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*Dear Paul,*

**'Racing's Initial Critique of the Bookmakers' Committee's Recommendations'**

I should like to thank the Horserace Betting Levy Board (HBLB) for sight of 'Racing's Initial Critique of the Bookmakers' Committee's Recommendations'. Having reviewed the document I feel it is appropriate to respond on behalf of the Bookmakers' Committee (BC) and provide a level of balanced clarity in respect of the issues raised. As you will appreciate, many of the points raised within the document have been addressed in the BC response to Racing's submission. In the interests of brevity I shall not address every single point of contention, factual error or disagreement as there are many and to do so would be to re-state the BC position of previous submissions; that is perhaps best left for another day. Suffice to say that I am deeply disappointed by Racing's critique, their selective and subjective view of historical and factual information, and the continued attempts to introduce for discussion, points that lie well outside this or any other Levy Scheme. The majority of Racing's comments appear aimed more towards 'muddying the water' rather than addressing the issues at hand in respect of the 50<sup>th</sup> Levy Scheme.

Racing's assertion that the BC is 'required' to respond to its submission to the HBLB is factually incorrect, as is its assertion that the BC is not 'properly committed' to the new process. Under the new process the BC is 'invited' to respond to Racing's proposals, including taking into account any specific points made by the independent Government Appointed Members and the Chairman of the Tote. In the event, none were forthcoming and, after appropriate consideration and the completion of reports by professional advisors a response was submitted to the HBLB. As no time limit for this response exists, is agreed, or implied under the new process, the actions of the BC were entirely reasonable. Further, the BC is 'asked to make their Formal Recommendations to the Board as soon as is practicable and will use best endeavours to achieve this by 30th June'; the BC submitted to the HBLB its recommendations for the 50<sup>th</sup> Levy Scheme on 14<sup>th</sup> July 2010, entirely within its obligations bounded by statute and significantly earlier than has previously been the case. In addition, the BC has engaged fully with the Government Appointed Members (GAM)/Deloitte consultation process and provided a plethora of other information and assistance. That Racing perceives the BC recommendations document as narrow 'both in scope and analysis' is irrelevant. Further, that Racing states that the BC has ignored elements in arriving at its recommendations is again factually incorrect. In generating its Recommendations, the BC considered all relevant aspects.

Racing's criticism of, in their view, a failure by the BC to address what it terms and perceives as its 'reasonable needs' or a 'reasonable return' is, once again, an attempt to draw the debate into the realm of

‘smoke and mirrors’. It is clearly impossible for the BC to assess accurately what Racing terms and perceives as its ‘reasonable needs’ based on the quality of information provided by Racing and the lack of a credible business case. It is however clear to all involved in either Betting or Racing, that it is an anachronism that Racing’s ‘needs’ are not met by appropriate internal distribution of all of its revenue streams. In respect of what Racing terms a ‘reasonable return’, the BC believes that the total amount of funds transferred from bookmakers to Racing now exceed what can be defined as reasonable, a point reflected in the BC recommendation for the 50<sup>th</sup> Levy Scheme.

You will of course be very familiar with the respective positions of the BC and Racing on many areas of contention and have received from the BC through our respective submissions, our position on the relevance of all of these areas to the agreement or determination of a Levy Scheme; I shall therefore not revisit them here in detail. It is however of note that representations made by Racing, many of which have been presented before, continue to fail to gain traction and inclusion within a Levy Scheme for a variety of reasons. The BC position is reasonable and commercially, morally, philosophically and logically correct; perhaps more importantly, it is totally justifiable in law; that Racing believes the contrary is regrettable. Racing appears either unwilling or unable to accept that certain issues are, despite their aspirations, out-with this or any other Levy Scheme that may be agreed between the HBLB and the BC.

Similarly, discussion of the relevance of both the 42<sup>nd</sup> and 47<sup>th</sup> Levy Schemes is an area where both parties appear to hold contrary and mutually exclusive positions. As, ultimately, their respective merits and individual relevance will matter to only one person, that individual being the Secretary of State should a Determination be necessary, the point at this stage is moot.

It would be remiss of me not to reject totally the preposterous claim by Racing that ‘Betting’ has ‘reneged’ on an agreement in 2000 between Government and major bookmakers in respect of moving internet betting operations back on-shore. The two companies involved invested significant sums in the repatriation of their businesses in 2001, however, when the anticipated proportionate regulatory and fiscal regimes to create an environment in which the industry could flourish did not materialise, they reluctantly reversed those decisions in order to remain competitive with other providers in the global market place.

