

INQUIRY INTO GREYHOUND RACING IN NSW

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Date received: 22/01/2014

BARKING UP THE WRONG TREE.

John L Tracey- Greyhound Historian.

Abstract.

The following history has been compiled from information originally requested by the Greyhound Action Group. The survival of Greyhound Racing has always been a tough assignment and I congratulate members of the Greyhound Action Group and their supporters for having the courage and focus to advance the greyhound cause. The issues involving racing and gaming and privatisation are very complex social issues and take a lot of time to sought out. Historically the Greyhound Racing Inquiry (2013) is in the right place with the protectors of the public interest, the NSW Legislative Council.

There are obviously large issues involving both the big picture and the day to day running running of Associations and Control Boards.

Hopefully, NSW will get a good result out of the Greyhound Inquiry and for those who have participated in the proceedings they should be comforted by the old truism.

“ You are either a part of history or a victim of it”.

INTRODUCTION.

Victoria privatised its totalisator business in 1994 to allow for duty tax relief resulting in the share holder TAB receiving 75% of the profits and racing 25%. The reform, which was called a joint venture included the TAB having profits from gaming.¹ The sale of the TAB was done by float and was regarded as a successful transaction unlike the earlier Private and Public Partnerships (PPP) in Victoria referred to with the acronym BOOT (Build,Own,Operate,Transfer).² The above were seen

¹ Crikey daily review extract - Yates key person in Macquarie Bank Victorian Crown Casino successful tender.

Extract-Yates did one of the best deals of all time and got racing industry distributions up from \$120 million a year to \$180 million along with a 25 per cent stake in both Tabcorp's wagering and gaming businesses. He also won them a 30 per cent tax cut as part of the deal making the gambling industry the only one to get any sort of substantial tax assistance from the Kennett government in its first five years.

² Australian Centre for Independent Journalism Transcript Professor John Quiggin 1998

as devices to hide State deficits. By the time that NSW were considering privatisation reforms to the TAB in NSW, public disquiet over competition policy in Victoria was growing and PPP's were being discredited. Nevertheless, the NSW Government advanced both the competition policy and the joint venture agreement to replicate the Victorian System and a float date was struck (early 1998). In late 1997 the Government changed the joint venture agreement to a more classical arrangement involving a demarcation allowing the racing to retail itself and the TAB to retail wagering through a totalisator public company controlled by shareholders.³ The above switch was tolerated by all parties and the Parliament continued with its bi partisan support and concerns were muted. The Labor Government returned in 1995 and was following the competition reforms backed by the previous Liberal and National Government. The float was fully subscribed in 1998 but fell short of its stated aims to put NSW on a level playing field with Victorian Racing. Victoria received gaming profits as well as wagering turnover returns and NSW racing did not. Racing in NSW was however offered a 15 year stability period to allow it to adjust to reforms down the line where it presumably would be detached from Government completely. The stability period 'robbed' the Greyhounds of any chance to improve their position by enterprise and competition as no matter what they did to increase totalisator turnover they still got the same fixed percentage. Worse still there was no effective review of variations, disputes and the greyhounds were locked into a ninety nine year contract with the benefiting parties (the horses).

The NSW Government around the same period as the above (1995/1988) entered into successful private and public partnerships to progress the 2000 Olympic Games with the Telstra Stadium being a stand out infrastructure building project. The cost of preparations for the total Olympic Games infrastructure came in at a third of the price of the 1992 Barcelona Games infrastructure spend which made up most of the Barcelona overhead costs for the games. The bulk of the Sydney 2000 Games spending went on publicity for NSW tourism and business opportunities. The public spend and the private spend were approximately equal but the early returns to business cut their contribution to about one seventh of the total.⁴

Had the NSW Parliament success with the private and public partnerships of the Olympic Games come *before* the float reforms of the totalisator and racing in NSW, the joint venture model might have gained ascendance. The above statement is of course speculation but the Premier at the

³ The 'Hart of The Matter' Scott Heinrich interview with Tony Hartnell Greyhound Recorder 22nd February 2001.

