



NSW Bookmakers' Co-operative Ltd.

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Friday, 7 May 2010

Regulatory Burdens: Business and Consumer Services
Productivity Commission: (Attn. Mr Steven Argy)
GPO Box 1428
Canberra City,
ACT 2601

Dear Sir/ Madam,

Subject: Supplementary Submission to Productivity Commission Review of Regulatory Burdens on Business: - Re "RACEFIELDS" APPROVALS REGIME.

On 8th March, 2010 the NSW Bookmakers Co-operative Ltd ("the Co-op") lodged a formal submission to this Review.

To briefly recap our background, the Co-op currently represents some 252 licensed on-course bookmaking members in NSW, making up 95% of the total bookmaking license holders in this State. The Co-operative is affiliated with the Australian Bookmaking Association (ABA) which is the national representative body for on-course bookmakers, and our organisation directly provides delegates to the board of that national body.

In our previous submission the Co-operative on behalf of our members raised our concerns in relation to the current regulatory burden associated with current *Austrac* requirements under the *Anti- Money Laundering and Terrorist Financing Act 2006*.

In summary we argued that the regulatory burden placed on the vast majority of on-course bookmakers as a consequence of these Federal Government anti-money laundering and terrorism financing requirements is excessive, poorly targeted and unnecessarily complex in terms of meeting the objectives of the legislation.

Following subsequent discussions with officers of your Commission the Co-operative has been made aware that an additional area of regulatory burden on our members would potentially be 'within scope' of your organisation's review.

This area relates to relatively new licensing requirements placed on all wagering providers Australia wide, including all on-course bookmakers. These new requirements are known as **"Racefields Approvals"**.

1. What are Racefields Approvals?

Racefields Approvals are a relatively recent addition to the licensing / regulatory requirements placed on wagering operators, including bookmakers, via State and Territory Government legislation.

In recent years almost all Australian State and Territory Governments have passed legislation that effectively requires all wagering operators to seek a formal approval (i.e. Racefields Approval) from each racing controlling body whose races it intends to conduct betting on.

The primary intent of this legislation is to establish a fee or product payment regime that returns a proportion of betting turnover or profits to the racing code responsible for the delivery of the races that are wagered upon. Other impacts of the legislative framework include the ability for racing controlling bodies to determine certain regulatory standards for wagering operators that relate to the integrity of the conduct of this betting and to the bona fides of the wagering operator itself.

In terms of product fees, the new arrangements were intended to enhance the revenue streams from betting that previously flowed to the racing industry and/or government within the home jurisdiction of the relevant wagering operator with which the bet was placed. This longstanding (informal) agreement between the various States and Territories was widely known as “the gentlemen’s agreement”.

The new Racefields arrangements aim to enhance the betting revenues received by the home jurisdiction racing authority whose race meeting the bets were placed upon, irrespective of where the wagering operator accepting the bet holds its license.

The new regime, being adopted progressively by most State and Territory Governments and their respective racing code authorities Australia wide, has proved to be somewhat controversial.

A number of legal challenges have been mounted by certain wagering operators concerning such issues as the validity of the legislation and the determination of fee levels by the relevant racing bodies. These challenges will be adjudicated in time by the courts and are only indirectly related to our main concerns re this new regulatory impost on our members.

Our main concern is the exponential increase in regulatory and licensing requirements that this enhanced occupational licensing regime has placed on our member bookmakers.

2. Why has Racefields Legislation and its related approval requirements placed a significant new regulatory burden on bookmakers?

Quite simply, Racefields has effectively broadened the licensing regime for Australian bookmakers from that of a single (‘home’) State or Territory license approval (which allowed them to conduct betting on all racing events conducted anywhere in the nation), to a “multiple license” regime whereby regulatory approvals are needed in each and every State /Territory where races are conducted that the bookmaker accepts bets on.

