

NORTHERN TERRITORY RACING AND WAGERING COMMISSION

DECISION NOTICE

MATTER: Disciplinary Action against Licensee
(pursuant to section 228 of the *Racing and Wagering Act 2024*)

LICENSEE: Sportsbet Pty Ltd

LICENCE NUMBER: SBL1018

HEARD BEFORE: Mr Alastair Shields (Presiding Member)
Ms Cindy Bravos
Mr Ian Curnow
Ms Susan Kirkman
Mr Scott Perrin
Ms Rachael Shanahan

DATE OF DECISION: 19 June 2025

DECISION

1. For the reasons set out below, the Northern Territory Racing and Wagering Commission (**Commission**) is satisfied that Sportsbet Pty Ltd (**Licensee**) has on 2 October 2024, distributed SMS marketing messages, to 30 individuals who had self-excluded from the Licensee's online wagering services, and to a further 124 individuals who were on either a short-term or long-term break from using the Licensee's online wagering services. This conduct constitutes:
 - i. a violation of Clause 4.6 and Clause 8.9 of the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (**Code of Practice**), resulting in 154 breaches of the former and 154 breaches of the latter; and
 - ii. a violation of Clause 5.6 of the Code of Practice, resulting in 30 breaches of the Code of Practice.
2. These violations are further found to be in contravention of:
 - i. section 204 of the *Racing and Wagering Act 2024* (**RWA**) which relates to non-compliance with codes of practice; and
 - ii. section 155 of the RWA which relates to non-compliance with licence conditions.
3. The Licensee's conduct constitutes multiple regulatory violations under the RWA. The Commission has determined that it is appropriate to take disciplinary action against the Licensee pursuant to section 228(2)(g) of the RWA by way of imposition of a monetary penalty of 500 penalty units, which represents 50% of the maximum available penalty of 1,000 penalty units. The total value of this penalty is \$92,500.
4. The Licensee is required to pay this penalty within 28 days of the date of this decision.

BACKGROUND

The Licensee

5. The Licensee is currently authorised by the Commission to conduct the business of a sports bookmaker under the online branding name of Sportsbet. The sports bookmaker licence was granted by the former Commission under the licensing regime contained within the now repealed *Racing and Betting Act (RBA)*.
6. In accordance with the transitional arrangements contained within the RWA, any licence issued under the repealed RBA that was valid immediately before the commencement of the RWA, continues in effect on the commencement of the RWA as a licence under the RWA.

Notification to the Commission

7. On 22 October 2024, the Licensee notified the Commission in writing that, due to human error, an SMS marketing message had been inadvertently sent on 2 October 2024 to 30 customers who had previously self-excluded from using the Licensee's online wagering services, as well as to a further 124 customers who were on either a short- or long-term break.
8. The Licensee advised that it became aware of the issue shortly after the messages were sent and quickly implemented corrective measures to ensure no further unintended recipients would receive the message.
9. The Licensee further advised that following the incident, one unintended recipient contacted the Licensee to express concern, but did not proceed with a formal complaint to the Licensee.
10. As a result of the notification, the Commission requested pursuant to section 225 of the RWA, for the Director of Racing and Wagering (**Director**) to investigate the conduct of the Licensee in relation to the possible commission of an offence by the Licensee or whether any grounds existed for the taking of disciplinary action by the Commission, against the Licensee. Pursuant to section 225(2)(b) of the RWA, after the completion of that investigation, a report on the investigation was provided to the Commission on 5 December 2024, for its consideration.
11. As a matter of procedural fairness, a draft of the Commission's preliminary findings was provided to the Licensee for comment. In response on 6 June 2025, the Licensee acknowledged that the incident amounted to a contravention of the Code of Practice and accepts the Commission's imposition of the monetary penalty as set out above.

Codes of Practice

12. 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.
13. Section 204 of the RWA sets out that a person commits an offence if they intentionally engage in conduct that contravenes a code of practice, with the offence being one of strict liability and subject to a maximum penalty of 1,000 penalty units, unless the person can demonstrate a reasonable excuse.
14. As defined in section 4 of the RWA, a licensee is a person who holds a licence under the Act, and section 204 applies to the licensee as a person.

