



Northern Territory Racing Commission clarifies its expectations regarding gambling affiliate arrangements and agreements

1. Background

On 9 October 2023, the Northern Territory Racing Commission (**NTRC**) circulated a notice to all Northern Territory licensed bookmakers regarding the notification and approval requirements with respect to affiliate arrangements and agreements (the **Notice**).

This move follows recent high-profile incidents involving affiliates of bookmakers and consideration being given to changes to the applicable Code of Practice to provide greater transparency and accountability regarding affiliates engaged to promote bookmakers.

The Notice seeks to clarify some of the obligations under section 81(b) of the *Racing and Betting Act 1983* (NT) (the **Act**) insofar as it relates to affiliate arrangements. Section 81(b) of the Act provides that a bookmaker who, except with the approval of the Commission, makes an arrangement or enters into an agreement with a person whereby that person becomes entitled to a share in the profits of that business, is guilty of an offence.

2. What are the NTRC's expectations?

The NTRC is essentially seeking to enforce two things for both existing and any new affiliate arrangements entered into by licensees, being:

1. That all affiliate arrangements and agreements are pre-approved (in the case of any new arrangements entered into by licensees with any affiliates) and approved (in the case of any existing arrangements on foot); and
2. as part of that assessment process, that prescribed probity-related information is provided to the NTRC for each proposed affiliate.

This means that for all affiliate arrangements, licensees will need to provide the NTRC with:

- A. a draft of the agreement proposed to be entered;
- B. the full name, address and date of birth of the affiliate (for those that are individuals and ;
- C. full resume/CV of the affiliate and each employee;
- D. a statutory declaration from the affiliate and each employee disclosing whether any of those persons have been subject to any investigation or sanctions imposed under a law relating to racing or wagering in the last 10 years (anywhere in the world); and
- E. evidence that each individual (within the affiliate organisation) has completed responsible online wagering training that complies with the National Consumer Protection Framework for Online Wagering and includes minimum requirements set out in the National Unit of Competency.

For the avoidance of doubt, these requirements relate to both new and existing affiliate arrangements. Accordingly, licensees will need to gather all of the abovementioned information in relation to all current affiliate arrangements.

3. What exactly is an affiliate arrangement?

In the context of the Act and the Notice, an affiliate arrangement includes all arrangements or agreements by licensees with gambling affiliate marketers (including any gambling affiliate marketer company) who become entitled to a share in the profits of the licensee's bookmaking business through a commission.

The Notice specifies that these requirements apply to commissions that are calculated as a percentage of the:

- gross turnover;
- gross profit;
- net profit; or
- losses,

attributable to consumers introduced to the licensee by the respective gambling affiliate marketer.

4. Potential penalties

At the time of writing, an offence under section 81 of the Act carries a maximum penalty of 40 penalty units (or \$7,040) for each affiliate arrangement that the NTRC has not expressly approved.

In addition, the Act also provides the NTRC with broad disciplinary powers. This includes the ability of the NTRC to suspend or cancel a licence if it satisfied that an offence against the Act has been committed.

5. What to do next?

We recommend that licensees review their current affiliate arrangements and, if any have not been approved, engage with the respective affiliates and collate the necessary information. Similarly, probity information should be collated for any proposed new affiliate arrangement and approval should be received from the NTRC before the new arrangement or agreement takes effect.

We understand that NTRC is receptive to feedback regarding the requirements set out in the Notice, including in relation to any potential challenges that may be presented. To that end, if licensees anticipate that they will encounter difficulty in complying with these requirements with respect to one or more of their affiliate arrangements, they should contact the NTRC accordingly.

Alternatively, Senet is also fielding and collating any feedback and will engage with the NTRC. If you are interested in making submissions via that avenue then please contact us.

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