

Report of the

CROSS-BORDER BETTING TASK FORCE

This Report was prepared by a task force of government officers and racing industry representatives from the eight Australian States and Territories.

The Report was received and noted by the Australasian Racing Ministers' Conference at its meeting on 1 November 2002. The Conference directed that further work be undertaken in consultation with the national peak bodies of the three codes of racing.

As at 16 October 2003, the contents of the Report have not been endorsed by the Conference. As such, it is not purported that the Report necessarily represents the views of the Conference or individual Racing Ministers.

Conference of Australasian Racing Ministers

1 November 2002

CROSS-BORDER BETTING TASK FORCE

Conference of Australasian Racing Ministers

Dear Ministers

I am pleased to present, on behalf of the Cross-Border Betting Task Force, the report for consideration by Ministers.

The Task Force met on three occasions:

Adelaide	–	27 June 2002
Sydney	–	15 August 2002
Sydney	–	10 October 2002

In addition, the Executive Officer, Mr Peter Baldwin, and I travelled to Canberra and Darwin for meetings with representatives of bookmaker corporations and the ACT TAB.

On 10 September 2002, the Executive Officer, the ACT Task Force members and I met with representatives from:

- Capital Sports
- Sports Acumen
- SportOdds
- MegaSports
- ACT TAB

On 11 September 2002, the Executive Officer, the Northern Territory Task Force members and I met with:

- IASBet
- CentreBet (Jupiters)

On 1 October 2002, the Executive Officer and Dr R Mason, Queensland Task Force member, met with the Australian Bookmakers' Association (ABA) in Sydney. Appendix C2 to this report is the formal submission of the ABA to the Task Force.

By majority vote (with my support) the Task Force resolved that the scope of the Task Force deliberations would not include cross-border betting by the TABs. The Task Force is also of the view that sports betting (with bookmakers or TABs) is beyond the scope of the Task Force's deliberations.

The majority of Task Force members consider that the scope of its deliberations, as presented in this report, are consistent with the intent of the deliberations envisaged by Ministers in establishing the Task Force at the May 2002 Conference of Australasian Racing Ministers.

In this respect, it is noted that at this point, the racing industry has not identified TAB betting across State and Territory borders as likely to have a significant adverse impact on the long-term viability of the Australian racing industry.

Notwithstanding this majority position on the exclusion of cross-border TAB betting from this exercise, the view has been expressed within the Task Force that the impact of cross-border TAB betting may alter significantly in the future if current cross-border wagering advertising laws and protocols are removed.

Northern Territory Taskforce members, however, remain strongly of the view that the terms of reference established by the Ministers require a fuller analysis of all cross-border betting, including TAB and bookmaker operations. It is the Territory's view that the issue for the Task Force's consideration is cross-border betting, irrespective of the manner in which or the entity with which bets are placed.

The Task Force's brief from Ministers included 19 terms of reference. However, given the time frame for the Task Force to report to the Conference by 1 November 2002, I do not consider Ministers expected the Task Force to conduct a detailed examination of every one of these terms of reference. While the Task Force has focused on those items identified as being of particular relevance to the objective specified by Ministers, all the remaining items have been considered at least to the extent of providing a balanced examination of the issues.

The Northern Territory is also critical of the nature and extent of consultation undertaken by the Task Force. Their initial position was that the Task Force should draft a "White Paper" for the Task Force to undertake wide consultation with all stakeholders, viz: bookmakers, corporate bookmakers, the betting public, race clubs, industry groups, and members of the public generally. The Northern Territory argues that it is vital that industry representative and members of the public are given sufficient information about the Task Force proposals in order to make informed comment. It further argues that proper consultation needs to be undertaken with all stakeholders to comply with the Productivity Commission recommendations concerning the application of broad public interest tests.

The majority view of the Task Force (with my support) is that the Task Force did not have a brief from Ministers to undertake such a consultative process and engage any public debate on this issue. This is a matter for Ministers to determine.

Task Force members from each jurisdiction were charged with the responsibility of ensuring that they consulted sufficiently with the industry stakeholders in their respective jurisdiction. Except for the Northern Territory, I am not aware that this presented any particular problems to the stakeholders. Nevertheless, in my meetings with corporate bookmakers in Canberra and Darwin, I was very disappointed that they did not take the opportunity at the meetings to present a detailed written submission for consideration by the Task Force.

In fact, of the two corporate bookmakers met in the Northern Territory, only one presently fields on racing. All the other three Territory corporate bookmakers who currently focus on racing betting did not avail themselves of the opportunity to meet.

The three ACT corporate bookmakers who accepted the opportunity to meet included the two ACT corporate bookmakers currently fielding on racing events.

At the 17 May 2002 meeting, the Conference agreed that:

Until such time as the working party reports back to the Conference and the working party's report and recommendations are fully considered by the Conference, the Governments of the Northern Territory and the Australian Capital Territory agree to:

- 1 refrain from issuing any further corporate bookmaker licences (other than those for which applications are currently being considered)
- 2 refrain from progressing any legislation which expands the ability of corporate bookmakers to base payouts on the dividends of any totalizator

In view of the Task Force recommendation that the Ministers seek proposals from the racing industry on a range of matters, the Ministers may need to extend the effect of the above resolution to the next meeting of the Conference.

Finally, on behalf of the Task Force, I would like to place on record my appreciation and commend the work of Peter Baldwin in bringing this report together. His commitment and preparedness to research and draft papers for consideration of the Task Force ensured the Task Force met its reporting deadline for the 1 November Conference of Australasian Racing Ministers.

Barry A Sargeant
Chairman
29 October 2002

Foreword

CONTENTS

	<i>page</i>
<u>PART 1 OF 2</u>	
<i>Executive Summary</i>	<i>i</i>
<i>Membership</i>	<i>xvi</i>
1 Preliminary	
1.1 Terms of reference	1
1.2 Introduction	3
1.3 Scope of Task Force's deliberations and this report	10
1.4 Key concepts	13
2 The financial link between racing and wagering in Australia	16
3 The concerns of the racing industry	23
4 Principles put forward by the Australian Racing Board	31
5 Summary of Task Force's examination of the issues arising	33
6 Recommended approach for implementation	59
<u>PART 2 OF 2</u>	
Appendices – Group A	Background and information
A1 Terminology and concepts	63
A2 Bookmaker wagering on racing in Australia	72
A3 State and Territory racing and betting legislation	77
A4 Rules of betting	86
A5 Cross-border advertising provisions	87

CONTENTS

PART 2 OF 2 (cont)

Appendix – Group B	Detailed examination of key issues	
B1	Control and regulation of bookmakers	89
B2	Practice of bookmakers basing payouts on totalizator dividends	90
B3	Dissemination of bookmaker odds over the Internet, etc	115
B4	Minimum bet levels on “remote” bookmaker racing betting	126
B5	Bookmaker minimum wager obligations	148
B6	Product fee on bookmaker racing betting	159
B7	Implications of Trade Practices Act & National Competition Policy	169
B8	Responsible wagering practices – including credit betting	170
B9	The relative competitiveness of the Australian wagering market in a global context	176
Appendix – Group C	Submissions and advice to Task Force	
C1	Northern Territory Members, Discussion Paper, 4 October 2002	178
C2	Australian Bookmakers’ Association, Submission, 9 Oct 2002	197
C3	Advice on rationale for minimum wager obligation	
	- Australian Jockey Club, 2 August 2002	201
	- Australian Bookmakers’ Association, 12 August 2002	202

CROSS-BORDER BETTING TASK FORCE REPORT

EXECUTIVE SUMMARY

1 Concerns regarding the future of the Australian racing industry

The decision of the Conference of Australasian Racing Ministers on 17 May 2002 to establish the Cross-border Betting Task Force was out of concern for the long-term viability of the Australian racing industry. These concerns have been voiced by several Racing Ministers and by the racing industry.

The National thoroughbred racing industry alone is estimated to generate a gross economic impact of \$7.74 billion per annum and provide work, directly and indirectly, for 249,000 people¹. These figures can be increased by around 25% to take into account the harness and greyhound racing codes.

State and Territory Governments assume various responsibilities in terms of racing and wagering. These include:

- establishing mechanisms to oversee the conduct of racing itself,
- ensuring the fair and proper conduct of wagering, from various perspectives including integrity and consumer protection,
- a limited role in ensuring the continuing viability of the racing industry – with a view to protecting the interests of those in the community who rely on racing for all or part of their livelihood.

Over the past forty years or so, the Australian racing industry has grown heavily dependent on revenue streams from off-course totalizator wagering on its product.

