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### **SUBMISSION TO Draft Report – ACT Racing Industry**

Last week I became aware of your draft report after corresponding with the ACT Racing Minister on related matters.

It is necessary to comment on two aspects of that report, mainly on the greyhound code. This involves ...

- (1) Product Payments, and
- (2) The status of greyhound racing.

A good deal of my comments parallel those I have made to the Productivity Commission gambling inquiry under my HunterCoast Marketing name and posted on its website.

#### ***In General***

Before looking into the detail, let me state that I regard Betfair and NT bookmakers as huge assets to an industry that had become introverted, over-regulated, uncaring, tradition-bound and even abusive. Time will show the newcomers have been the industry's saviours, dragging it forcibly out of the 1950s.

It is also necessary to point out that every NT bookmaker is or has been a conventional southern state bookmaker. Their moves or expansions to the NT are clearly a matter of finding a less punitive jurisdiction. In fact, one or two have said exactly that. Even today, I am not sure the southern states fully understand those facts of life.

Lastly, it is not possible to treat a betting exchange in the same way as a bookmaker. Both involve wagering but in totally different ways. Betfair fees demand separate assessment.

*A note is necessary on the (now pejorative) term “corporate bookmaker”. It is not helpful. First, because many southern bookmakers are incorporated, although with shareholding restrictions. Second because, in future, more progressive regulatory*

*regimes must surely ease those restrictions and result in greater similarities between the rules in the NT and those in other states. No doubt many southern bookmakers would then wish to become private or public companies. Also note that all the NT bookmakers were or are still active bookmakers in one of the southern states.*

### ***PC at Fault***

Section 3.1 of your draft report addresses the method of assessing product payments at a time when considerable instability is present in the industry, including about how best to charge fees.

However, ICRC particularly relies on the report of the Productivity Commission into problem gambling. Unfortunately, that PC report got wagering badly wrong. It was flawed in two major ways:

- (a) It treated wagering as an industry in itself rather than as a service provided to consumers of racing. It looked narrowly at the benefits for selected wagering consumers rather than for racing consumers at large, including the majority of punters who choose not to or cannot deal with NT bookmakers, and for racing stakeholders in general.
- (b) It used factually incorrect methodology to assess the worth of NT bookmakers

### ***The Wagering “Industry”***

There is no such thing as the wagering industry. Wagering is merely one of many services provided to the racing industry. Without betting, racing would still exist, albeit at a modest level. Without racing, there would be no wagering sector at all.

In general, picking favourites amongst wagering organisations may risk harming the industry at large. Besides, that is the role of the consumer, not of administrators or outside observers.

Having said that, state governments made a rod for their own back by providing monopoly access to tote operations and then compounding the problem by continually adding (with the support of obsolescent racing authorities) to the long list of regulations restricting bookmakers or other betting houses. It is arguable that such anti-competitive policies have reduced the size of the pie and probably hurt the TABs themselves – to say nothing of state tax revenue. Without doubt, that approach was certainly the stimulus for the emergence of the NT bookmaking group.

It may be claimed that the PC did not have a sufficient brief to study the entire racing industry – which could be true – but that is not an excuse to ignore the impact of wagering options on the fortunes of racing and its many stakeholders. In any event the PC declined to look into a variety of ways of skinning the cat, which necessarily limits its perspective.

It is axiomatic – within legal and practical reason – that the way the racing industry is run must be under the control of that industry’s managers. Someone has to be in charge. Betting houses or pie sellers must be required to conform to certain standards.

Indeed, only racing's managers are in a position to assess access charges, or are entitled to do so, for those making use of racing's product. Too low a charge and the industry goes broke, too high and it becomes uncompetitive – but the choice is that of the racing manager.

What happened in the PC analysis is that it gave precedence to what the NT bookmakers wanted, not what at least some of the industry's managers and others submitted. Similarly, the PC assessed consumer benefit solely on the narrow ground of those bookmakers' claimed cost structures and (supposedly) the interests of the minority of customers who do business with them, not on what gave the best result for the industry at large.

The PC's conclusions were therefore poorly derived and biased. (I have complained strongly to the Chairman about this but the PC refused to even comment on the problem, let alone remedy the errors).

