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Gambling Policy
Department of Treasury and Finance
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Dear Sir

Re: Submission - Regulation of Bookmakers Issues Paper

I have considered the matters raised in the "*Regulation of Bookmakers - Issues Paper*" and make this submission.

Licensing

The SA Bookmakers' League (SABL) requested the transfer of the licensing function from the Commissioner to the SABL. The paper states that it is not the Government's intention to transfer the licensing of bookmakers from Government to the industry but asks:

- **Is it appropriate to make the *Authorised Betting Operations Act 2000 (the Act)* consistent with the *Gaming Machines Act 1992* in relation to criminal intelligence?**

Comment: The Act makes no mention of SA Police in relation to the bookmaker licensing process.

This is not the only section in the Act that is inconsistent with the regulation of gaming machines and the casino. For example, the Gaming Machines Act provides that an inspector must not operate a gaming machine and the Casino Act states that an authorised officer must not engage in gambling at the casino. There is no prohibition on wagering by authorised officers (inspectors) and this should be considered.

I support amendments to ensure regulatory consistency.

- **Does the licensing process create undue administrative burden (provide examples)?**

Comment: Because I have no disciplinary powers, I grant licences for one year. This is not consistent with the grant of ongoing liquor and gaming licences.

If the Act provided that the Commissioner had disciplinary powers, I could grant ongoing licences and take disciplinary action when appropriate thereby reducing the administrative burden on bookmakers regarding annual applications for renewal.

Also the Act requires that, in considering a renewal application, I must be satisfied that the applicant is a suitable person to hold the licence and I therefore have regard to the person's financial background and resources. If the appropriate probity and financial checks were completed when the licence was granted, and I had disciplinary powers, no further such checks would be required unless I had concerns about the operations of a particular individual. I would therefore not require annual financial statements from all bookmakers thereby removing another regulatory burden.

- **Are there any other matters relating to licensing that could be changed to reduce administrative burden?**

Comment: The length of the licence relates directly to the administrative burden on bookmakers - the longer the licence, the less the burden. Under the current legislation I am not prepared to grant long term licences.

Permits

The SABL has requested the transfer of the permit system from the Commissioner to the SABL.

The paper asks:

- **Is a permit system in legislation required?**

Comment: No. All authorisations and restrictions currently contained in a permit could be included in a licence or governed by legislation.

- **If so, what advantages in terms of consumer protection and probity does it offer?**

Comment: The permit system has no impact on consumer protection and if a person holds a licence to be a bookmaker he/she should be allowed to operate as one.

It is not appropriate to use the permit system as a disciplinary process. If a regulator has concerns about a bookmaker's betting operations in terms of consumer protection, the regulator should be able to take the disciplinary action available in the Act in relation to the bookmaker's licence, rather than deny permits.

- **What commercial arrangements relating to the approval of bookmakers to field are appropriate for the racing industry?**

Comment: The grant of permits to bet became a regulatory function over thirty years ago. I believe that one of the reasons for this was that bookmakers, at that time, did not have confidence in the racing industry being able to grant the permits without bias.

The governance of the industry has come a long way since then but if there are still concerns about individual clubs favouring certain bookmakers to the detriment of smaller operators, then the controlling authorities should undertake the role of determining the bookmakers to field at race meetings in consultation with the SABL.

The Commissioner has no role in legislation to protect the sustainability of the bookmaking industry and this is really the only issue when determining the grant of

permits. If too many permits are granted for particular meetings there is a negative impact on bookmaker viability.

Controlling authorities could consult with, and seek advice from, the SABL in relation to the optimum number of bookmakers to field at each meeting.

If the granting of permits is no longer a regulatory function, there would be no need for an appeal process in legislation. As permits are currently granted for race meetings, consideration would have to be given to a legislative definition of race meeting from a time perspective e.g. betting can take place 2 hours before first race up to certain time.

The racing industry already has an agreement with the SABL in relation to the payment of fees by bookmakers and a similar agreement could be established in relation to a process to determine bookmaker attendance at race meetings.

