

INVESTIGATION INTO THE ACT RACING
INDUSTRY

INDEPENDENT COMPETITION AND REGULATORY
COMMISSION

Submission of

AUSTRALIAN RACING BOARD

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i Introduction and approach

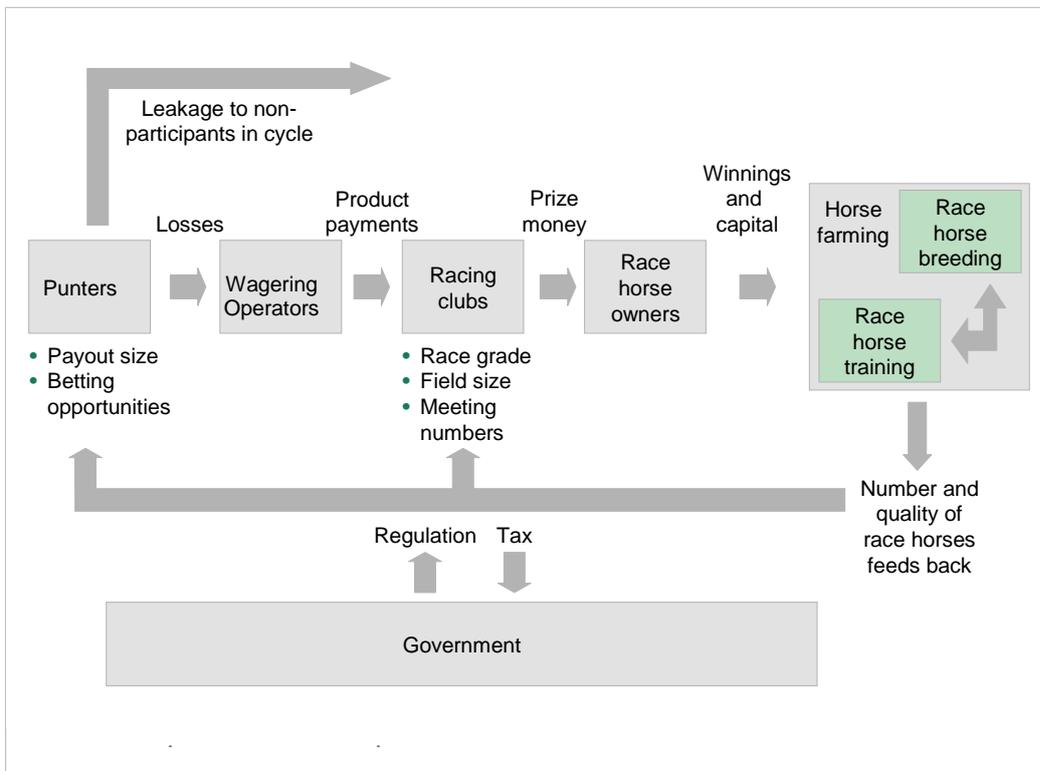
The following submission has been prepared by the Australian Racing Board Limited (**ARB**), a public company limited by guarantee, which is the national body formed by and representing the thoroughbred racing Controlling Bodies in each State and Territory of the Commonwealth (**Controlling Bodies**). The Controlling Bodies are all either established or recognised by State or Territory legislation, and each is responsible for doing all that is reasonably within its power to develop, encourage and manage the thoroughbred racing industry in its territory.

The ARB welcomes the opportunity to contribute to the Commission's Inquiry into the ACT racing industry. Our approach responds to the topics raised by the Terms of Reference, but goes into most detail on the changing wagering landscape and implications of these for the funding of the ACT racing industry. We first address the scope and the current contribution of the Australian Thoroughbred Racing Industry (ATRI), using a broad industry definition. We then analyse the forces shaping the wagering market today, both internal and external. Finally we examine the potential future structure of ACT TAB funding of the ACT racing industry.

1 The Australian Thoroughbred Racing Industry

The Australian Racing Industry is ‘first cousin’ to several families: the agricultural sector, the entertainment sector, and the sports sector, but its closest relationship is inarguably its connection with gambling. As was identified in the course of the National Competition Policy review process, these interrelationships consist of both structural links, through legislation, and financial interdependence¹. Exhibit 1, which describes income cycles between racing and wagering, illustrates the point.

Exhibit 1: Income flows in the wagering cycle



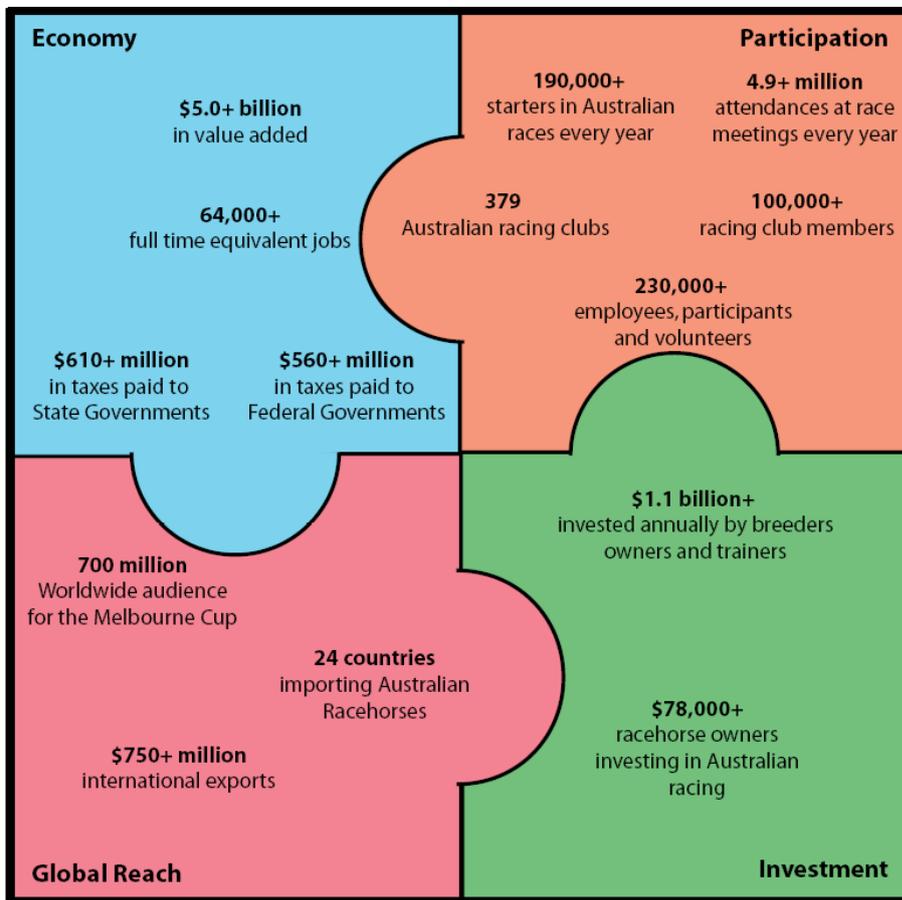
¹ NSW OLGR. 2001 National Competition Policy Review of NSW Racing Betting Legislation. Sydney, NSW

2 Scope and contribution of Australian Thoroughbred Racing

2.1 Overview

The impact of the ATRI extends far beyond ‘declaration of correct weight’. The ATRI fills an integral place in the sporting life, cultural traditions and everyday economy of Australia. From the first official race meeting staged by Governor Macquarie at Hyde Park Sydney in 1810, Australian Racing has grown to a scale that would have been difficult to imagine two centuries ago, and has few equals anywhere in the world. Today, Australian Racing spans both the calendar and continent: over 17,000 thoroughbred races are held each year, staged in almost every part of Australia. On any given day there are between 40 and 300 races run, which as George Johnston observed “*is a pretty deafening thunder of hooves by any standard*”². Here we provide a snapshot of the size and scope of the ATRI, illustrating the remarkable extent of its influence on Australia’s economic and social life.

Exhibit 2: An impact extending for beyond ‘declaration of correct weight’



Source: Australian Racing Fact Book; ABS attendance at sport

2.2 Definition of the Australian Thoroughbred Racing Industry

For the purposes of this submission, we have defined the Australian thoroughbred racing industry as comprising three integrated parts:

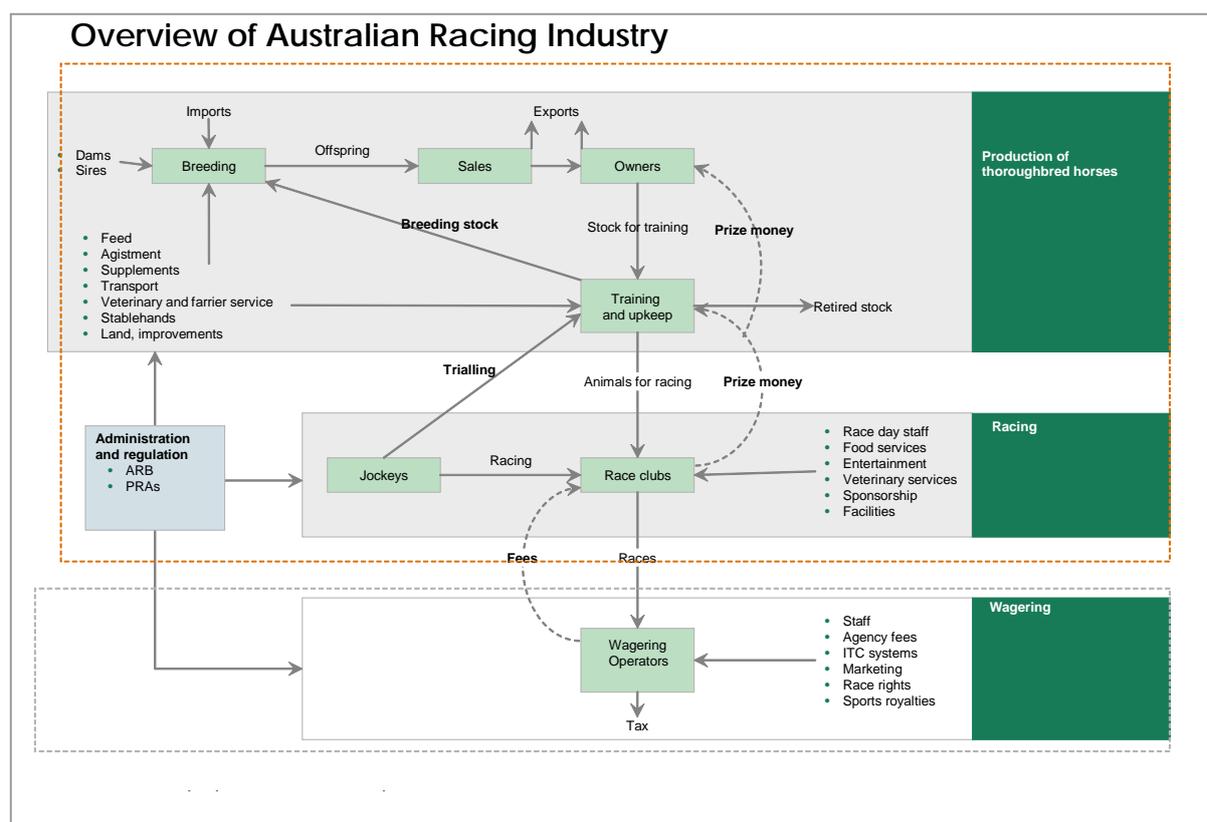
1. The production of thoroughbred horses - this includes horse breeding, bloodstock sales, horse ownership, and the training and upkeep of horses

² George Johnston, The Australians

2. Racing - which entails the holding of race meetings and includes racing administration, race clubs and jockeys
3. Wagering - This involves operators such as bookmakers, TABs, corporate bookmakers and betting exchanges who accept wagers on races.

The industry also includes functions for administration and regulation. These are an integrated set of activities that have evolved together with the strongest links being between horse breeding, training and racing. Exhibit 3 illustrates this definition of the ATRI and the interrelationships between the key elements.

Exhibit 3: Industry overview



Note: Adapted from Australian Racing Board. 2003. Submission to the Review of Issues Related to Commonwealth Interactive Gambling Regulation.

2.3 Significance of thoroughbred racing to Australia

The most recent and complete assessment of the ATRI was undertaken by IER for the ARB³ and covers the 2005-06 year. Including the direct and indirect impacts of thoroughbred racing together with their multiplier effects, the ATRI provided approximately \$5.04 billion in value added to the national economy. This represented 0.58% of Gross Domestic Product.

Employment

IER's assessment found that the set of activities associated with Australian thoroughbred racing, breeding, training, racing and wagering, directly accounted for an estimated 48,680 full-time equivalent (FTE) jobs in 2005-06. An estimated 9,900 breeders employed 17,990

³ IER. 2007. *Economic Impact of Australian Racing*. Melbourne, VIC

staff, 80 percent of who were based in non-metropolitan areas. An estimated 1,280 trainers (from a total of 4,700 trainers Australia-wide) and their 3,100 staff were also concentrated in non-metropolitan Australia. 1,500 full-time staff, 12,000 part-time staff and 1,000 jockeys were employed in delivering the race day product. Bookmakers totalled 700 and they employed an additional 1,400 people. TAB wagering staff totalled an estimated 4,700. IER's study found that racing and breeding also help to sustain employment in other areas of the economy, such as feed merchants, veterinarians, farriers, transport companies, caterers, hoteliers, and the fashion industry.

Participation

People participate in the ATRI in three main ways: producing and delivering the 'racing product'; attending race meetings; and wagering on horse racing.

The total number of people involved in producing the race product is much larger than the 48,680 FTE employees recorded above because of the considerable extent of part-time, casual and unpaid work. In fact, closer to 230,000 people are involved in the ATRI, two-thirds of whom are tied to provincial and country racing.

Horse racing is one of Australia's oldest and most popular sports. The first organized thoroughbred race meeting in this country was held in Hyde Park, Sydney, in 1810, with Governor Macquarie in attendance. Today, about 2 million Australians attend a thoroughbred race meeting at least once per year, ranking it second only to AFL in terms of attendance⁴. While racing's best known event, the Melbourne Cup, is now an international spectacle viewed by 700 million people, at the same time racing continues largely unchanged in picnic meetings run throughout country Australia where almost every place big enough to be called a town – as well as in some that are not – has its own racetrack. For many rural communities, their Cup race day remains one of the social highlights of the year.

Racing also has a cultural significance that poker machines and casinos cannot begin to imitate, with our champions, such as Phar Lap and Bart Cummings, part of the national identity, and writers from Banjo Paterson, C J Denis and Breaker Morant through to Frank Hardy, George Johnston, Gerald Murnane, Peter Temple, Les Carlyon and David Williamson mining its rich lode of characters and stories or documenting its place in the national physce.

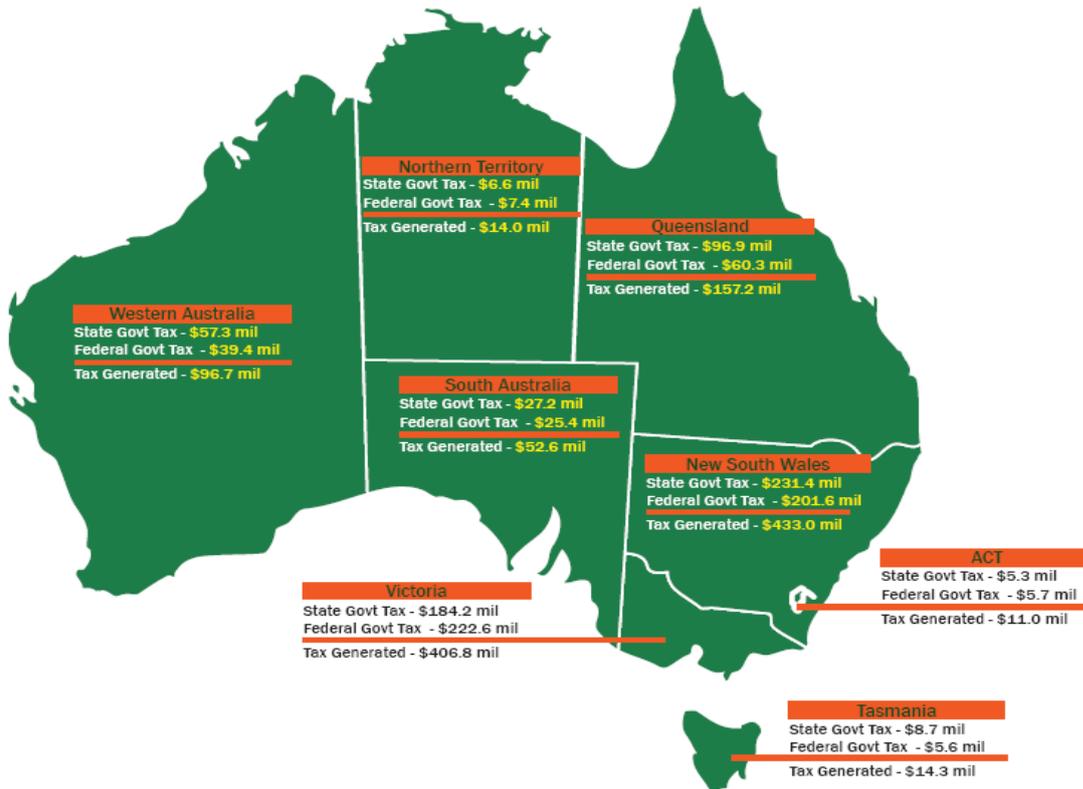
Indeed, it can be said that Australia has three truly national days: ANZAC Day; Australia Day; and the Melbourne Cup.

Taxation revenue

IER's assessment found that the ATRI generated nearly \$1.2 billion in taxes each year. Taxes on wagering comprised almost half of this amount, with GST the next largest component.

⁴ [ABS Attendance of Sport](#).

Exhibit 4: Taxation



Source IER.

2.4 International significance of Australian Thoroughbred Racing

There are 379 thoroughbred race clubs in Australia, which is more than any other country in the world.

On a per capita basis Australia has arguably the strongest racing industry in the world. Even in aggregate terms the ATRI ranks in the top 3 racing industries in the world on all industry indicators notwithstanding its much smaller population and economy *vis a vis* competitors such as the US, Japan, Great Britain and France.

Exhibit 5: Australian thoroughbred racing on a world stage

Rank	Starts	Black type races	Prize money	Foals born
1	USA	USA	USA	USA
2	Japan	Australia	Japan	Australia
3	Australia	Great Britain	Australia	Ireland
4	Great Britain	France	France	Japan
5	France	Argentina	Great Britain	Argentina
6	Chile	Japan	Korea	Great Britain
7	Argentina	South Africa	Turkey	France
8	Italy	Brazil	Hong Kong	New Zealand
9	South Africa	New Zealand	Ireland	Brazil
10	New Zealand	Ireland	Italy	Canada

Source: ARB Australian Racing Fact Book

2.5 Conclusion

The ATRI spans a network of activities that starts with people choosing to wager on thoroughbred horse racing which creates the demand for the bloodstock industry. Wagering provides the prize money to horse owners who fund breeding and training, the success of which affects the scale and quality of thoroughbred racing events, which in turn affects wagering demand.

The ATRI makes significant contributions to the Australian economy through employment, valued added, and tax paid. A large part of the Australian population participates in thoroughbred racing, directly by producing and delivering the racing product, or indirectly by attending race meetings and wagering. Any decline in funding that led to a contraction in the size of the thoroughbred racing industry would have wide flow-on effects.

3 The Australian wagering market

3.1 Wagering as a segment of the gambling market

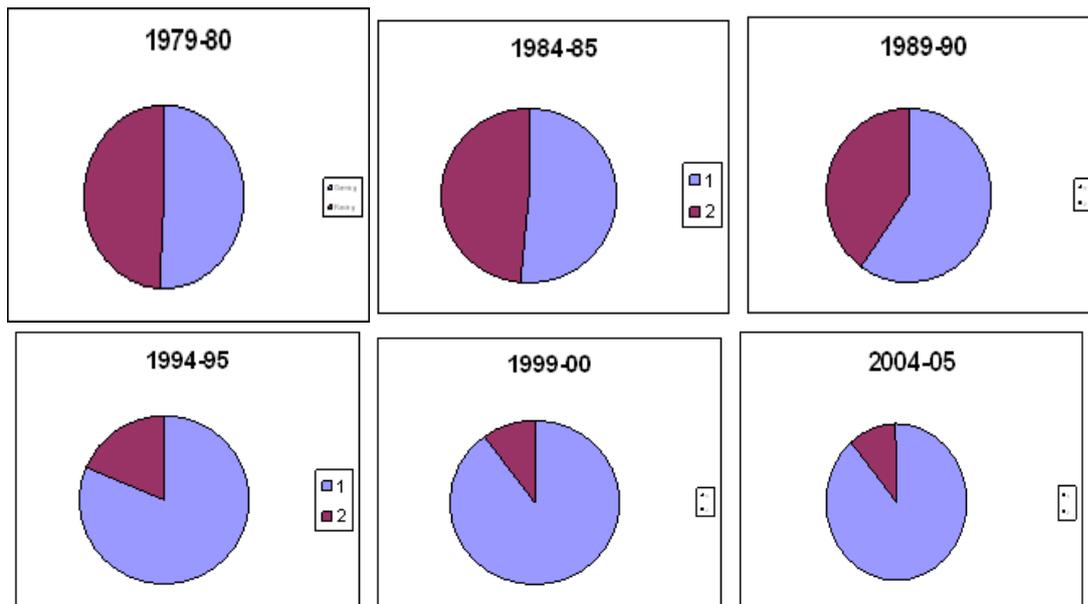
Wagering is a readily delineated subset of the gambling market. Wagering is distinguished from other forms of gambling, such as casino games, electronic machines, keno and lotteries (collectively known as “gaming”), because the probability of winning is not purely random – for example, punters can improve their chances of winning by studying the form of the participants in the event. The Australian wagering market takes in all forms of betting on both racing and other sports (sports betting).

