

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>)
COMPLAINANTS:	Mr J (Complainant 1) Mr T (Complainant 2) Mr S (Complainant 3) Mr M (Complainant 4) Mr C (Complainant 5) Mr A (Complainant 6) Ms E (Complainant 7)
LICENSEE:	Sportsbet Pty Ltd, trading as Sportsbet (Sportsbet)
HEARD BEFORE: (on papers)	Mr Alastair Shields (Presiding Member) Mr Kristopher Evans Ms Cindy Bravos
DATE OF DECISION:	28 November 2023

DECISION

1. For the reasons set out below, the Northern Territory Racing Commission (the **Commission**) is satisfied that Sportsbet Pty Ltd (trading as **Sportsbet**) has properly resulted each of the Complainants' wagers, in accordance with Sportsbet's relevant terms and conditions.
2. The Commission however recommends that Sportsbet promptly consider putting in place a mechanism whereby customers are able to view the specific terms and conditions that apply to their wagers after placing the wager, and for a reasonable period of time after the wagers have been settled.
3. The Commission notes that it is feasible that some or all of these disputes might not have been required to be determined by the Commission had the relevant terms and conditions been available for review, and if Sportsbet had closed the market in question at the time at which it was determined that it was apparent that wagers placed on the contingency could not win.
4. The Commission also recommends that Sportsbet undertake a review of the full suite of the Sportsbet terms and conditions as a priority, to ensure that they are comprehensive, easy to follow, up to date, and correct.
5. The Commission notes that betting on American elections provides a fertile source of disputes for the Commission consideration, and recommends that all NT licensed operators carefully

review the terms and conditions under which they offer bets on the upcoming American Presidential Elections.

REASONS

Background

6. The Commission has granted a licence to Sportsbet Pty Ltd to conduct the business of an online sports bookmaker pursuant to section 90 of the *Racing and Betting Act 1983* (the **Act**).
7. Pursuant to subsection 4(2) of the Act, the Commission has declared a number of contingencies to be “sporting events” for the purposes of the Act. One of the contingencies declared is “Political Elections”. Relying upon this declaration, Sportsbet offered a market on the 2022 US Senate Election (**the election**), in which 35 Senate seats were decided.
8. The market, subject of this dispute, allowed customers to wager on three separate outcomes, namely whether there would be:
 - a. a Republican majority;
 - b. a Democratic majority; or
 - c. no majority outcome,in the US Senate as a consequence of the outcomes of the election.
9. The information provided by Sportsbet on this market at the time that wagers were placed stated: “Settled on which party controls a majority of Senate seats as a result of the 2022 US Midterm Senate elections. 51 seats will be required for a majority. Independents/minor parties caucusing with another party will not count as a majority. All in betting”.
10. At 16.00 hours (ACST) on 9 November 2022, it became apparent that the Democrats were no longer able to secure 51 or more seats in the election, however Sportsbet continued to accept a total of 444 bets on a Democratic majority after that time, until 08.02 hours on 11 November 2022, when the market was taken down by Sportsbet.
11. The make-up of the US Senate following the election was ultimately 50 Republicans, 49 Democrats, and 1 Independent.
12. Sportsbet subsequently settled the market as a “no majority outcome”, on the basis that neither the Republican nor Democratic parties secured 51 or more seats in the election.
13. All bets on a Democratic majority made prior to 16.00 hours on 9 November 2022 were declared by Sportsbet to be losing bets, and all bets placed after that time were ultimately refunded to customers.
14. Between 20 November and 31 December 2022, a total of seven disputes were received from Sportsbet customers who had bet on a Democratic majority as a result of the election. Because each of the disputes is in respect of the same factual circumstances, the Commission has elected to deal with them in this single decision notice.

The Complaints

15. Complainant 1 placed four bets on a Democratic majority, one bet of \$71.00 at odds of 8:1 on 13 July 2022, and three further bets of \$49.00, \$50.00 and \$1.00, at odds of 12:1, 34:1, and 34:1 respectively, on 9 November 2022, at 15.03, 18.46, and 20.23 hours respectively. The first two bets were recorded as a loss, and the other two bets, which were placed after 16.00 hours on 9 November 2022, were voided and the stakes returned.
16. Complainant 2 placed one bet of \$50 on a Democratic majority at odds of 51:1 on 11 November 2022. This bet was refunded by Sportsbet on the basis that it was placed after the date at which a Democratic majority was not possible.
17. Complainant 3 placed one bet of \$50 on a Democratic majority at odds of 12:1 at 15.04 hours on 9 November 2022. The bet was resulted as a loss by Sportsbet.
18. Complainant 4 placed four bets on a Democratic Majority (1 bet of \$20 at odds of 10:1 was placed on 7 November 2022, and four bets on 9 November 2022 of \$10 at odds of 15:1 at 15.19 hours, \$20.20 at odds of 15:1 at 15.21 hours, \$10 at odds of 15:1 at 15.30 hours, and \$20.70 at odds of 51:1 at 21.57 hours). These bets were all recorded as losing bets, with the exception of the final bet of \$20.70, which was voided and the stake returned, because it was placed after 16.00 hours on 9 November 2022. On 13 November 2022, Complainant 4 placed a further bet of \$217 on the Republicans to win Georgia, which the complainant stated was in order to hedge what he thought were live bets on a Democratic Majority. This bet was ultimately a losing bet.
19. Complainant 5 placed a \$10 bet on a Democratic Majority at odds of 41:1 on 10 November 2022. This bet was voided by Sportsbet and the stake returned.
20. Complainant 6 placed three bets on a Democratic Majority, \$10 on 1 August at odds of 8:1, \$15 on November 9 at 15.26 hours at odds of 15:1, and \$10 on 10 November 2022 at odds of 67:1. The first two of these bets were resulted by Sportsbet as losing bets, and the final bet was voided by Sportsbet and the stake returned.
21. Complainant 7 lodged a dispute about a bet she placed on a Democratic Majority of \$50 on 10 November 2022 at odds of 51:1. She also raised a dispute on behalf of her husband, who also placed a bet of \$50 at odds of 50:1 on a Democratic Majority on 10 November 2022. Both of these bets were voided by Sportsbet and the stakes returned.

