

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr M
Licensee:	GVC Australia Pty Ltd trading as Ladbrokes
Proceedings:	Pursuant to section 85(4) of the <i>Racing and Betting Act</i> – Referral of dispute to Racing Commission for determination
Date of Hearing:	23 October 2019
Heard Before:	Mr Alastair Shields (Presiding Member) Mr James Pratt Ms Amy Corcoran
Date of Decision:	24 February 2020

Background

1. On 21 April 2018, pursuant to section 85(2) of the *Racing and Betting Act (the Act)*, the Complainant lodged a gambling dispute against the registered bookmaker, Ladbrokes.
2. The dispute involved the placement by the Complainant of a number of winning wagers using the best totaliser (**Best Tote**) place product on different metropolitan horse race meetings on Wednesday, 14 March 2018 which were subsequently cancelled by Ladbrokes on the suspicion of tote manipulation. The Best Tote price is the highest odds paid of the three main Australian totes.
3. Below is each of the bets placed by the Complainant on 14 March 2018 with Ladbrokes using the Best Tote place product:

Race and Runner	Ladbrokes	Result
R4 Warwick Farm – Dissolution	\$250	PLACED BUT BET CANCELLED
R4 Doomben – Ridgway	\$250	DID NOT PLACE
R1 Ascot – King of Planets	\$250	PLACED BUT BET CANCELLED
R2 Ascot – Sunboss	\$500	PLACED BUT BET CANCELLED
R7 Warwick Farm – Beau Geste	\$250	PLACED BUT BET CANCELLED
R8 Warwick Farm – Legendofoz	\$250	DID NOT PLACE

R3 Ascot – Pearls and Prawns	\$500	PLACED BUT BET CANCELLED
R4 Ascot – New Time	\$250	PLACED BUT BET CANCELLED
R5 Warwick Farm – Sexy Eyes	\$1000	PLACED and PAID OUT
R2 Warwick Farm – Resin	\$250	PLACED and PAID OUT

4. The Complainant is seeking payment of his winning wagers from Ladbrokes totalling approximately \$6,000.
5. All parties, over the course of a 6 month or so investigation of the complaint by a Licensing NT officer appointed as a betting inspector by the Commission (**the betting inspector**), provided information and materials to support their respective arguments. This information was then collated by the betting inspector in the form of a brief (**the Brief**) and provided to the Racing Commission to determine the disputes.
6. Given the complexities of tote manipulation, pursuant to section 85(3) and (4) of the Act, the Commission set down the dispute for a hearing at 1.00pm on 23 October 2019 and summonsed all parties to attend.
7. The following people appeared before the Commission at the hearing:
 - a. Ms Jodi Kirstenfeldt, the betting inspector, attended in person;
 - b. the Complainant attended by telephone;
 - c. Ms Kirri Flutter, Corporate Counsel, attended in person representing Ladbrokes; and
 - d. Ms Carly Richardson, Legal Counsel and Mr Nathan Scotton, Trader, attended by telephone, also representing Ladbrokes.
8. All parties had received a copy of the Brief 14 days prior to the hearing. The Brief was tendered by Ms Kirstenfeldt and marked as Exhibit 1. The following submissions were outlined by the parties in the Brief:
9. The Complainant submits:
 - a. on 14 March 2018, he placed (amongst other wagers) all of the listed wagers above with Ladbrokes using the Best Tote place product;
 - b. Ladbrokes paid out the winning wagers after correct weight but subsequently cancelled them on suspicion of tote manipulation pursuant to its terms and conditions;
 - c. Ladbrokes offered to pay out \$3,406.81 in settlement however he did not accept that offer; and
 - d. he has no involvement in tote manipulation and is seeking full payment of the disputed winning bets being approximately \$6,000.

10. Ladbrokes submits: ^[1]_{SEP}

- a. on 14 March 2018, the Complainant placed bets on the below races and associated horses using the Best Tote place product:

Warwick Farm R4 – Dissolution
 Doomben R4 – Ridgway
 Ascot R1 - King Of Planets
 Ascot R2 – Sunboss
 Warwick Farm R7 - Beau Geste
 Ascot R3 - Pearls And Prawns
 Warwick Farm R8 – Legendofoz
 Ascot R4 - New Time

- b. it also identified that eight other Ladbrokes account holders also made place bets on the exact same runners;
- c. when assessing the odds on the above races, it was identified that there was a significant discrepancy in the Best Tote place price compared to the other two Australian tote prices and the various fixed odds place prices offered by the corporate bookmakers. In some cases, the outlier best tote place price was almost the same as, or above the best win price for the runner;
- d. based on their full assessment of betting patterns on those races, Ladbrokes was satisfied that these account holders were acting together in an attempt to gain financial benefit through the manipulation of the tote pools and the bets were made void under rule 4.6 of its terms and conditions;
- e. not all bets placed by these account holders on the above races were winning bets, and both winning and losing bets were deemed void;
- f. further, the above list of races does not constitute an exhaustive list of the bets placed by the Complainant on 14 March 2018, and Ladbrokes permitted all other bets to stand which did not clearly appear to be related to pool manipulation.
11. At the hearing, all parties were provided the opportunity to outline their case and ask questions of the other parties. The Commission also had the opportunity to question all parties involved.