The BC does acknowledge that inclusion of some elements of the supporting work provided by Ernst and Young has resulted in an element of confusion. The BC has taken measures to resolve this and E&Y shall, in the near future provide supplementary work to clarify their initial findings. This report shall of course be provided to the HBLB at the earliest opportunity. The BC further accepts that its Recommendations submission contains occasional inadvertent misuse of phrases/words in respect of TV/media rights/costs. This was addressed in the response to Racing’s submission and shall be accommodated in the supplementary work produced by E&Y.

The basic fact is that Racing has continued to receive unsustainably high levels of total revenue from bookmakers via the Levy, TV picture rights and sponsorship despite the falling value of betting on British horseracing. It is indefensible that income from the Levy, TV picture rights and sponsorship should be treated separately and not viewed as the holistic financial benefit it is. All this income comes from the same source and bookmakers’ total contribution to Racing does not justify a Levy at current levels.

The BC Recommendations for the 50<sup>th</sup> Levy Scheme address the reality of the situation that is, regrettably, confronting all within Betting, Racing and the wider economy. If, as Racing asserts, the 50<sup>th</sup> Levy Scheme were to generate less than they would aspire to, it would reflect the reducing relevance of British horseracing, the bookmakers’ capacity to pay and the realities of the commercial market. Racing cannot expect to be protected and propped up irrespective of the fact that it is a ‘product’ of decreasing relevance and increasingly negative effect on EBITDA within the harsh reality of a truly commercial environment.

The irrefutable truth is that the total cost of providing betting on British horseracing is now at a commercially unsustainable level. British horseracing is reaching a tipping point with regard to its profitability and therefore its viability for bookmakers, in particular, betting shop operators. Racing cannot

reasonably expect bookmakers to shoulder the burden of the Levy, even at current rates, without the risk of significant shop closures and job losses. Racing's needs can and ought to be met from all its income sources, not just levy and Racing must look at the entirety of the flows of funding it receives and organise itself to deliver the funding where it is most needed.

The BC agrees that Racing and Betting have been affected by difficult economic conditions and an appropriate settlement would allow both to preserve employment. It is therefore somewhat confusing to see later in its paper, that Racing advocates the closure of LBO's. Owners and operators continue to close LBO's based on commercial viability and current estimates are that 400 are likely to endure this fate in the next 12 months. The BC notes that with the exception of Great Leighs (which failed as a result of its own flawed business model), the last racecourse to close did so in 1981. Further evidence of the number of shops at risk will be provided as a result of the E&Y supplementary report.

Racing states that 'A gross profits levy removes per se the possibility of Levy payable being anything other than proportionate, equitable and fairly reflecting the bookmakers' capacity to pay'. Insofar as it is applied to gross profits on British horserace betting business within the limits of the recommendations is not disputed by the BC. However, in any discussion of capacity to pay, to ignore completely the significant sums of money transferred from Betting to Racing through other channels, and thereby the cost to bookmakers which directly affects their capacity to pay, is unreasonable. It is therefore incongruous to argue that, under a gross profits scheme, a target figure (or range) is logical. The scheme drives the yield, not vice versa. It is of note also that Racing, having reaped the substantial rewards of the move to gross profits, which it fully supported, now seeks to move away from a scheme where rewards are linked to its performance, success and relevance to the British punter.

The BC maintains its position regarding thresholds. In short, Racing continues to opine that it wishes to see the threshold removed for the 50<sup>th</sup> Levy Scheme whilst making no credible argument to remove, reduce or re-structure the relief afforded to protect lower profitability shops. No justification exists to do so. As stated in previous submissions, such a move would lead to substantial shop closures bringing with it the associated negative socio-economic effects. A closed shop generates £0 for the Levy.

Finally, it is regressive to suggest that the default percentage should be based on 'the EPOS analysis of a small sample of independent shops'. Current contributors provide data for the calculation of a default percentage on a purely voluntary basis. The type of shops referred to in Racing's statement could neither be forced to incorporate EPOS systems into their business models nor mandated to contribute information. Such a move would limit data collection to a very small number of shops, likely to be regional rather than national, and the resultant information would be highly unrepresentative and statistically irrelevant.

The underlying premise of Racing's argument to seek significantly more from bookmakers when their 'product' is worth significantly less, is totally unreasonable. The point at which Racing will price itself out of the market is not far away.

Yours sincerely



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

30 Sep 10

Copy to: Douglas Erskine-Crum