

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr D
Licensee:	Ladbrokes
Proceedings:	Pursuant to section 85(2) of the <i>Racing and Betting Act</i> – Gambling Dispute for determination by Racing Commission
Heard Before: (on papers)	Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Mr Allan McGill
Date of Decision:	14 August 2019

Background

1. On 16 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) against the licensed sports bookmaker, Ladbrokes.
2. The complainant is seeking a refund of the deposits he made into his betting account with Ladbrokes between Sunday 1 July 2018 and Monday 2 July 2018. The complainant has stated to the Commission when lodging his gambling dispute, that he had an, “[e]xtreme medical reaction to prescription mezzanine and was gambling while incoherent and unable to control any inhibitions or limits due to the prescribed medication along with a severe head injury from approximately 4 years ago.” The complainant stated at the time of lodging his gambling dispute with the Commission that he had placed bets of over \$400,000 utilising his Ladbrokes betting account during a 24 hour period.
3. The complainant further submitted to the Commission that in a short period of time, his betting activity had increased to ten times of that of his usual bet size and that he repeatedly transferred funds into his betting account with no contact being made with him by Ladbrokes. The complainant also submitted to the Commission that his usual betting patterns were “...anywhere from \$50 to \$200 a race absolute maximum.”
4. In support of his gambling dispute, the complainant also provided the Commission with a copy of a medical practitioner’s referral to a psychiatrist dated 2 July 2018 in which it stated that the complainant presented at the medical centre with “...acute deterioration in his mental health related to exacerbation of his back pain whilst camping over the weekend and subsequent doubling of his [medication] use. The referral also states that the complainant “...has also been involved in online gambling over the weekend with financial loss which is contributing to his poor mental state.” The medical practitioner’s referral also stated that the complainant’s current medication at that time included a variety of medications for which scripts were issued between April 2018 and June 2018.

5. In response to the dispute, Ladbrokes advised the Commission that:
 - a. at the time the complainant opened his betting account with Ladbrokes in October 2014, the complainant agreed to Ladbrokes' terms and conditions which included that the complainant acknowledged "...*that there is a risk of losing money when gambling*" and that the complainant "...*accept[s] full responsibility for any such loss.*";
 - b. Ladbrokes made contact with the complainant via telephone in September 2017 to confirm that he was betting within his means, to which the complainant advised that he was. In this same telephone call, the complainant was advised by a Ladbrokes representative of the ability to set deposit limits on his betting account;
 - c. Ladbrokes again made contact with the complainant via email in October 2017 and provided information about responsible gambling tools and services available;
 - d. at no time did the complainant inform Ladbrokes that he was suffering from conditions which may affect his gambling activity; and
 - e. on 3 July 2018, following the complainant contacting Ladbrokes and advising of concerns about his wagering activity, Ladbrokes immediately suspended the complainant's account and subsequently closed the complainant's account, registering the account as 'self-excluded'.
6. Ladbrokes further submitted that prior to the complainant's discussion with Ladbrokes on 3 July 2018, it "...*had no knowledge that the complainant may have been experiencing issues with problem gambling or may have been suffering from a mental health condition.*"
7. Information was gathered from both parties by Licensing NT betting inspectors appointed by the Commission and provided to the Commission to consider the dispute on the papers.

Consideration of the Issues

8. The complainant opened his betting account with Ladbrokes on 24 October 2014. Having reviewed the complainant's betting account records with Ladbrokes, the Commission notes that throughout the lifetime of the complainant's betting account until the lodgement of the gambling dispute subject of this decision, the complainant has placed numerous bets with Ladbrokes which have ultimately successfully resulted in over \$3.2 million of winnings. During that time, the complainant had deposited just over \$1 million dollars into his Ladbrokes' betting account and had withdrawn approximately \$390,000 from his betting account.
9. It is apparent to the Commission from viewing the complainant's betting records with Ladbrokes, that the complainant is an experienced gambler who at times has won significant sums of money as a result of his betting activity and who has then subsequently chosen to bet the majority (but not all) of those winnings on further betting outcomes.
10. During the period in which the complainant suggests that Ladbrokes should have identified that the complainant had clearly displayed behaviour that would lead a

reasonable person to conclude that the complainant was a problem gambler, the complainant deposited some \$353,200 into his betting account. During this time, the complainant made no withdrawals from his betting account but of note to the Commission from viewing the complainant's betting records is that the complainant also placed numerous bets that resulted in over \$530,000 in winnings being deposited into his betting account by Ladbrokes during this period which the complainant subsequently utilised to place further bets.

