

# NORTHERN TERRITORY RACING AND WAGERING COMMISSION

## DECISION NOTICE AND REASONS FOR DECISION

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MATTER:	Gambling Dispute for determination by the Northern Territory Racing and Wagering Commission (pursuant to section 310(4) of the <i>Racing and Wagering Act 2024</i> and section 85(2) of the <i>Racing and Betting Act 1983</i> )
COMPLAINANT:	Mr Y
LICENSEE:	NTD Pty Ltd
HEARD BEFORE: (on papers)	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Mr Ian Curnow Ms Susan Kirkman Mr Scott Perrin Ms Rachael Shanahan
DATE OF DECISION:	23 May 2025

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### DECISION

- For the reasons set out below, the Northern Territory Racing and Wagering Commission (**Commission**) is satisfied that NTD Pty Ltd (**the Licensee**) has:
  - contravened condition 16 of its licence by not complying with clause 4.2(e) of the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (**2019 Code**) through allowing a self-excluded customer to open a new betting account.
- The Commission has determined that it is appropriate to take disciplinary action against the Licensee pursuant to section 80(1)(d) of the *Racing and Betting Act 1983* (**RBA**) for its contravention of condition 16 of its licence as follows:
  - a fine of 102 penalty units being 60% of the maximum penalty available, equating to \$17,952.
- The Commission has determined that pursuant to section 85(1A) of the RBA, that all bets placed by the Complainant after the opening of the new betting account are not lawful. In this respect, the Commission notes that the Licensee has now returned \$988 to the Complainant, being the total deposits that he had made into the betting account prior to its closure.

### REASONS

#### Background

#### The Licensee

- Under the licensing regime contained within the now repealed RBA, the Northern Territory Racing Commission (**former Commission**) granted a sports bookmaker licence to the Licensee

on 11 August 2022. Under that licence, the former Commission approved the Licensee to operate a wagering platform under the online branding of Betr.

5. On 6 June 2024, the former Commission gave its consent for licensing purposes for the Licensee to merge with another Northern Territory licensee being BlueBet Pty Ltd, with that merger taking effect on 1 July 2024. Approval was also granted for the Betr wagering platform to operate under the BlueBet licence following the completion of the merger.
6. While the Betr wagering platform is now operating under the BlueBet licence, the licence issued to the Licensee has not yet been surrendered and therefore, in accordance with the transitional arrangements contained within the *Racing and Wagering Act 2024 (RWA)*, the licence issued to NTD Pty Ltd under the repealed RBA continues in effect as a licence under the RWA until its expiry date of 10 August 2027.

### The Complaint

7. On 19 June 2024, the Complainant lodged three online complaints with the former Commission about his dealings with the Licensee. In those complaints, the Complainant alleged that the Licensee:
  - i. allowed him to open a new betting account with it even though he had previously self-excluded himself from using its online wagering services;
  - ii. allowed him to deposit \$988 into the opened account and undertake wagering activities; and
  - iii. did not provide him with an activity statement upon request.

### Commission Hearing

8. In accordance with the transitional arrangements contained at subsection 310(4) of the RWA, any matters under consideration of the former Commission that were not determined under the now repealed RBA before the commencement of the RWA are to be determined by the Commission in accordance with the repealed RBA as if it was not repealed.
9. The complaints subject of this Decision Notice were lodged on 19 June 2024 and had not yet been determined by the former Commission prior to the commencement of the RWA. Given this and in accordance with the transitional arrangements under the RWA, the Commission has determined to hear the disputes and make its determinations pursuant to subsection 85(4) of the RBA.
10. The hearing of the disputes has been conducted in the absence of the parties, based on the evidence before the Commission. That evidence includes submissions to the Commission and the former Commission by both the Complainant and the Licensee, as well as additional evidence obtained on behalf of the former Commission by the former Commission's betting inspectors.
11. In accordance with the principles of natural justice, and to ensure that all relevant information and evidence was before the Commission for its consideration prior to the making of its final determinations, a draft of the Commission's preliminary findings was supplied to both parties for comment. In response, the Complainant advised the Commission that he had no further comment or submissions to make. The Licensee did make a number of submissions to those preliminary findings, which have been considered by the Commission during the finalisation of this Decision Notice and referred to where appropriate.