⁴ UCL-DPU Working Paper No 152 Olympic Games and Structural Transformation in Hosting Metropolitan Areas- Dmitry Sivaev.

time was impressed with PPP's to the point that he released a memorandum to sporting bodies promoting it.⁵

The Greyhound Control Board which was the smallest racing agency in racing received the above memorandum as did the other racing codes. The Harness benefited from a PPP project which although a long time in the making, saw them getting at least \$150 Million added value on the sale of Harold Park. The Thoroughbreds have also taken advantage of partnerships.

The 1998 float arrangements and non competitive competition policy reforms left the greyhounds in a strange place. While racing in general was keeping the status quo from the old days the greyhounds were doing what they always had done and that was to fight as a minority stakeholder against the majority interests and grow their wagering turnover no matter what.

For the Greyhounds, a glimmer of hope appeared by way of an outside report on wagering, called the Cameron report (2008). It outlined a change to make it more favourably competitive rather than stand at a stable position and this suited the Greyhounds

The above report used a scientific approach to working out values in wagering productivity using the measure of Gross State Product (GSP). The report also looked at the lack of competition (monopoly) as a benefit or a dis-benefit to the NSW economy in certain positions and found that the lack of competition in the inter code agreement was a dis-benefit.⁶

The co-writer of the history of economic significance to the case for inter code reform to the inquiry found that the disincentive of lack of competition in the inter code agreement suffered by the greyhounds in NSW, disadvantaged the other racing codes as well as the NSW Government's Treasury.

The survival of Greyhound Racing has always been a tough assignment and I congratulate the people who have had the courage and focus to bring the issues to sunlight.

It is always better to be a part of history than a victim of it.

⁵ Author awaiting the full memorandum attachments from the NSW Premier Department-Approval to release document as public record held by Author.

⁶ Michael Eberand Supplementary submission to the Greyhound Inquiry hearing 6th Feb 2014. The co-writer of the history of economic significance to the case for inter code reform to the inquiry found that the disincentive of lack of competition in the inter code agreement suffered by the greyhounds in NSW, disadvantaged the other racing codes as well as the NSW Government's Treasury.

BARKING UP THE WRONG TREE?

Racing reforms and legislation throughout the ages have always been regarded as very complex in nature and were essentially left to private members legislation. The need for Treasury in NSW and the United Kingdom to raise taxation in hard times led to taxation acts obtaining income through licensing and restricting cash betting to racecourse enclosures. The arrival of Greyhound Mechanical Racing in both UK and NSW in 1927 threatened the established order in the horse racing world as greyhound racing was a competing alternative. Political actions were successful in having greyhound racing suppressed in both UK and NSW by making totes unlawful on English tracks and outlawing greyhound mechanical racing in NSW. The inclusive nature of both the British and NSW Parliaments saw the bans reviewed later and greyhound racing was allowed to continue. However greyhound racing was taxed a lot heavier than horse racing and its activities were restricted by reduction in meeting dates. Over time the restrictive taxation was removed from greyhound racing which had an exclusive entertainment tax and a 15% tax on gross profits on metropolitan racing and in the UK an extra 10% tax on greyhound totalisators.

In 1964 the NSW Government decided to allow off course totalisators to provide commissions for the treasury and for animal racing clubs. An off course Totalisator Agency Board (TAB) was formed with a majority membership of thoroughbred representatives. The Board took out its own expenses from the TAB commissions, paid the Government Tax and distributed the surplus amongst the codes. The percentage distribution between each racing code: Thoroughbreds, Harness and Greyhounds was struck by a legislated requirement for the Board to recommend a formula and the Minister to determine it (Inter Code Agreement).

Once the codes were allotted their individual percentages, the TAB recommended the payments to each club in the separate code divisions. In the case of greyhound racing the divisions were Metropolitan, Totalisator Clubs and non Totalisator Clubs. The Minister determined the break up (Intra-code Agreement).

In 1972 The Racecourse Development Committee was formed and received funds off the distribution formula. There was also an additional shared commission percentage increase on exotics (doubles and trifectas).

