
NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Licensee:	Entain Group Pty Ltd (Ladbrokes)
Proceedings:	Investigation by the Northern Territory Racing Commission (Concerning Dealings with Gambler - Mr F)
Heard Before: (on papers)	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Ms Amy Corcoran Mr Kris Evans
Date:	27 February 2023

Introduction

1. On 13 August 2020, the Northern Territory Racing Commission (the Commission) informed Entain Group Pty Ltd (formerly GVC Australia Pty Ltd) that it had commenced an investigation pursuant to the *Racing and Betting Act 1983* (the Act) into its dealings with a Gambler through its Ladbrokes wagering platform.
2. At that time, the Commission advised Entain Group Pty Ltd (Entain) that while the Gambler had not lodged a gambling dispute directly with the Commission, the Commission had determined to use its general statutory powers to investigate the matter following a number of public statements made by the Gambler and on the outcome of a number of earlier inquiries made by the Commission.
3. While the Commission investigation was underway, the Gambler did make contact with the Commission on several occasions and while not lodging a formal gambling dispute with the Commission under the Act, the Gambler did raise a number of concerns with the Commission about his dealings with Entain while using the Ladbrokes wagering platform.
4. The Commission has contained its investigation to an examination of the actions of Entain against its compliance with the Act, its licence conditions and the relevant Codes of Practice that were in place at the time. The Commission has not examined and makes no comment as to the source of funds the Gambler accessed to engage in gambling activity with Entain.
5. These findings are based on the material contained in the submissions to the Commission by both Ladbrokes and the Gambler; and on materials obtained by the Commission during the course of its investigation.
6. As a matter of procedural fairness, on 10 November 2022 drafts of these findings were supplied to Entain, the Gambler and a Ladbrokes' former employee identified in this Decision Notice as Mr B, for comment before their finalisation. In response, comments against the Commission's draft findings were subsequently received by the Commission from Mr B on 21 November 2022, from Entain on 23 November 2022 and from the

Gambler through his legal representative on 16 December 2022. The comments made have been taken into account in this decision.

Entain Group Pty Ltd

7. Entain is the holder of a sports bookmaker licence granted by the Commission pursuant to the Act and is authorised by the Commission to operate a number of wagering platforms under its sports bookmaker licence - being the wagering platforms known as Ladbrokes, Betstar, Bookmaker.com and Neds. Entain's current sports bookmaker licence expires in 2026.
8. Given that the Commission's investigation focuses on Entain's interactions with the Gambler while interacting with the Ladbrokes wagering platform, the Commission has determined for ease of reference, to refer to the sports bookmaker as Ladbrokes throughout this Decision Notice.

Background

9. The Gambler submitted to the Commission that on 5 June 2018, he was contacted on his mobile phone by a Ladbrokes' employee who identified himself as Mr B. The Gambler asserted that Mr B discussed the excellent customer service that Ladbrokes could provide to the Gambler and offered \$10,000 to \$20,000 in bonus bets as an incentive for the Gambler to commence betting with Ladbrokes. The Gambler submitted that Mr B also offered access to an ongoing program of bonus bets for any deposits made into a Ladbrokes' betting account. The Gambler submitted that he had not been offered inducements to this level previously and that it was, "...*immediately enticing.*"
10. The Gambler submitted to the Commission that Mr B was unknown to him at the time of the 5 June 2018 telephone call and claimed that the personal information used to contact him and to later open a Ladbrokes' betting account must have been obtained by Mr B or another person through their knowledge of his use of a betting account with another sports bookmaker (Bookmaker A).
11. The Gambler submitted that during the telephone call with Mr B, he advised Mr B that he had received a letter from Bookmaker A, requesting financial information from him and that he was concerned that Ladbrokes would do the same.
12. The Gambler further submitted that he told Mr B that he was also concerned about his privacy however, Mr B assured him that it would not be an issue and that Mr B suggested opening a Ladbrokes betting account using a different surname to that of the Gambler.
13. The Gambler submitted to the Commission that as a result of the telephone call with Mr B, a Ladbrokes betting account was immediately set up for him by Mr B using a different surname to that of the Gambler and bonus bets were credited to the account. The Gambler submitted that at no time was he requested to provide any identification documents to Ladbrokes nor was he prompted to read the Ladbrokes' terms and conditions governing betting accounts with Ladbrokes.
14. The Gambler submitted to the Commission that over the next 21 months, he sustained losses of \$758,510 through his wagering activity using the Ladbrokes betting account. The Gambler submitted that during this time, his "...*betting activity was intense, frequent, uncommon, uncontrolled, and desperate. There [was] no evidence of [a]*

sophisticated betting strategy, because there wasn't any. Betting plans were always abandoned, just as any wins would be lost."

15. The Gambler further submitted that on occasions he requested that withdrawal requests that he had made be reversed; and that on numerous occasions he requested Mr B to deposit bonus bets into his betting account (making up a reason for not having any money available to deposit at that time and telling Mr B that he would make up for it by making a deposit into the betting account at a later time).
16. The Gambler submitted to the Commission that he, *"...was never encouraged..."* by Ladbrokes to take responsibility for his gambling nor was he ever prompted to set a pre-commitment limit on the betting account. The Gambler further submitted that, *"[a]ny reasonable person [could] see my betting activity [was] crazy. I am constantly asked how I deposited and bet so much money without being checked. My answer is simple and the truth is uncomplicated, I just did it. I ask myself, why wasn't I stopped?"*
17. The Gambler submitted to the Commission that his salary during this period was \$145,000 per annum and that his discretionary funding was far less. The Gambler has stated to the Commission that, *"[t]he vast majority of these funds gambled by me were obtained from other people"*.
18. As advised to the Commission by the Gambler in his response to the Commission's draft findings, during the course of the Commission's investigation the Gambler has pleaded guilty to dishonestly obtaining funds by deception and is currently in custody awaiting sentencing. The Gambler's legal representative submitted that *"...it is accepted that he gambled with proceeds of crime."*

Consideration of the Issues

Opening of the Betting Account

19. Ladbrokes submitted to the Commission that the Gambler was contacted by a then Ladbrokes employee (Mr B), to enquire if the Gambler was interested in opening a betting account. Ladbrokes submitted that Mr B advised it, that Mr B obtained the Gambler's telephone number from a publicly available source.
20. Ladbrokes submitted that there *"...were weeks' worth of negotiations prior to opening the account, as [the Gambler] was demanding a certain level of bonusing/rebates before he would agree to open an account"*. Ladbrokes further submitted that the Gambler, *"...made representations that he was a sophisticated punter who had significant wealth..."* and that he, *"...would need to be shown VIP treatment in order to give Ladbrokes a go."*
21. Ladbrokes submitted that when certain bonuses and rebates were confirmed, the Gambler then agreed to open a betting account with Ladbrokes. In its submissions to the Commission, Ladbrokes has emphasised that in its view, *"...sign up inducements were able to be lawfully provided at this point in time"* as it was prior to the introduction of the National Consumer Protection Framework (NCPF).
22. Ladbrokes submitted that the Gambler did not disclose to Mr B nor any other person at Ladbrokes prior to opening the betting account nor any time during its operation, that he had or was experiencing any issues with Bookmaker A.

