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## **EXECUTIVE SUMMARY**

1. BHB welcomes the strong and recurrent theme in the Report of the Gambling Review Body (GRB) that additional measures should be introduced to strengthen consumer protection.
2. BHB is deeply concerned about the recommended significant deregulation of all aspects of gambling. While not afraid of competition in the overall gambling market, Racing opposes deregulation on the scale recommended without commensurate measures and opportunities of direct benefit to horserace betting, notably the widening of the distribution of the product.
3. BHB supports:
  - ?? the establishment of a Gambling Commission with, broadly, the powers and responsibilities proposed for it by the GRB, including those relating to the prosecution of illegal gambling offences.
  - ?? in principle, the transfer of responsibility for licensing premises from the local licensing justices to the local authority.
  - ?? the priority given by the GRB to recommendations designed to keep gambling crime-free.
  - ?? the removal of the demand criterion for betting shops.
  - ?? the extension of the ability to advertise betting and other gambling products.
  - ?? the ability of betting shops to offer food as well as non-alcoholic drinks.
  - ?? the abolition of the rules restricting charges for the entry of bookmakers to racecourses.
  - ?? the assumption by the Gambling Commission of the NJPC' s responsibilities for on-course betting.
  - ?? the assumption by the Gambling Commission of responsibility for ensuring that the SP system is fair and transparent.
  - ?? the enforceability by law of gambling debts.
  - ?? an appropriate Gambling Commission-endorsed scheme for the arbitration of betting disputes, with acceptance of decisions being a condition of the grant of a bookmaker' s permit.
  - ?? the GRB' s recommendations for the regulation of on-line gambling.

- ?? the need for a body to fulfil functions proposed for the Gambling Trust in addressing problem gambling, subject to Government satisfying itself that these functions cannot effectively be discharged by existing organisations.
4. BHB opposes:
- ?? betting on the UK National Lottery.
  - ?? the introduction of jackpot machines into betting offices.
  - ?? the proposal that there be no universally-permitted core opening hours, for licensed betting offices.
5. BHB considers that further consideration should be given to:
- ?? the proposal that the operator of a racecourse or point to point should have to obtain both a certificate from the Gambling Commission and a premises licence from the local authority.
  - ?? the proposed arrangements under which racecourses, whose wider use particularly on non-race days BHB fully supports, would be permitted to offer a wider range of gambling facilities.
6. BHB urges that consideration also be given to:
- ?? amending the legislation which currently permits terrestrial television coverage of racing to be shown in betting offices without payment to the provider of the racing product.
  - ?? tighter regulation and control of person-to-person betting exchanges.
7. In connection with its recommendation to the GRB that betting be permitted, under properly controlled conditions, in pubs and clubs, BHB:
- ?? greatly regrets the GRB' s rejection of this proposal.
  - ?? considers this rejection wholly inconsistent with the GRB' s proposal that alcohol should be allowed on the gaming floor in casinos.
  - ?? noting that the GRB makes no distinction in this context between different types of betting, urges that consideration be given to BHB' s earlier proposal that betting opportunities in retail outlets be restricted to small stake, big win prizes on a set number of events. The consequent inability for rapid repeat play or the immediate chasing of losses would mitigate the GRB' s concerns arising from the mixing of gambling and alcohol.

## **1. INTRODUCTION**

- 1.1 The British Horseracing Board (BHB) welcomes the opportunity to comment on the Report of the Gambling Review Body (GRB) to which it gave written and oral evidence in August and November 2000 respectively.
- 1.2 Copies of the BHB's written evidence and of the Report by Charles River Associates on "An Economic Impact Study on the Liberalisation of Sports Betting Into Pubs", also submitted to the GRB, accompany this Memorandum.
- 1.3 BHB has discussed with the Jockey Club and the Racecourse Association their respective responses to the GRB Report, which it fully endorses.
- 1.4 This Memorandum is divided into an overview and three main parts. First, there are a number of recommendations in the Report which BHB fully endorses and which it urges Government to adopt. Secondly, there are some issues to which BHB suggests that further consideration be given. Finally, there are a number of specific proposals which BHB believes will be damaging to the horseracing industry and in respect of which BHB takes this opportunity to explain to Government the reasons for its opposition.
- 1.5 BHB has restricted its comments to those individual recommendations and groups of recommendations to which it considers a response from the Governing Authority for British Racing to be relevant and appropriate.