In 1979 Harness Racing governance changed from being controlled by a principal club and became a control board similar to the Greyhounds and under the Minister. This Harness board contained Government appointees and Harness racing nominated members.

In 1990 the Race club assistance fund was created and obtained its funding from 5% of the superfecta pool and was designed to assist clubs and Metropolitan racing of the Greyhounds and Harness. This fund was administered by the Minister's department Gaming and Racing and was closed in before privatisation took place.

In 1994 the then Liberal/National Government Gaming and Racing Minister made the last determination on the inter code distribution formula prior to the Labor Government coming to power in 1995.⁷ The incoming Minister did not consider or authorise any changes to the formula of distribution when he was in power. The inter code agreement needed a binding dispute resolution system to replace the Minister's discretion on variations (reviews) and this clearly was overlooked. This above inaction was in contrast to the Ministers involvement in the Capital Works Fund administered by the Racecourse Development Committee which will be mentioned later in this article. The Minister's Departments non involvement in the events leading up to the codes transfer of rights and conditions under the enabling legislation to transfer (sell) the TAB to the private sector is not in dispute. The above department has provided proof under the privacy act that they were not involved and the Minister himself faced censure motions in parliament for alleged failure to be involved in his portfolio over a range of issues.

⁷ Totalizator Agency Board of NSW Annual Report 1993/94 Page 40. Major Changes to the Scheme of Distribution.

Allocation for Sunday Racing Operational Losses

Allocation to the Racecourse Development Fund.

Allocation between the Codes.

"The balance of the surplus available for distribution is divided between the three codes of racing by the following formula

(a) each code receives a base the amount it received the previous year;

(b) (b) the base is to increase by CPI (Sydney)

(c) (c) and the balance available is allocated. Galloping 70%, Harness Racing 15%, Greyhounds 15%

What appears to be a policy decision of the Minister (department) to steer clear of the codes and his Greyhound Control Board⁸ during the greyhound transfer arrangements leading to the TAB sale was in direct contrast to activity within greyhound racing itself. Broadcast technology was allowing expansions in the cover of greyhound race meetings to be more possible and clubs were interested in expansion and rewards for producing more local racing. The Greyhound Tab Association carried the wishes of the greyhound industry by presenting a greyhound distribution variation submission to have the formula allowing a modest reform. The above reform was based on commercial consideration to receive rewards for enterprise. The details of this submission are contained in submissions to the Government Greyhound Racing Inquiry⁹ and are not repeated here.

Early in the float negotiations (1996/97) on matters of the inter code percentages there was evidence of attempts to mediate changes to the distribution formula.¹⁰ The NSW greyhound racing wanted commercial reforms in greyhound racing distribution similar to the Victorian reforms (1994) which rewarded competition. The commercial potential for expansion of TAB transmissions for the greyhounds to produce wagering income were contained in the Victorian package and it was the intension of the racing industry and the NSW Government well into the 1997 to replicate the Victorian model. However it would be fair to say that there was resistance to commercial incentives in the proposed inter code agreement.¹¹ The Government and the majority of racing were intent on settling for a fifteen year stabilising period which was to conflict with the ambitions of the privatised TAB which were “keen to hit the road running” with expansionary policies even before the NSW Government could appoint a “commercial board” for Greyhound Racing.¹²

The Minister’s relation with the other codes during the period and their control boards is not known. Gaming and Racing did not have the commercial control of Thoroughbred Racing through the Minister at the time even though the department was forced to bring in a control board act in 1996 for

⁸ Various statements in the press and recorded in Parliament (document held)
Also Minister failed to appoint replacement for vacancy caused by the resignation D Spillane on 6/2/1995 this situation of a vacant position on the Greyhound Board existing right up until December 1988 and during the time when the Minister was aware that privatisation negotiations were in place and the greyhounds were disadvantaged in negotiations.

⁹ Supplementary Submission to the Legislative Council Committee on Greyhound Racing Hearing- Michael Eberand . Item 3 Page 14

¹⁰ Mentioned in Historical notes held by author re Committee Meeting GBOTA .

¹¹ NSW TAB annual reports from 1975 onwards numerous applications rejected for inter code percentages to reflect NSW wagering on NSW events. documents held.