Consideration of the Issues

22. Pursuant to section 85(4) of the Act, the Commission determined to hear the dispute and make its determinations in the absence of the parties, based on the evidence before it.
23. As noted in many previous Commission decisions, all sports bookmakers licensed by the Commission are required to enunciate a comprehensive set of terms and conditions for wagering which both parties are bound by when an account is opened and each time a bet is struck. These terms and conditions operate to ensure legislative compliance and the commercial efficacy of the business model of a sports bookmaker.
24. The Commission has had the opportunity to review Sportsbet's terms and conditions that applied during the relevant period covered by the wagers, the subject of these disputes. Regrettably, they do not appear to have been drafted by someone for whom the ability to describe complex issues in plain language is a strength.

25. For the purposes of determining the relevant applicable terms and conditions that apply to the settlement of the wagers, it is necessary to have regard to three separate documents. The first, entitled “Sportsbet Rules, Terms and Conditions”, deals with matters such as the process for opening an account, identification requirements for customers, and general rules about the placement and settlement of bets. Rule 1.1.6 “Significant Events” provides that “[t]o the extent there is any inconsistency between these general terms and rules applying to a specific event or race, the following general terms will prevail”, which suggests that it is necessary to look elsewhere for rules applying to specific types or classes of wagers.
26. The second document, entitled “Sports & Novelties, Rules, Terms and Conditions” specifically provides that the terms in that document are incorporated into the first document listed above. This document sets out certain rules that apply to various types of wagers, such as wagers on the AFL, Basketball, Bandy, etc. There is a section of this document entitled “Elections”, although none of the general rules under that heading are relevant to the current disputes. There are also separate sub-headings for “Australia [sic] Politics”, “UK/European Politics” and “US Politics”, although none of the rules under the heading “US Politics” are relevant to the current disputes, because they only refer to the 2024 Presidential Elections. The Commission notes that under the “Australia [sic] Politics” heading, there is a rule that states “[a]dditional information or rules for markets may be advertised in the market’s blurb for the purposes of settlement”, but there is nothing similar specified for the other political markets.
27. The third relevant document is the information provided on the website and the Sportsbet App at the time customers placed a wager on the 2022 US Senate Election. The Commission understands that this information stated “[s]ettled on which party controls a majority of Senate seats as a result of the 2022 US Midterm Senate elections. 51 seats will be required for a majority. Independents/minor parties caucusing with another party will not count as a majority”. Unfortunately, this information was only available for review by customers up until the time that their bets were struck, and therefore customers who wished to query the settlement of their wagers were unable to review this particular term in order to make their own assessment of whether the wagers were settled correctly.
28. The Commission understands that this must have been frustrating for customers who, having placed a wager, are not able to view the specific terms and conditions that apply to that wager, either before or after the wager is settled. The Commission has some sympathy for Sportsbet customers in this regard, and recommends that Sportsbet promptly consider putting in place a mechanism whereby customers are able to view the specific terms and conditions after placing the bet, and for a reasonable period of time after bets have been settled.
29. To exacerbate matters, Sportsbet continued to accept wagers on a Democratic Majority after that contingency could not occur in the way described by the Sportsbet conditions. This no doubt added to the confusion experienced by customers who could no longer view the relevant terms and conditions, and who therefore may have concluded that the winning market must include independents who assist a political party in obtaining a majority. In at least one case, this led to a customer (Complainant 4) placing an additional bet of \$217 on a Republican win in the final determining election, in order to hedge what he thought were live bets on a Democratic Majority.
30. That said, the Commission is satisfied that the information stated above formed part of the applicable terms and conditions that applied to the relevant 2022 US Senate Election wagering market. It therefore follows that neither political party met the condition that 51 seats were secured following the election, and that wagers placed on this market were correctly settled as losing wagers. It was also appropriate that Sportsbet refunded wagers on a Democratic majority that were placed after the time that it was not possible for that result to occur.

31. The Commission has therefore determined that Sportsbet has correctly resulted each of the Complainants' wagers.
32. The Commission recommends that Sportsbet undertake a comprehensive review of its terms and conditions, having regard to the Commission's comments in this decision notice.

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.



Alastair Shields
Chairperson
Northern Territory Racing Commission

28 November 2023

On behalf of Commissioners Shields, Evans and Bravos