

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr M
Licensee:	Luxbet Pty Ltd
Proceedings:	Pursuant to Section 85(4) of the <i>Racing And Betting Act</i> – Referral of Dispute to Racing Commission for Determination
Heard Before:	Mr Andrew Maloney (Presiding Member)
(on papers)	Mr Jim McNally Mr David Loy
Date of Decision:	22 December 2016

Background

1. The client has alleged that the bookmaker:
 - has not exercised their duty of care by opening an account without question after it had been closed more than once;
 - upon reopening the account, provided him credit albeit after he requested it;
 - is admitting guilt or employing bullying tactics by now closing the account under self-exclusion;
 - has avoided resolving the issues initially enquired, “...not being able to withdraw and subsequently having no option but to punt the amount in my account, then being rejected before start time of a winning bet”; and
 - has not allowed cash withdrawal, “...due to desktop site blocking”.
2. The client claims that he is not “submitting this (dispute) application due to sour grapes or to recoup lost gambling money”, however submits it is due to the bookmaker “...shirking their responsibilities and they should be held accountable”.

Facts of the Matter

3. Upon receipt of the complaint on 13 July 2016 the matter was fully investigated by a Compliance Officer from Licensing NT.
4. On 12 July 2016, Luxbet Pty Ltd (Luxbet) credited Mr M’s account with a bonus bet. Clause 4.3(d) of the Luxbet Bonus Bet Terms and Conditions states that the bonus bet must be turned over and the bonus winnings must also be turned over (that is, wagered in a single bet or multiple bets) at odds of \$1.50 or greater:
 - Mr M claims to have queried this restriction with Luxbet, however he has yet to as not provide the email as evidence.
5. On 12 July 2016, Luxbet Customer Service wrote to Mr M, stated Mr M’s total figures (lifetime to date | \$184,600 in turnover with \$30,961 loss), and pronounces, “in line with Responsible Gambling obligations and also in light of your recent emails I just want to ensure you are gambling within your means?”:

- Mr M replied stating that Luxbet have not addressed his concerns from the weekend, nor have they addressed previous requests for self-exclusion.
 - Mr M informed Luxbet that he *“should be entitled to the \$1,100 from this weekend, plus the \$850 credit when couldn’t withdraw”* and states *“I will be satisfied with that outcome”*.
 - Mr M alerts Luxbet *“under self-exclusion laws I would be entitled to claim all monies lost since account reopened”, “however I will consider the matter closed upon resolution of the above amounts from the weekend”*.
6. On 12 July 2016, Luxbet Customer Service responded to Mr M; *“I have reviewed the call made to the Operator in which you have requested to Take a Break by temporarily closing the Account and found that there was no mention to Responsible Gambling or a request to Permanently self-exclude the Account when the Operator asked for a reason as to why the Account was being closed. Given the correspondence today I have Permanently Self Excluded the Account and you will no longer be able to place bets with Luxbet going forward”*:
- Mr M replied *“as mentioned early when I closed my account last I asked to be self-excluded. I was happy to have the issues sorted out from the weekend and call it satisfactory”*.
7. On 12 July 2016, Luxbet Customer Service reiterated to Mr M; *“Unfortunately I am unsure as to what resolution you are after, there has been a complaint made in regards to the Account not being self-excluded previously even though there was no request for Permanent closure or indication of problem gambling (I have reviewed the call from late 2015) so in light of today’s correspondence I have had to process Self Exclusion on the Account under Responsible Gambling guidelines”*.
8. Records were obtained from the Bookmaker including telephone transcripts relating to previous account openings and closings and it was ascertained that the following occurred:
- Opened: 16 February 2012
 - Closed: 3 December 2012
 - Opened: 9 February 2015
 - Closed: 29 November 2015
 - Opened: 4 March 2016
 - Closed: 12 July 2016 (self-excluded)
9. Evidence suggests that all requests to close the betting accounts by Mr M prior to 12 July 2016 contained no mention of problem gambling and/or self-exclusion.

Consideration of the Issues

Problem Gambling

10. The Racing Commission requires bookmakers to comply with the NT Code of Practice for Responsible Gambling (the “Code”) and considers breaches of the Code to be most serious in nature. The Code defines problem gambling as:

What is Responsible Gambling?

"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 service providers.

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.