¹² Greyhound Control Board Annual reports 1997/8 1998/9 Also see Michael Eberand supplementary submission to the Greyhound inquiry hearing 6.2.2014

the Thoroughbreds following the Government integrity inquiry in 1995 which was referred to as the Jockey Tapes. The crime commission tapped Jockey's phones and reported on collusions between Jockey's and others to predetermine the results of races for unlawful profit. The recommendations from the inquiry saw the beginning of independent disciplinary appeal panels being introduced to all racing codes.

Of the two racing codes whose commercial and strategic decisions were under the minister (Harness and Greyhounds) the Minister had noted in parliament speeches that they were more disgruntled than the thoroughbreds and in particular there were more complaints from the greyhounds than the other two codes put together.¹³ The simple facts were that both the minor codes were under the Minister's control strategically and in any case the greyhounds had double the number of active participants in their community than the both horse communities combined.

While there was a demonstrated inaction by the superior department of gaming and racing towards the subordinate small agency the Greyhound Control Board, in relation to inter code distribution. However there continued to be Ministerial determining around the Racecourse Development Committee (RDC) - a capital fund

The Race Course Development Committee fund from 1972 to 1997 received about \$300 million in club contributions (first charge of consolidated TAB surplus dividends) and shared commission on wagering duties between Government and Racing. The codes contributed in the same proportion percentages they were paid under the main distribution scheme.

¹³ Minister Face repeat what he had said in parliament at the NSWGRCA Annual Meeting August 27th 2000. "He reflected On becoming Minister he responded to the industry and replaced a number of members of the GRA Board. Within 12 months that board had the same criticism as the previous one. Twelve months later after further replacements the GRA is still under attack. The Minister suggests that if the industry continues knock,knock,knock all the time, there will be no industry in ten years. He stated he did not want to stifle debate but he received more correspondence from the greyhound code than he does from the other codes together.

Hansard Assembly 15th September 1998 page 7432

Atkins was previously discredited on a motion of censure against me in the daily days of this Government. I had agonised for a long time. When I reappointed the Board (sic 1995)..... Since that time the board has survived without controversy. This is indicative of my judgement on appointments to the board.

The greyhounds contributed 13.25% over the period of the RDC and overall received a lot lower in return.¹⁴

When the \$50 million allocation to the Capital Fund Breakup was negotiated in the transfer of the TAB from industry to share holder company, the fifty million was taken up mainly by uncompleted works on horse projects and new horse projects including the Harness Harold Park refit.

There was a lot of hostility towards the greyhounds at the Ministerial level between 1995 and 2003 and this may have reflected negatively at departmental level in negotiations with greyhound participants.

The cultural changes over time between the Government Department and the Greyhound's might be more apparent than real as the Department itself was under change.¹⁵ Corporate reforms in the public service led to the streamlining of staff which was causing internal upheaval. This upheaval came at a time when the department's work was increasing.¹⁶

¹⁴ Winding up of the Race Course Development Fund- gaming and Racing published Charts. Totals of Cash, Repayable Loans Accrued Interest, Interest Free Interminable loans.

Totals TRB (Thoroughbreds) \$169,890,300

HRNSW Harness \$ 49,686,966

GRA Greyhounds \$17,793,487

Interest Free Interminable Loans (rounded) T \$127K Harness 40K Greyhounds \$5K show late activity

including \$22Million Loan Harness. Also Wentworth Park Trust Loans in the racecourse licence area were written off (About \$10 Million). The greyhounds also carry \$6.5 million owed to them by the trust (still unresolved) included in the Chart.

While the percentages of 70% of Capital Works to the Thoroughbreds; 20% to the Harness and 10% to the Greyhounds is a guarded assessment it complies with independent research of the Author from Annual and Treasury reports available. The Chart shows the activity trends and may also reflect the commercial capacity of the various control boards of recommend funding in past times. These recommendations from the clubs, control boards and the Racecourse Development Committee would have been determined by the Minister.

¹⁵ Hansard Legislative Assembly 28th November 2000 page 11018 Censure Division Minister for Gaming and Racing. Statistics adduced.

