

SUBMISSION [FROM PETER MAIR] TO THE JOINT SELECT COMMITTEE ON GAMBLING REFORM / THE ADVERTISING AND PROMOTION OF GAMBLING SERVICES IN SPORT

ADVERTISING A FAIR GO FOR SURE

Summary

Advertising gambling services to adults is more or less benign but should show restraint consistent with the risks of otherwise encouraging financially reckless personal behaviour.

Public policy issues about gambling advertising are, in large part, also about the integrity of the events on which bets are placed and the prospects for regulatory monitoring to detect patterns in wagering outcomes suggestive of unfair tactics.

Promoters advertising gambling services have an obligation to protect their punter customers -- ensuring that punters bet in the confident expectation of a fair go and that the outcome will be consistent with an event conducted and played fairly.

One corollary is that gambling promoters also have an obligation to refuse to take (and to refund) bets placed in circumstances reasonably suspected in advance to be biased in favour of an insider clique and against the interests of most punters. In some circumstances one consequence is that all bets on an event would be declared 'off' and all moneys refunded.

Unfortunately, however, promoters have conflicting private interests – bookmakers prefer their customers to lose – and that trade-off also needs to be monitored and managed, especially if bookmakers are party to inside information.

An effective regulatory framework is most likely to be achieved with a national clearing house monitoring betting activity in real time. Applications approved to broadcast advertisements for gambling services could be conditional on promoters operating within a national regulatory framework funded by levies on the turnover of registered gambling operators.

Additionally, promoters authorised to broadcast advertisements could be required to subscribe to an ethic of demonstrably fair play and, beyond that, to also actively monitor betting activity to detect, and report, irregularities indicative of fraud and unfair insider trading. Apparently the betting exchange, Betfair, does this now.

Among others, the Australian Stock Exchange, the Australian Tax Office and AUSTRAC, for example, use automated technology to routinely scrutinize share trading transactions, declared income and financial transactions for evidence of irregularities. It is a short step to see the sense of an independent national regulatory body similarly having responsibility for monitoring the integrity of market activity for gambling services.

Preamble

This submission accordingly asks the select committee to endorse a proposal for the conditional licensing and associated regulation of gambling promoters seeking authorisation to advertise on the broadcast media.

A particular focus of this submission is horse racing – where gambling is integral – but the proposed regulatory framework has general application.

I take for granted an expectation that the committee will generally propose fairly tight restrictions on the broadcast promotion of all gambling. This, not least, to arrest the risk that not to do so would endorse an emerging culture of gambling on sports, with wide appeal to families, traditionally not mediums for betting. As well some people with problems become problem gamblers and that risk needs to be recognised and managed, including by promoters well placed to identify and assist the punters with problems.

My submission does not propose that the broadcast of advertisements inviting gambling be banned outright. The proposal, rather, is that authorisations for broadcast advertising be conditional on promoters agreeing to codes of practice and to otherwise cooperate with the monitoring and regulation of gambling operations.

Australian racing – the management of integrity

Betting is the essence of horse racing entertainment as is the broadcast of related ‘advertising’ commentary on the odds for races in real time.

Even so, it is not likely that racing gambling will be a particular source of problem gambling – these days only some 7% of the adult population bet on racing regularly and, in Australia and more generally, racing is ever less popular.

That said the loss of caste for racing is, in part, indicative of unresolved integrity management issues now needing to be addressed independently of the industry.

In short, there has always been a well-founded expectation that those associated with horse racing (including bookmakers) might manipulate race outcomes for personal financial advantage. As things stand this risk is not being addressed or managed intelligently.

(a) searching under the street light

The recent well-publicised kerfuffle about racing integrity has unfortunately put the regulatory emphasis noisily and almost exclusively on the use of prohibited substances and race-day medication.

This is unfortunate because the incidence of serious and deliberate misbehaviour associated with proscribed substances and treatments is very low. This, because the racing industry administrators have the authority, technology and processes for detecting substance abuse in horses – any licensed industry participants found guilty of deliberate and material substance offences affecting race outcomes would most likely be disqualified ‘for life’.

My concern is that this regulatory emphasis on substance abuse is apocryphally akin to looking under the street light for lost keys on a dark night. It is one place to look but not usually the best place.

(b) other strategies apparently ignored

Whatever, there are other tactics used for manipulating race outcomes that, apparently, are neither detected nor looked for with any real sense of purpose.

The outcome of horse races may well be uncertain but the inherent uncertainty provides convenient cover for deliberate deceptions intended to make some win (and loss) outcomes more certain than the disclosed form and fair market odds would suggest.

Necessarily, the apparently available ‘evidence’ of such deceptive manipulation is largely circumstantial and anecdotal and typically buried by the industry under a raft of cliché-ridden rationalizations that are broadly synonymous with the ‘great and glorious uncertainty of racing’.

Such an accommodating official attitude is of course absolute rubbish and the bland acceptance of the consequences of deceptive tactics, and deliberate regulatory forbearance, a sad reflection on an iconic Australian industry. It is also a sad reflection of an entrenched culture of permitted unfairness that in turn becomes an inducement to others to engage in deceptive behaviour.

One bottom line is the invitation open to exploit ordinary TAB punters and owners of racehorses. While destined to lose in any event, when providing the costly entertainment and funding for the industry, the contribution of both is disdained when an industry culture allows insiders to unfairly plunder both prize-money and tote pools.

The history of racing is littered with apocryphal stories of deception at best politely excused, ex post, as ‘setting a horse to win a particular race’ but at worst revelling in the ‘financial windfall’ associated with disguising the disclosed ability of a horse before it wins at long odds. The industry considers this behaviour acceptably characteristic.