## Consideration of the Issues

### Self-Exclusion

12. Self-exclusion is a responsible gambling tool that assists customers to self-exclude themselves from their betting account either for a set period of time or permanently. Once a timeframe has been selected it should not be possible for the account to be re-activated for any reason until the set period has expired.
13. As set out at Clause 4.2(e) of the 2019 Code, which came into effect on 26 May 2019 and was approved by the former Commission to provide guidance to licensees on responsible gambling practices:

*Where a person requests that they be permanently self-excluded for any reason or is permanently excluded by the online gambling provider due to problem-gambling concerns, the online gambling provider must not knowingly permit that person to re-open or open a new account.*

14. Licence conditions attached for all sports bookmaker licences granted by the former Commission required licensees to comply with any Codes of Practice, including the 2019 Code.

### Account Activity

15. The Complainant first opened a betting account with the Licensee on 15 October 2022 and subsequently self-excluded himself from using that account on 21 November 2022.
16. On 15 April 2024, the Complainant attempted to open a new account with the Licensee however, due to the Complainant using a number of differing identification details when registering that account compared to those used for the closed self-excluded account, a new account was not opened.
17. On 19 June 2024, the Complainant again attempted to open a new account with Licensee however, on this occasion he was successful, after which he deposited and lost \$988 over a five-hour period of wagering.
18. Later that same day, the Complainant contacted the Licensee via its Live Chat facility and advised that he was a self-excluded customer and requested that the Licensee return the monies that he had deposited into the account. As a result of the Complainant's contact, the Licensee immediately suspended the Complainant's account but did not immediately return the monies that the Complainant had deposited into the account.
19. On 28 January 2025, the Complainant's deposits into the successfully opened new account were returned by the Licensee to the Complainant. While there was a seven-month delay in returning the deposits, the Licensee submitted that this was due to its privacy obligations, as it was unable to process the refund earlier because the Complainant had lodged his complaint, using an email address than did not match either of the email addresses associated with his registered accounts.

### Licensee Submissions

20. The Licensee has submitted to the Commission that the second time the Complainant attempted to open a new account with it, the attempt was unsuccessful as it failed the

customer identification process used by its third-party provider, primarily due to the Complainant submitting a date of birth that did not correlate with the Complainant's identity.

21. The Licensee further submitted that the Complainant was able to successfully open the new account on 19 June 2024 due to the Complainant using different identification details in each of the data matching fields excepting for those used in the last name and date of birth data fields.
22. Following the opening of that account, the Licensee advised that the Complainant sustained a loss of \$988 over a five-hour period and that within 14 minutes of the last bet that the Complainant placed, lodged his complaint with the former Commission.
23. The Licensee has advised the Commission that in its view, the Complainant has engaged in a deliberate and sustained effort to subvert the Licensee's self-exclusion controls with that conduct being in breach of clause 15.5 of its terms and conditions which state:

*If you are a self-excluded account holder, you must not attempt to open an account or place any bets with us (including with BlueBet). However if you open a duplicate account whilst self-excluded, you are in breach of our terms and you are fully liable for Your actions and for all activity and bets placed on Your account.*

24. The Licensee submitted that it did not knowingly permit the Complainant to access its services and that in its view, it is not reasonable to expect it to match identities based solely on the last name and date of birth as doing so would be highly inaccurate and generate a very large number of false positives for popular names such as Smith where this happens to share the same date of birth.
25. Additionally, in support of its argument that it did not 'knowingly permit' the Complainant to open a new account, the Licensee submitted that:

i. it had controls and processes in place:

- to prevent self-excluded customers from opening new accounts; and
- to review potential duplicate, fraudulent or self-excluded accounts such as accounts with partial matches;

ii. the Complainant:

- "...deliberately engaged in fraudulent conduct to circumvent [its] controls..." by "...obscuring his first name by adding his middle name into the first name field...";
- used a phone number, email address and a residential address that were "fraudulent" or "fake"; and
- engaged in a "...deliberate and calculated approach..." by submitting his passport as proof of his identity with the Licensee's third-party identity verification provider when his identity was not automatically verified by it, as a passport does not have any residential address and first and middle names are listed beside each other, and the Complainant had "...figured out how he could get around [the Licensee's] controls and still verify his identity...";

- iii. the Complainant's account was checked against BetStop - the national self-exclusion register, several times while the account was active, yet it did not return a match; and
- iv. it would have identified the Complainant's attempt to open the account had the Complainant entered his middle name in the middle name field during the registration process.

