

**Submission
No 1003**

INQUIRY INTO GREYHOUND RACING IN NSW

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***Submission to the Legislative Council Select Committee
on Greyhound Racing in NSW 14th January 2014.***

SUPPLEMENTARY SUBMISSION

**Final Propositions for the NSW State Government to
make the Greyhound Racing Industry profitable and
sustainable.**

**The Challenge - *Let's not let lack of Vision and Politics
prevent long term solutions to the benefit of all.***

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Section One - Introduction

This final submission provides an overview of the past, but much more importantly, it considers the opportunities for the future. It's the latter that must be the prime focus, but we need to understand the past, to provide the foundations for the future.

This submission is intended to provide a basis for the industry and its participants to open doors to enable growth with and for all stakeholders. In its most simplistic form, this submission proposes that the government assist the NSW Greyhound Racing Industry in line with the Joint Industry Submission, but with enhancements intended to further secure long term sustainability. This will benefit all stakeholders including the other racing codes, and in respect to the government, specifically seeks to protect the state's wagering tax base.

The submission raises multiple arguments for the government to step in and reform the industry funding arrangements, including:-

1. Recommendations of the Cameron Report and the findings of the Productivity commission, however in the context of today's environment. This is the lead argument of this submission and all other aspects relate back to it. The Australian wagering market appears to be mature, and without funding reforms, all stakeholders are inhibited to meet the challenges and opportunities of current affairs, globalization and technological advancements. The greyhound racing product in particular is well positioned to contribute to overall wagering growth, but is unproductively restricted to the disadvantage of all stakeholders.
2. Efficiencies without rationalization will not successfully reposition the industry
3. The industry is currently in a downward spiral, and the consequences are dire.
4. Previous governments contributed significantly to the current position. Evidence indicates that the government appointed board, having replaced an industry board, locked us into the 99 year fixed term on a fixed basis, which contrasted to the documented industry positions and its own documented positions at the time, and even though the NSW greyhound industry was the best placed to provide the most wagering growth. This evidence is in addition to the Joint Submission in respect to the government role in the privatization process.
5. The Intercode review/growth provisions are inadequate. These can be compared to the Victorian Intercode arrangements.

This report brings together earlier submissions with new evidence and the Joint Submission.

I thank the Committee and parliamentary staff for its work and the opportunity to present this submission.

Section Two – Executive Summary including Propositions

This submission supports the propositions raised in the Joint Submission, by providing multiple supportive arguments including historical, current and importantly, future context. This then leads to a recommended enhancement of the funding solutions of the Joint Submission. The prime basis for this submission is the context of the Cameron Report and Productivity findings in today's environment, however, all arguments are intertwined.

Government Contributions to Current Position

Extensive research indicates that former state governments have contributed to the current industry position. The Joint Submission submits at a macro level that, *"In 1997 the government failed to undertake reasonable due diligence prior to the privatisation and sale of the TAB or take apposite steps after the sale to ensure funding and other arrangements for the racing industry met its obligations to the Parliament of NSW for supporting legislation to sell the TAB in regard to it placing the NSW Racing Industry on a financial basis that would give it a sustainable long term future. We contend that the Parliament has an obligation to ensure legislation it passes is fit for purpose and fulfils the intent for which it was proposed"*. Further evidence is provided within this submission.

At a micro level, in 1995, the then government replaced board members from within the industry with its own appointments. This was a substantial contribution because it was this board, and for which evidence herein shows its lack of commercial acumen, that locked the industry into the uncompetitive 99 year deed that lacks adequate review provisions. It also then entered into strategies that were a nonsense when compared with the terms of its agreement, thereby creating momentum for the unsustainable industry we have today. The evidence indicates this government appointed board, that replaced an industry board, was inept in commercial acumen while also failing on integrity controls.

The sign off on a 99 year fixed percentage agreement lacking adequate review mechanisms was at odds with the documented objectives and circumstances at that time, including:-

- i) The lead TAB Clubs/ industry position/ submission of the time argued for a performance based scheme that would promote and reward product expansion. This is expanded upon within and commented further in Appendix A.
- ii) At the time, as is the case today, wagering was flat and greyhounds were potentially the lead growth product, with the greyhounds being a flexible low cost product and the logical candidate to fill the required extra morning to late night scheduling needs of the to be privatized TAB.
- iii) That board's own documented strategy objective was to ¹ 'ensure that adequate intercode and intracode arrangements are facilitated so as to ensure the industry not only remains viable but is given every opportunity to increase its market share during the first 15 years of a privatized TAB.

¹ Attachment F provides extract from 1997/98 GRA Annual Report

There is some indication of undue pressure having been placed upon the chair at the time, though we have not been able to document this to our own satisfaction. However, in any event, the conflict between the industry's objectives/needs and the final deed strongly suggest the commercial performance of the board of government appointees was deficient.

This evidence does, however, deepen. Approximately five months after the signing of the Intercode, this Board then agreed to a Sky Channel proposal to expand product/meetings², a strategy that commercially conflicts with the reality of the Intercode deed. Part of its reasoning was recorded on the 1998/99 Annual Report as *'Obviously any drop in the greyhound industry's market share would over a period adversely affect the greyhound industry's bargaining position under any future intercode deed'*². The statement is commercially irrational when considered against the reality of the deed's 99 year fixed term and (inadequate) Growth Clause Provisions³. Those provisions (as we understand them) do not provide for any review mechanism that could introduce such a bargaining position. This further infers that the commercial performance of the board of government appointees was deficient.

This same board would later be found to be deficient by ICAC (Y2000 report) in regards to its adequacy of integrity controls, which were breached by corruption at a high level.

Finally, after the entry of the industry into the Intercode by the government appointee board and the initial momentum of extra meetings that in hindsight lacked commercial realism, the government enabled changes to reinstate industry persons to the board. However, this time, it would be a club dominated structure. Given the nature/key terms of the Intercode deed, and the tendency for race clubs to instinctively want to obtain or expand race dates, this proved far from ideal. In fact, as could be expected, the new board structure in itself simply expanded the momentum to further the growth strategy. Evidence shows participation protest at the time and the one participant representative board member resigned on protest.

Overall, to add to the Joint Submission arguments of government contribution at macro level, there is also a reasonable base of evidence that at micro level, the then government made substantial contributions to the current demise of the industry through management of the board appointments and their subsequent disappointing commercial performance. That same board also failed with integrity controls. Accordingly, the industry should no longer bear the full exposure given the government contributions and the dire results that will occur with inaction.

Since Then

Cameron (Y2008) and the Productivity Commission (Y2009) attempted to address the flat wagering market, and warned that anti-competitive Inter Code agreements stifle the competitiveness of overall wagering⁴.

Cameron specifically recommended the government step in and change the Intercode arrangements.

Minister Greene at the time⁵ *"also acknowledged the call by Mr Cameron for reform of the Intercode funding agreement between racing codes as potentially significant to future innovation and growth. However the*

² Attachment G, 1998/99 GRA Annual Report extracts.

³ Growth provision clauses are documented in a Harness Racing Report - Attachment J.

⁴ The Cameron Report was previously submitted. An extract from The Productivity Commission report is provided as Attachment L

Government firmly believes this is a matter for the three codes to resolve under their commercial agreement and we welcome news that they have initiated these discussions". Cameron warned within the report that the codes were unlikely to achieve a resolution without government intervention. This warning was ignored but proved to be correct. Mr Greene now holds a prominent position on the thoroughbred board⁶. Had this been addressed in Y2008, our current position would likely be very different.

The 15 year 'growth' provision mechanisms³ of the Intercode agreement have been found to be grossly inadequate as they fail to recognize the movement in market share since its inception. This position is inconsistent with the understanding strategized upon in the Annual Reports of the government board. That is, it appears that board did not understand what it had agreed, or it negotiated an agreement that clearly was not the industry's position nor its own documented intentions, and yet we are stuck with it for 99 years if the government does not step in with reforms.