23. Ladbrokes submitted that Mr B had not previously worked with Bookmaker A, rather Mr B had worked at a subsidiary of that gambling operator (Bookmaker B), and that it was a separate entity and business to Bookmaker A. Ladbrokes submitted that during Mr B's former employment with Bookmaker B, he did not have access to any systems or information that would have disclosed that Bookmaker A had any concerns about the Gambler.
24. Ladbrokes submitted to the Commission that the Gambler's Ladbrokes betting account was opened on 5 June 2018 in the Gambler's correct name. Ladbrokes submitted that the Gambler supplied his date of birth, mobile number, residential address and chose a username, as required by the Ladbrokes sign up form. It is Ladbrokes view that in supplying his personal information during sign up, the Gambler clearly consented to opening an account. Ladbrokes submitted that it verified the Gambler's identity through the identity verification company Equifax on the same day.
25. Ladbrokes further submitted that at the time of the opening of the Gambler's betting account, the Gambler requested through Mr B that a pseudonym be applied to his betting account as he did not want anyone to know his business generally; and that as he was a customer of Bookmaker A, he may be known to other Ladbrokes' employees who were former employees of Bookmaker A.
26. Ladbrokes submitted that the Gambler's request was agreed to and that as a result, the Gambler's identity details were changed on the Ladbrokes' betting platform and his details were registered in Ladbrokes' pseudonym register. Ladbrokes submitted to the Commission that at all times, Ladbrokes knew who the Gambler was and that his true identity had been successfully verified.
27. Ladbrokes further submitted to the Commission that through applying to open and subsequently opening a Ladbrokes betting account; and through accessing and using the Ladbrokes betting platform, the Gambler was deemed to have read, understood and agreed to be bound by Ladbrokes' terms and conditions, which at all times were available on the Ladbrokes betting platform's website.

Code of Practice - Responsible Service of Online Gambling

28. It is relevant to note for the purposes of the Commission's investigation into this matter that the Commission provides practical guidance to the sports bookmakers it licences on matters relating to the Act, through the approval of Codes of Practice. The Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (the 2019 Code) came into effect on 26 May 2019 having replaced the Northern Territory Code of Practice for Responsible Online Gambling 2016 (the 2016 Code). Both the earlier 2016 Code and the current 2019 Code were approved by the Commission to provide guidance on responsible gambling practices that must be implemented by sports bookmakers so as to minimise the potential for any harms that may be caused by online gambling. Both the Act and the licence conditions attached to sports bookmaker licences granted by the Commission make it mandatory for sports bookmakers to adhere to any Codes of Practice approved by the Commission.
29. As the events surrounding the opening of Gambler's Ladbrokes' betting account occurred on or around 5 June 2018, Ladbrokes were required at that time to adhere to the Commission's guidance that was provided in the 2016 Code. Several clauses of the 2016 Code are relevant to those events and are set out below:

1.4 Terms and conditions

Online gambling operators must ensure their terms and conditions are easily located on their website, with a link to them on each page. Terms and conditions must be clear with regards to how betting is managed, particularly where maximum payout limits exist. Staff should be appropriately trained to ensure client questions regarding terms and conditions are answered correctly, readily and clearly.

[...]

6.3 Identification verification

Online gambling operators are to obtain adequate evidence of identity within 45 days of an account being opened or before winnings made may be withdrawn, whichever occurs first.

- online gambling operators must suspend the account if identification verification is not obtained within 45 days
- online gambling operators are to return deposited funds and close the account immediately if identification shows that a person is not over 18 years of age.

8.6 Urging to buy

Online gambling operators are not to call or otherwise urge non-gambling clients to use their gambling services.

Contact with Gambler Prior to Opening of Account

30. There are a number of discrepancies before the Commission based on the submissions made by both the Gambler and Ladbrokes in relation to the opening of the Gambler's betting account with Ladbrokes.
31. The first of which is whether the Gambler's first interaction with Mr B was on 5 June 2018 and shortly before the Gambler's betting account with Ladbrokes was opened as the Gambler submits; or whether as Ladbrokes submit, the Gambler and Mr B had engaged in several conversations over several weeks prior to the opening of the betting account.
32. The Commission sought evidence from Ladbrokes of Mr B's contact with the Gambler prior to the betting account being opened including the date, time and duration of each call made to or received from the Gambler however, Ladbrokes advised the Commission that as the discussions took place prior to the opening of the betting account and as they occurred on Mr B's personal phone, they were not available.
33. Ladbrokes further advised that Mr B had advised it that the mobile phone that he used during this period was damaged and the messages were unrecoverable. Ladbrokes advised the Commission that it had requested Mr B to attempt to recover the messages with technical assistance however, Mr B advised that after having done so, the messages remained unrecoverable.
34. In this respect, the Commission notes that while it is a current requirement for sports bookmakers to ensure that all telephone conversations with customers, and any other

conversation relating to wagers, complaints or disputes, regardless of medium, are recorded on approved recording equipment, the communications that Ladbrokes alleged took place between Mr B and the Gambler that are of interest to the Commission occurred prior to the Gambler becoming a customer of Ladbrokes and as such, arguably were technically not required to be recorded.

35. Ladbrokes also advised the Commission during the course of its investigation, that Mr B is no longer in their employ and as he has not agreed to provide the telephone records to them, it is not in a position to obtain them for the Commission nor is it able to obtain the telephone records from the mobile service provider due to privacy laws.

36. In response to the draft findings of the Commission, Mr B has advised the Commission that:

...at no stage did I not assist Ladbrokes. I gave [Ladbrokes] all the information I had in regards to [the Gambler] from my phone and or email when I was still working there and that is why Ladbrokes could answer all these questions. I advised them I have given all information and if there was anything new to let me know but they never reached out again.

37. Whether or not this may be the case, the Commission notes that neither Ladbrokes nor Mr B has provided the Commission with evidence of Mr B's contact with the Gambler prior to the opening of the betting account.

38. Under the current limitations contained within the Act, the Commission is not empowered to compel Mr B (nor the mobile service provider) to provide the telephone records to it of any contact made between Mr B and the Gambler prior to the opening of the betting account however, the Commission notes that a contemporaneous record does exist that would support Ladbrokes proposition that Mr B and the Gambler were engaged in discussions for several weeks prior to the opening of the Gambler's betting account. This is in the form of an email sent by Mr B on 5 June 2018 to his then supervisor at Ladbrokes (Mr L) in which among other things, Mr B states, "*[h]e is very private and have had to offer the below to get on board as have been after him for 3 weeks now.*"

39. A further discrepancy before the Commission relates to how the Gambler was known to Ladbrokes, prior to the Gambler becoming a Ladbrokes customer.

40. Ladbrokes has advised the Commission that Mr B commenced employment with it as a Business Development Manager on 18 July 2017 and that prior to this time, Mr B had worked at Bookmaker B, a subsidiary of Bookmaker A.

41. Conversely, in an email from the Gambler to Ladbrokes dated 10 March 2020 in which the Gambler detailed his concerns about his interactions with Ladbrokes, the Gambler stated that Mr B worked at Bookmaker A and was employed by it when he was "...cut-off" from Bookmaker A. In the Gambler's response to the Commission's draft findings, the Gambler has requested that this paragraph be withdrawn. The Commission notes that no reasonings as to why this should occur have been provided by the Gambler to the Commission and given that the Commission has sighted the email it has referred to, has determined that there is no reason before it to withdraw the paragraph as originally contained in the Commission's draft findings.