Horse racing was the first form of organised gambling in Australia. By the late 19th century, horse racing had become a popular form of entertainment, with racetracks built in every major town. Betting activity, initially facilitated by local bookmakers, has always been closely associated with the development of racing. The totalisator was introduced by the 1890s to racecourses in several States, increasing both track attendance and interest in betting.

To counteract illegal off-course betting, State governments progressively introduced off-course totalisator agency boards (TABs). TABs grew to dominate wagering on racing in Australia and are perhaps the most identifiable wagering brand name anywhere in the world.

Up until the 1970s, race wagering was the most popular form of gambling in Australia, generating most of the gambling tax revenue collected by State governments. Since then, the liberalisation of other forms of gambling – notably, casinos and gaming machines – has reduced the market share of wagering from 40 per cent of the gambling market in 1989-90 to 11 per cent in 2004-05.

Exhibit 6: Wagering as a segment of the gambling market



Source: ARB Australian Racing Fact Book

Looking to the future, while the Productivity Commission has noted the post 1990s deceleration in gaming expenditure (attributed to a ‘maturing’ of the market for EGMs) there is a prospect of wagering on racing facing increased competitive pressure from this quarter. For example, BCG⁵ notes that whereas gambling on EGMs is at present an essentially passive activity, changes in the type of game offered could see EGMs compete much more directly with wagering in terms of involvement, excitement and the desire to win. The major EGM manufacturers have been demonstrating machines that closely parallel computer and video games and have the potential to appeal to the rapidly growing segment of the population who have grown up with computers and the internet (‘Generation Y’). In contrast to traditional EGMs:

- They are participatory and social. For example, two people may play against each other on the same machine, or a group of machines may be networked to allow groups to play among themselves.
- They entail skill, both physical and mental, that affect the chance of winning. For example, the machines will have joy sticks and other controls, and they may entail problem solving and successive levels of difficulty. The fact that they are not games of chance may pose additional regulatory issues.

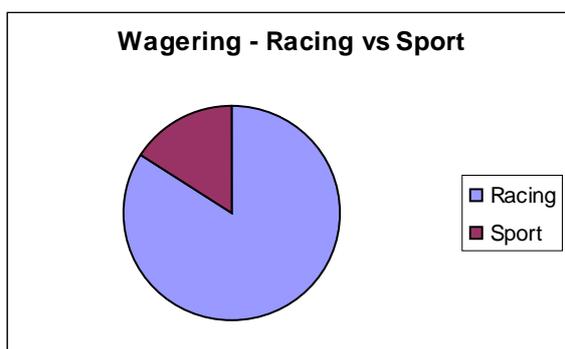
For race wagering, such machines will provide new challenges in competing for the discretionary spend of the rapidly growing Generation Y.

Another imminent technology is the introduction of server-based gaming. Unlike today where games are embedded in the machine hardware, in future games will be software based and able to be updated almost instantly, and adapted to match the player.

3.2 Race wagering vs. Sports betting

Within the wagering market, while betting on other sporting events has increased significantly, particularly since the mid-1990s, racing is the predominant wagering contingency. In 2007/08 the three codes of racing represented approximately 85% of the total Australian wagering turnover, with the other sports collectively representing some 15% of turnover.

Exhibit 7: Wagering – Racing vs. Sport



Source: ARB Australian Racing Fact Book

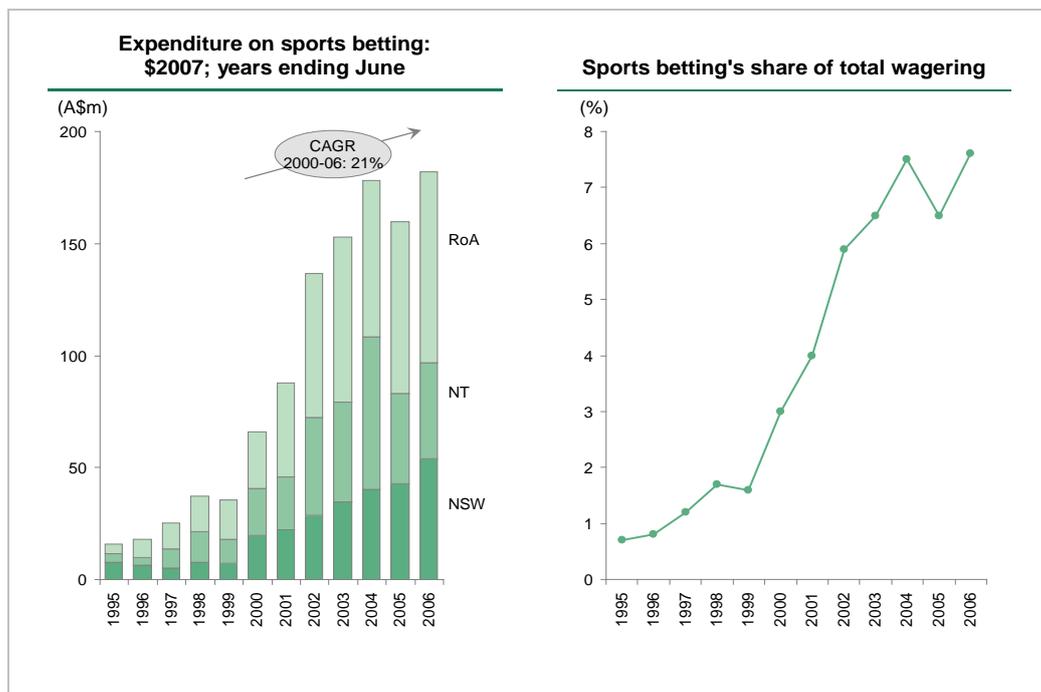
Sports betting shares some common features with race wagering in that it is active, participatory, and benefits from prior knowledge. Probably the key difference is that betting is a secondary reason for people to follow sports, whereas in racing, wagering is

⁵ The Boston Consulting Group (BCG) in its report prepared for the Cameron Review of wagering issues in NSW.

typically the main reason. Also, many more people believe they have the know-how and insight to the outcome of sporting fixtures than horse races.

Sports betting is the fastest growing area of gambling in most western countries, including Australia. Since the year 2000, expenditure on sports betting has grown at an annual compound rate of 18 percent a year in real terms, though starting from a small base (Exhibit 7).

Exhibit 8: Sports betting expenditure



Source: Queensland Treasury. 2007. Australian Gambling Statistics 1980-81 to 2005-06; missing data estimated by BCG.

BCG has identified that the key drivers of the rapid growth in sports betting include:

1. Its relative novelty, though obviously private betting on sports events is long-standing. Its growth is closely linked to the growth in sports coverage on pay TV
2. The fastest-growing segment of the population, Generation Y, is keenest on sports betting. The average age of sports bettors is about ten years younger than that for race wagers
3. The range of sports events is extremely broad and international. The past decade has seen the commercialisation of many sports codes and a rapid growth in the number of matches played or events staged
4. The proliferation of sports betting sites which are often treated more leniently by regulators than online gaming (mainly casino games).

Where it is permitted by law sports betting also offers a large variety of wagers, such as betting on the final result, the margin and events within a game such as the team leading at half-time or the first player to score.

Internationally increased levels of sports betting is also being assisted the rapid growth in two types of wager: in-play betting and spread-betting. While both types of wager are available on horse racing, there is much greater scope for there in relation to sports events.

In-play betting (or betting-in-the-run for racing) occurs after an event has started. While it is offered on horse racing in some jurisdictions, it is more attractive for sports events that last longer than a few minutes. In-play betting is the fastest growing bet-type in the United Kingdom.

In Australia, the *Interactive Gambling Act 2001* (IGA) limits in-play betting to phone and face-to-face bets and prohibits it via the internet. NT corporate bookmakers and Betfair both promote in-play betting heavily and Australian residents can still place in-play internet bets through UK bookmakers.

In spread betting, the returns or losses from a bet are calculated in proportion to the degree to which a bettor's prediction is right or wrong relative to the bookmaker's spread. The more skilled or knowledgeable the bettor is, the closer he or she is likely to be to the actual outcome. Because the potential loss or win can be exceptionally high, loss and win limits are placed on spread bets to protect the bettor.

Corporate bookmakers have a much higher profile in sports betting, in part because they have much more flexibility in the sports bids offered than do TABs. NT bookmakers account for approximately one quarter of total sports wagering expenditure.

3.3 Types of racing wagering operations

(a) On-course Bookmakers

From Archer's 1861 Melbourne Cup to the milieu of today's racing tracks, on-course bookmaking activity has been an exciting and essential part of the ATRI.

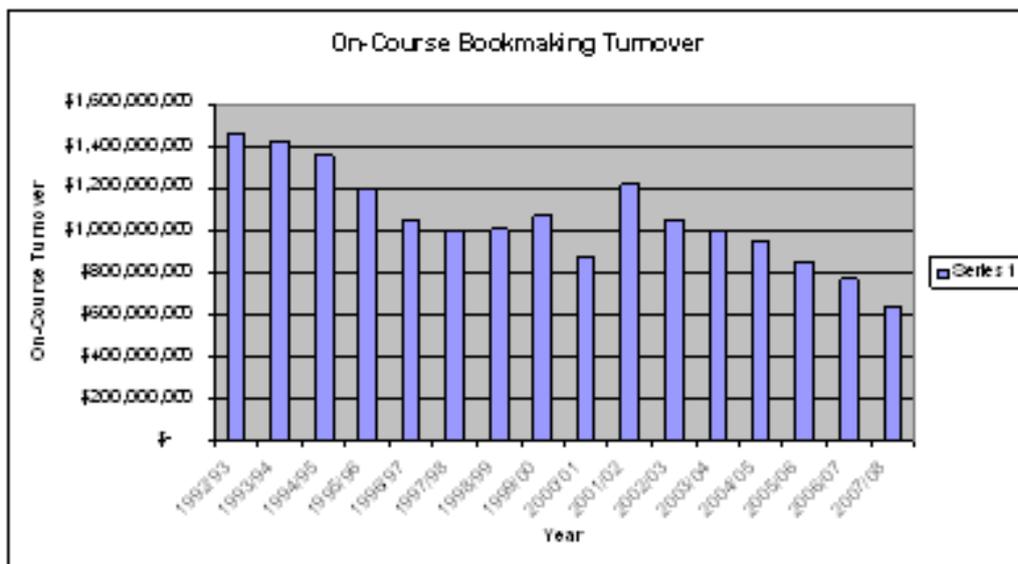
Today there are approximately 650 bookmakers across Australia. As individuals who are licensed to provide fixed odds wagering services on racing, bookmakers require approval by the relevant racing Controlling Body to operate within their jurisdiction. Apart from the terms of conditions of their licence, the major restrictions on bookmakers are minimum wagering obligations and in some jurisdictions controls on the publishing of their odds. (In terms of recent developments it may be noted that the Victorian Government is in the process of removing its long standing restriction on the publication of betting odds during race meetings in recognition of the widespread availability of this information across Australia.)

Bookmakers primarily offer fixed odds win and each-way betting, although place, doubles and other bets are also available. Traditionally, bookmakers have been restricted to providing these services whilst on-course i.e. bookmakers have been allowed to provide their services, whether face-to-face or via the telephone (and more recently via the internet), only whilst the bookmaker is on-course. More recently some jurisdictions have allowed bookmakers to provide off-course wagering via the phone and internet for racing futures and sporting events.

The on-course bookmaking market is very competitive. Providers are clustered together in a betting ring at the race-track, and on-course prices available are often better than not only starting prices, but also better than official fluctuations.

On-course bookmaking has experienced consistent decline over the past 30 years. Exhibit 9 shows this long-run downward pressure on on-course bookmaking turnover.

Exhibit 9: On-course bookmaking turnover 1992/93 – 2007/08



Source: ARB Australian Racing Fact Book

(b) Corporate Bookmakers

Recent years have seen the strong growth in wagering activities of corporate bookmakers. These bookmakers differ from stand-up bookmakers in two important respects. First, they are large businesses that operate from premises on-course on a 24/7 basis and receive their bets over the telephone and the internet. As such, they do not directly contribute to the racing experience of those attending the racetrack. Second, they offer some derivative products that stand-up bookmakers in some jurisdictions are prohibited from offering. Derivative products are generally designed to attract customers based on price, offering the prospect of guaranteed better dividends than on-course bookmakers and TABs.

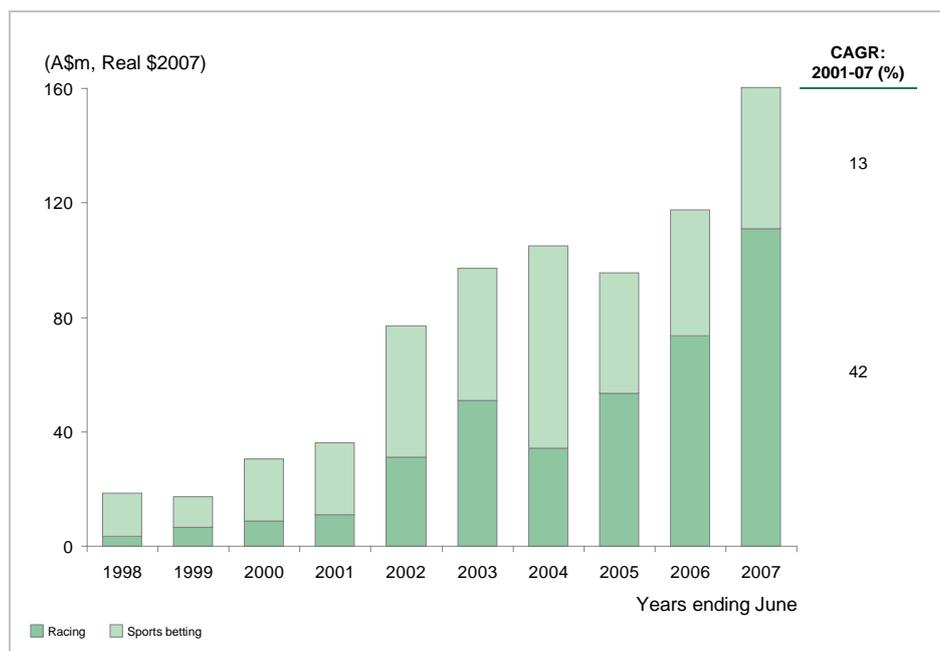
Corporate bookmakers are fully incorporated, often listed companies or subsidiaries of listed companies. Today corporate bookmakers are predominantly located in the Northern Territory. In 2006/07, NT bookmakers' share of Australian race wagering turnover (the total amount wagered) is estimated to be 16 percent and for sports betting turnover, 42 percent⁶.

The rate of growth for race wagering through NT bookmakers is very high (Exhibit 10). In 2008 the entry of TABCORP into NT bookmaking through the vehicle of Luxbet underscored the seemingly ineluctable momentum of this growth.

The main competitive advantage of interstate corporate bookmakers is favourable regulation: (i) low betting duty, (ii) lower payments to the racing industry, and (iii) very few operating restrictions compared with bookmakers in other States. The freedom with which corporate bookmakers can operate on the internet also means that they have a very low-cost operating structure.

⁶ Queensland Treasury. 2007. *Australian Gambling Statistics 1980-81 to 2005-06*; Australian Racing Board, op. cit.;

Exhibit 10: Wagering expenditure for NT corporate bookmakers



Source: Queensland Treasury. 2007. Australian Gambling Statistics 1980-81 to 2005-06; NT Government. 2008. www.nt.gov.au/justice/licenreg/statistics/statistics.shtml

As noted the strength of this trend has taken such deep hold that even one of the other major TABs, TABCORP, has elected to participate through its Luxbet operation.

One matter that should be particularly noted in considering these growth figures for corporate bookmakers is the impact of advertising restrictions. A number of States have legislation prohibiting advertising by out-of-state wagering operators, including interstate corporate bookmakers. Although this prohibition has been poorly enforced it was a limited brake on the growth of corporate bookmakers and betting exchanges racing websites carrying advertisements for NT bookmakers⁷. Following the High Court ruling in *Betfair v. the Western Australian Government* these advertising restrictions have essentially been dismantled; and are expected to be formally removed from State legislation. This has triggered an explosion of advertising which it is anticipated will be reflected in a further spurt in corporate bookmaker turnover in 2008/09 and beyond.

(c) TABs

Participants in totalisator (tote) betting place a unit wager on the horse they are backing to win, which is placed into a race pool. The winning bettors share equally in the total amount wagered, less a percentage retained by the operator. This means that the odds or return to a successful bet is not known until after the event, though punters can observe an approximate payout before the event, which is progressively updated as bets are placed.

The TABs were established between 1961 and 1985 in each State and Territory. With some relatively minor exceptions (eg. Port Pirie in South Australia) the introduction of TABs was accompanied by the closure of bookmaker betting shops in jurisdictions where they had existed up to that time (Northern Territory, South Australia and Tasmania).

⁷ Sportingbet, a NT bookmaker, was successfully prosecuted in the NSW courts in 2005 for advertising in print in NSW.

Between 1994 and 2002, the TABs in Victoria (1994), NSW (1998), Queensland (1999), NT (2000) and SA (2002) were privatised. Exhibit 11 shows the current holders of the 8 TAB licences.

Exhibit 11: Holders of TAB licences

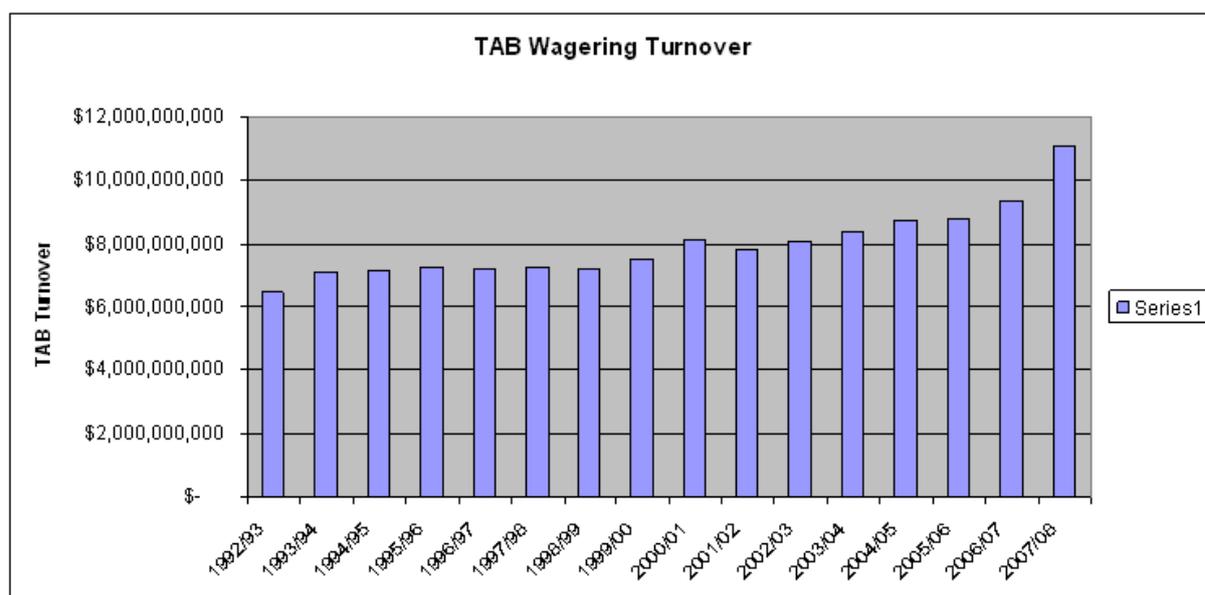
Jurisdiction	Totalisator Licensee	Affiliation
NSW	TAB Limited	Wholly owned subsidiary of TABCORP, currently operates stand alone NSW pool
VIC	TABCORP	Operates superTAB pool
QLD	UniTAB	Operates Queensland pool
WA	RWWA/TAB	Government owned, part of SuperTAB pool
SA	SA TAB Pty Ltd	Wholly owned subsidiary of UniTAB, part of UniTAB pool
TAS	Tote Tasmania Pty Ltd*	Government owned, part of SuperTAB pool
ACT	ACTTAB	Government owned, part of SuperTAB pool
NT	NT TAB Pty Ltd	Wholly owned subsidiary of UniTAB, part of UniTAB pool

Source: ARB Compilation

* Currently undergoing privatisation.

From FY 2001 to FY 2006, the compound annual growth rate in Australian totalisator turnover was 3.4% in line with the average compound annual growth rate in Australian totalisator turnover over the past 20 years. By contrast over that some FY 2001 – FY 2006 period the compound annual growth rate on bookmakers’ turnover was 19.4%.

