

PRODUCTIVITY COMMISSION:

GAMBLING INQUIRY:

HORSE RACING:

public policy and consumer protection issues

PETER MAIR OCTOBER 1998

THE MAIN POINTS

- The concept of product quality management seems to be entirely foreign to the existing array of racing operators, managers and regulators.
- the operation, management and regulation of horse racing in Australia fails to deliver a fair, quality gambling product to the majority of the customers.
- The partnership of licenced organisers and licensing governments does not generally bode well for the majority of gamblers.
- racing's gambling "insiders", reportedly pay an average tax rate of just 6% (i.e.: they get back \$94 out of every \$100 bet). The "outsiders" reportedly, get back only \$83 for every \$100 bet -- they pay a rate of tax almost three times higher .
- no one seems to be responsible for racing gambling taking advantage of the outsiders.
- state governments are not meeting their reasonable obligations to the gambling public.
- a higher level of government oversight is required -- the Commonwealth Government alone could play this role with any confidence in the mind of the general public
- consumers of the racing product finance the industry, and they are properly entitled to have a substantial say in the administration of the racing industry at the highest level.
- a very useful start towards a fairer racing game would be the broadcast, off-course, of the on-course betting market fluctuations.
- the efficiency of racing betting markets could be monitored to detect patterns of advantage between the insiders and the outsiders.
- the condition of racing tracks is crucial to race outcomes and can be determined objectively and made known.
- the practice of rounding down TAB dividends to the nearest 10 cents is evidence of slick attitudes held among

racing authorities and characteristic of the disrespect so commonly shown to the racing public.

- **one can only wonder about the likely beneficiaries of the conduct of many**

PREAMBLE

Many gambling operations fall within a simple definition of risk -- over very large numbers of bets there is a defined probability of particular outcomes, and, on average, the certainty of loss of a defined percentage of total turnover. Games in this category include lotteries; lotto; poker machines; casino gambling etc..

Horse racing, and similar gambling opportunities, combines risk with uncertainty. The risk element is similar to that of other gambling games in that there is a defined deduction from the total pool. The uncertainty arises from the fact that not all contestants in races have an equal chance of winning.

Judgments about winning chances in horse races are typically made on the basis of published form guides, detailing the past performances of contestants. Many other contemporary factors need to be considered: including, the relative class and handicap weight; the skill of the jockey; the condition of the track; ability to handle particular tracks and the barrier draw.

There are other, prior-knowledge, considerations known only to the close connections -- especially trainers and jockeys. For example, it is relevant to know whether horses are capable of winning on the day, and will be making every effort to win on the day. This information would be of no value to those with the prior knowledge unless they acted upon it, either backing their own horse or another -- the quicker this information is embodied in the betting market, and widely publicised, the better for all concerned. The betting markets should be structured so that there is every incentive for such information to be revealed earlier rather than later.

My particular interest is with uncertainty -- ensuring the gamblers get proper, objective information about factors giving rise to uncertainty would improve the quality of the racing product. The removal of restraints on the availability of betting market information may well improve the efficiency of the betting market, encouraging the early release of market pointers to the opinion of close connections.

low-grade race meetings around the country: are gambling revenues, collected in the interests of the community generally, used to subsidise particular interest groups?

-- role of government

The growing dependence of state governments on gambling revenues is very likely to be associated with inadequate attention to the duty of state governments to ensure that TAB customers are consistently provided with a quality racing product.

The concept of product quality management seems to be entirely foreign to the existing array of racing operators, managers and regulators. In the normal course, public policy restricts the sale of fundamentally flawed products on unfair terms and conditions: it is ironic that shoddy industry management practices are actively promoted in direct association with governments, otherwise responsible for ensuring better, fairer outcomes.

HORSE RACING

insiders v. outsiders

The operation, management and regulation of horse racing in Australia fails to deliver a fair, quality gambling product to the majority of the customers: the "**outsiders**" using off-course TAB facilities.

On the contrary, a relatively small group of "**insiders**" is advantaged in their gambling by the conduct of TAB subsidised, poor quality races and their preferential access to relevant information. The "**insiders**" are advantaged in relation to the "**outsiders**" not least by self-interested, self-serving, industry self-regulation, unrelieved by any proper official concern for the maintenance of product quality standards and fairness in the delivery of that product to the majority of gamblers.