15. The Code of Practice aims to ensure that online wagering is conducted responsibly, and gambling-related harm is minimised, through clear requirements for Licensee in relation to customer protection and responsible gambling measures.
16. In relation to this matter, the Code of Practice requires that marketing materials must not be sent to customers who have self-excluded or those who are on a break from using the licensee's online gambling services. This ensures that individuals who have opted out or paused their engagement with a licensee's wagering services are not inadvertently targeted by promotional or marketing communications.
17. Specifically, the Code of Practice sets out the following:

4.6. Correspondence or promotional material

Online gambling providers are to ensure they have in place suitable procedures to ensure correspondence or promotional material is not sent to any persons who are either excluded from their services, or who request that this information not be sent to them.

(Clause 4's preamble sets out that an exclusion from a provider's gambling services may be on a temporary or permanent basis)

5.6. Account closure

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- c. Online gambling providers must not directly promote or market to a customer following an account closure.

8.9. Direct marketing

...

- 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.

Licence Conditions

18. The licence conditions attached to the licence issued to the Licensee by the former Commission, sets out at Condition 16, that the Licensee must comply with any Codes or Guidelines issued by the Commission and as amended from time to time.
19. The transitional arrangements set out that a condition on a licence issued under the repealed RBA that was valid immediately before the commencement of the RWA continues in effect after the commencement of the RWA as a condition under the RWA, unless inconsistent with a provision of the RWA.
20. Section 155 of the RWA sets out that that a licensee who contravenes a condition of the licence commits an offence, with the offence being one of strict liability and subject to a maximum penalty of 2,500 penalty units, unless the licensee can demonstrate a reasonable excuse. The note to section 155(1) sets out that a contravention of a licence condition may also lead to disciplinary action against a licensee.

CONSIDERATION OF THE ISSUES

Conduct of the Licensee

21. At the time of the conduct subject of this Decision Notice, the Licensee utilised a third-party communications platform to facilitate the sending of SMS messages and emails promoting marketing offers and advertisements to its customers.
22. On 2 October 2024, during a staff training session, the Licensee used the third-party platform in live mode to demonstrate SMS campaign processes. Due to the absence of a test environment or system validations, two new staff members accessed and edited the same live campaign concurrently. While the first staff member correctly applied recipient filters, these were subsequently overwritten by the second staff member, who failed to apply the appropriate filters.
23. As a result, SMS marketing messages containing a survey participation link were sent both to an intended group of 747 customers as well as a broader group of customers who were not eligible to participate. Among this group of unintended recipients were 30 customers who had previously self-excluded from using the Licensee's online wagering services, as well as to a further 124 customers who were on either a short- or long-term break from using the Licensee's online wagering services.
24. The Licensee has submitted that had any of these unintended recipients attempted to access the content contained in the survey link, they would have received an error message and would not have been able to access the survey.
25. The error was detected by the Licensee's Marketing Operations team through standard campaign monitoring which revealed an unusually high level of outbound SMS messages. As a result, the Licensee ceased the SMS message send-out on the same day, thereby preventing a further 48,891 messages from reaching unintended recipients.
26. The Licensee has submitted that following the error, it has updated its procedures to prevent training in live campaigns and added segmentation controls to templates. Additionally, the Licensee is working with the platform provider to implement system validations to reduce the risk of future errors.

FINDINGS

27. The Licensee, by its own admission, distributed SMS marketing messages on 2 October 2024 to 30 customers who had previously self-excluded from using the Licensee's online wagering services, as well as to a further 124 customers who were on either a short-term or long-term break. These actions constitute a direct breach of Clause 4.6 and Clause 8.9 of the Code of Practice, as referenced in paragraph 17 above.
28. Of the recipients of the SMS marketing messages sent on 2 October 2024, 30 were permanently self-excluded, meaning their wagering accounts had been closed. Accordingly, the transmission of marketing materials to these former customers constituted a direct breach of Clause 5.6 of the Code of Practice, as referenced in paragraph 17 above.
29. The distribution of the SMS marketing message on 2 October 2024 to 30 customers who had previously self-excluded from using the Licensee's online wagering services, as well as to an additional 124 customers who were on either a short-term or long-term break, arose from the same factual circumstances and gave rise to multiple breaches of the Code of Practice. Each instance of the message being sent constitutes a separate breach, resulting in 154 breaches of Clause 4.6, 154 breaches of Clause 8.9, and 30 breaches of Clause 5.6 of the Code of Practice.