Exhibit 12: TAB wagering turnover



Source: ARB Australian Racing Fact Book

(d) Betting exchanges

The business model of a betting exchange (BE) is different to that of totalisators or bookmakers. Corporate bookmakers use the reach of the internet to locate in jurisdictions with favourable regulations that significantly reduce the cost of doing business, but in

many other respects, the bookmaking business model is unchanged. In contrast, betting exchanges capitalise on the networking capabilities of the internet to create a new wagering model, based on the principle of the stock exchange. Wagering odds are set in the same way as share prices. The betting exchange offers fixed odds on events, by matching up people wishing to back a particular horse to win with others who wish to bet against (“lay”) that horse. The betting exchange is not a party to the wager, but simply a facilitator. The betting exchange also assumes no risk: it is simply an intermediary whose income is generated by taking a percentage commission of a punter’s winnings.

In Australia, Tasmania is currently the only State to have licensed a betting exchange, in this case Betfair (although the Victorian Government has introduced legislation to Parliament proposing that the holder of the next wagering licence (to come into operation in 2012) will have the option of conducting a betting exchange.) Indeed, betting exchanges are currently synonymous with Betfair, which has an estimated 90 percent global market share. Betfair commission starts at five percent and decreases to a two percent, based on the accumulated volume of betting of the customer.

Based on Betfair’s 20 percent (of commissions) product fee payment for wagering on Australian thoroughbred racing, its total commissions on winning wagers on Australian horse racing were \$13m in 2006/07⁸. Assuming an average commission of 3.75 percent, and adjusting for the fact that the commission is on the winning wager only⁹, then a turnover figure of \$680m is estimated, compared with \$16b total racing turnover in Australia.

Betfair appears to have been less successful in Australia to date than expected, as evidenced by the amount of tax it has paid to the Tasmanian Government (Exhibit 13). Wagering revenue in 2006/07 was less than half that originally projected and the growth estimated for 2007/08 was pared back, though still substantial at about 20 percent.

Exhibit 13: Tasmanian tax revenue from Betfair

	2005/06 Actual	2006/07 Expected	2006/07 Actual	2007/08 Expected
Tax from betting exchange	\$1.13m	\$12.86m	\$5.56m	\$6.67m

Source: Department of Treasury and Finance. 2007. *The 2007-08 Tasmanian State Budget*. Hobart, TAS.

The lower-than-expected penetration is attributed to the ban on advertising in States other than Tasmania. As noted above the High Court’s decision in *Betfair v. Western Australian Government* was the catalyst for those advertising restrictions to be dismantled, which is likely to enable further penetration. The introduction of starting prices into the Australian market is likely to have a further impact.

Betfair has the largest share of online wagering in the United Kingdom, its home market, and UK horse racing accounts for about one-third of its revenue. Its share of net winnings by all race wagerers (internet and retail) is projected to be 21 percent in 2008/09¹⁰. Which is in part attributable to its low commission rate of about 3.5%.

⁸ Tasmanian Gaming Commission. 2007. *2006/07 Annual Report*. Hobart, TAS.

⁹ Betfair’s commission is a percentage of the winning wager; to be at least partly comparable with TAB and bookmaker take-outs, that figure needs to be halved to account for the amount wagered and lost.

¹⁰ British Horseracing Authority. 2007. *Determination of the 47th Horserace Betting Levy Scheme: Submission of British Horseracing*. London

A new wave of growth for Betfair in the UK has followed from its introduction of starting prices on win bets in December 2007. A key obstacle to Betfair's growth has been the need for wagerers to be knowledgeable about racing which has been favoured by serious wagerers, not the casual or novice. Starting prices overcome this by allowing an individual to specify the amount and direction of a bet without having to set the betting odds. Betfair is extending Starting Prices to place bets.

(e) Offshore bookmakers

Offshore bookmakers can compete with Australian wagering operations either by offering wagering on Australian races, or by providing a large range of alternative wagering opportunities for Australian residents, moving them away from wagering on Australian races. For example, many offshore wagering sites carry all UK horse racing and racing from the major US tracks, as well as coverage from South Africa and some Asian countries. People visiting the sites with the primary intention of horse race wagering may cross-over to sports and other betting. The growth in pay-TV sports coverage means that Australian wagerers have better access to many of those sports events than in the past.

BCG has suggested that Australia might be seen as an attractive step-out market for UK bookmakers now that they are banned from offering their service to the United States. In this regard BCG point to the large size of the ATRI (second to the US in the number of races run) and the high propensity of Australians to gamble (Australia has the highest gross gaming revenues in the world¹¹). High Street bookmakers like Ladbrokes, William Hill, Coral and Paddy Power are well-known brands with strong reputations. They have easily accessible online gambling sites with large and international content. The take-out rate on these sites is about 6 percent to 9 percent¹², which at the upper end is comparable with the take-out in TAB fixed odds betting.

Apart from UK bookmakers the possibility always exists that if the regulatory environment in Australia is inconvenient then Australian operators may relocate offshore, as was the case with the betting shops that based themselves in Vanuatu in the 1980s and 1990s. In the 1990s the Vanuatu-based bookmaker operation, the Number One Betting Shop, was said (anecdotally) to have a turnover of between AUS \$300 and \$600 million. When it was acquired by Sportingbet and relocated to the Northern Territory, Sportingbet announced that it would be acquiring a client database of 25,000 Australian clients, 20 per cent of which were active at that time.¹³

No reliable figures are available on the current extent of expenditure with offshore bookmakers by Australian residents betting on ATRI.

3.4 New wagering channels

The growth of the internet as well as its increasing speed and number of users has made the growth in remote gambling possible. The impact of the internet is being extended now with the growth in wireless devices (principally 3G and newer mobile phones) and the customisation of wagering and gambling websites to them. Young people (e.g., 18 to 30 years old) usually lead the demand for mobile services but it remains to be seen if they will

¹¹ Swiss Institute of Comparative Law. 2006. Study of Gambling Services in the Internal Market of the European Union. European Commission, Brussels.

¹² Beaumont, J. 2008. The UK Gambling Sector. Kaupthing Singer & Friedlander Capital Markets, London.

¹³ Media releases sportingbet.com (UK) 15/03/2001

lead the uptake of mobile gambling. Wagering via interactive television has now entered Australia though currently only in Victoria.

(a) Internet

The internet and its rapid up-take has affected race wagering in a number of ways:

1. Bookmakers can locate in low cost, low regulation jurisdictions, remote from customers
2. New wagering operating models are possible such as betting exchanges
3. Information on, and coverage of, racing and sports events is packaged with interactive wagering (though pay-TV probably plays a bigger role still)
4. Uncertainty exists about the scope and extent of any intellectual property rights which may affect gambling activities
5. Comparing odds among TABs/bookmakers is much easier for bettors, with dedicated websites that identify the best odds on each race.

While phone betting is still twice the volume of internet betting, growth in the latter is strong. In 2006/07, betting via the internet accounted for 10 percent of wagering on thoroughbred racing through all Australian TABs, a three-fold increase over five years.¹⁴ The internet is much more important for sports betting than race wagering, and for corporate bookmakers and Betfair than the TABs, so the total amount of Internet wagering overall figure is probably several percentage points higher, in the order of 13 percent, excluding online wagering on offshore sites.

The generally held view is that the share of gambling on the internet will continue to grow rapidly, for the reasons summarised in the European Union review of gambling.¹⁵

- An increasing proportion of the population have access to the relevant technologies
- The technologies are becoming increasingly user-friendly
- The technologies are becoming increasingly integrated [and mobile]
- These systems have automated and convenient electronic billing systems which make financial transactions increasingly easy
- Adult populations in the years to come will increasingly consist of people who have grown up familiar with playing electronic games and utilising computers in their everyday lives
- Spending on leisure and on home-based entertainment is increasing.

Perhaps their most insightful observation for the purposes of this Inquiry is that:

“The ingenuity of existing and emerging technology companies and remote operators is ensuring that more and more games and other vehicles for gambling are available through the new technologies.”

In other words, the new entrants to gambling are forever looking for new products, ways of working around regulation, and high growth to drive their low-margin, high-volume business model.

¹⁴ Australian Racing Fact book

¹⁵ Swiss Institute of Comparative Law, op. cit

(b) Mobile phone gambling

Mobile gambling refers to gambling via the internet through a wireless device. While it can include PDAs and notebook computers, it mainly means 3G and newer phones that are capable of high bit rates and advanced features. A co-requisite is a network with high bandwidth connections and very high reliability. Loss of connection becomes a critical flaw when placing a wager or watching an event.

3G phone networks have only become widely available in the past few years and are driving the projected growth in mobile gambling over the next five years. The global gross win (revenue) from mobile gambling is forecast to increase from just over US\$100m in 2007 to US\$3.2b in 2012¹⁶. While significant, internet wagering via computer will still be much larger than via mobile devices.

Mobile gambling expects to tap three main groups. The first target group is young adults over 18 years of age, many of whom already interact with the world through mobile phones. This group has been pushing for the features and speed on mobile phones that also make the delivery of mobile gambling possible.

The second group is casual gamblers who want to 'fill in dead time'. The third group is serious race and sports wagerers for whom accessing the latest odds and being able to watch an event live are major pluses. For these latter two groups, mobile wagering is more likely to be an alternative to existing wagering channels rather than a means of generating new customers, as in the first group.

Mobile technology is also further reducing some wagering operators' control of their product. For example, a wagerer can visit a local TAB outlet for its atmosphere, 'data' and contacts, and use a mobile phone from there to wager with TAB competitors.

Australia has over 100 percent mobile penetration and all four mobile operators run 3G networks; the more advanced 3.5G debuted in 2007. This places Australia ahead of most countries in 3G deployment. Telstra is forecasting it will achieve 60 to 70 percent penetration of 3G by 2010. Mobile companies have made substantial investments in 3G technology, so new sources of revenue, such as mobile gambling, are key to their earning an adequate return.

At the moment, although 30 percent of Australian mobile phones are 3G, there has been limited uptake of the new services they enable¹⁷. BCG suggests that the growth forecast for mobile gambling may continue to slip over time.

In terms of providers, Betfair was the first to launch mobile gambling in Australia and Centrebet followed in November 2007. Sportsbet intended to have their mobile platform running in early 2008 but it has been delayed.

(c) Interactive television (iTV)

Like 3G mobile phones, the economics of iTV (wagering through interactive television) in part depend on gambling uptake, with in-play sports betting seen as especially suited to the platform.

¹⁶ Holden, W. 2007. *Mobile Gambling-A Good Bet for the Future*. Juniper Research, Basingstoke Hamps.

¹⁷ "3G services largely unused." *Sydney Morning Herald*, 9 May 2008.

The United Kingdom, the United States, France, Italy and New Zealand have all offered iTV wagering on racing for some years. While iTV is available throughout Australia, interactive wagering has so far only been approved in Victoria.

4 The Wagering and Racing nexus

4.1 Wagering and Racing: a symbiotic relationship

The long history of lawful gambling in Australia on racing, associated regulatory structures and the predominance of racing events in terms of wagering turnover has resulted in an inter-dependent relationship between the racing industry and wagering operators in Australia in which:

- The racing industry conducts the events (i.e. stages the races) on which the wagering operators conduct betting;
- Wagering operators provide the vast majority of the funding for the racing industry. Each State's racing industry has traditionally sourced its funding principally from the off-course totalisator operator in that State. Each State's racing industry also receives fees from bookmakers licensed in that State (which in Tasmania now includes payments from the betting exchange licensed in that State). However, until the "race fields" legislation was introduced, no State's racing industry received material fees from any wagering operator licensed in other States;
- The integrity and reputation of wagering and racing are inter-related. Wagering operators depend on the racing industry to maintain the integrity and "fairness" of racing events to maintain the attractiveness of the events to wagering customers. Conversely, there is almost invariably a degree of wagering activity associated with incidents which adversely impact the integrity of racing. Scrutiny of wagering patterns is an important element in detecting potential integrity issues.
- Wagering activity is reliant on wagering customers having accurate and timely access to racing information and live broadcast coverage of the races.
- Widely available live television coverage of racing events is critical to wagering as wagering customers tend to want to watch the event on which they have bet. Experience suggests that turnover on racing events benefits by in the order of 10% - 40% from the live telecast of the race to places where customers place their bets (traditionally TAB outlets and hotels/clubs, but increasing broader coverage is required given the increasing proportion of wagering being conducted by telephone and internet where the customer needs to be in any particular type of venue).

It may be noted that unlike other sports events, racing has not traditionally obtained substantial coverage on free-to-air television other than major carnival events. Nor has it received extensive coverage in other forms of television as "general entertainment". Instead, the primary broadcast coverage of racing has come from specialist racing telecasters who have developed to service wagering operators and wagering customers:

- Sky Channel is the principal telecaster of racing in Australia, providing live telecasts of more than 5,000 race meetings each year. Sky Channel covers all three race codes and races from all Australia States and Territories. Sky Channel provides two racing services; the "Sky Channel Commercial Service" which is provided on a subscription basis to more than 5,000 TAB outlets, hotels, Clubs and other commercial venues across Australia and the "Sky Racing Domestic Pay Television Service: which is available on Foxtel, Optus, Austar and other domestic pay television services.

- Specialised racing telecasts are also provided by ThoroughVision (TVN) which provides live telecasts of Victorian thoroughbred racing and Sydney metropolitan thoroughbred racing and selected other events. TVN provides a subscription service to TAB outlets, hotels, clubs and other commercial venues, domestic pay television service and internet coverage.

Radio also plays a significant role with dedicated racing radio stations broadcasting daily throughout Australia. It is estimated that over 1.6 million adults listen to racing radio stations during a typical week, with audience levels increasing substantially when major carnivals are being conducted. Research conducted on behalf of Victoria's Radio Sport 927 suggests that 96 per cent of regular TAB bettors tune into the station on a weekly basis and 78 per cent use its racing coverage to guide them in their selections. Racing radio stations provide fans with detailed and coverage from recognised experts does not involve payment to use or view, have the vital portability factor and can be heard virtually throughout the lengths and breadth of Australia.

4.2 The totalisator model of funding

The thoroughbred racing industry receives funding from different sources including sponsors, media companies, racetrack patrons and racehorse owners. However, while sponsorships, catering, track admissions and other sources of revenue alleviate some of the costs of putting on a racing event, their total contribution is minor (collectively accounting for less than 30 percent of racing funding), when compared to the amount returned to racing from wagering.

As noted above each State's racing industry has traditionally sourced its funding principally from the off-course totalisator operator. The capacity to provide high levels of industry revenues was indeed a key motivation for State Governments introducing off-course totalizators in the 1960s. For example, the Kinsella Royal Commission (NSW) gave as one of the principal reasons for recommending the establishment of an off-course totalisator – in preference to licensed bookmaker betting shops - the anticipated greater financial benefit to the State's racing industry:

“Experience in New Zealand has shown that the off-course totalizator has conferred immense benefits on the racing industry. The evidence of Mr T Smith already referred to, indicates that it had similar results on the racing industry in France. In Victoria for the twelve months ended 31 July 1962 the off-course totalisator has made available to racing 440, 000 pounds. Between 1 August 1962 and 28 February 1963 the turnover has increased by 100%. It may therefore reasonably be assumed that at the end of the current year a much greater contribution will be made to Victorian racing.

A similar result would have a most stimulating effect on the racing industry in New South Wales. Prizemoney could be increased, much need improvements to racecourses and their amenities for the public could be undertaken, country racing could be given practical aid.

There can be little doubt that an off-course totalizator would make very substantial contributions to the racing industry in New South Wales¹⁸.”

¹⁸ Kinsella Report

Substantial totalisator wagering is also a concomitant of strong racing where it is found elsewhere in the world as illustrated in Exhibit 14 using returns to owners as an indicator.

Exhibit 14:

Returns to Owners	Wagering Model	
100% +	Hong Kong	Totalisator Only
	Singapore	Totalisator Only
60% -100%	Japan	Totalisator Only
45% - 60%	France	Totalisator Only
	USA	Totalisator Only
	Australia	Totalisator Dominant
	South Africa	Totalisator Dominant
< 30 %	Ireland	Bookmaker Dominant
	Germany	Bookmaker Dominant
	Britain	Bookmaker Dominant

Source: Racing NSW CEO Presentation to 32nd Asian Racing Conference, Tokyo 2008.

By way of comparison Appendix A describes the impact on the British racing industry of the regulatory structures for wagering that have been in place there.

The progressive privatisation of the TABs has **not** materially affected the predominant role they have played in returning revenue generated from wagering back to the ATRI. As part of the privatisation process aspects of the previous statutory regime were replaced by commercial arrangements between the totalisator operator and the State racing industry and commercial arrangements between the three codes of racing in that State. The elements of the commercial arrangements are commonly as follows:

- Commitments by each code of racing to the TABs and the other codes to conduct at least a minimum program of race meetings in the relevant State each year
- Commitments by the TAB to conduct totalisator wagering on at least the minimum program of race meetings of each code.
- Payments of fees by the TABs to the racing industry.

The structure of fees returned to the ATRI by TABs is set out in Exhibit 15

Exhibit 15: Racing Industry Revenue Arrangements, 2002-03

Jurisdiction	Calculation Basis	\$m	Industry revenue as % of wagering	
		2002-03	Turnover	Expenditure
NSW	Product Fee: 21.9965% of commission Wagering Incentive Fee: 25% of EBIT	202.2	4.4%	27.2%
VIC	Product Fee: 18.8% of commission Marketing Fee: Base figure indexed by growth in retail & account sales Variable contribution: 25% of net profit	250.0	7.7%	46.4%
QLD	39% of commission	106.3	6.2%	39.3%
WA	50% of margin after tax	63.3	6.0%	35.4%
SA	39% of commission	43.5	6.3%	
TAS	N/A	15.4	5.7%	60.1%
ACT	4.5% turnover taken by Government and distributed to licensed race clubs and racing development fund	6.1	4.4%	27.9%
NT	No direct revenue from the TAB, but funded by Territory Government.	6.7	6.4%	40.1%

Source: Access Economics 2005 Financial Implications of Betting Exchanges

The growth of internet and telephone betting by operators licensed in States or Territories with favourable regulatory and tax regimes, has meant that, in practical terms, the “exclusive access” which wagering operators licensed in a particular State or Territory had to wagering customers located in that State or Territory, which existed until the 1990s, has eroded rapidly.

Exhibit 16 uses the NSW TAB for the purposes of comparing the takeout rates and key characteristics for competing of the different types of wagering operates currently trading in Australia.

Exhibit 16: Take-out rate and key characteristics for competing Australian wagering providers.

	NSW TAB (tote wagering)	NSW bookmaker	Corporate bookmaker	TAS Betfair
Take-out rate	16% (+fractions)	6.0%	6.0%	1.0% - 2.5%
	\$ per \$100 wagered			
State/Fed Governments	\$4.50	\$0.50	\$0.75	\$0.25 - \$0.60
Australian racing	\$4.50	\$1.00	--	\$0.20 - \$0.50
Wagering provider	\$6.90	\$4.50	\$5.25	\$0.55 - \$1.40
	Key operating parameters			
Internet betting	Yes	No	Yes	Yes
24/7/364 days	Yes	No	Yes	Yes
TAB-odds betting	N/A	No	Yes	N/A

	NSW TAB (tote wagering)	NSW bookmaker	Corporate bookmaker	TAS Betfair
Rebates/discounts	No	No	Yes	Yes
Other characteristics				
Operator risk	Minimal risk, payouts based on total bets into tote	Medium risk, based on outcome at fixed odds	Medium risk, based on outcome at fixed odds	Little to no risk, operator acts as facilitator
Required pool size	Large: scale dependent	Small: minimal scale	Small: minimal scale	Medium: scale necessary to match bets
Fluctuation of odds	Odds unknown at time bet is taken, fluctuate with bet patterns and pool size	None	None on fixed odds; tote odds depend on tote bet patterns and pool size	None, fixed odds thru matching

Source: *Tabcorp Holdings Limited. 2006. Vision for the Gambling Industry: Wagering. Submission to Review of State Gambling Licences, Melbourne VIC; NSW Office of Financial Management. 2007. Interstate Comparison of Taxes 2007-08; Queensland Treasury, op. cit. Compilation by BCG.*

The average takeout rate for TABs is 16 per cent plus fractions. It can be seen that the average take-out rate for NT bookmakers is about one-third of this. Part of the difference reflects the mix of bet types between bookmakers and TABs. For the same racing product, the difference is smaller; for example the NSW TAB take-out rate on a win bet is 14.25 percent compared to an estimated 6 percent for NT bookmakers. Still, a two-fold price difference is very significant, especially for serious wagerers who are highly sensitive to the take-out rate and represent a large part of the market.¹⁹ On-course racing bookmakers in other States would have a similarly low take-out rate to an NT bookmaker, but that factor is negated somewhat by restrictions on internet betting, operating hours, bet-type and rebates/discounting.

4.3 Projections of impact of wagering market changes on ARI funding

We outline below the content of four sets of projections that have been made regarding the impact of these current wagering market changes on ARI funding.

