

# NORTHERN TERRITORY RACING COMMISSION

## Reasons for Decision

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<b>Complainant:</b>	<b>Mr K</b>
<b>Licensee:</b>	<b>NEDS.COM.AU</b>
<b>Proceedings:</b>	Pursuant to Section 85(4) of the <i>Racing and Betting Act 1983</i> - Referral of dispute to Racing Commission for determination
<b>Heard Before: (on papers)</b>	Mr Alastair Shields (Presiding Member) Ms Amy Corcoran Mr James Pratt
<b>Date of Decision:</b>	28 May 2021

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### Background

1. On 7 June 2018, pursuant to section 85(4) of the *Racing and Betting Act 1983* (the Act), the complainant lodged a dispute against the Licensee, to the effect that:
  - a. The Licensee allowed the complainant to cancel withdrawals from his account, even though his credit card was verified, and he had identified as a problem gambler; and
  - b. The Licensee provided him with a \$500 bonus bet on opening his account, notwithstanding that he is a Victorian resident and the Licensee is prohibited from providing bonus bets on opening an account to Victorian residents.
2. By way of response to the dispute, the Licensee has stated that:
  - a. Although the complainant requested that the Licensee prevent the complainant from reversing withdrawals from his account, the complainant did not identify as a problem gambler, and was advised that his request concerning the prevention of the reversal of withdrawals would be considered and a response provided on the following day; and
  - b. The complainant was not provided with a bonus bet for \$500 for opening his account, but was rather refused a request for such a bonus several times on the basis that he was a Victorian resident, and was eventually provided with five \$100 bonus bets as a gesture of goodwill, some 5 days after his account was opened.
3. Information was gathered from both parties by a Licensing NT officer appointed as a betting inspector by the Commission under the Act and provided to the Commission. The Commission determined to consider the dispute on the papers.

### Consideration of the Issues

4. It is not in dispute that the complainant was, at all material times, a Victorian resident. The complainant opened an account with the Licensee on 24 May 2018, depositing \$1000.00 and using a promotional code to claim a bonus bet. The complainant states that after raising the issue of a bonus bet for opening his account

and making a deposit with the Licensee, he was given the bonus bet, notwithstanding that it was unlawful for the Licensee to provide a bonus bet for signing up because he was a Victorian resident.

5. The records of a number of “live chat” conversations between the complainant and the Licensee during the period 26 – 31 May 2018 indicate that on six occasions during this period, the complainant requested a sign up bonus. On the first 2 of those occasions, the complainant was refused a sign up bonus, initially on the basis that he resided in Victoria and was ineligible for a bonus, and subsequently on the basis that his account had not been verified. On the third occasion, on, 29 May 2018 the complainant was successful in obtaining bonus bets to the value of \$500.00. The complainant states that this was a sign up bonus, and the Licensee states that the complainant was given five \$100.00 bonus bets as a goodwill gesture.
6. The live chat conversation on 29 May 2018 is set out in full below:

Tuesday, 29 May 2018, 15:37:34

Live chat with [REDACTED]

To: <support@neds.com>

#### Website Visitor Request

Requester email: [REDACTED]

Description: Welcome bonus

Website address: <https://www.neds.com.au/account/bonus-bets>

Location: Melbourne, VIC, Australia

Visitor environment: Browser: Safari (11.0)  
OS: Apple iOS-iPhone 11.3

Chat transcript:

(15:31:02) Visitor Welcome bonus  
 (15:31:13) Jason Can I confirm your Account Username and date of birth please?  
 (15:31:14) Jason Hello and Welcome to Neds, my name is [REDACTED]  
 (15:31:32) Visitor I used this promo code GETON500 when I opened my account and made deposits of \$500  
 (15:31:34) Visitor I am  
 (15:31:42) Visitor Still waiting for bonus  
 (15:31:59) Visitor [REDACTED]  
 (15:32:31) Jason Thank you. One moment please I will look into this for you now.  
 (15:35:21) Jason I've fixed that bonus up on the account for you now [REDACTED]  
 (15:35:24) Jason Was there anything else I could help you with today?  
 (15:35:42) Visitor No thanks  
 (15:35:53) Jason Best of luck. Thanks for using Live Chat.

*Live chat transcript times in Australia/Brisbane.*

7. It is evident from the live chat conversation reproduced above that the Licensee did not explain that the bonus bets awarded were a goodwill gesture, rather than a sign up bonus, however it is noted that the bonus bets were awarded five days after the account was opened.
8. On 31 May 2018, on two separate occasions, the complainant initiated live chat conversations and attempted to claim a \$250.00 sign up bonus using a different promotional code. Both requests were unsuccessful.
9. On 5 June 2018, the complainant telephoned the Licensee to request that the Licensee impose a restriction on his account to prevent him from cancelling any withdrawals after he had made a withdrawal request. The complainant states that during this telephone conversation, he indicated that he was a problem gambler, and was advised that such a restriction would be placed on his account the following day. Given the importance of this telephone call in determining the dispute, the recording of this call provided by the Licensee was transcribed by the Licensing NT Inspector, and it is set out below in full:

Transcript of call recording [REDACTED] **Call 05.06.2018**

This call is between the client and Chris, customer service officer with the bookmaker and is 01:36 in duration.