11. The complainant has suggested to the Commission that the betting activity that he engaged in during the period between 1 and 2 July 2018 was so significantly different to his previous betting patterns as a result of a severe medical reaction to prescription medication, that Ladbrokes should have identified that the complainant was experiencing a problem gambling issue and as a result, Ladbrokes should have intervened during this period so as to limit or alleviate the complainant's betting losses that ultimately resulted from the complainant's betting activity.
12. As discussed at paragraph 4 above, the complainant has advised the Commission that he presented to a medical practitioner on 2 July 2018 and according to the medical practitioner's referral, this occurred after the complainant experienced back pain issues from a camping weekend and a period of betting activity that sustained in financial loss. The medical practitioner subsequently referred the complainant to a psychiatrist for mental health issues that the complainant was diagnosed as experiencing at that time. Within the medical practitioners referral, was a detailed list of medication that the complainant advised the medical practitioner that he had been prescribed between April 2018 and June 2018.
13. The Commission has reviewed the complainant's betting records with Ladbrokes from the time the complainant opened his betting account in 2014 and notes that:
 - up until July 2017, the complainant made a combined monthly deposit into his betting account of no more than \$1,886, made combined monthly withdrawals of no more than \$1,649 after having made numerous bets which had resulted in combined monthly winnings not exceeding \$8,925;
 - from August 2017, the complainant's betting activity significantly increased as per below:

Month	Deposits	Withdrawals	Losing Bets	Winnings
August 2017	9,074	5,828	38,980	35,723
September 2017	124,581	75,587	742,271	694,860
October 2017	81,499	70,888	350,135	337,658
November 2017	86,123	75,212	231,255	220,342
December 2017	Nil	Nil	Nil	Nil
January 2018	62,829	15,100	143,050	95,320
February 2018	36,000	20,300	126,193	110,492

Month	Deposits	Withdrawals	Losing Bets	Winnings
March 2018	350	Nil	7,674	7,549
April 2018	1,335	Nil	3,227	1,667
May 2018	47,300	38,500	225,572	218,056
June 2018	191,255	73,503	1,015,056	912,576
July 2018	353,200	Nil	903,328	530,240

14. The Commission notes that as detailed in paragraph 5(b) above, Ladbrokes advised the Commission that it made contact with the complainant in September 2017 via telephone to confirm that the complainant was betting within his means. It is apparent to the Commission from the complainant's betting records, that the contact by Ladbrokes with the complainant on 26 September 2017 was as a result of a change in the complainant's betting activity in that prior to this time, the complainant was depositing no more than \$1,886 in his betting account each month, whereas in August 2017 the complainant deposited \$9,074 into his betting account followed by deposits of \$124,581 in September 2017. The Commission also notes that as detailed in the table above, the complainant also made withdrawals of over \$75,000 from his Ladbrokes' betting account during the month of September 2017.
15. The Commission has listened to a recording of this telephone conversation and notes that the Ladbrokes' representative advised the complainant that Ladbrokes had noticed an increase in the complainant's deposits and queried whether "...*everything is ok?*" The complainant advised that it was and that he had, "...*an extra couple of dollars on my hands and thought we'd have a go or two.*" The complainant then confirmed that he was betting within his means. The Ladbrokes' representative advised the complainant about the availability of a deposit limit facility to which the complainant responded "...*no worries.*"
16. The Commission also notes that on 4 October 2017, Ladbrokes again contacted the complainant via email and provided information to the complainant about a number of responsible gambling tools and services available.
17. From this time up until the betting activity that occurred between 1 and 2 July 2018 and which is the subject of this gambling dispute, the Commission notes that the complainant was a very active customer of Ladbrokes, albeit that the complainant ultimately experienced more losses than wins from his betting activity. The fact that the complainant was a very active customer of Ladbrokes is also supported by a number of emails sighted by the Commission between the complainant and Ladbrokes dated between May and July 2018 in which the complainant seeks and is provided Ladbrokes' complimentary corporate tickets to various sporting events.
18. As identified in previous Commission decisions, the Courts have set a very high threshold of responsibility for the gambler as to their own actions. The Courts have ruled that the duty to cease gambling remains with the individual gambler and not the gambling operator. It is suggested by the Courts, that only in the most extreme cases of deliberate and gross misconduct by the operator who has knowledge of the vulnerability of the problem gambler, that there would be any duty owed to prevent loss.

