

# NORTHERN TERRITORY RACING COMMISSION

## DECISION NOTICE AND REASONS FOR DECISION

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**MATTER:** Gambling Dispute for determination by the Northern Territory Racing Commission (pursuant to section 85(2) of the *Racing and Betting Act 1983*)

**COMPLAINANT:** Mr Z

**LICENSEES:** Neds.com.au Pty Ltd  
Entain Group Pty Ltd

**HEARD BEFORE:** Ms Cindy Bravos (Presiding Member)  
(on papers) Mr Kris Evans  
Mr James Pratt

**DATE OF DECISION:** 28 June 2023

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### DECISION

1. For the reasons set out below, the Northern Territory Racing Commission (**the Commission**) is satisfied that:
  - a. Neds.com.au Pty Ltd (**the Licensee**) has acted in compliance with the *Racing and Betting Act (1983)* (**the Act**), its licence conditions and the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (**the 2019 Code**) during its dealings with the Complainant between 30 July 2020 and 6 August 2020; and
  - b. that each bet placed by the Complainant while using a Neds betting account between 30 July 2020 and 6 August 2020 was a lawful bet and should stand as originally placed.

### REASONS

#### **Background**

2. The Commission granted a licence to Neds.com.au Pty Ltd in September 2017 to conduct the business of a sports bookmaker pursuant to section 90 of the Act.
3. In November 2018, Ladbrokes Digital Australia Pty Ltd (now Entain Group Pty Ltd) acquired Neds.com.au Pty Ltd, however the Neds wagering platform continued to be operated under the Neds.com.au Pty Ltd sports bookmaker licence until January 2019 when the Commission granted permission for the Neds wagering platform to be operated under the Entain Group Pty Ltd sports bookmaker licence.
4. While the Neds.com.au Pty Ltd sports bookmaker licence remained valid up until 10 September 2022, its sports bookmaker licence is now expired and as has been the case for previous Commission approvals of mergers and acquisitions of sports bookmakers licenced by the Commission, the acquiring licensee (most recently in this matter being Entain Group Pty Ltd) remains liable for any misconduct that occurred before the closing of the merger and/or acquisition of Neds.com.au Pty Ltd.

5. For ease of reference and given that the events complained of occurred while the Complainant interacted with the Licensee while using the Neds wagering platform, the Commission has determined to refer to the Licensee as **Neds** throughout this Decision Notice.

### **The Complaint**

6. On 11 August 2020, the Complainant lodged a dispute with the Commission in relation to his dealings with Neds. The Complainant has submitted to the Commission that he is a self-excluded customer of Neds however despite this, he was able to:
  - a. open a new betting account;
  - b. have his identity verified; and
  - c. deposit monies into a betting account with a bank card in a different name to the registered name of the betting account holder.
7. During the period that the Complainant's betting account was active being 30 July 2020 and 6 August 2020, the Complainant deposited \$5,636.11 into the betting account and subsequently lost this full amount due to his wagering activity.
8. The Complainant is seeking for the Commission to declare that each of the bets that he placed with Neds using the newly created betting account to be 'not lawful' and for Neds to return the monies to him that he had deposited into his Neds betting account from that same date until the account's closure on 6 August 2020.

### **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.

#### **Self-Exclusion**

10. Self-exclusion, in the context of online wagering, refers to a voluntary program or mechanism that allows an individual to restrict their ability to access online wagering services either temporarily or permanently. It is a proactive step taken by individuals who recognise that they want to take a break from wagering to regain control over their wagering behaviour.
11. The Commission, through the 2019 Code, has mandated that all sports bookmakers licensed by it must:
  - i. provide self-exclusion features on their wagering platforms that enable customers and non-customers with the ability to exclude themselves from accessing the licensee's wagering products either temporarily or permanently (clause 4.2(a)); and
  - ii. where a person requests they be permanently self-excluded for any reason or is permanently excluded by the licensee due to problem gambling concerns, the licensee must not knowingly permit that person to re-open or open a new account (clause 4.2(e)).

