of the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (**the 2019 Code**) through not recognising red flag behaviour nor having appropriate interaction with the customer that reasonably responded to the circumstances;
2. The Commission has determined that it is appropriate to take disciplinary action against the Licensee pursuant to section 80(1)(d) of the *Racing and Betting Act 1983* (**the Act**) as follows:
 - a. for its contravention of condition 15 of its licence, a fine of 43 penalty units being 25% of the maximum penalty available, equating to \$6,751.00 (for the 2021/22 financial year a penalty unit's value was \$157);
3. The Commission has determined that all of the bets placed by the Complainant after 9.25am on 9 September 2021 are not lawful due to the Licensee's breach, which results in the Licensee having to refund \$28,999.80 to the Complainant.

REASONS

Background

4. The Commission granted a licence to IRPSX Pty Ltd trading as Bet Right (**Bet Right**) on 12 May 2021 to conduct the business of a sports bookmaker pursuant to section 90 of the Act.
5. The Complainant opened his account with Bet Right on 29 July 2021.

The Complaint

6. On 20 September 2021, the Complainant lodged a complaint with the Commission in relation to his dealings with Bet Right.
7. The substance of the Complainant's allegations to the Commission are as follows:

- a. on 9 September 2021 Bet Right permitted the Complainant to immediately reinstate the function of being able to cancel pending withdrawals despite large losses that day which resulted in him cancelling his three (3) pending withdrawals totalling \$29,000 and proceeding to lose the funds on a series of unsuccessful bets; and
 - b. Bet Right failed to comply with 2019 Code by not monitoring and properly detecting red flags associated with problem gambling including the cancellation of withdrawal requests, constantly requesting bonus bets; gambling for long periods, change in betting patterns and chasing losses.
8. The Complainant is seeking that the Commission to declare that the amount of \$29,000 be returned being the total sum of the three (3) pending withdrawals that Bet Right allowed him to cancel and returned to his account notwithstanding he had disabled the ability to cancel pending withdrawals.

Consideration of the Issues

9. Pursuant to section 85(4) of the Act, the Commission determined to hear the dispute and make its determinations in absence of the parties, based on the written material before it.

Code of Practice

10. 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 Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (**the 2019 Code**) was approved by the Commission to provide guidance on responsible gambling practices that must be implemented by sports bookmakers so as to minimise the potential for 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, make it mandatory for sports bookmakers to adhere to any Codes of Practice approved by the Commission.

11. Specific to this complaint are the following clauses in the 2019 Code:

3.1 New staff

All new staff, engaged in customer interaction, must complete appropriate responsible gambling training within one (1) month of commencing employment. Training should include:

- identifying problem gambling Red Flag behaviours
- ...

Problem gambling **Red Flag behaviours** may include, but are not limited to:

- gambling for an extended period
- changing gambling patterns
- increase in deposit frequency
- escalating sums of money deposited
- ...

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.

4.1 Customer responsibility

The provider's customers will be encouraged to take responsibility for their gambling activity through the online gambling provider's provision of clearly defined terms and conditions, rules, odds and player returns and pre-commitment features.

5. Harm minimisation measures

Online gambling providers must offer harm minimisation measures, that are at a minimum consistent with the responsible gambling practices set out in this Code.

5.1 Voluntary pre-commitment features

(a) Online gambling providers must offer pre-commitment facilities that allow a customer to set a maximum deposit limit and may at their option also provide other types of limits such as spend and time limits ("pre-commitment features") that will be binding upon the provider. Customers should be able to decrease these limits immediately, however, any increase to a limit must not take effect for at least 7 days after the request.

[...]

(f) Online gambling providers must ensure the pre-commitment features are simple and easy to use for a customer and are clearly explained and prominently displayed on their website or other platforms utilised by their customers and within each customer's "My Account" window or equivalent.

