



16 July 2008

Robert Hughes CBE
Chairman
Horserace Betting Levy Board
52 Grosvenor Gardens
London SW1W 0AU

Dear Rob

Levy – Exchange Betting

As you are aware, one of the major issues which the Minister has said needs to be addressed as part of the review of the Levy is betting through remote operators, including exchanges.

He specifically included exchanges as a priority issue at the first Levy review meeting he chaired on 18 March, at which it was decided that there would be a work stream on the relationship between betting exchanges and horseracing. (Another aspect of remote betting, overseas operators offering bets to British customers on British racing – with no Levy return – is another major issue which we will write to you about separately. We think they have to be looked at together not least to address the “threat” to move overseas).

For whatever reason, this work stream has not happened.

We have written recently to the Department calling on Government to ensure that it is carried out. If not, whatever the situation in relation to other issues, the Levy review process called after the Minister had to determine the last Scheme will have failed.

Our case is that exchange betting is not being dealt with appropriately through the Levy, leading to an unfair treatment of Racing. As the Secretary of the Bookmakers' Committee noted as long ago as the ABB's last AGM in February 2008, there are (at least) two things on which Racing and bookmakers are in agreement; that exchange betting has hit the Levy very hard, and this form of betting should be contributing significantly more; and that overseas operators offering bets to customers in Britain should be paying Levy (and tax). The Chairman of the Bookmakers' Committee has said in the last week to the All Party Group that he is “foursquare” behind Racing on this.

Both sides agree that unless and until the issue is addressed, the Levy is failing. The current situation is wrong, it is unfair, and Racing is losing out – to the tune of up to £20million.

There is a very strong view that if it were Racing's choice, exchange betting in Britain on British racing would not be permitted, or at least not until the major issues to which this form of betting gives rise had been properly addressed. Racing, both directly and indirectly, has carried considerable cost due to exchange betting. It is not Racing's choice however, it is Government's choice. But Racing has to pick up the consequences – the key ones being integrity and Levy implications.

Exchange betting was of course never contemplated within the Levy mechanics when it was set up in the 1960s. Government has allowed exchange business to be recognised as a lawful form of betting, but has not done the full job of looking at all the implications, and has not addressed the impact on Racing's funding through the Levy. This is prejudicing the sport. The reasons are most probably that neither Racing nor Government thought they would have to address the impact on the Levy as this would be dealt with under an alternative (legislative or commercial) relationship and the end of the Levy. With the Levy staying, now is the time to address it. Government has said it needs to carry out a full review and consultation process in order to do this.

I am writing now on behalf of Racing - the racecourses and Horsemen, together with the BHA, all speaking as one - to call on the Levy Board Executive and independent Board Members publicly to call for Government to carry out a full review and consultation process. We believe that that the Levy Board, and specifically the independents on the Board, would then be able to express their views on the matter, and act, to ensure that exchange betting is contributing what it should.

One of the reasons why the issue has not been properly addressed is the constitution of the Bookmakers' Committee. You have seen first hand that it cannot be dealt with by the Committee, because of its internal politics and structure. That is bad process, and the Levy Board as the NDPB should act to address it. We have called for the Government to carry out a total review of its constitution, not just the RGA request to be represented. We are asking you to do the same.

There is action you can take now. The Levy Board needs to take all possible action to collect the Levy that is due from all persons carrying on a trade as a bookmaker through exchanges. The relevant test to determine whether activity is that of a bookmaker or a private individual is whether the activity is "in the course of business". For HMRC to regard activities as "in the course of business", they would have to be regarded as 'trading' for tax purposes, and we have sought advice as to how this should be applied to exchange activity. We would of course be happy to share this with you.

Based on this and the recent statements by the Gambling Commission, we consider that a significant number of persons operating through exchanges are acting in the course of trade and therefore should be paying Levy.

For example, it is a characteristic of the exchange model that users are able to both lay and back bets in large volumes across a number of outcomes for one event (and across multiple events), all with an objective of locking in a profit.

Proprietary software, known as 'bots', is used by exchange customers to achieve this. All these are characteristics of people who are 'trading' and we believe the Levy Board, as the body with statutory responsibility for collecting the Levy, must now actively pursue these individuals as well as others who the Board sees as operating as bookmakers.

We look forward to working with you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Roy', written over a horizontal line.

Paul Roy
Chairman

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cc: David Thorpe
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