The Present

1. In Section 4 'Wagering Market – Current Affairs, Challenges & Opportunities', evidence shows:-
 - i) The overall wagering market is declining in real terms; the Australian landscape appears to be mature.
 - ii) Within this declining market, there appears to be a transfer of market share from the totalizator to corporate bookmakers. Consumers are enjoying the competition and innovation of (including smart phone) technology, which in turn diminishes the TAB's traditional operational and retail infrastructure
 - iii) The returns to the racing industries from the corporates are effectively approximately one third of wagering through the TAB, and the corporates do not pay NSW state taxes. Under the current arrangements, the racing industries are **in effect cannibalizing their own revenue** streams in necessarily chasing this revenue. The corporates continue to be 'free riders'⁷ at the current level of the RaceFields levy. The profitability accessible to the corporates is reflected in the enthusiastic entry of overseas operators together with merger and acquisition activities. This is effectively at the cost(or risk) of the racing codes and the state's tax bases. It is very concerning for all codes and states across the nation. My conclusion is that for the sustainability of the racing codes and to protect the state wagering tax base, this aspect of the market also needs further reform
 - iv) Within a mature market, greyhound racing continues to grow, in NSW and particularly in Victoria where it is vibrant. In Victoria, performance style Intercode arrangements are in place(Appendix E).

Interestingly, changes were made to the Victorian Intercode arrangements last year that moved the revenues of the Victorian greyhound closer to market share (Appendix E). Victoria has a performance based funding model and is thriving. In totalizator wagering terms, Victorian greyhound racing is up by 7.5%, with the other two codes flat, meaning overall, Victorian totalizator wagering has increased. **This indicates that overall totalizator wagering will respond to Intercode funding stimuli aligned with market share** and therefore is a positive in protecting the state government wagering tax base.

⁵ Media 10/9/2009 - <http://www.racingandsports.com.au/en/racing/betting-reforms-approved-by-nsw-government-story-159490>

⁶ <Http://www.racingnsw.com.au/default.aspx?s=board-members>

⁷ http://en.wikipedia.org/wiki/Free_rider_problem

Evidence of a downward spiral within the current NSW greyhound industry is provided in Appendix B. In NSW, wagering on greyhound has increased, at a lesser rate than Victoria of 3.5%, but given the circumstances, this shows tenacity. Totalizator betting in NSW on thoroughbreds declined by 1.5% last year, therefore greyhound racing is in fact minimizing the losses to the state tax base. On this basis alone, the lack of comparative government support for greyhounds as evident in the Joint Submission, is difficult to comprehend, given that it is the greyhounds whom are achieving growth and protection of the NSW wagering tax base in difficult circumstances.

The economics of participation is now such that the returns in Victoria are twice as much (or net losses half as much) as those in NSW (also Appendix B). It should also be noted that while efficiency gains may be achievable in the NSW industry, sensitivity analysis (Appendix D) shows this would have very little impact in respect to returning to sustainability.

Looking to The Future

1. Corporate book makers are likely to continue to grow market share within a mature market, as people continue to switch to Smart Phone applications and other technologies that cultivate consumer choice and reduce TAB's traditional market competitiveness.
2. The revenues of all racing codes are under threat, not just locally from the gains in corporate bookmaker market share, but from globalization. The context and risks were identified in the TAB submission 'Strengthening the IGA By Removing Parasites' (April 2003)⁸ and include illegal overseas bookmakers.
3. The combination of these factors is alarming, as it means that the codes and the state's wagering taxes are exposed to a high risk of exponentially reducing returns. The NSW State Budget projections show an expectation of declining taxes from wagering⁹ (there is a risk these are understated).
4. However, there are opportunities for the racing codes to expand wagering into the Asian markets, as an export product). Australian racing has a reputation of high integrity, and carries embedded infrastructure investment.
5. Just as it was at the signing of the Intercode, NSW greyhound racing is positioned to contribute to the growth opportunities of the Australian wagering market, this time due to globalization and technological advancements. The opportunity for growth was poorly managed for the industry in 1995-98, at a time there was a need for bulk expansion of greyhound product, but the deal was poorly struck, and as a result, today we have an unsustainable NSW greyhound racing industry. This time it can be different, that is the challenge.

The overriding challenge for all stakeholders is the management of exposure to globalization and technological advancement. To do nothing would be ignorant and will increase downside risk, whereas reform can provide a platform for upside/growth.

The NSW greyhound racing industry is well positioned to invest and innovate to Asian market requirements:-

- It is the lowest cost supplier therefore the most flexible for change

⁸ http://www.archive.dbcde.gov.au/__data/assets/pdf_file/0003/10938/TAB.pdf

⁹ NSW State Budget - http://www.budget.nsw.gov.au/__data/assets/pdf_file/0015/25224/Ch_6.pdf

- Time zones are favorable
- The product is fast and supports internet telecasting
- The product has been tested and is well liked in those markets.
- The industry has a best practice interactive form service www.thedogs.com.au that provides a strong platform for conversion to meet Asian market requirements.
- The city location of our major metropolitan racing venue (Wentworth Park) is excellent in order to leverage tourism from Asia/China. *“The Boston Consulting Group (BCG) projects the number of Chinese travellers to Australia and New Zealand will soar from 910,000 trips in 2012 to 2.2 million in 2020 – just six years away%”*¹⁰

The opportunities for NSW Greyhound racing to invest in innovation and enable wagering growth are however nullified by the current Intercode arrangements. For example, should greyhound racing invest in translation of its interactive form services for the Asian markets, or seek to compensate participants and shift race meetings to a late night time zone, or through direct marketing into Asian countries, there would be substantial investment required, and yet the stimulation of wagering activities that would result would be for the majority credit of the other stakeholders. Extending this explanation further, let’s say the cost of expanding the current interactive form service to Asian translation was \$500,000 and this stimulated betting by \$20M. The racing industry would generate say \$1M from wagering under the Racing Distribution Agreement, and then the Intercode funding arrangements would dictate distribution of (in broad terms) \$870,000 to the two horse codes and \$130,000 to greyhounds. An estimated \$560,000 would be derived by the state in wagering taxes. NSW Greyhounds would incur a \$370,000 loss on a \$500,000 investment that is economically positive to the state and all other stakeholders and would return a total of \$1.5M. The industry is better to do nothing and hope the others innovate, but that of course then contributes to the downward spiral that is the current state of the industry. It is this attitude that continues to leave the wagering market flattened.

These are the same issues explained by Cameron, but have been re-explained in today’s terms. Cameron warned of the impacts of the Intercode on the market and how it stunts rather than provides a platform for growth. The NSW greyhound industry is the first to feel the impact, because of the poor Intercode deal that was struck for it, but it will in time go on to impact the other codes as well. **This Intercode is neither a modern day commercial arrangement nor one that should be entitled to survive in today’s environment. The current Intercode agreement erodes opportunities for innovation and growth . The case for change is logical and very clear and is in the interests of the overall wagering market, including the codes, and the government wagering tax base.**

Basis of Final Propositions

Evidence now exists that previous state government decisions have contributed to the current demise of the industry and this in itself is a strong basis for the government to step in and make changes. However, this also (moreso) relates to the sustainability of the overall wagering markets and protection of the state’s wagering

¹⁰ http://www.businessspectator.com.au/article/2014/1/6/china/middle-kingdoms-australian-frontier?utm_source=exact&utm_medium=email&utm_content=544806&utm_campaign=kbg&modapt=

taxes. That is, reform of the funding agreements and wagering market is necessary in NSW, to best position our racing codes to meet the challenges and opportunities of technological and globalization advancements.

For the people of the NSW greyhound racing industry, the outcome of the Parliamentary Inquiry should not be to identify and persecute villains or seek closure on the funding arrangements, but for an opening of doors and a reinvigoration of the relationship between the industry, the government and all stakeholders.

