

# NORTHERN TERRITORY RACING AND WAGERING COMMISSION

## DECISION NOTICE AND REASONS FOR DECISION

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<b>MATTER:</b>	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> )
<b>COMPLAINANT:</b>	Mr F
<b>LICENSEE:</b>	CrossBet Pty Ltd
<b>HEARD BEFORE: (on papers)</b>	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Mr Ian Curnow Ms Susan Kirkman Ms Rachael Shanahan

**DATE OF DECISION:** 22 July 2025

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### DECISION

1. For the reasons set out below, the Northern Territory Racing and Wagering Commission (**Commission**) is satisfied that CrossBet Pty Ltd (**the Licensee**) has:
  - i. 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.
2. 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:
  - i. a fine of 85 penalty units being 50% of the maximum penalty available under the RBA, equating to \$14,960 (2023/2024 financial year penalty unit value was \$176).
3. 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 second betting account are not lawful.
4. The Commission is therefore of the view that CrossBet should return the deposit of \$60 made into the betting account by the Complainant.

### REASONS

#### Background

##### The Licensee

5. 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 CrossBet.
6. 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former Northern Territory Racing Commission (**former Commission**) under the licensing regime contained within the now repealed RBA.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the transitional arrangements contained within the *Racing and Wagering Act 2024 (RWA)*, any licence issued under the repealed RBA that was valid immediately before the commencement of the RWA continues in effect on the commencement of the RWA as a licence under the RWA.
7. For ease of reference, the Commission has determined to refer to the Licensee as CrossBet throughout the remainder of this Decision Notice.

#### The Complaint

8. On 16 April 2024, the Complainant lodged an online complaint with the former Commission about his dealings with CrossBet. The Complainant alleged that CrossBet:
  - 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.

#### Commission Hearing

9. 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.
10. The complaint subject of this Decision Notice was lodged on 16 April 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 dispute and make its determinations pursuant to subsection 85(4) of the RBA.
11. 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 Commission and the former Commission by both the Complainant and CrossBet, as well as additional evidence obtained on behalf of the former Commission by its betting inspectors.
12. As a matter of procedural fairness to both CrossBet and the Complainant, a draft of the Commission's preliminary findings was supplied to both parties for comment. In response, CrossBet through its legal representative made a number of comments which have been taken into consideration by the Commission in finalising the Decision Notice. The Commission did not receive a response from the Complainant.

### **Consideration of the Issues**

#### Self-Exclusion

13. 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.

14. 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.

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

#### Account Activity

16. The Complainant first opened a betting account with CrossBet on 12 March 2021 and subsequently permanently self-excluded himself from using that account on 23 March 2021.
17. On 15 April 2024 at 8:41 p.m., the Complainant opened a new account with CrossBet after which he deposited \$60 into the account.
18. The Complainant then placed a series of predominantly losing wagers with the last of these wagers being placed at 10:56 p.m., the same evening. Once all wagers were finalised, the Complainant had a zero balance in the account and a net loss of \$60 for the day's wagering activity.
19. At 12:39 p.m., the following day, CrossBet identified the Complainant as a previously self-excluded customer and closed the Complainant's second betting account.

#### CrossBet Submissions

20. CrossBet has submitted to the Commission that the Complainant opened the second betting account:
- i. *"...with entirely different details to that of the pre-existing, self-excluded account...";* and
  - ii. outside of its responsible gambling team's operating hours.
21. In support of that submission, CrossBet has advised that there were variations in four key data matching fields, with that variation being sufficient to circumvent the automatic, initial checks undertaken by its third-party provider of its wagering technology.
22. CrossBet through its legal representative, also submitted to the Commission that the Complainant:
- i. *"altered sufficient details to avoid a system control that would have otherwise prevented [the Complainant] from being able to open the account";* and
  - ii. *"altered sufficient of his personal particulars to intentionally prevent CrossBet knowing that [the Complainant] was previously excluded."*
23. CrossBet further submitted that the Complainant was however, later identified as a self-excluded customer during its internal checks during which it manually checks all new customer accounts against previous accounts within 24 hours of opening.

### Commission Assessment

24. The Commission has reviewed the registration details used by the Complainant to open both the first and second accounts with CrossBet and notes that as submitted, several identifying details used by the Complainant do differ between the two registrations.
25. Of concern however, is that several core identifying information data fields did match, being last name, date of birth and physical address. In addition, the first name field also matched albeit that the first name field included the Complainant's middle name in addition to his first name when the second account was registered.
26. While the data input in the username, email and mobile phone fields did not match, the residential address used when registering both accounts did.
27. While it is somewhat commendable that CrossBet undertakes a manual check of all new customer accounts against previous accounts within 24 hours of opening and because of this process, did later identify that the Complainant was a self-excluded customer who had been able to open another betting account, the Commission cannot agree with the CrossBet submission that the Complainant opened the second account "*...with entirely different details to that of the pre-existing, self-excluded account...*"
28. 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 additional match of a physical address coupled with the combination of last name, first name and date of birth left little room for doubt that the second betting account was likely being opened by the same person who had previously self-excluded themselves from using CrossBet's online wagering services; and
  - iv. while successful in opening the second betting account, there is no evidence before the Commission that as submitted by CrossBet, the Complainant was aware of the system controls that CrossBet had in place and as a result, altered sufficient details to avoid that system or so as to intentionally prevent CrossBet from knowing that the Complainant was a previously self-excluded customer.
29. 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.*"
30. CrossBet has submitted that as the second betting account was opened outside of its responsible gambling team's operating hours of 8:00 a.m, to 8:00 p.m., it did not 'knowingly permit' the Complainant to open the account.
31. The Commission finds this argument flawed, given that CrossBet's compliance obligations under the 2019 Code are not dependent on the operating hours of CrossBet's responsible gambling team. The fact that the account was opened outside of its responsible gambling

