

# NORTHERN TERRITORY RACING COMMISSION

## Reasons for Decision

---

<b>Licensee:</b>	NTD Pty Ltd trading as 'betr'
<b>Proceedings:</b>	Consideration of Disciplinary Action Pursuant to section 80(1)(d) of the <i>Racing and Betting Act</i>
<b>Heard Before: (on papers)</b>	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Ms Amy Corcoran Mr James Pratt Mr Kristopher Evans Ms Susan Kirkman
<b>Date of Decision:</b>	25 November 2022

---

### Background

1. On 5 October 2022, the Northern Territory Racing Commission (**the Commission**) granted a licence to NTD Pty Ltd trading as betr (**betr**) to conduct the business of a sports bookmaker, pursuant to section 90 of the *Racing and Betting Act* 1983 (**the Act**). betr did not accept its first wagers until 12 October 2022.
2. Licensing NT provides each new licensee with an electronic file containing the names and relevant details of each person who has requested to be self-excluded from all current and future licensed sports bookmakers in the Northern Territory and, from time to time, provides updates as additional persons self-exclude, for the purpose of putting in place measures to comply with the NT Code of Practice for Responsible Service of Online Gambling 2019 (**the 2019 Code**). These measures include preventing self-excluded persons from opening betting accounts and putting in place measures to ensure that such excluded persons do not receive correspondence or promotional material.
3. On 10 October 2022, the Commission received a complaint from a self-excluded person, Mr M, who stated that he had been contacted by an affiliate of betr, Mr L and a betr Relationship Manager, Mr W, on 5 and 10 October 2022 respectively for the purposes of inviting him to open an account with betr. Licensing NT confirmed that Mr M, on 4 October 2021, had sought to self-exclude on a permanent basis from all sports bookmakers in the Territory (including future licensees) and was processed accordingly. Commission records indicate that betr did receive a copy of the full list of self-excluded persons on 5 October 2022 which included Mr M's details.

### Consideration of the Issues

4. In response to the complaint received by Licensing NT, betr submitted that:
  - a. although betr were in possession of Mr M's self-exclusion notice, Mr L and Mr W did not have knowledge of this at the time of making contact with Mr M;

- b. Mr L and Mr W acquired the contact details of the relevant individuals through their previous employment and not a marketing list as they had told Mr M;
  - c. No further communication was sent to Mr M once he indicated he did not wish to receive the communication;
  - d. These communications took place between 5 and 10 October 2022 which was shortly prior to betr's launch, and before its customer database had finished being populated with and cross-checked by reference to all self-exclusion data provided by the Commission. More specifically:
    - i. on 5 October 2022, betr received access to the Commission's database and downloaded all self-exclusion forms which had been submitted to the Commission by individuals seeking to be self-excluded from all Northern Territory licensed sports bookmakers;
    - ii. the majority of the files (approximately 1,400) are hand-written PDF documents which then need to be manually transcribed and entered into their system. This process of manually entering data must be carefully undertaken to ensure that errors do not arise and is time-consuming; and
    - iii. the process of entering and actioning all of the self-exclusion requests to betr's systems was officially completed on 12 October 2022, prior to its launch;
  - e. On 10 October 2022, betr issued a direction to all of its affiliates that they and their personnel must refrain from contact with any customer until they have validated that a person is contactable (including that they have not been self-excluded).
5. Clause 8.9 of the 2019 Code provides as follows:
- 8.9 Direct marketing*
- (a) Online gambling providers must not send any direct marketing material to a person without their express consent to receive such material.
  - (b) ...
  - (c) Where a person either unsubscribes from receiving direct marketing material, self-excludes or closes their account, the online gambling provider must not send marketing material to that person at any time after 24 hours from the receipt of that request.
6. It is clear that the phone calls and text messages to Mr M were to directly target his custom and falls within direct the description of "direct marketing material" under clause 8.9.
7. The fact that Mr M did not open an account with betr and did not incur any losses is not relevant to this complaint. The fact that Mr M was a self-excluded person who should not be contacted directly by any Territory sports bookmaker, amounts to a breach of the 2019 Code.

## Decision

8. The Commission is satisfied that betr was in breach of clause 8.9 of the 2019 Code when it allowed Mr L and Mr W to contact Mr M being a self-excluded person and non-gambling customer of betr.
9. The Commission has therefore determined that betr did not comply with the 2019 Code and as a result, pursuant to section 80(1)(d) of the Act, has failed to comply with condition 16 of its licence.
10. Disciplinary actions available to the Commission for non-compliance with a condition of licence range from the issuing of a reprimand, imposing a fine not exceeding 170 penalty units, or suspending or cancelling the sports bookmaker's licence.
11. Notwithstanding betr had yet to commence trade when Mr M was contacted, betr was fully licensed and subject to all their regulatory obligations including licence conditions and the 2019 Code. Although betr is a new licensee, the management of betr including the Chief Executive and Head of Legal & Regulatory Affairs have been in the industry for many years holding similar positions within other Territory licensed bookmakers. The Commission is therefore very disappointed that, under their leadership, affiliates and employees were permitted to contact any persons without having ensured the process of entering all of Territory self-exclusions into the betr systems was completed.
12. In all of the circumstances, the Commission has determined to impose 75% of the maximum fine, that is 127.5 penalty units, which equates to \$20,655.
13. The Commission has also determined that given the serious nature of this breach, this decision will be published on the Commission's website so as to place all Northern Territory bookmakers on notice that the Commission treats such breaches very seriously.



Alastair Shields  
Chairperson  
Northern Territory Racing Commission

25 November 2022