Consider therefore the following example of a Sydney based on-course bookmaker who fields at various times at NSW racecourses of all 3 racing codes (i.e. thoroughbred racing, harness racing and greyhound racing), and accepts bets on those race meetings plus on certain “away” interstate racing meetings conducted on the same day in Victoria and Queensland:

Previous Licensing Requirements – ‘license or authority’ required from the following:

- NSW Government (‘OLGR’)
- Racing NSW (thoroughbred racing controlling body in NSW)
- Harness Racing NSW (harness racing controlling body in NSW)
- Greyhound Racing NSW (greyhound racing controlling body in NSW)

New (post-racefields) Licensing requirements – ‘license or authority’ required from the following:

- NSW Government (‘OLGR’)
- Racing NSW
- Harness Racing NSW
- Greyhound Racing NSW
- Racing Victoria Limited
- Harness Racing Victoria

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- Greyhound Racing Victoria
 - Queensland Racing Limited
 - Queensland Harness Racing Limited
 - Greyhounds Queensland Limited

The above illustration provides just one example of the many possible combinations of the new race field licensing approvals now required of most bookmakers who accept bets on the outcome of races held in multiple Australian jurisdictions. Note that this 'example' bookmaker is only betting on interstate racing events in 2 other jurisdictions. There are many bookmakers fielding on events held in more than 2 additional States and Territories – with the necessity to obtain individual Racefields approvals in ALL of these jurisdictions and for each relevant code of racing.

The potential increase in the number of licensing approvals that may now be necessary to conduct bookmaking is staggering, as is the complexity and differences in the types of information required, reporting requirements, payment methodology, integrity requirements, stewards monitoring requirements and a diverse range of other obligations created arbitrarily by each government and racing control body in each jurisdiction.

The Co-operative understands and supports the racing industry's attempts to levy equitable fees on wagering operators who accept bets on its races. However the new multiple jurisdiction Racefields arrangements are fragmented, inconsistent and uncoordinated in terms of what now is a national market for wagering services.

Quite simply they do not operate cohesively or in any sensible form of mutual recognition that one might expect would rationally apply to a national industry.

They provide a significant and unnecessary occupational regulatory burden on our bookmaking members, and indeed all bookmakers and other wagering operators throughout Australia.

3. What has the Productivity Commission said so far on this issue?

The Productivity Commission has in part reviewed the new Racefields arrangements in the context of its (draft) Report on Gambling (see ch.13 etc). We note that its final version report on Gambling is soon to be released by the Federal Government.

Draft Recommendation 13.1 in that report states the following:

“The Australian Government should work with 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 base arrangements”.

This recommendation goes on to list the desirable elements of the model that relate to the methodology of setting an appropriate levy that would be universally applied.

While there is some further minor discussion in the report concerning the 'non-fee' aspects of this issue, such matters as centralised regulation and licensing approvals have not been canvassed in detail. In other words the additional regulatory burden placed on bookmakers and other wagering operators has received much less coverage / comment than have fee levels, and no detailed recommendations have been provided in respect of this aspect of the 'debate'.

While this limited coverage was appropriate given the focus of the Gambling inquiry, we feel there is opportunity within the current Regulatory Burdens inquiry to provide further commentary and offer specific recommendations in respect of these broader regulatory related issues.

4. Conclusion

The NSW Bookmakers Co-operative strongly believes that the Racefields legislative and regulatory regimes recently introduced by most State and Territory Governments should be specifically reviewed as part of the Productivity Commission's report on Regulatory Burdens for business.

We believe that the current arrangements provide a huge additional impost on our member bookmakers in terms of their occupational licensing requirements in what is clearly a national market / industry for the provision of wagering services.

An alternative form of national licensing is obviously needed to simplify this increasingly complex and overlapping system of State and Territory regulatory arrangements.

The Co-operative therefore requests that your Commission engages in further discussions with our body and (if appropriate) the Australian Bookmakers Association (ABA) with a view to considering the alleviation of this significant new burden to the majority of on-course bookmakers, both in NSW and in all other Australian jurisdictions.

Yours sincerely,

Mick Rolfe
Chairman