

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

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| Complainant: | Mr M |
| Licensee: | SportChamps |
| Proceedings: | Pursuant to section 85(2) of the <i>Racing and Betting Act</i> – Referral of dispute to Racing Commission for determination |
| Heard Before: (on papers) | Mr Alastair Shields (Presiding Member) Ms Cindy Bravos Mr Allan McGill |
| Date of Decision: | 11 March 2019 |

Background

1. On 7 September 2018 pursuant to section 85(2) of the *Racing and Betting Act* (the Act), the complainant lodged an online gambling dispute with the Northern Territory Racing Commission (the Commission) against the licensed sports bookmaker SportChamps.
2. The complainant is aggrieved that SportChamps restricted the complainant's wagering activity and subsequently closed his account. Prior to the closure of the complainant's account, the complainant alleges that he was "...leading a \$5000 comp and bullied to take a[n] early cash out..."
3. It is important to bear in mind at the outset of this decision, that the role of the Commission with respect to determining disputes received by it pursuant to section 85 of the Act is to adjudicate on bets that have been placed and in so doing, declare whether a bet is lawful or not lawful.
4. It is not the role of the Commission when dealing with disputes of this nature to adjudicate on arbitrary betting limitations or account closures. In striking a wager, parties enter into a legally enforceable contract. The sports bookmaker must make the terms and conditions of the bet available to the punter who can then decide whether or not they wish to place a bet. Equally, sports bookmakers are also able to decide at their discretion who they accept bets from and on what terms, if at all, in order to manage their businesses as they see fit.
5. This being the case, investigation of this dispute and its ultimate determination has naturally focused on the bet that the complainant made with SportChamps on the outcome of an English soccer tournament. It does not, nor should it, examine the betting limitations placed on the complainant's account overall or its ultimate closure.
6. In response to this dispute, SportChamps advised the Commission that it is not unusual for SportChamps to cash out tournament leaders. SportChamps advised that as the complainant was leading by a significant margin, a tournament that SportChamps wished to promote, SportChamps made the decision to offer the complainant a cash out option.

7. SportChamps further advised the Commission that as a result, a SportChamps' employee called the complainant and that, "...*the client happily accepted the cash out offer and kept playing. To suggest he was "bullied" into accepting the cash out offer is a complete fabrication of the truth*".
8. Information in relation this dispute 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

9. By way of background, SportChamps offers a tournament betting product where for a set entry fee, the punter is provided with an amount of virtual currency to place virtual bets within a tournament (a SportChamps nominated set of racing or sporting events). The profit achieved from the virtual bets determines the punter's place on the tournament competition leaderboard and winnings are paid out from the pool (consisting of punter entry fees minus SportChamps' commission) according to where the punter winds up on the ladder. The Commission considers that once a punter has entered a tournament, the punter has placed a bet.
10. Cash out options provided by sports bookmakers to their punters allow the punter to get money back on their bet before the event they are betting on is over. The amount of the cash out is determined by the sports bookmaker at the time of cashing out and depends upon the likelihood of the bet winning.
11. The complainant has advised the Commission that on 9 March 2018, he entered a tournament being offered by SportChamps, being the English Premier League season long tournament. The complainant placed his bet of \$10 and thus gained access to virtual currency to place virtual bets throughout the life of the tournament.
12. The complainant states that when he was leading the tournament by "...\$270000 *fantasy dollars to the nearest rival...*", he received a call from a SportChamps' employee. It is during this call that the complainant alleges he was "...bullied..." into taking a cash out that resulted in him being removed from the tournament.
13. The complainant advised that during the call, he was advised by SportChamps that he was no longer able to enter \$5 and \$10 tournaments and that he was then offered \$250 to cash out of the English Premier League season long tournament.
14. The complainant when lodging his dispute with the Commission advised that when he was offered the opportunity to cash out of the tournament, he was:

...stunned by this as never in any tournament with sport champs is there a cash out option...i just felt that i needed to do what they say in order to remain a sports champs member so i agreed then i kept on thinking what the hell is going on here.
15. As mentioned at paragraph 6 in response to this dispute, SportChamps advised the Commission that, "[c]ashing out tournament leaders is not uncommon...and it's a practise (sic) that is commonly promoted by other bookmakers in the industry."