## **2. OVERVIEW**

- 2.1 BHB based its own evidence to the GRB on the twin principles of enhanced consumer protection, and greater consumer choice with particular reference to the widening of distribution of the horserace betting product.
- 2.2 BHB therefore welcomes the strong and recurrent theme in the Report that additional measures should be introduced further to strengthen consumer protection and thus enhance customer confidence. Punters are key to the future prosperity of the Racing and Betting Industries and every effort must continue to be made to ensure that their interests are properly protected and that the scope for exploitation is minimised, if not eliminated.
- 2.3 The welcome which BHB extends to the recommended enhancement of consumer protection contrasts sharply with BHB's deep concern about the recommended significant deregulation of all aspects of gambling, without commensurate measures and opportunities of direct and definite benefit to horserace betting, notably the widening of distribution of the product.
- 2.4 Such comprehensive deregulation appears to pose a potentially significant threat to horserace betting which could ultimately lead to horseracing's share of the overall gambling market being further significantly reduced. Such downward pressure would coincide with the significant increase in the profitability of bookmaking companies, as deregulation enhances the benefits to those companies accruing from the recent introduction of Gross Profits Tax (GPT).
- 2.5 Significant further erosion of horseracing's share of even an expanded gambling market is likely to have a negative impact on racing's finances, with the potential for constraining employment opportunities and Racing's distinctive contribution to the rural economy and for prejudicing the creation of the sound financial base for racing which all parties are anxious to see established in the wake of the abolition of the horserace betting levy and its replacement with a commercial mechanism.
- 2.6 Such is the strength of its concern that BHB has commissioned from the Henley Centre an independent study of the impact of the GRB's "deregulatory" recommendations on horserace betting. This study, which is due for completion in November, will be forwarded to DCMS as soon as it is available.
- 2.7 Racing is not afraid of competition in the overall gambling market and recognises that it would be inappropriate to seek to stifle such competition as a matter of principle. It does however feel fully justified in objecting to the deregulation of other forms of gambling when it is at the same time itself being denied the opportunity to break the current monopoly of retail distribution which is solely in the hands of the licensed betting offices.

### **3. PROPOSALS SUPPORTED BY BHB**

#### **Gambling Commission**

- 3.1 BHB welcomes the proposed establishment of a Gambling Commission which is wholly in line with the BHB's own recommendation to the GRB that a single regulatory authority, with greater powers of scrutiny and investigation and facilitating the consistent application of standards, should be established.
- 3.2 In particular BHB supports the recommendations that the Commission should be more vigorous in its scrutiny of applications for bookmakers' permits; should be funded by the gambling industry itself through licence fees; and should have a significant degree of flexibility to deal with issues arising from technological and other changes without the need for further legislation. While BHB also agrees that the Commission should be responsible for regulating the facilities within gambling outlets, it has views on particular facilities which are set out in relevant places later in this Memorandum.
- 3.3 The GRB recommend that the Commission should also be responsible for the licensing of individuals within gambling outlets. In the context of betting, it is proposed that betting shop managers should be licenced. This will require licensing of up to 10,000 individuals. Given the proposed more rigorous scrutiny of applications for bookmakers' permits, this proposal should be carefully examined to ensure that the additional costs and administration to which its implementation would inevitably give rise, are in practice outweighed by the benefits to the punter and the enhanced ability to keep betting crime-free.

#### **Role of the Local Authorities**

- 3.4 BHB supports in principle the proposal that responsibility for licensing premises should be transferred from the local licensing justices to the local authority. BHB does however oppose one specific recommendation made in this context, relating to the opening hours of betting offices. Detailed comment is made in para 5.5 below.

#### **Keeping Gambling Crime-Free**

- 3.5 BHB welcomes the priority which the GRB gives to recommendations designed to keep gambling crime-free.
- 3.6 As the Regulatory Authority for British Racing, the Jockey Club submitted detailed confidential evidence to the GRB on issues relating to criminal activity surrounding betting on horses. The Jockey Club are commenting on relevant aspects of the GRB Report in a separate Memorandum, which the BHB fully supports.

### **Betting and Betting Shops**

- 3.7 i) The demand criterion for betting shops should be abolished in order to stimulate competition.

BHB supports the removal of this anachronistic criterion, which has no place in today' s competitive environment.



### **Punter Protection**

- 3.10 BHB supports, in particular, two punter protection measures, which it recommended in its own evidence. First, that gambling debts should be enforceable by law. Secondly, that there should not be a statutory scheme for the arbitration of betting disputes, which should be a matter for the gambling industry. The GRB's recognition of the good work which the Independent Betting Arbitration Service (IBAS) has carried out and its hope that the industry will continue to support it, or a similar body, are both to be welcomed. The Gambling Commission should, when established, review current arrangements and require any changes which it may consider necessary to enhance punter protection.
- 3.11 BHB continues to believe that, as an additional safeguard, all UK-registered bookmakers should be required to accept the decisions of the designated arbitration body as a condition of being granted a bookmaker's permit.