(a) The Allen Consulting Group

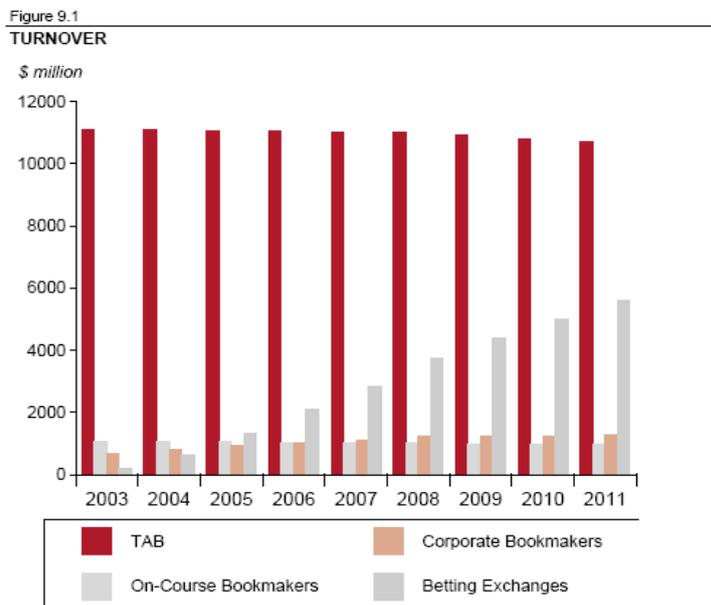
In 2003 the ARB engaged the Allen Consulting Group (Allens) to forecast the future progression of changes to the wagering market that were then already underway, and to provide modelling of the consequential impacts on the ATRI's funding. This modelling included both a baseline assessment and a series of scenarios involving hypothetical new product fee arrangements. The ARB was at this time working with the State and Territory Racing Ministers on the development of a product fee framework, which subsequently saw the introduction of race fields legislation.

Relevant to this Inquiry is the baseline modelling showing the expected ATRI funding having regard to the predicted growth rate of providers and wagering channels from 2003 to 2011. The baseline modelling assumed that no changes were made to the industry's funding arrangements. Advertising restrictions were also assumed to remain in place. Allens' modelling under the baseline scenario suggested that:

¹⁹ Cummings Associates, 2004. *Analysis of the Data and Fundamental Economics Behind the Thoroughbred Racing Industry*; Arlington, MA.

- Turnover of TABs would remain relatively flat over the period, although this would mask a major shift between distribution media from retail to telephone to internet betting channels.
- Turnover of on-course bookmakers would remain relatively flat, with on-course phone and internet-based bets potentially mitigating the effects of a slow decline of in-person bets.
- Turnover of corporate bookmakers would continue to grow rapidly, although over time this would be affected by a loss of those customers to betting exchanges;
- Turnover of betting exchanges would continue to grow rapidly, as more TAB and corporate bookmaker internet-based customers transferred to the betting exchange product.

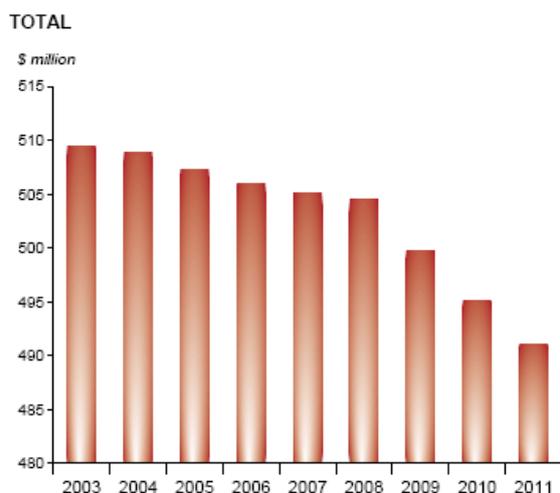
Exhibit 17: Australia wagering turnover 2003 – 2011



Source: The Allen Consulting Group

The implications of the baseline scenario for funding of the ATRI are depicted in Exhibit 18 below. Essentially a decline in ATRI funding was forecast attributable to the industry not sharing in the turnover growth of corporate bookmakers and betting exchanges identified above.

Exhibit 18: ARI funding 2003 – 2011



Source: The Allen Consulting Group

(b) Modelling published by TABCORP

In 2007 TABCORP published estimates of the impact of what it has described as ‘turnover leakage’ from two States Victoria and New South Wales. It estimated that if the racing wagers placed by NSW residents through NT bookmakers and betting exchanges had passed through NSW TAB then in 2006/07 there would have been an additional \$51m of revenue for NSW racing and an additional \$26m of tax for the State government. In Victoria’s case, it estimated that if the racing wagers placed by Victorian residents through NT bookmakers and betting exchanges had passed through the Victorian TABCORP pool, then in 2006/07 there would have been an additional \$40 million of revenue for Victoria racing and an additional \$17 million of tax for the State government.

TABCORP advised that its analysis had been verified by Pricewaterhouse Coopers as providing “a reasonable estimate of the possible revenue impact to NSW and Victorian Governments as well as their respective industries”.²⁰

Exhibit 19: Impact of NT bookmakers and Betfair on Racing

	\$M 2006/07
The Losers	
VICTORIA	
> Racing Industry	39.8
> VIC Government	16.8
> Oncourse Bookmakers	10.1
NSW	
> Racing Industry	51.4
> Government	26.4
> Oncourse Bookmakers	16.8
> Federal Government	10.8
The Winners	
> Other TABs	15.9
> Corporate Bookmakers	65.3
> Betfair	8

²⁰ PWC 8th November, 2007

> Other State Governments	5.9
> Other Racing Industry	18

Key Assumptions

- In 2007, corporate bookmaker turnover was \$2.7billion and betting exchange turnover was \$400million.
- Corporate bookmakers and betting exchanges receive 50% of their turnover from NSW and 30% from Victoria.
- Of this turnover leakage, 70% comes from TABs and 30% comes from bookmakers.
- Corporate bookmakers and betting exchanges turnover figures have been discounted by 20% due to higher returns to punters.

Source: TABCORP

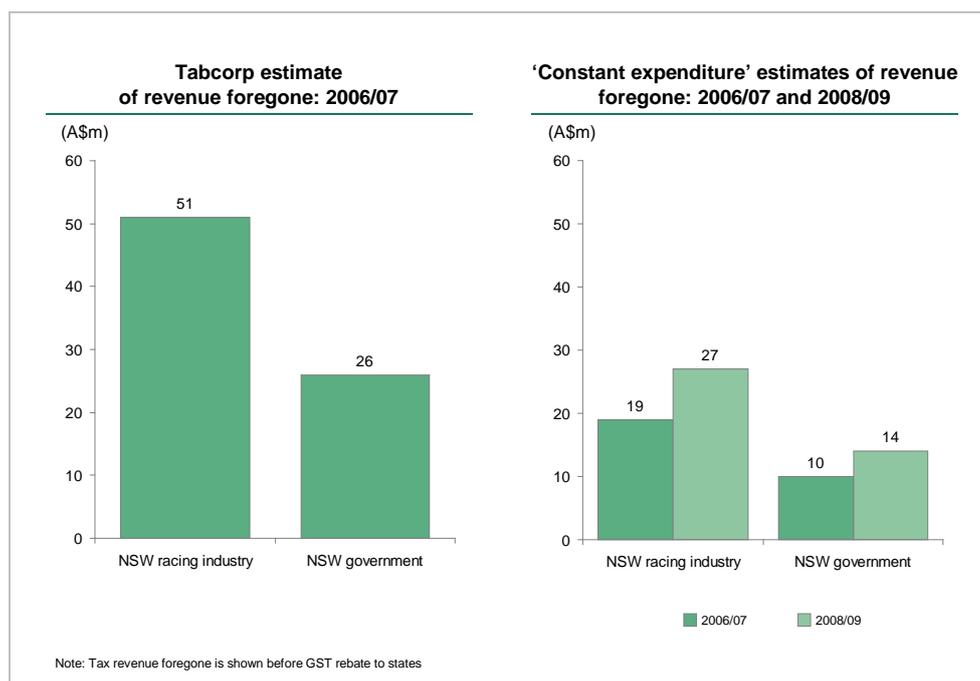
It should be noted that a key variable in estimating the losses that TABCORP suggested is the responsiveness of turnover to the take-out rates i.e. the amount by which turnover would drop when the take-out increased from the average of 5 to 6 percent for NT bookmakers to the 16 percent for NSW TAB.

The assumption underlining the TABCORP estimates is that of ‘constant expenditure,’ i.e. that wagerers continue to lose the same amount in total regardless of the take-out rate. This assumes an own-price elasticity of -1.0. If price rises by a given percentage, the volume purchased (turnover) falls by the same amount, so that expenditure remains the same.²¹

Exhibit shows TABCORP’s estimates of revenue foregone by NSW racing and the NSW government in 2006/07, and also shows estimates based on the assumption of ‘constant expenditure’ for 2006/07 and 2008/09. In the 2008/09 calculations, it is assumed that NT bookmakers’ turnover reaches \$4b.

²¹ Organisation Consulting Partnership. 2008. 47th Horserace Betting Levy Scheme. Report to the UK Department of Culture, Media and Sport

Exhibit 20: Estimated racing payments and tax revenue lost to NT bookmakers and Betfair



Source: "Tabcorp moves while industry waits". *Thoroughbred News*, 20 May 2008.

(c) Boston Consulting Group

In 2008 BCG was engaged by the Controlling Body for thoroughbred racing in New South Wales to undertake modelling work in connection with the Cameron review of wagering regulation in NSW. As part of its brief, BCG modelled the impact of changes in the wagering landscape on the funding on NSW sector of the ATRI. While modelling is limited to the NSW sector of the ATRI, and influenced by some variable that are unique to that State, the BCG work represents the most recent rigorous analysis of current changes to the wagering landscape by a top tier house of economists.

BCG approached its modelling in three steps:

1. Define the baseline wagering funding inflows to the NSW thoroughbred racing industry
 - Based on today's environment—regulatory and competitive, but excluding race fields—and projected wagering growth rates
 - Accounting for trends in NSW wagering turnover and interstate wagering by NSW punters
2. Identify and size the issues that could potentially impact the wagering and tax baseline in the short- to medium-term
 - Grouped 13 issues into four channels: NSW TAB, NSW bookmakers, non-NSW Australian wagering operators, and international operators
 - Analysed three scenarios: open market, global precedents and restricted environment
 - Measured indicative size of impact on racing industry funding

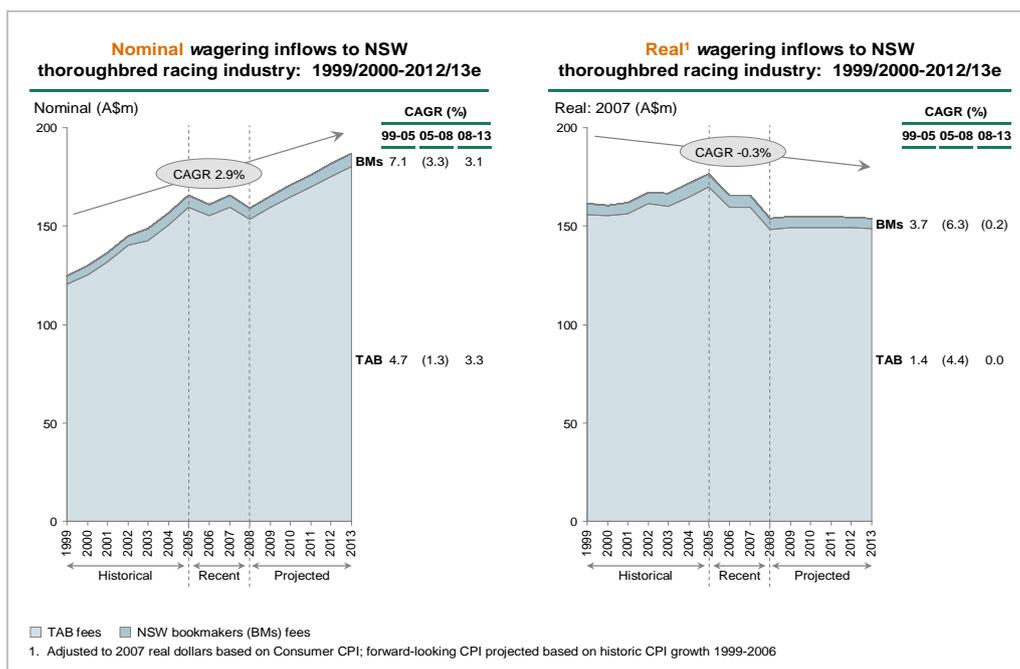
3. Calculate the gap between required industry funding (from wagering) and wagering inflows after accounting for various scenario outcomes

Baseline funding (historic and projected)

BCG reported that the wagering funding provided to NSW thoroughbred racing experienced a period of relatively steady nominal growth (4.8 percent CAGR) from 1999 to 2005, growing from \$125m in FY99 to \$166m in FY05 (Exhibit 21). They noted, however, that this growth somewhat masked the increasing financial pressures on the NSW racing industry driven by a combination of modest income growth from wagering and continuing cost increases. BCG found that the growth from 1993-2005 was largely a result of efficiency improvements in the TAB which flowed to racing through profit sharing arrangements, the impact of one-off factors and a number of negotiated revisions to the financial arrangements with TAB, including the addition of the fixed product fee.

From 2006-2008, that growth disappeared due to a number of factors, including the negative impact of equine influenza in FY08 and the accelerated leaking of wagering dollars to heretofore 'unleivable' channels such as corporate bookmakers and betting exchanges. In real dollars (based on consumer CPI), funding inflows from wagering were relatively flat from FY99 to FY05, and actually declined at 4.5 percent per annum from FY05.

Exhibit 21: Baseline and projected wagering funding inflows to thoroughbred racing



Note: Projected funding includes expected uplift due to removal of overall TAB take-out cap (16 percent plus fractions).

Source: Racing NSW financials; Literature search; BCG analysis

Projected funding

BCG projected wagering inflows to NSW racing up to 2012/13 using a baseline estimate that took into account the current regulatory and competitive environment, as well as current underlying wagering trends, both in NSW wagering turnover and interstate wagering by NSW punters. The baseline included the estimated continued growth of corporate bookmakers and betting exchanges, and the resulting erosion of NSW TAB and NSW-licensed bookmaker wagering market share. The TAB projections also included the expected impact of the removal of the overall ‘take-out cap’ (formerly 16 percent plus fractions), which it estimated was likely to expand total TAB take-out by up to one percent over a three- to four-year time period.

Product fees from non-NSW wagering operators due to race fields legislation were not been included in the baseline projections.

Based on these assumptions, BCG forecast inflows to the NSW thoroughbred racing industry from wagering operators to reach \$185M (nominal) in FY13, for an annual growth rate of 3.3 percent per annum from FY08-FY13. BCG concluded that in real terms funding would stagnate from FY09-F13 over the next five years and would fail to recover from the funding decline experienced during FY05-FY08 (Exhibit 22).

Exhibit 22: Assumptions and detailed figures for wagering funding baseline

Source of funding	Actuals							Projected							
	'99	'00	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13
Nominal (A\$m)															
TAB fees	121	125	132	140	143	150	159	155	160	153	159	165	170	175	180
NSW bookmaker fees	4	4	5	5	6	6	6	6	6	6	6	6	6	7	7
Total	125	129	137	145	149	156	165	161	166	159	165	171	176	182	187
<hr/>															
Real: 2007 (A\$m)															
TAB fees	156	155	156	162	160	165	170	160	160	148	149	149	149	149	148
NSW bookmaker fees	5	5	6	6	7	7	7	6	6	6	6	6	6	6	6
Total	161	160	162	168	167	172	177	166	166	154	155	155	155	155	154

Note: Assumptions of baseline

- Historical figures (FY99-2007) based on actual payments from NSW TAB and NSW bookmakers
- TAB payments to racing include variable product fee, wagering incentive fee, and fixed product fee
- Projections (FY08-13) based on current underlying wagering trends and regulatory environment which is in force today
 - Baseline includes continued growth of corporate bookmakers, and ongoing erosion of NSW TAB and bookmaker wagering share going forward
 - Growth rates for NSW TAB and NSW bookmakers based on recent growth given underlying wagering trends
 - TAB projections include effect of removal of overall take-out cap, which will likely expand total take-out by up to 1% over a 3-4 year time period
 - Product fees collected via race fields legislation are considered separately based on varying levels of compliance possible
 - Includes decline in total wagering in FY08 due to the negative impact of equine influenza

Source: RNSW financials; Literature search; BCG analysis

BCG then identified and quantified 13 factors that could potentially affect revenues to racing from wagering and undertook a scenario analysis of potential outcomes.

The factors identified were:

1. TABCORP establishing competing operations outside of NSW (which subsequently transpired with the establishment of TABCORPs Luxbet operation in the NT)
2. Pooling of NSW TAB wagering pool
3. Advertising restrictions
4. Fixed odds betting restrictions
5. Inducements/rebates
6. iTV (television wagering)
7. NSW bookmaker regulations
8. Other bet types (for example, tote-odds betting, field against favourites)
9. Corporate bookmakers
10. Betting exchanges

11. Race fields legislation
12. Advertising restrictions
13. International bookmakers.

These 13 factors were assessed in the context of three scenarios:

1. **Open market:** Under this scenario, the wagering market is highly deregulated. Wagering operators have more freedom to choose the types of products and methods of placing bets they offer to their customers
2. **Global precedents:** The outcomes of this scenario are based on the experiences of other jurisdictions within Australia and internationally when confronted with these and similar issues
3. **Restricted environment:** Under this scenario, the wagering market is tightly regulated on most wagering concerns. This scenario most closely represents the current environment in a number of areas

The potential outcomes of each issue varied considerably across the three scenarios, based on the assumptions for market share shift, compliance levels, regulatory changes and other relevant factors. Exhibit 23 depicts BCG’s assessment of those potential outcomes.

Exhibit 23: Indicative impact of potential changes to funding from wagering

Channel	Issues	Racing impact above (below) baseline: FY13 ¹		
		Open market	Global precedents ²	Restricted environment
NSW TAB	• Tabcorp Ltd. operations outside of NSW (interstate or international)	-	-	○
	• Pooling of NSW TAB wagering pool	-	-	○
	• Advertising restrictions	-	○	○
	• Fixed odds betting restrictions	-	-	○
	• Inducements/rebates	○	○	○
	• iTV (television wagering)	+	+	○
NSW Bookmakers	• NSW bookmaker regulations	-	-	○
	• Other bet types (eg. tote-odds betting, field against favourites)	-	-	○
Non-NSW Australian wagering operators	• Corporate bookmakers' growth (without race fields)	- -	- -	○
	• Betting exchanges (without race fields)	-	-	○
	• Race fields legislation	+	++	++
	• Advertising restrictions	-	-	○
International wagering operators	• International bookmakers	-	○	○

- - Large negative impact
 - Negative impact
 ○ Negligible impact
 + Positive impact
 ++ Large positive impact

1. Difference above (below) baseline in 2012/13 in nominal dollars
 2. Assessment of value based on global experience . Under global precedents case, the consequences for NSW racing industry still may be unfavourable - highlights need to enforce new rules or do more than was done internationally

Source: BCG analysis; Industry interviews; Literature search

The impact of the scenarios on racing’s funding baseline

The overall results of the scenarios are illustrated in Exhibit 24 where for the three modelled scenarios the outcomes, versus the FY13 baseline, range from:

- For the NSW thoroughbred racing industry: (\$65M) to \$45M

- For the State Government tax take: (\$45M) to \$0

Exhibit 24: Estimated impact of potential changes on racing funding and State tax take

Channel	Issues	Racing impact above (below) baseline: FY13 ¹		
		Open market	Global precedents ²	Restricted environment
NSW TAB	• Tabcorp Ltd. operations outside of NSW (interstate or international)	-	-	○
	• Pooling of NSW TAB wagering pool	-	-	○
	• Advertising restrictions	-	○	○
	• Fixed odds betting restrictions	-	-	○
	• Inducements/rebates	○	○	○
	• iTV (television wagering)	+	+	○
NSW Bookmakers	• NSW bookmaker regulations	-	-	○
	• Other bet types (eg, tote-odds betting, field against favourites)	-	-	○
Non-NSW Australian wagering operators	• Corporate bookmakers' growth (without race fields)	--	--	○
	• Betting exchanges (without race fields)	-	-	○
	• Race fields legislation	+	++	++
	• Advertising restrictions	-	-	○
International wagering operators	• International bookmakers	-	○	○
Impact on thoroughbred racing funding		(\$30M – \$65M)	(\$10M - \$50M)	\$35M – \$45M
Impact on NSW Government tax revenue		(\$25M – \$45M)	(\$20M – \$40M)	No impact

-- Large negative impact
 - Negative impact
 ○ Negligible impact
 + Positive impact
 ++ Large positive impact

1. Difference above (below) baseline in 2012/13 in nominal dollars
 2. Assessment of value based on global experience . Under global precedents case, the consequences for NSW racing industry still may be unfavourable - highlights need to enforce new rules or do more than was done internationally

Source: BCG analysis; Industry interviews; Literature search

In order to gauge the most positive and negative aggregate impacts on racing industry funding, BCG constructed two hypothetical scenarios by selecting an outcome for each of the 13 issues (Exhibit 25).

