

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Ms A
Licensee:	Entain Group Pty Ltd - Ladbrokes
Proceedings:	Gambling Dispute for determination by Racing Commission (pursuant to section 85(2) of the <i>Racing and Betting Act</i>)
Heard Before: (on papers)	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Mr James Pratt
Date of Decision:	18 November 2022

Background

1. On 23 July 2020, 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) in relation to her dealings with Ladbrokes - a sports betting platform that is now operated under the sports bookmaker licence held by Entain Group Pty Ltd (Entain).
2. Entain also currently operates the sports betting platforms Betstar, bookmaker.com and Neds.com.au. Given that the gambling dispute centres on the complainant's interactions with the sports bookmaker while interacting with the Ladbrokes betting platform, the Commission has determined to refer to the sports bookmaker as Ladbrokes throughout this decision notice.
3. The substance of the complainant's gambling dispute is that in the complainant's view, Ladbrokes failed to identify that she was at risk of harm from her gambling activity - activity that led her to sustain losses of what the complainant submitted to the Commission was between \$60,000 to \$90,000 over an eight month period.
4. The complainant has further alleged that following a request to do so on 22 July 2020, Ladbrokes failed to provide her with a transaction statement for her betting account.
5. 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

Complainant's Submissions

6. The complainant has submitted to the Commission that:

- on 18 October 2019, she telephoned Ladbrokes and requested that her betting account with the wagering provider be closed due to a “...*lack of bonus bets, frustration with losses and problem gambling*”;
- on 24 October 2019, she again contacted Ladbrokes and requested that her betting account be re-opened;
- over the next eight months, she deposited between \$60,000 to \$90,000 into the betting account using a variety of bank cards and accounts, including:
 - ✦ \$6,400 over a three day period between 19 July 2020 and 21 July 2020; and
 - ✦ \$5,650 on 24 July 2020;
- on 24 July 2020, as a result of the losses sustained that day, she again contacted Ladbrokes and requested that her betting account be closed.

7. The complainant has submitted to the Commission that despite:

- increases in the frequency of the deposits made;
- use of multiple bank cards to make deposits;
- increases in bet size;
- daily requests for bonus bets and match deposits;
- multiple cancelled withdrawal requests; and
- a change in IP address used due to a move interstate,

at no time after her betting account was re-opened on 24 October 2019, did Ladbrokes undertake any inquiries to establish where the funds she was using to gamble with originated from nor did it make any inquiries as to the affordability of her gambling activity; or offer any gambling support services.

8. The complainant has also submitted that on 22 July 2020, she made two separate requests to Ladbrokes to provide her with a transaction statement for her betting account however, Ladbrokes failed to do so.

Ladbrokes' Submissions

9. Ladbrokes has submitted to the Commission that:

- at no stage during the telephone call on 18 October 2019 during which the complainant requested that her betting account be closed did the complainant indicate that she was experiencing any issues with her gambling activity; rather the complainant indicated that the account closure request was due to not having received a bonus bet;
- as the 18 October 2019 account closure had been due to a customer service issue, when the complainant requested that her account be re-opened on 24 October 2019, the request was approved;

- on 25 July 2020, the complainant again requested (via a live chat) that her account be closed, “...due to her losing and a lack of bonuses.” At no time during this interaction did the complainant indicate to Ladbrokes that she was experiencing any issues with her gambling activity;
- on 5 August 2020, the complainant again requested that her account be re-opened, a request that was approved;
- on 6 August 2020, the complainant again requested that her account be closed;
- on 7 August 2020, it received advice from a Commission betting inspector that the complainant had lodged a gambling dispute with the Commission on 23 July 2020;
- upon becoming aware of the gambling dispute and the issues raised within, it immediately permanently closed the complainant’s betting account.

10. Ladbrokes has also submitted to the Commission that:

- at all times, the complainant had access to a range of responsible gambling tools such as implementing pre-commitment limits; removing the ability to cancel withdrawals; taking a break from gambling and self-exclusion;
- on 5 June 2019, the complainant was prompted to set a deposit limit but declined to do so;
- the complainant’s betting history did not change significantly enough during the lifetime of the betting account to trigger an alert that she may be at risk of harm from her gambling activity;
- the complainant made regular requests for bonus bets however, these requests were not always granted nor did she display any behaviours when requesting these bonus bets that indicated that she may be experiencing harm from her gambling activity;
- at no time during her dealing with Ladbrokes did the complainant indicate that she was concerned about her gambling activity or that she had experienced issues with her gambling in the past;
- it does not regard a customer moving locations as an indicator that a person may be experiencing harms from their gambling activity; and
- it did not view the 11 requests for withdrawals to be cancelled made by the complainant over the four year lifetime of the betting account (with only four of these occurring after 24 October 2019) to be an indicator that the complainant may have been experiencing harm from her gambling activity.