Industry estimates are that over 70% of total revenue is derived from wagering². With respect to 2000/01, the racing industry nationally received around \$620³ million in TAB distributions. For the same period, total industry revenue from bookmaker turnover levies and stand fees was around \$16 million⁴.

During 2000/01, prizemoney and incentive scheme payouts distributed by the three codes exceeded \$400 million⁵. The racing industry also bears very substantial costs in areas such as regulatory and stewarding functions, track maintenance, training and marketing.

¹ *Australian Racing Fact Book, 2000/01*, Australian Racing Board, foreword

² Australian Racing Board, Media release, 31 July 2002

³ Refer chapter 2 (section 2.4)

⁴ Refer chapter 2 (section 2.6)

⁵ *ibid*, page 17

Since the commencement of corporate bookmaker operations in the Northern Territory in 1996, bookmaker betting on racing in the Territory has grown from \$25 million in 1994/95 to \$527 million in 2001/02⁶.

The 2001/02 annual report of one Northern Territory corporate bookmaker refers to racing betting turnover of \$240 million – an increase of 109% over the previous year⁷. Media reports relating to another operator which established in the Northern Territory in January 2002 estimate betting turnover on racing of up to \$700 million during 2002/03. On the basis of information available, it is understood the bulk of this racing betting turnover is sourced from outside the Northern Territory but within Australia.

This level of growth in cross-border racing betting with bookmakers has led to concerns on the part of the national racing industry that its critical revenue sources from wagering are under threat – particularly longer-term. Specifically, industry fears centre on the diversion of wagering turnover from operators in the States responsible for most higher-level national racing product to corporate bookmakers in the two Territories.

This is under circumstances where the corporate bookmakers in the Territories enjoy significant operating advantages (refer section 3.2 of this executive summary) over their stand-up bookmaker counterparts.

Perusal of the Internet sites of the Northern Territory corporate bookmakers suggests that over 95% of their turnover on Australian racing relates to racing conducted outside the Northern Territory. A parallel situation exists with respect to ACT corporate bookmakers fielding on racing.

The licensing of corporate bookmakers in the Northern Territory and the ACT is the exclusive domain of the respective Governments – the racing industry plays no role.

The strong growth of corporate bookmakers operating out of the Northern Territory and the ACT creates a number of major concerns that threaten to undermine the long-term viability of the racing industry, unless the issues are addressed. The key concerns, expressed by a racing industry member within the Task Force, are as follows:

- corporate bookmakers operate on quite different arrangements to on-course (“stand-up”) bookmakers, creating an unfair competitive environment. This is of particular concern to racing, given the important contribution on-course (“stand-up”) bookmakers make to the industry, providing both an attraction and a quality service for punters. By undermining the competitive position of stand-up bookmakers, corporate bookmakers are reducing the ability of

⁶ Australian Gambling Statistics 2000/01, Tasmanian Gaming Commission, Table 71

⁷ IASBet 2001/02 annual report

bookmakers to continue to make a contribution to racing and a service to on-course punters.

- corporate bookmakers are acting as free riders, generating very substantial turnover and net income from racing but making no financial contribution. Corporate bookmakers run books on racing but unlike the TABs and on-course bookmakers pay no fee for the product that they are using.
- not only are the corporate bookmakers free riders, but they take turnover away from both the TABs and the on-course bookmakers and hence reduce revenue to racing. TABs pay a product fee ranging upwards from around 4.5% of turnover while on-course bookmakers pay a fee that is on average around 1.0% and also make a qualitative contribution to racing. By diverting revenue from racing, the corporate bookmakers are in effect undermining the financial viability of the very industry from which they derive income.

During the course of the Task Force's deliberations, Northern Territory members highlighted the importance of responding to the needs of wagering customers (punters). However, the Task Force is conscious of balancing such considerations with the economic reality that somewhere within the "cost of racing bets" (overall) must be factored in a realistic portion of the cost of providing the racing product on which bets are placed.

In a 1999 report, the Commonwealth Productivity Commission alluded to "free riding"⁸ in the context of wagering on Australian racing,

... unlike sports betting on football matches or car races, wagering is the major reason for horse racing to take place. If those providing wagering services were not to contribute to the racing industry, the industry itself would decline. As the Australian Racing Board noted,

The Australian Thoroughbred Racing Industry is a gambling industry in the sense that off-course and on-course wagering on racing outcomes is the major revenue source for the Industry.

Without some form of policy response, "free riding" might lead to the racing industry providing too few races:

The nature of racing events is such that it is difficult to exclude parties from utilizing the primary product of the event – the outcome or result of a race. As such, it is possible that betting service providers could "free ride" on the racing industry, taking bets on races without contributing to the costs of running them. Such a situation could lead to there being too few meetings and a smaller racing industry (CIE 1998, p 36).

⁸ Australia's Gambling Industries, p 14.24

In this respect, the Task Force notes that corporate bookmakers in the two Territories who rely heavily on cross-border betting currently pay betting taxes to the respective Governments which license them (see table appended to this executive summary); the Northern Territory Government appropriates an annual amount to fund its local racing industry.

The Northern Territory and ACT corporate bookmakers both provide revenue streams – by way of a commercially determined rental – to the race clubs on whose racecourses they are situated. The ACT corporate bookmakers also pay fees to the ACT Racing Club.

The corporate bookmakers, however, currently make no direct financial contribution to the race clubs supplying the racing product on which the corporate bookmakers conduct the bulk of their betting.

It is also noted that all Australian bookmakers are subject to the Commonwealth's GST regime.

In raising their concerns, racing industry members of the Task Force have emphasised the longer-term future of racing. Current levels of cross-border betting turnover on racing with corporate bookmakers in the two Territories are estimated at around \$900⁹ million annually (out of total Australian betting turnover on racing of around \$11 billion). The racing industry has expressed concerns that, if growth trends in cross-border bookmaker betting continue unabated, this proportion could grow considerably – at significant expense to racing industry revenues from wagering.

Separately from issues relating strictly to racing industry revenue streams from wagering, the Task Force also identified – within its terms of reference – several areas of significant concern stemming from bookmaker operating and regulatory conditions in some jurisdictions. These relate to areas such as the integrity of totalizator wagering across Australia, consumer protection of punters and the possible growth in illegal (SP) off-course betting. In several respects, the Task Force regards these aspects as being of some gravity.

2 Scope of this report

The objective of the Task Force is to examine cross-border betting and its impacts on the Australian racing industry and to make recommendations regarding the industry's long-term viability in this regard.

⁹ Northern Territory bookmaker turnover on racing exceeded \$500 million during 2001/02 (NT Annual Gambling Statistics) – with the reputedly largest operator, Sportingbet.com locating the former Vanuatu business of Number One Betting Shop in NT in January 2002.

The majority Task Force view is that, in light of this objective, the focus of its deliberations should be on:

- cross-border betting with bookmakers (to the general exclusion of TAB betting); and
- racing betting, to the exclusion of betting on sports (other than racing).

In this respect, it is noted that at this point, the racing industry has not identified TAB betting across State and Territory borders as likely to have a significant adverse impact on the long-term viability of the Australian racing industry.

Notwithstanding this majority position on the exclusion of cross-border TAB betting from this exercise, the view has been expressed within the Task Force that the impact of cross-border TAB betting may alter significantly in the future if current cross-border wagering advertising laws and protocols are removed.

Northern Territory Taskforce members, however, remain strongly of the view that the terms of reference established by the Ministers require a fuller analysis of all cross-border betting, including TAB and bookmaker operations. It is the Territory's view that the issue for the Task Force's consideration is cross-border betting, irrespective of the manner in which or the entity with which bets are placed.

The Task Force's brief from the Conference included 19 terms of reference. However, given the time frame for the Task Force to report to the Conference by 1 November 2002, the Task Force has not conducted a detailed examination of every one of these terms of reference. While the Task Force has focused on those items identified as being of particular relevance to the objective specified by the Conference, all the remaining items have been considered at least to the extent of providing a balanced examination of the issues.

The structure of this Report is as follows,

- The body of the Report:
 - examines the financial link between racing and wagering in Australia
 - sets out the concerns of the racing industry regarding the longer term impact of cross-border betting with bookmakers
 - outlines the proposed solution of the Australian Racing Board
 - summarises the Task Force's examination of a range of relevant issues arising from the objectives and terms of reference

- concludes with a recommended approach to the Conference of Australasian Racing Ministers for the implementation of suggested measures.
- Appendices (group A) are items of background and supporting information to the Task Force's deliberations.
- Appendices (group B) is the Task Force's detailed examination of key issues.
- Appendices (group C) were provided to the Task Force by way of submission and advice.

