

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr M
Licensees:	Lottoland
Proceedings:	Gambling Dispute for determination by Racing Commission pursuant to section 85(2) of the <i>Racing and Betting Act</i>
Heard Before: (on papers)	Mr Alastair Shields (Presiding Member) Mr James Pratt Ms Amy Corcoran
Date of Decision:	27 August 2020

Background

1. On 4 July 2019, pursuant to section 85(2) of the *Racing and Betting Act* (the Act), the Complainant lodged a gambling dispute with the Commission against the licensed sports bookmaker, Lottoland.
2. The Complainant submits that Lottoland breached some regulations that govern their operation, broke some laws of Australia and also acted fraudulently with intent.
3. The Complainant placed a \$5.00 bet being ticket number AN82446388 on 20 June 2019 on the “US Power” for the event to be held on Tuesday 25 June 2019 (**the Bet**) and submits:
 - a. he received an email from Lottoland confirming the Bet;
 - b. on Wednesday 26 June, the online status of the Bet was updated to “no results available as yet”;
 - c. on the afternoon of Thursday 27 June, the Bet then appeared as a bet in the draw on Tuesday 2 July.
4. Lottoland submit that:
 - a. due to the stale pricing Lottoland was unable to result the Bet at the normal times due to the NYSE Composite remaining the same, according to Bloomberg;^[1]_[SEP]
 - b. this caused Lottoland to use its drawing date calendar tool to move the resulting date but unfortunately, a technical issue occurred with the tool, and it moved the Bet forward a week rather than to the next available day. This happened for 2 consecutive weeks, meaning the Bet was moved from 25 June to 2 July and then to 9 July 2019;
 - c. in an ideal world, the Bet would have resulted against the event scheduled for 25 June 2019 and even if it had, the Complainant would not have won any funds;

- d. as the Bet had been moved in line with the terms and conditions, the Complainant still held his same chance of winning the same jackpot prize and additional divisions; and
 - e. as conveyed to the Complainant, the Bet didn't win on any of the days he says it should have been resulted against.
5. The Complainant has indicated he intends to sue Lottoland for the amount of \$3.622 billion, comprising of:
- a. \$622 million for the total deprivation of any chance to win the jackpot; and [REDACTED]
 - b. \$3 billion from a demonstration of real determination, spirited effort and willfulness to achieve [REDACTED] and conceal the said deprivation. [REDACTED]
6. Information was gathered from both parties by a Licensing NT officer appointed as a betting inspector by the Commission under the Act and provided to the Commission to consider the dispute on the papers.

Consideration of the Issues

7. 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 does not have power under the Act to award compensation or damages and therefore will not be considering such claims by the Complainant in this matter.
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. Such terms and conditions also include the rules of betting and a full explanation of how the games operate. Upon opening an account with Lottoland, the Complainant agreed to the terms and conditions as changed from time to time.
10. Lottoland was granted a sports bookmaker licence by the Commission in 2015, which at the time authorised Lottoland to accept bets on the outcome of national and international lotteries. However, more recent changes to the law including to federal legislation which came into effect on 9 January 2019 no longer allow this type of betting activity to occur and Lottoland changed their wagering product to financial markets.

11. The relevant clauses of Lottoland's terms and conditions in respect to this complaint are 10.8 and 10.9 and the relevant parts are extracted below as they appeared at the time:

10.8^[L]_[SEP] Other than in respect of Daily Millions, in the event that not all Financial Market data required to determine the Betting Event winning number is available, the Financial Market data of the next day with all required Financial Market data being available will be used (Example: There is no opening value due to a public holiday on Friday. In this case Monday's opening values will be used).

Other than in respect of Daily Millions, if Financial Market data of a day with an originally scheduled Betting Event is used, the Financial Market data of the next day (with all required Financial Market data being available) will be used for that originally scheduled Betting Event (Example: For a Betting Event originally scheduled for Wednesday and Friday there are no opening values for Wednesday and Thursday due to public holidays. In this case Friday's opening values will be used for the Betting Event originally scheduled for Wednesday and Monday's opening values will be used for the Betting Event originally scheduled for Friday).

