

# NORTHERN TERRITORY RACING COMMISSION

## Reasons for Decision

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<b>Complainant:</b>	Mr M
<b>Licensee:</b>	Hillside (Australia New Media) Pty Ltd - bet365
<b>Proceedings:</b>	Gambling Dispute for determination by Racing Commission (pursuant to section 85(2) of the <i>Racing and Betting Act 1983</i> )
<b>Heard Before: (on papers)</b>	Ms Cindy Bravos (Presiding Member) Ms Amy Corcoran Mr Allan McGill
<b>Date of Decision:</b>	3 August 2021

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### Background

1. On 23 September 2019, pursuant to section 85(2) of the *Racing and Betting Act 1983* (the Act), the complainant lodged a gambling dispute with the Northern Territory Racing Commission (the Commission) against the licensed sports bookmaker, Hillside (Australia New Media) Pty Ltd which operates the betting platform bet365. For the purposes of this decision notice, the licensee will be referred to as bet365.
2. In lodging the gambling dispute, the complainant has submitted to the Commission that bet365 failed to implement its responsible gambling measures effectively. The complainant advised the Commission that he self-excluded from bet365 for a couple of years in 2015. The complainant then re-opened his bet365 account in 2019 and when he complained about not getting bonus bets, he found out that bet365 had placed a fixed deposit limit on his betting account. The complainant advised that since he re-opened the betting account in 2019, he used bet365's responsible gambling tool 'Time-Out' several times for differing periods to take a break from gambling with bet365. However, the complainant has submitted that he was able to override the 'Time-Out' by entering his bet365 betting account password and passcode each time that his deposit limit reset and as a result he was able to deposit monies into his bet365 betting account and place bets.
3. The complainant advised the Commission that he had requested bet365 to refund the deposits that he had made into his betting account after he was able to override the 'Time-Out' feature and sought to have his betting account with bet365 permanently closed however, while bet365 permanently closed his betting account, bet365 refused to refund the deposits made into the account.
4. In submitting the gambling dispute to the Commission, the complainant has advised that he now believes that he should not have been able to re-open his account at all and is now seeking to have bet365 refund all of the deposits he made into the account after his period of self-exclusion.

5. The complainant also provided a copy of his original complaint to bet365 when submitting his gambling dispute to the Commission. In that correspondence, in addition to outlining the substance of his dissatisfaction with bet365 as detailed above, the complainant also stated that, *“I understand it was me who gambled however I did try [to] put measures in place which were easily bypassed...”*
6. 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**

7. For many people, gambling is a harmless entertainment. As detailed in previous decisions of the Commission, the Commission however recognises that this is not the case for all people who engage in gambling activity and that in some circumstances, some people are unable to control the urge to gamble despite knowing that it is having a negative impact on their lives. With this in mind and in order to minimise the harm that may be caused by online gambling, the Commission introduced the Northern Territory Code of Practice for Responsible Service of Online Gambling 2019 (the 2019 Code) which came into effect on 26 May 2019, having replaced the Northern Territory Code of Practice for Responsible Gambling 2016 (the 2016 Code).
8. Responsible gambling is a broad concept and involves the conduct of gambling in a manner whereby the potential for harm associated with gambling is minimised. It respects the responsibility of individuals for their own actions, but also acknowledges a responsibility on the part of the gambling operators. Responsible gambling has regard to the context in which gambling occurs, the inducements made to gamble, the way the gambling service operates and the integrity of the gambling operator. The aim is to enable persons to make informed decisions about their participation in gambling and, if harm has or is likely to occur, to provide access to gambling help services.
9. Having reviewed the complainant’s betting account records with bet365 as well as email and Live Chat records, the Commission notes that the complainant opened a betting account with bet365 on 14 December 2012. On 4 November 2013, the complainant initiated a self-exclusion from the betting account for one year. Just over a year later and after completing bet365’s return to gambling procedure via telephone and after a 24 hour cooling off period, the complainant again began using the betting account with bet365 and did so until 11 May 2015 at which time he again initiated a self-exclusion from the betting account for a period of six months.
10. The complainant’s bet365 betting account remained dormant for the next four years until on 24 May 2019 when the complainant again completed bet365’s return to gambling procedure and having done so, began to use the bet365 betting account to gamble.

