

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr K
Licensee:	BetEasy
Proceedings:	Gambling Dispute for determination by Racing Commission (pursuant to section 85(2) of the <i>Racing and Betting Act 1983</i>)
Heard Before: (on papers)	Ms Cindy Bravos (Presiding Member) Ms Amy Corcoran Mr Allan McGill
Date of Decision:	25 August 2021

Background

1. On 16 January 2020, pursuant to section 85(2) of the *Racing and Betting Act 1983* (the Act), the complainant lodged a gambling dispute with the Commission against the Northern Territory licensed sports bookmaker, BetEasy.
2. The complainant alleges that BetEasy failed to implement sufficient responsible gambling practices to minimise the harm that he has experienced from his gambling behaviour. Specifically, the complainant alleges that BetEasy failed to identify that between 30 September 2019 and 8 October 2019 his spend behaviour had changed significantly in that the deposits that he had made and the frequency of them had increased compared to his previous deposit pattern.
3. The complainant has submitted that this deposit behaviour was driven by a 'big win' and alleges that as BetEasy did not make information available that would have allowed him to make informed decisions about his gambling activity in that while he was able to view the withdrawals that he had made, he was unable to view his full deposit history, and this led him to believe that he was still ahead.
4. Information was gathered from the parties involved by Licensing NT officers appointed as betting inspectors by the Commission and provided to the Commission, which determined that there was sufficient information before it to consider the gambling dispute on the papers.

Consideration of the Issues

5. Pursuant to the Act and licence conditions, all Northern Territory licensed sports bookmakers are required to comply with the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (the 2019 Code). The 2019 Code came into effect on 26 May 2019, having replaced the Northern Territory Code of Practice for Responsible Gambling 2016. Both Codes provide guidance to online gambling providers on responsible gambling practices so as to minimise the harm that may be caused by online gambling. Online gambling providers are also currently encouraged by the Commission to implement additional strategies to further minimise harm.

6. The 2019 Code among other things, requires at clause 3.1 that all staff of an online gambling provider that are engaged in customer interaction must receive training that will enable them to identify problem gambling red flag behaviours. While not exhaustive, the 2019 Code details that red flag behaviours may include such activities such as gambling for an extended period of time, changing gambling patterns, increases in deposit frequency and escalating sums of money deposited. The 2019 Code further requires at clause 3.2 that online gambling providers are to have in place responsible gambling policies and procedures to allow staff to detect and assist customers who may be experiencing problems with gambling. Where an online gambling operator's customer displays some, or a number, or a repetition of red flag behaviours, the 2019 Code requires that they should be monitored and that appropriate customer interaction should take place to assist or protect that customer.
7. The complainant has submitted to the Commission that his spend behaviour changed significantly between 30 September 2019 and 8 October 2019 in that the deposits that he had made and the frequency of them had increased compared to his previous deposit pattern. The complainant has submitted that during this period he made deposits into his BetEasy betting account of \$50, \$100, \$200 and \$500 and that he also made a single deposit of \$1,000. The complainant stated that had *"...never deposited such money at such high frequency."*
8. The Commission has reviewed the complainant's betting activity with BetEasy from the time that the complainant opened his account in 2016 through to when the betting account was closed as a self-excluded account in January 2020. Throughout the lifetime of the betting account but excluding the period subject of this gambling dispute, the Commission notes that the complainant's deposits ranged in value between \$10 and \$300 and with numerous days where multiple deposits were made.
9. The Commission has examined in detail the six month period prior to the period in dispute and notes that between 1 April 2019 and 29 September 2019 that deposits made by the complainant during this period tended to range from singular daily deposits of \$20 to \$100 through to regular multiple daily deposits totalling up to \$310 on any one day.
10. On several occasions in mid-August (being 18 August 2019, 25 August 2019, 2 September 2019, 15-18 September 2019, 23-26 September 2019 and 28 September 2019), the complainant made several singular deposits of \$200 and \$300; and multiple daily deposits totalling between \$300 and \$810. Of interest is that during this period, while the complainant placed a significant number of bets, the vast majority of these bets were unsuccessful. It would appear that the increased deposit behaviour between 15-18 September 2019 resulted from having had two successful bets on 16 September 2019 with a total payout of \$2,111 of which the complainant withdrew \$2,062 but later deposited most of these winnings back into his betting account and then placed further bets.
11. On 26 September 2019, the complainant placed a successful bet with a stake of \$200 that resulted in a payout of \$6,677. On the following day, the complainant withdrew most of these winnings from his betting account with a withdrawal of \$6,500. This winning payout is the 'big win' that the complainant referred to when lodging this gambling dispute and to which the complainant alleges that as BetEasy

did not make sufficient information available that would have allowed him to make informed decisions about his gambling activity, it led to an increase in his spend behaviour compared to his previous deposit pattern.