Cancelling Withdrawals Function

12. Bet Right explains that the 'Cancel Withdrawals Function' (**the Function**) is a feature available to its customers whereby they can decide to cancel a withdrawal that is still waiting to be processed by Bet Right, resulting in the return of the funds to the account to be immediately accessed again for wagering purposes. However, customers have the option to disable the Function as one of the management tools to assist them to manage their gambling.
13. In this case, the Complainant disabled the Function during a Live Chat on 26 August 2021, removing his ability to cancel any pending withdrawal. The Live Chat was initiated by the Complainant for the purposes of finding out the status of his withdrawal:

2021-08-26 13:48:04	staff	Hi ..., how can I help you?
2021-08-26 13:48:16	client	Hi ... has my withdrawal been processed
2021-08-26 13:48:40	staff	Still pending, but should be at 4PM Today
2021-08-26 13:49:04	staff	Can disable your cancel withdrawal option for you if you'd like, in the meantime
2021-08-26	client	yes can you disable that
2021-08-26	client	option

2021-08-26 13:49:40	staff	Done. You can no longer cancel a pending withdrawal
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14. It is noted that the Complainant had cancelled seven (7) withdrawals between 29 July 2021 and 26 August 2021, three (3) of those being on 25 August 2021 the day prior to disabling the Function.
15. On 9 September 2021, the Complainant requested via Live Chat that Bet Right reinstate the Function so he could cancel his pending withdrawals. Once the Complainant confirmed he understood he would be responsible for any losses, Bet Right enabled the Function at 9:25am (ACST).

Complainant: hey guys I have 3 pending withdrawals can I cancel those if that's possible? Would like to use it on the us open ...

Staff F: yeah sorry just quickly I can see that the cancel withdrawals option has been removed from your account was that some that was automatically placed or did you specifically request it to be there?

Complainant: I think it was automatically there from memory; I'm happy to give consent to remove that; saves me from re depositing; I'll kee[p] the 29,000 in account.

Staff F: ok well I [sic] that case instead of cancelling the withdrawals I will just remove that restriction from your account so that you can do it yourself. Though I do just have to state that this makes the cancellations your responsibility along with any of the circumstance that may arise from that. [I]s that alright?

Complainant: yeah all fine thank you.

[The Complainant went on to ask the staff member for bonus bets which request was refused on the basis that he wasn't authorised to do so on Live Chat].

16. Seventeen minutes after the above dialogue, the Complainant initiated another Live Chat requesting assistance to cancel his pending withdrawals:

Complainant: I can't find my other two pending withdrawals to cancel; can you please help me; locate them so I can cancel the withdrawal"

Staff F: Hey ... I'll have a look now.

Complainant: thanks ... or if y[ou] can cancel both for me

Staff F: I can see your pending withdrawals here now.... Would you like me to go ahead and cancel them and return those to your account?

Complainant: yes please; all done?

Staff F: yep! Should be there now ... thanks for waiting

17. With the assistance of Bet Right staff, the three pending withdrawals totalling \$29,000.00 were cancelled at 9:47am (ACST).

18. Bet Right's 'Multiple Withdrawal Cancellations Procedure' (the **MWC Procedure**) contains the following clauses:

Client asks for a withdrawal to be cancelled while this feature is "disabled"

- Any request to cancel a withdrawal while this feature is disabled should be declined.
- A Client Service Officer should not lead or suggest to a Client to enable this feature.

Client asks for Cancel Withdrawal Feature to be "enabled"

Where a Client asks for this feature to be enabled, the Client's request should be actioned IF

- this feature has not been disabled within the last 7 days.