42. The Commission sought a copy of Mr B's curriculum vitae from Ladbrokes however, was advised by Ladbrokes that it was unable to locate any records of Mr B having

provided a curriculum vitae or resume when applying for employment at Ladbrokes. Ladbrokes further advised that Mr B's supervisor, Mr L informed it that Mr B was well known to him as they had worked together at Bookmaker B and that the decision to employ Mr B was based on Mr L's knowledge of his prior work history.

43. During the course of this investigation, the Commission has had reason to sight Mr B's curriculum vitae due to an unrelated matter and notes that it details that Mr B was employed as a Business Development Manager at Bookmaker B prior to his employment at Ladbrokes.
44. The Commission does not licence or regulate the wagering activities of Bookmaker A however, Bookmaker B was licensed by the Commission as a sports bookmaker up until the licence was cancelled (at Bookmaker B's request) in 2018. The Commission has caused a search to be undertaken of its records of the client files of Bookmaker B and notes that there are no records to indicate that the Gambler ever held a betting account with Bookmaker B.
45. In the email dated 5 June 2018 originating from Mr B to his supervisor Mr L, Mr B details the gambling losses of the Gambler with Bookmaker A over the past two years (discussed in more detail below). Mr L then forwards that email on to another Ladbrokes employee, and in the body of Mr L's email comments that the Gambler is a client of Bookmaker A.
46. Given this, it would appear to the Commission that while Ladbrokes have asserted that Mr B obtained the Gambler's contact details from a publicly available source and that Mr B was an employee of Bookmaker B and not Bookmaker A, it is evident from the email of 5 June 2018 (and the lack of a betting account being held by the Gambler with Bookmaker B) that both Mr B and Mr L had prior knowledge of the Gambler or at least of the Gambler's wagering activities with Bookmaker A.
47. As a result of this knowledge, the evidence before the Commission indicates that Mr B initiated contact with the Gambler without the Gambler's consent, to induce him to open a betting account with Ladbrokes.

Knowledge of Gambler's Prior Betting Behaviours

48. As detailed earlier, Ladbrokes submitted to the Commission that the Gambler did not disclose to Mr B nor any other person at Ladbrokes prior to opening the betting account nor any time during its operation, that he was or had experienced any issues with Bookmaker A whereas the Gambler proffers that he raised that these issues in his initial contact with Ladbrokes through Mr B. In that respect, the Gambler submits that as a result of raising these issues, Ladbrokes (again through Mr B) "...acknowledged these issues and responded in a manner to comfort [him] and assure him that he would not have any similar issues with Ladbrokes."
49. The evidence before the Commission does show that Mr B and subsequently Mr L and other employees of Ladbrokes were aware at least, of the Gambler's previous betting history with Bookmaker A. This is evidenced in the 5 June 2018 email from Mr B to Mr L, in which Mr B advised Mr L that, "FY this year had T/O 15.1M and lost 2.4m – Last year was 8.8 T/O losing 1.1m".
50. This email was subsequently forwarded on to another employee of Ladbrokes (Mr S) by Mr L who advised Mr S among other things, "This year at [Bookmaker A] T/O 15.1m and lost 2.4m – Last year was 8.8m T/O losing 1.1m."

51. It is evident from Mr B's email to Mr L and Mr L's subsequent email to Mr S that all three of these Ladbrokes employees were aware of, or at the very least, were informed that the Gambler had a significant betting history with Bookmaker A that had resulted in the Gambler sustaining significant losses in the two years prior to the opening of the Ladbrokes betting account, losses which were stated to have been \$2.4 million and \$1.1 million respectively.
52. The Commission has not undertaken any inquiries as to the veracity of these loss amounts but does note that while annual losses of these amounts may seem extraordinary to the average person, it is not inconceivable that a relatively small percentage of a sports bookmaker's customers may have a sufficient source of wealth to sustain ongoing losses of these amounts.
53. In this respect, the Commission notes that Ladbrokes advised it that the Gambler, *"...made representations that he was a sophisticated punter who had significant wealth through his role as a [...], and would need to be shown VIP treatment in order to give Ladbrokes a go."* The Commission notes that in response to its draft findings, the Gambler has denied that he made any representations to Ladbrokes of this nature.
54. While it is unclear to the Commission as to when the following occurred, Ladbrokes also advised the Commission that, *"Mr [B] has previously advised that he conducted general Google searches to locate [the Gambler's] workplace which confirmed he was a [...]."*
55. While the Gambler has submitted that Ladbrokes were aware prior to the opening of his betting account with them that he was under some sort of financial investigation by Bookmaker A, there is no evidence before the Commission to confirm or refute this assertion.
56. However, it is clear to the Commission that a number of Ladbrokes employees did have knowledge as to the amount of gambling losses that were believed to have been sustained by the Gambler over the previous two years prior to the opening of the Ladbrokes betting account, yet no evidence has been provided to the Commission that Ladbrokes undertook any further inquiries as to the Gambler's source of wealth and available discretionary funding, apart from perhaps a 'google search' to locate the Gambler's workplace and relying on what Ladbrokes claim to be the Gambler's own assertions.
57. In response to the draft findings, Ladbrokes has asserted that as Mr B was bound by common law duties of confidentiality to his previous employer (Bookmaker B which was a member of the group of companies including Bookmaker A), Ladbrokes was legally inhibited from taking any action in relation to the knowledge that Mr B had and which he subsequently passed on to other Ladbrokes employees in relation the Gambler's purported gambling losses with Bookmaker A.
58. This argument may have had some validity had evidence been presented to the Commission by Ladbrokes during the course of its investigation that Ladbrokes had made a conscious decision at the time not to act on the information about matters pertaining to the Gambler that had come into its possession through its own employee, Mr B. However, no evidence of this nature was provided to the Commission nor do any Ladbrokes' records pertaining to the Gambler detail that any form of decision making was taken by Ladbrokes not to act on the information due to concerns about its legal obligations in relation to the use of confidential information.

59. In the Commission's view, the converse has occurred in that Ladbrokes knowingly acted on the information pertaining to the Gambler's gambling activities with Bookmaker A to firstly make unsolicited contact with the Gambler in order to urge him to use its gambling service and secondly, to offer and continue to offer throughout the life of the betting account significant bonus bets and bonus cash to induce the Gambler to use and continue to use Ladbrokes' gambling services. In this respect, the Commission notes that it is not within its regulatory jurisdiction to make any findings as to whether Ladbrokes may have breached any relevant privacy principles or associated privacy legislation.
60. The Commission does expect that the sports bookmakers that it licences will have practices in place that support the prevention of harm and that are focused on its customers' interests as against the potential revenue that may be realised from those customers. In the Commission's view, relying on a gambler's own assertions as to their source of wealth and thus their ability to gamble at the levels that they are gambling at, is fraught with danger – not only to the sports bookmaker's own regulatory compliance but also to the financial (and other) wellbeing of the gambler.
61. This lack of any meaningful inquiry by Ladbrokes into the affordability of the Gambler to gamble at this level is somewhat surprising to the Commission and does cause it to be concerned as to whether Ladbrokes at that time, were committed to providing a responsible gambling environment.
62. In response to the Commission's draft findings, Ladbrokes has submitted that it did have practices and policies in place to support the prevention of harm and that “[j]ust because those practices didn't involve affordability checks on new customer accounts does not mean they were deficient or that Ladbrokes were not committed to providing a responsible gambling environment.”
63. The Commission agrees with Ladbrokes' assertion that it did have responsible gambling practices and policies in place during the time of its dealings with the Gambler (as it was required to do in accordance with its responsibilities under the Act, its licence conditions and the Codes that were in place at the relevant times) however, those practices and policies were clearly either not adhered to by its own employees or were not subject to sufficient oversight by the Ladbrokes' supervisory and management teams to ensure that its own employees made sufficient inquiries as to whether the Gambler had a sufficient source of wealth to gamble with Ladbrokes at the level that it was expecting him to engage in.

