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Dear Paul

INDEPENDENT ASSESSMENT BY GOVERNMENT APPOINTED MEMBERS
– BOOKMAKERS' COMMITTEE RESPONSE

Thank you for sight of the Independent Assessment by Government Appointed Members (GAM), dated 28 Sep 10 in which the Bookmakers' Committee is invited to revisit a variety of topics to assist GAM understanding. Prior to addressing the points raised on an individual basis, I should like to acknowledge the assurance provided within the Independent Assessment (IA) that GAM shall act independently when considering matters in respect of the 50th Levy Scheme.

Thresholds. 'Including the latest estimate of how many betting shops would close if the current recommendations on thresholds were not accepted (we note the comments by the Bookmakers' Committee that other factors, for example fees charged by the Gambling Commission, account for existing closures and that the total number of betting shops had increased in 2009 – see report of thresholds Working Party)'.

I should wish to address first, the statement that 'the total number of betting shops had increased in 2009 – see report of thresholds Working Party'. I believe that the figures used in the HBLB Thresholds Paper, 46th Scheme (8243) and 47th Scheme (8358) were derived from one particular set of HBLB information. Using the same information source, which I acknowledge is a 'living' document, I believe the picture is now 46th Scheme (8297), 47th Scheme (8398) and 48th Scheme (8353). I note a number of FODs outstanding, 46th Scheme (34), 47th Scheme (65) and 48th Scheme (236) and that these may lead to further refinement of the data for the 46th-48th Levy Schemes. **(Table 1, Figure 1)**

I note also a second HBLB information source which may provide greater clarity in respect of the number of shops open at the end of each Scheme; 46th Scheme (8772), 47th Scheme (8833) and 48th Scheme (8627). Notwithstanding the FODs outstanding mentioned above, this information reflects a significant reduction in the number of LBOs. In light of this evidence it is entirely reasonable to reassert the BC position that the number of LBOs is reducing. **(Table 2, Figure 2)**

Table 1: Shop Analysis Data for 46th- 48th Levy Scheme¹

| Levy Scheme | Date | Shop Analysis Data | | |
|-------------|---------|------------------------------|-------------------------------|-----------------------------|
| | | Shops Open Throughout Scheme | Shops Open at Start of Scheme | Shops Open at End of Scheme |
| 46th | 07 - 08 | 8297 | 8658 | 8767 |
| 47th | 08 - 09 | 8398 | 8767 | 8847 |
| 48th | 09 - 10 | 8353 | 8847 ¹ | 8627 ² |

Note:

1.From previous line.

2.From Table 1.