This only applies to Betting Events of the same kind (Example: US Millions can use Friday's opening values only once. If Friday's opening values are used for the Betting Event originally scheduled for Wednesday, Monday's opening values will be used for the Betting Event originally scheduled for Friday).

...

10.9^[L]_[SEP] Other than in respect of Daily Millions, in the event that any of the Financial Market opening values, required to determine the Betting Event winning number, matches the closing value of the previous day on which the Financial Market data was available, the Financial Market data of the next day on which all the required Financial Market data is available will be used (example: at least one of Friday's opening values equals Thursday's closing value. In this case Monday's opening values will be used).

...

12. Lottoland submit that the underlying purpose and intent of those clauses is to permit a bet to be moved in circumstances where the financial indices data is either:

- a. not available (per clause 10.8); or
- b. in the case of 10.9, the pricing data is "stale", that is, the opening values match or are the same as the previous closing values; and

in those circumstances, the bet in question is moved forward.

13. Notwithstanding it appears clear that the Bet was not moved strictly in accordance with the terms and conditions through a computer glitch, Lottoland submits that:

- a. the Bet in question has been dealt with in a fair and reasonable way; ^[L]_[SEP]
- b. it acted in accordance with the Act and its licence and has observed and acted in accordance with our terms and conditions;
- c. it has provided the Complainant with all the evidence needed to verify that that in all scenarios the Complainant would not have had a winning bet, whether the Bet had been resulted it should, or how the Bet was actually resulted.

14. Further Lottoland states "clauses 10.8 and 10.9 don't specifically deal with the situation that occurred with the Complainant. What the clauses do provide for is the

movement of bets forward if the pricing data is incomplete or “stale”. The technical error that saw this bet moved a week rather than to the next available day is what takes the Complainant’s position out of the strict wording of clause 10.9. ... The underlying purpose and intent of those clauses is to permit a bet to be moved in circumstances where the financial indices data is either not available or in the case of 10.9, the pricing data is “stale”.

15. To explain how the ‘drawing date calendar tool’ and the technical error combined to impact the client’s wager Lottoland advises in part “ [i]f the ‘drawing date calendar tool’ simply followed the logic from lottery betting ... bets should have remained open until the scheduled Thursday event, before being moved to the following Tuesday. However, the technical error in the tool caused the ‘drawing date calendar tool’ to act as though it was a day ahead: Thus, on the Wednesday, the tool considered the day as Thursday, which is when the next event was scheduled. This meant that on the Wednesday bets were moved forward a week ... since Tuesday bets could not take part in the Thursday event. ...”
16. Lottoland further advises “... [t]o avoid bets being moved in the future the logic of the ‘drawing date calendar tool’ has been fixed to correctly accommodate the slight changes to financial market betting from lottery betting. Now, an event will always stay open until it’s able to be resulted.”
17. Notwithstanding the intricacies of stale pricing and the moving forward of bets, it is clear from the evidence before the Commission and in the Commission’s view most relevant to this complaint that even if the Bet had been moved strictly in accordance with Lottoland’s terms and conditions, it would not have been a winning bet.

Decision

18. The Commission is of the view that the Bet was not moved strictly in accordance with the Lottoland’s terms and conditions, however, is satisfied that if it had been, the Bet would not have been a winning bet.
19. Given the Lottoland did not comply with it’s terms and conditions in respect to moving the Bet, it should be made void and Lottoland should return the amount of the bet being \$5.00 to the Complainant.
20. The Commission determines that Lottoland did not comply with section 80(1)(d) of the Act as it did not strictly comply with condition 10 of its sport bookmaker’s licence to adhere at all times with its terms and conditions. On the basis that Lottoland’s non-compliance was due to an inadvertent technical fault and such fault has since been rectified, the Commission determines not to take any further action.

Review of Decision

21. 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.

A handwritten signature in cursive script that reads "Alastair Shields".

Alastair Shields
Chairperson

27 August 2020