11. Please note as the allegations "*when I closed my account last I asked to be self-excluded*" is from November 2015 references to the Code are for the former Code which was replaced on 1 March 2016.
12. The Code also prescribes what actions must be taken to allow patrons to self-exclude:

4. Exclusion of Problem Gamblers

Gambling providers are to provide patrons who feel they are developing a problem with gambling, with the option of excluding themselves from the gambling venue or site.

4.1 Patron Responsibility

Gambling patrons will be encouraged to take responsibility for their gambling activity. Gambling providers are to provide patrons who feel they are developing a problem with gambling with the option of excluding themselves from the gambling venue or site.

4.2 Self-Exclusion Procedures

A generic form of self-exclusion has been developed for use by Northern Territory gambling providers, (Note: casinos have specific provisions in place). Procedures with clear, supporting documentation are to be implemented and application forms for self-exclusion must be available at Reception, within the gambling area, adjacent to the gambling products or/and on the website.

For Internet/Telephone Sports Bookmakers and Online Gaming Licensees: Appropriate self-exclusion facilities and procedures are to be developed and implemented.

4.3 Completed Self-Exclusion Forms

Management and/or security staff of the gambling provider to be supplied with the completed self-exclusion forms together with, where appropriate, a photo of the relevant person. These forms will include the stated wish of the patron to be reminded of their desire to be excluded from the specified gambling provider. Details will also be entered in the Responsible Gambling Incident Register.

4.4 Counselling Contact Information

Gambling providers are to offer customers who seek self-exclusion and/or express a concern that they have a gambling problem, contact information for appropriate counselling agencies.

For Internet/Telephone Sports Bookmakers and Online Gaming Licensees. The website is to operate such that the submission of a completed self-exclusion triggers technical responses that block access by the player to the site, and this action is written to the audit log for the system.

4.5 Self-Exclusion from Other Gambling Providers

Self-exclusion gambling customers are to be given support and encouragement in seeking self-exclusions from other gambling providers.

For Internet/Telephone Sports Bookmakers and Online Gaming Licensees: Self exclusion gambling customers are to be given support and encouragement in seeking self-exclusions from other Australian gambling providers.

4.6 Correspondence or Promotional Material

All gambling providers are not to send correspondence or promotional material to gambling customers who are excluded from their services or who request that this information not be sent to them.

Legislative Provisions

13. The *Racing and Betting Act* (the Act) provides for:

85 Legal proceedings in respect of bets

(1A) For the purposes of this section, a bet is not lawful if it is declared by the Commission, after an investigation in accordance with this section, to be not lawful.

(1) Subject to this section, a person may take proceedings for the recovery of moneys payable on a winning lawful bet, or for the recovery of moneys payable by a bettor on account of a lawful bet made and accepted.

(2) Where a dispute relating to lawful betting occurs between a bookmaker and a person, the dispute shall be referred by the bookmaker, and may be referred by the other party to the dispute, to the Commission.

(2A) Where it appears to the Commission, on the complaint of a person or of its own motion, that a sporting event (other than a horse race, trotting race or greyhound race) may not have been fairly or lawfully conducted or for any other reason the result of the event, either generally or in relation to a particular bet or class of bets, is not what would be legitimately expected if all steps in the proceedings of the event or the declaration of its result were honestly and fairly conducted or declared, the Commission may declare the event to constitute a dispute for the purposes of this section and declare any person to be a party to the dispute.

(3) Where a dispute has been referred under subsection (1) to the Commission or declared under subsection (2A), the Commission may:

(a) summon the parties to the dispute to appear and to give evidence before it;

(b) take evidence relating to the dispute from other persons; and

(c) require a party to the dispute to produce any books, accounts, tickets or other documents which, in the opinion of the Commission, ought to be examined in order to determine the dispute.

(4) The Commission shall hear and determine all disputes referred to it under this section.

Decision

14. In summary we make the following findings:

- There is no substantive evidence that Mr M wished to self-exclude with the Bookmaker prior to 12 July 2016.
- We believe the Bookmaker has taken all the necessary steps to self-exclude Mr M as soon as they became aware of his self-confessed problem gambling issue.
- We therefore consider the Bookmaker has no case to answer in respect of any Code of Conduct matter.



Andrew Maloney
Presiding Member

22 December 2016