

Northern Territory Racing Commission

Reason for Decision

Consideration of licenced corporate bookmaker breach of licence condition

Licensee:	Sportsbet Pty Ltd
Proceedings:	Investigation Pursuant to Section 17(1)(b) of the <i>Racing and Betting Act</i>
Heard Before:	Mr Richard O'Sullivan (Chairman) Mr Walter Grimshaw Mr David Brooker

Introduction

1. During the process of making investigations into a complaint brought before the Northern Territory Racing Commission ('the Commission') by Ms Q on behalf of a Mr Z against Corporate Bookmaker Sportsbet Pty Ltd ('Sportsbet'), 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 Sportsbet, involving wagering activities of Mr Z. That complaint has been the subject of separate consideration of the Commission and a comprehensive decision has been relayed to the complainant. On this matter the Commission is aware of the decision of Sportsbet to withdraw action in relation to the monies owed through Mr Z's credit betting activities.

Background facts and relevant considerations

3. On 10 February 2010, Mr Z opened an account with Sportsbet. Upon opening of this account certain Federal and Territory obligations accrued to Sportsbet in relation to account opening and customer identity confirmation under the *Anti Money Laundering and Counter Terrorism Financing Act* ('the Act').
4. Under Federal legislation certain service providers have dispensation to undertake the customer identification procedures required under the Act.¹

The Act states at Section 34, that after the designated dispensation period (90 days), the reporting entity must not continue to provide, and must not commence to provide, any designated services to the customer until the reporting entity carries out the applicable customer identification procedure.

¹ Part 10.4 of the Rules pertaining to accounts for online gambling services details the special circumstances that justify carrying out the applicable identification procedures after commencement of the provision of a designated service. See: Part 10.4.1 and Section 33(c) of the Rules.

5. Sportsbet is a reporting entity as defined under the Act. Further, Sportsbet 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 90 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.

6. During the course of its investigations into the complaint lodged on behalf of Mr Z against Sportsbet, the Commission had reason to view the wagering records of the account opened on 10 February 2010.

Material facts

7. For the purposes of establishing a breach, the Commission considered a chronology of events. The narrative following each point below goes to establishing the breach, highlighting threshold requirements of the Act and of the Commission issued licence.

- **10 February 2010**

Account Opened: basic identification information obtained; customer permitted to use account to wager; 90 Day period of confirmation of identity commences; customer not permitted to make withdrawals until full confirmation of identity received by Sportsbet.

- **12 February 2010 – 11 May 2010**

Account Operational: multiple bets placed (sports and racing); no attempt by Corporate Bookmaker to obtain further identification confirmation. (It is the view of the Commission that during this period the Corporate Bookmaker should take steps to ensure that the 90 Day rule is not ultimately breached.)

- **12 May 2010**

Account Operational but in Breach: 90 Day period for formal confirmation of identity concludes; account must be frozen with no further wagering permitted until compliance procedures have been met.

- **13 May 2010**

Account Operational in Ongoing Breach: all bets placed from this time breach account identification requirements and offend the 90 Day rule.

Racing commission expectations

8. The Commission considers that it is reasonable to expect that:
- All Corporate Bookmakers regulated and operational within the Northern Territory are aware of and 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 specifically are required to comply

with its licence conditions which require proof of client identity within 90 days of an account being opened.

- Where a Corporate Bookmaker has not properly confirmed the identity of a customer as required, such an account will be immediately frozen with no further transactions permitted until full compliance under the requirements of the Act and licence condition have been achieved.
- Corporate Bookmakers should have in place appropriate Information Technology Systems and Procedures to ensure that customers are fully aware prior to the expiration of the 90 Day period that an account is liable to suspension if full confirmation of identity has not been received.
- Corporate Bookmakers need to be aware 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 money laundering and counter terrorism financing. To be clear, where the Commission evidences an apparent breach or suspicious activity under the Act, such observations will be reported to the appropriate body including Austrac.

Decision

9. The Commission is afforded no flexibility whatsoever in determining that Sportsbet have failed to ensure that customer Z was identified as required under the Act and its licence condition.
10. 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.
11. The Commission thus finds that Sportsbet, having failed to properly identify customer Z under the requirements of the Act and its licence condition has breached Section 83(2) of the *Racing and Betting Act*. The Commission further finds that the failure to immediately suspend the account of customer Z after the 90 Day period, compounds that failure to properly identify a client as required.
12. The Commission takes the view that breaches of Federal legislation combined with breaches of Territory legislation, through non-compliance with its licence conditions, are of a serious nature. In determining penalty, however, the Commission is mindful of the regularity complexity in relation to compliance with the 90 Day rule and cognisant that this is the first occasion Sportsbet have been found in breach of the rule.
13. Penalty: \$2,500. Payable to the Receiver of Territory Monies, within 28 days of this decision.

Richard O'Sullivan
Chairman

29 July 2011