11. Ladbrokes has further submitted to the Commission that:

- from the time of the complainant re-opening her account in October 2019 through to the lodgement of the gambling dispute on 23 July 2020, the complainant deposited \$25,254.19 and withdrew \$2,000;

- for the nine month period preceding the complainant's account closure on 18 October 2019, the complainant deposited \$24,644.76, which is consistent with the nine month period above;
 - the complainant's betting behaviour with Ladbrokes was "...not so significantly different to her betting activity of the previous months so as to trigger a reg [sic] flag with Ladbrokes reporting mechanisms. Her deposit amounts were all in line with her previous betting behaviour as was her bet size";
 - the complainant's betting activity also remained consistent in terms of frequency given the complainant "...generally wagers a certain amount, then shows control by taking several days or weeks off. For example, for the entire month of June (one month prior to lodging her dispute with Ladbrokes), [the complainant] only made one deposit of \$54"; and
 - the complainant held an account with Ladbrokes for four and a half years (first opened in 2016), yet the deposit examples cited by the complainant in her gambling dispute occurred in July 2020 with most occurring after the lodgement of the gambling dispute.
12. With respect to the complainant's assertion that she was not provided with a transaction statement regarding her betting account, Ladbrokes has submitted to the Commission that:
- following the complainant requesting deposit information via a live chat on 22 July 2020, Ladbrokes offered to send a statement to the complainant, which was actioned via email some 10 minutes later; and
 - during the live chat, the complainant was incorrectly informed that the deposits made into the account since it was re-opened on 25 October 2019 were \$62,108.95 whereas this figure was actually the total of all deposits made during the lifetime of the account up until the time of the live chat.

Identifying Gamblers at Risk

13. The Commission considers that it is important that the adverse impacts of gambling are taken seriously and that licensees have in place effective processes to interact with those of its customers who may be at risk of experiencing harm from their gambling activity. Both the Act and all Northern Territory licensed sports bookmakers' licence conditions require that licensees are to comply with the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (the 2019 Code) which was approved by the Commission on 26 May 2019. The 2019 Code provides practical guidance to licensees on responsible gambling practices that are to be implemented so as to minimise the harm that may be caused by online gambling.
14. The 2019 Code at clause 3.2, mandates that as soon as a licensee identifies that a user may be at risk of harm due to their gambling activities, the licensee must interact with the customer in a way that will minimise that risk. The Commission is of the view that this interaction must occur quickly and be proportionate to the risk identified, with the aim of the interaction being to assist the user to reflect on their gambling behaviour and to moderate their gambling activity where there is reason to do so.

15. The Commission has reviewed the complainant's betting account activity, sighted over 80 live chat records between the complainant and Ladbrokes and listened to over 70 telephone calls between the complainant and Ladbrokes during the course of its investigation of this gambling dispute.
16. In relation to the conversation that the complainant had with Ladbrokes on 18 October 2019 which resulted in the complainant requesting that her betting account with Ladbrokes be closed, the telephone call commenced with the complainant asking whether there were any loyalty bonuses available for her on her account. After being told by the Ladbrokes' representative that there wasn't any bonuses that he could apply to the complainant's account that afternoon, the complainant stated that there hadn't been any bonuses available for a while and that she had lost more than \$20,000 with Ladbrokes. The Ladbrokes' representative advised that "...he was sorry about that..." and that bonus bets were not dependant upon turnover but on other factors such as the promotional budget available and if there are promotional offers on the website, there is less likely to be deposit matches available.
17. The complainant then asked when she should call back as she said that she had been told the day before to call back that day. The complainant was advised that the offering of bonuses was done on a day to day basis and she was more than welcome to call back whenever she wanted but if there wasn't a bonus available at that time, then it is likely there wouldn't be one available later in the day. When the complainant queried whether bonuses were offered based on loss, turnover or high value playing and was told that it wasn't, the complainant asked the Ladbrokes' representative to again check whether there were any bonuses available for her account. The Ladbrokes' representative advised the complainant that he could not do that and in response, the complainant asked for her betting account to be closed. The Ladbrokes' representative then asked the complainant whether the closure of the account was "...just on the basis of the deposit match...", to which the complainant advised that it was.
18. After being told that her account was now closed, the complainant asked the Ladbrokes' representative whether he could:

...escalate that as well, like I've lost you know, a, a significant amount of money with Ladbrokes and its sort of running for a week and ordinarily there's a, you know there's a reasonable sort of give and take in terms of how much is deposited and ummm, this is not your fault but how much is deposited and also like, what the percentage turnover is and other bookies are normally pretty happy to accommodate so, ummm...
19. In response the Ladbroke's representative advised that he was not sure of what the other bookmakers do but that if there wasn't a bonus offer on the account then there simply wasn't a bonus available as it was just a rewards system. The complainant acknowledged the response and terminated the telephone call.
20. The 2019 Code at clause 2.2, requires that licensees are to ensure that they record in a 'Gambling Incident Register' all actions taken by staff in assisting customers in accordance with the 2019 Code. When asked whether a record of the 18 October 2019 telephone call was made in the Gambling Incident Register, Ladbrokes advised the Commission that no record had been made for that date.

21. Ladbrokes has submitted to the Commission that it “...*had no reason to suspect that [the complainant] had a problem with gambling from this call as she did not disclose or indicate this, nor did she ask for her account to be closed permanently or to be self-excluded.*”
22. On 24 October 2019, the complainant telephoned Ladbrokes and asked whether her account could be re-opened. After being put on hold for a short period of time, the Ladbrokes representative advised the complainant that he had re-opened her account. Upon being told this, the complainant immediately requested whether there were any bonuses available to which the Ladbrokes representative advised that there were no bonuses available upon re-opening of an account.
23. While in the Commission’s view, the predominant focus for the complainant during her contact with Ladbrokes on 18 October 2019 was in relation to obtaining bonus offers, she did make mention on several occasions that she had experienced significant losses through her gambling activity and asked for her telephone call to be escalated (which does not appear to have happened). In the Commission’s view, it is therefore arguable that had these aspects of her conversation been recorded in the Gambling Incident Register at the time of the account closure, some inquiries may have been made by Ladbrokes when the complainant contacted them to re-open her account. While it is likely that the betting account would still have been re-opened, it is also likely that Ladbrokes would have reminded the complainant of the responsible gambling tools (such as setting deposit and/or time limits and using time-outs) that are available to its customers to help them keep their gambling under control.

October 2019 - July 2020

24. The complainant has stated to the Commission that over the following eight months after her account was re-opened on 24 October 2019, she deposited between \$60,000 to \$90,000 into the betting account (including deposits over a three day period between 19 July 2020 and 21 July 2020 totalling \$6,400) using a variety of bank cards and accounts; and made daily requests to Ladbrokes for bonus bets and matched deposit bonuses. The complainant has advised that following her depositing (and subsequently losing) \$5,650 on 24 July 2020, she again requested that her betting account be closed.
25. The Commission notes that while the figures provided by the complainant as to how much she deposited are inaccurate (given that her betting records show that from the time of the complainant re-opening her account in October 2019 through to the lodgement of the gambling dispute on 23 July 2020, the complainant deposited \$25,254.19 and withdrew \$2,000), this may in some way be due to the confusion caused when the complainant was incorrectly advised by Ladbrokes during a live chat conversation on 22 July 2022, that she had made deposits into the account since its reopening of \$62,108.95 whereas this figure was actually the total of all deposits made during the lifetime of the account up until the time of the live chat.
26. Having reviewed the complainant’s betting account records, the Commission notes that between January 2018 and October 2019, the complainant’s betting and deposit activity remained relatively consistent with the value of bets placed by the complainant ranging from \$3 to \$180.
27. Following the re-opening of the betting account on 24 October 2019, the complainant’s individual deposits over the next two and a half months tended to

range from \$15 to \$100 and total daily deposits remained under \$250 on any one day. The Commission also notes that during this period, the complainant's bet sizes remained consistent with her previous activity and the complainant took regular breaks from gambling including notably, not engaging in any gambling activity between 25 October 2019 and 9 November 2019, being a period directly after the betting account was re-opened.