26. In relation to the Complainant not receiving an activity statement upon request, the Licensee has submitted that as the Complainant made contact with it to request the statement via an email address that was not associated with the betting account, due to privacy laws, it was not able to provide the requested information to that email address. The Licensee further submitted that it advised the Complainant of this, and requested that he make contact with it via the email address registered to the betting account however, the Complainant chose not to do so.

### Commission Assessment

27. The Commission has reviewed the registration details used by the Complainant to open both the first account and the second successfully opened account with the Licensee and notes that as submitted by the Licensee, several of the identifying details input by the Complainant did differ between the two registrations.

28. Of significant concern to the Commission however, is that several core identifying information data fields did match, being the last name and date of birth. In addition, the first name field also matched albeit that the first name field included the Complainant's correct middle name in addition to his first name when the second account was registered and subsequently opened.

29. In the Commission's view:

- i. the combination of last name, first name and date of birth are very reliable identifiers and if used for data matching, would be unlikely to result in a significant number of false positives;
- ii. even if the Complainant entered his middle name in addition to his first name in the first name field, an effective data matching system should be able to reconcile this with the other identifying data to recognise that it is likely the same person;
- iii. the Licensee's reliance on its third-party identity verification provider having verified the Complainant's identity was not, in itself, sufficient action to ensure that the Complainant was not recorded in its self-excluded customer records, especially given that:
  - the Complainant's identity was not automatically verified by the Licensee's third-party provider, and resulted in the necessity for a manual process to be undertaken; and
  - during that manual process, the Complainant provided his passport (being a highly reliable form of identification) and which contained the same last name, first name, middle name and date of birth as the self-exclusion records held by the Licensee for the Complainant.

30. It is also important to recognise that the Commission does not have access to the personal information used by participants to register with BetStop, the national self-exclusion register, nor has it confirmed whether the Complainant was registered with BetStop at the time of the events in question. While the Licensee has alleged that the Complainant may have circumvented BetStop's controls, which would indicate the Complainant's continued efforts to avoid detection, the Commission must assess the situation based on its own regulations to determine whether the Licensee was in breach of its obligations under the 2019 Code. In the Commission's view, although it fully supports the BetStop national self-exclusion register, the issue of whether the Complainant was registered with BetStop at that time, or whether the Licensee's checks with BetStop did not result in a match, is not directly relevant to determining whether the Licensee has breached its obligations under the 2019 Code.
31. The Commission acknowledges that managing attempts by self-excluded individuals to open duplicate accounts can be challenging however, it is imperative that online wagering operators maintain and continuously enhance their systems to prevent such occurrences. In the Commission's view, key identification details such as last name, first name and date of birth should form the backbone of any detection and prevention measures during the registration process.
32. Clause 4.2(e) of the 2019 Code, requires that *"...the online gambling provider must not knowingly permit that person to re-open or open a new account."*
33. The Licensee has submitted that it did not 'knowingly permit' the Complainant to open the second betting account with it, as the Complainant engaged *"...in fraudulent falsification of [his] identity information to bypass the [Licensee's] controls"*
34. With this in mind, the Commission is satisfied that the Licensee:
- i. did know that the Complainant was a self-excluded customer through its internal records following the Complainant's self-exclusion on 21 November 2022);
  - ii. did know, or should have known, that some self-excluded customers do attempt to open new accounts with variously altered identifying details, through
    - the Complainant's previous attempt to open a new account with it;
    - previously published Commission Decision Notices<sup>1</sup>;
    - media reports<sup>2</sup>; and
    - advice to Australian online wagering providers from the Australian Communications and Media Authority in relation to the national self-exclusion register<sup>3</sup>; and
  - iii. did permit the Complainant to open an account and engage in wagering activity as demonstrated by the fact that the Complainant was able to place numerous bets once the account was opened.