Inducement to Use Gambling Services

64. The Gambler submitted to the Commission that he was offered \$10,000 to \$20,000 in bonus bets by Ladbrokes through Mr B as an incentive for him to commence betting with Ladbrokes. The Gambler submitted that Mr B also offered access to an ongoing program of bonus bets for any deposits made into the betting account. As detailed earlier in this Decision Notice, the Gambler submitted that he had not been offered inducements to this level previously and that it was “...immediately enticing.”
65. Evidence before the Commission by way of the 5 June 2018 email from Mr B to his supervisor at Ladbrokes shows that the Gambler was offered bonus bets, a deposit match and a deposit rebate to open an account with Ladbrokes. This is also supported through a review of the Gambler's betting statements which show that the Gambler utilised \$2,000 worth of bonus bets on the day that the account was opened, with a

further bonus bet of \$800 being used by the Gambler to place another bet on 15 June 2018. The Gambler then made his first deposit of \$20,000 into the betting account on 20 June 2018. After this time, the Gambler continued to receive bonus bets and deposit rebates throughout the lifetime of the betting account.

66. While the initial bonus bets placed into the betting account by Ladbrokes are not anywhere near the value submitted to the Commission by the Gambler (which he alleged were to have been between \$10,000 to \$20,000), the evidence does show that the Gambler was offered a variety of incentives as an inducement to open an account with Ladbrokes.
67. In its submission to the Commission, Ladbrokes advised the Commission that in its view, *"...sign up inducements were able to be lawfully provided at this point in time."*
68. During the course of the Commission's investigation, Ladbrokes were requested to comment on its compliance with clause 8.6 of the 2016 Code which as set out earlier in this Decision Notice details that:

Online gambling operators are not to call or otherwise urge non-gambling clients to use their gambling services.

69. Ladbrokes' response to the Commission's inquiry is set out below:

"Mr B was told by someone at [Bookmaker A] that [the Gambler] was a longstanding gambling client with [Bookmaker A], was continuing to gamble with [Bookmaker A] (ie had not excluded) and therefore formed the view that he was a gambling client."

70. It is clear to the Commission that the contact with the Gambler initiated by Mr B (be it on the one occasion on 5 June 2018 or over several weeks prior to this date) was for no other purpose than to encourage the Gambler to commence engaging in wagering activity with Ladbrokes.
71. In the Commission's view, the argument expressed by Ladbrokes that it relied on Mr B's personal knowledge of the Gambler and/or undocumented hearsay that the Gambler was betting with another gambling operator - to draw the conclusion that the Gambler was a 'gambling client' is significantly flawed.
72. If the proposition put forth by Ladbrokes was to be an appropriate interpretation of clause 8.6 of the 2016 Code, it would result in an outcome that would allow for any sports bookmaker licensed by the Commission to approach any person at any time for the purpose of enticing them to use their gambling services simply because that licensee may have heard of that person being sighted at a casino playing an electronic gaming machine, sighted placing a once a year bet on the Melbourne Cup or simply sighted buying their weekly lottery ticket at the local newsagency - each of which is a form of gambling activity.
73. In response to the Commission's draft findings, Ladbrokes has also proffered that it is arguable that clause 8.6 of the 2016 Code has no application as the clause does not refer to a 'prospective or potential client'
74. The Commission considers that consistent with the context and purpose of the 2016 Code, clause 8.6 of the 2016 Code through the use of the qualifying word 'non' before the descriptor 'gambling clients' was intended to provide protection to both a person

who is not a current gambling customer of the licensee; and a person who while being an existing customer of the licensee is not currently gambling. Thus, in line with the core harm-minimisation strategies contained within the 2016 Code, clause 8.6 of the Code must be interpreted as a clause that prevents a licensee from urging any person who is not a 'gambling customer' to utilise its gambling services.

75. Regardless of how Ladbrokes came into the knowledge that the Gambler was engaging in gambling activity with another gambling operator, the core of the issue is that the Gambler was not, at the time Mr B made unsolicited contact with the Gambler in order to urge the Gambler to use the gambling services of Ladbrokes by way of offering enticing inducements, a gambling client as captured by the 2016 Code.

Name in which the Betting Account was Opened

76. The Gambler submitted to the Commission that as a result of the telephone call with Mr B, a betting account was immediately set up by Mr B for the Gambler's use using a different surname to that of the Gambler. The Gambler also submitted that at no time was he requested to provide any identification to Ladbrokes.
77. Conversely, Ladbrokes submitted to the Commission that the Gambler's Ladbrokes' betting account was opened in the Gambler's correct name and that the Gambler supplied his date of birth, mobile number and residential address. The Gambler, in response to the Commission's draft findings submitted that he does not recall having provided his mobile phone number nor his residential address to Ladbrokes.
78. Ladbrokes further asserted that as a result of agreeing to the Gambler's request that a pseudonym be applied to his betting account, Ladbrokes registered the Gambler's details in the Ladbrokes' pseudonym register and changed the Gambler's identity on the Ladbrokes' betting platform.
79. Ladbrokes submitted to the Commission that it verified the Gambler's identity through the identity verification company Equifax on the same day the betting account was opened and that at all times, Ladbrokes knew who the Gambler was and that his true identity had been successfully verified.
80. Ladbrokes has advised the Commission that it has not found any evidence of the Gambler supplying his identification details to Ladbrokes prior to the betting account being opened other than the information that pertains to the Gambler's betting account which is stored in its database and was input on 5 June 2018. Ladbrokes has submitted that Mr B believed that the Gambler opened the betting account himself but if that was not case, the Gambler may have asked Mr B to open the betting account on his behalf after having provided his personal details.
81. The Commission has sighted the Equifax reporting portal detailing the verification process for the Gambler's betting account with Ladbrokes and notes that the Gambler's identification details are registered using the Gambler's correct surname and that the verification was completed on 5 June 2018 at 4:53 pm.
82. The Commission has also sighted the Ladbrokes' pseudonym register and notes that it records that on 5 June 2018, the Gambler (using his true surname) was provided a pseudonym for his Ladbrokes' betting account with the reasoning being recorded as, "[c]lient wants his business and betting kept private. Very large Punter."