12. Following this successful bet payout, between 28 September 2019 and 9 October 2019 the complainant made deposits totalling \$10,000 into his betting account. The complainant accessed his betting account on each day and made daily deposits ranging from \$50 through to a maximum of \$2,600. Each individual deposit ranged between \$20 through to a singular deposit of \$1,000 on 7 October 2019. No further deposits were made into the betting account until 16 October 2019 with these deposits then ranging between \$20 and \$50 until the betting account was closed in January 2020.
13. During 28 September 2019 and 9 October 2019, the Commission notes that the complainant was again a very active gambler having placed a significant number of bets with stakes ranging between \$20 and \$180. It is only on 6 October 2019 and 7 October 2019 that the complainant's bet size increased to several with stakes of \$400 and \$500 and one with a stake of \$900. However, unfortunately for the complainant, most of these bets were again unsuccessful with only three of the bets that he placed during the time period subject of this gambling dispute being winning bets with payouts of \$798, \$194 and \$651.
14. The Commission affords all sports bookmakers who have had gambling disputes lodged against them an opportunity to respond. In this respect, BetEasy has advised the Commission that:
 - the complainant had a turnover in 2019 totalling \$37,961 and a net gambling loss of \$9,966;
 - the complainant's turnover between 30 September 2019 and 8 October 2019 was \$9,966 and a net gambling loss of \$8,820;
 - if the above period is removed from consideration, the complainant had a turnover of \$27,995 in 2019 with a net gambling loss of \$181.
15. BetEasy has highlighted to the Commission that the complainant through submitting his gambling dispute is only seeking for the Commission to examine the period in 2019 where the complainant "*...sustained 98% of his net gambling losses for the year, and ignore all other periods where he had a net positive result.*"
16. Having taken into account BetEasy's submission to the Commission and following the review of the complainant's betting records, the Commission notes that while the complainant's deposit activity increased in mid-August 2019, this activity was not in the Commission's view of such a sufficient nature to require BetEasy to intervene.
17. The Commission notes that following a rare successful outcome of a bet placed by the complainant on 26 September 2019 resulting in a payout in the amount of \$6,677, the complainant's deposit levels increased. In the Commission's experience, it is not unusual for a person who has some success through their betting activity to then continue to bet in an effort to repeat the success. The Commission notes that the complainant initially withdrew the majority of the winnings from this successful bet, but then went on to re-deposit these winnings - but with little to no success.

18. The complainant's deposit history clearly shows that he began to actively increase the deposit amounts and frequency of them into his betting account in mid- August 2019 which the Commission notes is contrary to the complainant's submission that between 28 September 2019 and 9 October 2019 he had "*...never deposited such money at such high frequency.*"
19. It is also of interest to the Commission that the complainant continued to deposit monies and place bets using his BetEasy betting account following the period subject of his gambling dispute albeit with lesser frequency, until he raised concerns about his losses with BetEasy some three months later in January 2020. In this regard, the complainant has submitted to the Commission that he raised his concerns with BetEasy, "*...only [in] January, this year as my losses started mounting up with another bookmaker...it prompted me to reconcile my losses with both bookmakers...*"
20. It is well established that the Courts have set a very high threshold of responsibility for the gambler as to their own actions. It is suggested that only in the most extreme cases of deliberate and gross conduct by the operator who has knowledge of the vulnerability of the problem gambler, that there would be any duty owed to prevent loss.
21. With this in mind, the Commission notes that betting activity is rarely linear or metronomic. As a result, there can be significant deviations in the amount deposited and wagered by the same sports bookmaker customer from one day to the next; as is also the case with the amounts won or lost by that same customer. Taking this in to consideration, the Commission is not of the view that the complainant's betting account activity during 28 September 2019 and 9 October 2019 was of such a sufficient nature to indicate to BetEasy that the complainant may be experiencing harms from his gambling.
22. In lodging the gambling dispute, the complainant has submitted that BetEasy did not make information available that would have allowed him to make informed decisions about his gambling activity in that while he was able to view the withdrawals that he had made, he was unable to view his full deposit history and this led him to believe that he was still ahead. Specifically, the complainant has submitted that full transaction details are not shown through the BetEasy mobile application "*...which meant I could not track my deposits correctly. In fact it showed that I had deposited some amount (sic), but I had a feeling that I was depositing more than what the app displayed.*"
23. In support of this assertion, the complainant provided a copy of a chat discussion with BetEasy dated 15 January 2020 (after the betting account was closed) in which he requested an account activity statement. Following BetEasy advising that the account activity statement had been emailed to him, the following discussion took place:
 - Complainant: Also from my memory I could not see all my deposits via mobile app. Is this still the case?
 - BetEasy: Yeah correct. You won't be able to.
 - Complainant: Oh ok. So [the] only way to see everything is by requesting a statement?
 - BetEasy: Yes correct.

24. In this respect, clause 5.3 of the 2019 Code requires that online gambling providers must ensure that customer activity statements are available immediately online and within seven days upon request by a customer. Activity statements must include the following information for each transaction being the date, time amount, description of the transaction, the account balance and win/loss information.
25. BetEasy has submitted to the Commission that the information made available to a BetEasy customer through its mobile application and website includes an online activity statement which provides full details for a 30 day period and that a full activity statement is available on request.
26. In the Commission's view, the chat discussion provided by the complainant aligns with the submission of BetEasy that an online activity statement is available that provides full details for a 30 day period. This statement would not provide a record of all deposits made through the life of the betting account however, if a BetEasy customer wishes to access that information, the customer can request a statement to be sent.

Decision

27. The Commission has often stated when determining gambling disputes that an inherent risk that cannot be avoided in the activity of gambling, is a loss of money. The Commission's role in dealing with this gambling dispute is not to simply rectify self-inflicted economic losses from gambling following the lodging of a gambling dispute with the Commission but rather, to make a finding as to whether the sports bookmaker has acted in compliance with the Act, its licence conditions and the relevant Code in place at the time.
28. On the weight of the evidence before it, the Commission has determined that between 28 September 2019 and 9 October 2019, there has been no breach by BetEasy of the Act, its licence conditions or of the Code in relation to the complainant. Given this, the Commission declares that all bets placed by the complainant through his BetEasy betting account between 28 September 2019 and 9 October 2019 were lawful bets.
29. As a result of this finding, the Commission does not consider that any of the deposits made into the complainant's BetEasy betting account between 28 September 2019 and 9 October 2019 should be returned to him.

Review of Decision

30. 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

25 August 2021