

NORTHERN TERRITORY RACING COMMISSION

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 [aka Mr R]
LICENSEE:	Entain Group Pty Ltd (Ladbrokes)
HEARD BEFORE: (on papers)	Mr Alastair Shields Ms Kris Evans Ms Amy Corcoran
DATE OF DECISION:	3 November 2023

DECISION

1. For the reasons set out below, the Northern Territory Racing Commission (the **Commission**) has determined that:
 - a. Entain Group Pty Ltd (the **Licensee**) has acted in compliance with the *Racing and Betting Act 1983* (**the Act**), its sports bookmaker licence conditions and clauses, 2.3, 3 and 4.2(e) of the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (the **2019 Code**); and
 - b. given this, the Commission has determined that all bets struck by the Complainant on his second account are lawful bets pursuant to section 85(1A) of the Act and therefore no monies are refundable to the Complainant.

REASONS

Background

2. The Licensee is the holder of a sports bookmaker licence granted by the Commission pursuant to the Act and is authorised by the Commission to operate a number of wagering platforms under its sports bookmaker licence - being the wagering platforms known as Ladbrokes, Betstar, Bookmaker.com and Neds. The Licensee's current sports bookmaker licence expires in 2026.
3. Given that the Commission's investigation primarily focuses on the Licensee's dealings with the Complainant while interacting with the Ladbrokes wagering platform, the Commission will refer to the sports bookmaker as Ladbrokes throughout this decision notice.
4. In accordance with the Act and its sports bookmaker licence conditions, Ladbrokes is required to comply with the 2019 Code which came into effect on 26 May 2019. Through the 2019 Code and of relevance to this dispute, the Commission has mandated that all sports bookmakers licensed by it must "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))".

5. Also relevant to this complaint within the 2019 Code, the Commission requires:
 - a. online gambling providers must establish and promote mechanisms to recognise and resolve issues relating to customer problem gambling incidents (clause 2.3);
 - b. all staff engaged in customer interaction must have completed responsible gambling training so as to be able to identify problem gambling red flag behaviours (clause 3.1); and
 - c. 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 (clause 3.2).

First facilitated self-exclusion

6. The Commission, through its delegate Licensing NT, provides assistance to persons who wish to self-exclude from one or a number of online sports bookmakers or betting exchange operators. A person wishing to self-exclude must complete a template self-exclusion form and send it to Licensing NT along with their identification which is then distributed to all the relevant sports bookmakers or betting exchange operators which that person wishes to self-exclude.
7. On 18 May 2020, the Complainant emailed Licensing NT a completed self-exclusion form in an old format with the particulars of Mr C (**the C Alias**). The self-exclusion form requested permanent exclusion from eight (8) bookmakers including Ladbrokes but no identification was enclosed. On 19 May 2020, Licensing NT requested the Complainant email his identification to them in order to process the self-exclusion form and also provided the current version of the self-exclusion form asking him to re-populate that form.
8. The Complainant subsequently provided his identification however he did not complete and return the current version of the form. Licensing NT proceeded to facilitate the Complainant's self-exclusion and it was sent to all the nominated bookmakers.
9. On 20 May 2020, Ladbrokes acknowledged it had actioned the Complainant's self-exclusion request for Mr C.

Second facilitated self-exclusion

10. Just over three months later on 26 August 2020, the Complainant emailed a second self-exclusion (this time using the current version of the form provided to him on 19 May), requesting permanent exclusion from all sports bookmakers and betting exchange operators. This self-exclusion form was facilitated by Licensing NT.
11. On 27 August 2020, Ladbrokes acknowledged the receipt of this second self-exclusion.
12. It is noted that the template self-exclusion forms have been revised over time and in the current version of the self-exclusion form an 'alias' field was included. The Complainant provided the second alias of Mr R (**the R Alias**) and also enclosed identification documents for both the R Alias and C Alias. It is upon receipt of this information that Licensing NT itself became aware that Mr C and Mr R were the same person.

13. Both aliases as detailed on the form and based on identification documents, had the same first name and date of birth but had different surnames. Only the R Alias had a middle name.

