

**SUBMISSION TO THE
JOINT SELECT COMMITTEE
ON GAMBLING REFORM**

**SUBMISSION OF
HARNESS RACING AUSTRALIA
JULY 2011
Andrew Kelly
Chief Executive**



Introduction

Harness Racing Australia (HRA) welcomes the opportunity to comment on the issues being reviewed by the Joint Select Committee on Gambling Reform.

HRA is the peak national body for the sport and business of harness racing in Australia. HRA represents more than 40,000 owners, over 7000 trainers and drivers and the many thousands of people employed by the industry and ancillary industries.

Over 90% of the revenue generated by the harness racing industry comes from wagering. Indeed, the link between the racing industry and wagering is unique and distinguishes it from other sports. Racing is directly dependent on wagering and exists to provide product for punters to wager on. Whilst an AFL game or cricket match can go ahead without betting, and its participants are no worse off, the racing industry would not exist without wagering.

The racing industry's unique relationship with wagering means that the views of HRA on the issues being explored by the Joint Select Committee on Gambling Reform are predicated on ensuring its business is sustainable and continues to provide meaningful employment for the tens of thousands of Australians who depend on the industry for their livelihoods.

In this submission, HRA wishes to focus the Joint Select Committee's attention on the following issues:

1. Integrity is paramount in the racing industry – other sports must lift their standards
2. A national regulatory regime for gambling is supported
3. Wagering must continue to be exempt from the Interactive Gambling Act 2001
4. Racing must not be disadvantaged vis a vis the other sports given its strong integrity standards, particularly in respect of 'in the run' or 'spot' betting
5. Gambling advertising and pricing/odds updates on sports should be limited to dedicated channels where strict integrity measures can be enforced

HRA encourages the Joint Select Committee on Gambling Reform to keep in mind the unique position of the racing industry when considering Interactive Gambling Act 2001

(IGA) reforms.

1. Integrity is paramount in the racing industry – other sports must lift their standards

Fundamental to the size, growth and ongoing sustainability of the racing industry is its ability to demand the highest standards of integrity. The racing industry understands it is imperative that significant resources are devoted to integrity measures in order to ensure consumers continue to have confidence in its product.

For this reason, the three codes of racing devote substantial financial and human resources to their integrity departments. Stewards have long been the custodians of integrity in racing. Over a number of decades, Stewards have been vested with strong powers over participants to ensure they have the ability to address integrity breaches and to ensure the punter is confident that races are run fairly and free from corruption or malfeasance.

There have been many attempts over the years to argue that Stewards' powers are too strong or infringe on civil rights. Legal challenges going all the way to the High Court of Australia, however, have repeatedly failed, with the powers vested in Stewards by the racing controlling bodies upheld by the courts.

The racing industry has been successful in justifying the powers vested in Stewards on the basis that public confidence in the racing product is paramount. State legislatures have also repeatedly supported the racing controlling bodies in their quest to ensure the highest standards of integrity are upheld.

In 2009, the Victorian Parliament legislated to create Australia's first Racing Integrity Commissioner. This position acknowledges not only the importance of ensuring that the public has confidence in the racing product, but also provides an endorsement of the importance of the racing industry to the State of Victoria generally. As was stated during the second reading speech to introduce the bill to create the Racing Integrity Commissioner:

Implementing these measures will enhance integrity assurance provisions in Victorian racing. This will have the effect of bolstering the perception of integrity among all

participants and will increase the value of the Victorian racing product.¹

The growth of betting on sports (other than racing) over the past decade has occurred without the same emphasis on integrity. The reasons for this include the fact that the growth has largely been driven by sports betting providers, rather than the sports themselves. In fact, many sports have had little or no influence over the betting which has been offered by the sports betting providers on their sports.

The original growth in sports betting came from the emergence of bookmakers operating in the Northern Territory, who were granted licenses to bet on sports without any requirement to enter into satisfactory financial or integrity arrangements with the sports themselves.

The lack of financial return from sports betting means a serious investment in integrity has not been prioritised by most sports. In cases where there have been suspect betting transactions concerning a particular sport, too often the controlling body has been ill equipped to investigate and ultimately address the incident. In some instances, the sport has had to rely on the police and the criminal law to investigate and prosecute the matter. This has often been a costly and protracted exercise which damages the sport, its participants, the punters and the betting product.

Another area of sports betting which requires urgent reform, relates to the disclosure of critical information to punters. HRA submits that it ought to be mandatory for sports to disclose performance related information, such as team selection changes, differing match day tactics or batting line-ups to punters.