The NSW Government Y2013 budget estimate for NSW wagering tax revenues is \$158M per annum⁹. The Victorian racing industries as a whole have recently been supported by a lowering of the wagering pool tax rate to 7.6%, compared to the NSW tax rate of 19.11%¹¹. The NSW government is already selectively returning part of this tax difference, however, this has almost exclusively been to benefit the thoroughbreds even though they are not performing as well as Greyhounds in NSW totalizator terms. Support for thoroughbreds includes the recent announcement of a \$10M per annum injection into the thoroughbred autumn carnival, and the dealings with Trackside and the Randwick Course Grandstand. Unfortunately, there is little comparison to provide for greyhounds, though growing in wagering terms, and well positioned to take advantage of the opportunities of globalization and technological advancement; the industry cannot sustain itself let alone position for further investment.

This report highlights the benefits of the Cameron recommendations but in today's terms, that is, the need to position all the codes for the challenges and opportunities of technological and globalization advancements.

Final Propositions

Proposition One - The industry Joint Submission is personally supported, with enhancement.

The prime remedy proposed in the Joint Submission is described therein as *'effectively a stimulus package'*, that *'Ultimately, eliminates risks and increases opportunities for a healthy sustainable racing industry in NSW which benefits key stakeholders including the Government, TAB, all codes of racing ...'*

It is proposed to extend the differential tax solution to add further substance to supporting long term sustainability. This extension seeks to protect all codes from harm (as we are all stakeholders of each other), and to minimize the exposure of the state's tax base to the reform and protect it.

The enhancement proposed is that the Joint Submission should be adjoined with two key Cameron Report recommendations on wagering reform. This then adds to it becoming a stronger long term reform package.

The three components are as follows:-

Component 1 – return of differential tax payments

(The existing Joint Submission) The government should provide support via the differential tax basis, this initially being paid to greyhounds, at its level of difference between the current returns paid and a market

¹¹ http://www.treasury.nsw.gov.au/__data/assets/pdf_file/0004/24349/TRP13-01_Interstate_Comparison_of_Taxes_2012-13_dnd.pdf

share basis. This was estimated to be \$14M pa¹² and in effect would be paid from the differential between current wagering taxes between the states. The state currently derives \$158M per annum, from a tax rate on the loss to punters of 19.11%, compared to 7.6% in Victoria. On execution of Component 2 (below), this payment would be made to the other codes, under Component 3.

Component 2 - Cameron's Recommendation 21 should be executed.

Cameron Recommendation 21: The three racing codes should agree to amend the Inter-code Agreement to provide that returns to each code from TAB distributions are in proportion to the percentage of wagering generated by each code; in the absence of such an agreement, the Government should over-ride the Inter-code Agreement and the RDA such that the distributions from the TAB are made directly to each code and in proportion to the percentage of wagering generated by each code.

These changes could be styled similarly to the Victorian Intercode arrangements, which are in fact similar to the original 1995 NSW Greyhound TAB Clubs submission mentioned earlier (and expanded in Appendix A). These provide for fixed and variable components, the fixed component partly protects infrastructure investment from short term market changes and could be reviewed say every 3 years. The variable component would directly align with and reward market performance within the overall pool. Changes to the Victorian arrangements in 2012/2013 appear to have stimulated growth in Victorian wagering, with increases in overall wagering revenue underpinned by growth by the Victorian greyhound industry (compared to decline overall in NSW) (refer Appendix E for further information). That is, this indicates that wagering will respond to stimulus/ reform in the form of Intercode changes.

This could be further improved and put the state of NSW at a competitive advantage over Victoria, if the changes were also such that a portion of any future wagering growth is paid directly to the individual code(s) (the Victorian system while recognizing market share, is fully pooled). This basis is modern and commercial and underpins innovation and potential for growth, as explained by Cameron. In today's terms, this would encourage, rather than the current system which deters, the earlier example of investment by the NSW greyhound racing industry in production of translated form services (rather than incur a loss of \$370,000 on a \$500,000 investment, more of the \$1.5M return would be received by greyhounds thereby giving reward to and encouraging the investment). For wagering to reduce the risk of decline, **the codes must innovate.**

On this basis, the revised Tiers could be:

Tier 1 – 50% of the Y2013 revenue base, paid on the basis of fixed percentages and reviewed each 3 years

Tier 2 – 50% of the Y2013 revenue base, paid market share / performance, adjusted quarterly

Tier 3- Any increased revenues above the Y2013 base, would be paid at a weighting of 50% directly to that code and 50% at market share rate. In this manner, for example, with the \$1M generated from the investment in the greyhounds translated form service, it would directly receive \$500,000 and the other \$500,000 based on market, providing further return.

¹² Refer Joint Submission p10

Under this system the codes are still incentivized to both work together and to also innovate and invest as individual codes.

Component 3 – Cameron’s recommendation 22 should be executed in conjunction with the differential tax payment as a productivity mechanism intended to reduce the state’s exposure over time

Cameron Recommendation 22: Assistance, extending if necessary to short term financial assistance, should be provided to the racing industry in order to assist with this transition, but only when the provision of such funding is supported by a clear business case.

Cameron’s recommendation 22 should then be executed, on the specific basis that the loss of revenue by the other two codes resulting from the changes, would be temporarily replaced by the tax differential payment approved under Item 1 above. This would in effect be a government program designed around productivity or innovation targets, intended to enable the government to withdraw the payment over the long term.

Propositions 2- 4 - In respect to the challenges of market share movement to corporate book makers and the opportunities of globalization and technological advancement, the following should be considered:-

2. Removal of the Cap on the Gross Margin model. The Joint Submission demonstrates that through removal of the Cap on the gross margin agreements with corporate bookmakers, GRNSW anticipates increased revenue, without impact upon the government or other codes¹³. See Section 4 for further details.
3. Increasing the Race Field levy. However, this needs to be carefully considered, as there are many potential unintended consequences including loss of competitiveness if other states do not follow. See Section 4 for further details.
4. NSW should call for a return to the National Productivity commission or other similar work, as the technological and globalization challenges and opportunities are issues for all codes and states and territories. That work could consider factors such national and international co-mingling of pools, a national website of form service with translation for the Asian market, nationalization of integrity and regulatory services, a national framework to distribute product fees (corporates and totalizator intercode), Centre of Excellence concepts as a national project, deregulation to enable private investment, and identifying the needs and building facilities for the ‘next generation’.

Other Propositions-

While this submission purposely concentrates on industry finances, I have also developed some further propositions in a tabular short form in Section 5 addressing :-

- The Greyhound Adoption program
 - Fraud and Corruption Prevention
 - Accountability of GRNSW.
-

Section Three - Multi-Facet Arguments for Implement of Funding Reform:-

The propositions provided herein are supported on a multi-facet basis as tabled below:-