3 Task Force observations on key issues

3.1 Rights of the Australian racing industry over betting on its product

A key issue is the right of the Australian racing industry to determine which wagering operators field on its product and under what circumstances. In this respect, Australia is not alone. Several other first-level racing countries (including Britain and Hong Kong) are grappling with this issue. Further, several high-profile sports besides racing have queried the rights of wagering operators to field on their events – particularly in the absence of any remuneration to the sport.

In terms of positioning itself with a high-level means of addressing these concerns, the Australian racing industry (particularly the thoroughbred racing code) has acknowledged the benefits of taking steps to improve the management of its intellectual property rights in racing information (including race fields, jockeys, weights, etc).

Apart from such longer-term strategies, the Task Force acknowledges the need to identify and recommend to Racing Ministers constructive measures aimed at addressing immediately various aspects of concern.

3.2 Disparities in bookmaker operating conditions across Australia

Up until the mid-1990s, bookmaking on Australian racing was characterised by a broadly level playing field. Since 1996, however, major disparities have arisen in the operating conditions of bookmakers fielding on racing in different Australian jurisdictions and even within jurisdictions.

Aside from the inherent inequity of an unlevel playing field for Australian bookmakers, some of these specific disparities give rise to major concerns in terms of integrity of totalizator wagering, consumer protection of punters and the possible growth in illegal SP betting.

Within the ambit of the Terms of Reference, the Task Force regards the following disparities in bookmaker operating conditions as significant. Each of the following four areas is examined in detail in an appendix in Group B, with the Task Force's observations and conclusions summarised in chapter 5.

(i) TAB-odds bookmaking (appendix B2)

Traditionally, bookmakers betting on racing in Australia have been required to display a set of fixed (predetermined) prices about runners in races on which they are fielding.

Limited exceptions to this involve bookmakers betting "starting price" or "top fluctuation". In both cases, however, the payout to successful punters is determined by fixed odds bookmaker activity.

A hybrid form of bookmaker wagering involves basing payouts on the dividends of a totalizator (TAB); that is, winning bets are paid out not at a predetermined price but based on the dividend of a TAB – which is not known until after a race is run. Currently, the only Australian bookmakers offering TAB-odds betting on racing on a significant scale are several Northern Territory corporate bookmakers.

The practice of TAB-odds bookmaker betting is prohibited (either outright or partially) in several Australian States and Territories – either through legislation or rules of racing/betting.

A majority of the Task Force identified a range of concerns relating to this practice.

The most significant of these relates to the integrity of totalizator (TAB) wagering arising from the (perceived) risk of pool manipulation. These totalizator betting integrity concerns are not limited to the Northern Territory, but extend to TAB wagering throughout Australia.

On this point, Northern Territory (Government) Task Force members state "However, there is no evidence that this occurs. Corporates state that their products meet consumer demand, being the same basis on which all TABs offer fixed odds."

The Task Force recognizes the arguments relating to demand by punters for certain betting products. However, the majority view is that responses to these demands have to be assessed against integrity risks and the racing industry need for a fair return from wagering on its product.

There are also consumer protection concerns stemming from the risk that a punter may be misled regarding whether a wager with a bookmaker at TAB-odds will find its way into the relevant TAB pool by way of a bet back.

On this point, Northern Territory (Government) Task Force members state, “The so-called consumer protection concerns (ie. the amount might be bet-back into the TAB pool) are weak. There is clearly a consumer demand for these products. A punter (particularly a larger punter whose bets might influence the dividends) will understand that risk when choosing between taking a fixed price dividend or a tote based dividend when laying the bet with a corporate bookmaker (or a TAB since TABs are increasingly offering fixed odd options on feature races).”

Other important considerations include the risk of excessive transfer of wagers from TAB pools and the “free rider” effect on TABs and the racing industry.

(ii) Bookmaker betting over the Internet (appendix B3)

The only bookmakers accepting bets on “current”¹⁰ racing events over the Internet are several corporate bookmakers in the two Territories. An integral aspect of current racing betting over the Internet is the display of bookmaker (fixed) odds.

Several Australian States and Territories have longstanding legislation proscribing the dissemination of bookmaker odds beyond the boundaries of licensed racecourses during race meetings. In most cases, this legislation was originally introduced well before TABs existed. Hence, arguments that the rationale for such legislation was “to protect TABs” would appear to lack foundation. It is generally agreed the primary reason for such legislative provisions is to hinder illegal (SP) off-course betting.

Additionally, Australian Rule of Racing 160B proscribes generally the dissemination from racecourses of bookmaker prices – without the permission of stewards.

¹⁰ While race meetings are in progress – as against “futures” or “pre-post” betting.

On this issue, Northern Territory (Government) Task Force members state, “Many bookmakers (including TABs) display pre-post odds on the internet and will accept bets via the internet or the phone. There seems little difference between this and doing so for "current" racing events. In any case, the practice of displaying current racing event odds over the Internet is a display of that particular bookmaker’s odds (those odds may have regard to the bookmakers pricing fluctuations as a guide but do not represent the outright display of the bookmaker’s pricing service).”

(iii) Minimum wager obligations of bookmakers betting on racing (Appendix B5)

Bookmakers operating from virtually all racecourses throughout Australia are subject to “minimum wager obligations” imposed by the racing industry. This normally involves a State controlling body or a race club setting a minimum amount which a bookmaker must, on demand, set a punter to win at a price displayed.

The rationale for the minimum wager obligation is as:

- a consumer protection measure, to ensure racing punters are able to claim a reasonably sized bet from a bookmaker and that no punter is discriminated against; and
- an integrity measure, to reduce the risk of odds manipulation by bookmakers.

Notwithstanding the imposition of rigid minimum wager obligations at Fannie Bay (Darwin) and Pioneer Park (Alice Springs) racecourses, the corporate bookmakers operating there are permitted to exempt themselves from the minimum wager obligation applicable to other (stand-up) bookmakers. Perusal of corporate bookmaker Web sites indicates that all Northern Territory corporate bookmakers fielding on racing have opted to do so.

This situation also gives rise to an unlevel playing field in the National bookmaker landscape.

On this issue, Northern Territory (Government) Task Force members state, “The corporates, when taking face to face wagers during a race meeting do comply with the minimum wager obligations. The 'rationale' does not apply to the

24/7¹¹ operations, as it is a highly competitive market in a totally commercial regime. The failure to accept wagers will directly affect the operators' client base.” However, during the consultation process, it was indicated to the Task Force that only a very small proportion of Northern Territory corporate bookmaker turnover is attributable to face-to-face betting.

(iv) Minimum bet levels on remote bookmaker racing betting (Appendix B4)

Since 1993 – 1994 bookmakers in all Australian States and Territories have been permitted to accept racing bets “remotely”. That is, from punters who are away from racecourses. All States and Territories permit bookmakers to accept remote bets by telephone. Additionally, only the two Territories allow bookmakers to accept “current” racing bets over the Internet.

With the introduction of bookmaker telephone betting on current racing events, Racing Ministers agreed on the imposition of a “minimum bet level” – originally \$250.

Since 1994, a high level of disparity has evolved in the minimum bet levels applicable throughout Australia – now ranging from nil to \$200. The main catalyst for this has been the conduct in all States and Territories of National Competition Policy reviews of racing and wagering legislation.

Also, a disparity has arisen within the Northern Territory, with different minimum bet levels applying to telephone and Internet wagering.

3.3 *Racing industry revenue streams from bookmaker betting*

The racing industry has expressed concerns regarding a lack of what it perceives as an acceptable level of remuneration from some Australian bookmaker betting activity on its product.

For example, on information available to the Task Force, corporate bookmakers in the Northern Territory anticipate turning over around \$900 million in “remote” bets on Australian racing during the 2002/03 financial year¹². Currently, these bookmakers pay

¹¹ Corporate bookmakers are permitted to operate from racecourse offices 24 hours, 7 days per week.

¹² Northern Territory bookmaker turnover on racing exceeded \$500 million during 2001/02 (NT Annual Gambling Statistics) – with the reputedly largest operator, Sportingbet.com locating the former Vanuatu business of Number One Betting Shop in NT in January 2002.

0.33% in wagering taxes to the Northern Territory Government. Direct payments to the NT racing industry include rent (at commercial rates) for racecourse premises, charges and sponsorship. The Northern Territory Government appropriates annual funding to the local racing industry.

Corporate bookmakers, however, make no direct contribution toward the funding of the (metropolitan) racing on which it is understood the bulk of their betting is transacted.