#### **Identity Verification**

12. Licensed online wagering operators in Australia must verify the identity of every customer who opens a wagering account. This regime is governed by the *Commonwealth Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)*, made under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. At the time of publishing this

Decision Notice, the timeframe in which a customer's identity must be verified is within a maximum 72 hours from the opening of a betting account whereas at the time the Complainant opened the betting account with Neds in July 2020, the timeframe was 14 days. During the intervening period between account opening and a customer's identity being verified, the customer may deposit monies and wager with the online wagering provider but is prohibited from withdrawing any winnings from the betting account.

13. Online wagering providers usually complete the identity verification process by cross checking the information provided by the customers with various government and non-government data sources such as (but not limited to) the Australian Electoral Roll, the Australian Government Documentation Verification Service (which enables checks of biographic information against government issued identity documents including birth certificates, driver licences, passports and visas) and credit history records. Generally, online wagering providers will outsource these verification checks to third party providers.
14. The Commission is of the view that the verification of the identity and the age of customers who open an online wagering account is a critical part of the array of measures to reduce harm from online wagering, particularly in relation to underage online wagering and vulnerable online wagering consumers who have had the foresight to self-exclude themselves from accessing an online wagering operator's service. Given this, the Commission has been advocating for a further reduction in the timeframe in which a customer's identity must be verified - from 72 hours to zero hours. Introducing a measure such as this at a national level in the Commission's view, would reduce the opportunity for a self-excluded person to access the services of any online wagering operator that they have excluded from (or been excluded by), thereby significantly reducing the opportunity for that person to wager and to be exposed to the possibility of financial harm being sustained through their online wagering activity (which in the Commission's experience can on occasion be quite significant in a 72 hour period).
15. While the Commission has recently strengthened its regulatory framework regarding identity verification by introducing a licence condition for all Northern Territory sports bookmakers and betting exchange operators that requires that they must immediately commence the customer verification process and diligently pursue completion of that process as soon as a new customer betting account is opened, the Commission is of the view that the quicker timeframe for verification of online wagering customers would still provide an appropriate balance between allowing legitimate online customers to engage in legal wagering activities and protecting vulnerable people from the potential harm associated with these activities.

### **Facts not in Dispute**

16. Having reviewed the various submissions to the Commission in relation to this matter from both the Complainant and Neds, the Commission notes that the following facts are not in dispute:
  - a. on 30 July 2020, the Complainant opened a new betting account with Neds (*Equifax IDMatrix Portal dated 30 July 2020*);
  - b. the Complainant was a self-excluded customer of Neds at the time the July 2020 betting account was opened (*emails from Entain to Commission Betting Inspector dated 3 September 2020 and 1 June 2021; Gambling Dispute lodged by Complainant dated 11 August 2020*); and
  - c. the Complainant deposited \$5,636.11 into the betting account (*email from Entain to Commission Betting Inspector dated 30 October 2020*).