Exhibit 25: Racing impact above (below) baseline under most/least favourable environments

Channel	Issues	Racing impact above (below) baseline: FY13 ¹		
		Open market	Global precedents ²	Restricted environment
NSW TAB	• Tabcorp Ltd. operations outside of NSW (interstate or international)	-	-	○
	• Pooling of NSW TAB wagering pool	-	-	○
	• Advertising restrictions	-	○	○
	• Fixed odds betting restrictions	-	-	○
	• Inducements/rebates	○	○	○
	• iTV (television wagering)	+	+	○
NSW Bookmakers	• NSW bookmaker regulations	-	-	○
	• Other bet types (eg, tote-odds betting, field against favourites)	-	-	○
Non-NSW Australian wagering operators	• Corporate bookmakers' growth (without race fields)	--	--	○
	• Betting exchanges (without race fields)	-	-	○
	• Race fields legislation	+	++	++
	• Advertising restrictions	-	-	○
International wagering operators	-	○	○	

○ 'Most favourable' ○ 'Least favourable'

-- Large negative impact - Negative impact ○ Negligible impact + Positive impact ++ Large positive impact

1. Difference above (below) baseline in 2012/13 in nominal dollars. 2. Assessment of value based on global experience. Under global precedents case, the consequences for NSW racing industry still may be unfavourable - highlights need to enforce new rules or do more than was done internationally

Source: BCG analysis; Industry interviews; Literature search

Under the first hypothetical scenario, BCG selected the outcome for each of the 13 issues that most favoured the NSW thoroughbred racing industry. The aggregate affect on the NSW thoroughbred racing industry was a \$40M to \$50M increase in funding above the baseline in 2012/13. The net impact on NSW State tax revenue was an increase of \$2M to \$5M above the baseline in 2012/13.

BCG made two observations about this first hypothetical scenario:

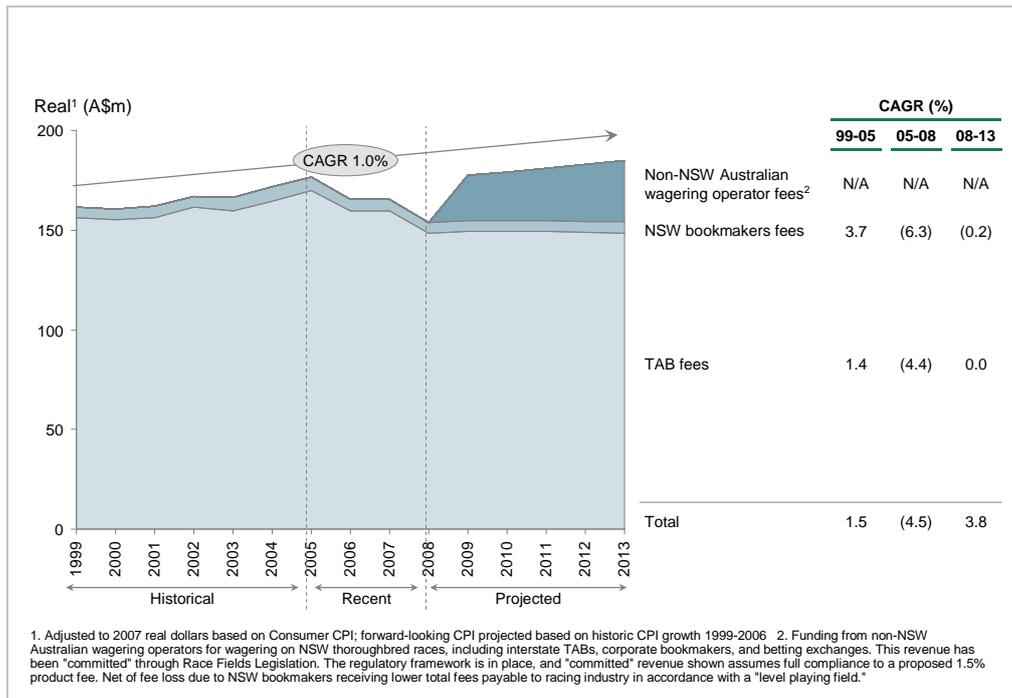
- Even if everything went in favour of the racing industry, the only independently large uplift to funding would come from race fields legislation, contributing a \$35m to \$45m increase under the 'Restricted environment' scenario.
- A lot of issues could go against the NSW racing industry. For example, if corporate bookmakers and betting exchanges continued to grow at an accelerated growth rate (under 'open market' scenario) and race fields product fees proved difficult to enforce (under 'open market' scenario), then the wagering funding provided to the racing industry could suffer considerably. If just those two outcomes changed accordingly, while every other issue resulted in the 'most favourable' outcome, the net impact to racing funding in FY13 would be an approximate decline of \$10M to \$35M below the projected baseline, and a corresponding drop in NSW tax revenue of \$10M to \$20M.

Under the hypothetical 'least favourable' scenario wherein each of the 13 issues results in the least favourable outcome for NSW thoroughbred racing, racing funding in FY13 would fall an estimated \$50M to \$75M below the projected baseline and the NSW government would forego an estimated \$35M to \$50M in tax revenue.

A significant conclusion from the BCG modelling was that while products fees collected due to enforceable race fields legislation were a prerequisite to the continued viability of the NSW

racing industry, they would not, of themselves, be sufficient to achieve that outcome. While the baseline projects NSW thoroughbred racing funding from wagering to stagnate from FY08 to FY13 (in real dollars), full compliance to proposed race fields product fees would grow real funding by approximately 3.8 percent per annum through 2013 (Exhibit 26). Race fields products fees would therefore be essential to prevent the decline of racing industry funding in the short-term, and especially going forward.

Exhibit 26: Real wagering inflows to NSW thoroughbred racing with race fields payments (full compliance)



Source: RNSW financials and estimates; BCG analysis

(d) Racing Victoria Limited

Projection of Wagering Income for the Victorian Thoroughbred Racing Industry

The Victorian Thoroughbred Racing Industry (VTRI) is sustained by the income generated from wagering. This income is used by the VTRI to conduct racing by funding prizemoney and payments to racing’s participants as well as for the significant operating costs to allow for 4,400 races to be run at 67 racecourses across the state. Thoroughbred racing in Victoria employs more than 30,000 people, the majority located in regional areas. The estimated economic value of the VTRI is \$1.6 billion per annum and it generates Federal and State taxes totalling more than \$365 million.

The income from wagering is received from the following sources:

- The joint venture with Tabcorp which operates the totalisator in Victoria;
- Bookmakers licensed in Victoria;
- Wagering operators located interstate, including totalisators, bookmakers and a betting exchange which are pursuant to the *Gambling Regulation Act (Vic) 2003* approved by

Racing Victoria Limited (RVL) to publish and use Victorian thoroughbred race fields;
and

- International wagering operators both directly and through agency arrangements coordinated by Sky Channel.

Additionally, racing clubs receive funds relating to race sponsorship from wagering operators, which is separate to this analysis of wagering income.

The Australian wagering market is undergoing a period of rapid change with:

- the accelerated growth of corporate bookmakers licensed in the Northern Territory;
- a licensed betting exchange operating from Tasmania;
- the removal of the restrictions for interstate wagering operators to advertise in Victoria and New South Wales;
- the implementation of legislation in a number of States to require the approval from the racing controlling body for wagering operators to publish local race fields; and
- the breakdown of the former Gentlemen's Agreement which provided for free exchange of interstate racing between the state totalisators and the commencement of interstate product fees being charged to totalisators from September 2008.

These changes are largely driven by developments in the regulatory framework and this pace of change is not expected to abate in the near future, particularly with the sale of the Tasmanian totalisator, the Victorian Government issuing a new wagering licence (which includes the provision for a betting exchange) commencing from 2012, and the New South Wales totalisator being non-exclusive from 2013.

Significant changes to the funding of the racing industry and the employment and economic benefits which this industry generates may also occur as a consequence of the outcomes of the following current legal actions in both Victoria and New South Wales:

- the action brought by Sportsbet in October 2007 in the Federal Court against RVL and the State of Victoria
- the action brought by Tab Limited in February 2009 in the Victorian Supreme Court against RVL;
- the action brought by Betfair in October 2008 in the Federal Court against Racing NSW;
- the action brought by Sportsbet in November 2008 in the Federal Court against Racing NSW and the State of NSW; and
- the copyright infringement action brought by Tab Ltd and Tabcorp Holdings in February 2009 in the Federal Court against Sportsbet.

In recognition of these changes and potential developments in the wagering market and the funding needs for the VTRI, RVL in November 2008, adopted a revised structure of product fees to apply to interstate wagering operators which publish or use Victorian thoroughbred race fields as well as to Victorian bookmakers who are licensed by RVL. These product fees are based on 10% of gross revenues generated by the wagering operator on Victorian thoroughbred racing and a premium rate of 15% of gross revenues to apply during Victoria's Spring Racing Carnival conducted in October and November each year. This product fee policy will remain under review as the pace of change in the Australian wagering market continues.

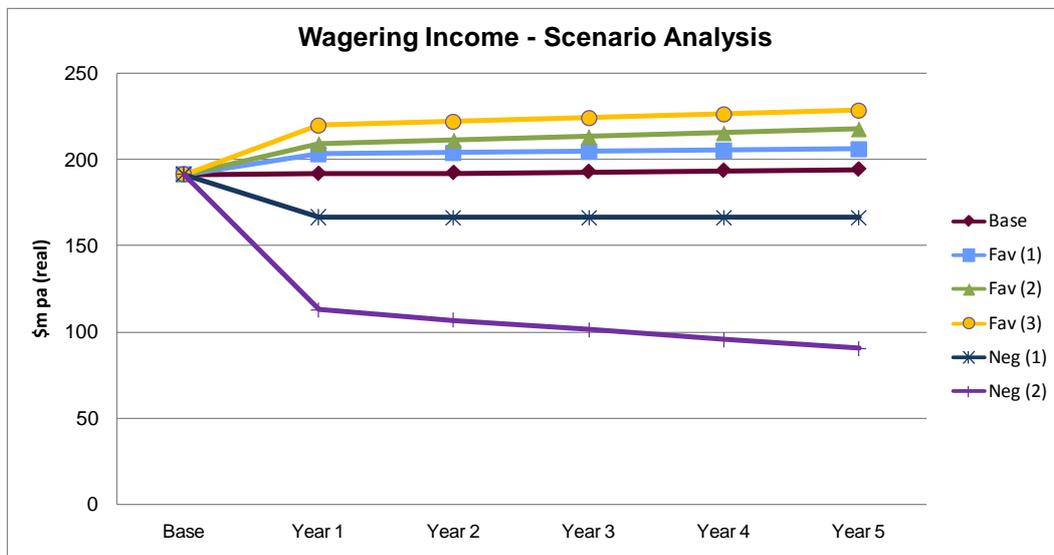
Analysis of Wagering Income Scenarios

RVL has developed the following analysis to project wagering income to the VTRI resulting from the following potential scenarios:

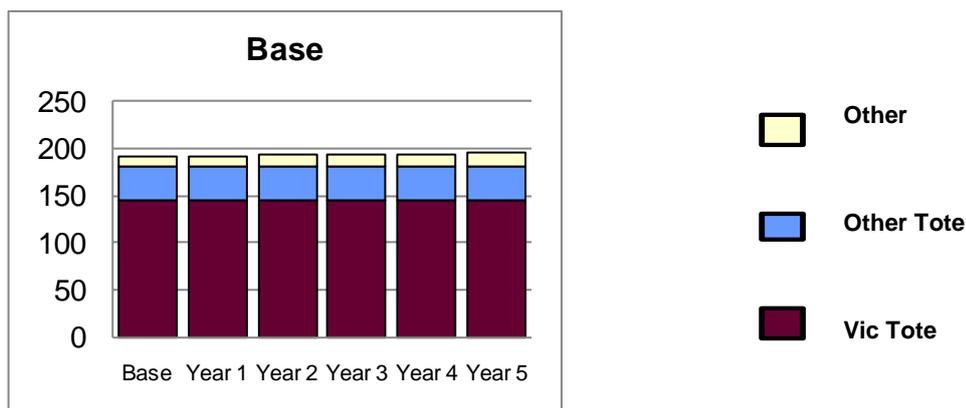
Scenario Summary

Base	No change to racing industry funding from Victorian wagering operators Product Fee of 10% gross revenues and 15% for the Spring Racing Carnival (under race fields legislation) to apply to interstate wagering operators on Victorian thoroughbred racing Product Fee of 10% gross revenues payable for the Victorian tote's use of interstate racing
Favourable (1)	No change to racing industry funding from Victorian wagering operators Product Fee of 15% gross revenues and 20% for the Spring Racing Carnival (under race fields legislation) to apply to interstate wagering operators on Victorian thoroughbred racing Product Fee of 15% gross revenues payable for the Victorian tote's use of interstate racing
Favourable (2)	No change to racing industry funding from Victorian wagering operators Product Fee of 1.5% of turnover (under race fields legislation) to apply to interstate wagering operators on Victorian thoroughbred racing Product Fee of 1.5% of turnover payable for the Victorian tote's use of interstate racing
Favourable (3)	No change to racing industry funding from Victorian wagering operators Product Fee of 1.5% of turnover (under race fields legislation) to apply to interstate wagering operators on Victorian thoroughbred racing Product Fee of 1.5% of turnover payable for the Victorian tote's use of interstate racing The use of tote odds <u>only</u> by totalisators
Negative (1)	No change to racing industry funding from Victorian wagering operators No Product Fees payable by, or to, interstate wagering operators under race fields legislation or other commercial arrangements
Negative (2)	No change to racing industry funding from Victorian wagering operators The breakdown of the Victorian tote retail exclusivity by interstate wagering operators (offering tote odds) with no product fees payable to the racing industry No Product Fees payable by, or to, interstate wagering operators under race fields legislation or other commercial arrangements

The funding outcome for each scenario is projected, in real terms, to be:

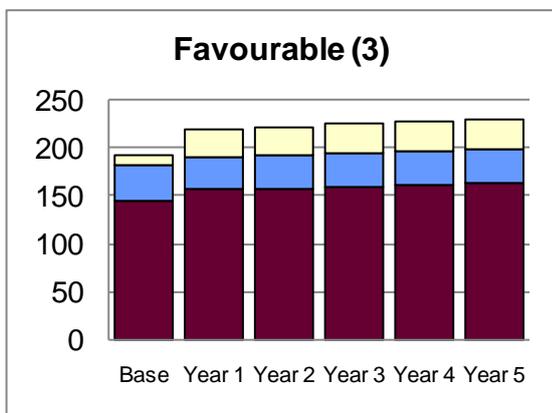
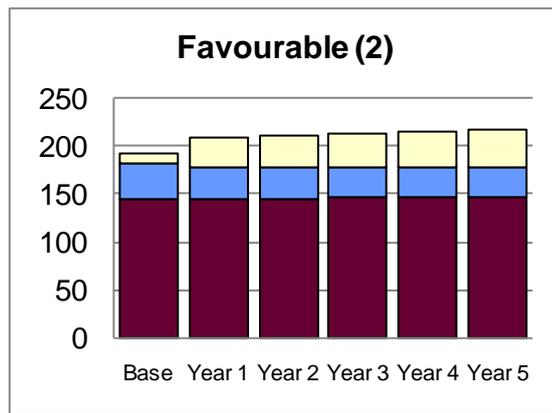
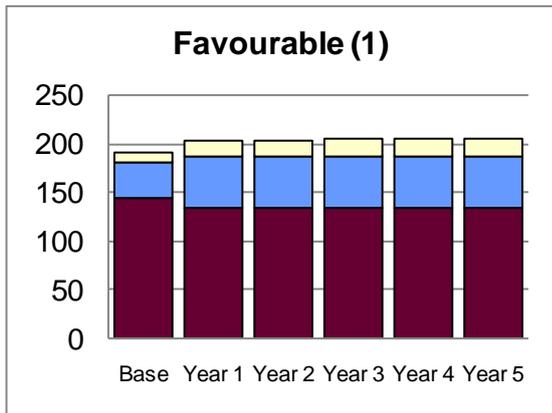


Base Projection



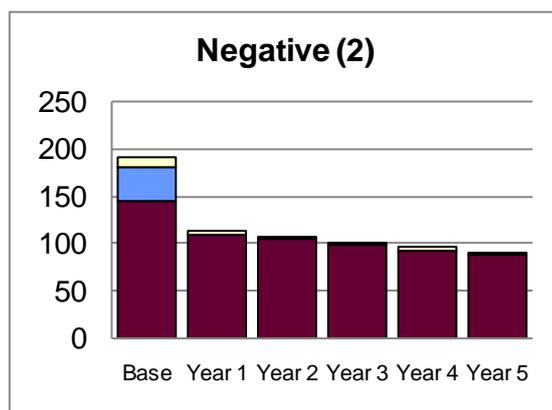
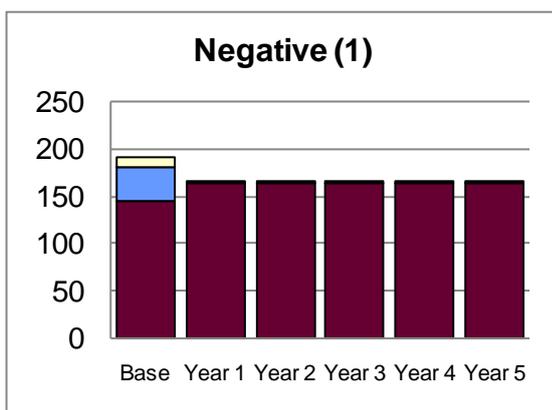
In the base projection, wagering income to the VTRI is projected to increase slightly (in real terms) over the next 5 years, with increasing returns from non-totalisator wagering operators and a real decline in the returns from totalisators.

Projections – Favourable Scenarios



In each of the favourable scenarios, wagering income to the VTRI is projected to increase from the base projection by 6%, 12% and 18% in year 5, predominantly driven by the increased return from non-totalisator wagering operators.

Projections – Negative Scenarios



In each of the negative scenarios, wagering income to the VTRI is projected to significantly decrease from the base by 14% and 53% in year 5. In the Negative (1) scenario, this is as a result of the elimination of income from interstate wagering operators, partially offset by the reduced expense to the VTRI for the use of interstate racing. For the Negative (2) scenario, the potential impact of the breakdown in the retail exclusivity of the Victorian totalisator, with no arrangements for the funding of the racing industry from interstate wagering operators, is

projected to lead to a catastrophic decline in wagering income to the VTRI, which would inevitably lead to reductions in races conducted, closure of racecourses and a significant loss of employment and economic benefit.

Summary

The viability of the VTRI is dependent upon the income generated in the Australian wagering market, which is undergoing a period of rapid change. The regulatory base which ensures that the VTRI benefits from an appropriate share of the income generated by wagering operators on its racing, which is used to conduct the racing, is currently threatened by rapid change in the Australian wagering market and the possible consequences of the outcomes arising from legal actions. Without an appropriate regulatory response, the racing industry may suffer a catastrophic loss of funding, industry rationalisation and loss of employment and economic benefits.

4.4 Conclusion

The wagering landscape in Australia has changed fundamentally, and some of that change is irreversible: there is no prospect of Australia returning to the era of TABs having a monopoly over off-course wagering.

However, this does not mean that all of these changes will have an improved public benefit as their likely conclusion, or that the scope for intelligent government policy to influence the trajectory of these changes has been exhausted.

As corporate bookmakers and new offerings have taken a growing share of wagering dollars away from traditional 'leviable' channels, racing faces the risk of a decline in real funding levels. For the ATRI to remain viable in the medium to long term the regulatory environment in which the Australian wagering market operates needs to be so structured as to ensure fair and reasonable payments to racing. Competition must take place within a market that represents a fair playing field, not on the basis of pricing advantages that are based on avoiding adequate returns to the ATRI.

As the Productivity Commission has observed elsewhere any attempt to identify 'natural' market outcomes for gambling industries needs to take into account that "*gambling is and, always has been, a creature of regulation*".²²

The current scale and nature of the ATRI is not accidental: it is the product of a set of regulatory arrangements that have existed for some 40 years. It being accepted that a viable Australian Thoroughbred Racing Industry delivers a net public benefit, then the future regulatory framework for the wagering market must be such that enables not only the consumer benefits from competition between operators but also industry sustainability to be achieved.

²² Chairman of Productivity Commission 2007 Australian Gambling Expo.

5 Gambling and Integrity

5.1 Overview

Promoting and upholding integrity is one of the key functions of all sports governing bodies and event organisers. The whole concept of sport is based on a fair competition between participants under agreed rules. It is a vital principle for any sport that all involved are competing to win, and are seen to be doing so.

Those who seek to influence the outcome or progress of sports events to secure rewards through betting undermine this principle. Any suspicion that this is happening can be deeply damaging.

The impact of gambling on the integrity of sports is something that horse racing has been dealing with virtually since it began, and the ATRI has an internationally recognised reputation for the approach it has developed to managing the integrity risks associated with gambling on its events. Nevertheless, changes in the Australian wagering landscape have presented fresh challenges for the ATRI in this area. For other sports the potential for gambling to influence integrity is a newer problem and one that will increase hand in hand with the growth in scale of sports wagering.