28. It was not until 9 January 2020, that an increase in deposit activity occurred with the complainant depositing \$2,400 over a three day period. This period also saw an increase in the stakes of the bets placed, with both winning and losing bets of \$100 to \$200 being placed more frequently on 10 and 11 January 2020. The Commission notes that during this period the complainant opted not to make any withdrawals from her account despite that at regular periods during this timeframe, her account balance ranged from \$500 to \$1,150 - rather the complainant chose to re-invest her winnings into her gambling activity. This flurry of activity however, was also followed by the complainant taking a break from gambling between 15 and 25 January 2020.
29. The next significant gambling activity undertaken by the complainant was in mid April 2020 where she deposited \$3,484 over a four day period between 9 and 12 April 2020; and placed numerous winning and losing bets ranging in stake sizes of \$5 through to \$320. Again, the complainant elected not to make any withdrawals from her account during this period despite her account balance at various stages regularly being well above \$1,000 (including at one stage having a balance of \$2,178) due to the placement of successful bets. The complainant's betting records show that when the complainant had a successful run, she would use those winning funds to place bets with a larger value and when she was not as successful, she would place bets with a lower value.
30. Similar to what occurred in January 2020, following this burst of gambling activity the complainant's betting behaviour moderated and nothing of note occurred on the betting account until 19 July 2020, being several days before the complainant lodged her gambling dispute against Ladbrokes with the Commission. On this day, the complainant deposited \$5,080 through eight separate transactions, with those transactions consisting of one deposit of \$1,500, two deposits of \$1,000, two deposit of \$500 and several smaller transactions.
31. The complainant's betting activity on this day started with a single losing bet at 11:44 am of \$20.50, having used the balance of monies in her betting account to strike the bet. The complainant did not engage in any more betting activity until 3:05 pm when she deposited \$160 and commenced placing predominantly losing bets ranging in value between \$4 and \$40. When her account balance reached zero, the complainant deposited a further \$55 at 4:07 pm and then placed several more losing bets until her betting account again had a zero balance. At 4:13 pm the complainant deposited \$365 and commenced her betting activity, placing three bets with stakes of \$10, \$41 and \$99 prior to a deposit of \$500 at 4:16pm which took her account balance to \$741. The complainant placed several more bets resulting in her having an account balance of \$1,143 at 4:23pm.
32. For the next hour, the complainant placed numerous bet with stakes of up to \$243, the results of which at one point in time saw her account balance rising to \$1,596 but ultimately led to a zero balance. At 5:06 pm the complainant deposited \$500 and placed two losing bets of \$390 and \$110 respectively. She then deposited a further \$1,000 and placed bets of various sizes over the next 2 hours, reaching an all time

high account balance for the day of \$2,136 before betting this account balance away. At 7:52 pm, the complainant deposited a further \$1,000 and continued to place predominantly losing bets until 8:17 pm, at which time the complainant made a further deposit of \$1,500 and gambled for another hour reaching an account balance at one stage of \$1,583, before ceasing her betting activity for the day at 9:27 pm with a betting account balance of \$410.50.

33. As can be seen, the complainant's deposit activity on this day was at a higher level than any previous day however, it must also be noted that the complainant had multiple opportunities on this day to make withdrawals from her account when her account balance reached well over \$1,000 on numerous occasions due to a run of successful wagers. Rather than doing that though, the complainant opted to continue gambling with these winnings and when she suffered an unsuccessful run of bets, appears to have then opted to chase her losses through the depositing on further funds. It is also relevant to note that the complainant opted to cease gambling at 9:27 pm that night with a positive account balance.
34. On the following day being 20 July 2020, the complainant placed her first bet of the day at 9:23 am and continued to place bets ranging in value of \$10 through to \$140 over the next two hours until she reached an account balance of zero. At 11:32 am, the complainant deposited \$1,000 and after a run of predominantly unsuccessful bets ranging from \$30 to \$150 over the next three hours, deposited a further \$200 into her account at 2:29 pm when her account balance had again reached zero. The complainant then placed a bet with a stake of \$99 and received winnings to the value of \$722.70 to bring her account balance back up to over \$900 however, rather than making a withdrawal at this stage, the complainant again opted to use those winnings to place further bets which resulted at numerous stages of the complainant having over \$1,200 in her betting account. The complainant ceased betting at 10:34 pm with an account balance of \$458.
35. On 21 July 2020, the complainant commenced betting at 9:12 am and after a series of predominantly losing bets, made a further deposit into her betting account of \$299.87 at 11:11 am. The complainant then engaged in betting activity over the next 4 hours with a series of winning and losing bets which resulted in her often having an account balance of well over \$800, but ultimately led to an account balance of \$75. The complainant then made a further deposit of \$215 at 3:24 pm and continued to gamble until she had an account balance of zero at 8:49 pm albeit that her account balance during this period on numerous occasions had been well above \$400.
36. On 22 July 2020, the complainant has then placed a number of \$10 bonus bets, all of which were unsuccessful and then ceased gambling for the day.
37. On the following day being 23 July 2022, the complainant then lodged her gambling dispute with the Commission.
38. Of interest to the Commission is that despite having lodged her gambling dispute with the Commission raising her concerns that Ladbrokes had failed to identify that she was displaying behaviours indicative of a person who may be experiencing harms from her gambling activities, the complainant deposited \$450 into her betting account on 24 July 2020 and placed numerous bets rather than contacting Ladbrokes and requesting that her betting account be permanently closed. The complainant's betting activity on this day saw her account balance at various stages

rise to over \$900 and again the complainant did not make any withdrawals from her account when she had been successful with her betting activity. After again drawing down her betting account to a zero balance by the placement of unsuccessful bets, the complainant then made a further deposit of \$500 on the same day and continued to gamble, reaching an account balance of over \$2,200 during this period.

