

## **PRIVATE & CONFIDENTIAL**

### **Independent Assessment by Government Appointed Members as at 28<sup>th</sup> September 2010.**

1. At the Board Meeting on Wednesday 15<sup>th</sup> September 2010, the Bookmakers' Committee's Recommendations for the 50<sup>th</sup> Levy scheme were not approved by the Board at first submission.
2. The Board paper "Modernisation of the Levy: 2009" of April 2009 states that the Government-appointed members may at any time make an Independent Assessment through such open and transparent process as they see fit, inviting the Bookmakers' Committee to take the results of that Independent Assessment into account in considering its Formal Recommendations prior to re-submission.
3. This Assessment is more a list of areas to facilitate negotiations and discussions, made in advance of the formal report made by Deloitte which is expected in early October.
4. It is important to state that we, as the Government-appointed members, will ensure that we continue to exercise our discretion as Board Members appropriately and, in particular, that we do not delegate any decision-making to Deloitte or to anyone else nor allow our discretion to be fettered. Therefore, whilst we can take the Deloitte report into consideration, we will consider what weight is appropriate to attach to it. We will independently consider matters for ourselves. Ultimately, of course, the Government-appointed members are Levy Board members and, in accordance with Section 27 of the 1963 Act, we will need properly to consider for ourselves at the appropriate time whether or not to accept any proposed scheme put forward by the Bookmakers' Committee, without prejudging that in advance.
5. The Government-appointed members thank the Bookmakers' Committee for their Recommendations and also Racing's appointees for their submissions and to both for the follow-ups. We note that the Bookmakers' Committee wishes to respond formally to the critique by Racing's appointees of the Bookmakers' Committee Recommendations by the end of September 2010. Additionally, we note that Racing's appointees wish to make a submission concerning the collection of the Levy by turnover rather than by gross profits, also by the end of September 2010.
6. The Government-appointed members understand why a target figure has been used and that it has been a useful exercise, but the Levy is a mechanism, and cannot be primarily based on a target figure, and we therefore envisage considering that mechanism in our analysis. Given the range of Levy yields over the past few years, sticking regardless to a target figure seems to be impractical. We also note that Racing does not appear to have prepared a full business case, as for example recommended by Otton, to justify its figure. We would require persuasion that a Levy scheme with the existing coverage could produce Racing's figure. And we doubt whether there is the capacity to pay that figure from existing contributors. Therefore we believe that Racing's appointees' proposals, and in particular the target figure of £130m – £150m, are unrealistic for the 50th Levy and would like a revised proposal, giving greater weight to the current economic climate and prima facie evidence that there has been a decline in gross win on British horse racing. Further, it is important to recognize that the Levy is described as "Contributions from bookmakers and the Totalisator Board" applied "for purposes conducive to (among other things) the improvement of horse racing". There has been much discussion, as well, in this Levy negotiation about the total amount provided by betting for racing and we are minded to take this into account: thus we would be interested to hear comments on Annex A.
7. The Government-appointed members invite the Bookmakers' Committee to revisit the following topics so that we can gain a better understanding, in the event that revised Recommendations are put forward: first, thresholds, including the latest estimate of how many betting shops would close if the current Recommendations on thresholds were not accepted (we note the recent comments by the Bookmakers' Committee that other factors, for example fees charged by the Gambling Commission, account for existing

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closures and that the total number of betting shops had increased in 2009 - see Report of Thresholds Working Party); second, 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; third, the effect on capacity to pay of including foreign racing in the Levy base; fourth, a reversion to a turnover-based Levy; and fifth, 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.

9. The Government-appointed members would be grateful to the Bookmakers' Committee and Racing's appointees for a timetable to fulfil these queries.

28/09/10