Key points, which could be elaborated at length, include:

- Racing's gambling "**insiders**" are usually on-course; they can bet with bookmakers; they can have **prior knowledge** of informed market fluctuations;

they place bets averaging more than \$50 and they place their bets close to race time: reportedly, they pay an average tax rate of just 6% (i.e.: they get back \$94 out of every \$100 bet).

- The "outsiders" reportedly, get back only \$83 for every \$100 bet -- **they pay a rate of tax almost three times higher** than the insiders. **Outsiders** are usually off-course; their bets average only \$2.50; they tend to bet early and their betting judgments are usually based on relatively poor quality information.

who is responsible?

- **No one seems to be responsible** for racing gambling taking advantage of the outsiders, the majority of the customers, and delivering the advantage -- real money -- to the insiders: neither the TAB; the Racing Board or the Race Clubs.
- State governments have done little to remove the **confusion of responsibility** that has long characterised the management of racing gambling.
- These three institutions collectively have a **common interest** in increasing the quantity (but not quality) of racing. So far, they have not, apparently, turned their mind to ensuring the gambling product is of good quality and offered on fair terms to the majority of the customers.
- The common interest of these groups underpins a **coalition between** them. The implications were well documented in the half-hearted response of the NSW government to the **Temby Report** of an investigation into racing some three years ago. In the end names were changed and the chairs were shuffled about, but no meaningful improvement is evident.
- **State governments** are not meeting their reasonable obligations to the general gambling public.

A higher level of government oversight is required. It would seem the Commonwealth Government alone could play this role with any confidence in the mind of the general public. This thought, no doubt, has application to gambling operations beyond racing.

-- Some suggestions for change:

- **A change of official attitudes would help:** racing is a legitimate business and should be operated properly -- not based on a view that punters are mugs; that the mugs are fair game and that the undisclosed prior-knowledge (of some insiders) is part of the game.
- The **privatisation, demutualisation and public flotation of the major race clubs** would likely do much to improve the attitude of the race clubs to the betting public. This, especially, if the distributions they received from the public purse were more closely tied to their improved performance in offering quality racing, as reflected in off-course betting turnover on individual races. As things stand, it is very likely that the members of these clubs that attend regularly, obtain a disproportionate share of the benefit derived from the improvement of racecourse facilities subsidised by distributions of gambling taxes to the industry.
- The attitude of the Thoroughbred Racing Board and the TAB to racing gamblers would be enhanced by a very clear **demarcation of their respective responsibilities**.
- The **Thoroughbred Racing Board** established in New South Wales, on reflection, seems to have been **a transitory political response** to unfavourable public perceptions of the standard of racing management in the state. It has made no perceptible difference to the quality of the product offered to the gambling public. The **TRB should probably have its responsibilities confined** to the regulatory administration of racing and the provision of some centralised, administrative services, such as handicapping, on a fee-for-service basis to the race clubs.
- **The TAB should be given a broader charter** than simple agency operator and tax collector. The TAB, as with other franchise operators, should be given **accountable responsibility** for the provision of **quality** racing; the minimisation of total industry **costs**, including total industry prize-money, subsidised from the public purse. Among other things the TAB should ensure that gambling tax rates are consistent with the maximisation of tax revenue within a high-quality, low-cost product framework.

- The current **confusion of responsibility** between the race clubs, racing regulators and the TAB should cease forthwith. **Some identifiable someone should be able to be held accountable.** A revised allocation of responsibilities should **avoid overlaps** and clearly place responsibility for the provision of a **quality racing product** and intelligent **consumer protection**, with the TAB. This objective would likely be assisted if **consumer representatives** were appointed to the TAB Board, and given appropriate access to the information bank of the TAB, to objectively identify shortcomings. It should not be forgotten that **it is the consumers of the racing product that finance the industry**, and then some. Consumers, especially the outsider patrons of TAB services, are properly entitled to have a substantial say in the administration of the racing industry at the highest level -- they are presently ignored. A recommendation to this effect in the Temby Report was, effectively, also ignored in the wake of industry stakeholders politicking to protect their position.