The racing industry, as part of its commitment to integrity, ensures that full disclosure of performance related information such as injuries, form reversal, and 'tanking' (deliberately losing for a favourable longer term outcome) such as is investigated by Stewards, while changes to gear, training or race tactics must be conveyed to Stewards by participants. The Stewards then ensure the information is passed on to the public. This assures punters that they are fully informed and can place their bets with confidence. If Stewards are not satisfied that participants have been forthcoming with

¹ Racing Legislation Amendment (Racing Integrity Assurance) Bill 2009 (VIC), Second Reading Speech, 29 July 2009
pg. 4

the necessary disclosures, they will take action against the participants and if appropriate, impose penalties.

Further, here is complete transparency in the racing industry integrity activities. Swab samples and results are available to the public, while positive tests to banned substances, associated inquiries and penalties are also made public.

For sports to ignore this basic requirement highlights the naivety with which many have treated sports betting and again emphasises the need for standards to be lifted significantly.

HRA believes that betting on sports should only be permitted if strict integrity measures are enforced by an appropriately empowered and competent regulatory body. If the controlling body cannot demonstrate this ability, betting on its product should not be allowed.

2. A national regulatory regime is supported

The regulation of wagering on racing has traditionally been the domain of the states and territories. For over one hundred years, this proved successful, particularly when each State Government owned and controlled its own TAB, bookmakers were permitted to operate only when situated on a racecourse and arrangements existed between states regarding betting on each other's racing product.

The privatisation of TABs, the emergence of telephone and online betting and the changes associated with globalisation, has irrevocably altered the wagering landscape. No longer are state and territory borders relevant and the protectionist policies of past decades have gone, replaced with an emphasis on competition and free trade. The result is inconsistent regulation being imposed by states and territories, including different taxation rates. For the racing controlling bodies, the prevalence of 'free-riding' bookmakers, located in small jurisdictions, paying little or no tax to the local government and providing minimal or no return to the racing controlling bodies, has had a detrimental effect.

A national regime would not only rectify the ‘free-riding’ problem but also allow the Government to mandate a consistent approach to issues such as problem gambling, money laundering and taxation – the very issues of particular interest to the Joint Select Committee on Gambling Reform.

HRA would support the establishment of a national gambling regulator. Its powers could include:

- licensing of betting providers including adherence to strict integrity, problem gambling, harm minimisation and financial measures
- reviewing a sports capability, particularly with respect to integrity standards, to enter into arrangements with betting providers
- banning unscrupulous operators including international betting operators who do not adhere to integrity or financial standards

HRA believes, however, that even in a national regulatory system, the producer of the product – albeit the racing or sports controlling bodies – must retain the right to determine which betting providers are permitted to bet on their product and what product fee they pay the industry in return.

On the issue of whether a turnover or gross revenue fee is best, HRA strongly believes it ought to be up to the industry to determine. The role of the Government should be to ensure the controlling body has the necessary legal powers to determine the conditions on which its product is bet on, rather than to determine the type or quantum of fee to charge.

The Joint Select Committee on Gambling Reform ought to consider the benefits of a national approach to implement its social and economic reforms.

3. Wagering must continue to be exempt from the Interactive Gambling Act 2001

When it was enacted in 2001, wagering was specifically exempted from the Interactive Gambling Act (IGA). HRA supports this continuing exemption, but only on the basis it

cannot be exploited by internationally “footloose”² wagering providers. This term was used by the Productivity Commission in its 2010 report to describe the practice of bookmakers relocating their businesses away from established jurisdictions to avoid paying tax or contributing to the controlling body on whose product they are wagering.

It is essential that all betting providers which seek to profit on Australian racing or sporting events, regardless of where they are located, comply with strict integrity and financial standards. In this regard, the IGA should be strengthened to allow the blocking of ISPs from internationally “footloose” wagering providers.

HRA also recommends the IGA be amended to prohibit financial institutions from processing transactions from non-approved online gambling sites. Whilst the IGA currently provides a mechanism for regulations to be made relating to financial agreements involving illegal gambling services, to date there have not been any regulations made.

The United States Federal Government has led the way in this area, with the *Unlawful Internet Gambling Enforcement Act 2006*. The incorporation of similar provisions in the IGA would enhance Australia’s ability to ensure that punters deal with betting providers who have been approved by the appropriate regulatory body. This would ensure punters are dealing with betting providers who meet minimum integrity, harm minimisation and problem gambling standards.

4. Racing must not be disadvantaged vis a vis the other sports given its strong integrity standards, particularly in respect of ‘in the run’ or ‘spot’ betting

HRA believes that the racing industry, with its strong record in integrity, is the best placed of all product providers to manage ‘in the run’ or ‘spot’ betting. An unfair anomaly currently exists which allows this type of betting to be offered on sports, but does not allow it to be offered on racing.

