



RACETRACKS OF CANADA, INC.
HIPPODROMES DU CANADA, INC.

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March 11, 2021

Dear Sir/Madame

Re: Sports Wagering and Historical Horse Racing in Canada

Racetracks of Canada is a national organization representing over 40 racetracks across the country. Some of our members are large, like Woodbine in Toronto, but the majority are smaller, seasonal tracks which play vital roles in their respective communities - many of which are in rural Canada. Racetracks of Canada's mandate is to further the interests of the pari-mutuel horse racing industry in general and, specifically, the interests of the racetrack operators.

Canada's horseracing industry generates approximately 50,000 full-time equivalent jobs across rural and urban Canada and contributes \$5.6 billion annually to the national economy. The production, care and racing of horses has economic benefits flowing through several sectors including agriculture, entertainment, tourism, manufacturing, and gaming. These jobs go well beyond jockeys and drivers and include trainers, farm hands, veterinarians, harness and saddle makers, blacksmiths, farriers, hay, and grain suppliers among many others.

Sports Wagering

We are not writing to speak out against Single Event Sports Betting and Private Member's Bill C-218. Over the last several months, the horse racing industry has stated its support for the legalization of fixed odds single-event sports wagering in Canada. In fact, the horse racing industry is particularly well suited to speak to the benefits of legal and properly regulated wagering in Canada. Black and grey markets benefit no one.

However, it is vitally important that the legislative process considers the unintended consequences the horse racing industry could experience should it not be protected.

Today the horse racing industry's business model is one supported by pari-mutuel wagering – currently, the only legal single-event sports wagering in Canada. The wagering that flows through the pari-mutuel system is what supports and maintains the entire horseracing industry and the numerous jobs and industries that rely on it. Single-Event Sports Wagering presents an existential threat to the horse racing industry and its participants, and measures must be taken to support the sector and protect the pari-mutuel wagering system.

There is a substantial risk that Single-Event Sports Wagering will cannibalize our customer base and impact the 50,000 jobs including many ancillary agricultural industries supported by horse racing across Canada. Tracks, many of which are already on the brink of financial non-viability, may be forced to shut down operations, potentially resulting in the loss of thousands of jobs spanning rural and urban Canada across several sectors and creating a significant risk to animal welfare with the strong possibility that tens of thousands of horses will be abandoned or lose appropriate levels of care.

Horse racing is currently the only sport in Canada where the bet on the outcome of a single event, a race, is legal. It is legal through the pari-mutuel system. The difference between pari-mutuel wagering and fixed odds wagering is as follows:

Pari-Mutuel Wagering: Pari-mutuel is a betting system in which all bets of a particular type are placed together in a pool; taxes and the “house takeout” are deducted, and payoff odds are calculated by sharing the pool among all winning bets. Wagering on horse races is conducted using this model. In Canada this is managed through a totalizator system which calculates and displays bets already made. Pari-mutuel betting differs from fixed odds betting in that the final payout is not determined until the pool is closed – in fixed odds betting, the payout is agreed at the time the bet is sold. Pari-mutuel gambling is federally regulated by the CPMA and helps fund the CPMA. This model works as the ‘house takeout’ is used to sustain the industry through payments to the racetrack operator to be used for purse payments, horse people associations and programs, and charitable organizations that provide care and services to retired racehorses. The ‘house takeout’ also includes taxes, including payments to the CPMA. In pari-mutuel wagering, the customer is betting against other bettors, not against the “house”; the house only retains the pre-determined “house takeout”.

Fixed Odds (Single Event) Wagering: In the fixed-odds model, a bookmaker—or a racetrack—assigns odds to win for each horse or event. When a customer makes a bet, those wagers are locked in for the race. With this type of wagering the bookmaker assumes the risk surrounding the odds being provided to customers; in fixed odds wagering, the customer is betting against the “house”, which retains all proceeds from lost wagers.