### ***PC Reasoning***

In a nutshell, the PC claimed that NT bookmakers were more efficient and warranted favoured treatment because they were offering “better prices” than other wagering houses. It produced a set of figures and a formula to show that their theoretical takeout was much lower than, for example, a TAB. That was hardly rocket science but they used a lot a Greek symbols to make it look good.

All quite true, but also misleading. The NT bookmakers' main product is “the best of the TABs” prices and it advertises that ad nauseam. They pay out exactly what one of the southern TABs pays out. So there is no consumer cash benefit at all.

Yes, there is a difference but it is between the respective costs of the TABs and the bookmakers, one high, one low. That difference goes into the bookmaker's pocket, not to the consumer.

Yet this faulty reasoning constituted the PC's prime support for the adoption of the gross profit option – simply because the NT bookmakers claimed they would suffer a fate worse than death if anything else happened.

Moreover, the quantum of the cost difference indicates that NT bookmakers have ample capacity to pay higher fees if required – certainly much more capacity than TABs or southern bookmakers.

Also note that NT bookmakers have now expanded their product range to offer exotic bets where the TAB takeout far exceeds that for Win betting – eg up to 25%. These are even more lucrative when you see that a good slice of that business (ie all Quinella and Trifecta betting) is affected by mug gamblers, boxed combinations and Mystery bets. All of these are mathematically unsound investments (it is impossible to win in the long run) yet have the effect of reducing eventual dividends even further below their true value. More fruit for the bookies' sideboard

In other words, the frantic claims of the NT bookmakers and their consultants are all bunkum.

It may be claimed that “best of the TABs” does not apply to some of the NT bookmakers business. Quite so. But their other business would tend to be from big customers (eg, at the top end, a \$5 million losing bet on Lohnro from a Manilla client and many millions from a crooked WA bank manager) in which case separate deals would be done, as is also the case with Betfair. Either way, the price offered is at the discretion of the bookmaker, having regard to whatever his existing cost structure is.

### ***Gross Profit v Turnover***

I supplied your Racing Minister with a list of issues for and against gross profit and turnover methods. A copy of the attachment to my letter is shown below. Essentially, it says that gross profit is high risk, unpredictable and therefore less desirable. Any assessment of this choice must consider the validity of my above comments concerning the error-laden PC report.

(copy)

#### **WHY PICK TURNOVER FOR FEE CALCULATIONS?**

Early figures suggest there is not much difference between fees based on bookmakers’ gross profits and those based on turnover alone. But more important is whether either is likely to change over time.

Those indicators which are relevant suggest turnover is the best method. Here’s why.

1. Gross profit, almost by definition, will produce volatile results. Even with some agreed smoothing it still leaves uncertainty.
2. Gross profit leaves the industry dependent on the effectiveness of each bookie – a risky proposition. Remember that hundreds of bookies have gone broke in the past (usually not big ones but you never know). What will occur in the future if, say, several dozen bookies set up in the NT? And why wouldn’t they, given its more desirable cost structure?
3. What would happen in such cases as the \$5 million losing bet on Lohnro or the Lucy’s Light scam at the Gold Coast dogs? A reversal of the Lohnro result would see the bookie deduct a large mount from his gross profit fee payments while a turnover system would let the racing industry reap an appropriate reward irrespective of the outcome. Professional punter Eddie Hayson’s big win on Lucy’s Light would have resulted in huge reductions in NT (and SA) bookies’ payments, offset only slightly by a modest increase in Queensland TAB commissions. Turnover is always better when big bets are involved.
4. Already we have seen seismic shifts in punter allegiances. The future may see more or less – we don’t know. But whatever change occurs, turnover will be a constant while gross profit will be in the lap of the gods.
5. The future will also see some change in regulatory systems. Again, it is hard to predict how this will occur. And, again, turnover is a constant, profit is not.
6. Turnover has been historically the industry’s method of choice. It is its core trading currency. No argument has ever been put that it is wrong or

inappropriate. Players might like smaller fees but none has been heard to object to the method.

7. As the new mix matures, more and more competitive practices will emerge, bookies will have to offer more attractive prices, thereby reducing profits and therefore fees. Turnover fees would be unaffected.
8. Gross profits are capable of manipulation (eg false bets), turnover is not.