83. The Gambler in response to the Commission's draft findings denies having used the word 'business' in reference to his interactions with Ladbrokes through Mr B and while making no finding in this regard, the Commission does note that the 5 June 2018 can and should be considered as a contemporaneous note of Ladbrokes' interactions with the Gambler on 5 June 2018.
84. The email of 5 June 2018 referred to several times earlier in this Decision Notice also supports that the true identity of the Gambler was verified and known to Ladbrokes at all times given that firstly, Mr B has titled the email to Mr L as '*Anonymous Customer please*' and secondly that Mr L has forwarded this request to Mr S stating that the betting account "*[c]urrently [has] correct details and the account is verified. Can we use an anonymous name for this account for the following reasons?...*" The reasons listed by Mr L included that, "*[t]he client does not want anyone to know his business.*"
85. There is clearly some uncertainty as to whether it was the Gambler that opened the betting account himself or whether Mr B opened the Gambler's betting account on his behalf utilising details provided by the Gambler however, on the evidence before it, the Commission is satisfied that at a minimum, Ladbrokes was aware of the Gambler's previous betting activity with Bookmaker A and through the knowledge of its employees at the time, being Mr B or Mr L, they knew of or alternatively, were able to access the Gambler's mobile phone number through publicly available sources.
86. However, in contradiction to the Gambler's claims that a betting account was opened in a different name without his knowledge, the evidence before the Commission is that the Gambler's true identity was known to and verified by Ladbrokes prior to the Gambler commencing his gambling activities with Ladbrokes. While due to a lack of recordings being available to the Commission of the interaction or possible multiple interactions between Mr B and the Gambler prior to the betting account's opening, it remains unclear as to whether the Gambler himself initiated the possibility of using of a pseudonym for his betting account with Ladbrokes, or whether the use of a pseudonym was at Mr B's suggestion, the gambling activities that occurred through the use of that betting account were then knowingly conducted by the Gambler with both his and Ladbrokes' informed consent, under a pseudonym.

Terms and Conditions

87. The Gambler submitted to the Commission that at no time was he prompted to read the Ladbrokes' terms and conditions governing his Ladbrokes' betting account.
88. In this respect and has been detailed in numerous past decisions of the Commission, all sports bookmakers licensed by the Commission are required to promulgate a comprehensive set of terms and conditions for wagering which both parties are bound by when an account is opened and each time a bet is struck. These terms and conditions operate to ensure legislative compliance and the commercial efficacy of the business model of a sports bookmaker.
89. As there is, by Ladbrokes own admission, a level of uncertainty as to whether the Gambler opened the betting account with Ladbrokes himself or whether the betting account was opened for him by Mr B, there is clearly some uncertainty as to whether the Gambler himself was prompted to read the Ladbrokes terms and conditions at the time of the account's opening.

90. Having said that however, it is also the responsibility of the Gambler to ensure that he is aware of and accepts the terms and conditions under which he is placing bets with a sports bookmaker.
91. Given that the Gambler went on to use the Ladbrokes betting account for a further 21 months after it was opened, and that both he and Ladbrokes were bound by those terms and conditions each time a bet was struck, whether or not the Gambler opted to read those terms and conditions during the course of his betting activity with Ladbrokes was a matter for the Gambler himself.

Identifying Gamblers at Risk

92. As detailed earlier in the introductory section of this Decision Notice, the Gambler submitted to the Commission that during the lifetime of his betting account with Ladbrokes, he sustained losses of \$758,510.
93. The Gambler has submitted that despite his betting activity being “...*intense, frequent, uncommon, uncontrolled, and desperate,*” coupled with numerous cancelled withdrawal requests and a great many requests for bonus bets where he gave false information as to why he did not have cash available to deposit, Ladbrokes did not reach out to him to establish whether he was betting within his means nor did Ladbrokes encourage him to utilise any responsible gambling tools such as setting up a deposit limit.
94. Ladbrokes on the other hand has submitted to the Commission that it reached out to the Gambler on several occasions due to the Gambler’s activity causing him to appear on several of its internal customer monitoring reports, and that in response the Gambler responded that there were no issues and that he was gambling within his means
95. Ladbrokes further submitted that information regarding responsible gambling management tools was available to the Gambler at all times, including being prompted to set a deposit limit on 5 July 2019, which while being acknowledged by the Gambler, the Gambler chose not to use.
96. In response to the Commission’s draft findings, the Gambler has again advised the Commission that he does not recall “...*a precommitment limit invitation being sent to him.*” While the Gambler may not recall this occurring, the Commission has sighted the Ladbrokes’ records that detail that a system generated deposit limit notification was sent to the Gambler on 5 July 2019 at 10:36 pm and that this push notification was actioned by the Gambler.
97. At the time of the opening of the betting account and at which time the 2016 Code applied, pursuant to clause 5.1 of that Code Ladbrokes were required to offer pre-commitment facilities that allowed a customer to set a maximum spend and/or deposit and/or time limit at any time.
98. As of 26 May 2019 when the 2019 Code came into effect, the Commission strengthened the requirements in relation to pre-commitment features so as to include pursuant to clause 5.1(c) that a person must not only have the ability to set a deposit limit but also be prompted to set a deposit limit during the process of opening an account and then be prompted to review or set a deposit limit at least once in the first 12 months of opening an account and then at least once every 12 months thereafter unless that account has not been utilised in the preceding 12 months.

99. While the Gambler may not recollect being sent a deposit limit reminder, evidence does exist that a deposit limit reminder was sent to him on 5 July 2019 and as such, the Commission finds that Ladbrokes has complied with both the 2016 and 2019 Codes in relation to its obligations to provide deposit limit facilities to the Gambler.
100. Ladbrokes submitted to the Commission that it was the Gambler who sought out a bonus bet on almost every occasion and that Ladbrokes did not always agree to the Gambler's requests.
101. Ladbrokes emphasised to the Commission that it was not foreseeable to the Gambler's account manager or anyone else at Ladbrokes, that the Gambler may have been experiencing problems with his gambling activity. Specifically, Ladbrokes state that:

The communications with his account manager demonstrate control over the amounts he was able to spend and deposit. There is nothing in these conversations that indicate spending above his means or chasing losses, or that he was obtaining funds illegally. While [the Gambler] did appear on monitoring reports, he frequently made withdrawals and his patterns did not indicate a chasing of losses. As a successful [...] and sophisticated businessman living in [...], he presented himself as a man of wealth who was fully in control of his decisions, who was capable of maintaining accounts with a number of operators to "optimise" his position.

Code of Practice - Responsible Service of Online Gambling

102. As the Gambler's Ladbrokes betting account was active during the period between 5 June 2018 and 7 March 2020, both the 2016 Code and the 2019 Code applied. Both Codes set out similar responsibilities for the sports bookmaker with respect to the provision of responsible gambling, with these including that the sports bookmaker must:
- ensure that it details in its policies and procedures, a commitment to responsible gambling practices on its betting platform;
 - ensure that all of its staff engaged in direct dealings with customers be trained to recognise behavioural activity that may be indicative of customers experiencing harms from their gambling;
 - maintain a gambling incident register that records actions taken by its staff to assist customers that have been identified as experiencing harms from their betting activity; and
 - offer voluntary harm minimisation measure to protect the interests of its customers (ie pre-commitment facilities such as deposit, spend and time limits).
103. Specific to the 2016 Code (which applied to the Gambler's Ladbrokes betting account from its creation until 26 May 2019) are the following clauses:

3.1 New Staff

All new staff engaged in client interaction, must complete appropriate responsible gambling training within three (3) months of commencement of employment. Training should include:

- identifying problem gambling Red Flag behaviours
- [...]