However the following **MUST** be made clear:

- Whatever circumstances occur after the cancel withdrawal feature has been enabled is the Clients responsibility
- Appropriate Comments left on TBS
- Email template 'Cancel Withdrawal Re-Activate' sent through Zendesk

19. Bet Right submits that:

- a. it has instituted a reasonable protocol in the area of "cancel withdrawals" function and the ability to disable and restore the Function;
- b. the enabling and disabling of the Function are responsible gambling tools as well as tools of convenience;
- c. it was the Complainant who initiated the request to restore the "cancel withdrawals" function with no prompting from Bet Right;
- d. there is no legal requirement for it to provide the Function as a management tool let alone with a waiting period when a client re-enables the Function; and
- e. it cannot be held responsible for the Complainant's actions in acceding to disabling the "cancel withdrawals" function, its restoration at his own initiative despite being given the opportunity to reconsider, and the reversal of withdrawals.

20. Firstly, the two clauses above in the MWC Procedure appear to be at odds with each other. On one hand Bet Right's policy states that a staff member should not cancel a withdrawal while the customer has the Function disabled, but the customer can request that the disabled Function be enabled again as long as they hadn't disabled the Function within the last 7 days. In the Commission's view, the contradiction can only be construed to the effect that the second clause would only be followed when a client has asked for the Function to be enabled again in a standalone situation and not at the same time a request for pending withdrawals be cancelled while the client has the Function disabled.

21. During the Live Chat, when the Complainant asked the staff member if he can cancel his three pending withdrawals totalling \$29,000, instead of declining the request as the Function was disabled, the staff member offers to remove that restriction to allow him to cancel his pending withdrawals himself.

22. The Commission is of the view that Bet Right did not comply with its Multiple Withdrawal Cancellations Procedure as the staff member did not “decline” a request by the Complainant to cancel his withdrawals and suggested that the Complainant could enable the Function to be reinstated, contrary to the provision in the procedure that Client Service Officers “should not lead or suggest to [the Complainant] to enable” the Function while it was disabled.
23. The Commission accepts there is no requirement for Bet Right to have this Function as a management tool for its clients. In fact, a deposit limit is the only management tool that is mandated under the 2019 Code (clause 5) along with a binding 7 day waiting period when a deposit limit is increased by the customer. However, clause 5.1(a) also requires any other voluntary pre-commitment features to have the same waiting period such as spend and time limits. These waiting periods allow the clients to “cool off” so as to allow the tool to protect them as intended and give the client the opportunity to reconsider that decision.
24. As noted above, there is no requirement for Bet Right to provide the Function to its customers. However, given that Bet Right has elected to provide the Function, it is incumbent upon them to monitor use of the Function to determine whether there is any red flag behaviour displayed by customers using it.
25. In the view of the Commission the use of the Function as a gambling management tool as described by Bet Right is completely ineffective. There is very little, if any, value of the Function as a gambling management tool when it can be enabled immediately again and even more worryingly at the time when a client wishes to immediately cancel their pending withdrawals even when those withdrawals were made prior to enabling the Function again.

Red Flags

26. The Complainant has alleged that Bet Right failed to detect and act on red flag behaviours of the Complainant over the lifetime of the account as required by clauses 3.1 and 3.2 of the 2019 Code.
27. While not exhaustive, the 2019 Code details that red flag behaviours may include activities such as gambling for an extended period of time, changing gambling patterns, increases in deposit frequency and escalating sums of money deposited. Where an online gambling operator’s customer displays some, or a number, or a repetition of red flag behaviours, the 2019 Code requires that they should be monitored and that appropriate customer interaction should take place to assist or protect that customer.
28. The Complainant has alleged the behaviour which Bet Right should have monitored are:
- a. Frequently cancelling pending withdrawals;
 - b. constantly requesting bonus bets;
 - c. gambling for long periods; and
 - d. change in betting patterns.