On top of all that, the PC's quoted examples in favour of gross profit are spurious. It is a nonsense to compare income tax with a commercial transaction such as betting. And the evidence of other sporting bodies accepting gross profit ignores the fact that (apart from Racing Victoria, which has now changed its mind) these organisations were not involved or experienced in betting as such but were simply offered something for nothing. In any event, why did the PC not canvas dozens of other cases where turnover is the accepted multiplier? Franchise operators, for example. That was a serious ethical failure.

The hard business decision has to be in favour of turnover-based fees.

### ***The Greyhound Code***

The code's greatest asset is that it is up close and personal. Its public image is poor and it does not market itself very well but that is its potential. You can rub shoulders with owners and trainers and set yourself up only a few metres away from the dogs and the action. At least you can in some places, including Canberra.

Therefore, any move away from Narrabundah to a multi-code site is fraught with danger unless that advantage is maintained. Should a three-in-one site be chosen it is essential that the dog track basically repeat what exists at present and not be part of three ever-decreasing circles where the dogs look like ants. That is already a drawback at places like Cranbourne and Traralgon in Victoria and it is one of the possibilities in the revamped SE Queensland track development program now being considered by the authority there. Many other racecourses offer two codes at the one site, always leaving greyhounds as the one in the far distance.

However, the next few years are not looking good, through no fault of Canberra's.

In recent years, and more intensely since mid-2010, Tabcorp/SKY has pressured the industry to increase the number of TAB races and meetings despite not having any more dogs to do it. But the arithmetic is not good. This is why Canberra, at the end of the line, is now often running meetings with fewer than 10 races, races with short fields, too many ultra short (310m) races which cater for poor quality dogs and lots of maidens which only their mums and fools would bet on. It is not alone as all states, except perhaps WA and Tasmania, are suffering the same way. I ran several recent surveys of the three eastern states and found consistently that 25% of races have fewer than the desired eight runners. That has immediate financial implications as it discourages exotic betting, resulting in less than optimal turnover.

Authorities have chosen to chase a quick buck at the cost of reducing the average quality of the product. Canberra is caught up in the wash. In any event, despite authorities' periodic claims, full of corporate spin, the code is not really increasing

turnover. Once you allow for inflation and for extra races it is barely holding its own on a like-for-like basis, despite the help of mug gamblers. Of course, much of the other two codes' offerings is similar. It is common to see the trots with fewer runners than the dogs.

More relevant to the betting subject is that the proportion of money coming from mugs is rising and that from educated punters falling. In between them are trainers, helpers and family who make up most of the attendances these days (and who seldom bet on unlikely outsiders, thereby make it difficult for bookmakers to frame a decent market). TABs are making the situation worse by pushing hard to attract poker machine refugees with a stream of dumb bet options – Mysteries and the like - while ignoring the need to bring back the serious punters lost when SKY pictures changed the scene forever.

Such policies and practices have the effect of moving racing further away from its specialised category and closer to the general run of entertainment options. Naturally, that increases the risk of losing casual customers to the flavour of the day – whatever is fashionable. Over time, this has been a major contributor to the decline in racing's share of the gambling dollar (from 50% to now around 10%).

At the least, this suggests that future viability requires strenuous efforts to attract the public, to educate newcomers about the tricks of racing and wagering and to diversify racecourse activities. Little of that is happening today. Only big time feature meetings bring in crowds and they are few and far between.

### ***Who Gets What***

While I hesitate to comment on the detail of ACT finances, it is necessary to make the point that fixed percentage distributions of TAB commissions are inherently bad policy and have posed big problems in other states. SA managed to sort things out satisfactorily and to introduce a more incentive-based system but NSW and Queensland are still stuck with distributions which require greyhounds to cross-subsidise the other two codes. Millions each year are involved, all because of an age-old agreement struck when the quantum and nature of the racing product was significantly different to that of today.

Commercial operations should always be rewarded on performance, never on arbitrary percentage splits.

Side Note: It is some time since I visited Canberra dog meetings but those I have attended always offered a local pool on the Canberra races. These were so small as to be a farce. Now that meetings are generally covered by the NSW TAB on Sundays etc this may not be a problem. However, let's point out that running such tiny operations is a waste of everybody's time, including ACTTAB's. It should never happen. Indeed, you have to ask why ACTTAB has its own pools for anything when the opportunity for co-mingling with NSW or Victoria is always there. Aside from chest-thumping, why does ACTTAB exist in its own right and not operate under some sort of franchise agreement? Surely, legalities can be managed so as to set up a more productive arrangement.