104. Specific to the 2019 Code (which applied to the Gambler's Ladbrokes betting account from 26 May 2019 onwards) are the following clauses:

3.2 Recognising potential problem gamblers

Where appropriate, a customer who displays some, or a number, or a repetition of red flag behaviours should be monitored by an online gambling provider and appropriate customer interaction should take place to assist or protect that customer which reasonably corresponds to the circumstances. Online gambling providers should ensure responsible gambling policies and procedures are in place to allow staff to detect and assist customers who may be experiencing problems with gambling.

4.1 Customer responsibility

The provider's customers will be encouraged to take responsibility for their gambling activity through the online gambling provider's provision of clearly defined terms and conditions, rules, odds and player returns and pre-commitment features.

5.1 Voluntary pre-commitment features

[..]

(c) Online gambling providers must ensure each customer is prompted to review and set a deposit limit at least once within the first 12 months of opening their account and then at least once every 12 months thereafter unless that account has not been utilised to place a bet within that preceding 12 months. The prompt must be made via the same method being used by the customer for placing bets at the time the prompt is due.

[...].

Interaction with Gambler

105. The Commission considers it important that the adverse impacts of gambling are taken seriously and that licensees have in place effective processes to interact with those of its customers who may be at risk of being harmed by gambling. As detailed above, the 2019 Code mandates that as soon as a licensee identifies that a user may be at risk of harm due to their gambling activities, the licensee must interact with the customer in a way that will assist to minimise that risk. The Commission is of the view that this interaction must occur quickly and be proportionate to the risk identified, with the aim of the interaction being to assist the user to reflect on their gambling behaviour and moderate their gambling activity where there is reason to do so.

106. Ladbrokes submitted to the Commission that:

- on 26 June 2018, “...some enhanced due diligence” was conducted which consisted of [Mr B] confirming the Gambler’s occupation and that this continued throughout the life of the account;
- on 20 September 2018, the Gambler appeared on a Ladbrokes monitoring report and at the request of the Ladbrokes’ compliance area, [Mr B] checked with [the Gambler] that he was gambling within his means to which [the Gambler] responded that there were no issues and that he was gambling within his means;
- on 5 July 2019, [the Gambler] did not elect to set a deposit limit after being prompted;
- in October 2019, following the Gambler again appearing on a Ladbrokes monitoring report [Mr B] asked [the Gambler] whether he was betting within his means to which [the Gambler] replied that there were no issues and he was just trying to optimise his incentive position;
- [the Gambler] presented himself as a man of wealth; and
- over the life of the account, Ladbrokes provided [the Gambler] with \$528,890 in bonuses consisting of \$416,390 in bonus bets and \$112,500 in bonus cash.

107. The Commission has reviewed the Ladbrokes betting account statements of the Gambler as well as the records of its interactions with the Gambler which consist of a large number of phone calls, emails, chat records and SMS interactions between the Gambler and various Ladbrokes employees. Alongside of this, the Commission has also examined the Ladbrokes’ internal monitoring reports that identified that the activities of the Gambler should be subject to some form of scrutiny due to among other things, the size and frequency of deposits into the betting account and/or the Gambler’s betting activity.
108. Having done so, the Commission notes that over the lifetime of the Gambler’s betting activity with Ladbrokes, he deposited just over \$2.2 million and withdrew just under \$1.5 million, resulting in an overall loss of \$758,510.
109. It is clear to the Commission from reviewing the Gambler’s betting statement that he was a very active gambler as is evidenced by the fact that during the 21-month life of the betting account, the Gambler turned over \$17.5 million. This level of betting turnover by the Gambler also explains the value of bonus bet and bonus cash provided to the Gambler during this same period, being just over \$500,000 or just under 3% of the Gambler’s total turnover.
110. Given the losses sustained by the Gambler, the Commission has no reason to doubt the Gambler’s submission that, “[t]here [was] no evidence of [a] sophisticated betting strategy, because there wasn’t any. Betting plans were always abandoned, just as any wins would be lost.”
111. Having said that however, it is important to note that it is not for the Commission to make findings against a sports bookmaker, simply for the reason that a gambler is not a particularly successful one. A sports bookmaker business is a commercial enterprise and is designed to make money - those profits must naturally come from somewhere and that is usually and primarily from the gambling losses sustained by its own

customers. While not each and every gambler loses, an inherent risk that cannot be avoided in the activity of gambling, is a loss of money.

112. As noted earlier in this Decision Notice, the first deposit made by the Gambler into his Ladbrokes' betting account was a deposit of \$20,000 made on 20 June 2018. This deposit was followed by the Gambler placing two losing \$10,000 bets and then using his deposit rebate to place a third losing bet. Less than twenty minutes later, the Gambler deposited a further \$20,000 into the account. He again placed several losing bets and then went on to deposit \$3,500, placed a winning bet and then used these funds to place further bets. Up until 26 June 2018 the Gambler deposited a further \$5,600 into the betting account and gambled most days by placing bets up to the value of \$11,000. On the days that the Gambler did place bets, he ceased gambling by midnight and did not commence gambling before 8:00 am.
113. On 26 June 2018, an entry was made into the Ladbrokes notes for the Gambler stating that an Enhanced Customer and Due Diligence (ECDD) trigger was activated due to the Gambler having deposited \$49,100 over the weekend. The Commission understands that this is what Ladbrokes is referring to in its submission to the Commission that "...some enhanced due diligence" was conducted which consisted of [Mr B] confirming the Gambler's occupation.
114. Of interest to the Commission in this respect is that the occupation and employer recorded by Ladbrokes as being advised by Mr B for the Gambler is not correct and is in fact the occupation and employer for a person who has the exact same name as the pseudonym used for the Gambler's Ladbrokes betting account. This appears to be extremely coincidental and leads the Commission to form the view that the inquiries undertaken by Mr B into the Gambler's occupation were at best substandard; or that Mr B recklessly misled his Ladbrokes' colleagues when providing information to them about the Gambler's source of wealth.
115. The next record in the Ladbrokes notes for the Gambler is recorded against 20 September 2018, where it is recorded that on:
- 19 September 2018, the Gambler deposited \$77,000 and withdrew the same amount and that no contact was made; and
 - 21 September 2018, the Gambler deposited \$204,800 withdrew \$136,000 the day before and that no contact was made.
116. That same record states that the Gambler had a "...big loss" and that the Ladbrokes' employee making the record had checked with Mr S who said not to call the Gambler and that the Gambler had stopped betting. It further records that Mr S had spoken to Mr B who said the Gambler used to lose \$300,000 a month at Bookmaker A.
117. The same record goes on to say that on:
- 24 September 2018, Mr B spoke to the Gambler who advised "...no issues and he is gambling within his means".
118. Also recorded as part of the 20 September 2018 record is:
- Client appeared in the LHVTC Report -deposited \$546,800 and lost \$231,140 WE 23/9/2018;

- DIHR - client deposited \$135,350 withdrew \$70,000
- UPDATE 2/10/2018 Client appeared on LHVTC deposited \$218,985 withdrew \$155,000 lost \$74,937 WE 30/09/2018. No concerns at this stage, will continue to monitor.