Lifetime Account Activity

29. The table below summarises the Complainant’s use of his betting account over its lifetime:

Date	Total Deposits (\$)	Turnover (\$)	Avg Stake (\$)	Avg Profit / Loss (\$)	No of Bets	Position (\$)
29 July 2021	600	1,489.00	135.36	248.00	11	248.00
30 July 2021	10,000	18,834.00	553.94	- 90.45	34	157.55
31 July 2021	1,000	6,642.75	195.38	1,014.88	34	1,172.43
1 Aug 2021		7,873.87	218.72	1,161.29	36	2,333.72
3 Aug 2021	300	2,543.50	169.57	296.40	15	2,630.12
4 Aug 2021	2,000	8,160.23	233.15	979.28	35	3,609.40
5 Aug 2021	5,200	8,236.70	823.67	- 365.00	10	3,244.40
24 Aug 2021	860	1,942.40	121.40	424.50	16	3,668.90
25 Aug 2021		13,038.17	296.32	1,555.59	44	5,224.48
26 Aug 2021	7,000	10,095.78	560.88	2,080.00	18	7,304.48
27 Aug 2021	1,000	451.00	75.17	- 404.84	6	6,899.64
28 Aug 2021	64,000	110,210.61	2,755.27	2,329.84	40	9,229.48
29 Aug 2021		3,984.80	265.65	- 930.00	15	8,299.48
30 Aug 2021		27.00	13.50	-	2	8,299.48
7 Sept 2021	1,056	9,603.45	331.15	- 1,056.00	29	7,243.48
8 Sept 2021	45,000	134,990.56	2,454.37	15,500.03	55	22,743.51
9 Sept 2021	40,000	245,469.52	4,091.16	- 70,499.82	60	- 47,756.31
	177,166	583,593.34	1,268.68	- 47,756.31	460	- 47,756.31

30. From a review of the Complainant's account activity statement, the Complainant would gamble at various times throughout the night and day and sometimes for long periods with small breaks. The Complainant's normal stake value was dependant on the markets he was betting. Some markets, such as three or more leg multi's would attract a \$50.00 maximum stake. Whereas other markets such as "Odds or Evens" would attract stakes of over \$1,000.00. The majority of the Complainant's selections in racing events were short-priced runners with stake value ranging from \$1,000.00 up to \$20,000.00.
31. On 8 September 2021, the Complainant's account was \$0, before he deposited \$30,000.00 and commenced betting at 9.32am. Apart from a couple of short breaks, he continued betting until 8:20pm, when his account balance at the end of his gambling session was \$30,500.03, with an overall winning position at that time from all of his wagering activity with Bet Right of \$22,743.51. At that point on 8 September 2021, the Complainant had placed his highest number of bets (55, compared with the previous high of 44 on 23 August 2021), and he had his largest turnover (\$134,990.56, compared with his previous high of \$110,210.61 on 28 August 2021).
32. The Complainant placed his first wager on 9 September 2021 at 12.48am, having finished his betting activity the previous day at 8.27pm.
33. Between 12:01 and 6:12am on 9 September 2021, the Complainant lost \$21,500.02 in unsuccessful wagers, with the wagers ranging in size from \$200.00 to \$15,000.00. (There were two additional wagers struck at 6:16am and 6:25am, totalling \$20,000.00 that are not included in these figures as the Complainant cancelled these wagers at 5:31pm on 9 September 2021).
34. Between 12:01 and 9:47am on 9 September 2021, the Complainant made four deposits totalling \$40,000.00.