Side Note 2: Little if any data in reports and submissions includes bookmaker turnover, whether local or from the NT. Why is that?

### ***Why Is It So?***

At the core of the problem is that racing's organisational structure is set around mostly amateur committees of management. Yet people who do brilliantly in their day jobs seem to have a brain fade as they go to the track for a committee meeting. In any case, there can be no such thing as an efficient committee. It's a contradiction in terms. The average is the best they ever do and that will not cut the mustard today.

The non-proprietary raceclub has had its day. It simply cannot compete with what is happening in the outside world, especially when it is hell bent of maintaining the tradition at any cost. This is precisely why we have seen the last few years' turmoil with betting exchanges and NT bookmakers as well as endless battles in courts.

It not as though this sort of distraction is a brand new experience – viz ...

1. World Series cricket, Kerry Packer and a disbelieving administration.
2. Indian cricket and 20/20 competitions completely changed industry financing.
3. Rugby League v Rupert Murdoch. We know what's best - go away.
4. Soccer clubs surviving on lifelines from benefactors.
5. Tennis in decline as state battles state for control (AIS advises against such a structure)
6. Basketball – still too few customers with exposure only on TV desperate for program fillers (One).
7. Rugby Union – boring, full of stoppages and reluctant to change – hence a poor customer appeal.

Only AFL has consistently succeeded, and it rationalised old-time clubs and risked alienating its powerful Victorian heartland to do it. Just as well, though. Of course, it also poured lots of money into generating support in the new areas (including Canberra). That paid off.

Those sports which are surviving, racing amongst them, are doing so only on the basis of their status in the average Australian's cultural pecking order. That's a pretty dicey way to make money. And culture is always changing.

In the end, only major reform will allow the racing industry to prosper. You can't make good money with only a handful of big drawcards each year. Apart from that, nothing will solve Canberra's problems other than a major rise in prize money. Fiddling with tracks is all very well and necessary but that fixes only the fringes of the problem. It just a start.

### ***A Thought***

It's as well to remember that the greyhound club (the GBOTA) operating at Sydney's Harold Park left in 1987 when it found budgets had become too hard to balance. It moved to Wentworth Park to share costs with the occupant club there, the NCA. Of

course, finances improved in Sydney but it also led to a dramatic downturn across the entire Hunter region, which once specialised in the supply of big striding dogs well suited to the big stretches at Harold Park but unable to handle Wentworth Park (a bit like Moonee Valley v Flemington).

It took years to reverse that trend and the Hunter (which was running four meetings every weekend back in 1927) never really regained its prominence, nor did the local breeding sector ever recover. To this day, industry players still regret that step was taken, at least without a suitable replacement plan.

Actions and consequences always go together.

Anyway, let's hope the PC does not put an apprentice on the job next time.

Sincerely,

Bruce N. Teague

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28 December, 2010  
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### **Supplementary Notes to Submission Draft Report – ACT Racing Industry**

I believe my December 27 submission adequately explored the arguments about product fees but it occurs to me that a selection of newspaper reports about the to and fro in Victoria adds to the flavour of the discussion.

It particularly indicates the fragmented, perhaps hasty and unprofessional, way in which Racing Victoria went about its dealings with NT bookmakers and Betfair. It gives you even more evidence of why Victorian bookies who deserted that state for the NT were on the right track. And why turnover is the better basis for product fees.

It also poses serious questions about the competence and governance standards of racing administrations. As I put elsewhere, the best you can say about racing's organisational structure is that it is obsolete.

Reports from Adelaide Now/Herald Sun are copied below.

Sincerely,

Bruce N. Teague

#### **Double bookies' fees: Andrew Lafontaine**

Tim Habel From: Herald Sun December 16, 2010

VICTORIAN Racehorse Owners Association chairman Andrew Lafontaine says Racing Victoria risks losing the chance to provide an \$8.5 million boost to racing's coffers in the next six months.

Lafontaine has urged RVL to immediately double the corporate bookies' gross revenue fee to 20 per cent while an independent study is conducted into the racefields product fee.

