

NORTHERN TERRITORY RACING COMMISSION

Reasons for Decision

Complainant:	Mr O
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 Allan McGill Ms Amy Corcoran
Date of Decision:	14 August 2020

Background

1. On 8 February 2020, 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 he placed a bet on 30 January 2020 on the outcome of the “US Power” product on Lottoland’s website (**US Power**). The Complainant claims his ticket won and is claiming winnings of around \$238 million.
3. The Complainant submits:
 - a. he thought that when he was placing a bet on US Power on 30 January 2020 he was placing a bet on the US Powerball Lottery of the same date (**the American Lottery**);
 - b. his bet made on 30 January 2020 was with the same numbers which matched the winning numbers of the American Lottery;
 - c. he was unaware that the winning numbers for the American Lottery had already been drawn prior to the time he submitted his bet on the US Power on Lottoland’s website;
 - d. Lottoland has been misleading and deceptive as it advertised that foreign lotteries were still able to be bet on on its website. ^[1]_[SEP]
4. Lottoland submits:
 - a. on 30 January 2020 the Complainant placed a bet on their product called “US Power” (Ticket Number: AN874987268) which has no correlation or connection to the American Lottery;
 - b. the Complainant’s bet on the US Power did not win;
 - c. it has not been misleading in any way.
5. 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

6. 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.
7. 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's jurisdiction does not extend to other issues such as trademarks or whether a sports bookmaker engaged in misleading or deceptive conduct in inducing the bettor to bet. There are other avenues that the Complainant may be able to utilise to raise these issues.
8. 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" (**Terms and Conditions**).
9. 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, changes to Northern Territory laws in 2017 and more recent changes made to Federal legislation enacted on 9 January 2019 no longer allow this type of betting activity to occur and Lottoland changed their wagering product to financial markets.
10. Lottoland submit that:
 - a. it has not used the word Powerball since 2016;
 - b. it has not offered any bets on foreign drawn lotteries since the Federal legislation was enacted on 9 January 2019;
 - c. its Terms and Conditions and also its website clearly provides information on "what is jackpot betting" which is available through links on each page of their website and provides detailed information on how Lottoland's products work;
 - d. the information on "what is jackpot betting" also expressly states that "US Power is no longer a bet on the outcome of an international lottery";
 - e. the logos of the US Power and the American Lottery are not the same or similar in any way;
 - f. "US Power" is trademarked intellectual property of Lottoland;
 - g. the jackpot size between the two different products are vastly different as well as the closing times;

- h. the Complainant placed his bet on the US Power after the results for the American Lottery were known and a reasonable person could be led to believe he knew the winning numbers of the American Lottery before placing his bet on the US Power.
11. Screenshots of Lottoland's website were provided by the Complainant in order to prove Lottoland was advertising products based on foreign lotteries however, these predate January 2019 when Lottoland's products were required to change under law.
 12. The Complainant submits that the same terms and conditions of Lottoland when he signed up should apply throughout his betting account's lifespan. As discussed above, it is clear from Lottoland's Terms and Conditions that it has every right to amend them from time to time and further, it is nonsensical to hold Lottoland to providing products which have become unlawful.
 13. The Complainant submits that Lottoland used the same American Lottery logo for US Power (which is denied by Lottoland) however, as discussed above, the Commission has no jurisdiction over such matters.
 14. A copy of the ticket details provided by Lottoland indicates that the bet on the US Power was placed at 15:58 AEDT. This was after the American Lottery game the Complainant claims he had the won the Division 1 prize pool had already been drawn which was roughly at 15:00 AEDT.
 15. In the Commission's view that there is no evidence before it that Lottoland did not comply with the Act or its Terms and Conditions when accepting the bet from the Complainant. There was also ample information available to the Complainant to make an informed decision to make a bet on Lottoland's website. He bet on US Power on 30 January 2020 under ticket number AN874987268 which was not a winning bet.

Decision

16. The Commission is of the view that the Complainant's bet struck on Lottoland's US Power on 30 January 2020 under ticket number AN874987268 was a lawful bet under the Act but was not a winning bet. As a result, the Commission is satisfied that no monies are payable to the Complainant by Lottoland in respect of that lawful bet.

Review of Decision

17. 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

14 August 2020