### **On-Line Gambling**

- 3.12 BHB supports, without reservation, the GRB's recommendations in respect of on-line gambling. These too are consistent with the views expressed in the BHB's own evidence.
- 3.13 The proposal for a kitemark to confirm the grant of a Commission licence is consistent with BHB's own intention to require all authorised users of its racing data to display an official logo.

### **Problem Gambling**

- 3.14 In its own evidence to the GRB, BHB commended the work of Gamcare and other agencies dealing with the prevention and treatment of gambling addiction. It expressed the view that designated agencies should attract continuing financial support, at an appropriate level, from the gambling industry itself.
- 3.15 BHB notes with interest the GRB proposal for the establishment of a Gambling Trust funded by the gambling industry, with the Government reserving powers to impose a statutory levy, possibly linked to gross profit, if such a Trust is not established or subsequently ceases to operate.
- 3.16 While BHB fully supports the need for a body to fulfil at least some of the functions proposed for the Trust, we believe that the Government should satisfy itself that these functions cannot effectively be discharged by (possibly expanded) existing organisations.

### **Illegal Gambling**

- 3.17 BHB has long been concerned about the incidence of illegal betting which, apart from its social consequences and negative effect on tax revenues, has an adverse impact on the funding of the racing industry.
- 3.18. BHB therefore strongly supports the GRB recommendation that the Gambling Commission should have appropriate powers in relation to the prosecution of illegal gambling offences, with the responsibility to detect and prosecute illegal gambling together with the necessary powers of entry and seizure.

## **4. ISSUES OF CONCERN TO BHB**

### **Racecourses**

- 4.1 That the Gambling Commission should take over from the Levy Board responsibility for issuing certificates of approval to the operators of racecourses and point to points to authorise them to allow betting on their premises, but that, in addition, the operator should obtain a premises licence from the local authority to use those premises for betting.

BHB recognises that certificates of approval (or equivalent) for racecourses and point to points will need to be issued by the Commission following the abolition of the Levy Board. It does however seem to be an unnecessary regulatory burden for a racecourse to have to obtain two licences. BHB suggests an alternative arrangement under which there should be a formal consultation process with the local authority before the Commission decides whether or not to issue a certificate.

BHB further takes the view that the location of betting facilities within the certificated racecourse area should be a matter for agreement between the racecourse executive and the operator.

- 4.2 That racecourses should be permitted to expand gambling activities on non-race days, but only if they obtain a casino licence which would require them to have gaming tables, with a ratio of eight jackpot machines to each gaming table.

BHB considers that the need for racecourses to have gaming tables as well as machines is unnecessarily inflexible and restrictive. Indeed the requirement to have a ‘casino’ licence in this context is inappropriate: “machine-only” licences should be available. Any new regime should allow Tote betting, in addition to fixed odds betting, on non race days and, in general, should apply to race days as well as non-race days.

### **Television in Licensed Betting Offices**

- 4.3 There is an issue regarding facilities in licensed betting offices which is not covered in the GRB Report, but which merits attention in this Memorandum.
- 4.4 Section 72 of the Copyright Designs and Patents Act 1988 provides that the showing or playing in public of a terrestrial broadcast to an audience who have not paid for admission to the place where the broadcast is to be seen or heard does not infringe the copyright in the broadcast programme, or any sound recording or film included in it. It is expressly provided that an audience shall be treated as having paid for admission if goods or services are supplied on the premises, either at prices which are substantially attributable to the facilities afforded for seeing or hearing the broadcast, or at prices exceeding those usually charged there and which are partly attributable to those facilities.

4.5 The statute appears to be designed to prevent the free showing of terrestrial

## **5. PROPOSALS OPPOSED BY BHB**

### **Deregulation of Gambling**

- 5.1 BHB opposes the recommended significant deregulation for all categories of gambling, notably casinos but also bingo, gaming machines and lotteries, as well as for betting generally, without commensurate benefits for horseracing betting.
- 5.2 The continued health of horseracing and its associated industries is heavily dependent upon its ability to attract punters. While the secondary effects on employment etc in other forms of gambling are important, they do not have such a key role to play. Implementation of all the current recommendations will make it harder for horseracing to flourish.
- 5.3 Experience in other racing countries shows that the growth in casino gambling and in the availability of, particularly, jackpot machines has had a negative impact on horserace betting turnover. Riverboat casinos in the United States and the widespread availability of poker machines in Australia have both impacted adversely the volume of betting on horseracing.

