

## Consultation on reform of the Horserace Betting Levy

3 messages

[REDACTED]  
To: levy.consultations@culture.gov.uk

8 February 2018 at 15:07

Dear Sir/Madam,

Further to the Consultation on the use of a Legislative Reform Order to reform the administration of the Horserace Betting Levy I would be grateful if you can take note of the following views.

At a time when we face significant social, political and economic issues, it is a surprise that government has found the time and resource to consider and propose a reform that would deliver such a small apparent benefit.

Racing and bookmaking mutually depend upon each other to a greater or lesser extent – the importance of this relationship leads to much of the structure and purpose of the original primary legislation. However, the reform proposed by Government will take a robust and proven administration mechanism in the form of the HBLB and replace it with a system that appears to be broken from the outset:

- there will be increased separation between all stakeholders
- racing will lose direct oversight of the levy collection process
- bookmaking will lose direct insight into the levy expenditure process
- formal independent oversight of the use of public money will be removed
- the public will have no formal right to subject the levy expenditure process to scrutiny
- government will have almost no control of racing's use of public money
- government will lose a key impartial body to advise on levy issues
- racing will be required to unnecessarily create another administrative authority
- racing's dependence on the levy will continue
- government will continue to be burdened with setting the levy

The effect of the reform is such that its true and primary purpose seems to be to give racing direct responsibility for levy expenditure. This is something that racing has long asked for, however, it should be remembered that racing has a major presence on the HBLB and therefore racing already has significant and tangible influence on both levy expenditure and HBLB operation.

Further to the problems above the financial argument used to justify the reform is unreliable:

- the base data has been sourced from bodies that have natural divergent interests
- the Racing Authority has no corporate substance and its costs are highly uncertain
- there is no evidence that the financial data has been subjected to independent verification
- dissimilar values have been compared
- significant assumptions that are favourable to reform have been made
- some costings seem unrealistic
- the risk of the project has not been quantified

In a commercial sense, the projected efficiency gains cannot be trusted and this undermines the credibility of the proposed reform.

With regard to the use of the proposed legislative reform order it seems that it will not satisfy various preconditions and sections of the Legislative and Regulatory Reform Act 2006 (LRAA) for the following reasons:

- The DCMS presents no evidence that it has sought to identify or implement non-legislative efficiency gains within the existing levy mechanism – the very low marginal efficiency gain that it is seeking would seem to be achievable by other means
- The reform is disproportionate - it fundamentally changes the structure of racing's levy mechanism for a small and unverified marginal gain at an unknown but probably high risk – yet the current mechanism is generally trusted and well regarded – the reform based on the arguments presented by the DCMS seems disproportionate
- The reform removes a swathe of original and new necessary protections – for example, the reform will remove oversight by independently appointed government members, statutory appeals facilities will be removed, bookmaking board membership will disappear, and all other protections applicable to

public bodies will be removed specifically with regard to levy expenditure (see below). These protections are necessary to ensure the appropriate use of public money.

- The reform will indirectly remove established freedoms – specifically the new Racing Authority will be a private body and the public will lose the statutory and therefore guaranteed right to subject the levy expenditure process to scrutiny via Freedom of Information inquiry
- The reform transfers subordinate legislative duties outside of government's control - the funding schemes operated by the HBLB are subject to rules defined and implemented by the HBLB - these rules fall within the scope of subordinate legislation but the reform would transfer the duty of setting these rules to the Racing Authority (a non-government non-regulatory body).
- The order will vary a process of taxation

The proposed reform order will completely remove key elements of primary legislation and it is difficult to see that this is reasonable use of such a tool - if this reform is allowed to proceed then it will significantly undermine the legislative process and provide the ideal opportunity for judicial review.

In summary the proposed reform will take public money and place it directly into private hands, it removes significant and appropriate checks and balances, it introduces a structure that promotes dysfunction, it removes public rights, it fails to satisfy LRAA requirements, it leaves government to set the levy, it does not promote racing's future commercial independence, and finally the suggested benefits are small and unreliable.

Whilst racing's funding is not as simple as it could be it is difficult to see why government needs to expend further significant energy modifying a levy system that is trusted and well regarded and that is already under the direct influence of racing. If racing requires something different then it would seem reasonable that the onus is primarily on racing to find and implement a viable commercial replacement to the levy. Currently government has far more important issues to address and it would be inappropriate for the proposed reform to proceed beyond the initial consultation.

This response is given in a personal capacity and is intended to serve the public interest - the views and comments are not intended to be representative of any particular organisation.

Given my current work responsibilities I must formally request anonymity although I am happy for my views to be shared and considered.

Yours sincerely,

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