119. It is evident from the above that the Gambler's betting activity did cause a level of concern with at least one/or some Ladbrokes employees however, on the reassurances given by Mr B and Mr S that the Gambler had previously regularly sustained large losses with Bookmaker A and on the advice that Mr B had spoken with the Gambler who indicated that he was betting within his means, no more action was taken than to note that the account should be monitored.
120. The Commission has been advised by Ladbrokes that a component of Mr B's remuneration was a commission based on the 'net revenue' of the clients that he managed. The Commission notes that there is an inherent tension between being paid a commission based on the losses made by a client, and the requirements of the 2016 and 2019 Codes to act appropriately in response to red flag behaviours displayed by that client, and to comply with the urge to buy restrictions in the Codes. For this reason, the Commission is of the view that licensees should be extremely mindful of this tension when deciding how much weight to place on assurances made by persons in the same position as Mr B.
121. It is somewhat surprising to the Commission that there is no record that the Gambler had come to the attention of those Ladbrokes' employees responsible for monitoring of gambler accounts prior to 20 September 2018 given that following the opening of the account, there were several days where the Gambler's deposit activity involved large amounts. By way of example, on:
- 24 July 2018, the Gambler made several deposits totalling over \$50,000;
 - 1 August 2018, the Gambler made several deposits totalling over \$60,000 (noting that he withdrew \$40,000 on the same day);
 - 2 August 2018, the Gambler made several deposits totalling over \$40,000 (noting that he withdrew \$47,000 on the same day);
 - 4 August 2018, the Gambler made several deposits totalling over \$70,000;
 - 6 August 2018, the Gambler made several deposits totalling over \$80,000 (noting that he withdrew \$70,000 on the same day); and
 - 3 September 2018, the Gambler made several deposits totalling over \$70,000.
122. The next record in the Ladbrokes notes for the Gambler is recorded against 2 October 2018 where it is recorded, "*TS_LHVTR WE 28/10/2018. LTD \$1,484,975 LTL \$490,975*". There is no record of any assessment of this information or of any contact being made with the Gambler or with the Gambler's account manager, Mr B.
123. It is then not until some 10 months later that another record is made in the Ladbrokes notes for the Gambler. This record on 24 August 2019 and a further record on 4 October 2019 make reference to the deposits made by the Gambler in the last 7 days

and 24 hours respectively and show that an assessment was made not to contact the Gambler on either of these occasions as the Gambler's betting patterns had not changed to any great extent.

124. On 9 October 2019, the Ladbrokes notes for the Gambler indicate that it was identified that the occupation and employer recorded for the Gambler were not correct and his correct employment was identified. This record also states that the Gambler's annual salary was likely to be in the range of \$115,000 to \$150,000.
125. The Ladbrokes notes for the Gambler were again updated several more times over the next few months due to either the volume of deposits made or the turnover on the account. On each of these occasions, it is apparent that a level of assessment was undertaken by Ladbrokes to determine whether the Gambler's activities were out of the ordinary, with the results of those assessments being that while the Gambler was sustaining large overall losses, his gambling behaviour was aligned with the past activity on his account. There is no record that a decision was made to contact the Gambler to verify that he was gambling within his means nor is there any record that contact was made with the Gambler for that purpose.
126. On 25 February 2020, a note is made in the Ladbrokes notes for the Gambler stating, *"[t]he clients earning capacity could be substantial. The average base salary of a [...] is approx \$130K, the bonuses could be lucrative"*. There is no record that any of this information was verified with the Gambler or any other source.
127. A further two more records are made in the Ladbrokes notes for the Gambler being the first on 27 February 2020 which makes an assessment of the Gambler's betting activity over the past 24-hour period resulting in a comment that the large deposit activity was not concerning as it occurred following a large withdrawal. The final note dated 3 March 2020 related to activity where the Gambler deposited over \$70,000, withdrew \$100,000 and won \$166,560. There are no more notes for the Gambler recorded after this date, noting that the Gambler requested that his Ladbrokes betting account be closed on 7 March 2020.
128. In its submission and as detailed earlier in this Decision Notice, Ladbrokes emphasised to the Commission that it was not foreseeable to the Gambler's account manager or anyone else at Ladbrokes, that the Gambler may have been experiencing problems with his gambling activity.
129. The Commission has reviewed numerous communications between Ladbrokes and the Gambler and tends to agree with the Ladbrokes' assessment that there was nothing in those communications, *"...that indicate spending above his means or chasing losses, or that he was obtaining funds illegally. While [the Gambler] did appear on monitoring reports, he frequently made withdrawals and his patterns did not indicate a chasing of losses."*
130. In response to the draft findings of the Commission, the Gambler has submitted that it is *"...unrealistic to expect that a person who has stolen millions to fund a gambling addiction will disclose that he was obtaining funds illegally."* The Commission tends to agree with the Gambler's submission in this regard however, the Commission after having reviewed the numerous communications between various Ladbrokes' employees and the Gambler is also of the view that there was also nothing within those communications that would cause a person to form a suspicion that the Gambler was potentially engaging in illegal activities to fund his gambling.

131. Having said that however, the Commission is concerned that right from the earliest moments of its first interaction with the Gambler, Ladbrokes appears to have not given due attention to whether the Gambler could afford to gamble to the levels that he was.
132. The Gambler was actively targeted by a Ladbrokes' Business Development Manager due to his knowledge or the knowledge of his supervisor that the Gambler had been sustaining heavy gambling losses with another bookmaker. Rather than making any inquiries of substance as to whether the Gambler could afford to gamble to these levels, Ladbrokes encouraged the Gambler to open a betting account with it by providing attractive bonus and deposit rebate incentives as an inducement to open a betting account and appears to have been more focused on realising its own profits from the Gambler rather than ensuring that it was providing a responsible gambling environment.
133. Simply knowing that the Gambler had sustained significant losses with another bookmaker during the past two years, cannot be considered as having undertaken an appropriate level of inquiry as to whether the Gambler had sufficient wealth to do so. In the Commission's view, given that Ladbrokes were aware of the level to which the Gambler was likely to incur losses from his gambling activity, at the very minimum it should have undertaken some form of thorough and rigorous inquiry as to the Gambler's source of wealth.
134. Whether or not those inquiries would have led Ladbrokes to the conclusion that the Gambler did not have a sufficient source of wealth to undertake his gambling activities is mere speculation however, what is of concern to the Commission is that Ladbrokes failed (apart from undertaking a customer identity verification check) to undertake any form of verification at any stage during the lifetime of the betting account, as to the Gambler's source of wealth. Rather than requesting any source of wealth documents from the Gambler at the time of the opening of the Ladbrokes betting account such as bank statements, savings account records, credit/debit card statements, taxation returns or pay slips, Ladbrokes relied on its employees direct or indirect knowledge of the Gambler's betting activity with another bookmaker, the Gambler's alleged own assertions as to his level of wealth and a 'google search' as being sufficient in nature to be comfortable that the Gambler was betting within his means and that Ladbrokes as a result was providing a responsible gambling environment.
135. The views of the Commission regarding the lack of inquiry initiated by Ladbrokes regarding the Gambler's betting affordability however, must be tempered with the fact that the Gambler knowingly and willingly opened a betting account with Ladbrokes and actively used that betting account over a 21-month period to gamble.
136. While the Gambler's activity resulted in significant losses for him, it is not the role of the Commission to rectify self-inflicted losses from gambling, but rather to make findings as to whether the sports bookmaker has acted in compliance with the Act, the conditions attached to its sports bookmaker licence and the relevant Codes of Practice in place at the time.
137. In response to the Commission's draft findings, the Gambler has asked the Commission to note that he *"...has not requested that his 'self-inflicted losses from gambling' be returned to him or to his family."*
138. The Commission notes that the Gambler has now pleaded guilty in New South Wales to twelve counts of 'Dishonestly obtain financial advantage etc by deception.' The

Commission also notes that a further charge of ‘Knowingly deal with proceeds of crime intent to steal’ was withdrawn. The Commission understands that the Gambler is listed to appear for sentencing in late March 2023.

