

NORTHERN TERRITORY RACING AND WAGERING COMMISSION

DECISION NOTICE AND REASONS FOR DECISION

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 D
LICENSEE:	Hillside (Australia New Media) Pty Ltd (Bet365)
HEARD BEFORE: (on papers)	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Ms Susan Kirkman
DATE OF DECISION:	8 May 2025

DECISION

1. For the reasons set out below, the Northern Territory Racing and Wagering Commission (**Commission**) is satisfied that Hillside (Australia New Media) Pty Ltd (**Licensee**) has acted in accordance with the *Racing and Betting Act 1983 (RBA)*, the conditions of its sports bookmaker licence and the Code of Practice for Responsible Service of Online Gambling 2019 (**2019 Code**) during its dealings with the Complainant.
2. Given this, the Commission has determined that all bets struck while the Complainant held an account with the Licensee between 15 November 2019 and 4 August 2021, were lawful and that no monies should be returned by the Licensee to the Complainant.

REASONS

Background

The Licensee

3. The Licensee is currently authorised by the Commission to conduct the business of a sports bookmaker and in doing so, to operate an online wagering platform under the branding of Bet365.
4. The current sports bookmaker licence was granted by the former Northern Territory Racing Commission (**former Commission**) under the licensing regime contained within the now repealed RBA. In accordance with the transitional arrangements contained within the *Racing and Wagering Act 2024 (RWA)*, any licence issued under the repealed RBA that was valid immediately before the commencement of the RWA continues in effect on the commencement of the RWA as a licence under the RWA.
5. For ease of reference and given that the events complained of occurred while the Complainant interacted with the Licensee while using the Bet365 branded online wagering platform, the Commission has determined to refer to the Licensee as Bet365 throughout the remainder of this Decision Notice.

The Complaint

6. On 16 August 2021, the Complainant lodged a complaint with the former Commission about his dealings with Bet365. The Complainant alleged that Bet365:
 - i. allowed him to continue to wager even though he was displaying signs of experiencing harm from his wagering activity.
7. In submitting the complaint, the Complainant is seeking for Bet365 to refund the monies to him that he lost while wagering, particularly during the period 26 to 28 July 2021, being approximately \$34,000.

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 complaint subject of this Decision Notice was lodged on 16 August 2021 and had unfortunately 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 dispute and make its determinations pursuant to subsection 85(4) of the RBA.
10. The hearing of the dispute has been conducted in the absence of the parties, based on the evidence before the Commission. That evidence includes submissions to the former Commission by both the Complainant and Bet365, as well as additional evidence obtained on behalf of the former Commission by its betting inspectors.
11. In reviewing the conduct in question, it must be noted that the events complained of occurred some three to four years ago. Since this time, both regulatory and community expectations have evolved considerably however, the Commission notes that it is appropriate any findings that it makes should be grounded in the expectations and standards that were in place at the time the conduct occurred.
12. 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, Bet365 advised the Commission that it had no further comment or submissions to make. The Complainant 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

Codes of Practice

13. Licence conditions attached to all sports bookmaker licences granted by the Commission and the former Commission, require licensees to adhere to any Codes of Practice. The 2019 Code which came into effect on 26 May 2019, was approved by the former Commission to provide guidance on responsible gambling practices that were to be implemented by sports bookmakers to minimise the impact of any harms that may be caused by online gambling.

14. Under the transitional arrangements contained within the RWA at section 313, any codes of practice made under section 148A of the now repealed RBA and in effect immediately before the commencement of the RWA continue to apply as if they were adopted or established under the RWA.
15. Clause 3.2 of the 2019 Code requires wagering providers licensed by the Commission to identify red flag behaviours and to take appropriate action to address problem gambling. Specifically:

Clause 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.

Wagering Activity

16. Having reviewed the betting account records for the Complainant's wagering activity with Bet365, the Commission notes that the Complainant opened the betting account on 15 November 2019. During the nearly two years that the betting account was open, the Complainant deposited \$51,417.30 and withdrew just \$65.51, thereby sustaining losses of \$51,351.69 from his wagering activity with Bet365. During this period, the Complainant placed numerous bets, with total stakes over this period exceeding just over \$300,000.
17. Bet365 has submitted that following a review of the complaint, it is satisfied with the way in which it dealt with the Complainant's account from a responsible gambling perspective.
18. The Complainant however, has submitted that his wagering activity should have prompted Bet365 to identify that he was experiencing harm from his wagering activity as:
 - i. there was a significant increase in the amount of money he was depositing into the account alongside a significant increase in the frequency of the deposits;
 - ii. he lost \$38,000 in one month of which \$28,000 was lost during a 24-hour period; and
 - iii. he wagered for long periods, several days in a row.
19. The Complainant further submitted that Bet365 never prompted him to use or made him aware of any responsible gambling tools.
20. Upon reviewing the Complainant's betting activity, the Commission has observed that the Complainant's activity can be broken down into several distinct stages, each of which reflects different wagering behaviours and patterns.