team's operating hours (and notably bets were able to be placed) is not sufficient grounds to excuse CrossBet from its obligation to have appropriate mechanisms in place to prevent a self-excluded person from opening an account and placing bets, regardless of its own self-imposed time constraints.

32. CrossBet has also submitted through its legal representative, that CrossBet did not 'knowingly permit' the Complainant to open the second betting account as:

[t]o 'knowingly permit' something requires that a person has turned their mind to it and decided to permit something. In the case of a company, this would require someone in the company to have turned their mind to the matter at hand.

33. The Commission notes that the idea that someone in a company must 'turn their mind' to the issue is often discussed in the context of corporate law, the expectation being that company directors must engage with and carefully consider decisions that could have a material impact on the company, rather than simply relying on others or ignoring key issues.

34. With this in mind, the Commission is satisfied that CrossBet:

- i. did know that the Complainant was a self-excluded customer (through its internal records following the Complainant's self-exclusion on 23 March 2021);
- ii. did know that some self-excluded customers do attempt to open new accounts as evidenced by:
  - its adoption of a secondary manual procedure of checking all accounts opened within the previous 24 hours;
  - clause 1.12.1(a) of its terms and conditions which states that CrossBet "*makes every reasonable effort to prevent self-excluded customers from returning and using our service*"; and
- iii. did know, or should have known, that some self-excluded customers do attempt to open new accounts with altered identifying details, through:
  - 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>.

35. With knowing the above, it is reasonable for the Commission to expect that CrossBet's 'after hours' automated checking processes against self-exclusion databases should have been robust enough to prevent the Complainant from opening an account, particularly given that

<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>

the Complainant used many of the same key identifying details to do so. In the Commission's view, it is apparent that CrossBet's systems for verifying self-exclusion status, were simply not sufficient.

36. The fact that the Complainant was able to place bets once the account was opened, strengthens the argument that CrossBet did indeed 'knowingly permit' the Complainant to open an account and engage in wagering activities, regardless of the time constraints.
37. Given this, the Commission is satisfied that pursuant to section 80(1)(d) of the RBA, CrossBet 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.

### **DISCIPLINARY ACTION**

38. 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.
39. CrossBet has submitted through its legal representative that should a breach of the 2019 Code be found, the gravitas of CrossBet's offending was very low as it only relates to one person, the Complainant's account was opened for less than 24 hours, the "*gambling losses were a mere \$60*" and that CrossBet did identify the Complainant as a self-excluded customer and did exclude him.
40. The Commission notes that in Australian law, online wagering providers are held to a high standard when it comes to enforcing self-exclusion measures, regardless of the duration of the account or the amount of money involved. Even if an account is open for less than 24 hours or the losses are relatively small, CrossBet still had an obligation under the 2019 Code to prevent a self-excluded person from accessing its wagering services.
41. The argument that short account duration or small losses should diminish the seriousness of the breach is rejected by the Commission. CrossBet's failure to prevent the Complainant from wagering with it – regardless of the brief time frame or minor losses - was a systemic failure by it in enforcing self-exclusion protocols.
42. CrossBet has also submitted through its legal representative that any penalty imposed should be adjusted so that it is proportional to the scale of the business. The argument submitted being that as CrossBet is smaller in scale to some other online wagering providers, the penalty should be smaller than that which would be imposed on a larger online wagering provider.
43. The Commission also rejects this argument. The Commission is tasked with ensuring that all online wagering operators that are licensed by it, adhere to the same standards to protect customers. While a smaller operator may not have the same financial resources as a larger wagering provider, they are still obligated to comply with the same consumer protection regulations. A breach of these obligations as set out in the 2019 Code, poses a risk to consumers and the overall integrity of the online wagering industry, regardless of the licensee's size. Allowing a smaller licensee to receive a lesser penalty undermines the regulatory framework's effectiveness, dilutes the deterrent effect and creates an uneven playing field,

potentially allowing smaller operators to evade responsibility for breaches that have the same impact on consumers as those committed by larger licensees.

44. With this in mind, the Commission has determined that it is appropriate in the circumstances to take disciplinary action against the Licensee pursuant to section 80(1)(d) of the RBA as follows:
  - i. for its contravention of condition 16 of its licence, a fine of 85 penalty units being 50% of the maximum penalty available under the RBA, equating to \$14,960 (2023/2024 financial year penalty unit value was \$176).

#### **LAWFULNESS OF BETS**

45. 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 second account are not lawful.
46. The Commission is therefore of the view that CrossBet should return the deposit of \$60 made into the betting account by the Complainant.

#### **NOTICE OF RIGHTS**

47. 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.
48. 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 and Shanahan