139. The Gambler through his legal representation, has expressed a view to the Commission that the Commission should refer Ladbrokes to the Northern Territory Police and/or the Australian Federal Police for investigation as in its view, Ladbrokes may have committed offences under Northern Territory or Commonwealth Proceeds of Crime legislation in that Ladbrokes “...ought reasonably to have suspected some of this money to be proceeds of crime.”

140. In support of this view, the Gambler through his legal representation has submitted that:

[The Gambler] is paying for his wrongdoing with the ultimate penalty of deprivation of freedom. Ladbrokes’ part in contributing to the situation needs to be recognised and accounted for.

141. The Commission has considered this request however, while the Commission has formed a view that Ladbrokes failed to initiate sufficient levels of inquiry as to the Gambler’s source of wealth prior to or at the time that the betting account was opened; and then again failed to undertake sufficient and appropriate levels of inquiry when the Gambler made significant deposits and incurred large losses at various times throughout the lifetime of the betting account, the Commission has not formed a view that Ladbrokes dealings with the Gambler were sufficient for it to form a reasonable suspicion that some of the funds used by the Gambler to wager with Ladbrokes may have been proceeds or part of proceeds from a criminal offence.

Investigation Findings

142. The Commission has reached the following findings:

- a. Ladbrokes breached condition 16 of its licence because it did not comply with clause 8.6 of the 2016 Code when it contacted the Gambler and urged him to use its gambling services;
- b. Ladbrokes breached condition 16 of its licence because it did not comply with clause 3.1 of the 2016 Code when it failed to identify problem gambling red flag behaviours (being the known significant losses that the Gambler had sustained over the previous two years with Bookmaker A - losses which Ladbrokes failed to undertake any form of inquiry as to the Gambler’s ability to afford those losses) at the time of the Gambler’s betting account opening;
- c. The Gambler’s true identity was known to and verified by Ladbrokes prior to the Gambler knowingly commencing his gambling activities with Ladbrokes under a pseudonym;
- d. Ladbrokes promulgated a set of terms and conditions for wagering which both Ladbrokes and the Gambler were bound by when the Gambler’s account was opened and each time a bet was struck (whether or not the Gambler opted to read those terms and conditions during the course of his betting activity with Ladbrokes was a matter for the Gambler himself);

- e. Ladbrokes provided deposit limit facilities that complied with both the 2016 Code and the 2019 Code at the relevant times; and
- f. Ladbrokes breached condition 16 of its licence because it did not comply with clauses 3.1 of the 2016 Code and 3.2 of the 2019 Code when it failed to identify problem gambling red flag behaviours (being significant deposits and losses at various stages throughout the lifetime of the betting account - deposits and losses which Ladbrokes failed to undertake sufficient and appropriate levels of inquiry about).

Lawfulness of Bets

- 143. Given the findings of the Commission above, the Commission has turned its mind as to whether the betting transactions that occurred through the complainant's Ladbrokes' betting account were lawful.
- 144. The Commission has long taken the view that it is a matter of the Commission's judgement as to whether a contravention of the Act, a Code of Practice, a condition of licence or other circumstance may be regarded as being so serious as to undermine the integrity of the betting transaction itself and in such circumstances, conclude that the betting transaction to be not lawful. By way of example, the Commission has often determined that the betting transactions involving a self-excluded person are not lawful given the importance the Commission places on self-exclusion provisions being enforced by licensees so as not to allow persons to place bets after they have had the foresight to exclude themselves from using the services of a gambling provider due to recognising the risk to themselves of financial harm. Similarly, the Commission has on occasion, determined bets to be not lawful where a sports bookmaker has failed to take action in circumstances where it has identified that a customer may be engaging in excessive gambling and has not taken sufficient action to help that customer to reduce or cease their wagering activity.
- 145. The Commission is however, of the view that it was also the intention of the legislature to provide the Commission with jurisdiction to also enable bets to be enforced when it furthers the objects of the integrity and probity of betting and racing to do so, and to accept a bet as being lawful even if there is a breach of the Act, a Code of Practice or a licence condition by a sports bookmaker.
- 146. The views of the Commission regarding the sub-standard level of inquiry initiated by Ladbrokes regarding the Gambler's betting affordability must be tempered with the fact that the Gambler presented himself to Ladbrokes as a man of wealth and it is mere speculation as to whether more detailed inquiries would have led Ladbrokes to form the view that the Gambler was not betting within his means.
- 147. Given this, the Commission has formed the view that despite the failings of Ladbrokes with respect to its compliance with its licence conditions and the 2016 and 2019 Codes, the integrity of each bet placed by the Gambler with Ladbrokes has not been undermined to the extent where each bet should not be enforced regardless of the fact that the Gambler's activity resulted in significant losses for him.

Penalties

148. Disciplinary action available to be taken by the Commission against a sports bookmaker ranges from the issuing of a reprimand, imposing a fine not exceeding 170 penalty units or suspending or cancelling the sports bookmaker's licence.
149. In determining appropriate penalties (particularly as to whether a suspension of Ladbrokes sports bookmaking licence is warranted), the Commission notes that Ladbrokes' responsible gambling program has developed significantly from what was in place during the period of time subject of this investigation, particularly the growth of its responsible gambling team so as to ensure staff are now available 7 days a week; increased responsible gambling customer interactions; improved training for staff; a move away from manual reports to automated real-time data analysis to identify customers who may be at risk from their gambling activities and improved gambling management tools including 'Punter Assist' which provides its customers with access to enhanced tools to empower customers to choose how they can best control their activity.
150. The Commission has determined to:

Urge to Buy

- a. impose a fine on Ladbrokes of a fine equivalent to 100% of the maximum penalty of 170 penalty units, being 170 penalty units (in June 2018 a penalty unit's value was \$154) which is equivalent to **\$26,180**;

Red Flag - Losses with Bookmaker A at Time of Account Opening

- b. impose a fine on Ladbrokes of a fine equivalent to 100% of the maximum penalty of 170 penalty units, being 170 penalty units (in June 2018 a penalty unit's value was \$154) which is equivalent to **\$26,180**;

Red Flag - Large Deposits and Losses throughout Account Lifetime

- c. impose a fine on Ladbrokes of a fine equivalent to 100% of the maximum penalty of 170 penalty units, being 170 penalty units (in June 2018 a penalty unit's value was \$154) which is equivalent to **\$26,180**.

Alastair Shields



Chairman
Northern Territory Racing Commission