<sup>1</sup> Northern Territory Racing Commission Decisions prior to 1 July 2024 at <https://dth.nt.gov.au/boards-and-committees/racing-commission/racing-commission-hearings-and-decisions-previous-years>

<sup>2</sup> See Example Sydney Morning Herald (22 March 2024) – Problem gamblers find loophole in self-exclusion register at <https://www.smh.com.au/business/companies/problem-gamblers-find-loophole-in-self-exclusion-register-20240320-p5fdwz.html>

<sup>3</sup> Australian Communications and Media Authority (19 January 2024) – FAQs for wagering providers: BetStop – the National Self-Exclusion Register at <https://www.acma.gov.au/faqs-wagering-providers-betstop-national-self-exclusion-register>

35. With knowing the above, it is reasonable for the Commission to expect that the Licensee's cross matching processes against its own self-exclusion database should have been robust enough to prevent the Complainant from opening an account, particularly given that the Complainant used several core identifying information data fields that did match, being the last name, date of birth and first name, albeit that the first name field included the Complainant's middle name in addition to his first name. In the Commission's view, it is apparent that the Licensee's systems for verifying self-exclusion status, were simply not sufficient.
36. The Commission is satisfied that it was the Licensee's failure to properly identify the Complainant through its own account verification processes (including its reliance on its third-party identity verification provider) that led to the Complainant being able to open a second account with it.
37. In the Commission's view, the Licensee's failure was due to weaknesses in its own systems, rather than the Complainant's efforts, sophisticated or otherwise, to circumvent those systems.
38. Given this, the Commission is satisfied that pursuant to section 80(1)(d) of the RBA, the Licensee failed to comply with a condition of its licence that was in place at the time of the events subject to this Decision Notice occurring, specifically that it:
  - i. contravened condition 16 of its licence by not complying with clause 4.2(e) of the 2019 Code through allowing the Complainant who is a self-excluded customer, to open a new betting account.
39. With respect to the Complainant not receiving an activity statement upon request, the Commission is satisfied that the Licensee acted appropriately in not providing the requested information to an email address not associated with the Complainant's betting account.

## **DISCIPLINARY ACTION**

40. Disciplinary action available to be taken by the Commission under the RBA ranges from the issuing of a reprimand, imposing a fine not exceeding 170 penalty units or suspending or cancelling the sports bookmaker's licence.
41. In considering the disciplinary action to be taken, the Commission has taken into account that:
  - i. key personal identification data of the Complainant, including the last name, date of birth and first name (including the correct middle name in the same data field) matched the self-exclusion records held by the Licensee; and
  - ii. it was only through the Complainant self-reporting to the Licensee that he was a self-excluded customer, that action was taken to close the second betting account.
42. The Commission has also given due consideration to the following mitigating factors:
  - i. the conduct resulted from the Complainant's use (deliberate or otherwise) of some differing secondary identifying or contact details between the two account registrations; and
  - ii. the Licensee took immediate action to close the account when the Complainant advised it that he was a self-excluded customer.

43. The Commission has determined that it is appropriate in the circumstances to take disciplinary action against the Licensee pursuant to section(1)(d) of the RBA as follows:
- i. for its contravention of condition 16 of its licence, a fine of 102 penalty units being 60% of the maximum penalty available, equating to \$17,952 (2023/2024 financial year penalty unit value was \$176).

### **LAWFULNESS OF BETS**

44. Given the Commission's findings, the Commission has determined that pursuant to section 85(1A) of the RBA, that all bets placed by the Complainant following the opening of the betting account are not lawful.
45. Given this, in the Commission's view it is appropriate that the Licensee has now returned the total deposits of \$988 made into the betting account, to the Complainant.

### **NOTICE OF RIGHTS**

46. In accordance with the transitional arrangements contained at section 310(4) of the RWA, any matters under consideration of the former Commission that were not determined under the now repealed RBA before the commencement of the RWA are to be determined by the Commission in accordance with the repealed RBA as if it was not repealed.
47. Section 85(6) of the RBA provides that a determination by the Commission of a dispute referred to it pursuant to section 85 of the RBA shall be final and conclusive as to the matter in dispute.



Alastair Shields  
Chair  
Northern Territory Racing and Wagering Commission

On behalf of Commissioners Shields, Bravos, Curnow, Kirkman, Perrin and Shanahan