

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr R
Licensee:	Hillside (Australia New Media) Pty Ltd trading as bet365
Proceedings:	Gambling Dispute for determination by Northern Territory Racing Commission (pursuant to section 85(2) of the <i>Racing and Betting Act 1983</i>)
Heard Before: (on papers)	Ms Amy Corcoran (Presiding Member) Mr James Pratt Mr Kris Evans
Date of Decision:	7 February 2022

Background

1. On 5 May 2020, pursuant to section 85(2) of the *Racing and Betting Act 1983* (**the Act**), the Complainant lodged a gambling dispute with the Northern Territory Racing Commission (**the Commission**) against the Northern Territory licensed sports bookmaker, Hillside (Australia New Media) Pty Ltd trading as bet365 (**bet365**).
2. The Complainant alleges that bet365 failed to recognise his red flag behaviours during his betting activity on 4 May 2020 stating:

“During the time period between 13:10pm and 16:33pm on the 4th May 2020 I made 11 consecutive deposits totalling to an amount of \$6,318.05. This was well over my usual deposit amount which is normally anywhere between \$50 - \$250 every 48 hours.”
3. The Complainant submits that the red flag behaviour he was demonstrating that day included:
 - a. gambling for an excessive amount of time;
 - b. a change to his gambling pattern;
 - c. deposited more frequently; and
 - d. the amounts of his deposits escalated.
4. The Complainant is seeking a refund of his deposits on 4 May 2020 totalling \$6,318.05.
5. Information was gathered from both parties by Licensing NT officers appointed as betting inspectors by the Commission and provided to the Commission, which determined that there was sufficient information before it to consider the gambling dispute on the papers.

Consideration of the Issues

6. For many people, gambling is harmless entertainment. The Commission however, recognises that this is not the case for all people who engage in gambling and that in some circumstances, some people are unable to control the urge to gamble despite knowing that it is having a negative impact on their lives.
7. All Northern Territory licensed sports bookmakers' licence conditions and the Act currently require licensees to comply with the *Northern Territory Code of Practice for Responsible Service of Online Gambling 2019* (**the 2019 Code**).

8. The 2019 Code came into effect on 26 May 2019, having replaced the *Northern Territory Code of Practice for Responsible Gambling 2016 (the 2016 Code)*, with both Codes providing guidance to online gambling providers on responsible gambling practices so as to minimise the harm that may be caused by online gambling.
9. It is well established that the Courts have set a very high threshold of responsibility for the gambler as to their own actions and that the duty to cease gambling remains with the individual gambler and not the gambling operator. It is suggested that only in the most extreme cases of deliberate and gross misconduct by the operator who has knowledge of the vulnerability of the problem gambler, that there would be any duty owed to prevent loss.

Account Activity

10. The Complainant opened an account with the bet365 on 8 April 2016, however the account remained inactive until the first deposit took place on 25 December 2019.
11. On 25 December 2019, the Complainant's account was fully verified prior to any activity taking place. The Complainant had a total of 7 days activity from 25 December 2019 to the closure of his account being a period of about 14 weeks.
12. Table 1 below provides a summary of the deposit activity for those 7 days and Table 2 provides a summary of the betting activity over those days. The Complainant's total net losses across the lifetime of the account was \$2,365.16.

Table 1: Deposit and withdrawal activity

Date	No of Deposits	Total Deposits (\$)	Largest Deposit (\$)	No of withdrawals	Total withdrawals (\$)
25/12/2019	1	\$50	\$50	0	0
26/12/2019	4	\$168	\$50	0	0
29/04/2020	2	\$750	\$400	0	0
30/04/2020	2	\$1,050	\$750	1	\$1,950
1/05/2020	3	\$1,600	\$900	1	\$6,500
2/05/2020	3	\$878.11	\$500	0	0
4/05/2020	11	\$6,318.05	\$1,000	0	0
Total	26	\$10,814.16	-	2	\$8,540

Table 2: Betting activity

Date	No of bets	Total Stakes (\$)	Average Stake (\$)	Largest Stake (\$)	No of returns	Total returns (\$)	Net position (\$)
25/12/2019	1	\$50	\$50	\$50	0	0	-\$50
26/12/2019	4	\$168	\$42	\$60	0	0	-\$168
29/04/2020	9	\$2,790	\$310	\$650	3	\$2,040	-\$750
30/04/2020	4	\$1,050	\$262.50	\$750	1	\$1,950	\$900
1/05/2020	44	\$19,210.68	\$436.60	\$1,650	26	\$24,110.68	\$4,899
2/05/2020	31	\$2,393.11	\$77.19	\$250	7	\$1,515	-\$878.11
4/05/2020	33	\$24,935.55	\$755.62	\$2,000	6	\$18,617.50	-\$6,318.05
Total	126	\$50,597.34	\$401.57	-	43	\$48,233.18	-\$2,365.16

