

SUBMISSION TO THE

SENATE STANDING COMMITTEES ON

ENVIRONMENT AND

COMMUNICATIONS

INTERACTIVE GAMBLING AMENDMENT

(SPORTS BETTING REFORM)

BILL 2015

SUBMISSION OF
HARNESS RACING AUSTRALIA
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Introduction

Harness Racing Australia (HRA) welcomes the opportunity to provide a submission with regards to the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015 to the Senate Standing Committees on Environment and Communications.

HRA represents more than 48,400 individuals who are involved in the process of producing and preparing standardbreds for racing in Australia. Of these, there are 24,000 owners of standardbred racehorses who provide significant capital investment into the industry, over 5,900 trainers and drivers and more than 5,500 breeders. The process of producing and preparing standardbred racehorses to compete in the industry is worth more than half a billion dollars in direct expenditure alone to the Australian economy. The majority of this is spent in regional Australia.¹

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 NRL, AFL game or cricket match can go ahead without betting, and its participants are no worse off, the racing industry - and its tens of thousands of jobs - would not exist without wagering.

The racing industry's unique relationship with wagering means that the views of HRA with regards this Amendment are predicated on ensuring our business is sustainable and continues to provide meaningful employment for the tens of thousands of Australians who depend on the industry for their livelihoods.

This submission complements previous submissions by HRA made variously to the Productivity Commission Inquiry into Gambling (2010), the Joint Select Committee on Gambling Reform (inquiry into interactive and on-line gambling advertising), a review of the *Interactive Gambling Act 2001* undertaken by the then Australian Government Department of Broadband, Communications and the Digital Economy, a NSW Select Committee on Gambling and the recent Department of Social Services review of illegal

¹ Size & Scope of the Harness Racing Industry in Australia, IER Pty Ltd, May 2013.
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offshore wagering and focuses 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 ‘micro’ betting
5. Gambling advertising and pricing/odds updates on sports should be limited to dedicated channels or programs where strict integrity measures can be enforced

HRA encourages the Committees to keep in mind the unique position of the racing industry when considering any Interactive Gambling Act 2001 (IGA) reforms - not just those relevant to this Amendment.

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 harness racing industry understands and accepts 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, all 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 as free from corruption or malfeasance as possible.

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.²

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 wagering providers, rather than the sports themselves. In fact, many sports appear to have had little or no influence over the betting, or types of betting options, or combination of betting options which are offered by the sports betting wagering providers on their sports.

Serious investment in integrity has not been prioritised by sports, with many relying on the sports betting wagering providers themselves to provide bet monitoring services and relay suspect transactions or activities to the sports control body. One may ask what incentive the sports betting wagering provider has to disclose such information given the discomfort and brand damage the publicity may cause - when it can simply ban future betting from suspect or successful accounts.

² Racing Legislation Amendment (Racing Integrity Assurance) Bill 2009 (VIC), Second Reading Speech, 29 July 2009
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Another area of sports betting which requires urgent attention and reform, relates to the advanced 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, detailed and genuine injury reports, differing match day tactics or batting line-ups to punters in advance of the event.

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) is investigated by Stewards, while changes to gear, training or race tactics must be conveyed to Stewards by participants within the specified advanced timeframes. 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 the necessary disclosures, they will take action against the participants and if appropriate, impose penalties.

Further, there is complete transparency in the harness racing industry integrity activities. All pre and post race swab samples and results are available to the public, while positive tests to banned substances (including out of competition testing), associated inquires 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 sports 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, with bookmakers 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, online and smart phone betting and the changes associated with industry globalisation, has irrevocably altered the wagering landscape. No longer are state and territory borders relevant and the protectionist policies of past decades have now long gone, replaced with an emphasis on competition and free trade. The result is often inconsistent regulation being imposed by states and territories, including different taxation rates.

A national regime could not only assist in countering the often highlighted 'free-riding' problems of illegal wagering providers, but also allow the Government to mandate a consistent approach to issues such as problem gambling, money laundering and taxation.

HRA has long supported the establishment of a national gambling regulator, and as proposed in this Amendment, an *Interactive Gambling Regulator*. Its powers could include those proposed as well as:

- licensing of betting providers including adherence to strict integrity, advertising, problem gambling, harm minimisation and financial measures
- reviewing a sports capability (and this includes racing), 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 the required 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
- which bet types they offer
- what product fee they pay the industry in return.

The Senate Committee ought to consider the benefits of an expanded national approach to achieve the meaningful social and economic reforms proposed.

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”³ 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.

While this particular issue is not dealt with within the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015, it could be.

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 ISP’s 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

³ Productivity Commission 2010, *Gambling*, Report no.50, Canberra, p15.1
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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 'micro' 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 'micro' betting.

Unless a sport has the ability and the resources to enforce the highest of integrity standards, as discussed in previous sections above, 'in the run' or 'micro' betting should not be permitted. HRA submits that on the current evidence, the racing industry is well placed to manage this type of betting.

If a national regulator were established, that body could determine the appropriateness of a particular sports controlling body to allow 'in the run' or 'micro' betting on its product. But in any event, harness racing must not be disadvantaged vis a vis other sports in respect of 'in the run' or 'micro' betting given our strong integrity standards.

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

HRA notes the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015 interest in restricting the broadcast of wagering service advertising, assuming this includes gambling advertisements; the display of betting odds during match broadcasts; and commentators referring to the odds of certain outcomes. HRA submits this could be extended to include at venues themselves and also for sports programs and internet sites designed to preview, review and discuss sports in general - including digitally broadcast programs.

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 (and do) 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 associated broadcast such as the Brownlow Medal.

The broadcast of betting odds during a sporting event appears to be no more than a revenue raising exercise for the television or the radio station. Of particular concern is the lack of self-regulation by wagering operators, sporting codes and broadcasters as to the nature of the advertising and 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 on their computer, tablets or mobile handsets – including matched bets or bet bonuses, particularly when setting up new accounts.

Of course corporate bookmakers rely on losers to make their profit, increasingly rejecting the bets of customers who become 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 related programs - and to have betting odds provided by their "heroes", recently retired legends or commentators sends a message which can quite conceivably assist in the development of the next generation of problem gamblers.

HRA submits that gambling advertising should be limited to dedicated television or radio programs, where the viewer or listener is aware and expecting that 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 betting types/options 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 improve 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 supports many components of the Interactive Gambling Amendment (Sports Betting Reform) Bill 2015 and would welcome the opportunity to reinforce these views by addressing the Committee directly should the opportunity arise. These are very important issues indeed.

End of Submission.