Pursuant to the Federal Criminal Code Part VII wagering and the placing of bets is illegal in Canada. To be allowed to conduct wagering and the placing of bets an exception in the Code is required. The two notable exceptions are:

- Section 204 which establishes the pari-mutuel wagering system on horse racing when regulated and approved by the Minister of Agriculture and Agri-Food; and
- Section 207 which allows the Provincial Governments to “conduct and manage” a Lottery Scheme.

The Minister of Agriculture and Agri-Food fulfills its mandate through the Canadian Pari-Mutuel Association (“CPMA”).

Section 207(4) provides the definition of a Lottery Scheme:

“207 (4) In this section, *lottery scheme* means a game or any proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g), whether or not it involves betting, pool selling or a pool system of betting other than

(a) three-card monte, punch board or coin table;

(b) *bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel system, on any race or fight, or on a single sport event or athletic contest*; or

(c) for the purposes of paragraphs (1)(b) to (f), a game or proposal, scheme, plan, means, device, contrivance or operation described in any of paragraphs 206(1)(a) to (g) that is operated on or through a computer, video device, slot machine or a dice game.”

Section 207(4)(b) is the paragraph that currently prohibits Fixed Odds Single-Event Sports Wagering. The Private Member’s Bill that has been introduced, first by Brian Masse (NDP – Windsor, ON) and now Kevin Waugh (Conservative – Saskatoon, SK), is a very simple bill which essentially just removes 207(4)(b) from the Code.

The effect of the Private Members Bill becoming law is that Provincial Governments would be able to “conduct and manage” bookmaking and fixed odds single-event sports betting – including on horse racing.

This poses a significant risk to the entire horse racing industry and the pari-mutuel system:

- No guarantee that the Provincial Governments, or those they contract with to operate the system, will pay fair and appropriate amounts to the horse racing industry, which bears the substantial costs of producing the horses and conducting the races.
- No guarantee that Provincial Governments will include the racing industry in fixed odds single-event sports wagering in general and an entire competitive industry will be established leaving racing on the outside.
- Further, the pari-mutuel wagering system would not be able to compete. The pari-mutuel system today operates in an environment where required deductions can be as high as 7-8 percent.

- Horse racing would be subject to parallel regulatory bodies – Federal (CPMA) for a pari-mutuel wager and Provincial (AGCO in the case of Ontario) for a single-event wager. The cost of these systems would fall on the racing industry.

On November 26, 2020 the Canadian government presented a solution to this problem when it introduced Bill C-13, which retained Section 204(7)(b) amended as follows:

“(b) bookmaking, pool selling or the making or recording of bets, including bets made through the agency of a pool or pari-mutuel system, on any horse-race; or”

By retaining the reference to “horse-race” in Section 204(7)(b), Bill C-13 protected horseracing from incursion by fixed odds single-event sports wagering on horse races.

The Canadian horseracing industry is strongly of the view that it is incumbent upon the Standing Committee on Justice and Human Rights to incorporate the language contained in Government Bill C-13 into the Private Members Bill in order to provide the necessary protection for the horse racing industry and the tens of thousands of jobs it supports.

Historical Horse Racing

Historical Horse Racing (HHR) is a pari-mutuel gaming product where individuals wager on the outcome of horseraces that have occurred in the past. The HHR product is common in many jurisdictions and runs on existing software and datasets. Because the wager is pari-mutuel it can be overseen and regulated by existing pari-mutuel regulators. Discussions have been on-going with both the AGCO and the CPMA, and the CPMA has indicated that they can, and are prepared to, take on the role of regulator for HHR.

The legalization of Single-Event Sports Wagering will continue the trend of the horse racing industry losing its market share to other gaming offerings. Using HHR to make horse racing competitive with other forms of gaming is imperative to its survival.

HHR begins when a player deposits his wager, and a race is randomly selected from a video library of over 60,000 previously run races. Identifying information such as the location and date of the race, and the names of the horses and jockeys, is not shown. The player is able to view a "Skill Graph" chart from past performances showing information such as the jockeys' and trainers' winning percentages. Based on this handicapping information, the player picks the projected order of finish. Payouts are based on traditional pari-mutuel processes. The player's wager is divided into several "betting pools" for different winning possibilities, such as picking the winner of the race, picking the top three finishers in exact order, or any of the three selections finishing first and second. The system then shows a replay of all or a portion of the race. If the player achieves a particular type of "win", he/she receives the money from that pool, while the money in each of the other pools continues to accumulate until another bettor wins it.