Interactions with Complainant by bet365

13. In response to the Complainant's dispute, bet365 submits that:
- a. on 25 December, following the Complainant making his first deposit, a pop-up was prompted to the client for him to confirm if he was happy with his current deposit limit (no limit). The Complainant actively selected to keep his deposit limit set at no limit, which it remained at throughout the life of the account;
 - b. on 21 January 2020, bet365 emailed and sent a web message to the Complainant informing him of ways to ensure he remains in control of his gambling and also detailed the tools bet365 have available, including:
 - i. deposit limits;
 - ii. reality checks;
 - iii. time-outs;
 - iv. self-assessments,
 - v. self-exclusion; and
 - vi. website blocking;
 - c. on 30 March 2020, bet365 sent a further web message to the Complainant reminding him of the tools available, whilst also detailing a new feature available should he wish to take a short break from betting, called 'custom time-out';
 - d. on 30 April 2020, the Complainant contacted bet365 and requested a withdrawal of \$1,950. During that conversation the Complainant also asked if there were any offers available to him as a 'returning customer' after he had 'put a bit of money through in the last couple of days'. He was advised that there were no offers available to him at that time. At no point during the telephone conversation did the Complainant display signs of problem gambling; and
 - e. on 4 May 2020, on receipt of the email from the Complainant indicating he may have a "gambling problem / addiction", bet365 immediately suspended his account and permanently excluded his account the next day.

14. bet365 also submits that it has in place an early risk detection system which identifies a wide range of behaviours that may indicate problem gambling. Where a client is identified by the system, they proactively interact with the client through a range of methods. bet365 advise that at no point during the business relationship with the Complainant did he trigger their early risk detection system.
15. bet 365 has informed the Commission that upon initial registration in 2016, a default 'reality check' period of 8 hours was set on the Complainant's account and this remained unchanged throughout the lifetime of the business relationship. bet365 confirmed that on two occasions, being 26 December 2019 at 15:08 hours and 1 May 2020 at 14:55 hours, the Complainant met the 8 hour 'reality check' timeframe noting that this is based on login time and not continuous betting activity.
16. When a client reaches the reality check timeframe, a message is prompted and the client is required to select whether they wish to stay logged in or to log out before being able to continue to gamble. The client also has an option to review their account history, use a direct link to the 'Responsible Gambling' section or a direct link to 'Contact Us'. bet365 has confirmed that on both occasions the Complainant selected to remain logged into his account.
17. bet365 has confirmed that the Complainant never used the self-exclusion or time-out facilities on his account.

Red flag behaviours

18. The 2019 Code also requires that all sports bookmakers recognise and monitor "red flag behaviours" of its customers which may indicate the customer is experiencing problems with gambling.
19. With respect to the obligation that is imposed on all sports bookmakers regarding identifying red flag behaviours, the 2019 Code states among other things:

3.2 Recognising potential problem gamblers

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.

20. The Commission has detailed in the 2019 Code that problem gambling red flag behaviours may include, but are not limited to gambling for an extended period; changing gambling patterns; increase in deposit frequency; escalating sums of money deposited; thinking they can control outcomes or believes myths; accusing an online gambling provider of changing payouts or rigging systems; admissions of being drunk or under the influence of other drugs; exhibiting signs of distress such as crying or swearing; expressing guilt or remorse for gambling; verbally abusing staff; threats to property or staff; remarks that may indicate serious overspending; repeatedly commenting about family problems; showing concern about losses and payouts; indicating they need a break from gambling; repeatedly self-excluding from gambling and/or disclosing problems with gambling.

21. The indicia of problem gambling tend to be heterogeneous and so are the harms a person can suffer if they are experiencing issues associated with their gambling behaviour. Given this, the Commission has mandated that all sports bookmakers should provide appropriate training so as to ensure that all staff have a reasonable understanding of problem gambling and be aware of what signs might indicate which of their customers are experiencing difficulties.
22. In this case, the Complainant has submitted to the Commission that bet365 failed to identify that he was a problem gambler despite the fact he displayed red flag behaviours, including:
 - a. gambling for an excessive amount of time;
 - b. a change to his gambling pattern;
 - c. deposited more frequently; and
 - d. the amounts of his deposits escalated.
23. Based on the evidence before the Commission, the Complainant's betting behaviour would not have reasonably raised red flags to bet365 on 4 May or leading to that date. It is noted that the Complainant's betting activity on 1 May 2021 and 4 May 2021 was relatively similar in nature with the main anomaly being his success on the day. The Complainant was overall ahead on this account by almost \$5,800 on 1 May which he subsequently lost during his activity on 2 and 4 May.
24. The Commission is of the view that the Complainant has suffered from a case of gambler's remorse following a period of betting activity on 4 May during which he unsuccessfully chased his losses. It is the view of the Commission that the duty to cease gambling rested with the Complainant and not with bet365.

Decision

25. The Commission is authorised following an investigation to declare that a disputed bet is lawful or not lawful so far as the requirements of the Act are concerned.
26. In this matter, the Commission has determined that there is no evidence of non-compliance by bet365 with the Act or the 2019 Code. Accordingly, the bets struck by the Complainant with bet365 throughout the lifetime of his account were lawful bets pursuant to section 85(1A) of the Act as they were struck in accordance with the Act and relevant Codes of Practice. It follows that no outstanding monies are payable by bet365 to the Complainant.

Review of Decision

27. 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.



Amy Corcoran
Presiding Member
Northern Territory Racing Commission