The Task Force also notes that all Australian bookmakers are subject to the Commonwealth's GST regime on their gross margins.

A further relevant issue here is the positive contribution made by (traditional) stand-up bookmakers to racing – aside from the payment of levies, stand fees, etc. For example, these operators play an important role in attracting patrons to race meetings by adding value to the raceday experience and establishing a genuine alternative market to totalizator (TAB) betting. The Task Force observes that these operators are currently disadvantaged (relative to the corporate bookmakers) by the unlevel bookmaker playing field in Australia.

The level of racing industry imposts and betting taxes on bookmaker racing betting varies widely between States and Territories (refer table appended to this executive summary).

The concept of a national product fee regime is supported in principle by the Task Force (refer 4.4 following) as a means of at least partially addressing racing industry concerns in this area.

4 Task Force's recommendations

The recommendations following are set out in chapter 5. Some represent the unanimous view of the Task Force, the others being supported by a majority of members.

4.1 Racing industry management of its intellectual property

The Task Force understands the racing industry is adopting measures to facilitate better management of its intellectual property in racing information. From a medium and longer-term perspective, this potentially represents a means by which the industry can better control who is betting on its product and under what circumstances.

The Task Force recommends the Conference notes the racing industry's efforts to define and better manage its intellectual property, noting this will assist the long-term viability of the industry.

4.2 Racing industry supervision of bookmakers under (National) Rules of Racing/Betting

The Task Force supports the imposition of a condition in the licence of every bookmaker throughout Australia requiring compliance with (National) Rules of Racing/Betting (of the relevant code of racing) as the most efficient means of:

- (i) addressing a range of issues associated with disparities in bookmaker operating conditions throughout Australia, alluded to above; and
- (ii) applying a product fee to bookmaker betting on racing.

A concomitant of the imposition of this standard bookmaker licence condition is the introduction of certain uniform provisions in the (National) Rules of Racing/Betting across the three codes of racing dealing with areas (i) and (ii) above.

4.3 Measures to address concerns regarding certain aspects of bookmaker operations

Following on from the imposition of the above standard bookmaker licence condition, the Task Force supports, in terms of (i) in 4.2 above, the introduction by the racing industry of two additional provisions in the (National) Rules of Racing/Betting across the three codes:

- a prohibition on bookmakers basing payouts on the dividends of a totalizator (TABs); and
- a requirement that all bookmakers betting on racing are subject to a minimum wager obligation. (The level applicable on certain racecourses and to particular categories of bookmakers would take into account relevant factors associated with bookmaker operations.)

The Task Force supports reference by the Conference to the racing industry of a further two issues associated with bookmaker betting operations on racing. This would involve the three codes of racing developing a detailed proposal for submission to the next meeting of the Conference on the inclusion within the (National) Rules of Racing/Betting provisions relating to:

- a uniform regime across all Australian bookmakers with respect to minimum bet levels on current racing betting; and
- the off-course dissemination of bookmaker odds via means such as the Internet.

4.4 Product fee on bookmaker racing betting

The Task Force supports the concept of a standard national product fee on bookmaker racing betting, involving the remission to the relevant peak national body of product fee collections relating to “remote” bookmaker bets.

Further, the Task Force supports reference by the Conference to the racing industry of three aspects of a product fee regime:

- the means by which a product fee would be distributed.
- an appropriate product fee rate. As part of this exercise, the racing industry should be requested to address:
 - * existing levies, taxes, etc on bookmaker racing betting;
 - * financial support for regional and country racing;
 - * the issue of a commitment regarding the maintenance of the rate.
- the legality of imposing a product fee through the (National) Rules of Racing/Betting. (In this respect, the racing industry is to be requested to obtain quality independent legal advice.)

This would involve the three codes of racing developing a detailed proposal on these aspects for submission to the next meeting of the Conference.

4.5 Racing industry position regarding the use of mobile telephones, etc on racecourses

The Task Force recommends the Conference request the racing industry to develop and impose a uniform national approach on the use of mobile telephones and other communications devices on racecourses.

5 Process to finalisation

5.1 Liaison between racing industry and Task Force

To facilitate liaison between the racing industry and Government officers during the course of the industry's consideration of the above matters, the Task Force supports the appointment of a committee of Task Force officers, with appropriate executive support.

5.2 Suggested time frame for racing industry consideration

The Task Force regards a period of around three months as appropriate for the development of a racing industry proposal on the areas identified above relating to:

- the dissemination off-course of bookmaker odds
- minimum bet levels on remote bookmaker betting
- detailed aspects of a product fee proposal.

6 Further possible threats to racing industry revenues

While not strictly within the terms of reference, the Task Force is conscious of other possible looming threats to the Australian racing industry's wagering revenue flows.

Several operators have established Internet "bet exchanges" operating on racing. Very recently, Australian racing has become a target. In broad terms, these bet exchanges promote a form of brokerage wagering by providing a matching service between two punters.

The Task Force highlights and acknowledges the importance of ongoing examination and monitoring of threats posed by operations such as these.

7 Release of this report

The Task Force supports the release of this report.

LEVIES & STAND FEES (TO RACING INDUSTRY)

STAND-UP BOOKMAKERS

		THOROUGHBRED		HARNESS		GREYHOUNDS	
		Levy	Stand fees	Levy	Stand fees	Levy	Stand fees
ACT	All	0.5%	yes	0.5%	no	0.5%	no
NSW	Metrop	1.0%	yes	0.5%	yes	nil	yes
	Other	0.5% (face)	yes/no	nil	yes	nil	yes
		1.0% (phone)					
NT	All	nil	\$200	n/a	n/a	nil	nil
QLD	All	=< 0.33%	yes	=< 0.33%	yes	=< 0.33%	yes
SA	All	0.9%	no	0.9%	no	0.9%	no
TAS	All	nil*	neglig	nil*	neglig	nil*	neglig
VIC	All	1.0%	no	1.0%	no	1.0%	no
WA	All	1.75%	yes	1.0%	no	2.0%	no

* Tasmania: race clubs receive 90% of net bookmaker betting tax (local events)& 85% (interstate).

CORPORATE BOOKMAKERS

- ACT** Corporate bookmakers pay commercial rent + a fee to the ACT Racing Club.
- NT** Corporate bookmakers pay commercial rent + fees (covering contribution to APN, etc), sponsorships.

TAXES - TO GOVERNMENT

ALL BOOKMAKERS

	Tax rate	GST rebate
ACT	1.00%	yes
NT	0.33%	no
TAS*	1.00%	yes
WA	--	yes

CROSS-BORDER BETTING TASK FORCE 2002

MEMBERSHIP

JURISDICTION	GOVERNMENT		RACING INDUSTRY
	MEMBER	DEPUTY	
Chair	Mr B A Sargeant (WA)		
Executive Officer	Mr P Baldwin		
ACT	Mr A Curtis	Mr G Desmond	Mr D Foley, CEO, ACT Racing Club
NEW SOUTH WALES	Mr D Loewenthal		Mr M Hill, CEO, NSW Thoroughbred Racing Board
NORTHERN TERRITORY	Mr D Rice	Mr M Richardson	Mr P McQueen, Chairman, Darwin Turf Club
QUEENSLAND	Dr R Mason	Ms D Murphy	Mr M Lambert, Member, Qld Thoroughbred Racing Board
SOUTH AUSTRALIA	Mr D Harvey	Mr T Arbon	Mr S McQueen, CEO, Greyhound Racing SA
TASMANIA	Mr D Peters		Mr R Biffin, CEO, Tasmanian Turf Club
VICTORIA	Mr R Kennedy	Mr M Close	Mr D Hawke, General Manager, Planning, Capital and Procurement, Racing Victoria Ltd
WESTERN AUSTRALIA			Mr K Norquay, CEO, WA Greyhound Racing Authority

Chapter 1.1 TERMS OF REFERENCE

On 17 May 2002 in Adelaide, the Conference of Australasian Racing Ministers resolved:

- To establish a cross border betting task force
- That the task force comprise one officer and one racing industry representative from each of the eight Australian States and Territories
- That the objective of the task force is,
 - To examine the issue of cross-border betting and its impacts on the Australian racing industry and to make recommendations to Racing Ministers with respect to the long-term viability of the Australian racing industry in this regard.
- That the list of issues to be considered by the task force, includes, but is not necessarily limited to:
 - 1 Implications of National Competition Policy
 - 2 Implications of Trade Practices Act
 - 3 Levies payable to the racing industry and taxes payable to State and Territory Governments
 - 4 State and Territory Racing and betting legislation
 - 5 The rules of racing and betting across the three codes as they stand from time-to-time
 - 6 Legislation and policies restricting bookmaking to on-course
 - 7 Minimum bet levels applying to bookmaker telephone, Internet, etc betting
 - 8 Minimum wager obligations (of bookmakers)
 - 9 The practice of bookmakers basing payouts on totalizator dividends
 - 10 Free riding on the costs of producing the racing product, pictures, information, etc

- 11 Impact of bookmaking on net racing industry revenue streams
- 12 General relationship between wagering arbitrage and punter behaviour
- 13 Classification of racing as a “sport”
- 14 Impact of Internet betting
- 15 Cross-border advertising restrictions
- 16 Responsible wagering practices – including credit betting
- 17 Betting odds information flows
- 18 Probity and integrity of wagering and its regulation
- 19 The relative competitiveness of the Australian wagering market in the context of the global wagering market.