Figure 1: Shop Analysis Data for 46th- 48th Levy Scheme²

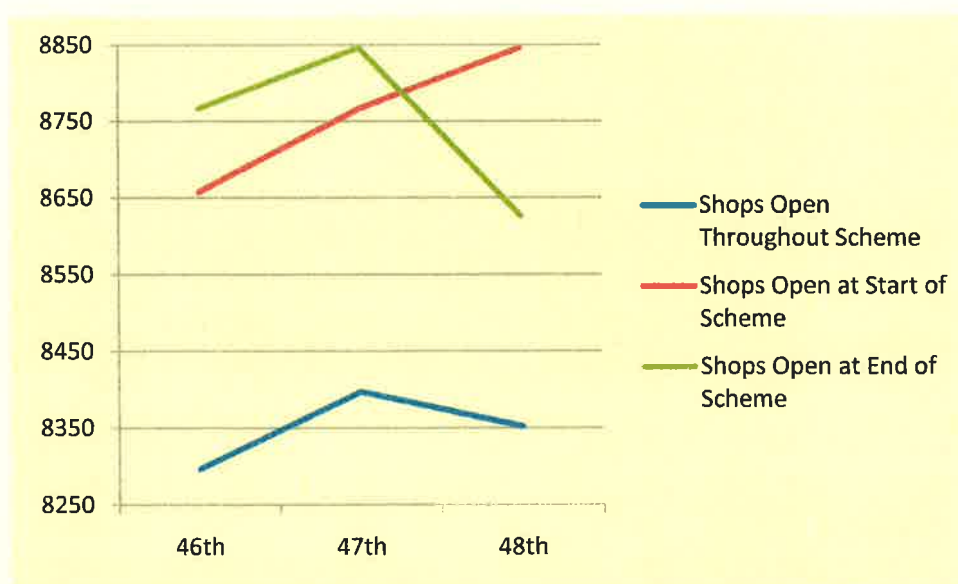


Table 2: Shop Banding Data for 46th- 48th Levy Scheme³

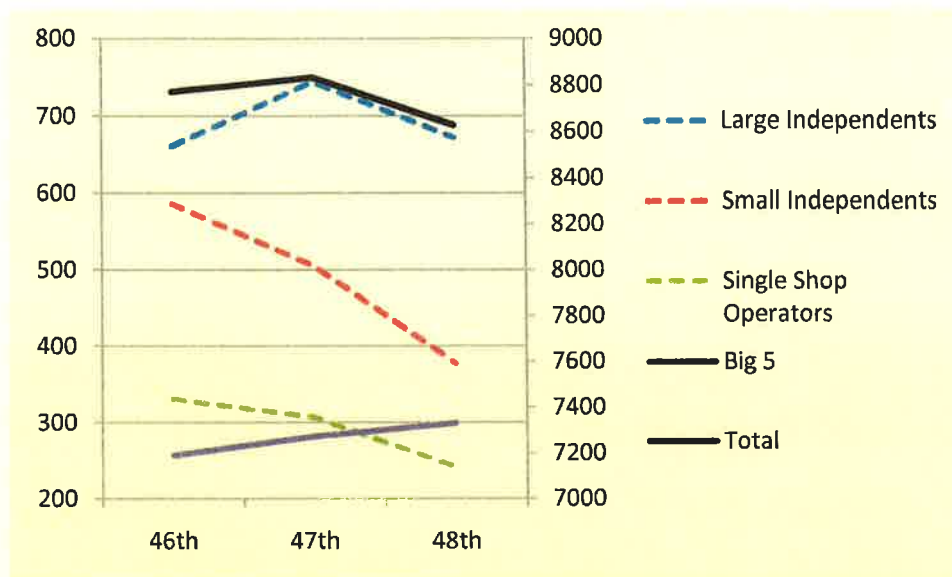
| Levy Scheme | Date | Shop Banding Data Shops Open at End of Scheme | Big 5 | Large Independents 16-300 shops | Small Independents 2-15 shops | Single Shop operators |
|-------------|---------|--|-------|------------------------------------|----------------------------------|-----------------------|
| 46th | 07 - 08 | 8772 | 7193 | 662 | 586 | 331 |
| 47th | 08 - 09 | 8833 | 7275 | 745 | 506 | 307 |
| 48th | 09 - 10 | 8627 | 7333 | 673 | 379 | 242 |

¹ Source: HBLB

² Ibid.

³ Ibid.

Figure 2: Total shops open at the end of scheme (46th- 48th Levy)⁴



The reasons for the reduction in LBOs are complex and therefore I consider that the IA statement 'we note the comments by the Bookmakers' Committee that other factors, for example fees charged by the Gambling Commission, account for existing closures', whilst correct in part, fails to provide the full picture. Existing closures are a result of the significantly increased cost to bookmakers' of operating LBOs, the significant increase in TV picture costs as a result of the introduction of TurfTV and the significantly reduced relevance to the betting public of British horseracing. Such reductions in the number of LBOs shall likely continue at a similar rate if the 50th Levy Scheme reflected a 'no change' position from the 49th Scheme. The changes recommended by the BC in the Recommendations for the 50th Annual Levy Scheme would perhaps go some way to arresting this decline by offsetting the punitive costs of purchasing television pictures. The result of this would be that some LBOs that would have closed will remain viable, with the resultant benefit to Levy income.