- **If the permit system is replaced with a licence condition authority for telephone and internet bookmaking, what criteria should apply to the granting of that authority?**

Comment: The Act provides for a permit to authorise betting by telephone or other electronic means (internet). Granting any authority via licence or licence condition should be up to the licensing authority with provision for Ministerial Direction if required. If authorised, telephone and internet betting would be subject to the requirements of the Rules and approved procedures determined by the Commissioner.

If there were no regulatory responsibility to grant permits, I would no longer need to be aware of the bookmaker betting turnover at each race meeting. This means that, instead of lodging weekly reports regarding turnover and profitability at each meeting, bookmakers would be required to lodge monthly summary reports, thereby reducing a significant administrative and regulatory burden.

Rules

The paper states that it is the intention to retain the IGA as the rule maker and asks:

- **Is the scope of the IGA's rule making powers appropriate? If not please provide examples?**

The Act (s 62) provides that the IGA can make rules as follows:

- (a) regulating the betting operations of licensed bookmakers; and
- (b) requiring an applicant for a licence to give security;
- (c) providing for the keeping of records, inspection of records and furnishing of returns;
- (d) prohibiting or restricting advertising;
- (e) dealing with any other matters; and
- (f) prescribing penalties not exceeding \$5,000 for breach of a rule.

Comment: I believe that the scope is appropriate although in some areas the rules go into too much detail (keeping records) and in others more detail is required (no specific rules for sports betting).

- **Are there any particular rules that cause undue administrative burden?**
- **Are there any rules that could be revoked because they are no longer required?**

Comment: A number of rules would fall into the above two categories and I would support a full review of the rules to be undertaken in consultation with the IGA and the industry.

- **Should the system of security be administered at all or should it be administered by the industry or continue to be administered by OLGC?**

Comment: Bookmakers must deal with two Government regulators in relation to the lodgement and refund of securities. While the Commissioner holds cash securities, the Independent Gambling Authority (IGA) holds bank guarantees and mortgages. When seeking a release of a bank guarantee or discharge of mortgage by the IGA, the bookmaker must first seek the agreement of the Commissioner as it is the Commissioner who must be satisfied that the remaining security is sufficient.

Other State Governments regulate the amount of security or guarantee required but do not hold that security. The securities are managed by Bookmaker Associations.

The level of security should be high enough to ensure consumer confidence and protection, be fair to all bookmakers and be accessible to claimants in the event that a bookmaker is unable to meet his betting obligations.

I recommend that security levels, based on turnover, should be set by regulation or rule (after consultation with the industry) and administered by the industry.

- **If security is to be administered by the industry what are the key parameters of an industry scheme?**

Comment: The key parameters are that the nature of any security is appropriate, bookmakers are prevented from operating if appropriate security is not lodged and a proper process is in place for access to that security by claimants.

To reduce the financial burden on bookmakers, the industry may wish to consider that the security be lodged through some form of insurance based process. Similar models are in use in other states and provide confidence for consumers and reduced administrative and regulatory burden for bookmakers without compromising the integrity of wagering.

Enforcement and Compliance

The paper states that it is unusual that the Commissioner has the power to licence bookmakers under the Act while the IGA has the disciplinary powers. The paper asks:

- **Would a transfer of the disciplinary function for bookmakers from the IGA to the Commissioner reduce administrative and regulatory burden for bookmakers?**

Comment: Currently non-compliance is detected by staff from my Office and the licensee is advised that although the Commissioner has no disciplinary powers, the Commissioner requires a submission from the licensee regarding the non-compliance prior to the matter being forwarded to the IGA.

Non-compliance is reported to the IGA in a statistical format on a monthly basis and further details are provided on request from the IGA. This Office is unable to tell a bookmaker if any further action is to be taken as that is up to the IGA. If the IGA determines to take no further action, the licensee gets no confirmation of that.

The transfer would give bookmakers one point of contact for licensing and compliance issues and they would deal with the IGA on matters of appeal.