The Complaint/s

14. On 27 August 2020, the Complainant lodged a complaint with the Commission in relation to his dealings with Ladbrokes. The Complainant has submitted to the Commission that he was knowingly permitted to gamble with Ladbrokes under a second alias despite being a self-excluded customer of Ladbrokes and specifically alleges Ladbrokes:
- a. knew of his two (2) identities and allowed him to gamble \$50,000 when he was self-excluded;
 - b. accepted deposits when his account was not verified and from a business credit card;
 - c. suddenly closed the account and banned him without explanation;
 - d. did not perform a welfare check; and
 - e. would not allow him to withdraw winnings yet he was allowed to deposit.
15. The Complainant is seeking for the Commission to declare that each of the bets that he placed with Ladbrokes using the second betting account to be 'not lawful' and for Ladbrokes to return the monies to him that he had deposited into that account.

Consideration of the Issues

16. 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

17. 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 online wagering to regain control over their wagering behaviour.
18. Having taken the steps to self-exclude from an online wagering operator, the person who has self-excluded has made a commitment to refrain from wagering with that operator. It is their responsibility to adhere to the self-exclusion agreement and avoid opening a new account or an attempt to bypass the self-exclusion restrictions that have been put in place.
19. However, it is also the responsibility of the online wagering operator to have effective systems and procedures in place to prevent self-excluded customers from opening new betting accounts. In accordance with the 2019 Code, the online wagering operator must ensure that it has sufficient systems to verify the identity of the customer and cross-reference against its self-exclusion database to ensure a self-excluded customer cannot open or re-open an account.
20. It is the Commission's view that ultimately, both the individual who has self-excluded and the online wagering operator share a responsibility for upholding the self-exclusion agreement and preventing the person from accessing online wagering services during any self-exclusion period.

First Ladbrokes Account

21. The Complainant had held an account with Ladbrokes under the verified identify of the Mr C Alias (**the Mr C Account**). Although this account had been closed previously by Ladbrokes'

management in 2016, Mr C was immediately recorded as self-excluded when Ladbrokes received the self-exclusion form from Licensing NT on 20 May 2020. For the purposes of this dispute, there are no allegations that the Mr C Account was not properly verified or that there was any wrongdoing by Ladbrokes in regards to the management of this first account.

Second Ladbrokes Account

22. On 18 July 2020, the Complainant opened a new account under a second alias, the R Alias (**the R Account**). The only identifying information that was the same between the C Account and the R Account was the Complainant's first name and his date of birth. All other information provided by the Complainant such as address, phone number and email address were different.
23. Ladbrokes stated that given the first name and date of birth were the only similarities between the accounts and there are *"no similarities between the two different surnames of 'C' and 'R'..."*, and submitted that it *"never encountered any 'link' between the persona of ['Mr C'] and ['Mr R'], nor should we have reasonably been expected to. [Mr C] never gave [us] any indication that he had an alias prior to 27 August 2020..."*
24. Conversely, the Complainant submits Ladbrokes knew Mr C and Mr R were one and the same person because it became aware of his Mr R alias from a credit check it had performed when it had litigated and obtained a judgement debt against him as Mr C. The Complainant is also of the belief he held a previous account in the name of Mr R on one of the Licensee's other online platforms, which also ended up in litigation and a judgement debt against him.
25. In response, Ladbrokes advised that in 2018 they were the respondent to an application for a civil dispute – minor debt to the Queensland Civil and Administrative Tribunal. Ladbrokes states that the applicant was Mr C with no reference to Mr R throughout that dispute. The matter was settled in 2018.
26. It is noted that four (4) accounts were open by the Complainant under the Mr R Alias across the four different betting platforms of the Licensee which included Ladbrokes and none of those accounts referenced any of the same identification information as that of Mr C except for the date of birth and first name.
27. It follows that there is no evidence before the Commission to substantiate the Complainant's allegation that Ladbrokes knew or should have reasonably known the Complainant used both the Mr C Alias and Mr R Alias. Both aliases had appropriate identification documents to substantiate them, only had a date of birth and first name in common and a third-party verification process for both aliases did not flag another.
28. On receipt of the second self-exclusion form on 27 August 2020, the Licensee updated their records across all platforms marking all accounts under the R Alias as self-excluded and cross-referencing both aliases.

Verification of account

29. The Complainant submits the R Account was not verified and the business credit card that he used should not have been allowed to transact on the account.
30. Ladbrokes provided evidence that the account was verified by a third party, GreenID, and verification occurred prior to the Complainant's first deposit and first wager. Based on the evidence before it, the Commission is of the view that the Complainant's allegation to the contrary is not substantiated.

