

Northern Territory Racing Commission

Reason for Decision

Respondent:	Betezy Pty Ltd
Proceedings:	Sections 80(1) and 83(1) of the <i>Racing and Betting Act</i>
Heard Before:	Mr Richard O'Sullivan (Chairman) Mr Walter Grimshaw Mr David Brooker

Background

1. During the process of making investigations into a complaint brought before the Northern Territory Racing Commission ('Commission') by Mr R against Betezy the Commission identified an apparent breach unrelated to the initial complaint. It was the view of the Commission that the apparent breach warranted further independent investigation.
2. The content of what follows has been considered in a completely separate and discrete process that should in no way whatsoever be construed as related to the complaint against Betezy by Mr R. That complaint has been the subject of detailed separate consideration and a comprehensive decision has already been handed down by the Commission.
3. It was ascertained, on the evidence before the Commission in relation to the complaint of Mr R that Betezy had failed to comply with their obligations under certain Federal and Territory legislation in relation to account opening and operating procedures, and customer identity confirmation requirements. Specifically, Betezy had failed to confirm the identity of Mr R within ninety days of his account being opened. This is a licence condition and a stipulation under the *Anti-Money Laundering and Counter Terrorism Financing Act*.

Consideration of the issues

4. Under Federal legislation certain service providers have dispensation to undertake customer identification procedures required under the Act. The Act states at Section 34, that after the designated dispensation period (90 days), the reporting entity must not continue to provide, any designated services to the customer until the reporting entity carries out the applicable customer identification procedure. Betezy is a reporting entity under the Act. Further, Betezy is bound under the *Racing and Betting Act*, the rules of the Northern Territory Racing Commission and by its licence conditions as follows:

The Sports Bookmaker shall not allow any customer to withdraw monies from their nominated account until satisfactory proof of age and identity is provided. In circumstances where the betting client has failed to provide sufficient proof of age or identity within ninety days of placing a bet or funding an account, the Sports Bookmaker shall immediately freeze the account until sufficient proof of age and identity is obtained.

5. The apparent breach of Federal and Territory legislation and of the licence condition outlined above was revealed in an email to the Commission that indicated that Mr R's account had been opened prior to 2004. Confirmation of his identity was not received until May 2011. It is obvious to the Commission that had the account been frozen as required, the complaint by Mr R would not have eventuated. That is, self-evidently, no wagers can be placed on an account when it is frozen.
6. The Commission has certain expectations in relation to account opening and confirmation of customer identity procedures that it believes Betezy have failed to fully consider. The Commission considers it reasonable to anticipate that all Corporate Bookmakers regulated and operational within the Northern Territory:
 - Are aware of and fully comply with all applicable Territory and Commonwealth legislation. Of particular reference within the ambit of this decision are the 'Know Your Customer' requirements of the Act. Further, there are 'Ongoing Customer Due Diligence' obligations that must be fulfilled under the Act. Also, Bookmakers, are required to comply with licence conditions that require proof of client identity be obtained within ninety days of an account being opened
 - Will immediately freeze an account and permit no further transactions until full compliance under the Act and licence conditions in relation to confirmation of customer identity have been met
 - Have in place appropriate Information Technology Systems and Procedures that ensure that customers are fully aware prior to the expiration of the ninety day period that an account is liable to suspension if full confirmation of identity has not been received and
 - Be mindful of the fact that the Commission, as a Statutory Regulatory Body, has its own obligations to report apparent breaches or suspicious activity under the Act to Austrac in its pursuit of discovering money laundering and counter terrorism financing under the Act. For the sake of clarity – where the Commission evidences or detects an apparent breach or suspicious activity within the purview of the Act, such activity will be reported to the appropriate body.
7. At Section 80(1) of the *Racing and Betting Act* the Commission may discipline a bookmaker by reprimanding him, imposing a fine in the case of a Sports Bookmaker not exceeding \$20,000 or suspending or cancelling a licence or permit. Section 83(1) of the *Racing and Betting Act* establishes that the Commission may make rules for the control and regulation of betting by bookmakers.
8. In this instance the Commission finds that Betezy have failed to comply with their requirements as outlined above in relation to account operation and confirmation of customer identity procedures. That said, while the Commission takes the breach of Federal and Territory legislation seriously, the Commission is mindful of the regulatory complexity in relation to compliance with the ninety day rule and cognizant of the fact that this is the first such breach of the rule by Betezy. Further, the Commission is entitled to consider the fact that Betezy wilfully disclosed the breach and as such issues a penalty of severe reprimand in finalising this matter. Some leniency is afforded due to Mr R being an account holder with Betezy prior to a licence being issued by the Commission.

Decision

9. Betezy is hereby formally reprimanded for failing to meet licence requirement in relation to formally identifying an account holder within ninety days by not obtaining proof of age and identity of client, Mr R. This reprimand decision is to be maintained on the Betezy licence file and taken into consideration should licence breaches of a similar nature be determined by the Commission.

Richard O'Sullivan
Chairman

22 August 2011