31 redundancies in 1999-2000 and 25 so far in 2000/2001 81 of 290 staff expressed an interest in voluntary redundancy. Budget Gaming and Racing reduced \$3.8 million 1999/2000 and a further \$1.9 million in 2000/2001. Minister refutes there is a downsizing and staff morale problem.

¹⁶ Censure motions parliament against Face.

The changes to the running of the public service were instigated by the Liberal Government 1988-1995 and became the responsibility of the incoming Government (Labor). The reforms included many privatisation projects including the TAB.¹⁷

Shortly after Labor came to power in 1995 allegations of conflicts of interest and criminality in greyhound racing were made public by two members of the existing greyhound board. They accused fellow members of the board with inaction in dealing with integrity matters. The board at the time contained five members with greyhound interests, a member of the public and an independent lawyer. The Minister responded to what he saw as a public perception of a board with conflicts of interest and sacked the board leaving the independent lawyer chairman and replacing the six others including the public member who was also a whistleblower. It must be remembered at the time that the public perception of racing had been lowered by the Jockey Tape inquiry and a loss of public confidence in governance due to the sensational findings of corruption by the NSW Police Royal Commission.¹⁸

The Minister's hunt to appoint his 1995 independent board was done by with great difficulty as explained by him in parliamentary speeches, there was practically no one available who was not connected to greyhound racing. The Minister still insisted on having all independent members on his board. The former Chairman of the Newcastle jockey Club which controlled and owned the greyhound racetrack at Beaumont Park and was in the minister's electorate, appeared a fortunate selection by the Minister.¹⁹

However the greyhound participants in the Hunter had been in hot dispute with jockey Club interests on race tracks and the Minister as a shadow minister previously warned that the Beaumont track was not producing sufficient income for the horse interests and probably would have to be closed. The Racecourse was closed in 1997 leaving the Hunter without its premier track ²⁰

¹⁷ See Michael Eberand's supplementary report to the Greyhound Racing Inquiry 2013. There is a suitcase of documents held to support his submission.

¹⁸ Wood Royal Commission

¹⁹ Hansard Assembly 15th September 1998 When I reappointed the board, prior to the introduction of this legislation, I faced the difficulty that everyone in the industry - more so in the Greyhound industry - either owned, trained or bred dogs. I had to put together a board that was indicative of the industry and had expertise, but had to exclude anyone with that type of involvement. It was almost an impossible task.

²⁰ Covered in Michael Eberand Supplementary Submission Government Greyhound inquiry 2013

The appointment by the Minister of a Greyhound Control Board without participant interests was the first board of its type in any racing code, Thoroughbreds , Harness or Greyhounds since the involvement of Ministers from 1950. The situation of the independent board for greyhounds was unlike the horse code boards who had racing interest members in them. Whether the greyhounds were advantaged or disadvantaged by the above situation is a matter of debate but greyhound interests were remote from the bargaining table. In hindsight the Minister's board arrangements for the Greyhounds appear to have disadvantaged them as they ended up without the commercial arrangements they sought, a reduced percentage on profits and no effective dispute resolution or review process.²¹

This above situation of a regulatory board handling commercial matters occurred from 1995 to December 1998 when all the initial agreements and contracts between racing, the Government and the Share holder Company TAB were made.²²

While the Department of Gaming and Racing was hands off during this period someone encouraged the greyhound code to include an industry financial recommending panel. This panel was to control administrative spending and capital grant approvals (COBIDD) and was included in the intra code memorandum (agreement). This above action proves that some advisor somewhere was aware of the difficulties with greyhound racing dealing with an independent board unassisted by the Ministers Department.²³

²¹ Self evident.

²² Author's note from the Racing Distribution Agreement.

Racing Distribution Agreement dated 11th December 1997, conditions precedent Expiry Date 1 March 1998.

Inter code - Intra code arrangements for approving the Twilight Greyhound Racing TAB proposal 1998.

²³ Paper Brenton Scott 1998 to the Industry conference. Intra-code Agreement.