35. There was no gambling activity between 6:25am and 10:04am.
36. The Complainant cancelled \$29,000.00 in pending withdrawals at 9:47am.
37. The Complainant's account balance at 7:17pm on 9 September 2021 was \$45,650.21. The complainant's lifetime position at this time was a loss of \$2,106.10.
38. The complainant lost \$45,650.00 over the course of the next three hours, leaving an account balance of \$0.21. At no time during this period did Bet Right assess the Complainant's betting behaviour to consider whether he was chasing losses, or have any responsible gambling interactions with the Complainant.
39. Bet Right submits the Complainant made an overall loss of \$70,499.82 for the trading day, 9 September 2021.
40. It is implicit through both the 2019 Code, that all sports bookmakers should interact with their customers in a way which minimises the risk to their customers of experiencing harms associated with gambling. While there is no guarantee that this interaction will identify all customers who are experiencing or are at risk of harm, attempts should be made by all sports bookmakers to reduce harm at the earliest opportunity.
41. Specifically, clause 3.1 of the 2019 Code required that all licensees where 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.*
42. Bet Right's interaction with the Complainant after he requested the cancellation of his pending withdrawals was deficient, specifically Bet Right staff:
 - a. did not decline his request to cancel the withdrawals in accordance with the MWC Procedure;
 - b. did not make enquiries whether he felt his gambling was under control prior to re-enabling his ability to cancel the pending withdrawals or enabling the Function;
 - c. continued to assist the Complainant after his large losses to cancel the pending withdrawals when he couldn't do so himself, despite such withdrawals being made when the Function was disabled;
 - d. failed to assess his request to cancel his withdrawals in the context of his long gambling session, increased turnover and large number of bets on the previous day.
43. The Commission has formed the view that Bet Right has not complied with clause 3.2 of the 2019 Code following the Complainant's request to cancel his pending withdrawals on 9 September 2021.

Cancelled 'Pending Withdrawals'

44. The Complainant submitted that from the time that he opened the betting account with Bet Right, he was able to cancel numerous withdrawal requests until the Function was disabled via a Live Chat.
45. In its submission, Bet Right states that cancelling withdrawals is not a red flag behaviour under the 2019 Code. However, the behaviours set out in clause 3.1 of the 2019 Code does not purport to be exhaustive and the Commission has determined previously that such activity can

certainly raise a red flag and, subject to the individual circumstances, may require reasonable monitoring or interaction with the customer (see Decision Notice of *M v Betfair* dated 2/11/2018; https://industry.nt.gov.au/_data/assets/pdf_file/0010/591490/m-v-betfair-2-nov-2018.pdf).

46. The ability to cancel withdrawal requests is currently a feature which a declining number of online sports bookmakers wagering platforms are offering given it allows customers who are caught up in a wagering whim to change their mind about withdrawing funds they had already requested to be processed. At the time of issuance of this Decision Notice, the Commission is exploring the option to prohibit the reverse withdrawal function due to research and evidence from the Commission's past investigations that the reverse withdrawal function presents a risk to those people who may be at risk of experiencing harm from their wagering activities however, this has not yet been implemented.
47. Although the Complainant had cancelled a number of pending withdrawals prior to the disabling of the Function, the frequency was not one which would ring alarm bells on its own. However, the fact that disabling the Function was made at the suggestion of a staff member and immediately agreed to by the Complainant and subsequent request to cancel 3 pending withdrawals on 9 September should be taken into account by Bet Right as to whether the Complainant may have been experiencing harm from his wagering activities.

Bonus Bets

48. Bonus bets and other forms of inducements are a marketing tool commonly used by online sports bookmakers to boost sales and generate loyalty. While frequent requests for bonus bets can potentially be an indicator that a person may be at risk of harm from their wagering activities, it is important to exercise caution in interpreting this behaviour alone as a definitive indicator given that many sports bookmaker customers who are not at risk of harm may be attracted to these forms of inducements as a way to enhance their overall experience of wagering online.
49. The Complainant has submitted to the Commission that over the lifetime of the betting account, he constantly requested bonus bets. Having reviewed the Bet Right 'client notes' and Live Chat records for the Complainant, it is clear to the Commission that the Complainant did regularly request bonus bets and on most occasions, those requests were not met. The Complainant asked for bonus bets over 12 Live Chats and was repeatedly told they didn't give out bonus bets via that channel or on request. Three times the Complainant chased the bonus bets which were offered via an email.
50. Interestingly, the Complainant's behaviour surrounding contacting Bet Right through Live Chats to confirm that they have received his withdrawal requests and whether those requests had yet been processed seemed more pronounced, almost with an air of desperation. The Complainant contacted Bet Right at least 6 times to check if they had received his requests to withdraw and processed them. One of these requests on 28 August lead to the staff member asking the Complainant if he would like to disable the Function so he couldn't cancel his pending withdrawals as set out above.