Initial Activity (November 2019 to 9 June 2021)

21. While the Complainant opened the betting account in November 2019, the first deposit he made into the account occurred some seven months later in June 2020.
22. During the latter half of 2020 and the early part of 2021, the Complainant made frequent small deposits (typically \$10). The deposits were sporadic, usually several deposits per month. The amounts remained small and there were no large, sustained increases in the size or frequency of deposits.

23. At this stage, the Complainant's activity appears to be that of a recreational gambler. There was no indication of excessive wagering, nor were there any signs of problematic behaviours such as rapid increases in deposit amounts or high-frequency activity. At this point in time, the Commission is of the view that there were no red flags, and the Complainant appeared to be engaged in low-stake, recreational wagering.
24. The Commission also notes that during this period, Bet365 contacted the Complainant on two occasions – once via email on 15 November 2019 and once via both email and Web Message on 26 November 2020, to provide him with information about the responsible gambling tools that were available to be used by him, including deposit limits, time-outs, self-exclusions and responsible gambling self-assessments.

Gradual Increase in Deposit Activity (10 June 2021 to 14 June 2021)

25. Starting on 10 June 2021, the Complainant's deposit amounts began to escalate. There were several larger deposits (e.g. \$500, \$900) and multiple deposits on one day which was a marked shift from the small, sporadic deposits seen earlier.
26. This stage of the Complainant's wagering behaviour marks the first clear sign of potentially at-risk behaviour. In the Commission's view, this increase in deposit behaviour was a red flag from a responsible gambling perspective and as mandated by the 2019 Code, was identified by Bet365 and an appropriate customer interaction occurred.
27. In this respect, the Commission notes that upon noticing an increase in the Complainant's deposit activity (between 10 June and 14 June 2021 the Complainant had deposited \$6,067), Bet365 contacted the Complainant on 14 June 2021 via Web Message to highlight the change and to again inform the Complainant about the responsible gambling tools available to him. In the Commission's view, the action taken by Bet365 at this time was appropriate and met its regulatory responsibilities through its early intervention in response to potentially at-risk wagering behaviour.

Period of Escalating Wagering Behaviour (15 June 2021 to 25 July 2021)

28. After the Complainant was contacted on 14 June 2021 and reminded about the responsible gambling tools available, he ceased wagering for a few days. There is however, a noticeable increase in deposit amounts made into his account from late June through to 25 July 2021. While some deposits are moderate, the overall trend shows a substantial escalation, with large deposits and multiple deposits on single days (e.g., \$800 on 25 June, \$3,245 on 26 June including a single deposit of \$1,800, \$1,020 on 27 June and \$1,092 on 16 July).
29. In addition to the larger deposits, the Commission notes that the Complainant's wagering activity between 25 to 27 June 2021 also demonstrated concerning patterns. The Complainant placed numerous high-stakes bets throughout these days with wagers ranging from \$200 to \$1,400. Despite accumulating substantial losses, the Complainant continued to place large bets in what would appear to be attempts by him to recover these losses. The frequency and size of the bets, coupled with the rapid succession of gambling sessions, further suggests to the Commission that the Complainant was becoming increasingly caught in a cycle of escalating risk.
30. Given Bet365 had already contacted the Complainant about responsible gambling on 14 June 2021, the increase in deposit activity and the changes in his wagering patterns, particularly in late June should in the Commission's view, have triggered further monitoring and some form of interaction by Bet365 to ensure that the Complainant was gambling safely. Bet365 did not do so.

31. Bet365 has claimed that although there was no interaction, the account was monitored. If this was the case, then in the Commission's view given the increased deposit activity in late June, that monitoring was somewhat superficial given that it did not lead to Bet365 engaging further with the Complainant.
32. At this point in time, the Commission considers that Bet365 could have taken more proactive action through contacting the Complainant to discuss the increase in deposit activity and again remind him of the responsible gambling tools available. While it is quite possible that had contact been made, it may not have led to a change in the Complainant's wagering activity, this nonetheless represents a missed opportunity for Bet365 to have intervened more effectively. Despite the reminder about the responsible gambling tools available on 14 June 2021, the substantial increase in the Complainant's deposit activity and change in wagering patterns in the weeks that followed suggested a potential escalation in risk, which could have been addressed and may have helped mitigate any future harm or at least, provide the Complainant with a chance to reconsider his wagering behaviour before it escalated further.

