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| <p>Arena Racing Company: Submission to the Consultation on the use of a Legislative Reform Order to reform the administration of the Horserace Betting Levy February 2018</p> |
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Introduction

About Arena Racing Company:

Arena Racing Company (“ARC”) currently operates c.35% of the racing that takes place in Great Britain every year. In 2018 ARC racecourses will hold 552 race meetings across these 16 racecourses: Bath, Brighton, Chepstow, Doncaster, Ffos Las (independently owned but operates within the ARC Group), Fontwell Park, Great Yarmouth, Hereford, Lingfield Park, Newcastle, Royal Windsor, Sedgefield, Southwell, Uttoxeter, Wolverhampton and Worcester.

ARC runs four of the six all-weather racecourses in the UK offering three different types of surface for horses to run on: Polytrack at Lingfield Park, fibresand at Southwell Racecourse and tapeta at Newcastle and Wolverhampton Racecourses – the only tapeta racing surfaces in Europe. In 2013 ARC pioneered the All-Weather Championships which see horses compete throughout the winter for the chance of qualifying for a £1 million Finals Day on Good Friday at Lingfield Park. This initiative is helping raise the profile and prestige of all-weather racing in Great Britain.

ARC hosts racing at all levels of the sport from Class 7 through to Group 1s. Doncaster Racecourse is home to the world’s oldest Classic, the St Leger, run each year in September as part of the four-day St Leger Festival. Feature jumps races include the Grade 1 Fighting Fifth Hurdle at Newcastle Racecourse, the Welsh Grand National at Chepstow Racecourse and Midlands Grand National at Uttoxeter Racecourse.

ARC is a significant shareholder in the horseracing TV channel At The Races which is broadcast on the Sky platform to c.14 million homes, and a JV partner with Racing UK in GBI Racing which sells UK and Irish Racing to betting shop operators around the world.

ARC plays a pivotal role in British Racing. It is a shareholder in British Champions Series and Racecourse Data Company and is on the boards of the Racecourse Association (“RCA”), Great British Racing (“GBR”) and British Champion Series (“BCS”).

In 2015 ARC set up The Racing Partnership. This limited company represents the media rights of the 15 ARC owned-racecourses and the 7 independent racecourses Fakenham, Ffos Las, Hexham, Newton Abbot, Plumpton, Ripon and Towcester.

In addition to racecourses ARC owns Newcastle and Sunderland Greyhound Stadia and looks after the media interests of the Greyhound Media Group (“GMG”).

ARC employs 650 permanent staff and engages with 3,500 casual staff for racing and events across its racecourses. Further information about ARC can be found at www.arenaracingcompany.co.uk.

ARC’s submission to the consultation:

ARC welcomes the opportunity to respond to the Consultation on the use of a Legislative Reform Order to reform the administration of the Horserace Betting Levy (“the consultation”). ARC has split its submission into three parts: the first makes some overarching comments about collection and distribution of the Horserace Betting Levy (“the Levy”) which ARC believes the Department for Digital, Culture, Media and Sport (“DCMS”) should be aware of and the second addresses the specific questions raised in the consultation, followed by a conclusion.

Comments from ARC about the consultation

Overall, ARC agrees with the direction of travel set out in the consultation. ARC believes the Gambling Commission is an appropriate body to collect the Levy and that it is right for the distribution mechanism to be led by delegates from within British racing, albeit with formal input from betting operators given the sector's vital importance to the sport.

While DCMS conducts this consultation to establish the new system for collecting and distributing the Levy, ARC believes DCMS should be aware that some significant decisions have already been taken which will shape how the new distribution body (referred to from now on as "the Racing Authority") will operate. In order to play a constructive role within in the process of establishing the Racing Authority ARC would like to make DCMS aware of the following points:

- **Appointment of Sir Hugh Robertson as independent Chair of the Racing Authority:** ARC wholeheartedly supports this appointment.
- **The respective roles of the BHA, RCA and Horsemen's Group within the Racing Authority:** The central commercial drivers in racing lie with the 59 racecourse members of the Racecourse Association ("RCA") and Horsemen's Group (owners, trainers, jockeys, breeders and racing staff). ARC believes the British Horseracing Authority's ("BHA") primary role should continue to focus on governance and regulation, overseeing the rules, regulations and integrity of the sport. This is in line with how other sports are structured. However, within the context of the Racing Authority ARC would stop short of saying the primary voting roles within the Racing Authority should sit with the RCA and Horsemen's Group, and the BHA's primary role should only be an advisory one, as this would be counter to what has already been informally established.
- **Ongoing lack of clarity about the specific responsibilities of the Racing Authority:** There continues to be some lack of clarity about the responsibilities of the BHA, as the sport's governing body, versus those of the Racing Authority. Previously, there has been some overlap between the responsibilities of the Horserace Betting Levy Board ("HBLB") and the BHA which ARC would not like to see repeated within the new funding model for racing. ARC believes as part of establishing the Racing Authority there needs to be complete transparency about the respective responsibilities of the Racing Authority and the BHA. For example, issues that need clarifying include, but are not limited to;
 - establishing what exactly the Racing Authority will fund on behalf of the whole industry (and betting operators) versus spending commitments of the BHA given the latter's operations are funded by racecourses and owners, not via the Levy;
 - agreeing which organisation is responsible for the overall size and shape of the sport (the number and nature of the fixtures held each year);
 - establishing the correct and fair level of funding for different types of fixtures at all levels of racing in order for the sport to grow via increasing its share of the betting market, rewarding existing stakeholders appropriately (including at the grassroots of the sport) and attracting new owners into the sport;
 - continuing the availability for racecourses to receive loans to help fund capital investments which is relied on by some smaller racecourses; and
 - the level of spending on key areas including equine welfare and development funding.

