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Subsequent submission by:

**Greyhounds Australasia to the
Productivity Commission Inquiry into
Gambling following the release of its draft
report on 21 October 2009**

1. Introduction

Greyhounds Australasia (GA) welcomes and in principle supports the Australian Government Productivity Commission Inquiry into Gambling with regard to its draft report released on 21 October 2009.

This subsequent submission considers the reports findings and recommendations with respect to chapter 13 and provides general comments.

2. Executive Summary

GA states its position as follows:

- GA fundamentally supports the Commission's draft report
- GA supports the establishment of a national funding model driven by national legislation consistent with recommendation 13.1
- GA acknowledges and agrees with the Commission's findings that;
 - *If free riding is not prevented it would make the racing industry vulnerable*
 - *Inconsistencies with fee structures have led to undue industry expenditure*
 - *A harmonised tax regime is a preferred future outcome*
- GA is opposed to the following findings;
 - *The arguments for retaining retail TAB retail exclusivity are not compelling*
 - *Distribution of any income should be returned to the club rather than the current practice of jurisdictional controlling bodies*

3. Findings and Recommendations

Draft Finding 13.1

In the absence of regulation, free-riding by wagering providers would undermine the racing industry and harm consumers of wagering and racing products. The current state-based race field legislation overcomes this problem, but poses significant risks for effective competition in wagering, potentially affecting the long-term future of racing and wagering, and, more importantly, the punters who ultimately finance both of these industries.

The greyhound racing code endorses finding 13.1 that without regulation, free riding by wagering operators may lead to long term vulnerability of the racing industry and its wagering consumers.

The potential demise of consumers (i.e. the punters) would directly impact on the industry and any reduction would have far reaching economic and social consequences on society, who are employed and rely on the multi-billion dollar racing industry.

In this regard, GA stands by its position that whether it is race fields legislation or a similar concept, protection of the industries intellectual property is paramount and all wagering service providers must contribute fair returns to the greyhound racing industry for use of the racing product.

GA remains attuned that if the current legal issues surrounding race fields legislation precludes the racing industry from receiving ongoing equitable returns, then government must institute urgent united action to remedy this situation.

Draft Recommendation 13.1

The Australian Government should work with the state and territory governments to develop a national funding model for the racing industry. This model should be underpinned by national legislation and should replace state and territory based arrangements. The key element of this model would be a single levy, universally paid on a gross revenue basis:

- ***The levy should replace all other product fees currently paid by the wagering industry, but need not affect other funding channels, such as sponsorship of race meetings.***
- ***The levy should be set and periodically reviewed by an independent national entity with the object of maximising long-term consumer interests.***
- ***In setting the levy, the entity should engage in public consultation, and the bases for its decisions should be detailed in a public document.***

National Funding Model

GA supports the recommendation of a national funding model for the racing industry which addresses the issue of free riding by wagering operators and thus protects the codes intellectual property by contributing fair and equitable returns.

A national funding model will deal with the inconsistencies with fee structures that have led to undue industry expenditure.

Ideally, a consistent national solution to all forms of wagering which observes trade practices, competitive and consumer law may be a viable alternative.

It is recommended that the Federal Government work with state and territory governments to enact laws which are outside constitutional challenge and addresses the fundamentals of this model.

Single Levy Based on Gross Revenue

GA acknowledges the recommendation of a single levy based on gross revenue to streamline the administration processes and regulation of wagering operators.

Whether the gross revenue model is the most appropriate formula for calculating the single levy is a matter that will require modelling and testing against objectives.

In a truly competitive market which operates under a single gross levy, some jurisdictions may be winners and others losers. Whilst this may build competition between racing jurisdictions, the suggested model opens up a number of other issues. Key to the issue is, the balance between diversity of product for the consumer with the necessary scale required to be competitive in the broader wagering market. The balance between diversity and competition will trigger correlating issues of consolidation and potentially anti competitive behaviour if not managed through a wider socio economic lens.