some first steps towards fairness

- A very useful start towards a fairer racing game would be the **broadcast, off-course, of the on-course betting market fluctuations.** It is manifestly unfair that the majority of racing gamblers should be required to place their bets in ignorance of betting developments on course. The race clubs recognise this. The clubs advertisers there are better-betting-on-the-spot to encourage punters to attend the course: this notwithstanding that relatively few of their customers either can attend, or choose to attend, race meetings. Instead of ensuring that all racing gamblers are given reasonably equal access to all readily available information, the race clubs discourage the off-course broadcast of on-course betting fluctuations. This, dog-in-the-manger, attitude is inappropriate. Such differential access to market information between insiders and outsiders would not be tolerated in most industries: **it should no longer be tolerated** in racing.
- Punters off-course could also be given the competitive benefit of **betting by phone** with bookmakers for amounts above \$20: bookmakers are presently unable to take phone bets for amounts less than \$200.
- The **efficiency of racing betting markets** could be monitored to detect patterns of advantage between the insiders and the outsiders -- between those on-course and those off-course; between those betting early and those betting late;

between those betting small amounts and those betting large amounts; between different states; between different classes of race etc.. With modern computer technology this monitoring task could be fully automated and there would be no reason why the results should not be made public.

- This monitoring exercise could be extended to **identify patterns of inappropriate behaviour** involving particular participants as evidenced by their repeated, direct involvement in similar, surprisingly unexpected outcomes. No evidence, no need to worry.
- The **condition of racing tracks** is crucial to race outcomes and can be determined objectively. In the first instance one might have regard to the opinion of a panel of racing professionals, especially jockeys allowed to ride track work on the course proper on race mornings: panel members unable to make correct forecasts could be replaced. From the commencement of racing each day, the time taken for a race to be run could be monitored against an historical record of races of similar class and distance -- and the results converted to a **single numerical indicator** on a scale of zero to 100.
- Such objective measurements of track condition should be **broadcast with the TAB** dividends paid on the event -- as is the case for the on-course, insiders. At present the time-taken information can be too difficult to pick up and, at busy times of the racing day, is often not broadcast at all.
- The racing public is provided with "tips" of race outcomes in the newspapers and, on subscription, from various **tipping services**. The usefulness of these tipping services should be monitored and the results made public. The newspapers could take responsibility for monitoring their own tipping service. A **specialist monitoring** service, paid for, at least in part, by those offering tipping services, could be conducted by racing administrators and the results both publicised and required to be shown prominently in future advertisements for the tipping service. Licences to conduct such services should be withdrawn from service providers demonstrably unable to provide a useful service reasonably consistently.
- In the interests of simple fairness to TAB customers, the practice of **rounding down** TAB dividends being to the nearest 10 cents should be abandoned. The practice is evidence of slick attitudes held among racing authorities and

characteristic of the disrespect so commonly shown to the racing public.

-- quality not quantity

One can only wonder about the likely beneficiaries of the conduct of many low-grade race meetings around the country. It is most unlikely to benefit the off-course, outsiders who probably contribute the bulk of the betting turnover and, no doubt, in percentage terms, the great bulk of the net spend.

One may well wonder whether the scheduling of many race meetings as authorised TAB events, involves a sensible diversion of gambling revenues, collected in the interests of the community generally, to subsidise particular interest groups.

It is very likely that there are clear differentials between the balance of industry costs and gambling revenues as between metropolitan and rural race meetings. More objective and well-publicised criteria should determine which race meetings are to be subsidised from the public purse. Now, the judgment seems to be at the discretion of the marketing people at the TAB, whose performance objectives seem to the cast more in terms of maximising, marginally profitable, total betting turnover than ensuring quality product.

In a similar vein, questions could be raised about the fragmentation of metropolitan racing, where, especially with the introduction of Sunday racing, there has been a marked increase in the percentage of races which could fairly be described as restricted, low grade events rather than quality racing. If a proper quality of racing product is unavailable, a poor quality substitute should not be endorsed by the TAB -- TAB facilities should be withheld, including from metropolitan race clubs.