11. Bet365 has advised the Commission that its return to gambling procedure required the complainant to successfully complete a problem gambling self-assessment. Once done, the complainant was provided with information on returning to gambling as well as advice as to several of the responsible gambling tools available. In addition, the complainant was provided with information about problem gambling support organisations. Following the complainant acknowledging that he had read the information provided, a 24 hour cooling off period was initiated. Once this period had elapsed, the complainant was required to confirm that he wished to proceed with the re-activation of his betting account, which he did. Bet365's processes then automatically logged the complainant out of the betting account after which the complainant was then required to log back into his betting account as a final confirmation that he wished to start using the betting account again.
12. Bet365 also advised the Commission that at this time, it applied a number of restrictions to the complainant's account known as 'Player Protection Measures' which included the compulsory setting of deposit limits, no loyalty bonuses and permanent removal from marketing communications.
13. On 28 May 2019, which was several days after the complainant re-opened his bet365 betting account and after the complainant had made four separate deposits totalling \$140 into the account, the complainant contacted bet365 and queried whether he was eligible for any bonus bets. He advised bet365 that as he had a deposit limit on his account he was hoping that if he was eligible, that it could be applied to what he had already deposited that week. Bet365 advised the complainant that as he had previously self-excluded from bet365, he was not eligible for any bonus bets. The complainant was unhappy with the bet365 response and requested for his complaint to be escalated, a refund of the deposits made and for the betting account to be closed. As a result, bet365 suspended the complainant's betting account and advised him that a bet365 representative would contact him by telephone the next day.
14. On 29 May 2019, bet365 made telephone contact with the complainant. The Commission has listened to that telephone recording and notes that bet365 explained the player protections that had been placed on the complainant's account following its re-opening after a period of self-exclusion. The complainant advised bet365 that it was not the player protection measures themselves that he was dissatisfied with but rather, the fact that he was not aware that they had been placed on his account and if he had been aware, that he may have decided not to re-open the betting account with bet365. Bet365 advised the complainant that as he had requested that his account be closed the previous day that his account had been suspended. Bet365 asked the complainant whether he felt he was in control of his gambling to which the complainant confirmed that he was. The complainant was asked what he wanted to do, to which he replied that he wanted the betting account re-opened.
15. As a result, bet365 re-opened the complainant's betting account and also sent the complainant a web message in which the complainant was informed of bet365's responsible gambling tools which included reality checks to see how long a person has been logged into their account, taking a break from gambling by taking a 'Time-Out', self-ssessment to help to decide whether a person has a problem with

gambling and preventing gambling for a longer period of time by taking a self-exclusion.

16. Between 31 May 2019 and 18 June 2019, the complainant made a further thirteen deposits into his betting account totalling \$375.
17. On 18 June 2019, the complainant chose to close his account online for a period of one month. The reason that the complainant selected for closing the account was 'other'. Bet 365 has advised the Commission that when a bet365 customer wants to stop using their account, they have the option to close their account online. The bet365 customer must set a timeframe but can re-open the account at any time after successfully answering additional security questions.
18. The Commission has reviewed bet365's information provided to its customers regarding account closure and notes that in addition to the account closing procedures, it provides a link to the self-exclusion process should a person feel they are at risk of developing a gambling problem. The information provided also clearly states that should a person wish to re-open their account during the period they have selected for it to be closed, they will be required to answer additional security questions to safeguard the account.
19. On 15 July 2019, the complainant re-opened his betting account with bet365 and used the account until 17 September 2019. During this time, the complainant deposited \$1,250.
20. On 17 September 2019, the complainant again opted to close his account online. The complainant selected to close the betting account for a period of six months and gave a response of 'no reason given' as to why he wished to close the account.
21. Some four days later on 21 September 2019, the complainant re-opened his bet365 betting account online after which he made several deposits to the value of \$250. The complainant used the betting account to place bets on 22 September 2019 and after placing a number of losing bets, he contacted bet365 via email and requested a refund of the deposits he had made into the betting account as he stated that while he had taken time outs from the betting account over the last few weeks, he was able to deposit and lose more money through overriding the time period by simply entering his date of birth and password. The complainant requested that his deposits be returned and his betting account be permanently closed.
22. On 23 September 2019, the complainant had a similar conversation with bet365 via Live Chat which resulted in the complainant's betting account with bet365 being permanently closed however, bet365 did not agree to refund any of the deposits that the complainant had made into the betting account.
23. In reviewing the evidence before the Commission, the Commission notes that bet365 customers have three options available to them to proactively take a break from gambling with the sports bookmaker being:
  - a. Self-Exclusion;
  - b. Time Out; or
  - c. Account Closure.