Recognising Problem Gamblers / Welfare check / Business credit card

31. The 2019 Code requires bookmakers to establish and promote mechanisms to assist with problem gambling, to have trained staff to recognise problem gambling behaviours and take reasonable actions to assist or protect any flagged customers.
32. On review of the R Account statement, the Complainant deposited and wagered on 18 July and 19 July, with no activity after these dates. The following is an overview of depositing activity:
 - a. 18 July: 37 deposits plus 3 rejected deposits; and
 - a. 19 July: 10 deposits.
33. The Complainant's wagering activity of 18 July was identified by an officer of Ladbrokes' responsible gambling team on 19 July. The officer conducted a due diligence review which resulted in the Complainant being sent an email to highlight the management tools and informative resources available which may be used to assist the Complainant to keep their gambling under control.
34. The Complainant's wagering activity of 19 July also came to the attention of Ladbrokes' responsible gambling team on a report which was reviewed by Ladbrokes on 20 July. As the activity had not significantly changed from the day prior and a comprehensive email was sent the day prior, no further action was taken by that team.
35. However, on the same day (20 July), the Mr R Account came to the attention of Ladbrokes' security team and an officer telephoned the Complainant to satisfy itself of AML/CTF obligations and provide further information on deposit limits. During that call the Complainant:
 - b. confirmed he had made the "sizeable transactions" via a business credit card associated with a deregistered company in the name of [Mr R] Corporation Pty Ltd of which he is the sole director and shareholder. He advised he retained the card and continued to use it as his personal account;
 - c. advised he would provide a copy of the business card together with his identification (which was later received by the Bookmaker on 22 July 2020);
 - d. confirmed he was betting within his means; and
 - a. when asked for his source of income he responded "that's absolutely none of your business... if you don't want my business just close the account and I'll just go spend it elsewhere...".
36. After that conversation, Ladbrokes decided to suspend the account on 20 July 2020 given his refusal to provide the information requested. Then, on 31 July 2020, Ladbrokes closed the Mr R Account due to not receiving the information requested and the Complainant's conduct during their investigation.
37. On the receipt of the Complainant's second self-exclusion form on 27 August 2020 which disclosed the Mr R Alias, Ladbrokes marked Mr R as self-excluded and updated their records to reflect Mr C and Mr R were one and the same person.
38. It is the view of the Commission, that Ladbrokes complied with the 2019 Code by:

- a. flagging the Complainant's betting activity and emailing the Complainant to promote the tools which may assist in controlling gambling activity;
- b. detecting red flags in respect to gambling behaviour and the use of a business credit card and as a result appropriately telephoned the Complainant on the third day after the account was opened to discuss those flags with the Complainant; and
- c. after their telephone call, immediately suspending the account to consider the situation further which ultimately resulted in the account being closed. Although the account was not closed due to problem gambling at that point, Ladbrokes had enough concerns by the activity of the Complainant on the account and answers provided by the Complainant in their telephone call that resulted in the account being closed.

Withdrawal of Winnings

39. The Complainant submits that Ladbrokes would not allow him to withdraw winnings on the Mr R Account yet he was allowed to deposit. On review of the account statement, there is no evidence that the Complainant attempted to withdraw funds nor evidence of an alleged phone call whereby the Complainant states he requested to withdraw funds and was refused due to the account not being verified.

LAWFULNESS OF BETS

40. The Complainant is seeking for the Commission to declare that each of the bets that he placed with Ladbrokes using the second betting account, the Mr R Account, be 'not lawful' and for Ladbrokes to return the monies to him that he had deposited into this account from its creation.

41. The Commission places an extremely high level of importance on the obligations under the 2019 Code relating to recognising problem gamblers and self-exclusion provisions being enforced 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 (and or other) harm.

42. However, in the circumstances of this complaint, the Commission is of the view that Ladbrokes could not have reasonably known that the person behind the Mr C Account and Mr R Account was one and the same. The only similarities were the first name and date of birth and identification documents for both aliases had been verified. The Complainant did not declare that he had another alias when opening either account. Further and from the evidence, Ladbrokes did promote responsible gambling tools and detected red flags and had appropriate and reasonably interactions with the Complainant as a result.

43. The Commission has determined all of the Complainant's bets were therefore lawful bets.

NOTICE OF RIGHTS

44. 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

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Chair, Northern Territory Racing Commission

On behalf of Commissioners Shields, Evans and Corcoran