<p>1-The Cameron Report & Productivity Commission in today's environment</p>	<ul style="list-style-type: none"> • The Cameron found that the Intercode arrangements were inhibitive to innovation and growth of the racing codes/wagering industry • The Productivity Commission made similar findings. • The Cameron arguments and recommendations effectively tie all multiple arguments together. The Executive Summary does so in today's terms
<p>2-Industry cost savings not the answer</p>	<ul style="list-style-type: none"> • The sensitivity analysis within Appendix D indicates that costs savings alone will not deliver a sustainable solution.
<p>3-Downward Spiral of NSW Greyhound Racing Industry - Rationalisation would be dire</p>	<ul style="list-style-type: none"> • The NSW industry is currently in a downward spiral. The authority has stated the current industry is not sustainable (refer Joint submission). Without reform to the funding model, GRNSW will need to ration between participant returns, club viability and regulatory funding needs. • Appendix B provides descriptive evidence of the downward spiral along with a comparison of participation returns to other states. • The current funding arrangements incentivize wholesale rationalization of the industry as a reduction in race meetings would principally cause relatively minimal impact on the revenues of the NSW greyhound industry (as the bulk of wagering revenue is derived by the other codes). • The financial analysis within Appendix C indicates that to become competitive with Victoria to attempt to arrest the downward spiral, without changes in the funding model, would require wholesale rationalization to an industry less than half its current size. • Wholesale rationalization does not make sense given: <ol style="list-style-type: none"> i) the impact it would have on country communities, hobby participation opportunities, employment, the state wagering tax base, and reductions in income to the other codes under the Racing Distribution Agreement. It would damage overall wagering in the state. ii) the greyhound wagering product is growing and contributing positively to the state taxes and overall stakeholder position. iii) greyhound racing is well positioned to contribute to wagering growth
<p>4A- Government Contribution @ Macro Level – Privatization objectives not achieved</p>	<p>At a macro level, as set out in the Joint Submission <i>"In 1997 the government failed to undertake reasonable due diligence prior to the privatisation and sale of the TAB or take apposite steps after the sale to ensure funding and other arrangements for the racing industry met its obligations to the Parliament of NSW for supporting legislation to sell the TAB in regard to it placing the NSW Racing Industry on a financial basis that would give it a sustainable long term future. We contend that the Parliament has an obligation to ensure legislation it passes is fit for purpose and fulfils the intent for which it was proposed"</i>.</p> <p>Further evidence brought forward by Dr Joseph Collins, former Project Director of the TAB Privatization for Treasury, in his statement attached reports (Attachment D) in respect to the privatization process, that there was <i>"... a clear intent to create a long term sustainable future for the</i></p>

	<p><i>racings industry. This is well documented in TAB Taskforce working papers, Media, Cabinet Minutes and speeches in Parliament by Minister Face and Treasurer Egan” and further that ‘The Cabinet minute drafted for the Treasurer and Minister for Racing in March 1997 stated the purpose of the Minute as ‘To seek the approval of Cabinet to sell the NSW TAB and establish a sustainable long term future for the NSW racing industry’ and “Additionally, the Second Reading Speech delivered in the legislative assembly in November 1997 opened with: ‘Earlier this year Parliament passed legislation which provided for the sale of the TAB by public float and the introduction of arrangements to provide a sustainable long term future for the racing industry in New South Wales. And it closed “In conclusion, this Bill now allows the Government to proceed with the sale of the TAB, and the implementation of reforms which will greatly assist the racing industry to secure sustainable commercial future.” Dr Collin’s provides further “The TAB Taskforce did do due diligence on the RDA in November 1997. The purpose of this due diligence was to ensure commitments made by the Government to the racing industry were delivered in the final sale legislation. That analysis was comprehensive but limited in scope to the Racing Distribution Agreement and the Government Agreement. The Issues that were analyzed were in summary (Full analysis would be available from Treasury files on the sale of TAB)</i></p> <ol style="list-style-type: none"> <i>1. Financial Arrangements covered in the RDA</i> <i>2. Protection of Interests of Racing Industry</i> <i>3. Self Determination of NSW Racing Industry</i> <i>4. Effective Coordination between TAB and the Racing Industry.</i> <p><i><u>No Analysis was undertaken on the Inter-code Agreement”</u></i></p> <p>The 1998 Auditor General Performance Review of the Privatization (extract Attachment I) tested the objective of whether sustainable racing industries had been delivered, but stated <u>‘It is too early to draw conclusions on how successful the reforms will be in securing the long term future of the industries involved, but the initial signs are encouraging’</u>. <u>This is now known to have failed.</u></p> <p>We understand that at the time, COAG required the state governments to adopt national competition testing. Hansard records¹⁴ show that competition testing was applied against the agreements between the racing codes and the TAB. There as a greater benefit being to protect the racing industries, and accordingly, the Trade Practices exemption was granted. The Intercode was captured within the same legislative exemption, but it appears the government ticked it off without due diligence¹⁵. We can theorise that if the Intercode was competition tested, it would not have passed the greater benefit and would have been on a competitive/reward basis from the outset.</p>
<p>4B- Government contribution @ Micro Level - by 1995-1998 board of government</p>	<p>A summation of historical document discovery and the conclusions that can be drawn are as follows:-</p> <ol style="list-style-type: none"> 1. Intercode determinations were historically signed off by the Minister (Industry Historian report is understood to explain the background) 2. The privatization process had begun by 1995, and in August 1995, <u>the government replaced the industry board members with its own appointments, on the pretext of conflict of the industry board members with regulatory duties</u>¹⁶ (ICAC was later to find substantial deficiencies in its integrity controls). This is the board that ultimately agreed the Intercode Deed for the greyhound industry. A <u>former thoroughbred board member of 22 years</u> from Newcastle Jockey Club (including 3 years as chair)¹⁶ became Chair of the Greyhound Authority. That thoroughbred club at the time operated the Newcastle Beaumont Park greyhound track, under a somewhat tense relationship¹⁷.

¹⁴ Quoted in Action Group Submission One

¹⁵ Attachment H.

¹⁶ Attachment B includes a copy of Assembly GRA Amendment Bill 15/9/98 (relevant paragraph circled) as well as the list of board members and the Chair’s career history.

¹⁷ Hansard <http://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/V3Key/LA19941026032>

<p>appointees</p>	<ol style="list-style-type: none"> 3. <u>The lead Joint NSW greyhound industry position at the time was for a performance based funding agreement.</u> It carried the catch-cry <i>'excellence is encouraged'</i> and proposed a two tiered mechanism, one of which would be aligned to wagering performance. This formula overall would have given the greyhounds a 1996 base of 14% <u>with upside/reward for growth by providing extra meetings.</u> Over this period, Greyhounds were set to be the major solution to the then flat wagering market through increased meetings and coverage to meet the pending TAB requirements for vacant twilight racing slots. Please refer to Appendix A. <u>Interestingly this is similar in nature to the current Victorian performance based Intercode arrangements (Appendix E).</u> 4. In its 1996-97 Annual Report, this board noted that arrangements for the Intercode for privatization were all <i>"but finalised with the only problem being Harness Industry Representatives who are 'holding out for a larger share'"</i>¹⁸ and that <i>'the Thoroughbred industry were attempting to solve the impasse'</i>¹⁸ 5. Historical documentation from the 1996/97 TAB Annual Report (Attachment E) shows the NSW greyhound product for off course turnover stood at 16.5% of NSW racing product while national market share was 11.7%. This provides substance to the Lead Joint submission in respect to the need to facilitate an agreement that adequately funds the level of NSW product supply plus funds to enable it to grow. 6. The 1997/98 Annual Report recorded the commercial necessity to <u>'ensure that adequate intercode and intracode arrangements are facilitated so as to ensure the industry not only remains viable but is given every opportunity to increase its market share during the first 15 years of a privatized TAB'</u>¹⁸. 7. At this point we have a gap in our evidence. We sought board minutes/other items from the Office of Liquor Gaming and Racing and GRNSW, but both referred us to each other, even though they were advised this was the case. We note that a The Daily Telegraph report on 21/12/12 quoted the then Chair as saying at the time of publication that he <i>"was pressured to get it through' by a number of government departments"</i>. (Attachment P). The journalist advises he <i>'later recanted after pressure from the horses'</i>. Evidence has previously been sighted that a large number of clubs were close to insolvency, though we understand that this was common across all the codes. It would appear that the impasse being worked upon between harness and thoroughbreds resulted in a fixed offer to NSW Greyhounds of 13% on a national pool basis. It would seem the board was either pressured to 'finalise the deal' or simply considered it an acceptable resolution. In respect to the latter, it is difficult to accept such a proposition, as it is inconsistent with all the other evidence. That is, the key provisions of the Intercode including its fixed 99 year fixed basis, and the inadequate growth provision within it/ no effective review mechanism, conflicted with i) the TAB Clubs/ industry position/ submission ii) the demand for extra product by TAB and that greyhound racing would be a key stimulator of the flat wagering market, through morning to night racing iii) and the board's own documented strategy determination to obtain a performance based structure as quoted above. In any event, <u>the conflict between the documented needs of the time and the final key deed terms support an assertion that the commercial performance of this government appointed board was deficient.</u> 8. Approximately five months after the signing of the Intercode, this Board then agreed to a <u>Sky Channel proposal</u> to expand product/meetings,¹⁹ in contrast to the reality of the key terms of the deed. Part of its reasoning for accepting the proposal was recorded on the 1998/99 Annual Report as <i>'Obviously any drop in the greyhound industry's market share would over a period adversely affect the greyhound industry's bargaining position under any future intercode deed'</i>.¹⁹ This statement is commercially irrational against the reality of the key terms of the deed, given its fixed 99 year term, its fixed percentage remuneration basis, and its growth provisions²⁰ which do not provide a basis of review, payment for or bargaining position to historical performance. This further supports the assertion <u>that the commercial performance of this</u>
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¹⁸ Attachment F provides extracts from the Annual Reports.