24. The bet365 website explains that the self-exclusion option is a responsible gambling tool that should be considered by any of its customers that feel that they are at risk of developing a gambling problem or who currently have a gambling problem. The information provided also advises the customer that they can self-exclude themselves from their account for a set period of time and once a period has been selected it will not be possible for the account to be re-activated for any reason until the set period has expired. Additional information contained on the bet365 self-exclusion page informs bet365 customers that if they want to stop playing for any other reason other than problem gambling, they should visit the bet365 account closure pages.
25. As detailed earlier, the complainant availed himself of the option to self-exclude himself from using his betting account in 2013 and again in 2015 for a period of 12 months and six months respectively. These actions indicate to the Commission that the complainant knew of and understood the self-exclusion process and the impact of availing himself of it.
26. As opposed to the self-exclusion tool, the bet365 time-out function allows a bet365 customer to take a short break from gambling. This responsible gambling tool allows for the customer to restrict their access to gambling for a specific period of time such as 24 hours, 48 hours, seven or 30 days. This functionality also allows the customer to customise the time-out for specific days of the week or specific times of the day. During the period that the time-out is selected for, the bet365 customer will not be able to access any of its products excepting for being able to withdraw from the betting account. The bet365 time-out feature is not able to be changed until the selected time-out period has expired.
27. Differing from both the self-exclusion option and the time-out option is bet365's account closure. As detailed at paragraphs 17 and 18 above, the bet365 account closure options allows a bet365 customer to close their betting account if they wish to stop gambling with bet365 for any reason. The account closure information details that once an account is closed, the customer will be able to withdraw their remaining balance however, will not be able to make deposits or place any bets. As noted earlier, the information provided also clearly states that a person is able to re-open their account during the period they have selected for it to be closed, by answering additional security questions.
28. In the Commission's view, the three options to take a break from gambling with bet365 are clearly explained on the bet365 website. The options of self-excluding and taking a time-out allow a bet365 customer to restrict their gambling behaviours with bet365 whereas the account closure option allows a bet365 to close their account for other reasons such as being uninterested or unhappy with the betting website or simply because the customer fancies a change to who they bet with.
29. While the self-exclusion and time-out options are understandably not reversible once selected given that each of these options is a responsible gambling tool designed to assist those bet365 customers who may be at risk of harm from their gambling, the account closure option differs in that it is reversible. In the Commission's view, the ability to re-open a closed account is an option that bet365 is entitled to make available to its former customers and is not in breach of the 2019 Code. Bet365 operates as a commercial entity with its end goal, like other commercial entities being to make a profit and as such, allowing its former

customers (unless self-excluded) to re-open their betting accounts is not an unreasonable business decision to take.

30. It is also clear to the Commission on the evidence before it, that at no time did the complainant avail himself of the bet365 time-out function. The complainant firstly used the self-exclusion features in 2013 and again in 2015 and then well after the 2015 self-exclusion period had expired, the complainant re-activated his bet365 betting account in 2019. After a period of betting between 31 May 2019 and 18 June 2019, bet365 records show that the complainant then opted to use the account closure option for a period of one month however, he reversed this decision before the one month had expired by re-opening the betting account on 15 July 2019. Similarly on 17 September 2019, the complainant again opted to use the account closure option and selected a period of six months. However, the complainant again reversed this decision before the six months had expired by re-opening the betting account four days later on 21 September 2019.
31. While the Commission is of the view that it is open to bet365 to allow its customers to close their betting accounts and then later, return to bet365 and re-open their betting accounts should they wish to do so (unless self-excluded), the Commission does consider that having the ability to select a timeframe for how long a customer wishes to close their account for could allow for confusion to arise. In this respect, while the Commission is of the view that in this matter there has been no breach of the 2019 Code by bet365, it does recommend that bet365 review its account closure procedures to determine whether the selection of a timeframe is a necessary component of that option and whether its removal would allow for a clearer delineation between its account closure and time-out options.

## **Decision**

32. On the weight of evidence before it, the Commission is satisfied that with respect to the activity participated in by the complainant with bet365 from 24 May 2019 until the permanent closure of the betting account on 23 September 2019, bet365 did not breach the Act, its licence conditions or the 2019 Code.
33. As a result of these findings, the Commission has determined that all bets made by the complainant from 24 May 2019 through to 23 September 2019 were lawful bets as defined under the Act and as such, is not of the view that bet365 should now reimburse the complainant for any of the bets (or deposits) that he made with it.
34. The Commission does however, recommends that bet365 undertake a review of its account closure procedures to determine whether the removal of the option to select a timeframe for how long the account is to be closed would assist in providing a clearer delineation for its customers when selecting whether to close a betting account or take a time-out from using the betting account. The Commission welcomes feedback being provided to the Commission by bet365 by no later than 30 days from the date of this decision notice.

## Review of Decision

35. 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

3 August 2021