16. SportChamps has provided evidence to the Commission of another punter in the same English soccer tournament as the complainant also being provided a cash out which resulted in that punter also no longer participating in the tournament.
17. The Commission is of the view that the offering of a cash out by sport bookmakers to their punters is not a breach of the sport bookmakers' licence conditions. As mentioned at paragraph 4 above, when striking a wager, the parties to that wager enter into a contract. The offer of a cash out by SportChamps to the complainant and the complainant's acceptance of that cash out is in the view of the Commission, either a change to the contract entered into by the complainant and SportChamps when the bet was initially struck or the entering into of a new contract. For the purposes of this dispute it is not necessary for the Commission to examine in detail as to which it was.
18. Given the above, whether or not SportChamps offer cash outs on a regular basis is a matter for SportChamps and not a matter for the Commission. When doing so however, the Commission is of the view that SportChamps is operating within its licence conditions.
19. In investigating this dispute, the Commission has examined how the offer of a cash out to the complainant occurred. SportChamps provided the Commission with an email dated 11 September 2018 (dated after the complainant lodged his dispute with the Commission) in which the SportChamps' employee who made the call details his recollection of the call. The SportChamps employee stated that:

So I called [the complainant] and had a general chat about how he is going, I mentioned that he seems to be doing well on the platform, he was like yeah I am doing ok. Our conversation was very mate like, no aggression, no anger at all. I put it to [the complainant] would he be interested in taking an early payment in the EPL tournament, he was open to the offer and never took a backstep (sic). He asked if it was ok if he could have \$150 in his nominated bank account, and \$100 in his Sportchamps bonus account. I said that shouldn't be an issue and told him I would do it straight away. Phone call over

20. The Commission notes that the date of the email in which the above was documented is after the date the dispute from the complainant was received by the Commission and as such, whilst not disputing its veracity, it does not appear to the Commission to be a contemporaneous record of the conversation that occurred.
21. Given that the above recollection does not align with the complainant's recollection that he was coerced into taking the cash out, a Licensing NT betting inspector sought a recording of the telephone call from SportChamps.
22. As with all sports bookmakers licensed in the Northern Territory, SportChamps' licence includes a condition (licence condition 20) that they must ensure that all conversations with customers involving discussions relating to wagers, complaints or disputes, regardless of medium, are recorded on approved recording equipment.
23. In response to the Licensing NT betting inspector's request for the recording of the telephone call, the Chief Executive Officer of SportChamps advised that SportChamps, "...do all our customer service online through intercom and don't usually accept or make calls (for bets or customer service). In this instance, [the

SportChamps' employee] spoke with the member on intercom and then called him from his mobile. The call was not recorded."

24. The Commission is extremely disappointed with this response. The licence condition requiring sports bookmakers to record all conversations with customers involving discussions relating to wagers, complaints or disputes is so that, if required, the Commission may examine the recording to assist it in determining disputes.
25. Whether or not a sports bookmaker does or does not accept or make calls involving their customers on a regular basis is not a relevant consideration for the Commission. All licence conditions are to be adhered to by all sports bookmakers at all times otherwise they will be in breach of their sports bookmaker licence and are at risk of being reprimanded, fined, having their licence suspended or in the most serious of cases, having their licence cancelled. This particular licence condition is in place for the very purpose of assisting the Commission resolve disputes such as this and SportChamp's blatant disregard of this licence condition simply because it does not regularly make telephone calls to its customers is extremely disappointing.
26. There is no dispute between the parties to this matter with respect to the existence of the cash out itself. Both parties agree that an offer to cash out was made by SportChamps and both parties agree that the complainant accepted the cash out.
27. The complainant though, is of the view that he was coerced into taking the cash out. The SportChamps' employees' recollection of the conversation in which the cash out was offered by him and accepted by the complainant does not support the complainant's claim that he was coerced. The SportChamps' failure to adhere to their licence condition to record the telephone conversation leaves the Commission with no independent record of the conversation for the Commission to examine to assist it in forming a view as to whether the complainant was coerced or not.
28. Whilst the issue of whether the complainant was coerced or not into taking the cash out will remain unresolved, there is no evidence before the Commission that can lead it to the view that by offering the cash out, that Sport Champs were not operating within the parameters of their sports bookmaker's licence. There is also nothing before the Commission to lead it to the view that the bet was not lawful.

Decision

29. On the basis of the information provided and for the reasons set out above, the Commission finds that the bet made by the complainant with SportChamps in relation to the English Premier League tournament was lawful.
30. The Commission also finds that the offering of the cash out to the complainant by SportChamps in order to settle the bet was not a breach of SportChamps' licence conditions.
31. With respect to SportChamps failure to record the telephone call in which the offer of the cash out to the complainant was made, the Commission finds that SportsChamps has pursuant to section 80(1)(d) of the Act, failed to comply with a condition of its licence, namely condition 20.

32. As this is the first breach of this licence condition by SportChamps, the Commission is of the view that a reprimand is appropriate in the circumstances. The Commission advises SportChamps that a higher penalty is likely to be considered should a breach of this nature occur again in the future. This being the case, the Commission recommends that SportChamps reviews its internal processes so as to ensure that a breach of licence condition 20 will not occur going forwards.

Review of Decision

33. 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
Northern Territory Racing Commission

11 March 2019