¹⁹ Attachment G - 1998/99 GRA Annual Report extracts.

²⁰ The Growth Provisions are documented in the copy of the Harness Racing Report supplied as Attachment J.

	<p><u>board appointed by the Minister was deficient.</u></p> <p>9. As mentioned, in Y2000 ICAC (Attachment O) reported that this board failed with respect to integrity controls. ICAC found in respect to the government appointed board <i>“It is reasonable to assume that the failure to implement the plan in a timely manner greatly facilitated corrupt conduct and allowed the public’s trust in the GRA to be betrayed.”</i>. Further – <i>“In common with other organisations that exercise regulatory functions on behalf of the state, the GRA bears a significant obligation to ensure that those of its staff who come into daily contact with the industry which they regulate are trained, resourced, supported and supervised properly. In the case of the greyhound racing industry in NSW, it is clear that this obligation was not discharged properly with respect to a number of aspects of its operations”</i>. Further – <i>“ In 1997/98 the cost of drug analysis by the GRA was \$194,056 and, according to the GRA in special notice No. 3 (1997), the justification for this expense was that:“Public confidence in our industry is vital to future viability and no stone will be left unturned to ensure greyhound racing is clean and its drug free policies are strictly enforced. I do not doubt the GRA’s good intentions in its view but, regrettably, the implementation of this philosophy was flawed because of the systems in place”</i>.</p> <p>10. Finally, after the entry of the industry into the Intercode and the initial momentum of extra meetings (that lacked commercial realism), the government enabled changes to reinstate industry persons to the board²¹. However, this time, it would be a club dominated structure. Given the nature/key terms of the Intercode deed, and the tendency for race clubs to instinctively want to obtain or expand race dates, this proved far from ideal. In fact, as could be expected, the new board then continued the expansion momentum, reflecting in the industry size today. Evidence shows participation protest of the new board. One media article protests the club dominance and specifically protests the nonsensical product expansion²². The sole participant representative resigned from the board declaring it to be on protest of self-interested behavior by the club dominated board²². This government action to install a club board in itself continued the non-sustainable momentum of product growth</p> <p>Conclusion – at a micro level, history shows the government replaced a board of industry members with its own appointees, a replacement board that would go on to prove to be commercial deficient and also lacking in integrity controls.</p>
<p>5-Intercode Growth/ Review Provisions are Inadequate</p>	<p>The growth provisions/review mechanisms of the NSW Intercode arrangements are inadequate as they do not provide any basis of review between the performance as at time of entry into the Intercode deed and current market share. As documented in the Joint Submission, in NSW <i>‘While the greyhound industry receives 13% of the distribution based on the Inter-Code Agreement it contributes over 20%’</i> and this results effectively in a market subsidy to the other two codes of over \$14Mpa (\$150M since privatization) and the major underlying factor to the downward spiral of greyhounds in NSW. As set out in Appendix E, the Victorian privatization incorporated a review mechanism to enable reward for market growth and the Victorian greyhound racing industry is thriving. The NSW government approach differed, the NSW government privatization included a 15 year renewal of the <u>exclusivity</u> of the totalizator license. This was renewed to Tabcorp, and in doing so, the government raised funds of \$75M (\$50M up-front plus further payments of \$2.5M per annum over 10 years from 2024)²³. To date, none of this has been directly paid to the NSW racing industries.</p>

²¹ See Attachment B GRA Annual Report extracts and other extracts included therein.

²² See media articles supplied as Attachment N

²³ <http://www.theaustralian.com.au/business/companies/tabcorp-reaches-exclusive-deal-with-nsw/story-fn91v9q3-122666749636#mm-premium>

Section Four - Wagering Market – Current Affairs, Challenges & Opportunities

Financial data from the 2012/13 Australian Racing Factbook²⁴ evidences that **the national wagering market during Y12-13 declined in real terms**. Raw growth was 1.9%, turnover increasing from \$20.4B to \$20.8B. Within that market, thoroughbreds declined from \$10.3B to \$9.8B, while off- course bookmakers (corporates) for thoroughbreds rose from \$3.7B to \$4.3B. There is solid evidence of movement of market share to the corporates.

In NSW, wagering declined in real terms. The overall totalizator revenue was \$4.986B, slightly down in raw terms (Y2012 4.989B). Totalizator wagering on thoroughbreds declined by \$51M (\$3,444M to \$3,393M), diminishing the state tax base by an estimated \$1.5M. Greyhounds rose by 3.7% / \$37M to \$1.003B and adding an estimated \$1M to the state wagering tax base. Harness was up \$10M from \$580M to \$590M.

In Victoria, wagering declined in real terms, but in contrast to NSW, it grew in raw terms, by \$70M/ 1.7%. This was underpinned by 7.5% / \$60M growth in greyhounds, the other two codes each recorded small gains totaling \$8M. If the Victorian growth of \$60M was replicated in NSW for greyhounds, this would generate an estimated \$1.8M in state taxes, highlighting the merits of supporting greyhounds.

This data therefore indicates:-

- The Australian wagering market appears to be mature.
- There is a movement of market share from totalizator to corporates, within a stagnant wagering market
- Greyhound racing is mitigating or minimizing losses to the state wagering tax bases.
- In 2012/2013, changes to Intercode arrangement in Victoria boosted revenues to greyhound racing. The figures indicate that wagering (in the case of Victoria) responds positively to Intercode stimuli. Further details of the Victorian Intercode arrangements are provided as Appendix E.

The impact of movement of market share to Corporates

The corporates are offering product innovation and incentivizing consumers. Smart phone betting platforms provide immediate and multiple options to consumers, and they carry a lower cost structure, in turn enabling corporates able to offer greater returns to consumers. In turn, the former competitive advantages of the TAB network are diminished. The financial data indicates that rather than stimulating the overall wagering market, we are seeing a transfer of market share from totalizator to corporates. There is a high risk that this will see exponential movement of wagering to corporate bookmakers.

The corporates pay approximately 1.5% of turnover as royalties/fees to the racing industries, versus (effectively) approximately 4.7% by the TAB. Given, the transfer of share within a stagnant market, the reality is the racing codes are cannibalizing their own revenue streams at approximately one third its initial value. The codes are necessarily strategizing to grow this revenue, but this concept is necessary but flawed, effectively put in place by the market structure.

²⁴ 2012/13 Australian Racing Factbook http://www.australianracingboard.com.au/fact-book/ARB_Fact_Book_2013_v18112013_Single_Page.pdf

Unlike totalizator betting, corporates do not provide state taxes to NSW. The State Budget forecasts a drop in wagering tax revenues²⁵.

The wagering market requires further reform, as there is a high risk that all revenues of the racing codes will decline, across the nation. Never has it been more important for changes to state funding models to encourage reward for innovation/ productivity as a basis for wagering growth. We have a flat wagering market and yet funding arrangements provide no direct return and rather disincentives investment and growth by the codes. All stakeholders – all codes, the government and TAB should be concerned.