- **Would a transfer of the disciplinary function for bookmakers from the IGA to the Commissioner impact on consumer protection and the integrity of racing and wagering?**

Comment: A transfer of the disciplinary function to the Commissioner, with appeal to the IGA, would have no detrimental impact on consumer protection or the integrity of racing and wagering.

Unclaimed Winnings

The SABL requested that the SABL and bookmakers have the responsibility for managing unclaimed dividends. The paper also states that the Government does not support the retention of unclaimed winnings by the SABL or bookmakers.

Treasury is considering changing the frequency of the payment of unclaimed winnings from weekly to a less frequent basis and the paper asks:

- **Would a change in the frequency of the payment of unclaimed winnings to the Treasurer from weekly to a less frequent basis assist in reducing the administrative and regulatory burden for bookmakers?**

Comment: Bookmakers pay their unclaimed winnings (from bets made about two weeks prior) to this Office on a weekly basis. Although there has been some improvement, my staff find that compliance with this requirement is poor due to apathy, poor record keeping and some genuine oversights.

Racing clubs are required to lodge unclaimed winnings from bets placed in a calendar month by the end of the following month one year later. For example, unclaimed winnings from all meetings in April 2007 are required to be lodged with this Office by 7 May 2008. A similar provision for bookmakers would require a dramatic improvement in bookmaker record keeping and I could not recommend this from either a compliance or a consumer protection point of view. This option would also increase administrative burden on bookmakers as betting sheets and paid tickets would have to be kept for over a year to enable compliance checking.

Monthly lodgement of unclaimed winnings from bets placed in one calendar month by, say, the 21st day of the next month would reduce administrative and regulatory burden and make it easier for bookmakers to comply with the regulations. For example, unclaimed winnings from all betting in April 2008 would be required to be lodged with this Office by 21 May 2008. This would also enable consumers to collect bets from bookmakers for a longer period of time without having to refer their claims to this Office. This would not have an adverse impact on our compliance checking provided that bookmakers were required to retain paid betting tickets for an additional month (currently two months in the rules).

Betting Information Service

Section 61(3) of the Act provides that no person can communicate bookmaker betting information from a racecourse without the approval of the Commissioner. Currently I approve Thoroughbred Racing SA, Harness Racing SA and Greyhound Racing SA to transmit bookmaker betting information to other racecourses around the country via the Australian Prices Network (APN).

The paper suggests that as the responsibility for the conduct of this service is with the three racing controlling authorities and not the Commissioner, those authorities could be responsible for the approval of the communication of information that is covered by section 61. The paper asks:

- **Would a transfer of responsibility for the approval for the communication of certain information as to racing or betting from the Commissioner to the three racing controlling authorities assist in reducing the administrative and regulatory burden for bookmakers?**

Comment: The section in question is designed to ensure that bookmaker betting information is available only to persons in attendance at racecourses while that betting is taking place.

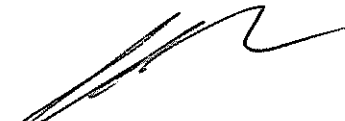
The APN is owned by a consortium of NSW and VIC racing clubs and has recently advertised that bookmaker betting information is available to TAB agencies and home users. This means that the bookmaker information protected by the Act is, once it leaves the racecourse and arrives in another state, forwarded to anyone prepared to pay for it. This has been done with the knowledge of the bookmakers and the racing industry and therefore this section of the Act would appear to be no longer necessary.

If the industry has continued concerns about persons at race meetings passing information from the racecourse, the Rules of Racing, enforceable by the Stewards, could be amended to make that activity unacceptable and punishable by removal from the venue.

The Government may wish to retain section 61(1) which makes it an offence to offer tips on races for a reward and 61(2) which exempts newspapers, radio and TV from 61(1).

Thank you for the opportunity to comment on the Issues Paper and I look forward to participating in the processes involved in any amendments to the Act.

Yours sincerely



W.A. PRYOR
LIQUOR AND GAMBLING COMMISSIONER