Consideration of the Issues

12. Sports bookmakers licensed in the Northern Territory publicise a comprehensive set of terms and conditions for wagering that both the sports bookmaker and the sports bookmaker's customer is bound by when a betting account is opened and each time a bet is struck. These terms and conditions operate to ensure legislative compliance and the commercial efficacy of the business model of the sports bookmaker.
13. Upon opening an account with Ladbrokes, the Complainant would have had to accept its terms and conditions that form the contractual basis for the wagering activities between the parties.
14. The issue for consideration by the Commission in determining each of these disputes is whether Ladbrokes was permitted under its terms and conditions to void

the Complainant's bets placed on 14 March 2018 or whether in fact the Complainant's bets should have stood.

15. In this case, Ladbrokes is relying on rules 4.6 and 4.7 of its terms and conditions which relate to tote manipulation:

“4.6 We reserve the right to void any or all wagers made by any individual or group of people acting together (or on behalf of another individual or group of people) in an attempt to gain financial benefit through the manipulation of tote based dividends or official starting prices. This can include persons, relatives, organisations, bookmakers and their employees.

4.7 Where we suspect there has been any form of pool manipulation on any of the Totes we reserve the right to limit the total payout to any individual account holder across all bet types to \$500 in full settlement of bets on that event.”

16. The Northern Territory Racing Commission when it previously considered a matter involving tote manipulation and similar terms and conditions to those relied on in this matter, concluded that the term “reasonably suspects” still relies on the provision of some evidence that a particular individual or group has acted in a way so as to defraud the bookmaker.¹
17. Below is a table supplied by Ladbrokes which highlights the pricing discrepancies between the tote pools and also the fixed prices. The Complainant had a wager on each of the selections below on the Best Tote place product:

¹ Mr R and Mr S v William Hill decision dated 23 August 2016

23. The following table sets out the number of the four account holders who made the relevant wagers and the timeframe they all placed the wagers:

Race and Runner (using Best Tote Place Dividend)	Number of the 4 account holders who made the bet	Timing of bets
R4 Warwick Farm – Dissolution (PLACED)	4	All placed 2 minutes apart
R1 Ascot – King of Planets (PLACED)	2	All placed 2 minutes apart
R2 Ascot – Sunboss (PLACED)	4	All placed 3 minutes apart
R3 Ascot – Pearls and Prawns (PLACED)	4	All placed 1 minute apart
R4 Ascot – New Time (PLACED)	4	All placed 2 minutes apart
R1 Doomben – Ridgway (DID NOT PLACE)	4	All placed 5 minutes apart
R2 Warwick Farm – Resin (PLACED)	3	All placed 2 minutes apart
R5 Warwick Farm – Sexy Eyes (PLACED)	4	All placed 2 minutes apart
R7 Warwick Farm – Beau Geste (PLACED)	2	All placed 1 minutes apart

24. Ladbrokes were unable to obtain IP addresses for each of the 4 account holders however were able to identify that the same type of device was used by 3 of the account holders to place the bets that day. That device is called a ZTE Blade 112 and costs approximately \$60, commonly called a “burner phone” as they are cheap and replaceable. Ladbrokes advised that a device with the same profile was used on the Complainant’s account at some point in the past but not on that day and confirmed he was using an iPhone to place his bets that day.
25. Ladbrokes could only confirm that a burner phone was used by the other three account holders that day and to access the Complainant’s account in the past however, could not confirm it was the same burner phone that was used.
26. Ladbrokes in a hearing held immediately prior to this hearing (Mr R v Ladbrokes, Neds and Pointsbet) also provided statistical analysis and data on the races in question to establish the way in which the prices were manipulated. Ladbrokes submitted that it’s reasonable to assume that the amount a horse is holding for a win on the TAB should roughly equate to the amount of money it holds for a place based on readily available data across the sport. Below is the statistical data for 4 of the 6 runners provided by the bookmakers:

Race and Runner (using Best Tote Place Dividend)	Money for Win on UNITAB (%)	Money for Place on UNITAB (%)
R1 Ascot – King of Planets (PLACED)	25.5%	8.7%
R3 Ascot – Pearls and Prawns (PLACED)	38%	13%
R4 Ascot – New Time (PLACED)	23.6%	4%

R2 Ascot – Sunboss (PLACED)	23%	13%
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27. Ladbrokes also provided comparison data on “The Everest”, a thoroughbred horse race held at Randwick Racecourse known as the world’s richest horse race on turf. This comparison data showed that the win figures correlated with the place on nearly every race run on the day with only very small differences between them. The same data for the six races in question shows that these two figures do not correlate at all and accordingly, they submit it was reasonable to assume that the market had been manipulated so that the place dividend pays more.
28. It is noted that the Commission is not bound by the rules of procedure or evidence under the Act and has taken this statistical information into account given its relevance to this matter.