Updated Comparisons resultant from Y2013 Racing FactBook²⁶ becoming available:-

	Totalizator Betting	Corporate Bookmakers
Returns to the NSW Racing Codes	In Y2012/13 Tabcorp returned \$249.8M pa ²⁷ to the NSW racing industries under the Racing Distribution Agreement(RDA). In broad terms, as it is a complex formula, the RDA provides that 4.7% ²⁸ of TAB turnover is paid to the racing industry	Corporate bookmakers pay a maximum <u>1.5% turnover fee</u> for use of Race Fields Information (rising to 2.0% for premium product) (determined by NSW government Racing Administration Regulation). Off course book-maker turnover for Y12-13 was \$4.95B (using the NT off course bookmaker turnover stats in the Year Book). If we assume the weighting of NSW betting to TAB turnover (Year Book shows as 27%), it is estimated that \$1.3B is bet on NSW product through corporates. At 1.5% turnover fee, it is estimated this delivers of \$20M to the racing codes. If this was paid at the same rate as totalizator, the codes would derive an extra \$40M.
NSW State Taxes	\$158M ²⁹ per annum is generated for the NSW state government (from totalizator state tax rate @ 19.11% of player losses) ³⁰	Corporates are not paying state taxes. If we assume a net operating margin of 10% being \$130M on estimated NSW product turnover of \$1.3B (as above), and if they paid the same 19.11% state tax rate for totalizator betting, then corporates would contribute over \$24M in state taxes.

Fallacy - the argument that market share transfer to corporates is good for greyhound racing

The corporates provide a direct return to greyhound racing, which is a positive in respect to being a performance basis, along the lines of the Cameron argument. However, the underlying issue is that the levy rate is not sufficient.

²⁵ NSW State Budget - http://www.budget.nsw.gov.au/__data/assets/pdf_file/0015/25224/Ch_6.pdf

²⁶ 2012/13 Australian Racing Factbook http://www.australianracingboard.com.au/fact-book/ARB_Fact_Book_2013_v18112013_Single_Page.pdf

²⁷ Tabcorp media release P1

http://www.tabcorp.com.au/resources.ashx/mediareleaseschilddatadocuments/824/FileName/30A075CCDAB3D65F5B40BC5108B62D80/Media_Release_v12_clean.pdf

²⁸ As estimated in the Cameron Report p17

²⁹ NSW State Budget - http://www.budget.nsw.gov.au/__data/assets/pdf_file/0015/25224/Ch_6.pdf

³⁰ http://www.treasury.nsw.gov.au/__data/assets/pdf_file/0004/24349/TRP13-01_Interstate_Comparison_of_Taxes_2012-13_dnd.pdf

Under the Intercode, NSW Greyhound racing currently receives 13.1% of the revenues received under the Racing Distribution Agreement (RDA), those revenues effectively being approximately 4.7% of TAB turnover²⁸. This means for every \$100 bet with the NSW TAB, greyhound racing earns approx. 62 cents ($\$100 \times 4.7\% \times 13.1\%$). Thoroughbreds, assuming a 70% Intercode entitlement, receive \$3.29 ($\$100 \times 4.7\% \times 70\%$).

In contrast, the corporate bookmakers pay GRNSW a maximum of \$1.50 for each \$100 bet (versus effectively \$4.70 from the TAB). This seems attractive but no income is received from revenues from other codes. This means for every \$100 bet through corporates on racing, Greyhounds earn 23 cents ($\$100 \times \text{say } 15\% \text{ market share} \times \1.50). Thoroughbreds receive \$1.05 in relative terms ($\$100 \times 70\% \text{ say} \times \1.50).

To achieve a return on par with the tote, the levy would need to be at three times to market share of the tote, or at three times the earnings. If this was achieved, then corporates could truly be an effective performance based mechanism for greyhounds. This is not the case, The Factbook data indicates the market share of greyhounds for corporates to be approximately 15% (versus 19-20% on the totalizator) while the Race Fields levy is at one third of the estimated TAB returns (as explained above).

Cap on Gross Margin Model

The Joint Submission proposes removal of the cap on GRNSW gross margin model relationships with corporate bookmakers. GRNSW is projecting incremental earnings of \$5.5M per annum based on removal of the cap³¹. The assertions are accepted in good faith and accordingly the proposition is supported.

These projections assert that the gross margin model provides greyhounds with upside of 55% above the current levy that is in place³¹ or in relative turnover levy terms, 2.3% ($15\% \times 1.5\%$). However, the approach also increases the exposure of the code to corporate bookmaker profitability, and remains short of the comparative return on tote wagering. **The proposal for removal of the cap is earnings incremental, supported and needed, and based on GRNSW's contributions in the joint submission, can be enacted in the near term. But it is a short term measure.**

Potential Solutions to the Movement of Market share to corporates

Increasing the Race Fields levy of 1.5% in line with the effective TAB return should be considered. Further, a tax on higher levies raised by the state would compensate the downside projections of the State Budget through loss of totalizator market share. However, there are counter-productive impacts that should need to be considered:-

1. Should NSW lift rates and other states not follow, NSW product will lose competitiveness
2. The higher levies would also impact the TABs whom also pay Race Fields levies, an unfair 'double whammy', given they are already paying product fees directly to their own states.
3. The interstate racing codes derive earnings from the TAB based on profit calculations after the deduction of the race field levies by their state TAB. Accordingly, interstate codes and product could be damaged, which in turn impacts us as stakeholders through offering wagering of their products on our tote.
4. Consumers may become attracted to illegal off shore betting where operators have lower costs and therefore can provide greater returns. These operators are not covered by RaceFields Levy nor Harm Minimization Regulations, therefore seeing revenue foregone and detriment to consumers.

³¹ P21 of the Joint Submission

5. Such a change is likely to impact the viability of on-course bookmakers, whom are already dwindling in numbers and considered part of the character of the Australian racetrack landscape.

Items 2 & 3 above could potentially be mitigated by rebating the TABs for monies already paid to the local state racing codes, though would require legal investigation.

The development of a solution is complex, and it is a problem for all codes across the nation. It is a matter that needs careful reform but which should not be downplayed by the strength of the political lobby of the corporates, the SMH commenting:- *“The Liberals’ NSW president Chris Downy - chief executive of the Australian Wagering Council, which represents the interests of sports betting and online gambling companies and seeks to influence government policy in these areas”*.³²

Challenges and Opportunities of Globalization

Other Australian (non-racing) industries are benefiting from globalization and the growth in Asia and China ; there also appears to be an opportunity to leverage our reputation for the integrity of our racing products and relatively high quality infrastructure, into these markets. Technology potentially provides for an expansion of exporting of our vision, along with opportunities for conversion of electronic form guides to meet Asian requirements. The tourism market from Asia provides further opportunity.

Globalization also brings with it threats, including illegal overseas bookmakers, discussed earlier, and in which context and risks were identified in the TAB submission ‘Strengthening the IGA By Removing Parasites’ (April 2003)³³.

Given the complexities and opportunities of globalization and technological advancement, NSW should consider seeking a fresh national review of wagering, along the lines of the 2009 Productivity Review³⁴, encompassing both the impact of corporate bookmakers and the challenges and opportunities of globalization and technological advancements. Items such as those raised by Clarkson in his submission to the Cameron Report in Y2008³⁵ have become increasingly relevant, including:-

- i. Nationalization of integrity and regulatory aspects with *‘all aspects of Australian wagering (including sports betting) to be under the authority of a single government appointed organization’*
- ii. *‘Establishment of a suitably-funded sporting probity & integrity watchdog with teeth’*
- iii. *‘A national framework to levy and equitably distribute product fees and betting exchanges, based on one-third of gross margin and not turnover, to the product supplier’*
- iv. *‘... national and world-wide co-mingling of pools’*
- v. The development of centres of excellence concepts, deregulation to enable corporate investment in infrastructure including facilities for ‘next generation’.
- vi. *A‘... website to co-ordinate the best possible information sources to the industry and public’* – taking this a step further, with translation to meet the Asian market.
- vii. Other items raising including Centre of Excellence infrastructure concepts, deregulation to enable private investment, and identifying the needs and building facilities for the ‘next generation’.