GA understands and respects the Commission's investigations of a single gross revenue model and it is not opposed to the concept. But we recommend and support further exploration to ensure it will best meet the needs of both the consumer and industry. This process must also take into account the outcomes of the current legal cases.

National Independent Price Setting Panel

GA is not opposed to the idea of an independent panel, setting and reviewing national prices. What we do suggest to the Commission is that, in setting and reviewing a levy, maintenance of sustainable industry growth is paramount, so a periodic review of fees would be welcomed.

If a set percentage is locked in long term without the ability to grow this may be non-competitive for racing when compared with other leisure pursuits that offer wagering on their product.

In terms of an independent body controlling this periodic review, GA suggests to the Commission that a recommended legislated minimum fee could apply as a form of safeguard for the racing industry.

Another solution welcomed by GA would be that of the independent panel being fully accountable to all stakeholders (consumers and racing industry) by establishing strict criteria on decision making. That is, any suggestion to alter a levy must be assessed against various parameters which would allow justification for the panel's recommended course of action.

The analogy behind this concept is similar to what would be applied by the Reserve Bank of Australia when they determine movements in interest rates.

For example, *the Reserve Bank Board sets interest rates so as to achieve the objectives set out in the Reserve Bank Act 1959;*

- *the stability of the currency of Australia;*
- *the maintenance of full employment in Australia; and*
- *the economic prosperity and welfare of the people of Australia.*

Since 1993, these objectives have found practical expression in a target for consumer price inflation, of 2–3 per cent per annum. Monetary policy aims to achieve this over the medium term so as to encourage strong and sustainable growth in the economy. Controlling inflation preserves the value of money. In the long run, this is the principal way in which monetary policy can help to form a sound basis for long-term growth in the economy.¹

If a national independent price setting panel is preferred by the Commission, strict policy criteria for determining levy movements would require further assessment.

¹ <http://www.rba.gov.au/monetary-policy/about.html>

GA acknowledge that an objective of the independent panel is to support consumers, however the Commission must be mindful in making this recommendation of the longevity of the product supplier, as greyhound racing and wagering are interdependent.

The pure economic value associated with the racing product in real terms, is in the vicinity of billions of dollars, which must be recognised when prices are being considered.

Draft Recommendation 13.2

The Australian Government should request that the Australian Competition and Consumer Commission (ACCC) examine any adverse implications for competition associated with the ownership arrangements for Sky Channel.

GA acknowledges recommendation 13.2 ACCC intervention in regards to ownership rights for Sky Channel. It was noted that this was considered by the ACCC in 2007 and goes beyond just the subject of Sky Channel, it did consider the involvement of TVN in respect of sharing thoroughbred racing vision.

GA has nothing further to add in this regard.

Draft Finding 13.2

There are grounds for state and territory governments to cooperate when setting taxes on wagering revenue, in order to avoid destructive tax competition. However, the increased capacity for competition from lowly-taxed offshore online suppliers will, in any case, increasingly limit the capacity to tax wagering activity.

GA agrees and supports measures to avoid destructive tax regimes on wagering revenues.

Harmonisation of such taxes would be an ideal goal of the racing industry, however we appreciate that the obtainment of such objective requires significant cooperation between state and territory governments.

The issue of receiving reasonable returns from offshore businesses who attempt to beat the Australian tax system is significant and the Commission clearly acknowledges this by stating on page 13.35 that; *“Both the right to hold an Australian wagering licence, as well as the right to advertise in Australia should be contingent on paying the levy, regardless of where the wagering operator is located.”*

Draft Finding 13.3

Tote-odds betting should not be prohibited as there are better ways of dealing with the risks it involves.

GA notes the Commission’s position in respect of better ways of dealing with the risks associated with tote-odds betting.

Draft Finding 13.4

Offering inducements to wager through discounted prices is not necessarily harmful, and may primarily serve to reduce switching costs between incumbent wagering operators and new entrants. The risks for problem gamblers should be assessed and, regardless of whether prohibition or managed liberalisation is the appropriate action, a nationally consistent approach would be warranted.

GA acknowledges the Commission's finding in respect of inducements.