As the BC has previously identified, the forecast reductions for CY 10, based on 'no change' to the Scheme and therefore not subject to any 'Levy generated' reductions, is a likely reduction of some 72 shops with a further 400 identified as 'highly vulnerable' based on the KPI of a reduction in contracted TV coverage, which may be an early indicator of further closures.

In respect of how many betting shops may close if the BC recommendations were not accepted; this would depend on what changes were applied to the current structure. The BC is not at present minded to amend its recommendations in respect of thresholds and whilst in no way supporting or endorsing a change to the recommendations extant, the Bookmakers' Committee has engaged RS Business Modelling (RSBM) to provide modelled forecasts of various scenarios in order to assist the GAMs in their deliberations. **Figure 3** represents a reasonable hypothesis, generated by RSBM and contained within the report provided to the BC.

At the request of the BC, RSBM has modelled the effect of imposing a headline rate of 10.0% without abatements, the effect of which is outlined in the RSBM report and précis below.

When compared against the 'Base' year:

- The 4 most vulnerable LBO groups would experience a reduction in average profits per shop of between 4% and 39%.

⁴ Ibid.

- It would be reasonable to assume that 15% of all Independents, 7.5% of B5 Very Small Shops and 2.5% of B5 Small Shops would close.
- 309 shops would close.
- This in addition to the 72 shops expected to close under 'rollover' conditions.
- A total of 381 shops would close.

Figure 3: Reduction in LBOs due to imposition of 10% headline rate with no abatements⁵



As the GAM are aware, thresholds have been in place, in one form or another, throughout the existence of the levy. Legal advice provided to the BC supports the view that LBOs operating at below a certain level of gross profit, which have received the benefit of thresholds in the past, have a legitimate expectation that they should continue to benefit in the future. Furthermore, the threshold structure is a fundamental mechanism built into the levy in order to comply with the 1963 Act. As set out in further detail below, section 27(2) requires bookmakers *“to be divided for the purposes of the levy into different categories”* and for the amount payable by way of levy *“to be determined by reference to the category into which he falls”*. In the event that the Secretary of State removes the thresholds via a Determination so that these requirements are not satisfied, the BC will have little alternative but to bring proceedings for judicial review.

Categorisation. *‘The Bookmakers’ Committee’s further advice on how the ability to categorise different bookmakers in a Levy scheme might be used better to reflect the differing costs, and thus capacity to pay, of different classes of bookmakers.’*

As mentioned previously, the Betting, Gaming and Lotteries Act (1963) addresses ‘categorisation’ in that ‘Any such scheme shall include provision –’

- ‘b) for bookmakers to be divided for the purposes of the levy into different categories;
- c) for the amount, if any, payable by way of the levy by any particular bookmaker to be determined by reference to the category into which he falls;’

It is evident that categorisation can, in respect of any particular Levy Scheme, be applied both horizontally and vertically. Horizontally, addresses the amount payable by ‘type’ of bookmaker and

⁵ An Analysis of GB Horseracing Levy Scenarios, RSBM Ltd, October 2010

the vertical addresses the amount payable 'within' a particular element. As such, utilising both horizontal and vertical categorisation to address the amount a particular bookmaker should pay in levy is addressed by each individual scheme.

The BC has, within its Recommendations for the 50th Levy Scheme, reflected the differing capacity to pay of different categories of bookmaker whether viewed horizontally or vertically. I should however, wish to emphasise the particular importance to the Levy of vertical categorisation applied to LBOs and the protection provided therein by the use of the abated threshold mechanism. Since inception, each Scheme has included the means by which operators of less profitable shops are afforded relief. The importance of LBOs to the levy can not be overstated, nor can the negative effect of removing such relief as is extant.

In any event, competition between LBOs operates at a local level. This has been consistently recognised by the various competition authorities that have examined this issue. For this reason, any attempt to change the basic characterisation of LBOs to reflect anything other than the existing mechanism may prevent, restrict or distort competition on the local markets in which LBOs traditionally compete. The BC is therefore strongly opposed to the ownership based schemes that have been proposed as a way of categorising different bookmakers to reflect the differing costs, and thus capacity to pay, of different classes of bookmakers. Indeed, before any type of structural change is made to the existing mechanism it would be necessary to undertake a detailed assessment of the adverse competitive impact of the proposed change.