(B= Bookmaker, C = client).

- B: This is Chris, am I speaking with [REDACTED].
- C: Yes, umm, I just have one gentle question, I made a couple of withdrawals, do you have a service like if like I want to cancel my withdrawals I can't.
- B: You want to, if you want to cancel your withdrawal?
- C: Yes, if you, umm, I can't cancel my withdrawal, do you have a service like that?
- B: Yeah, you can cancel your withdrawal, you can cancel your withdrawal from your end
- C: No, No, I don't want to cancel my withdrawals, I just want to activate that service if possible, so that I'm not allowed to cancel my withdrawals.
- B: Ok, no worries, alright I will just put you on hold, is that Ok, yep?
- C: Yep.

00:47 – 01:17, client put on hold

- B: You there mate?
- C: Yes.
- B: Yep, we'll have to speak to management about that and see if we can um put something on your account so that you can't cancel withdrawals.
- C: umm.
- B: So someone will be in touch with you tomorrow, about that.
- C: OK no worries, thank you.
- B: No worries, thank you very much, thanks, bye.

Call is terminated

10. It is apparent from the transcript that, in spite of his assertion to the contrary, the complainant did not state that he was a problem gambler, nor did he make any statements that would indicate that he was concerned with his gambling activity, and although the operator stated that someone would be in touch with him the following day, the operator did not state that the requested restriction would be implemented the following day.
11. On 6 June 2018, the complainant initiated another live chat conversation, and requested a refund of \$4,900.00, which he said he would have withdrawn from his account had he been able to make withdrawals from his account, and which he had lost through his betting activities.
12. The Licensee stated that the reason that the complainant was not able to make withdrawals on 5 and 6 June 2018 was that the Licensee required a new credit card added to the account by the complainant to be verified before withdrawals could occur.

13. The Commission notes that the Licensee's terms and conditions allow the Licensee to prevent withdrawals pending verification of a client's credit card account. This is an important safeguard against unlawful money laundering activities. The relevant part of the terms and conditions is set out below:

*4.5.6 If you deposit funds into your Account by credit card, you will not be permitted to withdraw funds (either the original credit card deposit or any winnings derived from such credit card deposits) unless and until you have provided NEDS with sufficient evidence (as determined by NEDS in its sole discretion) to verify that you are the registered account holder of the credit card used to make such deposits (or alternatively, if you are not the registered cardholder, that you provide NEDS with evidence that the third party cardholder has authorised you to make such deposits using their credit card in accordance with Clause 4.3.4.3 above).*

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## **Decision**

14. The Commission is satisfied, on balance, that the complainant was not provided with a sign up bet, although the Licensee should have made it clearer to the complainant that the bonus bets provided were in the nature of a goodwill gesture rather than a sign up bonus, given that the offering of sign up bonuses was not allowable for residents from Victoria.
15. In terms of the complainant's dispute with the Licensee, nothing turns on whether the bonus bets were a sign up bonus or a goodwill gesture – even if the bonus bets could be categorised as a sign up bonus, that would not make unlawful any of the bets placed by the complainant or entitle him to any refund or payment from the bookmaker in respect of his bets. If they were a sign up bonus, then it would be up to the authorities in Victoria to decide on any enforcement action, and it would be a matter for the Commission to determine whether the Licensee was in breach of its obligation to comply with all applicable laws in force.
16. In terms of the complainant's request for a refund for \$4,900.00 which the complainant states he would have withdrawn, but for the freeze of withdrawals from his account, the Commission is satisfied that the Licensee was entitled to prevent withdrawals pending verification of the complainant's credit card, and is further satisfied that there was nothing in the complainant's telephone conversation or live chats that should have alerted the Licensee to any sort of gambling problem on the part of the complainant.
17. A request for a restriction on the cancellation of withdrawals, and the existence of a number of cancelled withdrawals themselves, may in some circumstances amount to red flag behaviour that should lead to a Licensee making enquires to seek to ascertain if the client is a problem gambler. The Commission however considers that in the circumstances of this case, there is nothing to indicate that the Licensee should have made such enquiries, particularly given the short period of time between the opening and closing of the complainant's account.

18. Accordingly the Commission has determined that the complainant's bets with the Licensee that are the subject of this dispute are valid bets, and that the complainant is not entitled to payment from the Licensee.

### **Review of Decision**

19. Section 85(6) of the Act provides that a determination by the Commission of a dispute referred to the Commission under the section shall be final and conclusive as to the matter in dispute.



**Alastair Shields**  
Chairperson  
Racing Commission

28 May 2021