Feb 20th 1998 all parties signed an Intra-code Memorandum of Understanding which stated the driving principles of the negotiating process. The document is now being refined to form an Intra-code Agreement which will be signed within the next two to three weeks. { note this agreement still not formalised 15.1.2014)

COBIDD As soon as practical, a committee on Budgeting , Industry Development and Distribution will be formed.

The role and responsibilities if COBIDD shall be to consider and make recommendations to the Authority as part of its decision making process with respect to Industry funding of both a recurrent and capital nature, Scheme of Distribution, including but not limited to reviewing all aspects of the NSW Greyhound scheme of Distribution , the Greyhound Industry Development Fund and the Authority's proposed annual budget. The Authority will be expecting COBIDD to make a substantial contribution towards future marketing and promotion initiatives, breeders bonus' and other significant industry issues following the implementation of the Authority's Strategic Plan.

The Minister introduced an advisory panel to assist the Independent Board but this panel was remote from inter code and intra code arrangements. The greyhound advisory panel was scant compared to the consultative panel of Harness racing which the Minister also introduced.²⁴ The Harness consultative panel was similar in scope to the Thoroughbred advisory panel.

The sale of the NSW TAB by public float was intended to replicate the public float between racing and the TAB in Victoria which had been successfully done in 1994 as a Joint Venture. The parties in NSW appointed the same project team (Macquarie Bank) that were successful with the Victorian float.²⁵

An article in the public press questioned why the Macquarie Bank was being paid an alleged \$8 million fee for whitening out the word Victoria and substituting the word NSW in its place in the arrangements. However this satirical article oversimplified the situation.²⁶

²⁴ Harness Racing Annual Report 1996/97

Members of the advisory board as at 30.6.97

Mr W Ellis Media Guild; Mr D Clough Breeders Association; Mr L Aylmer TAB of NSW; Mr W Mann Owners Association; Mr R Smith Bookmakers Society; Mr RT Scherf TAB Clubs Association; Mr P Smith TAB Clubs Association; Mr J Walsh UHRA; Mr P V'landys NSWHRC; Mr C Murray Non-Tab Clubs Association; Mr Bootle Trotters Association. (11 members)
Communication Sub Committee. (assisting the Advisory Board)
Mr A Mullins HRNSW; Mr K Glackin HRNSW Customer Relation Officer; Mr J Baker NSWHRC; Mr R Marshall NSWHRC; Dr M Simcock Owners Association; Mr J Walsh UHRA; Mr T Bootle Trotters Association; Mr T Phillips Breeders Association; Ms J Harlum Owner/Breeder; Mr W Ellis NSW Media Guild; Mr C Gray Communication Consultant.

Greyhound Racing Authority Annual report 1996/1997 Mention of Industry Advisory Panel being re nominated for next twelve months. No names or positions published.

"With the exception of the TAB Greyhound Racing Clubs (NSW) all representatives re nominated. (media,bookmaker,owner, trainer, breeder, punter)

²⁵ Crikey article extract. Yates key man Macquarie Bank previously put the Crown tender together.Yates did one of the best deals of all time and got racing industry distributions up from \$120 million a year to \$180 million along with a 25 per cent stake in both Tabcorp's wagering and gaming businesses. He also won them a 30 per cent tax cut as part of the deal making the gambling industry the only one to get any sort of substantial tax assistance from the Kennett government in its first five years.

²⁶ Sun Herald Sept 7 1997 Page 99 Racing Noses out of joint on joint venture.Qantas chairman Gary Pemberton to run public float.

Sorry you cant float companies when directors are answerable to their supplier before shareholders.....Racing bosses have been saying all week Pemberton's plan is a stick disguised as a carrot. Pemberton says there has never been an argument about the amount of they have been promised....,All I am saying is; I'll pay you a royalty on revenue. I have not got time to run your bloody business"..... And what did the " hand off racing minister Richard Face, tell the industry via bios favourite Murdock tabloid this week.?

" You are on your own, guys. You've got your self regulation. You work it out".