GA does support the suggestion of a further assessment of the risks associated with this for problem gambling and agree that a national approach is preferred.

Draft Finding 13.5

The arguments for renewing TAB retail exclusivity are not compelling.

GA opposes the view that the removal of TAB exclusivity is not compelling.

We offer comment as follows;

- We are of the view that the removal of TAB exclusivity would lead to a decrease in product and services through the disintegration of wagering pools and ultimately reduced wagering via the TAB's.
- GA is conscious of the premiums returned to the industry in the past by TAB retail exclusivity and suggests that as the retail product is different, industry should be remunerated accordingly, via what would be termed a reasonable but not excessive premium.
- The basis for the Commission's finding seems to be around the premise that the takeout for punters is not competitive with other wagering operators. However it must be reminded that the ongoing expenditure for the TAB's to provide such service is substantial. Specifically infrastructure costs including the production of form guides and broadcasting are borne by the TAB which have lead to the education and profile building of racing.
- The TAB venues have also encouraged the development of social community networks and with the advent of home based technology solutions driven by the internet will discourage this interaction.
- GA accepts that the takeout rates are substantially higher through the TAB and potentially may need to be amended somewhere closer to the market. But there is no doubt that a reasonable premium is still required to meet the financial obligations of the parties involved.
- The current TAB arrangements provide a mechanism to encourage higher individual returns for punters by increasing access to larger pools for smaller investors. A further step would be a single pari-mutuel licence to ensure the nationalisation of TAB pools.

Chapter 13 - Request for feedback re feasibility of direct distribution, whereby a levy is paid by wagering operators directly to racing clubs, rather than through state racing authorities.

The Commission is seeking further feedback on whether the direct distribution model, whereby a levy is paid by wagering operators directly to racing clubs, rather than through state racing authorities is appropriate.

GA forms the view that any distribution of income should be returned to Controlling Bodies and not directly to racing clubs.

Controlling Bodies are empowered under various Racing Acts and are responsible to control and regulate the commercial and regulatory activities of the greyhound code including the governance of racing clubs.

Without the direct control of funds by Controlling Bodies any efficiencies and economies of scale obtained by the one body will be rapidly eroded. For example, these bodies monitor infrastructure, allocate prizemoney and control the complexities of race scheduling.

Any direct distribution to clubs may leave several racing clubs vulnerable which may not be in the best interests of the industry, plus would place significant administration burden on wagering operators.

Chapter 13 - Request for feed back re credit betting.

The Commission is seeking further feedback on whether credit betting should be provided to all credit providers, and if so whether the proposed restrictions are appropriate and what minimum credit threshold would strike the right balance.

GA remains open to further investigation in regard to practices and outcomes involving credit betting.

GA suggests that if credit betting is not prohibited then it should be extended to all wagering providers.

4. Conclusion

In summary, GA welcomes the Commissions draft report and supports the premise of a national funding model that provides the opportunity for both the racing industry and consumer to remain competitive.

In this regard, GA recognise the importance of nationalisation and understand that returns from the wagering dollar should be fair, equitable and sufficient to meet the needs of both the wagering customer (punters) and racing industry participants (owners, trainers and breeders etc).

GA is not opposed to a funding model which involves a single levy, universally paid on a gross revenue basis.

We do however recommend further exploration of the proposed model to ensure all wagering providers contribute fair returns to the greyhound racing industry for use of the racing product. This exercise will take into account the impact on individual racing jurisdictions, the potential impact on vibrancy of racing clubs and consideration of the legal ramifications currently being played out in the courts.

If a single levy was to be introduced, strict criteria must be established to enable the panel to make such determinations. Various factors must be instituted in a policy which takes into account the resultant impact on the future of the racing industry, like what exists for the Reserves Bank. One alternative in regard to this process could be the establishment of a set legislated minimum levy.

As highlighted throughout our submission, we concur with the Commission on several findings in the report and disagree with others.

Overall we are supportive of the Commissions work and thank them for showing interest in the racing industry and acknowledging the social and economic impact it has on society.