

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr L
Licensee:	Sportsbet Pty Ltd
Proceedings:	Gambling Disputes for determination by Racing Commission Pursuant to section 85(2) of the <i>Racing and Betting Act</i>
Heard Before: (on papers)	Ms Cindy Bravos (Presiding Member) Ms Amy Corcoran Mr Allan McGill
Date of Decision:	5 November 2019

Background

1. On 28 July 2018 pursuant to section 85(2) of the *Racing and Betting Act* (the Act), the complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) relating to the actions of Sportsbet Pty Ltd (Sportsbet) in voiding two bets that had been struck on a betting market that Sportsbet had offered on round 3 of the 2018 Australian Football League (AFL) season.
2. The betting markets offered by Sportsbet on the AFL matches played in that round included the offering to Sportsbet customers, the ability to place a bet on whether or not a player would make 40 or more disposals of the football during each of the matches.
3. On 8 April 2018, the complainant placed two bets on the match between Richmond v Hawthorn at a price of \$501. The first bet was for a stake of \$30 and the second bet was for a stake of \$20. The combined winnings for both bets would have amounted to \$25,050 had Sportsbet not voided the bets on the basis that the prices offered had been offered in error and that these pricing errors were obvious or manifest errors.
4. The complainant submitted that the two bets were voided 10 minutes after the commencement of the Richmond v Hawthorn match, and only after Hawthorn player Tom Mitchell was “...*well on his way toward a rare 40-disposal afternoon.*”
5. Information was gathered from the parties involved by Licensing NT officers appointed as betting inspectors by the Commission and provided to the Commission to consider the gambling dispute on the papers.

Consideration of the Issues

6. The objects of the Act are the promotion of probity and integrity in racing and betting in the Northern Territory; maintaining the probity and integrity of persons engaged in betting in the Northern Territory; promoting the fairness, integrity and efficiency in

the operations of persons engaged in racing and betting in the Northern Territory; and reducing any adverse social impact of betting.

7. In furtherance of those objects, section 85 of the Act provides the Commission with the jurisdiction to determine all disputes between a sports bookmaker and its customer regarding lawful betting. In this respect, section 85 sets out the decision making regime for the making of a determination by the Commission as to whether the disputed bet is lawful and provides that a person may take legal proceedings to recover monies payable on a winning lawful bet or for the recovery of monies owed by a bettor on account of a lawful bet made and accepted.
8. The clear purpose of section 85 is to authorise the Commission following an investigation, to determine whether or not the impugned bet or bets were lawful. The Commission's jurisdiction does not extend to other issues such as whether a remedy is available to any of the parties that would see them entitled to avoid the obligation being pursued such as a claim that a sports bookmaker engaged in misleading or deceptive conduct in inducing the bettor to bet.
9. It is important to note that in order to further the objects of the Act, the Act provides for the Commission to make rules for the control and regulation of sports bookmakers and in doing so, the Commission approves the terms and conditions of sports bookmaker licences which include the terms and conditions of agreements entered into between sports bookmakers and their customers.
10. The terms and conditions that both the sports bookmaker and the customer are bound by when a betting account is opened and each time a bet is struck, usually contain a rule that allows the sports bookmaker to defend its entitlement to correct any prices which are inadvertently offered in obvious or manifest error, such as when two prices are transposed, a price is incorrectly input as a result of a typing error or when a delay in receiving live match information impacts on the prices being offered as the price offered failed to take into account some event that had already occurred.
11. At the time the complainant's bets were struck, the following rule formed part of Sportsbet's terms and conditions:

Rule 90. Sportsbet makes every effort to ensure that no errors are made in prices offered or bets accepted on an Account. However, we reserve the right to correct any obvious errors and to void any bets where such has occurred. Should this occur, Sportsbet will endeavour to contact the Member by email or telephone.
12. The above rule on errors explains to the customers of Sportsbet that when Sportsbet detects that an obvious erroneous price has been issued, Sportsbet reserve the right to void the bet. As has often been articulated in previous Commission decisions, it is the view of the Commission that the commercial efficacy of the sports bookmaker business model must have error limiting clauses such as this so as to avoid a sports bookmaker from unjustly suffering a loss where a legitimate or innocent error has occurred. It is the view of the Commission however, that obvious or manifest error rules should not be used to protect sports bookmakers from errors of judgement, lack of vigilance or movements in the market that they have failed to detect and respond to.