He said TROA had calculated the increase would equate to \$8.5 million in the six months from January it is expected to take for the study to be completed.

It would be irresponsible not to introduce a higher three or six-month interim fee, he said in a letter to RVL chief executive Rob Hines.

"Given your (Hines) comments in the Sunday Herald Sun (Nov 28) that the percentage should eventually be increased to 20 per cent and that corporate bookmakers and Betfair are aware of that and seemingly are comfortable with it, we see no valid reason in delaying such an increase," he said.

TROA supports the 1.5 per cent turnover fee model favoured by Racing NSW and, he said, a 3 per cent fee was appropriate in Victoria as it has easily the best product.

Lafontaine's letter questioned the independence and transparency of the study.

Given RVL prefers the gross profits model, it was inappropriate that RVL set the terms of reference and managed the process, he said.

TROA proposes that:

THE analysis be undertaken by a competent firm that is independent and capable of doing the job.

A BOARD comprising industry executives Dale Monteith, Scott Whiteman and Michael Browell be appointed to manage the process.

RVL must immediately make available to shareholders and the independent consultant appointed the financial information and modelling and copies of primary legal advice that support the previous decision by the RVL Board to pursue the recent settlement with Sportsbet and other bookmakers.

FOR submissions to be accepted by the consulting firm, they must be accompanied by a statutory declaration outlining any special financial interests or conflicts of interest by the individual or organisation.

RACING Victoria released figures relating to the racefields fees for the 2009-10 season at its annual general meeting last week.

In November 2008, RVL decided to meet the corporate bookmakers' demands that they be taxed on their profit (gross revenue model) rather than turnover.

Last season \$5.6 million was raised from corporate bookmakers, which equates to less than 0.5 per cent of their turnover.

Had RVL adopted a turnover tax model, the figure collected would have been at least three times that, close to \$20 million. It would have added \$3000 to every \$12,000 country race run in Victoria.

One wonders why RVL didn't wait for the decision in the Federal Court case in New South Wales before rolling over and doing a deal with corporate bookie Sportsbet.com.au. That company now has the privileged status as the only corporate bookie locked into a gross revenue agreement until mid-2012.

It's no wonder Sportsbet "donated" \$4 million to RVL, as outlined in Rod Nicholson's column in the Sunday Herald Sun on December 12.

Why wouldn't it? It's on a pretty good deal.

Will the terms of reference for the "independent" review into the best funding model, commissioned by RVL, be made public? Failure to do so will result in questions being asked, including whether the review is truly independent.

Why do we need an independent review in any case, given that Blind Freddie can see which model will return more money to Victorian racing.

RVL should immediately implement a turnover tax. Every week it fails to do so is costing Victorian racing thousands of dollars.

- Rick Hore-Lacy

### **Racing Victoria 'lost \$13m'**

Tim Habel

From: AdelaideNow November 25, 2010 8:15AM

RACING'S corporate bookmakers' fee model debate escalated yesterday, with claims Victoria had lost millions.

Victorian Thoroughbred Racehorse Owners' Association claimed Victoria would have been \$13 million better off in the past year on a turnover fee.

TROA chairman Andrew Lafontaine said figures provided on Monday by Racing Victoria were misleading.

Lafontaine claimed corporate bookies would have paid \$18 million in turnover fees instead of \$5 million in the past year if the New South Wales 1.5 per cent turnover model had been used rather than RVL's current 10 per cent gross profits model.

Lafontaine said a turnover fee generated about three times more revenue from corporate bookies than the gross profits model.

"I have it on good authority from two sources these figures are correct," Lafontaine said.

The debate on which fee model is best has split the racing industry and is central to prizemoney levels.

RVL chief executive Rob Hines last night refuted Lafontaine's figures.

"TROA conveniently avoids some critical facts and lacks a basic understanding of economics," Hines said.

"It is not possible to simply extrapolate the turnover achieved under a (gross profits) model and multiply it by 1.5 per cent of turnover as the turnover would have been substantially less if the corporate bookmakers were charging higher prices to accommodate a turnover fee.

"The wagering market in Australia has grown substantially because these low-margin operators exist. Without them the turnover would be lower.

"The increased costs of a turnover fee have not been passed on to punters in New South Wales because there is a legal challenge to the fee which, despite the Federal Court's recent ruling, may not yet be over.