### **Betting and betting shops**

- 5.4 i) Bookmakers should be allowed to bet on the UK National Lottery.

BHB opposes the emergence of such a new betting product, unmatched by the prospect of any widening of the distribution of the horserace betting product. It must in any event be likely that implementation of this recommendation, and indeed other deregulatory proposals, would have a damaging impact on National Lottery turnover and thus the funds available for good causes. This damage could only be mitigated if other gambling operators were themselves to give an equivalent sum to good causes.

- ii) Betting shops should be permitted to have jackpot machines with no more than four such machines permitted in any betting shop. Betting shops should not be permitted to have all cash-machines in addition.

BHB opposes the introduction into betting shops of more machines, which are likely further to detract from horserace betting turnover. BHB supported the introduction of AWP machines on the grounds that they might bring new horserace betting punters into betting shops and that they would help keep marginal betting offices in business.

There has regrettably been no evidence that AWP machines have helped to enhance horserace betting turnover. The Henley Centre estimate that such machines have increased the profitability of all betting offices by some £66m annually, albeit saving some smaller ones from going out of business. BHB opposes the introduction of jackpot machines into LBO's.

### Opening Hours

- 5.5 BHB opposes the specific recommendation that the local authority should have the unfettered power to determine the opening hours of betting offices, with no underlying statutory provision such as exists at present. The absence of any core opening hours defined in statute will mean that betting shops are more vulnerable than at present to purely local influences on opening hours, which could significantly impact on turnover levels and profitability. This gives rise to two substantial concerns. First, in the most extreme cases viability could be threatened, with the consequent close of an outlet resulting in greater opportunities for illegal betting. Secondly, given that the GRB are not recommending that there be new outlets for horserace betting, implementation of the proposal would place further pressure on revenues to horseracing.

### Betting in Pubs

- 5.6 In its evidence to the GRB, BHB made a strong plea for betting to be permitted in pubs and clubs in pursuance of a desire to eliminate the monopoly of distribution of racing product (only into LBO' s) and to achieve enhanced access to betting facilities for the customer, in properly controlled circumstances. In support of its case, BHB submitted a special study commissioned from Charles River Associates.
- 5.7 That study clearly showed that on the basis of detailed cost benefit analyses, the net benefit to the community (pre-GPT) of introducing sports betting into pubs and clubs would be between £220m and £770m a year, and that over 60% of those interviewed in a specially commissioned consumer research survey were not opposed to betting in some or all pubs.
- 5.8 The GRB' s most regrettable rejection of this BHB proposal stems from its fundamental principle that there should be no increase in “ambient gambling”. This recommendation is made notwithstanding the absence of detailed research about problem gambling in this country. This is much regretted by the GRB itself, who comment that even the limited amount of research which has been undertaken “does not produce much by way of definite conclusion”. Reliance is placed on the experience of other countries, which may not necessarily be relevant to the UK and in which there is in any event no evidence of horserace betting, as opposed to some other forms of gambling, causing material problems.
- 5.9 This recommendation is also made, notwithstanding that, later in the Report, the GRB propose that alcohol should be allowed on the gaming floor in casinos. This is wholly inconsistent with the GRB' s key principle and suggests that the principle is not as soundly based as the GRB imply.
- 5.10 Notwithstanding this apparent inconsistency of approach and the acknowledged absence of conclusive UK research, BHB accepts that the apparent strength of the GRB' s opposition to any increase in “ambient

gambling” will make it very difficult for Government to accept the BHB proposal at this time. In these circumstances, and with a view to suggesting a practical way forward, BHB draws attention to a proposal contained in its evidence to the GRB, but which did not attract any comment.

- 5.11 It will be noted that the GRB Report makes no distinction between different types of betting in recommending a blanket prohibition on betting in pubs, clubs and other outlets where gambling is not the primary purpose. BHB therefore urges that careful consideration be given to its earlier proposal that betting opportunities in retail outlets be restricted to small stake, big win prizes on a set number of events (probably one or two per week, with no more than one per day), which do not have the ability for rapid repeat play or the immediate chasing of losses. It is these characteristics to which international research has pointed as the key stimulants of problem gambling. If Government were to accept such a principle which would go some way towards redressing the imbalance which would be created by the scale of the deregulation proposed in the GRB Report, more detailed proposals would be developed by the parties concerned.

## **6. CONCLUSION**

- 6.1 BHB commends these comments to Government and strongly urges it to consider carefully the impact of the recommended significant deregulation of