³² <http://www.smh.com.au/comment/lobbyist-trio-says-the-field-is-far-from-even-20131012-2veyn.html>

³³ http://www.archive.dbcde.gov.au/__data/assets/pdf_file/0003/10938/TAB.pdf

³⁴ http://www.pc.gov.au/_data/assets/pdf_file/0005/95702/19-chapter16 - extract supplied as Attachment

³⁵ http://www.olgr.nsw.gov.au/pdfs/David_Clarkson_submission.pdf

Section Five - Other Propositions for the Inquiry

The following propositions are further offered:-

Proposition	Basis
<p>The state government should provide a grant to the <u>Greyhound Adoption program</u> along the lines of the \$1M Victorian government³⁶ initiatives.</p>	<p>This will assist the industry enhance its unique ability to transfer the racing product into household pets and boost an existing major welfare strategy.</p>
<p><u>Fraud and Corruption Measures & Other risks–</u></p> <p>(i) Legislative change should prescribe GRNSW as an authority under the ICAC Act.</p> <p>(ii) This should be extended to enable investigations of alleged corruption and other matters relating to the governance of not-for-profit racing organisations (the clubs).</p> <p>(iii) A preferred (non-mandatory) Audit Panel should be developed by GRNSW for the clubs</p> <p>(iv) Open club membership should be compulsory</p> <p>(v) Role of integrity auditor should be expanded as to scope and independence. For efficiency and to develop best practice, an office could be developed to service all 3 codes and possibly including the sports.</p>	<p>i) There is no clear route for alleged corrupt practices at a high level to be reported</p> <p>ii) There is no current direct route for these concerns to be reported, outside GRNSW, which may not give the industry adequate risk protection.</p> <p>iii) to provide for best practice development of internal controls and cost efficiencies through economies of scale</p> <p>iv) To assist create transparency and community integration. GRNSW advises in its New Greyhound Racing Club Policy³⁷ <i>“GRNSW believes that the success of a greyhound racing club is ultimately determined by the level of integration with its local community. New clubs, therefore, must adopt an open membership model that provides all members of the community with an opportunity to contribute to and participate in the activities of the club”</i>.</p> <p>v) <i>Participants do not feel they have a genuine mechanism to complain due to the direct relationship between GRNSW and the integrity auditor</i></p>
<p><u>Accountability of GRNSW - GRNSW should be subject to audit oversight by the NSW Auditor General in respect to cost and value for money, risk compliance and all other matters. This should extend to the measures GRNSW puts in place as supervisor of race clubs. An office of all 3 codes should be considered.</u></p>	<p>There appears to be a lack of oversight to ensure there are adequate checks and balances. The joint office would enable best practice to be developed and a full time officer across all codes</p>

³⁶ <http://www.premier.vic.gov.au/media-centre/media-releases/931-coalition-delivers-1-million-for-greyhound-adoption.html>

³⁷ <http://www.thedogs.com.au/Uploads/Userfiles/Establishment%20of%20New%20Clubs%20Registration%20Policy.pdf>

Appendix A – TAB Clubs Submission Key Industry Position Leading Into Privatisation.

The industry Historian's search of records indicate the major Joint NSW greyhound industry position was for a performance based funding agreement. That paper is dated November 1995, being three months after the replacement of the industry board members with government appointees, and being at the time of the initial joint venture privatization proposal.

This document³⁸ included evidence that the thoroughbred totalizator turnover had declined over the prior 5 years and yet greyhound racing had experienced 16% growth. Greyhounds were regarded as a potential low cost stimulator of an overall flat wagering market, through morning to night TAB product expansion.

The document proposed that a performance based system would encourage and remunerate the codes for increasing product to the TAB; 'excellence is encouraged' was the catch-cry. The lead industry historian has reviewed the submission and various minutes and advises "Since 1964 and up until 1998, the Minister determined the intercode scheme. At the time of the Tab Clubs submission, the scheme was based on historical payments to the various codes plus CPI and a fixed percentage of any surplus to be divided in fixed shares of 70-15-15. This formula was the last system approved prior to Labor coming into power in 1995.

*The proposed system divided the off course pool into sub pools. Sub Pool A containing the various codes contributions to wagering on NSW events and Sub Pool B being for the events where the racing was imported from interstate and overseas (this also included wagering on sports betting etc). Sub pool A was to be market based; subject to competition and it encouraged growth in NSW. Pool B was a fixed formula of 68-18-14. **This formula overall would have given the greyhounds a base in 1996 of 14% with upside/reward for growth by providing extra meetings.***

*This proposal in some form went to mediation conducted by the former CEO of the industry Tab and was unresolved during the period when Racing and the Government were being locked into a joint Venture proposal. **The greyhound clubs were less than satisfied with arrangements unlike the horses, they were bundled out of all positions of power and only had limited influence on the sidelines.** The Tab clubs Association had carried (as the industry's position) a submission in late 1995 to change the scheme of distribution to a moderate competitive model but the historical model prevailed up until the transfer to the float. The GBOTA records show a number of verbal meetings and an unsuccessful mediation on code percentages going forward at the Joint Venture stage. The 1995 Tab Club model prevailed at the time as the industry choice ; the change over to the Corporate Government Model and also disputation throughout the period that the GRA independent regulatory board ruled over commercial aspects of greyhound racing and influenced recommended proposals by COBBID (the industry funding recommendation body) up until the commercial board came in with greyhound industry representation in early 1999"³⁹*

³⁸ A copy is supplied as Attachment C.

³⁹ As per Historian's Notes . At the date of this report, the Historian's Report was being finalised, the above is extracted from various emails supplied.

Appendix B – Descriptive Evidence of State of Industry with Interstate Comparisons

GRNSW has stated the current industry is not sustainable⁴⁰. Without changes to the funding model, GRNSW will continue to ration between participant returns, club viability and regulatory funding needs. It is more than likely that rationalization of racing and closures of tracks will become necessary, whether forced and/or, for example, through a reduction in country track support payments ultimately impacting viability. We are in a downward spiral which in time, as noted on the Joint Submission, will impact the other codes, as they are the key beneficiary of TAB revenue flows on the greyhound code product.

Descriptive evidence of the downward spiral of the industry and consequences include:-

1. The greyhound racing industry went 'on strike' last year arguing '20 hours work for 13 hours pay', to protest and heighten the awareness of the industry predicament.
2. The leading NSW bred and raised dog Black Magic Opal, since the initial hearing, won the Melbourne Cup (for greyhounds). He has now won over \$500,000 for the Victorian owners, giving Victoria the economic multiplier benefits.
3. The movement of the higher quality race performers has become the norm rather than the exception. The better quality greyhounds, generally those who can win in good class races over distances of 500 metres or more, are in high demand outside the state. The NSW participants are choosing to sell, generally because the sale price is more economic than retention, and due to the lack of opportunities away from the metropolitan tracks in NSW (generally excepting champions, there are only so many races a greyhound can win at the main track before it becomes outclassed or sour at the same venue, and as well, some greyhounds are not suited to that venue. In Victoria, they have two metro tracks and prizemoney elsewhere is much higher and includes higher class programming. The NSW industry is structured with four qualities of race meetings, being TAB A (metropolitan racing and higher prizemoney), TAB B, TAB C and D (non-TAB) meetings. The metropolitan racing is conducted at Wentworth Park. We currently have the situation where the Wentworth Park meetings are regularly short of nomination flow, require nomination extensions, and race with incomplete fields (which generally is a less attractive product for wagering). At the same time, we are retaining the lesser quality greyhounds, usually those that perform over shorter distance, generally regarded as low quality product for wagering. Our TAB programs are now being regularly being filled with short distance races.
4. Restricted ability to refurbish and refresh tracks, facilities and the product brand itself. A significant number of tracks and facilities are run down, and a large number of clubs have little cash reserves including the principal club GBOTA. Those that have, given the lack of recent infrastructure investment, appear to be risk averse and not making investments.
5. Restricted ability to fund promotion external to the industry. Budget cuts have meant reduced newspaper form services and advertising. This reduces the importance of the NSW industry to the media, and in turn, the ability to receive positive press coverage.