Complainant’s Evidence at Hearing

29. The Complainant confirmed he had a very “longstanding account” with Ladbrokes. His full account statement of 145 pages was included in the Brief at his request. The Complainant noted that the overall account in “a loss state” with “not profit at all”. He also submitted that in respect to the use of the Best Tote place product, the statement shows that “I’m actually losing quite a bit on that platform”. However, Ladbrokes later clarified that the Complainant’s account prior to bets made on 14 March 2018 was a profitable account.
30. The Complainant made a number of points during his evidence including that he is only “small fry” and “doesn’t control the tote” and can’t help where others may be having a “huge bet” in an attempt to artificially inflate the price of the horse they are betting on with a bookmaker.
31. The Complainant, in response to a query from Ladbrokes to explain how he selected the particularly runners he bet on that day responded:

“Well, how I placed the bets on the day, there’s those horses that I bet on during the day were horses that I’ve selected to bet on because I like their form. And so I had basically a list of bets on the day that I was going to bet on generally. And then during the day, you know, in the run-up to races, like obviously, generally, I – on the day, I left placing bets to very later on the races, because you know, I was looking to see you know, look at all the different variables in the races as they’re going into the barriers and stuff, and what prices they were and what the betting fluctuations were....”

So you know, in terms of why I placed the bets just before the races, the basic reason for that is because I wanted to wait to the last minute so that I had every opportunity to see what the betting patterns were doing on those runners. And obviously – yeah, so basically, in answer to your question, the process involved in betting on those horses is that I follow the form. And so based on my form analysis on the day, I determined that those horses were good bets on the best placed tote platform.”

32. There was some debate about whether the use of the Best Tote place product on 14 March was unusual for the Complainant. Looking through his betting records, he had used this product now and again previously albeit not as consistently as on

the day in question. From his history, the Complainant also used the Best Mid Tote product many a time along with a range of other betting products. Despite the number of times the Complainant used the Best Tote place product on 14 March, the Commission does not view this activity as inconsistent with his previous betting behaviour.

33. The Complainant's evidence was clear and concise and he was able to provide the Commission with a sound explanation of how we went about placing the disputed winning bets that day. However, as is noted above, the Commission is not bound by the rules of procedure or evidence under the Act and may inform itself of the facts necessary to determine the dispute in such manner as it thinks fit.²
34. On the morning of the Complainant's hearing, the Commission heard a dispute regarding substantially the same disputed bets (Mr R v Ladbrokes, Neds and Pointsbet). Not only had Mr R bet on the same runners the subject of the disputed bets across not one but three different bookmakers, the Commission was also concerned with the reliability of Mr R's evidence. It is noted that both parties denied knowing each other. All the circumstances of Mr R's matter has been taken into account in the Commission's determination of this matter in regards to whether it was reasonable for Ladbrokes to suspect tote manipulation took place on the races the subject of the Complainant's disputed winning bets.

Decision

35. The Commission accepts the evidence provided by Ladbrokes in regards to the tote price discrepancies and the other methods they use to detect tote manipulation. Their statistical and risk data of the tote price comparisons for each of the 6 races showed highly unusual anomalies on the best tote place dividend and they also established a common betting pattern on the disputed bets between the four account holders. Based on this evidence, it is the Commission's view that it was reasonable for Ladbrokes to suspect tote manipulation had taken place on all of the 6 races in question.
36. However, rule 4.6 of Ladbrokes' terms and conditions requires more than a reasonable suspicion that tote manipulation had taken place but rather that the Complainant individually or within a group (or on behalf of a group) was actually involved in the tote manipulation in an attempt to gain financial benefit. Although there is sufficient evidence to reasonably suspect tote manipulation did take place, the test is higher for rule 4.6 and in the Commission's view the evidence is not sufficient to prove the Complainant was involved in the tote manipulation himself. However, rule 4.7 does allow Ladbrokes to, where it suspects tote manipulation has occurred, limit the total payout to any individual account holder across all bet types to \$500 in full settlement of bets on that event.
37. In accordance with section 85(4) of the Act and on the basis of the information provided in respect of the dispute and for the reasons set out above, the Commission has determined that:

² Section 86(7) of the *Racing and Betting Act*

- a. there was sufficient evidence for Ladbrokes to reasonably suspect tote manipulation had occurred in respect to each of the six races on 14 March 2018 to which the disputed winning bets were placed; and
- b. Ladbrokes is entitled to limit each payout for the disputed winning bets to \$500 in accordance with rule 4.7 of its terms and conditions.

Review of Decision

38. Section 85(6) of the Act provides that a determination by the Commission of a dispute referred to under subsection (1) shall be final and conclusive as to the matter in dispute.



Alastair Shields
Chairperson
Racing Commission

24 February 2020