The Government was always worried that the TAB subscriptions would not meet its float reserve and this would damage the general thrust of the competition policy reforms which were on the horizon. There was also the need for private and public partnerships to assist the raising of finance for the oncoming Olympic games.

At the same time as the above the Government proposed permits to allow poker machines into hotels netting them about \$1 Billion in consolidated revenue and forcing competition onto the registered poker machine clubs.²⁷ Concessions of various kinds were made to the Poker Machine Clubs during this period.²⁸ The reluctance of the gaming industry (poker machine clubs and hotels generally to be involved in exclusive licences with the TAB detracted from the value of the TAB in NSW compared to Victoria who had gaming returns included in the TAB income stream. The gaming interest lobbied heavily to the NSW Legislative Council to defeat the gaming reforms proposals of exclusive gaming licences and review periods.²⁹

The opposition parties at the time discussed the granting of perpetual licences for both the wagering and gaming reforms attached to the TAB float but it was becoming obvious that the gaming component of the reform wheels were falling off. The perpetual licence for gaming never got to the amendment stage but the perpetual licence for wagering made it as legislation. The negotiating party (Control Boards and the Industry TAB) thought that the Victorian Joint Venture 1994, which had a compensation clause for TAB companies losing their exclusive rights, would have difficulties at their review stage

From the beginning of the privatisation NSW discussions favoured a perpetual tote licence over the compensation for loss of an exclusive licence on review which was the case in Victoria. There needed to be one or other of the above to make the TAB float sufficiently viable for sale.

The NSW perpetual licence for tote wagering meant that only the TAB company who gained the 15 year exclusive licence could have the exclusion extended. Any other competing tote company, if

²⁷ Hotel association documents held.

²⁸ Hansard Motion of Censure 28th November 2000 Page 11018 In defence of Mr Face, Mr Thompson
Far from being asleep at the wheel as alleged ,.....it is this Minister who in 1998 sponsored through Parliament a major range of amendments to the Registered Clubs Act under the Governments landmark community partnership package One of these amendments reduced the the top marginal tax rate for clubs earning more than a million in annual gaming revenue from 30 percent to 26.25%. An additional concession of 1`,5% off the top marginal rate was made available to clubs...to spend on their profits over \$! million on approved comment and support activities.

²⁹ hansard

successful at the fifteen year review ,would simply be sharing the tote licence with the original company. This made the value of the TAB licence in NSW at the 15 year review stage effectively negligible to any party apart from the holder of the exclusive licence. In Victoria the exclusive licence was extinguished at review and a process of auction for the new exclusive licence could take place.

The Joint Venture Racing/TAB proposal in NSW was essentially done and dusted with a bit of housekeeping to be done and then the Industry TAB was made a Government Unit and appointed business heavies in place of the industry people. The Minister/Government chose the head of the “successful” QATAS public float to head up negotiations on behalf of the TAB.³⁰

The TAB head negotiator advised the government that the float expectations were unlikely to be met unless the joint venture model was changed to a “more business model” between an independent race provider and an independent tote provider. The head negotiator gave a ‘my way or the highway speech’ and it was a matter of judgement by the Government and the Parliament that amendments were made on a bi partisan basis for the Head Negotiator’s model to be adopted in NSW.

³⁰ Greyhound Racing Board Annual Report 1995/6 Corporation of TAB Last year’s report alluded to the fact that following on the introduction of the State Owned Corporation Amendment Act 1955 the Minister of Gaming and Racing indicated his intention to pursue the corporation of the TAB. A government steering committee was formed and a lengthy consultative process is being undertaken with the TAB and the Racing Industry on this curtail issue.

NSW TAB Annual report 1996/1997 The comprised ten members together with the Chairman appointed by the Government. These appointments were made under Sect3 (2) of the Totalizator (Off-course Betting) Act 1964.

(The List of Board Members shows G.N.Bailey (NCA President-Greyhounds) and D C English Chairman of the GRA.

The section was superseded on 11 July 1997 with the proclamation of Schedule 2, Section 2,2 (3) of the TAB Privatisation Act 1997.

List of Board

Gary Pemberton Chairman- Chairman Qantas.