- **Racing's relationship with betting operators:** Paragraph 3.53 of the consultation is clear about *'the incentive for racing to work constructively with betting to maximise returns from the levy'*. However, as yet the relationship that betting operators will have with the Racing Authority appears to remain wholly unclear. ARC believes betting operators should have a formal mechanism for contributing to discussions given that the funds being distributed by the Racing Foundation are generated through betting activity. In addition, a formal relationship, ideally set out within the constitution of the Racing Authority, will allow betting operators to constructively contribute to the decision-making process about funding decisions which will help formalise the symbiotic relationship between the two sectors.
- **Expenditure to date:** DCMS should be aware that the Racing Authority has already been burdened with significant administrative costs even though it will not operate formally until April 2019;
- **Some pre-emptive spending decisions making based on unclear rationale:** Decisions have already been made which sees the Racing Authority commit to an annual expenditure of £73 million for the foreseeable future without a clear understanding of either, the future needs of the different parts of the sport, or in discussion with betting operators.
- **The case for hypothecated spending needs addressing by the Racing Authority:** ARC has consistently made the case to the BHA for greater consideration to be given to hypothecation of the Levy. By this it means distributing funds generated through betting (i.e. the Levy) into prize money for fixtures or individual races on the same proportional basis in which they generated. This could help create a clearer link between betting performance and financial reward for racing participants which would help ensure an equitable future funding process, especially for the grassroots of the sport. At the moment ARC racecourses receive around £2 million less in Levy than the racing on ARC racecourses generates for the whole sport. This is simply not a sustainable position as it means in real terms that grassroots racing is helping to fund the elite level of the sport. To date, none of this has been given the consideration ARC believes it should if the sport is to maximise the opportunities to grow in partnership with betting operators.
- **Role of the Horserace Betting Levy Board:** With the establishment of the Racing Authority there is the potential for the existing expertise within the HBLB to be lost which ARC believes would be detrimental for all stakeholders. Consideration should be given on how this can be prevented;
- **Mechanisms for holding the Racing Authority to account in the future:** Crucially, the consultation does not appear to set out any clear mechanisms for holding the Racing Authority to account, as there currently is with the HBLB as a quasi-Government body which is answerable to DCMS. ARC believes this should be addressed and a satisfactory mechanism found which is included in the constitution of the Racing Authority.

ARC believes all of these issues can be addressed if enough detail is included in the legislation and/or the constitution for the Racing Authority.

ARC's answers to specific questions in the consultation

ARC has the following comments to make on the specific questions raised in the consultation:

Do you agree that the proposal will remove or reduce burdens?

The headline saving in administrative costs of £0.6 million per annum appears to be achievable if the process of transferring responsibilities from the HBLB to the Gambling Commission and the Racing Authority is managed in a professional manner.

A crucial element of this will be managing personnel and ensuring all potential costs are identified and fully understood in the early stages of the transition.

Do you have views regarding the expected benefits of the proposals as identified in Chapter 3 and 4 of this consultation document and addressed in the de minimis assessment?

ARC believes the HBLB has done an excellent job in recent years and the efficiency, transparency and accountability under which it has operated needs to be maintained and enhanced as part of the future system for collection and distribution of the levy.

Are there any non-legislative means that would satisfactorily remedy the issues which the proposals intend to address?

ARC believes the legislative process can satisfactorily address the issues if enough detail is included within the legislation, and not left to interpretation by the Gambling Commission or parties involved in the Racing Authority.

ARC believes it would be advantageous for either the legislation, via the Reform Order, or the constitution of the Racing Authority to clearly and categorially establish where responsibilities lie between the two organisations. As well as ensuring the sustainability of the new distribution model this will be beneficial to racing and ensure the requirements of the State Aid process are met, as set out in paragraph 3.60 of the consultation.

Are the proposals proportionate to the policy objectives?

ARC believes these proposals are proportionate to the policy objectives if there is enough detail and clarity within the legislation (as set out in the answer above).

Do the proposals taken as a whole strike a fair balance between the public interest and any person adversely affected by it?

ARC believes the proposals strike a fair balance.

Do the proposals remove any necessary protections?

As set out previously in this response, as currently drafted the proposals do not clearly establish the responsibilities of the BHA versus those of the Racing Authority, nor set out how the latter organisation will be held to account. Unless these two things are clearly there will be a lack of accountability and transparency for stakeholders within the sport and interested parties, including bookmakers.

Do the proposals prevent any person from continuing to exercise any right or freedom which he/she might reasonably expect to continue to exercise? If so, please provide details.

ARC does not have anything to add on this question.

Conclusion

ARC believes the establishment of the new mechanism for collecting and distribution of the Levy offers racing an ideal opportunity to further meet the needs of all its stakeholders, including betting operators, but only if the newly created Racing Authority operates in a truly efficient, transparent and accountable manner.

For further information please contact [REDACTED] at ARC on [REDACTED]