That the task force is to report back to Racing Ministers by 31 October 2002.

Chapter 1.2 INTRODUCTION

1.2.1 ISSUES RAISED BY RACING MINISTERS

At the 17 May 2002 meeting of the Conference of Australasian Racing Ministers, three Ministers addressed the specific issue of cross-border betting and its (potential) effects on Australian racing.

Below are excerpts from their presentations to the Conference:

- ***The Hon J Richard Face MP (New South Wales)***

It is undisputed that recent events with regard to the licensing of corporate bookmaking firms accepting bets from punters remote from the racecourse and acting in a predatory manner toward the jurisdiction where the punters are located poses the greatest threat to the ongoing viability of the Australian racing industry since the inception of off-course totalizator betting in the early 1960s.

Unless suitable responses by Governments and the racing industry to these threats are identified and implemented immediately, the industry faces an uncertain future.

(TABs) have evolved to the point where the racing industries of every jurisdiction are now almost totally reliant on the revenue streams from off-course totalizator betting.

It follows that any redirection of the wagering which currently occurs with TABs will have dire consequence for the Australian racing industry and the communities who enjoy the benefits of tax revenues from racing.

It is now incumbent upon Australian Racing Ministers to agree upon the establishment of a mechanism by which an appropriate National approach to the issues arising in this area can be identified and implemented.

In all three codes of racing, the industry has adopted a National approach to the drafting and imposition of rules of racing, and to a lesser extent, betting. Hence, in both the identification and implementation of suitable responses, it is appropriate that the racing industry – at both a National and State level – play a key role.

- **The Hon Rob Hulls MP (Victoria)**

(The objectives of the proposed Task Force should be to) review the current status of cross-border betting and make recommendations to address the problem of disproportionate betting flows and their adverse impacts on the Australian racing industry.

Without limiting the final scope of the recommendations, the Task Force should aim to identify a uniform regime for levying/taxing bookmaking and a formula for directing this revenue to appropriate jurisdictions.

- **Ted Quinlan MLA (Australian Capital Territory)**

Traditionally race bookmakers and, since the early 1960s, TABs have been able to base their businesses on access to thoroughbred racing events. The increase in off course betting with the TABs since the 1960s has resulted in the racing industry in all States and Territories becoming largely dependent on TAB disbursements, with a smaller contribution made by race bookmakers. Change in business and telecommunications technologies and the regulatory environment over the past two decades have lead to further significant increases in off course turnover. More recently, and perhaps more significantly, further advances in technology coupled with the establishment of large-scale off shore wagering enterprises and licensed corporate sports bookmakers operating from both mainland Australian Territories, has resulted in significant changes to the Australian race wagering market.

TABs and race bookmakers have for many years remitted to the racing industry what is in effect a product levy, based as it is on turnover. The ACT Government sees no reason why such an arrangement could not apply to the racing component of sports bookmakers' turnover.

New South Wales has for a number of years raised concerns in relation to the negative impact on the racing industry of the operations of both off shore and licensed Territory sports bookmakers on the basis that these enterprises are not contributing to the maintenance of the industry upon which their businesses are reliant.

The ACT Government accepts in principle the validity of these arguments.

These arrangements (involving corporate bookmakers) evolved under the previous Government and in a number of significant respects are less than ideal and in some instances, seriously flawed. It is the policy of the Government that these arrangements be reviewed in the near future to establish a more equitable framework within which competing interests may be balanced.

Possible solutions to the product levy issue put forward by racing industry representatives involving the repatriation of a percentage of turnover to the punter's and principal club's respective jurisdictions would need to be adopted and implemented on a nation-wide basis if they are to be effective. This matter and its cost effectiveness could be explored by a Task Force inquiring into the feasibility of establishing national uniform taxation and regulatory arrangements.

The decision by the Conference to establish this Task Force was borne out of concerns on the part of the racing industry and some Racing Ministers regarding developments in Australian wagering and their repercussions in terms of:

- the link between Australian racing and the wagering taking place on that racing. This link – widely regarded as racing's umbilical chord – is examined in chapter 2.
- whether aspects of the integrity of wagering are being compromised by variations in regulatory and operating regimes applying to licensed bookmakers (see chapter 3).

1.2.2 SOME KEY FEATURES OF THE AUSTRALIAN RACING AND WAGERING ENVIRONMENT

- *Australia – a federation in which totalizator and fixed odds race wagering co-exist*

Against a background of its status near the pinnacle of World racing, the industry in Australia exists in a relatively complex environment.

First, in contrast to most of the other first-level racing countries (eg Japan, Hong Kong, France, New Zealand, Singapore) Australia's composition as a federation has given rise to various racing and wagering regimes within Australia. Over the past six years or so, differences between States and Territory bookmaker wagering regimes have become more pronounced.

Second, all Australian States and Territories have seen fit to maintain licensed bookmakers as an integral part of their racing industries. In contrast, several other racing countries (eg New Zealand and USA) took the decision several decades ago to basically abolish racing bookmakers altogether. There is widespread recognition that the co-existence of totalizator (TAB) and fixed odds (bookmaker) betting on racing has contributed to a vibrant industry and a betting environment which punters find attractive. Basically, the only other first-level racing country which hosts juxtaposed strong totalizator and bookmaker wagering is South Africa. The off and on-course race wagering market throughout Britain is heavily dominated by bookmakers.

- *Changes in the link between racing and wagering*

The nature and characteristics of the link between Australian racing and associated wagering have undergone considerable change over the past four decades.

Prior to the 1960s, virtually all legal wagering on racing in jurisdictions such as NSW, Victoria, Queensland and the ACT occurred within the boundaries of licensed racecourses – with either licensed bookmakers or totalizators. As a consequence, State and Territory racing industries were able to oversee the link between racing and legal wagering with few difficulties.

Until the 1960s, the off-course wagering market in these jurisdictions was virtually the exclusive domain of illegal SP (“starting price”) bookmakers accepting bets by telephone or at illegal betting places (“common betting houses”).

In contrast, other Australian jurisdictions, such as Northern Territory, South Australia, Tasmania and Western Australia had established regimes of licensed off-course bookmaker betting shops.

The 1960s saw several State and Territory Governments decide to establish Government owned and operated Totalizator Agency/Administration Boards (TABs). Without exception, TABs were restricted to offering totalizator¹³ wagering.

With the introduction of TABs, legal fixed odds betting with bookmakers was basically confined to racecourses. Some relatively minor exceptions existed in South Australia and Tasmania, where some bookmaker betting shops continued to operate even after the commencement of operations by the respective TABs.

The period from the mid-1960s to the early 1990s saw sustained growth in off-course wagering with TABs.

As on-course crowd numbers steadily dwindled, bookmaker betting turnover and bookmaker numbers declined noticeably over the same period. Particularly in real dollar terms, the decline in bookmaking on racing accelerated since the late 1970s. These wagering trends are examined in detail in appendix A2 to this report.

The watershed event which effectively ended the TAB monopolies over legal off-course wagering was the decision taken by Australian States and Territories in 1994 to permit licensed bookmakers on racecourses to accept bets by telephone from customers away from the course.

¹³ “Totalizator” (parimutuel) wagering is pool-based - where the operator “pools” bets of the same type (eg win, quinella) on a particular contingency (eg Flemington, Race 3). A commission (or takeout) at a predetermined rate is then deducted to arrive at a “dividend pool”. This is then distributed pro rata to the holders of tickets on the successful outcome(s).

During the mid-1990s, the Northern Territory and the Australian Capital Territory established differential regimes for traditional (“stand-up”) bookmakers fielding only at race meetings and “corporate” bookmakers. For a fee, a corporate bookmaker may be granted a licence that permits the holder to conduct a seven-day a week operation from a racecourse office. Access to off-course race wagering markets was permitted via hard-wired telephone and emerging telecommunications media such as the Internet.