"A turnover fee may provide increased returns in the short term but a fee based on revenue will deliver a substantially better result for the Victorian racing industry in the long term, especially when we are able to increase the fee to our target rate of 20 per cent.

"It is about time racing's customers, the punters, were also considered in this debate as the outcome directly affects the prices available to them."

SPORTSBET will rely on independent advice before deciding next Wednesday whether to seek an appeal to the High Court against the ruling in favour of Racing NSW charging a 1.5 per cent turnover fee.

### **Racing fees row for review**

Tim Habel From: AdelaideNow November 23, 2010 7:54AM

Source: Herald Sun

RACING Victoria chief executive Rob Hines will recommend an independent firm evaluate the benefits of the bookmaker turnover and gross revenue models and invite industry submissions on the contentious issue.

Hines said the board would be guided by any recommendations in future negotiations with corporate bookmakers and Betfair.

Industry insiders say RVL will also consider a model that has both a turnover and a revenue option.

Meanwhile, the Victorian Thoroughbred Racehorse Owners Association called for RVL to release details of bookmaker and tote holdings' product fees and how much RVL had earned from them.

Chairman Andrew Lafontaine said on the TROA website yesterday RVL should introduce a turnover fee without delay as it was clear the model was better for racing. "Otherwise why would corporate bookmakers have spent millions on legal fees and propaganda opposing it?" he said.

Lafontaine also said Melbourne Racing Club chairman Mike Symons was in conflict in his call for a revenue model in yesterday's Herald Sun as he was a client of Sportsbet.

RVL yesterday confirmed Sportsbet was the only corporate bookmaker locked into a two-year race fields fee based on the revenue model.

Negotiations with other corporate bookmakers and Betfair have been suspended by RVL as a result of last week's Federal Court judgment in favour of Racing New South Wales's right to charge a 1.5 per cent turnover fee.

The ruling is open to appeal by Sportsbet and Betfair within 28 days and a decision is expected later this week.

Hines also took a swipe at what he said were several inaccuracies reported in the media recently such as NSW being \$50m-a-year better off under the turnover tax model.

He added NSW was the only state with a deal with Tabcorp to collect race fields fees and not have to pay to other states.

Ends

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7 January, 2011

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### **Supplementary Notes (2) to Submission Draft Report – ACT Racing Industry**

On further study I see now that your Table 3.1 on p39 is in error in respect to NSW at least.

1. For Greyhounds it states that product fees are based on 1.5% of turnover. This is wrong. As a recent GRNSW media release goes to some pains to point out, it uses 10% of gross revenue. That release, incidentally, was the first time the authority issued any information at all about those fees. Previously, it kept everything a secret from the public.
2. For Harness, from the start the code has joined Thoroughbreds in calling for 1.5% of turnover, as has been report endlessly in the Federal Court. The quoted 10% of gross profit is incorrect.

By the way, I am also puzzled by your claim in this section that price competition will, in turn, “raise the value of gate receipts” and the like. This pushes the envelope inasmuch as all the new competition is essentially off-track (ie internet- or phone-based) and might be said to entice customers away from the track, not to it.

It is this sort of isolated and often unbalanced treatment of individual aspects of the racing industry, multiplied many times over by the Productivity Commission and your draft report, that potentially distorts any conclusions.

What David Jones does with prices for socks may have little in common with charges for TV sets yet the two may well contribute usefully to the company’s end result.

The industry must have (or should have) a corporate objective for its profit/surplus – that is, a required rate of return. Whether each segment performs adequately in this respect is important but not quite so vital as whether the whole organisation meets its target.

The classic illustration here is the much-maligned, high-cost TABs themselves. I am personally critical of a number of its actions and policies, and have said so formally to them. Yet, without question, they are and will remain the backbone of the supply of funds to the industry. Nothing can or will ever replace that contribution, aside from

another TAB. They have high costs in part because they provide a greater and wider level of service, which is welcomed by the majority of consumers including myself. Mind you, I know where they are ripping me off, which mug gamblers don't.

Going down the wrong road could produce real problems. For example, the NT bookmakers exist simply because of the excessive regulation in the southern states and for no other reason. Yet if you take the argument further, an eventual domination of the business by NT bookmakers – via favoured treatment - would see TAB business decline substantially, some branches or other outlets closing, a great many consumers therefore disadvantaged, and the industry in dire straits.