John Ross Cribb Deputy Chairman- previous Chairman Industry TAB from 1984 various positions. Belinda Hutchinson- non executive director Director of Sydney Water and several companies also advisor to Macquarie Bank.

Graham Kelly- non executive Director Director State Colonial Banks and many other organisations. A member of the Audit and due diligence Corporation . Previously National Chairman of, and now a consultant to Freehill Hollingdale and Page.

Barry Unsworth- Serving on various boards. Managing Radio 2KY and previous Premier of NSW.

Geoffrey Wild- Previous TAB Board President of Sydney 2000 Olympic bid. Chairman of NSW Tourist Commission.

Allen Windross- Tab executive staff from 1965 Senior positions in Sales and Technology Division. Appointed Chief executive in 1987.

The joint venture arrangements were torn up by the Government and the brave new world was thrust upon NSW.

A new arrangement of a buyer/supplier arrangements was made between all parties after a two month standoff. The Racing Distribution Agreement [RDA} (buyer/supplier model) was dated 11th December 1997 after this proposal was first presented on August 28, 1997.³¹ The RDA conditions precedent (all conditions in the agreement) had to agreed to or waived before midnight on March 1998 (Expiry Date) or any party could rescind the agreement.³²

On February 20th 1998 all Greyhound parties signed the Intra-code Memorandum of Understanding between the NSW GRA;the Metropolitan Clubs, Tab Racing Clubs of NSW and the Greyhound Racing Club Association . The memorandum was intended to be refined into an inter code agreement within three weeks but this was never done which as in contrast to the horse code arrangements between themselves and their boards.³³

An Australian Propriety Company, Limited By Shares called initially NSW Racing Pty Ltd was formed on 4/12/1997 to contain the Inter-Code Agreement. This Propriety Company is under the ASIC and appears to have limited reporting requirements compared to a public company. The shareholding in the company are thought to represent the percentage break ups of each code gets from the TAB distribution. The propriety company requires approval from all its racing code control boards to change its distribution structure. The Propriety Company first Board was made up four thoroughbred representatives; two Harness Representatives and two Greyhound Representatives.

³¹ 11th December 1997 TAB, NSW Racing Pty Ltd (NSWR).GRA,HRNSW,TRB.

³² RDA 11th December 1997 Page 11
!A CONDITIONS PRECEDENT.
Condition precedent
Failure of Condition Precedent
Effective Date
Conduct of Parties
non Waiver
Schedule 9
Conditions precedent no 1 to 3.

³³ Extracts from the Privatisation update Delegates of the Metropolitan District Association March 29, 1998.
Memorandum of Understanding Intra code agreement.
Intra code Agreement Harness Racing Annual report 1998/99
8% to HRNSW for administration
2% HRRDF (capital fund)
6% Industry Funds
73.55% to TAB Clubs Pool
10.45% to Non Tab Clubs Pool
8% for the control board is a maximum but parties can consult on any excess over 8%.

The first two Greyhound representatives were the chosen by the Independent Greyhound Regulatory Board and were appointed for three years.³⁴

The TAB became a share holder company in April 1998 which allowed legislation to be introduced to form a commercial board in the greyhound's to take over the previous role of the Minister in determining the inter code and intra code agreements. The above functions were taken over by the Greyhound Regulatory Control board until the commercial board sat in January 1999. The greyhound industry had now lost the protection of the Government in its dealings with inter code and intra code matters. to a control board still under the control of its Minister. The Chairman of the Tab Shareholder company had remarked at the conclusion of the TAB float negotiations that the arrangements had been the most complex that he had ever been involved in.³⁵ If the Chairman of the TAB found the negotiations complex then a small agency control board must have found them bewildering in the extreme.

John L Tracey.

³⁴ Privatisation Report to MDA Delegates April 1988.

Initial Greyhound Appointees Ross Magin (Endorsed by the Greyhound Racing Authority, nominated by the Greyhound Racing Authority). Mike Ahern (Endorsed by the Greyhound Racing Authority, nominated by the Greyhound Racing Authority).

³⁵ Remakes attributed the the Chairman of the TAB company in Hansard's.