Intensive Wagering Surge (26 July 2021 - 30 July 2021)

33. Commencing on 26 July 2021, the Complainant started to make deposits in high volumes of \$1,000 to \$3,000 in quick succession, with multiple deposits within the same day. Over these five days, the Complainant made the following deposits:
 - i. 26 July 2021, 10 deposits totalling \$9,984;
 - ii. 27 July 2021, five deposits totalling \$5,000;
 - iii. 28 July 2021, thirteen deposits totalling \$18,800;
 - iv. 29 July 2021, one deposit of \$1,000; and
 - v. 30 July 2021, three deposits totalling \$3,052.
34. This stage of the Complainant's wagering activity represents a concerning development given that large, frequent deposits can be an indicator of at-risk wagering and in the Commission's view, this rapid increase in deposit amounts, especially over a short period, is a clear red flag from a responsible gambling perspective.
35. On 27 July 2021, having identified a further increase in deposits, Bet365 reached out to the Complainant via Web Message. In this communication, Bet365 not only encouraged the Complainant to consider applying a deposit limit but also provided instructions on how to do so. In the Commission's view, this demonstrated an effort by Bet365 to ensure that the Complainant was aware of the available responsible gambling tools and that he was given appropriate information to make informed decisions.
36. On 28 July 2021 following the continued increased deposits, Bet365 initiated an internal manual review of the Complainant's account. As part of that internal procedure, the account was escalated to the Bet365 Due Diligence Team and activity on the account was suspended pending a responsible gambling review. In the Commission's view, the suspension was an appropriate precautionary measure taken by Bet365 that was aimed at ensuring that the Complainant's wagering behaviour was able to be properly assessed. The Commission notes that Bet365 also mandated at this time that the Complainant was to undertake a responsible gambling self-assessment.
37. On 29 July 2021, Bet365 contacted the Complainant by telephone. Bet365 has submitted to the Commission that during that call, the Complainant confirmed that he felt that he was in

control of his wagering and that the Complainant's answers did not raise any concerns. Bet365 further submitted that as the Complainant's explanation for the increased activity was deemed satisfactory, it determined it was appropriate to allow the Complainant the opportunity to continue to use the account with the caveat that he was to complete the responsible gambling self-assessment, which he did on the same day.

38. The Commission has listened to a recording of this call and notes that while Bet365 did proactively try to conduct a responsible gambling check with the Complainant, its actions in doing so in the Commission's view, can only be seen as meeting the minimum action required, falling well short of best practices. The Bet365 representative initiated the conversation with the Complainant, asking key questions about control, financial limits, and the impact on relationships – questions that are typically required as part of a responsible gambling check. However, these questions were somewhat superficial and didn't go far enough to explore the Complainant's frame of mind or gambling patterns. For example, the Complainant deposited over \$28,000 in a short period yet there was no deeper inquiry into whether this level of activity was sustainable or a healthy level of gambling. Without further exploration into the Complainant's behaviour, the Commission is of the view that Bet365 missed an opportunity to assess potential risks beyond what was directly stated by the Complainant.
39. While the Complainant repeatedly responded that he was in control of his gambling and that he was familiar with the responsible gambling tools available thus providing Bet365 with some reassurance that he was aware of his actions, the Bet365 representative did not fully explore the Complainant's frustrations that he raised regarding the cash-out option and account lockout in the context of their potential impact on the Complainant's wagering habits. For instance, while the Complainant's frustration was acknowledged, there was no attempt to connect this emotional response to any underlying wagering behaviours, such as chasing losses or escalating bets. This lack of deeper engagement with the Complainant in the Commission's view, shows that Bet365 missed an opportunity to fully explore whether the Complainant may be at risk of harm. Ultimately, while Bet365's actions met the basic requirements of the 2019 Code by reaching out and asking responsible gambling questions, they fell short of a more comprehensive and supportive approach. The decision to reopen the Complainant's betting account was based on the customer's assurances, without further safeguards or deeper exploration into the recent surge in activity. In the Commission's view, at this juncture Bet365 could have considered further measures to more effectively manage risk. In short, while Bet365 took the necessary steps to comply with basic regulatory requirements, a more cautious and thorough approach would have been better aligned with today's best practices in providing a safer gambling environment.
40. Bet365 has submitted that due to high level of activity on the account, the Bet365 Due Diligence team also initiated internal checks on the Complainant's source of funding and as a result on 30 July 2021, sent the Complainant an enhanced verification form for him to confirm some details about his income and finances. Bet365 followed up on 31 July and 1 August 2021 with two further telephone calls and additional emails/Web Messages, but the Complainant did not respond to any of these attempts - yet the account remained active.
41. On 4 August 2021, the Complainant contacted the Bet365 Customer Support team via email, raising concerns about the alleged mishandling of his account, including Bet365's failure to intervene despite the large deposits. The Complainant also mentioned raising a dispute with the former Commission.
42. In response to the Complainant's contact, Bet365 suspended the Complainant's betting account. Shortly after, the Complainant again contacted Bet365, requesting a permanent self-exclusion from Bet365, which Bet365 then actioned.