Many parts of the horse racing industry are already subsidized through provincial funding support programs. Allowing the industry access to HHR is essential to its sustainability, and its future ability to reduce its need for such support programs, thus enabling the provinces to direct

these funds elsewhere, and enabling horse racing to continue to be a key contributor to Canada's rural economy.

HHR is not a subsidy for horse racing. It is an innovative, racing-based product that reinvests in the industry, sparks significant economic development, and creates and preserves jobs. This in turn would result in a boost for the entire Canadian economy, creating a win-win-win situation. Using this technology to make horse racing competitive with other forms of gaming is imperative to its survival.

HHR is a proven solution to support the sustainability of local horse racing industries in many jurisdictions. It can be introduced quickly into licensed and regulated distribution channels across the country creating needed additional revenues for the industry at a time when it is being particularly hard hit. Two recent examples of the success of HHR are set out below:

In Virginia live horseracing has returned because of HHR. Colonial Downs, the state's only racetrack, was forced to stop racing in 2014 because of the poor economics of running a racetrack in the state. Virginia's racing commission worked with Colonial Downs to approve regulations to allow HHR in the state. In 2019, the track was able to reopen because of the additional revenue stream created by HHR and conducted a very successful race meet.

In Kentucky, the approval of HHR has been widely credited as sustaining the leading horse racing jurisdiction in North America and ensuring the sustainability of racetracks in the state. Prior to the introduction of HHR, even Churchill Downs, home of the Kentucky Derby, was suffering from a profound horse shortage due to competition with tracks whose purses were fueled by slots and casino gaming. HHR contributed USD\$36 million to Kentucky's racing purses in 2019 alone and has contributed tax revenues to the state of over USD\$52 million to date; these numbers are growing annually. Kentucky's HHR facilities directly employ 1,400 people and pay USD\$45 million annually in direct payroll and benefits; the racetracks pay USD\$100 million in state and local taxes each year.

Unlike in the United States, where state regulators can enable HHR at tracks to support their local horse racing industry, provinces in Canada cannot do the same due to the interpretation of the definition of "bet" in the Criminal Code.

The term "bet" is defined in Section 197 of the Criminal Code as "an event that is to take place." This has been interpreted to preclude wagering on events that have occurred in the past such as HHR (even though races are anonymized when the wager is placed).

Section 197 (1) defines the term "bet" for the purposes of the section as follows:

“bet means a bet that is placed on any contingency or event that is to take place in or out of Canada, and without restricting the generality of the foregoing, includes a bet that is placed on any contingency relating to a horse-race, fight, match or sporting event that is to take place in or out of Canada;”

The definition could be amended to allow for historic horseracing events with the following amendment:

“bet means a bet that is placed on any contingency or event that is to take place in or out of Canada, and without restricting the generality of the foregoing, includes a bet that is placed on any contingency relating to a ~~horse-race~~, fight, match or sporting event that is to take place in or out of Canada save and except that, with respect to a horse-race, bet means a bet that is placed on any contingency or event in or out of Canada;”

Thank you for taking the time to understand the significant risks and issues currently facing the horseracing industry. Racetracks across the country and throughout our communities are much more than just a place where horses race.

- They support hundreds, and often thousands, of jobs in their communities.
- They are landmarks in the many towns and cities where they reside.
- And when we are not in a global pandemic, racetracks serve our communities and residents as important places for social gatherings and community engagement.

The horseracing industry and Racetracks of Canada are supportive of the legalization of sports betting in Canada. However, it cannot come in at the expense of a well-established industry that supports thousands of jobs and is the lifeblood of many rural communities. If done correctly Single Event Sports Wagering can create new jobs for Canadians and generate new revenues for the government – all while protecting another industry - the Horseracing industry.

Yours Truly,
Racetracks of Canada



William G. Ford
Chairman and President