‘Buyer beware’ counsel punters to be wary but because most racing is run fairly and outcomes are consistent with disclosed form, punters are deceived when the usually reliable published form guides are corrupted. There is misbehaviour that needs to be addressed.

Following the trail of money to the winners

Irrespective of the nature and extent of unfairness in gambling on racing or anything else, one certainty is that those planning to take advantage of others unfairly will place bets to convert the deception to the undue enrichment of ill gotten gains.

In racing, it is less certain that even those winning substantially but apparently ‘surprisingly’ will be found to be parties to a deception, on the day.

One regulatory challenge, then, is about finding, over time, patterns in the betting of insiders winning substantially but surprisingly. Additional evidence of ‘deception’ would include any otherwise unexpected restraint in the same insiders betting on the lead up performances of a horse later winning ‘surprisingly’.

Even then, however, a reasonable inference of a pattern of manipulation may not become overwhelming until it is aligned, over time, with similar evidence of other surprising outcomes that, taken together and on the balance of probabilities, are not otherwise credible.

What is surprising is that the footprints pointing to the manipulation of race outcomes are not routinely tracked and collated – put differently, why has there been no prosecution of apparent form reversals that could have been clearly tied to patterns in the betting activity (and not betting activity) of those with an inside advantage and an apparently uncanny prescience?

Monitoring and managing racing gambling.

The racing industry is well aware of the entrenched culture that compromises the integrity of race outcomes and related betting – only the stewards seem to be deliberately ‘blind’ to the obvious staring others in the face.

A limited litany of the compromised culture includes:

- the well known fear-of-insiders underlying the reluctance of bookmakers in some states to put their prices up and, when doing so, posting odds that are 30% or more worse for punters than the odds that would balance bookmakers books;
- corporate bookmakers, basking in a soft market where their TAB competitors routinely take almost 20% of betting pools, are quick to effectively close the accounts of ‘winning’ punters suspected of betting with the benefit of inside information (not shared with the bookmaker);
- the entitlement of recreational punters to a fair go is routinely compromised by insiders and professionals betting big at the last minute into TAB pools. The weight of late money crushes dividends paid on the ‘market movers’ expected to win and inclined to do so with a frequency suggesting that some know much more than others. This advantage of professionals is compounded by the TABs rebating 5% of large bets, further eroding the balance of outcomes as between well-informed ‘professionals’ and other TAB punters betting in the dark;

- the sometimes uncontained excitement of winning connections that, post race, bubbles over into careless disclosure of prior plans, privately well founded expectations and erstwhile secret explanations of their confidence – only the stewards do not read between the lips;
- the alacrity with which stewards penalise jockeys substantially for not allowing a horse to run on its merits, but never inquire into why jockeys, needing to ride to live, would independently take it into their head pull a horse up and lose (one cannot rule out that a jockey encouraged to pull a horse might fear for his career if heard to say so).

.....put differently, betting on the races is not monitored and managed to be fair for most TAB punters even for races run on Saturdays for mature horses with well disclosed form. The routinely compromised integrity of the racing industry is apparently more evident to the punters, than the racing stewards, and the manifest forbearance of the stewards is inexplicable. Seemingly no one wants to know when stunts are pulled.

Making the integrity (or not) of racing more transparent

A national body appointed to monitor the integrity of betting markets could, for starters, oversee the collation and publication of summary indicators of market integrity as disclosed by betting activity – especially the timing and relative value of bets placed – and the differential success of bets placed with different marker characteristics.

The case for such a national regulator monitoring betting activity would be ever more evident if these preparatory steps were taken in association with state governments and registered gambling operators. For example, operators presently licensed to bet on horse racing, especially TABs with state protected monopoly rights, would collect and publish, from their book on each race, a set of summary statistics relating dividend payouts to bets of different sizes placed at different times relative to the start of a race.

One expectation is that, for betting into the TAB tote pools, large bets placed late would be likely to win more (lose much less) proportionately than small bets placed early (especially if those large bets also triggered rebate payments).

The expectation that punters placing big bets would lose less also stands for betting with bookmakers -- but big bets placed late with bookmakers may not be as ‘successful’ as big bets placed early and taking the best odds in opening markets on the ultimately favoured horses.

A sharper level of summary disclosure would focus on bets placed on winning horses – and any inference that the timing and size of those bets might suggest a surprising prescience.

Beyond horse racing one might expect much the same bias in summary statistics for sports betting -- professionals betting big would lose less proportionately than TAB punters betting small.

While there is nothing particularly insightful in the expected revelations, such routine disclosures would sharpen punters perceptions of circumstances where they are very unlikely to win.

More generally, it would be rare for any fire to be found after the presence of apparent smoke cleared – especially so if would be plotters were more likely to be discovered. Some collection and intelligent investigations of historical evidence still available may be salutary.

Likely riveting disclosures would relate to any concentration of large and late betting activity on outcomes that were ‘surprisingly successful’ -- to everybody except perhaps those cleaning up the money.

End piece

A national commitment to the automated collection and transparent disclosure of summary indicators of the integrity and quality of racing and sports betting events would be a step forward welcomed by punters. Not least punters might be more confident of the integrity of events they are invited, by advertising, to bet on

Gambling environments are typically rife with fanciful rumour and innuendo that are not currently worked over to first, openly discard the irrational from the insightful, and next to explore the apparently insightful.

Gambling rorts based on unfair insider trading and more deliberate deceptions would be more evident with the benefit of summary statistical indicators prompting the collation and investigation of more comprehensive data about who placed what surprisingly winning bets.

Advertising the results of those inquiries would protect gambling entertainment.

[Peter Mair 21 February 2013]