On 10th March the European Parliament adopted (on a vote of 544 votes to 36) the Schadelmose Report, which called for strong coordinated action to fight the increasing threat of corruption and match-fixing in European sport.

An equally important issue is the equitable entitlement of sports to share in the revenues of gambling that is conducted on their events. In this regard the Schadelmose Report recognised that “*sports bets are a form of commercial exploitation of sporting competitions*” and lent to support the notion that sports receive rights fees from gambling.

5.2 International experience of gambling and integrity of sport

Some international example of gambling’s potential to influence the integrity of sport, either by proven corruption or damaging speculation include²³:

International Cricket

- **1980** – Pakistan vs. India – Heavy betting on whether Pakistan would cross India’s total of 331. Pakistan declared at 331
- **1994** – India vs. Pakistan – Rain washed the game out, but it was alleged Manoj Prabhakar was offered Rs 2.5 Million by a team mate to play below par.
- **1994** – Australia vs. Pakistan – Shane Warne and Tim May allege Pakistan Captain offered money for them to perform below par.
- **1995** – India vs. New Zealand – India lost by 4 wickets. It was later claimed that a prominent bookmaker had been in telephone contact with Indian players and officials before and during the game.
- **1996** – India vs. Australia – A report by the Central Bureau of Investigation said Ram Adhard had received 50,000 rupees for under preparing the wicket for a test against Australia
- **2000** – Delhi police intercept a phone conversation between a blacklisted bookie and Hanse Cronje and discover that Cronje accepted money to throw matches.

²³ Further details are set out in Appendix A

Soccer

- **1999** – Malaysian based betting syndicate caught attempting to install a remote control to sabotage floodlights in the English Premier League. If match was abandoned after half time, match bets would have stood.
- **2004** – In South Africa, 33 people, including officials and referees arrested on match fixing charges.
- **2005** – German Football Association and German prosecutors launched probes into charges that referee Robert Hoyzer bet on and fixed several matches he officiated.
- **2005** – Italian side Genoa was placed last in their division and facing relegation. It was revealed that they bribed their opponents of their last match and won 3-2 to avoid relegation.
- **2005** – A Brazilian magazine revealed that two referees had accepted bribes to fix matches.
- **2006** – Italian police uncover match fixing scandal between powerhouses Juventus and AC Milan.
- **2008** – Allegations that an Asian gambling syndicate fixed matches in the 2006 World Cup between Ghana vs. Italy, Ghana vs. Brazil and Italy vs. Ukraine.
- **2008** – A Spanish judge uncovers information alleging that Russian Mafia figures attempted to fix the UEFA Cup Semi-final between Zenit St. Petersburg and Bayern Munich.

Racing

- **2004** – Kieran Fallon beaten on the line, while easing up after being 10 lengths clear on Ballinger Ridge.

Tennis

- **2005** – 10 players admit to being contacted to influence results at Wimbledon 2005. One player claimed to be offered \$140,000 to throw first round game.
- **2007** – International Authorities investigate 140 suspect matches over the past 4 years, including matches at the Australian and Adelaide Open.

Basketball

- **2007** – It is revealed that a NBA referee gambled on 10 – 15 games, some of which he officiated.

In the UK concerns about the impact of sports betting on integrity saw an All Parliamentary Group on Betting and Gaming publish the *Report of Inquiry into the effects of betting on sport* in February 2005. This report provided a set of 15 recommendations for Government policy on sports betting. Chief amongst those was the recommendation that the UK government proceed with its plans to establish a Gambling Commission, and that the Gambling Commission take steps to improve the integrity of sports betting through such means as:

- Developing an approach to insider dealing in sports betting
- Creating a definition of “cheating” in sport.
- Giving sports involvement in determining the types of bets that may be facilitated on their events
- The establishment of arrangements for the disclosure of information by wagering operators to sporting bodies.

In 2007, in response to an issues paper published by the Gambling Commission *Integrity in Sports Betting*, 10 of the governing bodies that oversee the governance of major sports in Great Britain (including cricket, football, racing, tennis, rugby union and rugby league) made a joint submission to the Gambling Commission. Their motivation was explained as follows:

“The growth of betting services means sports must remain vigilant against the negative impact it can create. The Gambling Commission will be familiar with historical and recent occurrences where people have tried to corrupt sport for financial gain through betting. Sports governing bodies, the Government and the Gambling Commission must remain alert to these dangers, and treat corruption connected with betting with the same intensity of action as that taken to ensure sports remain free from doping.”

Recent years have seen huge growth in sports betting. This has been fuelled by the internet, new media and the popularity of in-game betting. At the same time the Government has introduced a new licensing regime that gives greater freedoms to how betting companies can operate and market their products.

A proportionate and necessary response to these developments is the introduction of a specific licensing regime to protect the integrity of sport. We welcome the Government’s introduction of the Gambling Act 2005 that has enabled such an approach; and further welcome the decision of the Gambling Commission to introduce statutory arrangements for information sharing between operators and sports governing bodies.”

The 10 sporting bodies said that they wished to proactive in addressing the issues raised by betting, not reactive in the light of specific damaging events. In this regard they identified the following additional claims on their resources attributable to gambling on their events:

- Carrying out research
- Maintaining intelligence systems
- Real-time monitoring of betting activity
- Legal and compliance functions, including investigative activity
- Disciplinary arrangements and procedures
- Education and training
- Rulebook amendments
- Media and Government liaison
- Gambling Commission compliance

It may be noted at this point that these types of endeavours are in large part a replication of the strategies that have been developed by the ATRI over the course of its almost 200 years as a gambling industry.

The submission concluded by calling for a new statutory sports betting relationship using the model established by Victorian legislation as a template.

5.3 Victorian Sports Betting Act

The Victorian legislation held up by the UK major sports as a model to be emulated was introduced in 2007, the *Gambling and Racing Legislation Amendment (Sports Betting) Act* (not “Sports Betting Act”).

The second reading speech explains the rationale for the *Sports Betting Act*:

“This bill contains measure that will make important and groundbreaking improvements to the way sports betting is regulated in this State.

The measures have been designed to strengthen public confidence in the integrity of sports events and the betting that takes place on those events.

In addition, the measures will enable sporting bodies to receive their fair share of the revenues from betting that takes place on their sports. This recognises that the sporting product itself is a valuable input into the betting product from which betting providers ultimately benefit. It also recognises the integrity-related costs that sporting bodies incur as a result of bets being wagered on their sports.

The Bracks Government recognises the important contribution that sport makes to the social and cultural fabric of the Victorian community and economy. It is vitally important that Australia's favourite sports are not compromised by the betting that takes place on them. This bill is an attempt to reduce that risk. Indeed, the bill provides sports with an opportunity to benefit from the growing sports betting market, by providing them with an additional revenue stream that can be ploughed back into the development of their sports at the grassroots level."

The key elements of the Sports Betting Act may be summarised as follows:

- The transfer of responsibility for approving sporting and other non-racing events, for betting purposes, from the Ministers for Gaming and Racing to the Victorian Gambling Commission for Gambling Regulation (VCGR)
- The creation of a new offence that prohibits betting on specific contingencies that have been prohibited by the VCGR.
- The creation of a mechanism that enables the VCGR to approve a sporting body as a sports Controlling Body for betting purposes.
- The creation of a new offence that prohibits a sports betting provider, based either in Australia or overseas, from offering bets on Victorian events without either the written agreement of the sports Controlling Body or else a binding determination of the VCGR.
- The creation of a dispute-resolution mechanism for circumstances in which a betting provider and a sports Controlling Body are unable to reach an agreement.

In terms of the VCGR's power to approve sporting events for betting purposes, the legislation specifies criteria that it must have regard to in making its decision, which have been designed to ensure that betting is only conducted on events that can be adequately managed from an integrity perspective.

Transferring this responsibility to Victoria's independent gambling regulator was seen by the Government as a means of ensuring that the process for approving these events was entirely independent and transparent, and enhancing the public confidence that approvals were based squarely on integrity related considerations.

The second reading speech explains the rationale for creating a new offence relating to bets on prohibited contingencies.

"Existing gambling legislation is clear on which sporting events are approved for betting purposes. However, the legislation is silent on the specific types of contingencies that can bet on. For example, while cricket is approved for betting purposes, the legislation is silent on which types of bets can be placed on cricket, such as the winning team, the winning margin or the highest individual score.

Certain types of contingencies are more vulnerable to manipulation and fixing than others. Again using the example of cricket, betting on how many runs a particular player scores or on how many wides are bowled in the first over of a match may raise bigger integrity concerns than betting on the winning team. Sporting bodies have stressed the risks to the integrity of their sports caused by betting on particular types of contingencies.

As a response to these concerns, the bill empowers the commission to prohibit specific types of contingencies, in relation to events held in Victoria that it considers inappropriate for betting purposes. The bill specifies integrity-related criteria that the commission must have regard to in making this decision.

In addition, the bill makes it an offence for a sports betting provider to offer or place bets on contingency that has been prohibited by the commission.

This new offence is an important plank in the suite of measures designed to protect sporting and other non-racing events from match-fixing scandals and other inappropriate betting. As a result, betting providers, sports bodies and the general public can have greater confidence that every outcome within a match is determined in the spirit of the game and free manipulation.”

An important element of the legislation is the creation of a mechanism for the VCGR to approve a sporting body as a sports controlling body for betting purposes:

“Existing sports betting regulation does not encourage sporting bodies to put in place adequate systems to strengthen the integrity of their sports in a betting context. This bill seeks to fill that gap.

A sporting body will be able to apply to the commission to be approved as a sports controlling body of an approved sporting event. In making its decision, the commission must have regard to criteria that relate to the capacity of sporting body to adequately manage the integrity of the sporting event.

As I shall explain, controlling body status will provide a sporting body with the legal right to negotiate fees and information sharing arrangements with the betting providers. This provides a strong incentive for sporting bodies to invest time and resources into developing appropriate integrity systems, including codes of conduct, monitoring and enforcement mechanisms, and policies on the provision of information that may be relevant to the betting market.”

This legal right to negotiate fees and information sharing arrangements is established by creating a new offence that prohibits a betting provider from offering bets without either the written agreement of the sports controlling body or else a binding determination of the VCGR. This offence applies to sporting events held in Victoria.

Notably, the details of the betting agreement, including the type and level of fee, is to be determined by the parties to the agreement, the rationale for this being that the parties themselves, rather than the government, are in the best position to establish an efficient fee that reflects commercial realities. If a betting provider and controlling body are unable to negotiate a

betting agreement, then the betting provider may apply to the VCGR for dispute resolution. The VCGR is able to make a binding determination on the outstanding issues, having regard to specified criteria.

“This new sports betting regime does not, and indeed cannot, guarantee that Australian sports will remain entirely free from match-fixing scandals. No regime on earth can completely protect sports from the risk of betting-related corruption.

What the regime aims to do is strengthen the capacity of sporting bodies to recognise and manage these integrity risks.

Precisely how sporting bodies spend these additional revenues is ultimately a commercial matter for the sporting bodies themselves. However, it is intended that some of the money will be invested in improved integrity systems that will further strengthen the integrity of sporting events in the context of a growing sports betting market. In addition, it is hoped that some of the money will be invested in the development and promotion of sport at the grassroots level. Sporting bodies will find it easier to maintain public support for their involvement in sports betting if there are demonstrable benefits flowing to grassroots sport.”

5.4 New integrity challenges for ATRI

The ATRI has an internationally recognised reputation for maintaining high standard of integrity. The integrity systems that have been developed by the ATRI continue to hold it in good stead, but the current change in the wagering landscape have implications for integrity just as they have commercial implications.

Wagering on racing, as with all other wagering where there are winners and losers, is prone to integrity issues. Any decline in racing’s integrity (real or perceived) could have a dramatic impact on wagering levels.

A single incidence of abuse in a major event could be a tipping point in some wagerers’ assessment of the continued fairness of racing. On the other hand, the continued pursuit of integrity by racing stewards and advances in tracking individual bets are in place to prevent major scandals. Integrity remains key to wagering and gaming markets and is one of the main reasons for their regulation.

Key to the ability of the Controlling Bodies to properly discharge their statutory responsibilities for the integrity of racing is access to betting data and associated information.

Historically, when betting on racing was conducted primarily with locally licensed wagering operators, access to wagering data and associated information was addressed through State-based licensing conditions. In most cases the TAB’s totalisator licence specifically requires betting information to be provided for integrity purposes and also requires the TAB to provide the Government with live on-line access to monitor its betting system and betting activity. Similarly the Rules of Racing and the terms of all bookmakers licences issued by the Controlling Bodies require all bookmakers to make available to the stewards on request the records of all bets they made.

However with the growth of telephone and internet betting, the amount of wagering on racing events which is conducted with wagering operators licensed in other States has increased significantly. Prior to race fields legislation The Controlling Bodies had no right of access to wagering data and betting information from many of the interstate wagering operators to assist in the performance their of integrity functions (eg. Stewards investigations) notwithstanding the potential for betting with such wagering operators to be associated with the integrity issues.

Some interstate wagering operators have readily agreed to provide access to wagering and betting data and to assist the Controlling Bodies in relation to inquiries and investigations regarding racing integrity issues. However, given the potential for integrity related issues, the provision of such information needs to be mandatory.

6 Race fields legislation

Broadly stated, race fields legislation is intended to compel wagering operators to obtain from the relevant racing authority approval to publish race fields, and to enable the racing authority to impose commercial and integrity conditions on the grant of those approvals. This achieves two primary objectives: (i) ensure fair and reasonable payment to the racing industry for the use of its products for wagering, and (ii) protect racing's integrity by ensuring appropriate wagering data from all operators is shared with racing stewards.

6.1 Rationale

The need to obtain betting data and associated information for integrity purposes has been sufficiently described in section 5 above. So far as the commercial aspect of this concept is concerned, much of the policy debate associated with race fields legislation has centred on ensuring that wagering operators do not commercially gain from the racing industry without making appropriate contributions to its revenues, an occurrence which is sometimes described as 'free riding'.

The issue of "free riding" has been a hot topic in the racing industry for at least a decade. A paper by the Centre for International Economics written in 1998 described "free riding" on the racing industry as follows:

'The nature of racing events is such that it is difficult to exclude parties from utilising the primary product of the event – the outcome or result of a race. As such, it is possible that betting service providers could 'free ride' on the racing industry, taking bets on races without contributing to the costs of running them. Such a situation could lead to there being too few race meetings and a smaller racing industry.'

The draft report *Australia's Gambling Industries* published by the Productivity Commission in 1999, cited this CIE reference. While questioning whether the arrangements that existed at the time could necessarily be said to result in the 'right' amount of funding or the 'right' number of races, the draft report concluded in respect of this 'free riding' that:

"There is a case for Government intervention to overcome the particular market failures which affect the racing industry"

The Productivity Commission's draft report went on to mention a 'property rights' approach as one of several potential bases for funding of the racing industry as an alternative to TAB exclusivity. (The final report of the Productivity Commission excluded consideration of these and other issues relating to competition in the gambling market.)

'Free riding' on the ATRI has also been explored in a number of extensive reviews carried out for the Australasian Racing Ministers Conference, including:

- Report of the Officers' Working Party on Interactive Wagering, October 1997.
- Second report of the Officers' Working Party on Interactive Wagering, October 1998.
- Report of the Cross-Border Betting Task Force, November 2002.

Within the racing industry itself consideration has been given to a range of approaches to addressing 'free riding' including: copyright, a national product free framework linked with licensing of wagering operators, and Commonwealth legislation.

In 2004 a significant development occurred when the NSW Department of Gaming and Racing (OLGR) sought legal advice on whether the High Court's reasoning in *Dow Jones v Gutnick*, a defamation case that involved deciding on what constitutes 'publication' over the internet, could be extended to certain NSW legislative provisions dealing with the publication of racing data and betting information. Very broadly, the High Court held in *Dow Jones* that publication of material on an internet website occurs anywhere it can be accessed: while the relevant material was uploaded onto the web in the United States, it was considered "published" in Victoria because it could be viewed by a person in Victoria accessing the website.

The two NSW legislative provisions were as follows:

Racing Administration Act 1998

Section 33 Unauthorised race programs

A person must not publish:

- (1) a list of the horses or dogs nominated for any intended race that is to be held at any race meeting on a licensed racecourse, or*
- (2) a list of the horses or dogs that will or will not take part in any such race,*

Unless the publication of the list has been approved or authorized by the person, club or association conducting the race meeting.

Maximum penalty:

- (a) for a first offence – 10 penalty units, and*
- (b) for a second or subsequent offence – 20 penalty units or imprisonment for 6 months (or both).*

Section 29(1) Publication of betting information

(1) A person must not publish any betting information.

Maximum penalty: 50 penalty units or imprisonment for 12 months (or both).

It is understood that the legal advice to the OLGR on the operation of the above two sections in the context of the decision in *Dow Jones* was to the effect that placing racing and betting information on the internet, which was then accessible by a person in New South Wales, might constitute a breach of sections 29 and 33 of the *Racing Administration Act*. Acting on this advice OLGR commenced legal proceedings against an interstate bookmaker in relation to the publication of betting odds and race fields for a harness racing meeting conducted by the NSW Harness Racing Club at Harold Park.

For reasons that are not material to this submission the prosecution was discontinued. What is relevant is that the commencement of the prosecution caused racing authorities to also consider

the potential usefulness of legislative provisions relating to the publication of race fields as a means of addressing 'free riding' and integrity issues. In the result, a consensus was arrived at that the enactment of such legislation Australia wide should be encouraged. This encouragement was to take the form of:

- Each Principal Racing Authority requesting its State or Territory Government to introduce race fields legislation.
- The ARB making a submission to the Australasian Racing Ministers Conference (Auckland 2005) on the merits of Australia – wide race fields legislation.

6.2 Enactment of race fields legislation

Four State Governments initially agreed to industry requests to enact race field legislation: New South Wales, South Australia, Victoria and Western Australia.

Victoria

The Victorian Parliament enacted race fields legislation in 2005. The second reading speech explained the Government's purpose as follows:

“The bill creates a new offence prohibiting the publication of race fields by unauthorised wagering service providers.

This amendment is designed to protect the industry against the current and potential practices of unauthorised wagering operators based interstate or overseas. Unauthorised wagering service providers generate, or have potential to derive, significant revenue from Victorian racing however unlike authorised operators make no financial contribution to the industry or to state revenue in return. It has been established that betting turnover on Victorian racing, currently being generated by large corporate bookmakers in the Northern Territory, is resulting in a significant revenue loss to the Victorian racing industry and government. In addition, the transactions of unauthorised wagering operators are invisible to racing regulators. As a consequence, these transactions undermine the integrity of Victorian and Australian racing.

This new offence is intended to deter interstate and overseas operators from unauthorised use of Victorian racing's product. The amendment is also consistent with the legislative approach adopted in other states such as New South Wales which is in the process of prosecuting a corporate Darwin bookmaker for the unauthorised use of NSW race fields. The offence fills a gap in an existing suite of betting-related offences contained within the Gambling Regulation Act.

It is important to note that the offence has been drafted so as to provide the government with capacity, if so desired, to exempt selected betting operators from its application. Such flexibility is a relevant consideration in the context of the current review being undertaken of Victoria's electronic gaming machine, wagering and lotteries licences.

Appropriate exceptions to the offence have also been identified to ensure that there are no unintended consequences for industry stakeholders, such as newspapers, who

perform a legitimate service function to the industry when reproducing race field information.

This amendment has been requested by the racing industry and accordingly will be welcomed by the industry both within Victoria and nationally.”

The Victorian legislation was amended in 2007. The purposes for amending the legislation were described as follows:

“The bill includes amendments to the existing race fields legislation which, at the time, was the first of its kind anywhere in the world. The legislation seeks to ensure that all wagering operators based outside Victoria make a fair and reasonable economic contribution back to the racing industry on which their businesses are based.

First of all, the bill allows for a Controlling Body to impose or vary conditions on the grant of an approval to publish race fields and to revoke or suspend an approval. This provision will give the Controlling Bodies a tool in which to effectively manage the applications of interstate and overseas wagering service providers.

The next amendment allows for a person to apply to VCAT to review a decision made by a racing Controlling Body to reject or cancel an application or vary the conditions of an approval. This enables any applicant to appeal to VCAT if they feel aggrieved by a decision made by a Controlling Body and ensures fairness. Applicants will however not be allowed to challenge the payment of fees to controlling bodies for the use of Victorian race field information.

The bill allows for a racing Controlling Body to impose a charge as a condition of granting an approval. The amended legislation clarifies the right of a Controlling Body to charge a fee and should prevent the threat of legal action by interstate and overseas wagering providers over the imposition of charges for the use of Victorian race field information.

Finally, the bill provides authorisation under the Commonwealth Trade Practices Act 1974 for racing controlling bodies to enter into agreements for the purpose of collecting race field publication fees.

This amendment will provide surety to interstate and overseas wagering service providers applying to use Victorian race field information as Controlling Bodies can now implement a consistent policy in relation to the charging of fees.”

Western Australia

The Western Australian Parliament enacted race fields protection on 2006 as part of a package of legislation dealing with both publication of race fields and the operating of betting exchanges. The High Court’s 2008 decision on a challenge to this package of legislation is dealt with below.

