

# NORTHERN TERRITORY RACING COMMISSION

## Reasons for Decision

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<b>Complainant:</b>	Mr C
<b>Licensee:</b>	Luxbet
<b>Proceedings:</b>	Pursuant to section 85(4) of the <i>Racing and Betting Act</i> – Referral of dispute to Racing Commission for determination
<b>Heard Before: (on papers)</b>	Mr Alastair Shields (Presiding Member) Mr James Pratt Ms Amy Corcoran
<b>Date of Decision:</b>	14 February 2019

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### Background

1. On 11 October 2017, pursuant to section 85(4) of the *Racing and Betting Act* (the Act), the Complainant lodged a gambling dispute against the registered bookmaker, Luxbet.
2. The dispute involved the placement of two bets on 5 October 2017 by the Complainant for Brendan Steele to win the Safeway Open golf event. The bets were for a total stake of \$10.00 at odds of \$226.00.
3. On 7 October at 12.37pm, Luxbet sent the Complainant an email to advise that his bets had been cancelled due to an error identified prior to the commencement of the event and in accordance with their terms and conditions.
4. On 9 October, Brendan Steele won the Safeway Open. The Complainant is now seeking full payment for his bet placed on 5 October being \$2,260.
5. In summary, the Complainant's case is:
  - a. On 5 October 2017, the Complainant placed two bets on Brendan Steele to win the Safeway Open at odds of \$226.00 for a total stake of \$10.00;
  - b. On 6 October, the Complainant was offered a "cash out" price after the event had started;
  - c. The bets were in fact made void by Luxbet on 7 October after the Safeway Open had commenced and therefore should stand; and
  - d. Brendan Steele won the event around midday on 9 October and accordingly the bets made by the Complainant on 5 October were winning bets.
6. Luxbet submits:
  - a. The bets were placed on 5 October 2017 on Brendan Steele at odds of \$226 in the Safeway Open golf event.

- b. The odds of \$226.00 that were offered were the result of a “manifest error” and the correct odds should have been \$26.00.
- c. Any cash out figure offered would have been offered online and prior to the error being identified by Luxbet;
- d. The error was detected at around 9.30am on 7 October and the bets were made void with the Complainant being advised by email at 12.37pm.
- e. On 10 October, the Complainant was credited \$260 for the winning bets based on “the correct odds” of \$26.
- f. Luxbet relies on condition 1.2.6(b) in their Terms and Conditions to void the bets below:

#### **1.2.6 Incorrect Betting Information**

Notwithstanding anything contained elsewhere in these Betting Rules, if Luxbet publishes, posts or quotes any incorrect betting information for any sporting event, such as posting wrong dividends or lines, then regardless of the cause or source of such error;

##### **(a) Error identified prior to the commencement of the event:**

If the error is identified prior to the commencement of the event and notified by Luxbet to the most recent telephone or facsimile contact number or email address supplied by a Client, whose wager on that event has been accepted or confirmed by Luxbet, such wagers will be void. If the wager is part of a multiple bet, the wager will then be re-calculated excluding the event to which the error relates.

##### **(b) Error identified after the commencement of the event:**

If the error is identified only after the commencement of the event or for any other reason not notified to the Client's point of contact prior to commencement of the event, the wager on the event shall stand. The only exception to this is *where Luxbet can demonstrate that the error was manifest or obvious*, or that the Client otherwise should reasonably have been aware of the error when the wager was placed, in which case Luxbet reserves the right to void such wagers.

### **Consideration of the Issues**

7. The issue for consideration by the Commission in determining this dispute is whether Luxbet lawfully made void the Complainant's bets placed on 5 October in accordance with their terms and conditions or whether in fact the Complainant's bets should have stood.
8. Upon opening an account with Luxbet, the Complainant would have had to accept Luxbet's terms and conditions which form the contractual basis for the wagering activities between the parties, or the “rules of betting” as such.
9. In this case, Luxbet is relying on condition 1.2.6(b) of their terms and conditions to make void the Complainant's bets after Safeway Open had commenced due to “manifest or obvious error”. This is despite the initial correspondence from Luxbet to the Complainant stating that it was relying on condition 1.2.6(a) of their terms and conditions being an “error identified prior to the commencement of the event”.
10. The meaning of manifest or obvious error has been considered many times previously by the Northern Territory Racing Commission and how that may relate to

wagers. An “obvious error” is one that is easily seen, perceived and recognised. It is apparent and self-explanatory and not difficult to discern. The references to seeing and perception imply some sort of comparison basis for finding that something is obvious should be considered. If an error is manifest it is patently obvious and discernible. It is received in the minds eye without any trauma and is at once perceived for what it is.<sup>1</sup>