⁴⁰ See Joint Submission & GRNSW submission. There is a summary of further evidence later in this submission.

6. A comparative continued barrage of feature and group racing in Victoria with high prizemoney stakes. Victoria experiences exciting regional carnival promotions. The Ballarat Cup (provisional racing) paid \$100,000 enjoyed by the winning connections. Our equivalent is probably the Goulburn Cup (and that club is doing a good job), worth just \$6,000. Again a factor that results in the export of our lead greyhounds to interstate and elsewhere.
7. Restrictions imposed on country track/club funding which in turn reduces their capability to facilitate race meetings and feature carnivals (that in the past would add to regional vibrancy). The Country Challenge carnival of previous years has been CANCELLED.
8. The net cost of ownership/ participation in NSW is double that of Victoria This is reflected in the updated financial data and analysis below. The gap has widened in terms of returns to NSW participants compared to the other states. The estimated return per greyhound race start is now estimated at \$222, versus \$476 in Victoria and \$435 in WA. This then flows on to trainer returns and economic multiplier impacts.

The following table provides some financial evidence of the differences:-

	NSW Y13	VIC Y13	WA 13
Industry Income @ Authority level	\$ 39,905,344	\$ 71,000,000	\$ 20,611,262
Prizemoney ⁴¹	\$ 22,604,293	\$ 37,800,000	\$ 10,465,888
Prizemoney as % of the authority's revenue	57%	53%	51%
Authority total expenditure excluding prizemoney & infrastructure	\$ 18,445,643	\$ 20,100,000	\$ 11,655,820
Authority costs as a percentage of Industry Income by Authority	46%	28%	57%
Industry Infrastructure expenditure	\$1,465,417	\$4,500,000 + \$7M transferred to infrastructure reserve	
Number of starters	101,659		
AVG/ starter	\$ 222		
No/ meetings	1,298	1,015	307
AVG prizemoney /meeting	\$ 17,415	\$ 37,241	\$ 34,091
AVG number of starters per meeting	78.32		
AVG return per starter assuming AVG starter per meeting	\$ 222	\$ 476	\$ 435
Number of tracks	34	13	
Industry Income per track	\$ 1,173,687	\$ 5,461,538	

Not only are the better quality racing greyhounds moving to Victoria, but so is the excitement, the glamour, and the returns. The Victorian greyhound industry, going ahead in leaps and bounds, of course is underpinned by a market based model (see Appendix E).

⁴¹ Extracted from the relevant authority Y2013 Annual Reports

Appendix C - Reversion to Smaller Industry

The current funding arrangements incentivize rationalization, as a reduction in race meetings would probably have marginal impact on greyhound racing revenues; the principal cost would be to the other codes who receive a greater share of the wagering revenues. The table below provides a financial analysis aimed at assessing the level of rationalization required to bring participation returns in line with Victoria (that in an effort to stop the movement of better performing greyhounds interstate).

	Y13 - current	Projected
Prizemoney say	\$ 22,604,293	\$22,604,293
Return per starter – Projected being the estimated Victorian return	\$ 222	\$476
Number of starters required to achieve that return	101,659	47,488
Race meetings required (assuming 78.3 starters/meeting)	1,298	606
Number of tracks	34	34
Number of meetings per track on average per annum	38	17
If racing twice per week each track, tracks required		9

Assuming prizemoney remained stable (given wagering revenue impacts should be low, as explained above, an offset by efficiencies savings), this simple analysis indicates a reduction from 1,298 to 606 race meetings is necessary to achieve the Victorian participant return levels. This would be an industry less than half its current size and the requirement for tracks would drastically reduce. This scenario would see dire consequences on country towns, employment, hobby participation, and it will impact the TAB and the other codes who benefit the greatest from our TAB turnover.

This approach makes no sense, given the earlier evidence in respect to the growth in the wagering on greyhounds and its capabilities to contribute substantially to stimulation of the overall wagering product.

Appendix D- Sensitivity of Viability resulting from improvements to efficiencies.

This following analysis shows efficiency gains are not a stand-alone solution with relatively nominal impact. The differential between prizemoney per starter in Victoria reduces by just \$20 of the \$254 differential.

Change	Amount	Prizemoney per starter	Victoria – current-estimate
Current return per race start	N/A	\$222	
Improvement in profitability across industry @ 5% of revenue	\$ 1,995,267	+\$20	
Changes to remove cap for Racefields - see joint submission	\$ 5,515,858	+\$54	\$ 476
Income lifted to market basis per joint submission	\$ 14,357,000	+\$141	
Revised Prizemoney per starter	\$ 21,868,125	+\$437	

Appendix E – Victorian Intercode Arrangements

As explained throughout this report, the growth provisions/ review mechanisms of the NSW Intercode arrangements are inadequate as they do not provide any basis of review between the sign off of the Intercode and current market share. As documented in the Joint Submission, in NSW *'While the greyhound industry receives 13% of the distribution based on the Inter-Code Agreement it contributes over 20%'* and this results effectively in a market subsidy to the other two codes of over \$14M (\$150M since privatization).

The NSW government privatization included a 15 year renewal of the exclusivity of the totalizator license. This was renewed to Tabcorp, and in doing so, the government raised funds \$50M plus further payments of \$2.5Mpa over 10 years from 2024⁴². To date, this is not known to have been paid directly to the NSW codes.

In contrast, the Victorian privatization included a 15 year Wagering License renewal and this resulted in a new Joint Venture agreement being struck between Tabcorp and the Victorian Racing Codes. This has resulted in (respect to Victoria) a *'more equitable return for greyhound racing'* that *'resulted in reduced subsidization by GRV to the other racing Codes'*.⁴³

The Victorian Intercode arrangements have a two tiered system, being 50% fixed and 50% variable components. The fixed component, was increased during the Renewal from 9.00% to 14.75%. The variable component is based on market share of revenue earned⁴³.

The changes took effect in Y2012/2013. It now delivers Victorian Greyhound racing 16.67% of the code revenues, being a 1.8% increase over prior year, and compares to its current 18.58% market share. In effect, the subsidization of the other two codes reduced from 5.71% to 1.92%. GRV's income rose by \$11.4M⁴³.

It is appropriate to then compare this to the Victorian wagering results, though noting that in normal business course, increased investment is often not immediate but occurs over time. GRV is investing much of the surplus into not only increased prizemoney, but track infrastructure development and additional meetings.

The Y2012/13 wagering data in fact shows a lift in Victorian greyhound wagering by \$60M, or 7.5%. Interestingly, the changes had little impact on the wagering of the other Victorian codes, with thoroughbreds recording a nominal \$5M increase and harness \$3M. This contrasts with NSW, where greyhounds recorded a \$35M increase (3.5%), while thoroughbreds declined \$52M (1.5%) and harness increased \$10M (1.7%)²⁴. These statistics indicate that wagering will respond to stimulus in the form of Intercode changes, which in turn is positive for the state tax base.

Through having a two tier fixed/variable system, short term changes are cushioned to protect infrastructure and investment, and the codes are still encouraged to work together due to the common pool sharing. This arrangement is very similar to the 1995 NSW TAB Clubs submission, which was effectively ignored by the government board appointees in agreeing to the current arrangements.

⁴² <http://www.theaustralian.com.au/business/companies/tabcorp-reaches-exclusive-deal-with-nsw/story-fn91v9q3-1226666749636#mm-premium>

⁴³ GRV Annual Report Y2012/13 shows the new arrangements + evidence of the current performance. P07 - Attachment K