
NORTHERN TERRITORY RACING COMMISSION

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To all NT Licensees

Via email

Dear Licensees

RE: REQUEST TO REVIEW TERMS AND CONDITIONS TO ENSURE CONSUMER PROTECTION

The Northern Territory Racing Commission is well aware that the inherent risk in gambling is the loss of money. The Commission is also cognisant of the fact that customers of licensed bookmakers do not have an opportunity to negotiate the terms and conditions under which their betting activity is governed. In almost all cases, the only choice for a customer is to decide to accept the terms and conditions and become a customer, or reject the terms and conditions and not become a customer. It is the Commission's view that it is therefore likely that the majority of customers do not consider the terms and conditions in any meaningful way prior to opening an account.

For these reasons, the Commission considers that it is of paramount importance that sports bookmakers and betting exchange operators licensed in the Northern Territory offer fair and transparent terms and conditions to their customers. The Commission considers that it is imperative that customers are empowered to make informed choices about their gambling, and that the information about their customer rights is correct, easily available and clear.

In the course of hearing and determining disputes between customers and licensees, the Commission has identified a number of occasions where the betting activity the subject of the dispute has been settled by the licensee in accordance with the applicable terms and conditions, but where a fairer outcome for the customer might have eventuated had the applicable terms and conditions been expressed differently. The Commission has also noted a number of cases where particular bet types and transactions are not adequately addressed by the relevant terms and conditions.

The Commission is also of the view that some of the terms and conditions that customers are governed by are one-sided, complicated and often difficult to interpret and understand. The Commission is also well aware that many licensees do not seek to fully rely upon their terms and conditions when resolving disputes with customers, and instead voluntarily settle matters as a gesture of goodwill.

Given all of this, the Commission has commenced an exploration of the options available to it so as to ensure that licensees offer fair, transparent and clear terms to their customers. By doing so, a fairer and safer gambling market is likely to exist as there will be greater transparency in the information made available to gambling customers who will then be able to make decisions about their gambling more confidently.

The Commission has reviewed some of the recent developments in this area internationally, and noted that in 2019, the UK Gambling Commission (UKGC) and the UK Competition and Markets Authority (UKCMA) undertook a joint program of work concerning suspected breaches of consumer protection law in the remote gambling sector. This body of work focused in particular on the fairness, transparency and potential for consumers to be misled by a number of terms and practices relating to online bonus promotions, and obstacles preventing withdrawal of customer funds.

While a number of directions were made in relation to bonus promotions and withdrawal of funds, the overarching statements made by the UKGC and the UKCMA to its remote online gambling operators was that it is essential that gambling firms put consumer law at the heart of their business model in order to rebuild and maintain trust. In this respect, gambling operators were advised that they need to audit all of their terms and conditions, examine their business systems and practices, embed compliance and, importantly, continually review these to ensure that they maintain high standards of consumer protection in the future.

The Commission also considered similar action taken in relation to the requirement for fair and transparent terms and conditions in other jurisdictions such as Malta and Gibraltar.

The Commission has given some consideration as to whether it would deal with this issue by the imposition of a new licence condition that requires terms and conditions set by licensees to conform to minimum standards (such as is the case in the United Kingdom), or to develop a mandatory code of specified minimum requirements for specific issues. Some examples of the types of issues that could be covered in such a code, with suggestions as to how those issues might be dealt with, are included in attachment A to this letter.

In deciding upon a course of action, the Commission has had regard to the fact that licensees are currently required to comply with all applicable laws, which includes any applicable consumer protection laws.

The Commission has decided to invite all licensed sports bookmakers and betting exchange operators to undertake a review of their existing terms and conditions, having regard to the matters raised in this letter, and report to the Commission with a revised set of terms and conditions, marked up to indicate the changes made. The Commission asks that you complete your review and report to the Commission by no later than 31 October 2021.

The Commission welcomes any comments and feedback on the matters raised in this letter, and if there is sufficient interest, the Commission would be happy to include an interactive session on this issue at the upcoming Bookmaker's Forum in December 2021.

Yours sincerely



Alastair Shields
CHAIRPERSON
25 August 2021

ATTACHMENT A

Examples of issues that could be covered in Code

- That a bookmaker must have a threshold before they can void a bet because of an error (so for example the error must be apparent or obvious before the bet can be voided);
- That where one leg from an otherwise winning multi bet gets voided, the rest of the multi bet still stands;
- Where bets are voided because of obvious error, the default is that the bet stands at the corrected odds, but the gambling customer has the option of cancelling the bet (this is to deal with the situation where the gambling customer chose the bookmaker with the best odds, placed the bet in good faith, and when the bet is voided they can't get the odds they were able to get at the time the bet was placed because the market has changed);
- That the bookmaker must ensure that where there is a maximum betting limit in place, their system clearly shows this when a gambling customer makes a bet so that they can make informed decisions about the bet;
- Where a bookmaker decides to pay out a particular bet early (for example the last federal election), the bets that haven't been settled (on the basis that the bookmaker considers that they are likely to be losing bets), must continue to be recorded as undecided bets until the official results are known.