One of many PC errors, in effect, was to assume that TAB consumers were not prepared to pay more for their service. Wrong – many were and still are more than happy to do just that. Indeed, over their 50 years life, every time TABs added to their product range or improved their service levels a substantial increase in turnover occurred. It is only in very recent times that their shortcomings are being targeted. Appropriately so, too, but do it in a balanced way.

*(Consider, if you will, that in their first few years of operation, TABs paid out winning punters only on the day after the race!).*

Similarly, it has been put that industry claims about a needed high rate of income from TAB commissions are not justified. Yet that cash goes mainly to rewarding hopeful owners of horses and dogs, without whom the industry would not exist. Sadly, those people are flat out getting back half their investments on average. Failing that willingness, racing would die. To defend against that outcome, an even higher charge against bookmakers and Betfair is justified, is it not?

The best approach would be to put maximum pressure on TABs to ensure their optimal efficiency. In major part, that will occur by encouraging other wagering houses to compete for the same dollar but on equal rather than favoured terms. Free kicks are not appropriate.

Sincerely,

Bruce N. Teague



6 February, 2011

email

Independent Competition and Regulatory Commission

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**Addendum to Submission on  
Draft Report – ACT Racing Industry**

On page 3 of my December 27 submission I pointed out that “It is axiomatic – within legal and practical reason – that the way the racing industry is run must be under the control of that industry’s managers. Someone has to be in charge. Betting houses or pie sellers must be required to conform to certain standards. Indeed, only racing’s managers are in a position to assess access charges, or are entitled to do so, for those making use of racing’s product. Too low a charge and the industry goes broke, too high and it becomes uncompetitive – but the choice is that of the racing manager”.

It is now interesting that Andrew Harding, CEO of the Australian Racing Board (ie thoroughbreds) confirmed that view in an article by Max Presnell (SMH 4 Feb 2011) when he said:

“Doesn’t matter what sort of betting operation you are running, the industry will determine what you will pay”. (Having said that, Harding would be aware there are statutory limits to attend to).

Exactly. It is a nonsense to suggest that service providers should tell their principals how to run their business, whether well or badly, as NT bookies and Betfair have done.

All of which confirms three things:

- (1) NT bookies and Betfair have spent huge amounts of money in the courts trying to suggest otherwise. Their motive is painfully obvious – to reduce their costs and for no other reason.
- (2) Similarly, the plea that fees based on gross revenue are necessary tells us that NT bookies and Betfair see that method as cheaper than the alternative. Nice if you can get it but not helpful for the industry.
- (3) As I also mention in my submission, any prospect of lower overall fees and commissions would place the entire industry at risk given that the average owner of racing stock is already a long way short of recovering his costs and operates on the hope of a windfall return.

Essentially, the campaign by NT bookies and Betfair runs the risk of killing the goose that laid the golden egg. Strategically, they would be better off paying higher fees, ensuring a flourishing industry and passing on their costs to their customers, just as everyone else does. By implication, the ICRC draft report favouring gross margin also needs reversal.

Incidentally, a few short years ago Harding and the ARB were loud and even abusive in their condemnation of betting exchanges in the media and in public forums. As Presnell reports, things have now changed: “The integrity thing, a worry at the time, hasn’t transpired to be anything to be concerned about”, says Harding. Well, yes, but that was always the case if you took any notice at all of the reports of British police and racing authorities. That sequence of events amounts to sheer bad management.

Finally, I note that the Commission has extended its dates a little. That may still not be enough. The High Court is due to meet on March 17 on the gross revenue v turnover fee matter. Should it back up the Federal Court (on the basic issue, not any flawed method of application of the fee) and thereby allow turnover fees to become the norm then everyone knows where they stand. This is the most likely outcome.

On the other hand, any decision eventually favouring gross margin will cause an almighty upheaval. At the very least – as I point out in several ways – the industry would require a massive increase in the rate of that commission. In other words, the industry needs at least \$X. If it does not get it one way it must get it by another. It has no choice. Of course that would make all the legal wrangling a bit of a farce, but then it has been a farce from the start, hasn’t it?

Sincerely,

Bruce N. Teague