13. The issue for consideration by the Commission therefore in determining the current gambling dispute before it, is whether this error rule has been implemented reasonably and fairly by Sportsbet. In doing so, the Commission must necessarily look to the reasons provided by Sportsbet for the claimed pricing error and review the evidence from Sportsbet that supports its claim about the price it intended to offer at the time the disputed bets were struck. In doing so, the Commission will also turn its mind to whether the claimed error would have been discernible to a sports bookmaker customer with a reasonable knowledge of betting; as well as a knowledge of the sport involved in the betting markets in question.
14. Sportsbet has advised the Commission that the price offered of \$501 on any player to get 40 disposals of the football during the Hawthorn v Richmond match was offered in error for a period of 4 minutes prior to the match commencing. Sportsbet further advise that the error occurred as a result of a “...*modelling error that unintentionally increased the odds for player markets.*” Once the error was identified, Sportsbet voided the bets struck on the betting market and returned the stakes back to the customers who had placed a bet on the market.
15. Sportsbet has provided the Commission with its audit log for the betting market offered showing what prices were on offer and when, as detailed in the following table:

Date	Time	Price
8 April 2018	12:40:25	501.00
8 April 2018	12:36:24	501.00
8 April 2018	12:24:21	2.30
8 April 2018	12:10:02	2.25
5 April 2018	18:08:09	2.30
5 April 2018	18:06:58	2.37
5 April 2018	09:48:12	2.30
4 April 2018	17:11:32	2.37
4 April 2018	15:25:29	2.30

16. Sportsbet submitted to the Commission that once the error in pricing was identified, the betting market was removed and was no longer available to its customers.
17. Sportsbet has provided evidence to the Commission that the complainant’s bets were struck at 12:37:34 and 12:38:12 Australian Central Standard Time (ACST) respectively and that following the identification of the pricing error, both bets were both voided at 12:50:08 ACST. The Commission has also sighted email

correspondence sent by Sportsbet to the complainant dated 8 April 2018 in which they advised the complainant of their actions and that the bets had been voided in accordance with Sportsbet's terms and conditions' Rule 90.

18. The Commission has no reason to doubt Sportsbet's submission that the price of \$501 for any player to get 40 or more disposals of the football during the match played between Hawthorn and Richmond was offered in error as a result of a modelling error, given that Sportsbet took down the betting market as soon as the pricing error was identified and voided all bets struck. As such, the Commission must therefore turn its mind to whether the prices offered when the bets were struck were prices that were not simply an error but an obvious or manifest one, noting that the Commission need only be satisfied that one limb can be sustained; either obvious or manifest.

Historical Data

19. The meaning of manifest or obvious error has been considered many times by the Commission and as detailed in previous Commission decisions, it is the view of the Commission that a manifest error is one that can be determined on its face without the need to look for any evidence or background information, such as letters being interposed within betting odds. An obvious error on the other hand is one that is easily seen, perceived and recognised. The error needs to be apparent and not difficult to observe.
20. The Commission has often used historical data as evidence to establish whether a pricing error was an obvious error as it allows probative evidence to be utilised rather than supposition or assumption.
21. In this respect, Sportsbet has provided the Commission with betting market audit logs for the prices offered in the matches Hawthorn played in Round 1 and Round 2 of the 2018 AFL season. These audit logs show that a price of between \$2.80 to \$4.00 was offered in the round 1 Hawthorn v Collingwood match and that a price of between \$2.10 and \$2.75 was offered in the round 2 match played between Hawthorn and Geelong.
22. The Commission notes that Hawthorn player Tom Mitchell played in each of these matches as well as in the match subject of this gambling dispute. In rounds 1 and 2, Tom Mitchell made 54 and 40 disposals of the football during each match respectively.
23. Sportsbet also offered betting markets similar to the one in dispute, with respect to the number of disposals Tom Mitchell as an individual player would make in the match played in round 3. The prices offered for Tom Mitchell to make 40 or more disposals of the football during the match ranged between \$2.40 and \$2.50 up until the same time the pricing error was offered in the betting market subject of this gambling dispute, at which time a price of \$101 was offered in error.
24. A further Sportsbet betting market on offer for Tom Mitchell to make over or under 35 disposals offered a price of \$1.87 for either option.
25. The Commission also notes that as detailed at paragraph 15 above, the prices offered for the betting market on 8 April 2018 prior to the offering of a price of \$501 ranged between \$2.25 to \$2.37.

26. For each of the betting markets discussed above, the Commission notes that the prices on offer were at their highest, offering odds of \$4.00; significantly less than the price on offer of \$501 when the complainant's bets were struck.

Voiding of Bets after Match commencement

27. As noted, at paragraph 5, the complainant submitted that the two bets were voided 10 minutes after the commencement of the Richmond v Hawthorn match, and only after Hawthorn player Tom Mitchell was "...well on his way toward a rare 40-disposal afternoon." The Commission has sighted correspondence between the complainant and Sportsbet in which the complainant states that Tom Mitchell had 13 disposals in the first quarter alone.
28. Evidence before the Commission sourced from an AFL match report on the official AFL website shows that at approximately 18 minutes into the first quarter of the match, Tom Mitchell had made 11 disposals.
29. In this respect, the Commission also notes that the 2018 AFL fixture details that the match between Hawthorn and Richmond was to be played at the Melbourne Cricket Ground on 8 April 2018 with a kick off time of 13:10 pm Australian Eastern Standard Time (AEST) which converts to 12:40 ACST - some 10 minutes before the bets were voided by Sportsbet.
30. It is clear that the bets struck were voided by Sportsbet some 10 minutes after the match commenced and quite likely when Tom Mitchell had already made a relatively high number of disposals, noting that Tom Mitchell went on to make 42 disposals of the football during the match.