## Issues in Dispute

### Betting account able to be opened while self-excluded

17. At the time the Complainant opened the betting account with Neds on 30 July 2020, the Complainant registered a number of identifying details that were altered from those that were used when the Complainant had registered the earlier Neds betting account that was subsequently closed as a self-excluded account. While some of the identification details used by the Complainant were only slightly altered, several identification details that the Complainant registered were significantly different to those that the Complainant had used to create the earlier betting account that was closed as a self-excluded account.
18. In order to verify the identity of the Complainant, Neds sent the details provided by the Complainant to register the 30 July 2020 betting account to its third-party identity verification provider which provided Neds with the advice that following a process of cross-checking the information provided by the Complainant against various government and non-government data sources, the Complainant's identity was verified. Neds has submitted to the Commission that the successful verification may have occurred due to the Complainant also using these same details with the organisations that its third-party identity verification provider cross-checked the identity data with however, the Commission notes that it has not been provided with any direct evidence to support this conclusion.
19. Having said that though, the Commission considers that Neds reliance on the outcome of the identity verification as provided by its third-party provider was reasonable in the circumstances given at this time, it had no reason to doubt the legitimacy of the information used by the Complainant to register his identity with it when he opened the July 2020 betting account.
20. That view necessarily however, brings the Commission to consider whether Neds has complied with clause 4.2(e) of the 2019 Code, in that did it knowingly permit the Complainant as a self-excluded customer to open a new betting account with it? In that respect, the Commission expects that each of its licensees will have effective systems and processes in place that prevent a self-excluded customer from opening or re-opening a betting account with it.
21. In this respect, the Commission having examined the matching parameters of the Neds' system is satisfied that Neds had a system in place that prevented a betting account from being opened if the information provided to it matched a certain combination of the identity details of its self-excluded customers (including any false details previously provided by that person). However, the system is unlikely to identify a person as having previously self-excluded if a number of the identity details provided at registration do not match those identity details recorded by Neds against the self-excluded person.
22. The Commission notes that in its experience, it is not unusual for a self-excluded customer to attempt to open a new betting account with an online wagering provider despite their self-exclusion status and being aware of the negative consequences of their wagering behaviour. Given this, the Commission has directed its consideration as to whether the Complainant has deliberately attempted to circumvent or bypass the self-exclusion system Neds had in place at the time he opened the July 2020 betting account.
23. With this in mind, the Commission notes that following the Complainant lodging a complaint directly with Neds regarding this matter and being advised by Neds that it was not Neds intention to refund any of the deposits he had made into the betting account, the Complainant proceeded to register a further betting account with Neds, again using altered identification details. Neds has advised the Commission that the Complainant was able to deposit \$70 into

this betting account before Neds identified that the account belonged to a self-excluded customer and closed the account.

24. The Commission also notes that the Complainant has a history of lodging complaints with the Commission of a similar nature as to the matter subject of this Decision Notice including a complaint lodged in March of this year against another licensee.
25. The Commission further notes that the Complainant has not availed himself of the opportunity for the Commission to facilitate a self-exclusion to be applied to him with all sports bookmakers and betting exchange operators licensed by the Commission.
26. Based on the weight of the evidence before it, the Commission is satisfied that in compliance with the 2019 Code, Neds did have an appropriate system in place that prevented a betting account from being opened if the information provided to it matched a certain combination of the identity details of a self-excluded customer. The actions of the Complainant in providing altered identification details to Neds when he opened the July 2020 betting account appears to the Commission to have been a deliberate attempt by the Complainant to circumvent that system.

Depositing of monies with a bank card in a different name to the account holder

27. The Complainant has also asserted that he was able to deposit funds into his Neds betting account using a bank card that did not match the identification details that he had registered with Neds. The Complainant advised the Commission that the bank card differed from the account name that he had registered, in that the surname on the bank card was slightly different to that of the account name that he had used when registering the July 2020 betting account.
28. The Commission notes that in an email to a Commission Betting Inspector dated 25 August 2020, the Complainant advised the Betting Inspector that the alternate spelling of his surname was a "...common occurrence in my life as I also identify as this due to my ... heritage."
29. The Complainant's statement above goes some way to support Neds' view as detailed at paragraph 18 above, that the third-party provided identity verification may have occurred due to the Complainant using these same details with the organisations that its third-party identity verification provider cross-checked the identity data with.
30. Given this, the Commission is not of the view that Neds' acceptance of the bank card used by the Complainant to deposit funds into the betting account was inappropriate.

**LAWFULNESS OF BETS**

31. The Complainant is seeking for the Commission to declare that each of the bets that he placed with Neds using the newly created betting account in July 2020 to be 'not lawful' and for Neds to return the monies to him that he had deposited into his Neds betting account from that same date until the account's closure on 6 August 2020.
32. As detailed in this Decision Notice, the Commission has found that there is no evidence before it to indicate that Neds' dealings with the Complainant between 30 July 2020 and 6 August 2020 were in contravention of the Act, its licence conditions or the 2019 Code. As such, the Commission has determined that each bet placed by the Complainant while using the July 2020 created betting account was a lawful bet and should stand as originally placed.

**NOTICE OF RIGHTS**

33. 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.



Cindy Bravos  
Presiding Member  
Northern Territory Racing Commission

28 June 2023

On behalf of Commissioners Bravos, Evans and Pratt