Terms and Conditions

43. When a customer opens a betting account with a wagering operator, they are legally agreeing to the terms and conditions set forth by the operator, regardless of whether they have read them or not. By completing the account registration process and accepting the operator's terms, the customer acknowledges that they are bound by these conditions.
44. In addition to submitting that it is satisfied with the way in which it handled the Complainant's account from a responsible gambling perspective, Bet365 has also submitted that it is relying on the following terms and conditions to not provide a refund to the Complainant on the bets he made and which it submits, it accepted in good faith:

A. INTRODUCTION

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7. bet365 is committed to providing excellent customer service. As part of that commitment, bet365 is committed to supporting responsible gambling. For further details, please click here. Although bet365 will use its reasonable endeavours to enforce its responsible gambling policies, bet365 does not accept any responsibility or liability if you nevertheless continue gambling and/or seek to use the Website with the intention of deliberately avoiding the relevant measures in place and/or bet365 is unable to enforce its measures/policies for reasons outside of bet365's reasonable control.

45. In the Commission's view, Bet365's reliance on this term and condition which states that Bet365 do not accept responsibility for gambling losses, even if customers deliberately avoid responsible gambling measures, may not be entirely appropriate in this case. The use of 'reasonable endeavours' implies the making of a reasonable effort to achieve a particular outcome or result, or in other words, the taking of appropriate steps that a reasonable person would consider given the circumstances, to meet the obligation. In today's landscape, this would include timely and meaningful interventions, particularly when a customer's behaviour escalates, as was the case here with increasing deposits in a short period and changes to wagering patterns.

Commission Assessment

46. Clause 3.2 of the 2019 Code states that a customer who displays red flag behaviours, such as repetitive or escalating gambling activity – should be monitored by the online gambling provider, with appropriate customer interaction to protect or assist the customer. The provider is also required to have responsible gambling policies and procedure in place to detect and address potential gambling problems.
47. After initially reminding the Complainant about the responsible gambling tools available on 14 June 2021, there was a noticeable increase in the Complainant's deposit activity, particularly with larger sums deposited in quick succession and changes to the Complainant's wagering patterns in late June 2021 that were indicative of a person who may have been chasing his losses. Given the significant escalation in wagering behaviour, it is the Commission's view that further engagement such as a follow-up by Bet365 with the Complainant to discuss the increase in deposits and changes in wagering patterns could have been beneficial.
48. While it is possible that further contact might not have immediately altered the Complainant's wagering behaviour, the missed opportunity for additional intervention highlights the gap between what was done and what might now in today's landscape, be considered best practice. The Commission notes however, that expectations around responsible gambling policies and customer engagement have evolved significantly since 2021. Today, the actions of Bet365 at that time may likely not meet current regulatory and community expectations, such as

expecting more proactive and frequent engagement in response to red flag behaviours, especially in cases of escalating wagering activity. It is the Commission's view that while Bet365's actions fell within the regulatory standards of the time, they would likely fall short of today's expectation for responsible gambling practices.