11. It is also not the state of mind or conduct of the client that makes the odds offered manifestly or obviously in error; it is up to the bookmaker to determine this and for the Racing Commission to agree or disagree.<sup>2</sup>
12. The fine distinction between obvious and manifest is subtle but not without relevance when considering the application to individual situations. The Commission need only be satisfied that one limb can be sustained; either a “manifest” or an “obvious” error.
13. In order to establish the manifest or obvious error, Luxbet has provided information showing odds offered by competitive bookmaker CBS Sports on the same market (Brendan Steele 25:1) and also from TAB, although the TAB report does not provide an opening price for Brendan Steele only the price for the following day, being 6 October (the day after the original bet was placed by the Complainant). The TAB’s price on 6 October 2017 was after the first round was completed and the odds had been significantly shortened to \$7.00. Luxbet submits that the opening price for Steele with TAB was \$29.00.
14. Luxbet also provided five (5) telephone call recordings and an email in relation to this dispute. A summary of the event in chronological order follows:
  - a. 7 October 2017: Luxbet emails the Complainant to advise his bets have been cancelled in accordance with their betting rules due to a system error and cites condition 1.2.6(a) of Luxbet’s terms and conditions relating to an “error identified prior to the commencement of the event”.
  - b. 7 October 2017 (11.24am): The Complainant calls ‘D’ from Luxbet to complain about the cancellation of his bets. ‘D’ confirms it was “listed incorrectly” and it’s within “our terms and conditions”. The Complainant cancels his betting account and withdraws his funds.
  - c. 9 October 2017 (12.00pm): The Complainant calls ‘A’ at Luxbet to discuss the dispute. He asked why he wasn’t given the correct odds of \$26. He also mentions that he has now done his own research and found out that Brendan Steel is one of the best golfers in the world.
  - d. 9 October 2017 (1.10pm): The Complainant again calls Luxbet and speaks to ‘C’ however she is unable to assist because his account is closed. The Complainant raises concerns about the timing of when Luxbet identified the error and voided the wagers and asserts that Luxbet identified and voided the bets after the event had commenced and not prior, therefore the bets should stand. The Complainant also seeks to re-open his betting account.
  - e. 9 October 2017 (5.56pm): The Complainant again calls Luxbet after they fail to call him back and speaks to ‘L’. After the Complainant explains the history of the

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<sup>1</sup> See Mr A and Others v Sportingbet.com Australia Pty Ltd (13 March 2013)

<sup>2</sup> as above

dispute, 'L' advises that the matter is being investigated and a result will be provided to him the next day.

- f. 10 October 2017 (3.12pm): The Complainant again calls Luxbet and speaks to 'K' who acknowledges that Luxbet did void his bet without offering him to place the bets at the "regular price". 'K' advises that in good faith Luxbet is willing to settle the dispute and pay into his betting account \$260 (being his winning bet being paid out at the odds of \$26). He also reiterates that their terms and conditions allow Luxbet to void a bet or offer the correct odds where they identify an obvious or manifest error after the event commenced. 'K' also offers a \$20 bonus bet for "all the hassle that was caused".
15. The Commission has previously provided examples of what may constitute a manifest error, including symbols or letters being displayed in odds or where a place dividend was displayed that was outrageously higher than the win dividend. Accordingly, for an error to be found as manifest, it should present as such in a discrete context and require no comparison with extrinsic material. In this case, it is not unreasonable to see in some wagering markets odds offered well over \$200 and accordingly, the error does not meet the threshold requirement to uphold a finding of manifest error.
16. However, when compared with evidence of odds of other bookmakers and totalisers on the same market as provided by Luxbet, it is immediately evident that the Luxbet odds offered on Brendan Steel were significantly higher than what was otherwise being offered on that market by other bookmakers – roughly 9 times higher. The comparable data of the same market provided by Luxbet supports their position that the error was obvious because it provides a perspective within which to view their original market. Based on this information, the odds provided by Luxbet for Brendan Steele were obviously placed in error and it follows that the error was obvious.
17. Accordingly, the Commission accepts that Luxbet properly relied on condition 1.2.6(b) of its terms and conditions when voiding the bet. This is notwithstanding Luxbet's initial correspondence and actions taken to void the Complainant's bets were misguided, however Luxbet had since rectified this and paid out the Complainant for the winning bets at their correct odds of \$26.00.

## **Decision**

18. In accordance with section 85(4) of the Act and on the basis of the information provided in respect of the dispute and for reasons set out above, the Commission has determined that the two disputed bets placed on 5 October 2017 by the Complainant were lawfully made void by Luxbet due to obvious error in accordance with its terms and conditions. Appropriately, Luxbet paid out the winning bets at what should have been the correct odds (\$26) with \$226 being credited to the Complainant's account on 10 October 2017.

## Review of Decision

19. Section 85(6) of the Act provides that a determination by the Commission of a dispute referred to under subsection (1) shall be final and conclusive as to the matter in dispute.

A handwritten signature in cursive script that reads "Alastair Shields".

**Alastair Shields**  
Chairperson  
Racing Commission

14 February 2019