19. All Northern Territory licensed sports bookmakers' licence conditions and the Act currently require licensees to comply with the *Northern Territory Code of Practice for Responsible Service of Online Gambling* 2019 (the 2019 Code).
20. The 2019 Code came into effect on 26 May 2019, having replaced the *Northern Territory Code of Practice for Responsible Gambling* 2016 (the 2016 Code), with both Codes providing 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 encouraged by the Commission to implement additional strategies to further minimise harm.
21. As the betting activity subject of this gambling dispute occurred between 1 and 2 July 2018, the 2016 Code was in force at that time. The 2016 Code amongst other things, required that licensed sports bookmakers must provide responsible gambling training including regular refresher training, to all employees engaged in client interaction and that this training should include tools to identify gambling Red Flag behaviours. This Red Flag behaviour training was mandated so that licensed sports bookmakers could identify and assist clients with gambling related problems. Red flag behaviours include but are not limited to gambling for extended periods of time; increase in deposit frequency; escalating sums of money deposited and changing gambling patterns.
22. As discussed earlier in this decision, it is clearly apparent to the Commission that Ladbrokes identified that the complainant had displayed a number of possible Red Flag behaviours in September 2017 and as required by the 2016 Code, made contact with the complainant in September and October 2017, to confirm that he was betting within his limits (which he confirmed he was) and provided him with information on responsible gambling tools and advice that was available to him including the ability to set deposit limits on his betting account. In this regard, the Commission is of the view that Ladbrokes' actions in verifying that the complainant had sufficient wealth to engage in the betting activity that he was undertaking promoted a responsible gambling environment as required by the 2016 Code.
23. After this contact, the complainant continued to be a very active Ladbrokes' customer, both winning and losing significant amounts of money. Up until the betting period of 1 to 2 July 2018 subject of this gambling dispute, the complainant did not raise any concerns about his betting activity with Ladbrokes (nor the Commission) and actively sought complimentary invitations to corporate events being held by Ladbrokes at various sporting events throughout the country.
24. It is not a matter for the Commission to comment on the size of the bets placed by the complainant nor on his betting activities in totality. The complainant is responsible for his own betting activity albeit that in this case, the resultant overall betting wins and losses to many would seem excessively large. In that respect, the Commission notes that it is well established that an inherent risk that cannot be avoided in the activity of gambling, is a loss of money.
25. The Commission's role in dealing with this complaint 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 acted in compliance with the Act, its licence conditions and the relevant Code in place at the time.

26. The 2016 Code mandated that all staff of a sports bookmaker must regularly be provided with Red Flag behaviour training so that operators could identify and assist customers with gambling related problems. The betting activity subject of this gambling dispute was conducted online and relatively continuously over a 15 hour period between the Sunday afternoon of 1 July 2018 and the early hours of Monday 2 July 2018. The question before the Commission therefore, is whether during this relatively short period of time, should Ladbrokes have identified that the complainant's betting activity was a result of the complainant suffering from a medical reaction to prescription medication prescribed as a result of a head injury received some four years before.
27. In this respect, the Commission notes that following the increase in the overall value of the complainant's betting activity in August and September 2017 (for which the complainant advised Ladbrokes that he was betting within his means), the complainant continued to be a very active Ladbroke's customer up until the time complained of and subject of this dispute, excluding the months of December 2017, March 2018 and April 2018 during which his betting activity lessened considerably.
28. The complainant deposited some \$353,200 into his betting account during the period subject of this gambling dispute but the Commission also notes that the complainant also placed bets resulting in over \$530,000 in winnings. The complainant did not elect to withdraw these winnings, but rather chose to utilise these winnings to undertake further betting activity which was ultimately unsuccessful.
29. This activity was not so significantly different to the complainant's betting activity of the previous month during which he deposited \$191,255 and placed numerous bets that ultimately resulted in winning bets resulting in over \$912,000 and losing bets of over \$1,015,000. The complainant during this month, withdrew \$73,503 from his betting account.
30. Whilst the Commission actively encourages sports bookmakers to implement additional strategies to further minimise harm than those detailed in both the 2016 and 2019 Code and has also had recent discussions with a number of sports bookmakers about the capacity to develop increased utilisation of metadata and big data to identify potential problem gamblers, the Commission is unable to come to the view that Ladbrokes were or should have been positioned to identify that the complainant's online betting activity over 15 hours during a weekend was as a result of an adverse reaction to prescription medication prescribed as a result of the complainant's head injury suffered some four years before.

Decision

31. On the weight of evidence provided, the Commission is satisfied that Ladbrokes adhered to the 2016 Code and implemented sufficient proactive measures to verify that the complainant was wagering within his limits in September and October 2017. These actions by Ladbrokes were in line with the 2016 Code's requirement to promote a responsible gambling environment.
32. The Commission is of the view that whilst the complainant has clearly suffered from a case of gambler's remorse following an intense period of betting activity between 1 and 2 July 2018, it would be unreasonable for the Commission to form the view

that Ladbrokes should have identified that the complainant was suffering from a severe reaction to prescription medication taken as a result of an exacerbation of back pain resultant from a weekend of camping, the prescription medication presumably prescribed as a result of a head injury four years earlier.

33. The Commission is firmly of the view that during the betting activity participated in by the complainant between 1 and 2 July 2018, there are no indicators to the Commission that Ladbrokes breached the Act, its licence conditions or the 2016 Code. The duty to cease gambling rested with the complainant and not Ladbrokes, despite the fact that the complainant ultimately suffered economic loss.

Review of Decision

34. 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.



Alastair Shields
Chairperson

14 August 2019