The BC sees no reason at this stage to change a mechanism whose current structure is the most appropriate available and to that end, we do not believe it is possible improve the current categories and thus to 'better reflect the differing costs, and thus capacity to pay, of different classes of bookmakers.'

Foreign Racing. 'The effect on capacity to pay of including foreign racing in the Levy base.'

The Bookmakers' Committee rejects in the strongest terms possible, the notion that Levy should be paid on anything other than British horseracing. For British horseracing to be supported by means that fall out-with both its control and influence is illogical and entirely absurd.

We believe that this notion has, once again, been introduced in an attempt if not to make claim against an area that is out-with the remit of Racing, HBLB, Government and the law, to support a future attempt at increasing the amount payable on British horseracing as a 'compensation' for not collecting Levy on overseas racing.

At the request of the BC, RSBM has modelled the 'equivalent effect' of charging levy on overseas racing but applying it to only British horseracing. The effect is that of imposing a headline rate of 12.5% with abatements and 10.7% without abatements, the effect of which is outlined in the RSBM report and précis below.

When compared against the 'Base' year:

- The 4 most vulnerable LBO groups would experience a reduction in average profits per shop of between 5% and 43%.
- It would be reasonable to assume that 15% of all Independents, 9.5% of B5 Very Small Shops and 2.5% of B5 Small Shops would close.
- 332 shops would close.
- This in addition to the 72 shops expected to close under 'rollover' conditions.

- A total of 404 shops would close. (Figure 4)

Figure 4: Reduction in LBOs due to imposition of 10.7% headline rate with no abatements⁶



Figure 5: Reduction in LBOs due to imposition of levy on overseas racing with no abatements⁷



Should a situation arise, where overseas horserace betting became 'leviable' co-incident with the removal of thresholds when compared with the 'Base' year:

- The 4 most vulnerable LBO groups would experience a reduction in average profits per shop of between 7% and 70%.
- It would be reasonable to assume that 17.5% of all Large & Small Independents, 20% of Single Shop Operators, 11.5% of B5 Very Small Shops and 3.5% of B5 Small Shops would close.
- 409 shops would close.

⁶ Ibid.

⁷ Ibid.

- This in addition to the 72 shops expected to close under 'rollover' conditions.
- A total of 481 shops would close. **(Figure 5)**

As the GAMs are aware, the issue of whether levy should be paid on foreign racing has been debated at considerable length. Legal advice provided to the BC is clear that the inclusion of foreign racing in the levy base is inconsistent with the 1963 Act. Foreign racing was not available to British punters at the time the Act was conceived nor was it ever envisaged that foreign racing would form part of the levy. The purpose of introducing the levy was to provide a means of compensating British racecourses for the loss of attendance following the legalisation of off-course betting shops in 1961. This clearly has no connection with foreign racing either in the past or present.

Levy Basis. 'A reversion to a turnover-based Levy.'

We note that this is the subject of a paper submitted to HBLB by Racing and shall combine our response to this question within a response to Racing's 'Turnover' paper.

Betting Exchanges. 'Whether a different rate of Levy payment from betting exchanges would be appropriate, without prejudging the outcome of the present consultation which concerns the question of whether certain users of betting exchanges should be regarded as leviable bookmakers under the legislation.'

The BC is aware of the ongoing consultation initiated by HBLB and no member of the Committee has made any proposal to the Committee in respect of changing the 'rate of Levy payment from betting exchanges'.

The Bookmakers' Committee will meet at 1100 hrs on 29 Oct 10. It will, of course, decide whether to submit revised proposals. My impression from informal discussions is that this is unlikely unless the Committee is given a firm indication from you of the precise proposals that you think would command the necessary majority of the Levy Board.

Yours sincerely



PP **Will Roseff**
Chairman
For and on behalf of
The Bookmakers' Committee

22 Oct 10

Copy to: Douglas Erskine-Crum