South Australia

In 2006 the South Australian Government released an exposure draft of a bill designed to do three things:

- Prohibit publication of South Australian race fields without approval.
- Prohibit betting exchanges from operating in South Australia
- Prohibit persons in South Australia from using a betting exchange.

The South Australian Parliament's consideration of this proposed legislation was deferred pending the High Court's decision on the challenge brought against Western Australia's legislation.

In 2008 the South Australian Parliament amended the *Authorised Betting Operatives Act 2000* to introduce a race fields scheme. Betting exchanges are not treated any differently under this scheme.

New South Wales

The New South Wales Parliament enacted race fields legislation in 2006. In broad brush, the content of this legislation is as follows:

- A person must not, whether in NSW or elsewhere, publish a race field unless the person is authorised to do so by a race field publication approval or under the regulations.
- A NSW racing control body may grant a field publication approval for its races and may impose the following conditions:
 - A condition that the holder of the approval pay a fee or a series of fees of an amount or amounts and in the manner specified in the approval (being a fee or fees imposed in accordance with any requirements prescribed by the regulations),
 - Other conditions as may be specified in the approval (being conditions of a kind that are prescribed as permissible conditions by the regulations).
- Any fee that is payable under a race field publication approval is a debt due to the relevant racing Controlling body that granted the approval and is recoverable as such in a court of competent jurisdiction.
- A NSW controlling body in considering an application for approval must:
 - Consult with relevant race clubs.
 - Take into account criteria prescribed by regulations.

- Regulations may specify:
 - Matters which must be taken into account.
 - Matters which must not be taken into account.

- A NSW racing controlling body must give written reasons for any refusal to grant approval.

- Section 51 TPA Authorisation is granted for:
 - Intercode agreements between control bodies re collection of fees
 - Interstate agreements between PRAs re collection of fees
 - Conduct of control bodies and agents in negotiating or entering such agreements.
 - Performance of such agreements

- Appeals to Minister against decisions to refuse, vary or cancel an approval and re conditions **other** than a condition in relation to fees.

- Review of Minister's decisions by Administrative Decisions Tribunal

The necessary regulations relating to approval to publish race fields information were made in June 2008.

Queensland and Tasmania introduced race fields legislation in 2008, so that it is now in place in all States. It is not clear at this point what course the NT and ACT will follow. It should be noted that whereas all States now have race fields legislations in place, the nature and quantum (turnover of profit based) differs from State to State either as a product of the enabling legislation or the implementation by respective Controlling Bodies. This is explained further in 6.5 below.

6.3 High Court decision: *Betfair v WA*

On 27th March 2008 the High Court unanimously found in favour of Betfair's constitutional challenge to two provisions of the Western Australian *Betting Control Act* 1954. The High Court decision relates specifically to the WA laws discussed in that case but the obvious question is whether there are implications for the laws which apply in other States.

(i) Content of the WA laws

In 2006 the Western Australian Parliament enacted a package of amendments to its betting and racing legislation. Broadly stated there were three sets of amendments:

- One making the establishment or operation of betting exchange an offence (s27B(1))
- Another making it an offence to bet with a betting exchange (s24(1aa));

- Another making it an offence to publish a WA race field without approval (s27D (1)).

As a result, the second plaintiff, a WA resident called Mr Erceg, could not make bets with Betfair, nor could Betfair publish online a WA race field to facilitate bets on WA races. Betfair and Mr Erceg challenged the WA amendments saying that they:

- Prevented the increase in competition which would have arisen from the ability of customers in WA to access Betfair; and
- Disadvantaged non-WA racing operators by not allowing an out-of-state operator in the position of Betfair access to information about WA race-fields.

The High Court found that WA's amendments to make it an offence to establish a betting exchange and to bet with a betting exchange were both invalid under the Constitution. Given those conclusions the Court did not need to make a formal finding on the third amendment.

(ii) Technology and innovation drive a national economy

Section 92 of the Constitution requires trade within the Commonwealth to be “absolutely free”. In the context of modern Australia, particularly given the implementation in 1995 of National Competition Policy, the High Court considered the creation and fostering of national markets to “*further the plan of the Constitution for the creation of a new federal nation and to be expressive of national unity*”.

The High Court considered that the geographic dimensions of State boundaries have little significance when considering competition in internet commerce markets. So with increasing developments in new technology, and particularly the internet, which enables real time transactions to occur between people in different geographic locations, the notion that s92 of the Constitution protects State-based “economic centres” is overly broad.

This approach indicates that the High Court is going to focus on the economic reality of what is occurring in the modern economy and not permit State-based protections to undermine the development of a national economy. Notably the Court endorsed Betfair's argument that with increasing implementation of National Competition Policy there would be less and less recourse to s92 of the Constitution.

(iii) Constitutional Invalidity of WA amendments

The High Court decision does not seek to prevent States from regulating the conduct of betting exchanges within individual States. There were, however, two critical problems with the WA amendments.

First, the law did not confine itself to residents of WA. The provision which made the use of betting exchange an offence applied to any punter who placed a bet in Western Australia through a betting exchange, regardless of whether that person was a citizen residing in WA or who simply happened to be present there at a particular time. It could not therefore be justified on the basis that it was for the well being of the people of WA because it applied more broadly than that.

Second, the absolute prohibition on betting exchanges. Even if it applied more specifically to residents of WA, the law needs to be appropriate and adapted to the relevant objective sought to

be achieved. This is sometimes described as requiring appropriate proportionality. Here the High Court concluded that the effect of this provision was to prohibit a person in Western Australia from betting via a betting exchange and that this placed a “*discriminatory burden on interstate trade of a protectionist kind*”.

The provision “*operates to protect the established wagering operators in Western Australia, including RWWA, from the competition Betfair would otherwise present*”. It was noted that the provision was not of the type introduced in Victoria to seek to achieve policy objectives by a regulatory mechanism. Such an approach may well be acceptable and implicitly the High Court endorsed the approach taken in Victoria.

7 Product payments to the ACT racing industry

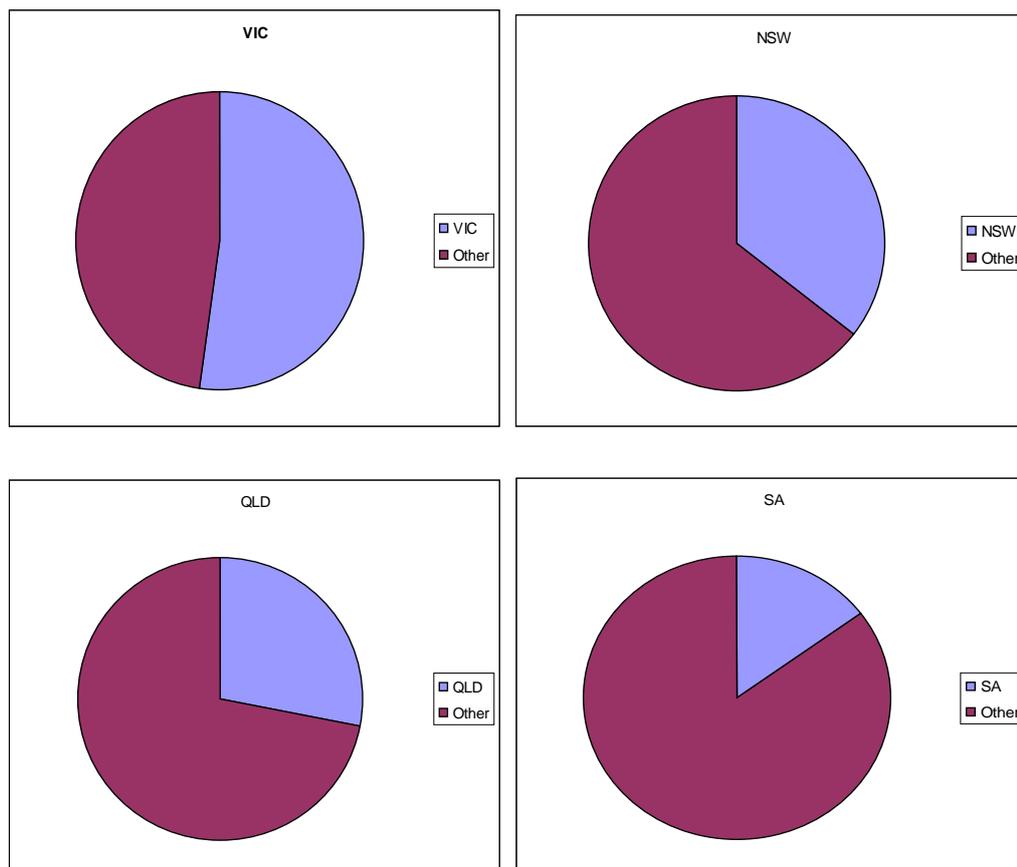
It is noted that for the 2010-11 budget, the ACT Government has provided the ACT racing industry with a level of budget funding part way back to the real level of funding the racing industry received from ACT TAB prior to the changes in the wagering landscape, as well as the product fees now collected through recently introduced race fields legislation.

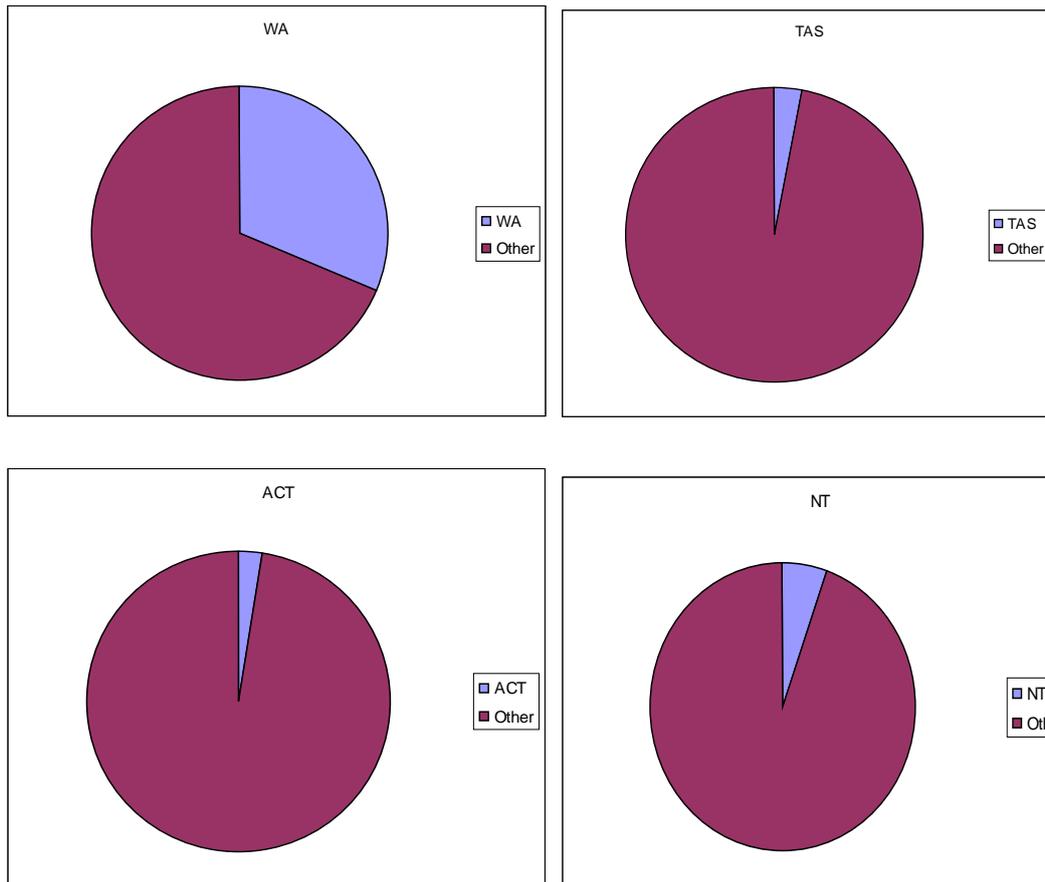
It is submitted to the Commission that the ACT racing industry should continue to receive funding additional to the product fees collected through race fields legislation.

The fact is that every State and Territory's racing industry receives, as well as product fees in respect of its own racing, funds generated by wagering on racing other than its own events.

Exhibit 27 shows the import/export ratio for each State and Territory. This illustrates the self evident viz that racing is a national sport and the wagering that takes places on it flows across State and Territory borders. No State or Territory's racing industry generates all for the racing product that bettors within that State or Territory wager upon. Indeed with the exception of one state, each jurisdiction is a net "importer" of product.

Exhibit 27.





To take an example, in the case of Queensland approximately 28% of the wagering through the Queensland TAB licence holder is on Queensland racing events, the other 72% is racing events conducted in other State and Territories. The returns paid by the Queensland TAB licence holder to the Queensland wagering are 39% of commission on ALL of that wagering²⁴. Returns to the industry from the TAB licence holder being based on all racing wagering through that TAB occurs in every State and Territory.

Remaining with Queensland as an example, it is significant to note that in recognition of the sector's contribution to the economy the Queensland Government will provide the local racing industry with wagering tax relief over 4 years amounting to approximately \$80M to invest in infrastructure. Details are set out in Appendix D.

²⁴ In some States and Territories the TAB payment will be reduced by the amount of any race fields charges the TAB has incurred in respect of interstate racing. In other jurisdictions this does not occur. However, even in the case of the former there is a net payment to the State and Territory in respect of wagering on interstate racing events.

8 National Statutory Scheme

The Commission has referred to the Productivity Commission's recommendations concerning a national statutory scheme.

It is important to note the timing recommended here by the Productivity Commission.

Specifically, the Productivity Commission has said that:

“Within three years, the Australian Government should assess whether the race fields legislation frameworks are legally sustainable across all jurisdictions and give rise to competitive outcomes. If either condition is not satisfied, the Government should work with State and Territory governments to replace these arrangements with a national statutory scheme, in which there would be a single product fee for each code. This fee should be:

- *Universally paid on a gross revenue basis and replace all other product fees currently paid by the wagering industry, but not other funding channels, such as sponsorship of race meetings*
- *Set and periodically reviewed by an independent national entity with the object of maximising long-term consumer interests.”*

We welcomed the Productivity Commission's work in developing a potential future funding model for the racing industry that addresses the issue of 'free riding' by wagering providers. We agree that instituting an unregulated free-market would be an inappropriate solution to the issue of funding the racing industry. We believe that there is substantial merit in the concept of a national funding model both as a mechanism to deal with free riding and as a means of addressing some of the distortions in the industry's existing funding model. We also agree that a legislatively-based funding model should seek to approximate the function of a competitive market.

Self-evidently achieving the requisite support to implement such a model will be affected by myriad considerations. To take but one example, if the NSW race fields legislation withstands the current challenges to its constitutional validity and its application then this will have a material bearing on the attitude of the NSW Government towards relinquishing responsibility in favour of the Australian Government.

It is also important to note that existing product fee arrangements are in many cases embedded in both contractual arrangements and legislation. Accordingly there are substantial transitional issues associated with a proposal to remove existing product fee arrangements and replace them with a single product fee.

In all these circumstances it is likely that at least for the immediate future the arrangements within the ACT will still need to be determined by the ACT Government and the racing industry rather than being quickly subsumed within a national statutory scheme.

END OF SUBMISSION.

Appendix A: Gambling and Integrity of Sport

January 30, 1980: Pakistan were 272 for 4 at the end of the second day's play against India, in the sixth and final Test of the series at Calcutta. Earlier, India had made 331. That night, there was heavy betting on whether or not Pakistan would cross India's total. Asif Iqbal, in fact, declared the Pakistan innings closed at 331 -- the identical score as India's. And those who had betted heavily on Pakistan bettering India's first innings total lost significant sums of money.

November 4, 1987: In the semifinals of the Reliance World Cup, Pakistan lost to Australia. Subsequently, fast bowler Sarfaraz Nawaz accused Javed Miandad of having deliberately played below par, and of having entered into an agreement with Sheikh Abdul Rehman Bukhatir, bossman of cricket in Sharjah, to ensure Pakistan's defeat.

September 15 to 16, 1994: The Singer World Series was being played in Sri Lanka, and intense interest surrounded the India-Pakistan fixture. Manoj Prabhakar, in an interview to *Outlook* in June 1997, alleged that on the evening before the game, he was offered Rs 2.5 million by a team-mate to play below par. In the event, rain washed out the game -- but Prabhakar's allegation, earlier this year, was among the catalysts responsible for the appointment of the Justice Chandrachud commission. Pakistan opener Aamir Sohail, meanwhile, alleged earlier this year that during this series, several members of the Pakistan side had been bribed to play at below par, leading to the team's losses against Australia (by 28 runs) and Sri Lanka (by seven wickets).

September 28 to October 2, 1994: Shane Warne and Tim May alleged, in 1996, that during the Karachi Test between Australia and Pakistan played out during these days, then captain Salim Malik offered them Rs 7 million apiece to perform below par. In the event, Pakistan won by one wicket.

October 30, 1994: In the Kanpur one day international against the West Indies, India needed 63 to win, with five wickets in hand and 43 deliveries to come. Manoj Prabhakar and Nayan Mongia stonewalled, in a display of defensive batting that saw them being dropped from the side for disciplinary reasons.

January 31 to February 4, 1995: Pakistan went down, in sensational fashion, to Zimbabwe in the Harare Test. Prior to the game, Zimbabwe were quoted at 40-1 against, but went on to win by an innings and 64 runs, inside four days. Pakistan players Basit Ali and Rashid Latif promptly announced their retirement, saying that "things were going on in the Pakistan side" that they wanted no part of.

February 16, 1995: India took on New Zealand in an ODI at Napier, as part of the latter country's centenary celebrations -- and lost by four wickets. Last year, a police sub-inspector in Bombay claimed that before, and during the game, a prominent bookmaker based in the metrop had been in telephonic contact with Indian players and officials at the venue, and offered to produce tape recordings and other evidence in support of this contention.

March 9, 1996: For the Wills World Cup quarterfinal against India, Pakistan skipper Wasim Akram announced on the morning of the match that he was resting himself because of a shoulder injury. However, the fact that Akram would not be playing was common knowledge in sections of the media 48 hours before the event -- and the media cited bookmakers as the source of their information.

September 1, 1996: Pakistan wicketkeeper Rashid Latif scored a match-winning 31 not out in just 28 balls to help his side beat England in the last game of the ODI series, at Nottingham. The win avoided a clean sweep by England. Latif was later axed from the side -- and went on to accuse members of the Pakistan side of having been bribed to ensure a whitewash.

1996, The match-fixing report by the Central Bureau of Investigation said Ram Adhar had received 50,000 rupees (1,100 dollars) from ex-Test cricketer Ajay Sharma for underpreparing the wicket for the one-off Test against Australia in 1996

September 23, 1997: During the Sahara Cup in Toronto, Calcutta police arrest a prominent bookmaker based in the metro, and recover files and other evidence which, they say, implicates several cricketers and officials.

February 1999 a Malaysian-based betting syndicate was caught attempting to install a remote-control device to sabotage the floodlights at **English Premier League team Charlton Athletic's** ground with the aid of a corrupt security officer. If the match had been abandoned after half-time, then the result and bets would have stood. Subsequent investigations showed that the gang had been responsible for previously unsuspected "floodlight failures" at West Ham's ground in November 1997, and again a month later at Crystal Palace's ground during a home match of Palace's groundsharing tenant Wimbledon.

2000 the Delhi police intercepted a conversation between a blacklisted bookie and the South African cricket captain **Hansie Cronje** in which they learnt that Cronje accepted money to throw matches. The South African government refused to allow any of its players to face the Indian investigation unit, which created significant issues and controversy. A court of inquiry was set up and Cronje admitted to throwing matches. He was immediately banned from all cricket. He also named Salim Malik (Pakistan), Mohammed Azharuddin and Ajay Jadeja (India). Jadeja was banned for 4 years. They too were banned from all cricket. As a major identity in the affair, Cronje exposed the dark side of betting, however with his untimely death in 2002 most of his sources also have escaped law enforcement agencies. Two South African cricketers, Herschelle Gibbs and Nicky Boje, are also wanted by the Delhi police for their role in the match fixing saga. A few years before in 1998, Australian players Mark Waugh and Shane Warne were fined for revealing information about the 'weather' to a bookmaker.

March 2004, at Lingfield on 2nd March 2004, Keiran Fallon was 10 lengths clear on Ballinger Ridge, eased his mount right down and was caught on the line, which was greeted by stunned silence, followed by loud booing.

June 2004 in South Africa, thirty-three people (including nineteen referees, club officials, a match commissioner and an official of the **South African Football Association**) were arrested on match-fixing charges.

January 2005, the **German Football Association (DFB)** and German prosecutors launched separate probes into charges that **referee Robert Hoyzer** bet on and fixed several matches that he worked, including a German Cup tie. Hoyzer later admitted to the allegations; it has been reported that he was involved with Croat gambling syndicates. He also implicated other referees and players in the match fixing scheme. The first arrests in the Hoyzer investigation were made on January 28 in Berlin, and Hoyzer himself was arrested on February 12 after new evidence apparently emerged to suggest that he had been involved in fixing more matches than he had admitted to. Hoyzer has been banned for life from football by the DFB. On March 10, a second

referee, Dominik Marks, was arrested after being implicated in the scheme by Hoyzer. Still later (March 24), it was reported that Hoyzer had told investigators that the gambling ring he was involved with had access to UEFA's referee assignments for international matches and Champions League and UEFA Cup fixtures several days before UEFA publicly announced them. Ultimately, Hoyzer was sentenced to serve 2 years and 5 months in prison.