Betting History

31. As discussed earlier in this decision, the Commission when considering gambling disputes involving a sports bookmaker will also turn its mind to whether the claimed error would have been discernible to a sports bookmaker customer with a reasonable knowledge of betting; as well as a knowledge of the sport involved in the betting markets in question.
32. The Commission has been advised that the betting records for the complainant detail that the complainant has placed numerous bets on this type of betting market previously with stakes ranging from \$5 to \$100.
33. It is evident from the complainant's Sportsbet betting records that the complainant is familiar with the AFL +40 disposals market and would be aware of the usual range of prices offered.

Decision

34. The Commission is authorised, following an investigation, to declare that a disputed bet is lawful or not lawful so far as the requirements of the Act are concerned.
35. The Commission is not authorised to declare that a bet is not lawful on the basis of a breach of some contractual arrangement between the parties where the contractual arrangement falls outside the scope of the Act. However, some

contractual arrangements between a sports bookmaker and its customer do fall within the scope of the Act. For example, the Act sets out that a licence is subject to such conditions as are prescribed and such other conditions that are endorsed on it. In this respect, all sports bookmaker licences issued in the Northern Territory include a requirement that the sports bookmaker formulate a set of terms and conditions in relation to the manner in which the sports bookmaker accepts and settles bets.

36. Whilst those terms and conditions are a component of the contractual arrangement between the sports bookmaker and the customer, the requirement to have in place approved terms and conditions is also a condition of the licence. Given that the authority for the Commission to prescribe licence conditions is contained within the Act, it is appropriate for the Commission to consider the licence conditions in determining whether a bet was lawful or not in accordance with the terms of the Act.
37. In deciding whether a bet is lawful, the Commission must look to the substance of the transaction and whether it should be enforced or not. When determining matters involving the use by a sports bookmaker of the 'error rule' to void bets that have been struck, the Commission will determine whether the 'error rule' has been implemented reasonably and fairly.
38. In examining the evidence before it, the Commission is satisfied that the price offered by Sportsbet when the complainant's bets were struck on the Sportsbet any player to make 40+ disposals in the round 3 2018 AFL season match between Hawthorn and Richmond was offered in error.
39. The Commission must however, consider whether the price offered by Sportsbet in error was an obvious error and in doing so; the Commission has turned its mind to whether the pricing error was obvious or easily demonstrable without extensive investigation and whether it was clear to the mind or plain to see. To assist the Commission in this respect, the Commission has examined the extrinsic material available to it which has included historical and comparative data.
40. The historical data available showed that a price a price of between \$2.80 to \$4.00 was offered in the round 1 Hawthorn v Collingwood match and that a price of between \$2.10 and \$2.75 was offered in the round 2 match played between Hawthorn and Geelong. Each of these price ranges were significantly less than the price offered to the complainant of \$501 on 8 April 2018.
41. The comparative data showed that the prices offered for Hawthorn player Tom Mitchell to make 40 or more disposals of the football during the same match ranged between \$2.40 and \$2.50 up until the same time the pricing error was offered in the betting market subject of this gambling dispute. Another Sportsbet betting market on offer for Tom Mitchell to make over or under 35 disposals offered a price of \$1.87 for either option. Again, each of these prices were significantly less than the price offered to the complainant of \$501 on 8 April 2018.
42. The Commission also notes that as detailed at paragraph 15 above, the prices offered for the betting market on 8 April 2018 prior to the offering of a price of \$501 ranged between \$2.25 to \$2.37; significantly less than the price on offer of \$501 when the complainant's bets were struck.
43. Given that both the historical and comparative data show prices on offer of more than \$497 less than the price that the complainant's bets were struck at, it is difficult

for the Commission to come to any other conclusion than that price offered when the complainant's bets were struck meets its threshold requirement to uphold a finding of obvious error.

44. As a result, the Commission has determined that the complainant's bets are lawful bets pursuant to section 85(1A) of the Act.
45. However, the Commission is also satisfied that the offering of a price of \$501 on any player to make 40 disposals in the AFL 2018 season round 3 match between Hawthorn and Richmond was an obvious error and in accordance with its terms and conditions to which the complainant agreed to at the time of opening his betting account, Sportsbet implemented its error rule reasonably and fairly and was entitled to cancel the bets and notify those customers who had placed a bet on the event of its decision to do so.
46. As such, it is the view of the Commission that there is no outstanding monies payable by Sportsbet to the complainant.

Review of Decision

47. Section 85(6) of the Act provides that a determination by the Commission of a dispute referred to it pursuant to section 85 of the Act shall be final and conclusive as to the matter in dispute.



Cindy Bravos
Presiding Member
Northern Territory Racing Commission
5 November 2019