

# NORTHERN TERRITORY RACING COMMISSION

## Reasons for Decision

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<b>Licensee:</b>	TopBetta Pty Ltd
<b>Proceedings:</b>	Pursuant to Section 80(1)(d) of the <i>Racing and Betting Act</i> – Failed to comply with a condition of licence (failure to record a telephone conversation).
<b>Heard Before: (on papers)</b>	Andrew Maloney (Presiding Member)
<b>Date of Decision:</b>	14 May 2018

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### Background

1. On 17 March 2017, Mr Caine Gemmell lodged a gambling dispute against TopBetta submitting that the bookmaker had failed to close his account despite being advised that he was a problem gambler.
2. The matter was resolved by TopBetta closing the client's account, refunding all deposits (made subsequent to the request to close the account) and counselling the telephone operator in relation to the matter.
3. The Commission was subsequently provided a brief at its April meeting advising that TopBetta had breached the self-exclusion provisions of the NT Code of Practice for Responsible Online Gambling 2016 (the Code) and had also failed to record telephone conversations with the customer (Attachment A refers).
4. On 23 May 2017, the Commission issued TopBetta a show cause letter as to why it should not be issued a penalty, pursuant to section 80(d) of the *Racing and Betting Act*.

### Consideration of the Issues

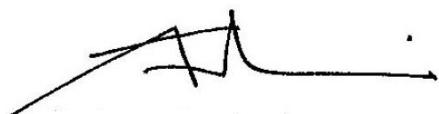
5. On 13 June 2017, TopBetta's legal counsel, Mr Jamie Nettleton, Partner, Addisons, responded to the Commission (Attachment C refers). The following matters in relation to the two breaches alleged were canvassed in the correspondence on TopBetta's behalf:
6. Response to Self-Exclusion Request Mr Nettleton stated that TopBetta's failure to close Mr Gemmell's account was '*an operational error*' and noted that TopBetta had since taken steps to address the issue arising including:
7. Revision training for staff concentrated on internal procedures for self-exclusion and the importance of pre-commitment limits; and TopBetta's responsible gambling obligations under the NT Code of Practice.
8. It was noted that TopBetta intends to repeat this training every 6 months and implement additional procedures to ensure the integrity of its self-exclusion

procedures, including: A requirement that the customer services officer responsible for end-of day processes reviews the "self-exclusion spreadsheet" (noting any self-exclusions for that day) with a view to ensuring that all relevant self-exclusion flags have been actioned; and

- a. The engagement of a third party to provide a daily exceptions report identifying any accounts on TopBetta's customer database matching the surname and date of birth of all self-excluded customers processed on that particular day. This is to ensure that all accounts linked to self-excluded customers have been identified, removed from marketing mailing lists and closed promptly.
9. Mr Nettleton reported that the employee who had caused the breach had been counselled and that all customer service officers had already undertaken the revision training.
  10. Further, TopBetta had appointed a new Customer Services Supervisor who has extensive team leader experience and who will have oversight of self-exclusion procedures and responses.
  11. Phone recordings - Mr Nettleton reported that TopBetta acknowledged that there was a failure to locate a recording of the conversation with Mr Gemmell and that this represents a failure in its systems. However, Mr Nettleton contended that the fault lies with its third party telephone provider. He advised that TopBetta is currently reviewing the telephone recording service and are considering whether to appoint an alternate service provider.

## Decision

12. The Commission determined to reprimand TopBetta for failing to record a telephone conversation with Mr Gemmell and direct them to ensure the rectification measures have been implemented in full.
13. Further, the Commission determined to issue TopBetta a fine for not excluding the self-excluder. Consideration was given to suspending their licence due to the serious nature of the breach, however the Commission took into account this being their first breach and the steps taken to rectify the issue.
14. A penalty of 1/3 of the normal amount will be imposed, being 51 penalty units / \$7,854.00.
15. The amount is to be paid in full within 30 days from the date of the decision.



**Andrew Maloney**  
Presiding Member  
Racing Commission

14 May 2018