2005 Tennis, Wimbledon 2005, at least 10 male players have admitted they were contacted to influence matches, among them American Paul Goldstein, Frenchmen Michael Llodra and Arnaud Clement and Belgian Gilles Elseneer, who told a TV station he was offered roughly \$140,000 to throw a first-round match at Wimbledon in 2005. None admitted taking bribes.

July 2005, Italian Serie B champions Genoa was arbitrarily placed last in the division, and therefore condemned to relegation in Serie C1, after it was revealed that they bribed their opponents in the final match of the season, Venezia to throw the match. Genoa won the match 3-2 and had apparently secured promotion to Serie A.

September 2005, a Brazilian magazine revealed that **two football referees**, Edílson Pereira de Carvalho (a member of FIFA's referee staff) and Paulo José Danelon, had accepted bribes to fix matches. Soon afterwards, sport authorities ordered the replaying of 11 matches in the country's top competition, the Campeonato Brasileiro, that had been worked by Edílson. Both referees have been banned for life from football and face possible criminal charges. Brazilian supporters have taken to shout "Edílson" at a referee who they consider to have made a bad call against their team, in a reference to the scandal.

May 2006, perhaps the largest match fixing scandal in the history of Italian Serie A football was uncovered by Italian Police, implicating league champions Juventus, and powerhouses AC Milan, Fiorentina, and Lazio. Teams have been suspected of rigging games by selecting favorable referees, and even superstar Italian World Cup team goalkeeper Gianluigi Buffon has been charged with betting on football games. Initially, Juventus were stripped of their titles in 2004-05 and 2005-06, all four clubs were barred from European club competition in 2006-07, and all except Milan were forcibly relegated to Serie B. After all four clubs appealed, only Juventus remained relegated, and Milan were allowed to enter the third qualifying round of the Champions League. The stripping of Juventus' titles stood.

July 2007 it was revealed that National Basketball Association referee Tim Donaghy had gambled on 10 to 15 games, including games which he refereed. The matter is currently being investigated by the Federal Bureau of Investigation as well as the **NBA**

October 2007, allegedly "fixed" tennis matches, including those at the Australian Open and an Adelaide competition, are being investigated by international authorities. A quarter-final at the Australian Open and matches featuring Lleyton Hewitt and Wayne Arthurs are among 140 "suspect" matches played over the past four years, Fairfax newspapers say.

2008 Declan Hill alleges that in the 2006 World Cup, the group game between Ghana and Italy, the round-of-16 game between Ghana and Brazil, and the Italy-Ukraine quarter-final were all fixed by asian gambling syndicates to whom the final scores were known in advance. The German Football Federation (DFB) and German Football League (DFL) looked into claims made in a Der Spiegel interview with Hill that two Bundesliga matches were fixed by William Bee Wah Lim a fugitive with a 2004 conviction for match-fixing.

October 2008, it was reported that a Spanish judge who headed an investigation against Russian Mafia figures uncovered information alleging that the mobsters may have attempted to fix the the 2008 UEFA Cup semifinal between eventual champion Zenit St. Petersburg and Bayern Munich. Both clubs denied any knowledge of the alleged scheme. Prosecutors in the German state of Bavaria, home to Bayern, later announced that they did not have enough evidence to justify a full investigation.

Appendix B: British Racing: A case study of the impact of regulatory structures on industry development.

Whereas France has had a totalisator system in horseracing since 1872, the spur to its introduction in Britain was the imposition of betting duty in 1926. The Jockey Club made representations to Winston Churchill (then Chancellor of the Exchequer) that, if the government was going to draw revenue from gambling, racing should be allowed to do the same. Churchill responded that, while the Government would not take the initiative, it would not stand in the way of a Private Member's Bill. Thus in 1928 legislation was enacted, sponsored by the Jockey Club, establishing the Tote.

The 1928 Act provided that bookmaking on approved racecourses on racing days would be lawful and established the prototype of the present Tote with a brief to provide an oncourse alternative to the service offered by bookmakers and to ensure that the profits from pool betting were applied, not for private gain, but for "purposes conducive to the improvement of breeds of horses or the sport of horseracing".²⁵ Between 1929 and 1961 the Tote contributed £8.6m to horseracing.²⁶ The *Betting Levy Act 1961* transferred to the newly created Horserace Betting Levy Board the distribution functions previously discharged by the Tote. During the late 1960s the Tote suffered a considerable downturn in profitability. In order to revive its fortunes, the then government agreed that the Tote should be allowed to take off-course bets otherwise than by pool betting. This extension to its powers was effected by the *Horserace Totalisator and Betting Levy Boards Act 1972*.

While as over the course of its life several inquiries into the Tote has been conducted, including in the late 1970s the Royal Commission on Gambling, chaired by Lord Rothschild,²⁷ the proposal by the Tote that it should have a monopoly of all off-course betting, which would be confined to pool betting never took hold, and it has always been a minnow within the UK wagering market. Bookmakers have always been the dominant players, with William Hill and Ladbrokes the whales.

In the absence of significant totalisator funding the principal source of British racing's funding is what is referred to as "the Levy".

The Levy is a statutorily based means of transferring money from bookmakers to the racing industry. In 1960 bookmakers and the racing industry reached a compromise: bookmakers gave their blessing to a statutory levy on the basis that the industry would not oppose the legalisation of off-course betting. A previous scheme under which bookmakers' contributions had been voluntary was evaded by many bookmakers.²⁸ Originally the Levy was primarily a charge on bookmakers' profits. Successive annual schemes (the Levy is renegotiated annually) have increasingly provided also for a levy on the turnover of off-course bets (cash and credit).²⁹ The Levy is not set on the basis of a certain proportion of bookmakers' turnover, but as a cash sum. Once the cash sum has been determined, a scheme is devised which should raise that sum.

The Levy is administered by the Horserace Betting Levy Board (HBLB), a statutory body created by the *Betting, Gaming and Lotteries Act 1963*. The Board's duties are to assess and

²⁵ *Racecourse Betting Act 1928* section 3(6)

²⁶ Home Affairs Committee, *The Tote*, 22nd July 1991, HC 451 1990-91, V, para 3

²⁷ Royal Commission on Gambling: Final Report, July 1978, Cmnd 7200, chapter 8

²⁸ Home Affairs Committee, *Levy on horserace betting*, 12 May 199, HC 146-I 1990-91, vi

²⁹ Horse Betting Levy Board, *Prior options study for the Government's 1999 quinquennial review of the Horse Levy Board*, 2000, p5

collect monetary contributions from bookmakers and the Tote and apply them for designated purposes:

- The improvement of breeds of horses;
- The advancement or encouragement of veterinary science or veterinary education;
- The improvement of horseracing.³⁰

The Levy is negotiated annually between the Bookmakers' Committee (made up of industry representatives)³¹ and the Levy Board. If the scheme is acceptable to a majority of the Board, or the two sides can agree on an amended version, then it is accepted. In the absence of agreement, the Secretary of State determines the Levy.

Towards the close of the 1990s the Chairman of the British Horse Racing Board (BHB) began to propose that industry funding shift to a different model. In October 2000 the BHB published its report on future funding in October 2000 which identified a number of weaknesses in the Levy system:

- It allows the betting industry rather than the racing industry to establish a price for the product;
- It allows the betting industry to negotiate as a monopoly distributor;
- It delivers control of the acceptance or rejection of the betting industry's offer to the three Government-appointed members of the Levy Board, leaving Racing with no control over the pricing of its product;
- It does not permit Racing to capture a share of offshore betting.³²

The report reached the following conclusions:

“The structure for the future funding of British Racing is based on the combining of all of British Racing's rights into a rights package for sale to bookmakers and media companies.

Combining rights will enable British Racing to develop a sufficient, dependable and sustainable income stream; to enforce and cross-enforce the use of its rights package; to work together with the betting industry more efficiently and cost effectively; and to operate as a more united industry with a clearer strategy.

Rights will be combined under a 10-year agreement between the British Horseracing Board (BHB) and the Racecourse Association (RCA).

BHB will take the lead in negotiating with UK and Irish-based bookmakers for all betting rights and with all bookmakers for internet rights that do not include pictures; RCA will take the lead in negotiating media rights and other deals through a Newco.

³⁰ Section 24 of the 1963 Act

³¹ The Committee is made up of the Betting Office Licensees Association, the British Betting Office Association, the National Association of Bookmakers, Coral, Ladbrokes, and William Hill.

³² British Horseracing Board, *The Future funding plan for British Racing*, October 200, p4

BHB will be recognised as the central funding successor to the Levy Board with the maintenance of integrity and security as its key financial priority. The expertise of current Levy Board staff will be utilised where appropriate and cost-effective.

British Racing's agreed new commercial mechanism and funding structure will enable Racing to better control its own destiny and to better work together in a climate of shared responsibility, aggregated income and pre-determined revenue allocation. It will also enable the racing and betting industries to negotiate more effectively with each other.

British Racing can expect to generate, in the short-term, not less than £140 million per year from betting and media deals compared to less than £90 million at present. This would represent an increase of around £50 million per year to Racing.

It is intended that the new commercial mechanism will operate from the expiry of the current RCA/SIS³³ agreement on 30 April 2002. It is hoped to agree transitional arrangements for the move from statutory levy to commercial contracts by October 2001.³⁴

In April 2002 the BHB reached agreement with the leading bookmakers on terms for the sale to them of racing's pre-race data, as the commercial replacement for the levy system.³⁵

Responding to the BHB's request the Government announced in 2000 its intention to abolish the Levy Board, and in 2003 introduced the necessary enabling legislation (the Horse Betting and Olympic Lottery Bill, No 8 of 2003-04).

The transition ran smoothly until 2004 when the European Court of Justice (ECJ) upheld a challenge brought against the BHB's new funding mechanism by William Hill. This reversal was made complete by the UK Court of Appeal upholding the ECJ ruling in 2005.

Shortly stated the ECJ ruled that the BHB did not have protectable rights over its data base effectively dismantling the BHB's "new commercial mechanism".

In 2005 the BHB and the Department of Culture, Media and Sport (DCMS), the Bookmakers' Committee and the Levy Board established the Future Funding of Racing Review Group (FFRRG) chaired by Lord Donoghue to consider alternative ways by which British racing could generate revenue in the absence of the Levy and in light of the ECJ's ruling.

After extensive consultation and its own analysis the FFRRG failed to come up with any viable alternative commercial mechanism.

The FFRRG's single achievement was that its exhaustive analysis of the range of potential options was the basis for persuading the Minister of Sport that the only realistic option was to return to Parliament with proposals to withdraw the enabling legislation that would have permitted the dissolution of the Levy Board, thus continuing the levy as the principal mean of funding British racing.

³³ "Sis = Satellite Information Services (Holdings) Ltd

³⁴ British Horseracing Board, The future funding plan for British racing, October 200 p2-3

³⁵ Horserace Betting Levy Board, *Annual Report 2002-03*, p 6

While this news was gratefully received by the BHB's successor body the British Horseracing Authority (BHA) the BHA has made it plain that the inadequacies in the Levy model identified by the BHB in October 2000 remain, with returns from wagering to racing seriously below both what British racing requires to be sustainable and what, according to independent analysis, its product is worth.

The Levy Board reported a levy yield for 2007/08 of £ 116.5. The BHA in its submission on the 47th Levy Scheme (1st April 2007 to 31st March 2009) argued that a fair and reasonable return to British racing would require a Levy return in the range ~~£135~~ to £153 million in 2008/09. They drew support for this claim from separate analysis undertaken for them by LECG which concluded that the value of British Horseracing product to wagering operators was, on a conservative basis, within the range of £152 to £186 million.

Appendix C: Chronology of Events relating to attempts to find a commercial replacement for the levy.

**CHRONOLOGY OF EVENTS RELATING TO ATTEMPTS TO
FIND A COMMERCIAL REPLACEMENT FOR THE LEVY**

Date	Event
11 March 1996	The Database Directive (Directive 96/9/EC) introduced
1 January 1998	The Copyright and Rights in Databases Regulations 1997 come into force, implementing the Database Directive in the UK
10 November 1998	BHB chairman Peter Savill calls for the Levy to be replaced by a commercial funding mechanism based on the sale of picture signals
2 March 2000	Government announces its intention to abolish the Levy Board and the Levy
23 March 2000	BHB and others bring proceedings against William Hill in the High Court for infringement of database rights
June 2000	Peter Savill calls for a commercial funding system based on "pooled" media rights from tracks (pictures) and the BHB (pre-race data)
June 2000	BHB asks the OFT to consider its rules and regulations so that it can be sure it is operating in accordance with competition law
17 October 2000	Future Funding Plan (" FFP ") published by BHB with "pooled" media rights to be sold to off-course bookmakers – designed to come into effect on 1 May 2002 and generate £140m per annum
9 February 2001	High Court finds in favour of BHB. William Hill appeals to the Court of Appeal
7 March 2001	Government abolishes betting duty with bookmakers to be taxed on their gross profits at a rate of 15% (from 1 January 2002)
31 July 2001	Court of Appeal indicates that it is inclined to support the High Court judgment in BHB/William Hill, but since questions of

	interpretation of European law are involved it stays proceedings and will refer questions to the ECJ
December 2001	Betfair and Flutter.com announce merger
31 January 2002	Tessa Jowell announces that the Levy for 2002/03 (41 st) will be based on the payment by off-course bookmakers of around 9% of their gross profits from horseracing
7 March 2002	41 st Levy finalised by Tessa Jowell – the payment by off-course bookmakers of around 9% of their gross profits from horseracing is expected to yield £90m - £105m
17 April 2002	Ladbrokes, William Hill, Coral, Stanleys and Dones sign five-year deals with BHB allowing them to use BHB's data for their British betting shops and telephone and internet operations. Each bookmaker pays an annual charge of 10% of gross profits from horserace betting on horse racing taking place in Great Britain
7 May 2002	FFP collapses as race courses enter into their own picture deal with off-course bookmakers
24 May 2002	Court of Appeal in BHB/William Hill refers various questions on Article 7 of the Database Directive to the ECJ for a preliminary ruling
31 October 2002	Levy for 2003/04 (42 nd) agreed – the payment by off-course bookmakers of around 10% of their gross profits from horseracing (if above £75,000) is expected to yield £94m
5 February 2003	Sporting Options, with the support of Betfair, launches legal challenge against the Levy Board's 10% charge on betting exchanges, due to come into effect on 1 April 2003
8 April 2003	OFT publishes report which warns BHB that it is breaking competition laws relating to the fixture list and provision of race data
May 2003	Sporting Options wins its legal action to obtain a judicial review of the 42 nd Levy
31 July 2003	Court finds in favour of Sporting Options, ruling that the 42nd Levy, as it relates to exchanges, is unlawful and irrational
22 October	Levy for 2004/05 (43 rd) agreed – the payment by off-course bookmakers of around 10% of their gross profits (if above £75,000)

2003	from horseracing is expected to yield £91.7m
10 June 2004	OFT reaches a provisional agreement with the BHB to reform the running of British horseracing
23 September 2004	Levy for 2005/06 (44 th) agreed – the payment by off-course bookmakers of around 10% of their gross profits (if above £75,000) from horseracing is expected to yield £94m
28 October 2004	Horserace Betting and Olympic Lottery Act 2004 ("HBOL Act") comes into force giving the Government the power to abolish the Levy
9 November 2004	ECJ ruling on Article 7 favourable to the position taken by William Hill - case returned to the Court of Appeal
January 2005	Lord Donoughue asked by BHB to conduct an Independent Review of Racing's Funding
11 March 2005	Lord Donoughue presents interim report to the Government – recommends an extension of the Levy by 3 years conditional on an agreement to roll over the 44 th Levy
18 March 2005	Richard Caborn announces that the Levy will continue until 31 March 2009 and the Levy Board will be closed 6 months later
13 July 2005	Court of Appeal applies ECJ's findings to rule in favour of William Hill in its dispute with BHB
1 November 2005	Levy for 2006/07 (45 th) agreed – the payment by off-course bookmakers of around 10% of their gross profits (if above £80,000) from horseracing is expected to yield between £98.75m and £101.9m
December 2005	Lord Donoughue presents final report. Recommends that the sale by racing of a package of televised pictures and associated data may present a way forward, subject to obtaining legal advice on whether any such arrangement would be likely to withstand a competition law challenge
23 March 2006	Richard Caborn and representatives of the racing industry discuss the Levy and the Donoughue group is then asked to conduct a further review of how the Levy legislation and procedures should be modified were the Government to decide to retain the Levy
20 September	Levy for 2007/08 (46 th) agreed - the payment by off-course bookmakers of around 10% of their gross profits (if above £82,600)

2006	from horseracing is expected to yield no less than £91m
14 December 2006	Government announces its intention to retain the Levy Board and the Levy "until such time as a secure and adequate alternative commercial funding arrangement can be identified". Government intends to repeal the parts of the HBOL Act which gives it power to abolish the Levy
January 2007	Racing UK and Alphameric announce Turf TV joint venture
April 2007	Turf TV launches
6 June 2007	David Harding, chief executive of William Hill, says that the bookmaker will use all means at its disposal to win the "war" declared on bookmakers by the racing industry
31 October 2007	Levy for 2008/09 (47 th) not agreed between bookmakers and Levy Board and referred to the Secretary of State for determination by April 2008
October 2007	Bookmakers Afternoon Greyhound Services (BAGS), William Hill, Ladbrokes, Coral (later withdrew) and Betfred sue Turf TV stating that it is running a price-fixing operation that amounts to an illegal cartel. Turf TV counter-claims, alleging that the bookmakers colluded in refusing to sign up to its service and by collectively withdrawing sponsorship from the courses involved
November 2007	Ladbrokes and Coral call for abolition of the Levy
December 2007	Coral signs up to Turf TV
January 2008	Ladbrokes and William Hill sign up to Turf TV
20 February 2008	Written ministerial statement by Gerry Sutcliffe determining that the 47 th Levy (2008/09) shall be the same as the 46 th Levy and calling for racing and the bookmakers to develop a modern business partnership
April 2008	Turf TV case starts in the High Court
9 August 2008	The claim by the bookmakers and BAGS against Turf TV fails. Judgement on Turf TV counter-claim to be dealt with in a separate judgement later in the year

Appendix D: Redirection of wagering tax in Queensland.

Background

An issues paper was provided to the Queensland Government in May 2009.

The racing industry is a substantial contributor to the economy in Queensland. Directly, the industry is responsible for \$855m in economic spend or GSP and when induced and indirect impacts are included the Queensland racing industry contributes just over \$1.44bn towards GSP.^[1] The racing industry is responsible for the employment of 30,000 Queenslanders in fulltime, part-time and casual employment in the industry. Essentially, for every \$1m of expenditure generated by the industry up to 22 fulltime positions are created or sustained. In real terms, it is likely that the 22 fulltime positions actually reflect more than 46 individuals working in fulltime, part-time and casual positions. To put this level of employment in perspective, the racing industry is an employer of considerably more individuals than the electricity, gas and water supply sector (20,900) and just below the communications sector (33,300).^[2]

In relation to taxation, the activities of the racing industry generate more than \$140m in revenue for the state and federal Governments. The state Government receives just over \$103m in taxation revenue from the Queensland racing industry and whilst income tax and GST are not taxes paid specifically by the racing industry the \$35.8m contributed from wagering is unique. Whilst it is considered a federal tax, as it is collected in this manner, the GST revenue does flow back to the state Government coffers via redistribution. The federal Government receives just under \$37m in taxation revenue from the Queensland racing industry, as a result of taxes generated by those employed directly by the racing industry.^[3]

Under the Racing and Other Legislation Amendment Bill 2010

The Queensland Government will provide wagering tax relief over 4 years to the amount of \$80M

Amendments to the Wagering Act and Gaming Machine Act

Wagering reform was achieved with the privatisation of the TAB in 1999. However, while progress has been made by the control bodies in improving the operational and financial performance of the racing industry through operational reforms such as changes to the racing and wagering programs, the ability of the industry to maintain and enhance necessary infrastructure to maintain the industry's competitiveness and longer term viability has been limited.

In essence, a quantum of revenue is required to both maintain prize money relative to other states, and maintain and improve the industry's asset base. The Government has agreed to provide funding for capital works to assist the industry to maintain the industry's existing assets and infrastructure and to fund significant necessary capital improvements.

The Bill provides for 50% of the net wagering tax collected (from UNiTAB) to be available for capital works for the racing industry (the percentage amount is actually 45.75% of wagering tax paid to the chief executive under Part 9, Division 2 of the Wagering Act. The amount is equivalent to 50% of wagering tax paid to the chief executive, after the 8.5% is paid into the Community Investment Fund under s169(l)(a) of the Wagering Act). The amount will be paid into the Community Investment Fund, which will provide the industry with an estimated total in excess of approximately \$80 million over the four years to 2013-2014. The new control body, Racing Queensland Limited, will submit business cases on priority capital works to be funded from the fund and identify sources of additional funding if the funds collected for this purpose fall short of expected program expenditure.

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