39. Given that the complainant lodged her gambling dispute on 23 July 2020, the Commission has determined not to review the complainant's betting activity with Ladbrokes after this date despite it continuing to 6 August 2020, given that an argument could easily be made that the complainant's actions after this date could be tainted by her desire to provide supporting evidence to the Commission of her claims again Ladbrokes as contained in her 23 July 2020 gambling dispute.
40. In the Commission's view, the period of activity between 19 and 21 July 2020 appears no different to the previous two short periods of deposit and betting activity that the complainant engaged in during January 2020 and April 2020 referred to earlier in this decision notice, apart from an increase in the total value of deposits made by several thousand dollars.

Bonus Bets

41. The Commission notes that the complainant has submitted she made daily requests for bonus bets and match deposits to which Ladbrokes has responded by submitting that the complainant did make regular requests for bonus bets however, these requests were not always granted nor did she display any behaviours when requesting these bonus bets that indicated that she may be experiencing harm from her gambling activity.
42. In this respect the Commission notes that Ladbrokes provided the Commission with some 70 phone calls and 82 Live Chats which occurred from October 2019, through to the account closure in August 2020. In each phone call and Live Chat, the complainant requested a loyalty or deposit match bonus.
43. With respect to the frequency of requests made by the complainant for a bonus bet or deposit match, the Commission notes that Ladbrokes regularly advised the complainant to contact them the following day to see if any further bonuses were available for her account, so it is not surprising to the Commission that the complainant followed this advice - which therefore resulted in regular requests being made by the complainant for bonus bets. In the Commission's view, this issue on its own cannot be considered to be of such sufficient nature to cause Ladbrokes to identify that the complainant may have been experiencing harm from her gambling activity.

Commission's Assessment

44. The Commission's role when dealing with a gambling dispute is not to simply rectify self-inflicted economic losses from gambling following the lodging of a gambling dispute with the Commission but rather, to make a finding as to whether the sports bookmaker acted in compliance with the Act, its licence conditions and the relevant Codes of Practice in place at the time.
45. It is also important to emphasise that an inherent risk that cannot be avoided in the activity of gambling, is a loss of money. The Courts have set a very high threshold of responsibility for the gambler as to their own actions and have suggested that

only in the most extreme cases of deliberate and gross conduct by the operator who has knowledge of the vulnerability of the problem gambler, that there would be any duty owed to prevent loss.

46. With this in mind, the Commission notes that betting activity is rarely linear or metronomic. As a result, there can be significant deviations in the amount deposited and wagered by the same sports bookmaker customer from one day to the next or one month to the next; as is also the case with the amounts won or lost by that same customer. Taking this in to consideration, the Commission is not of the view that the complainant's betting account activity with Ladbrokes between October 2019 and July 2020 was of such a sufficient nature to indicate to Ladbrokes that the complainant may be experiencing harms from her gambling activity.

Provision of Statements

47. The complainant has submitted that on 22 July 2020, she made two separate requests to Ladbrokes to provide her with a transaction statement for her betting account however, Ladbrokes failed to do so. Whereas Ladbrokes has submitted to the Commission that following the complainant requesting deposit information via a live chat on 22 July 2020, Ladbrokes offered to send a statement to the complainant, which was actioned via email some 10 minutes later.
48. The Commission has sighted the 22 July 2020 live chat and notes that it supports Ladbrokes' submission that a statement for the complainant's betting account with Ladbrokes was sent to her via email on 22 July 2020.

Decision

49. On the weight of the evidence before it, the Commission is satisfied that with respect to Ladbrokes dealings with the complainant during the period October 2019 to July 2020, there has been no breach of the Act, the 2019 Code nor of its licence conditions by Ladbrokes.
50. Given this, the Commission has determined that all bets struck on the account from October 2019 were lawful bets and as a result, is not of the view that any monies deposited by the complainant into the betting account from 24 October 2019 onwards should be returned to her.

Review of Decision

51. 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
Chairperson
Northern Territory Racing Commission

18 November 2022