Gambling for long periods / change in betting patterns

51. As noted above, the Complainant would gamble at various times throughout the night and day and sometimes for long periods with small breaks, and his bet size varied depending upon the contingency that he was betting on. These factors make it difficult for Bet Right to easily establish changes in betting patterns and whether the Complainant was gambling for longer than normal periods.

52. However, on the day following the Complainant's largest turnover to date and largest number of bets placed in a day, when the Complainant bet reasonably constantly over a long period, these factors should have been considered by Bet Right when the Complainant sought to cancel his withdrawal requests.
53. It is at this point that the 2019 Code required Bet Right to have an appropriate customer interaction with the Complainant which reasonably corresponded to all of those circumstances.

DISCIPLINARY ACTION

54. On the weight of evidence before it, the Commission is satisfied that pursuant to section 80(1)(d) of the Act, Bet Right has failed to comply with condition 15 of its licence that was in place at the time of the events subject to this Decision Notice occurring, specifically that it contravened condition 15 of its licence by not complying with clause 3.2 of the 2019 Code through not having an appropriate interaction with the Complainant when he sought to cancel his withdrawals on 9 September 2021.
55. Disciplinary action available to be taken by the Commission in these circumstances range from the issuing of a reprimand, imposing a fine not exceeding 170 penalty units or suspending or cancelling the sports bookmaker's licence.
56. The Commission has determined that it is appropriate to take disciplinary action against the Licensee pursuant to section 80(1)(d) of the Act for its contravention of condition 15 of its licence by imposing a fine of 43 penalty units being 25% of the maximum penalty available, equating to \$6,751.00.

LAWFULNESS OF BETS

57. As detailed in this Decision Notice, the Commission has found that Bet Right has breached its regulatory obligations by failing to have an appropriate interaction with the Complainant at 9.25 am on 9 September 2021. Given this finding, the Commission has turned its mind as to whether the betting transactions that occurred through the Complainant's Bet Right betting account after 9.25 am on 9 September 2021 were lawful.
58. The Commission has long taken the view that it is a matter of the Commission's judgement as to whether a contravention of the Act, a Code of Practice, a condition of licence or other circumstance may be regarded as being so serious as to undermine the integrity of the betting transaction itself and in such circumstances, conclude that the betting transaction to be not lawful. By way of example, the Commission has often determined that the betting transactions involving a self-excluded person are not lawful given the importance the Commission places on self-exclusion provisions being enforced by licensees so as not to allow persons to place bets after they have had the foresight to exclude themselves from using the services of a wagering provider due to recognising the risk to themselves of financial harm.
59. The Commission is however, of the view that it was also the intention of the legislature to provide the Commission with jurisdiction to also enable bets to be enforced when it furthers the objects of the integrity and probity of betting and racing to do so, and to accept a bet as being lawful even if there is a breach of the Act, a Code of Practice or a licence condition by a licensee.
60. The views of the Commission regarding the lack of inquiry initiated by Bet Right regarding the Complainant's request to cancel his three (3) pending withdrawals on 9 September must be tempered with the fact that the Complainant confirmed to Bet Right that he accepted

responsibility for the cancelled withdrawals and their consequences when he sought to cancel his withdrawals on 9 September 2021.

61. The Commission's objectives include ensuring the fairness and integrity of the online wagering industry while promoting responsible gambling practices. After careful deliberation and consideration of the information before it, the Commission has determined that the failure of Bet Right to initiate an appropriate interaction with the Complainant when he sought to cancel his withdrawals on 9 September 2021 is sufficiently serious so as to undermine the integrity of each bet placed by the Complainant after that time.

NOTICE OF RIGHTS

62. 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

And on behalf of Commissioners Kirkman and Corcoran