49. In the Commission's view, Bet365's actions regarding the Complainant's source of funding, which involved launching internal checks and requesting enhanced verification, were a necessary and responsible step. Following the escalation of the Complainant's account activity, including large deposits, Bet365 took appropriate action by conducting a responsible gambling check by telephone, albeit that this interaction could have been conducted more thoroughly, and initiating checks into the Complainant's financial background. However, despite the request for enhanced verification, Bet365's efforts to obtain the necessary information were met with little success as the Complainant did not respond to several follow-up attempts over a period of several days.
50. From a regulatory perspective, the Commission is of the view that Bet365 made a reasonable effort to contact the Complainant and secure the necessary verification details. However, the lack of response by the Complainant raises another critical point about whether Bet365 could have acted more decisively at this point in time. While the checks themselves were appropriate, the lack of escalation in response to non-compliance allowed the Complainant to be able to continue to use the betting account - which he did on 29 and 30 July 2021, although not to the same level of activity that led to the initial temporary suspension of the account. It was not until the Complainant himself raised concerns with Bet365 on 4 August 2021 that caused the account to again be suspended and then a permanent self-exclusion placed on it following the Complainant's request for that to be done.
51. Although Bet365 initiated the enhanced verification process on 30 July 2021, the failure to impose temporary restrictions or limit the Complainant's ability to deposit until the verification was completed allowed further wagering to occur unchecked. Even though Bet365 made multiple attempts to obtain the necessary information, it did not escalate the situation when the Complainant failed to respond and it was only most likely through good fortune that the Complainant came to recognise his own risk and took action to self-exclude himself, rather than best practice that the Complainant did not deposit and lose more money from 30 July 2021 onwards, than he did.
52. The Commission acknowledges that Bet365 did recognise the Complainant's red flag behaviour on several occasions and did take action to engage with the Complainant in a way that was designed to assist or protect him and that reasonably corresponded to the circumstances, as was required by the 2019 Code. This included, at times, suspending his account, and attempts to interact with the Complainant to offer support in response to signs of potential gambling harm.
53. However, upon closer examination, there were several key points during the Complainant's usage of his Bet365 account, where Bet365 could have taken more appropriate and timely action. These instances, particularly in late June 2021 and late July 2021 were crucial, as they represented opportunities where Bet365 could have further intervened to assess the Complainant's wagering behaviour, offer additional support, or take more robust steps to prevent harm. Despite the actions that were taken, it is the Commission's view that there were lapses in the level of engagement that would be expected under today's regulatory framework.
54. It is important to note that these actions, while meeting the minimum requirements set forth by the former Commission at that time, are now being viewed by the Commission through the lens of current standards and expectations. The events in question occurred nearly four years ago, at a time when identifying and responding to red flag behaviours may not have been as

rigorous or as clearly established as they are today. While it can be argued that Bet365's actions met the minimum requirements of the time, it is equally clear that had this situation occurred today, it is likely that the Commission would find that the actions taken by Bet365 would not have been deemed sufficient.

55. Bet365 has submitted that it does not share this same view, submitting that “[t]he 2019 Code was in place at the time of the complaint, and remains in place now, and as such the regulatory framework in that regard has not changed.”
56. The Commission disagrees. The regulatory framework in place at the time of enactment, in this case the 2019 Code, should in the Commission’s view be interpreted dynamically, recognising changing circumstances, and reflecting contemporary knowledge and societal standards, rather than being fixed to historical conditions.
57. Today, the expectations for online wagering providers have evolved to ensure that gambling-related harm is proactively identified and mitigated at the earliest opportunity. This includes not only recognising red flag behaviour but also responding to it in a more comprehensive and timely manner, with clear documentation and follow-up actions that demonstrate a genuine commitment to customer welfare.
58. It is the Commission’s view that while Bet365 did take some steps to address potential gambling harm and these steps did meet the minimum standards required in 2021, there were missed opportunities. The regulatory landscape has evolved, and the expectations for online wagering providers have become more rigorous in order to protect customers from the risks associated with online gambling.
59. The Complainant has submitted that describing Bet365’s actions as having met the “bare minimum” is a mischaracterisation of the facts, and argues that no meaningful intervention occurred until 28 July 2021, by which time he had already wagered a significant portion of his funds.
60. However, the Commission maintains its position that Bet365 did engage with the Complainant on 27 July 2021 through a Web Message that highlighted the availability of deposit limits and provided instructions on how to implement them. While the Complainant disputes the adequacy and timing of this intervention, the Commission considers this communication to be a legitimate and relevant response in line with the minimum requirements of the 2019 Code. Additionally, Bet365’s initiation of an internal manual review and subsequent suspension of the account on 28 July 2021 further supports the Commission’s finding that a staged and escalating approach was adopted by bet365.
61. While the Complainant is dissatisfied with Bet365’s pace and scope of action, the Commission does not agree that Bet365 “did absolutely nothing”, and finds that the measures taken, while minimal, satisfy the threshold for responsible gambling intervention under the regulatory framework in place at that time.

LAWFULNESS OF BETS

62. On the weight of evidence before it, the Commission is satisfied that Bet365 has acted in compliance with the RBA, the 2019 Code and the conditions attached to its sports bookmaker licence in line with the regulatory expectations that were required in 2021.
63. 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 during the lifetime of his Bet365 account were lawful.

NOTICE OF RIGHTS

64. 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.
65. 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 and Kirkman