Unless a sport has the ability and the resources to enforce the highest of integrity standards, as discussed above, ‘in the run’ or ‘spot’ betting should not be permitted.

² Productivity Commission 2010, *Gambling*, Report no.50, Canberra, p15.1

HRA submits that on the current evidence, the racing industry is well placed to manage this type of betting.

If a national regulator was in place, that body could determine the appropriateness of a particular sports controlling body to allow 'in the run' or 'spot' betting on its product.

5. Gambling advertising on sports should be limited to dedicated gambling channels where strict integrity measures can be enforced

HRA notes the Joint Select Committee's interest in gambling advertising including the level of gambling advertising; the display of betting odds at venues and during match broadcasts; commentators referring to the odds and the general impact of gambling on sport.

As stated earlier, racing's commitment to integrity and its direct link to wagering, places it in a different position to other sports and this applies in respect of the use of advertising and its impact on the sport.

The broadcast of wagering betting odds, the analysis of weather, gear and track conditions, movements in betting odds and commentary by racing experts about a horse's prospects in a race, are all part of the delivery of the racing product. As a result, advertising of wagering odds and information related to wagering, is strictly regulated by the Stewards. If misinformation is broadcast or suspicious comments made during a race broadcast from licensed racing participants, the Stewards will take action. The overriding concern is to ensure that the public is fully informed about a horse's chance in a race and that those connected to the horse do not gain an unfair advantage over the general public. The Stewards have even introduced rules to ensure that social media forums such as twitter cannot be used to convey misleading information.

Furthermore, when people switch on a race meeting on television, whether it be a free to air broadcast or a dedicated pay television racing channel, or a dedicated racing radio station, they do so fully aware that they will have betting odds and updates provided to them. This is a conscious decision on the part of the racing enthusiast. The same cannot be said for viewers – often families – watching a cricket, AFL, rugby or Brownlow Medal

broadcast.

The broadcast of betting odds during a sporting event appears to be no more than a revenue raising exercise for the television or radio station or the individual commentators. Of particular concern is the lack of regulation by the sport as to the nature of the information which is communicated to the viewer, and when it is conveyed.

A vulnerable and spontaneous punting public who are motivated by the design of such information are then met with special deals such as matched bets or bet bonuses, particularly when setting up new accounts.

Of course corporate bookmakers rely on losers to make their profit, rejecting the bets of a customer who becomes too successful.

When considering this issue, thought should be given as to the demographic of the audience. The advertising of betting during sports coverage for example has an entirely different demographic to that of racing coverage. No doubt a significant proportion of under 18's watch sporting events and to have betting odds provided by their "heroes" or commentators sends a message which can quite conceivably assist in the development of the next generation of problem gamblers.

Also of increasing concern is the lack of regulation over the types of bets which sports betting providers can offer and advertise, and the absence of formal approvals being required from the sporting body. A recent example of this was from global online gambling operator, Sportsbet³, which offered a promotion on the Round 17, AFL Carlton v Collingwood match (17 July 2011). The offer provided that any losing bet placed on the match by a punter would be refunded in full if the Carlton captain and dual Brownlow medallist, Chris Judd, obtained the most possessions in the match.

It is difficult to see how this promotion could possibly be in the best interests of the AFL or indeed the player concerned. In such a situation, should the player's performance be of below par standard, or if he is subjected to an unusual occurrence during the match,

³ www.sportsbet.com.au "Massive Judd Refund"

or injury, questions could potentially be raised about the integrity of the match, or even the player concerned.

HRA submits that advertising on any type of gambling should be limited to dedicated television or radio programs, where the viewer or listener is aware there will be betting odds and gambling related information broadcast.

This would enable information to be strictly regulated by a robust integrity regime. In addition, sports betting providers should only be allowed to offer and advertise bets which have been approved by a competent sport controlling body.

Conclusion

Unlike other sports, the racing industry is dependent on wagering. As a result, the industry demands and commands the highest standards of integrity. It achieves this by devoting substantial resources to integrity and by providing broad powers to Stewards.

Given the increase in gambling on sports (other than racing) in recent years, it is imperative that the high standards of integrity expected and achieved in the racing industry are replicated in the other sports. If sports are to benefit from gambling, they must increase their commitment to integrity. If they cannot do this, betting or gambling advertising, should not be allowed on their sports.

The creation of a national gambling regulator could ensure that minimum standards are met by both the sporting controlling bodies and by the betting operators.

A national regulatory body would also allow the Government to promote measures to best address any concerns arising from the social and economic impacts of gambling.

HRA encourages the Joint Select Committee on Gambling Reforms to use its current review of the IGA to implement these important reforms.