30. Any breach of the Code of Practice is a direct contravention of section 204 of the RWA (as set out at paragraph 13), as well as a breach of the Licensee's licence conditions and therefore also a breach of section 155 of the RWA (as set out at paragraph 20).

DISCIPLINARY ACTION

31. Section 226 of the RWA sets out that following consideration of a report provided to it regarding an investigation undertaken on behalf of the Commission, the Commission may accept any recommendation made by the Director, enter into an enforceable undertaking, take disciplinary action, issue a notice or direction, or make a declaration, or schedule a hearing.
32. The Commission is satisfied that grounds exist to take disciplinary action against the licensee pursuant to section 227(1)(c)(i) of the RWA, due to the Licensee's multiple contraventions of the RWA (being sections 204 and 155).
33. Section 284 of the RWA provides that where two or more contraventions of the RWA arise from the same set of circumstances, they may be dealt with as a single offence, or as separate offences. In this case, as multiple customers were affected by the same underlying circumstances, and multiple contraventions of the RWA occurred, the Commission – applying the principle of proportionality - has determined that the conduct will be treated as a single contravention of the RWA.
34. The Commission may impose a range of disciplinary action against a licensee, including suspension or cancellation of a licence, amendment of licence conditions, disqualification from holding a licence, issuance of formal warnings, reprimands or cautions directions to change business practices, and the imposition of monetary penalties. Such actions may also be subject to specific conditions. The amount of any monetary penalty imposed must not exceed 1,000 penalty units.
35. In determining the appropriate disciplinary action to take, the Commission has taken into account the serious nature of the conduct. It is imperative that marketing communications are not directed to individuals who have self-excluded or are taking a break from the use of online wagering services, as such actions risk undermining their efforts to manage gambling related harm and may contribute to relapse. Moreover, doing so represents a failure to uphold the licensee's ethical obligation to prioritise customer welfare over commercial interests.
36. However, the Commission has also given due consideration to the following mitigating factors:
- i. the conduct resulted from human error, rather than intentional or wilful action;
 - ii. the Licensee took immediate action to rectify the issue once it became aware of it;
 - iii. the Licensee self-reported the conduct to the Commission; and
 - iv. the multiple contraventions resulted from the same set of factual circumstances.
37. After careful consideration, the Commission considers that a proportionate and balanced disciplinary response is to impose a monetary penalty of 500 penalty units, which represents 50% of the maximum available penalty of 1,000 penalty units. The total value of this penalty is \$92,500 (value of penalty unit for 1 July 2024 to 30 June 2025 is \$185).
38. The reduction to 50% of the maximum penalty reflects the Commission's recognition of the mitigating factors, including the Licensee's immediate action to rectify the situation, co-operation in self-reporting the incident, and the fact that the conduct was caused by human

error rather than deliberate misconduct. The penalty is intended to reflect the seriousness of the violation, while also acknowledging the Licensee's efforts to address the issue responsibly.

39. The Licensee is required to pay this penalty within 28 days of the date of this decision.

NOTICE OF RIGHTS

40. Section 239(1)(h) of the RWA sets out that the Northern Territory Civil and Administrative Tribunal (**NTCAT**) has jurisdiction to review any disciplinary action taken by the Commission under section 228 of the RWA.
41. Section 239(4) of the RWA sets out that an application to the NTCAT for review must be made within 14 days after the day the person making the application received the decision notice or was subject to the action that is the subject of the review.
42. In accordance with section 229(2) of the RWA, the person who may apply to NTCAT for a review of the Commission's decision is the Licensee.



Alastair Shields
Chair
Northern Territory Racing and Wagering Commission

On behalf of Commissioners Shields, Bravos, Curnow, Kirkman, Perrin and Shanahan