The period since the mid-1990s has also seen the proliferation of “betting auditoria” in some jurisdictions (including South Australia, ACT and NSW). In broad terms, an auditorium is a facility open to the public on a licensed racecourse which offers bookmaker (face-to-face and telephone) betting on current racing events. TAB and bookmaker sports betting are often also provided.

- *Fixed odds sports betting, privatised TABs*

Almost contemporaneous with this increased access of licensed bookmakers to the off-course wagering market via telephone betting has been two other major changes to the Australian wagering landscape:

- the establishment in all Australian States and Territories of regimes permitting legal fixed odds sports betting
- the privatization of TABs.

These are examined in detail in appendix A2.

1.2.3 CROSS-BORDER BETTING IN AUSTRALIA

TABs

As mentioned above, since the 1960’s Australian State and Territory Governments have progressively issued off-course (totalizator) wagering monopolies to TABs.

Since its inception, TAB betting in Australia has been characterized by two important freedoms.

- *Ability of punters to bet across State borders*

From basically the commencement of operations, TABs have offered telephone (totalizator) betting. This “remote” (ie other than face-to-face) wagering facility heralded the first freedom of choice for Australian punters in terms of which jurisdiction they placed their telephone wager. Since the late 1990’s most TABs have expanded their remote betting capabilities to include the Internet.

Generally speaking, punters have been free to maintain and access a telephone betting account with a TAB in another State or Territory. Conversely, since their inception, TABs around have enjoyed the freedom to accept bets from punters interstate.

However, Australian TABs have generally faced legislative restrictions preventing them from advertising (refer appendix B2) or operating (eg opening an outlet) in other States.

Other factors which have tended to limit the volume of TAB cross-border betting include:

- the high degree of homogeneity in the product and service ranges of Australian TABs (eg takeout rates from totalizator pools have historically been very similar between TABs);
 - the incidence of smaller TABs “pooling”¹⁴ with bets with other TABs (eg SuperTAB); and
 - the practice of Sky Channel displaying the approximate totalizator dividends of the three TAB pools, which arguably has a leveling effect in terms of the dividends declared in respect of the three TAB pools.
- *Ability of TABs to field on interstate racing*

Australian contrasts to most other first level racing federations (eg USA, Canada) in that Australian wagering operators in one State or Territory are permitted to field on racing conducted in another jurisdiction without the payment of any (direct) fee to that jurisdiction.

This has been the case in Australia, from the commencement of “away” race broadcasts in the 1940s, through the provision of dedicated channel racing pictures to racecourses and other wagering outlets via Sky Channel (commencing 1988) to the birth of a racing channel on pay TV in 1998.

Under these arrangements, wagering operators in all Australian jurisdictions have been able to offer their residents a wide array of racing product on which to bet.

To the racing industries of these smaller Australian jurisdictions, “free” access to interstate racing product also meant being able to attract punters to their race meetings to bet with “away” bookmakers and the totalizator.

¹⁴ Pooling among TABs involves the transmission of totalizator bets from one TAB to another for the purpose of merging bets in a single totalizator pool.

- *The "Gentlemen's Agreement"*

The above arrangements, whereby the racing controlling bodies of each jurisdiction (and hence their race clubs and wagering operators) are permitted to use each other's "racing product" and "racing information" has come to be known as the "Gentlemen's Agreement".

Bookmakers

The concerns of the racing industry (refer chapter 3) centre on the growth of cross-border betting on racing with corporate bookmakers licensed by the Northern Territory and ACT Governments. For example, bookmaker betting turnover on racing in the Northern Territory during 2001/02 was \$528 million, up from \$191 million the previous year. The Task Force understands the bulk of this turnover was sourced from Australian punters outside the Northern Territory.

Chapter 1.3 Scope of Task Force's deliberations and this report

1.3.1 THE ROLE OF GOVERNMENTS IN RACING AND WAGERING

Integrity, probity and consumer protection

Governments in Australia have long recognized the importance of ensuring the fair and proper conduct of racing and associated wagering. Against this background State and Territory-based regulatory functions in these areas are generally underpinned by legislation.

Areas of focus of regulatory control over racing include:

- licensing functions, applying minimum probity and competency standards over a wide range of participants
- stewarding functions relating to the integrity and safety of the conduct of actual races

In terms of wagering, areas of focus include:

- strict requirements that all operators (totalizator and bookmaker) are licensed (or authorized by statute) and pass minimum probity standards
- in the case of totalizator wagering particularly, that the conduct of betting is strictly in accordance with rules to ensure the integrity and fairness of the treatment of bets and punters' funds
- adherence to minimum standards of conduct by operators in aspects such as responsible gambling and money laundering prevention.

In respect of wagering particularly, the sovereign rights of individual States and Territories to regulate both:

- conduct within their jurisdictions
- the promotion within their jurisdictions of external wagering operations

are also recognized. The longstanding legislative prohibitions in several States on the advertising of wagering services by operators not licensed within a jurisdiction are an example of the exercise of these sovereign rights.

Ensuring the long-term viability of the racing industry

State and Territory Governments have the power to enact legislation relating to racing and wagering and have therefore assumed some responsibility for ensuring the continuity of the industry.

Over 300,000 Australians directly or indirectly derive full or part-time work from the three codes of the racing industry¹⁵.

The financial statements of virtually every major Australian race club point to a heavy reliance on revenue streams sourced from off-course wagering.

Against this background, all State and Territory Governments have an interest in ensuring that the Australian racing industry receives adequate funding for its survival.

Wagering operators fielding on Australian racing also have a vested interest in its viability. Any future decline in the quality or quantity of the Australian racing product would represent a reduction in the events (or the attractiveness to customers thereof) upon which they rely.

1.3.2 SCOPE OF TASK FORCE'S DELIBERATIONS

The objective of the Task Force is,

To examine the issue of cross-border betting and its impacts on the Australian racing industry and to make recommendations to Racing Ministers regarding the long-term viability of the Australian racing industry in this regard.

The majority view of the Task Force is that, in light of this objective, the focus of its deliberations should be on:

- cross-border betting with bookmakers (to the general exclusion of cross-border betting with TABs); and
- racing betting, to the exclusion of betting on sports (other than racing).

At this point, the racing industry has not identified TAB betting across State and Territory borders as likely to have a significant adverse impact on the long-term viability of the Australian racing industry.

Despite this overall majority position on the exclusion of cross-border TAB betting from this exercise, the view has been expressed within the Task Force that the impact of cross-border TAB betting may alter significantly if current cross-border advertising laws and protocols are lifted.

¹⁵ Australian Racing Fact Book 2000-01; Size and Scope of NSW Racing, February 2002

The Northern Territory records its dissent on the exclusion of cross-border betting with TABs from this exercise. This dissent is primarily based on the Northern Territory's understanding of the intentions of the Conference of Australasian Racing Ministers in establishing the Task Force at its May 2002 meeting.

The Task Force also does not believe that sports betting (ie other than racing) has had (or is likely to have) significant adverse effects on the viability of Australian racing. The term "sports betting" in this report refers to betting on traditional sports such as the football codes, cricket, athletics, etc. It does not encompass any form of betting on the three codes of racing.

The Task Force is therefore of the view that sports betting (with bookmakers or TABs) is beyond the scope of this exercise.

The Task Force's brief from the Conference included 19 terms of reference. However, given the time frame for the Task Force to report to the Conference by 1 November 2002, the Task Force has not conducted a detailed examination of every one of these terms of reference. While the Task Force has focused on those items identified as being of particular relevance to the objective specified by the Conference, all the remaining items have been considered at least to the extent of providing a balanced examination of the issues.

Hence, the Task Force will be examining issues arising from the terms of reference from the perspective of cross-border betting on racing with bookmakers. Where applicable, possible effects on TAB wagering will be examined.

Chapter 1.4 – Key terms and concepts

Several of the specialized terms and concepts appearing in this report are defined and set out in detail in Appendix A1.

The key terms “corporate” (versus “stand-up”) bookmaker; “remote” betting and “cross-border” betting are defined below.

“Corporate” versus “stand-up” bookmakers

In respect of bookmaker betting on racing, a dichotomy in this report is that of:

- “Stand-up” bookmakers. Refers in this report to the traditional bookmaker who fields at race meetings and, more recently, auditoria.

At a minimum, they accept bets face-to-face from members of the public. Additionally, since 1994 they have generally had access to telephone betting.