GENERAL

-- issues raised

Brief comments on some issues raised by the Commission include:

- The **cost of gambling** is the alternative use that could be made of the labour and capital resources used in the industry - and gamblers' time. Some industry costs, which are reimbursed from the public purse, are undoubtedly unnecessary dead weight costs -- why should the community be subsidising the

upkeep of poor quality racehorses and their connections?.

- Spending (net) on gambling exceeds these costs and the excess is in essence a **redistribution from the gamblers** to the operators and the, non-gambler, beneficiaries of gambling taxes.
- **Gambling taxes** -- people voluntarily lining up to pay taxes -- are a government's delight.
- Subject to some caveats about product quality, a **correct rate of tax** is probably one that will maximise the tax take-out (net expenses and subsidies) over the long haul. This is not clearly the case at present and there may be a role for experimenting with different tax rates to help identify the optimum tax rate.
- The right to conduct **organised gambling** belongs to government, which is entitled (even required) to act as a monopolist would to maximise tax collections (net of costs and subsidies paid to the industry).
- The **licenced organisers** of gambling games are sub-contractor, **partners of government**, selected to manage a gambling operation so as to maximise turnover and their reward, within constraints imposed by government on product quality and the rate of turnover tax.
- The partnership of **licenced organisers and licensing governments** does not generally bode well for the gamblers. The partners need to be accountable to the players and to the general community --hence the call for a national gambling authority to ensure reasonably fair play. Such a national authority may have **no jurisdiction over state governments**, but the power and responsibility to disclose inappropriate public policy settings would be salutary.

--problem gamblers

Gambling is rejected by many, on moral grounds.

Gamblers are often regarded as fair game for the conduct of unfair games. There is little sympathy for losing gamblers.

From the gamblers' perspective, gambling is entertainment. Though certain to use time and lose money in the process of gambling, most gamblers manage their net costs against the value of the entertainment they receive.

Practically this balance can be difficult to achieve, not least because gamblers do not properly understand the risks and the uncertainties. Gamblers are not well informed, except by mixed experience, not understanding why they won or why they lost.

There is the additional point that gambling turnover on low grade racing may be more likely to be associated with gamblers with problems -- basically betting blind, at the mercy of more sophisticated insiders. It may not be so but there's nothing on the public record to suggest that these issues have been properly considered, including appropriate research making use of customer profiles embodied in the computer records of the TAB. A national racing authority could do some useful work here.

The marketing of gambling products emphasizes the attraction of winning, but does not clearly indicate the average percentage loss. The latter should be advertised as clearly as the former. The probability of loss, and of particular winning outcomes, could be prominently advertised in close proximity to where the bets are placed. The disclosure could be in terms that gamblers would readily understand.

In broad terms one might suggest that gamblers have a problem if their net spend on gambling is more than 10% of their recurrent income. Many gamblers are, apparently, over 0.10.

Gambling problems may be similar to problems associated with substance abuse.

Programs to assist people with such problems can run a risk of creating additional problems, especially if establishing a "legitimate" problem is a precondition to eligibility for financial aid or other costly subsidies. Assistance given to problem gamblers should probably be confined to counseling aimed at modifying behaviour. The spillover problem -- financial hardship for dependents -- should probably be dealt with within the framework of private and public financial safety nets for the disadvantaged.

This approach would not necessarily rule out financial levies on the industry to

fund non-financial assistance, but it would stop well short of taxing gamblers without problems to compensate those with problems, for their losses.

In general I have an aversion to bounty-hunting arrangements, funding problem relief schemes using financial penalties levied on those responsible for misdemeanours.

I could make an exception of the racing industry. Penalty revenues are, I believe, currently diverted to finance discretionary grants to jockeys injured in the course of their racing activities: such insurance-style, compensation arrangements should be financed privately, even on an industry basis, rather than earmarking tax-like revenues, collected under some private, quasi-legal system. Similarly, one could question the use of earmarked tax revenues to finance the development of racecourse facilities across the country to the benefit of relatively few gambling participants

Funds sourced in penalties on participants could be used, in part, to ensure gambling is recognised as a wealth hazard. There may also be scope to levy financial penalties in part substitution for suspensions from participation. Preferably though, such bounty hunting arrangements would be avoided, penalty revenues passed to the general public purse and separate decisions made and funded to promote responsible gambling.