Generally speaking stand-up bookmakers have to date been natural persons operating as sole traders¹⁶.

versus

- “Corporate” bookmakers. Refers in this report to corporations issued licences by the Governments of the Northern Territory and the ACT to conduct wagering operations in the respective jurisdictions. The operating platform for these licensees differs significantly from that upon which stand-up bookmakers within the same jurisdictions are permitted to operate. Key features of corporate bookmaker operating conditions include the ability to:
 - offer “current”¹⁷ racing betting on all events 24 hours/7 days per week from offices¹⁸ located on racecourses.
 - process racing bets over hard-wired telephones and the Internet
 - display fixed odds prices and transact bets on “current” racing events over the Internet

¹⁶In Queensland, since July 2000 corporations have been able to apply for bookmaker licences. In Tasmania, bookmakers are able to operate as partnerships.

¹⁷“Current” versus “futures” racing betting is defined in appendix A1.

¹⁸ Unlike bookmakers fielding in a ring or an auditorium, bookmaker “offices” do not necessarily offer public access to punters to attend and claim a bookmaker for bets.

- apply their own rules¹⁹ of betting (in addition to any generally applicable rules) to their dealings with customers and prospective customers.

It is also noted that in both the Northern Territory and the ACT, bookmakers continue to pay a tax/levy direct to the Governments who license them. In contrast the Governments of most other Australian jurisdictions have now forsaken tax revenues from bookmakers.

During 2002, three Australian States (NSW, Victoria and WA) have been progressing legislation facilitating regimes for the licensing of companies as bookmakers. In general terms, it is not envisaged at this stage that the operating conditions of bookmaker companies so licensed in each of these jurisdictions will differ significantly from their natural person counterparts. In Queensland companies have been able to apply for a bookmaker licenses since 1 July 2000.

“Remote” racing betting with bookmakers

The term “remote” bookmaker betting is used in this report in reference to bets placed with bookmakers by punters away from the racecourse where the bookmaker is fielding.

In the case of stand-up bookmakers fielding at race meetings or auditoria, remote “current” racing bets can only be transacted via approved telephones.

Corporate bookmakers in the two Territories are permitted to transact current racing bets remotely via telephone or Internet.

Additionally, in several States bookmakers operating “sports betting offices” are permitted to take “futures” (pre-post) racing bets – but not current racing bets – via telephone or Internet.

“Cross-border” betting

The term “cross-border bet” refers in this report to a “remote” racing bet involving a punter in a different jurisdiction to the wagering operator.

Every Australian State and Territory has both a TAB, with exclusive rights over (off-course) totalizator wagering, and a regime for the licensing of bookmakers.

¹⁹ These customised rules cover areas such as exempting a corporate bookmaker from minimum wager obligations applicable at the racecourse where it is operating and the ability to cease betting at a discretionary period before race jump.

The current position is that:

- a TAB or bookmaker in one Australian jurisdiction is permitted to accept bets from punters elsewhere in Australia or overseas; and
- a punter in one Australian jurisdiction is permitted to bet “remotely” with a TAB or bookmaker in another Australian jurisdiction.

Up to the mid-1990s, Australian wagering operators have generally refrained from overtly targeting the punters of other Australian jurisdictions. Prior to this the racing industry has not considered the volume of cross-border wagering high enough to express concerns regarding adverse effects on the industry’s finances.

However, with the establishment of “corporate” bookmakers in the Northern Territory and the ACT since the mid-1990s, the racing industry has expressed concerns regarding the volume and nature of cross-border bookmaker betting on Australian racing. It is understood that:

- the bulk of corporate bookmaker betting turnover is transacted remotely
- a significant proportion of the racing betting turnover of the corporate bookmakers in the two Territories is sourced from punters in the more populous Australian States.

In response, the Australian racing industry has highlighted (refer chapter 3) what it perceives as longer-term threats to its wagering revenue flows.

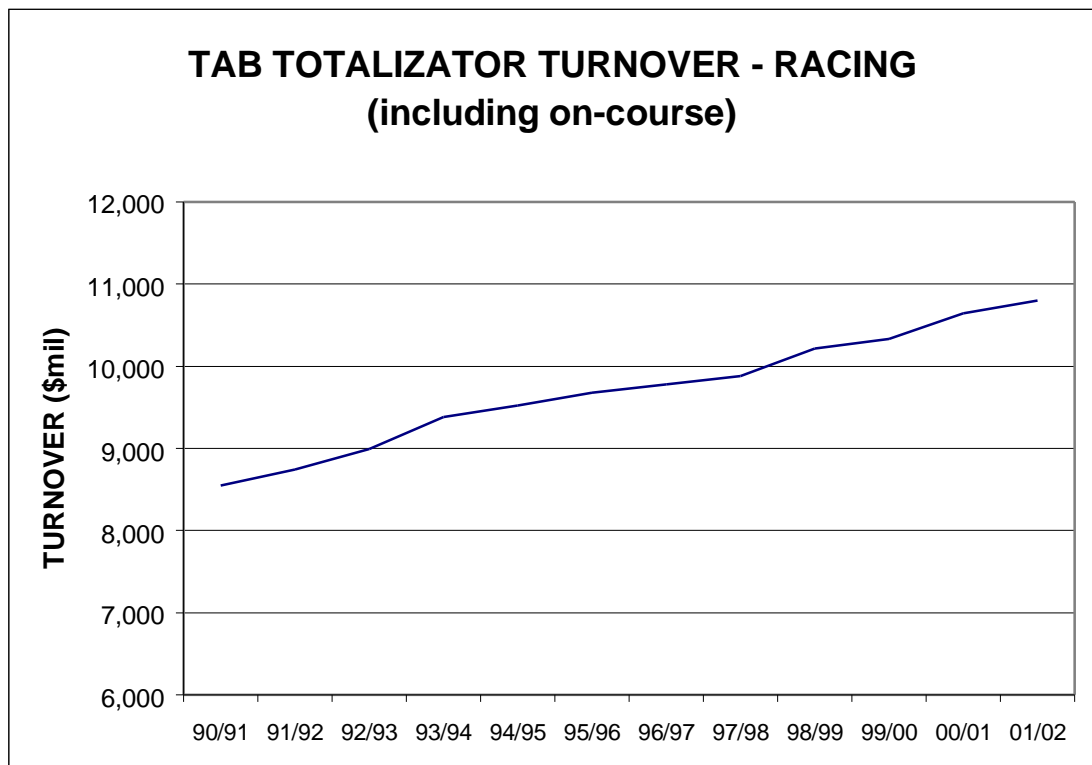
Chapter 2 THE FINANCIAL LINK BETWEEN RACING AND WAGERING IN AUSTRALIA

2.1 OVERVIEW

Over the past forty years or so, the Australian racing industry has grown heavily reliant on revenue flows from related wagering activity – particularly that occurring off-course with TABs.

Unlike most other mainstream Australian sports, racing is heavily reliant upon consistent revenue flows from wagering turnover, to the extent that at present over 70% of the Racing Industry's total revenue is derived from wagering. Without this revenue there would be a severe reduction in the income and employment opportunities of race clubs, breeders, owners, trainers, jockeys and other industry workers.²⁰

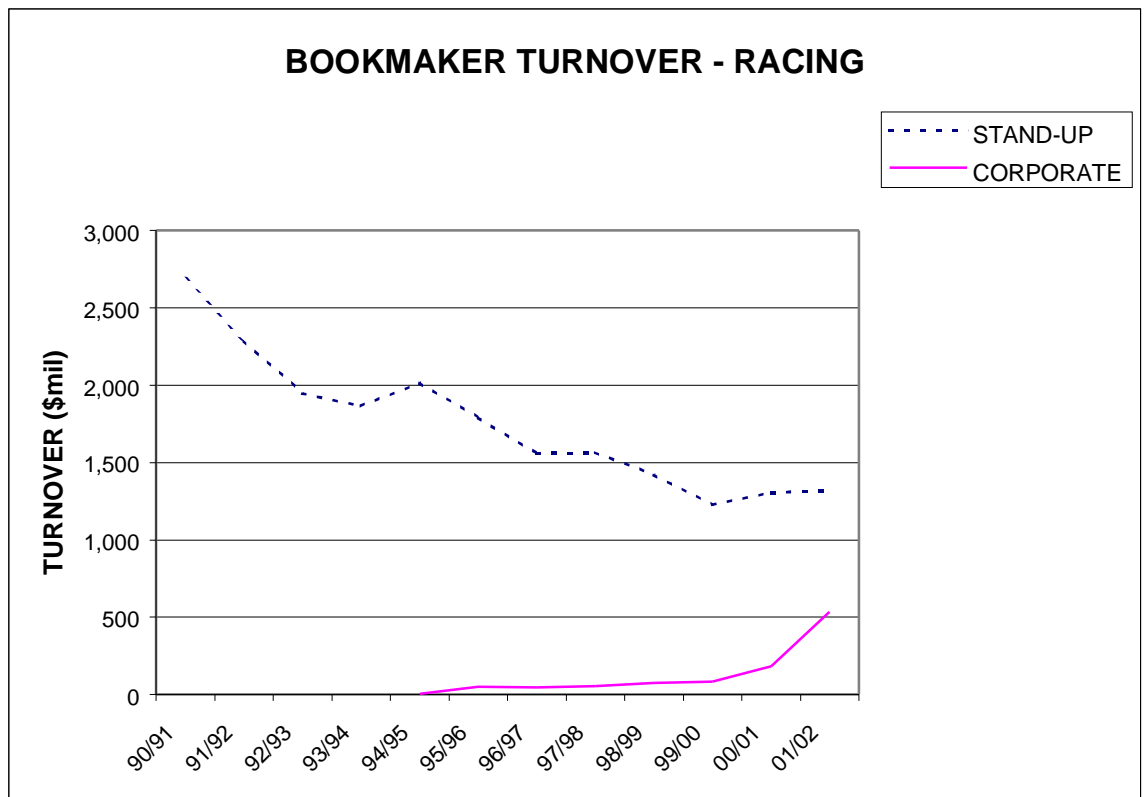
The chart below sets out Australia-wide totalizator racing betting turnover on racing, on and off-course combined, since 1991.²¹



²⁰ Australian Racing Board Media Release, 31 July 2002

²¹ Source: Australian Gambling Statistics 2000/01, Tasmanian Gaming Commission

The chart below sets out Australia-wide bookmaker racing betting turnover since 1991, divided by “stand-up” and “corporate” bookmakers.



2.2 BIRTH OF TABs

Off-course betting on racing has – at some stage during the last century – been the subject of formal consideration in all Australian jurisdictions.

Between 1961 and 1985 all eight States and Territories decided to introduce an off-course totalizator wagering system – with the local racing industry to be a major beneficiary of profits. With some relatively minor exceptions (eg Port Pirie in South Australia) the introduction of TABs was accompanied by the closure of licensed bookmaker betting shops in jurisdictions where they had existed up to that time (eg Northern Territory, South Australia and Tasmania).

	Commenced operations	Relevant Inquiries, etc
ACT	1964	
NSW	9 December 1964	Kinsella Royal Commission, 1963
NT	2 July 1985	Racing Industry Working Party
QLD	11 August 1962	Riorden Royal Commission, 1952
SA	29 March 1967	Piper Royal Commission on, 1957
TAS	22 January 1975	Legislative Council Select C'ee, 1973
VIC	1961	Royal Commission, 1960
WA	18 March 1961	Ligertwood Royal Commission, 1959

In the case of New South Wales, for example, the conclusions of the Royal Commissioner emphasise one of the overriding considerations for recommending the establishment of an off-course totalizator regime – in preference to licensed bookmaker betting shops – was the anticipated greater financial benefit to the State's racing industry.

Experience in New Zealand has shown that the off-the-course totalizator has conferred immense benefits on the racing industry. The evidence of Mr T J Smith already referred to, indicates that it had similar results on the racing industry in France. In Victoria for the twelve months ended 31 July 1962 the off-course totalizator has made available to racing 440,000 pounds. Between 1 August 1962 and 28 February 1963 the turnover has increased by 100%. It may therefore reasonably be assumed that at the end of the current year a much greater contribution will be made to Victorian racing.

A similar result would have a most stimulating effect on the racing industry in New South Wales. Prizemoney could be increased, much needed improvements to racecourses and their amenities for the public could be undertaken, country racing could be given practical aid.

There can be little doubt that an off-the-course totalizator would make very substantial contributions to the racing industry in New South Wales.²²

²² Kinsella Report, *ibid*, p 61

2.3 TAB DISTRIBUTIONS²³ TO RACING INDUSTRY DURING 2000/01

	TAB TOTALIZATOR RACING TURNOVER	DISTRIBUTION TO RACING INDUSTRY	% DISTRIBUTION TO TURNOVER
	<i>\$bil</i>	<i>\$mil</i>	
ACT	0.14	6.1	4.5%
NSW	4.18	183	4.4%
NT	0.08	5.2*	--
QLD	1.55	99	6.4%
SA	0.63	32	5.1%
TAS	0.20	13	6.5%
VIC	2.88	239	8.3%**
WA	0.85	54	6.4%
TOTALS:	\$10.6 bil	\$626 mil	

* The Northern Territory racing industry is funded directly by Government. For example, during 2001/02 the amount of funding was \$5.2 million.

** The distribution received by the Victorian racing industry from TABCorp includes a significant amount relating to gaming

As a guide, the racing industry of each State receives upwards of around 4.5 cents per dollar of TAB (totalizator) turnover on racing.

2.4 BREAK-UP OF TAB RACING INDUSTRY DISTRIBUTIONS - 2000/01

The table following sets TAB distributions to each code for 2000/01.

	THOROUGHBRED	HARNESS	GREYHOUNDS	OTHER	TOTAL ²⁴
	<i>\$m</i>	<i>\$m</i>	<i>\$m</i>	<i>\$m</i>	<i>\$m</i>
ACT	4.0	0.7	0.7	.7	6.1
NSW	133	26	24	--	183
NT	4.9	--	.24	--	5.2
QLD	67	14	9	9	99
SA	23	5.6	2.9	--	31
TAS	7.4	4.1	2.3	--	13
VIC	174	39	27	--	239
WA	30	16	8	--	54
TOTALS	443	105	75	9.7	\$626 mil

²³ Australian Gambling Statistics, 2000/01, Tasmanian Gaming Commission

²⁴ Total TAB distribution may include additional amounts for racecourse development, drug testing, etc.

2.5 “STAND-UP” RACING BOOKMAKER TURNOVER* BY CODE - 2000/01**

	THOROUGHBRED	HARNESS	GREYHOUNDS	TOTALS
	<i>\$mil</i>	<i>\$mil</i>		
ACT	4.8	0.33	0.5	5.6
NSW	451	11.1	32	494
NT	58	--	.03	
QLD	161	14.7	***	176
SA	86	10.8	1.9	98.7
TAS	7.4	2.7	1.3	11.4
VIC	341	8.8	3.1	352
WA	114	10.9	2.9	128
TOTALS:	1,223	59.3		1,313

* Turnover figures shown are gross (ie bets back have not been netted-off)

** Figures supplied by Task Force members

*** The bookmaker turnover figures for Queensland greyhounds were not available

2.6 PAYMENTS FROM (STAND-UP) BOOKMAKERS TO RACING INDUSTRY FOR 2000/01

Collated figures of bookmaker payments to the racing industry are generally not available. The bulk of thoroughbred bookmaker turnover in New South Wales, Victoria and South Australia is now levied at around 1%. In Western Australia, the levy rate is 1.75% and in Queensland 0.33%. In several States (eg NSW), bookmakers fielding at metropolitan thoroughbred meetings also pay significant stand fees.

On this basis, an estimate of the thoroughbred racing industry's total receipts from bookmakers during 2000/01 is around \$13 to \$16 million.

2.7 “CORPORATE” BOOKMAKER TURNOVER* ON RACING NORTHERN TERRITORY

FINANCIAL YEAR	TOTAL BOOKMAKER TURNOVER
	<i>\$mil</i>
94/95	25
95/96	68
96/97	64
97/98	74
98/99	91
99/00	99
00/01	191
.01/02	528

The above figures are a composite of “corporate” and “stand-up” bookmaker turnover. However, as a guide, “stand-up” bookmaker turnover during 2001/02 was \$47.14 million. This figure includes “auditorium” bookmakers who are not corporate bookmakers.

As indicated above, bookmaker racing betting turnover in 2001/02 jumped \$337 million (176%) from 2000/01.

This increase is partly attributable to an increase in racing turnover by one corporate bookmaker, IASBet, of 109% from \$115 mil (2000/01) to \$240 mil (2001/02).

It is understood that another major contributing factor is the commencement of operations by Sportingbet.com in the Northern Territory from January 2002.

2.8 “CORPORATE” BOOKMAKER CONTRIBUTIONS TO RACING INDUSTRY

AUSTRALIAN CAPITAL TERRITORY

As at 1 July 2002, two of the corporate bookmakers in the ACT were fielding on racing events, Sports Acumen (formerly City Index) and SportOdds.com (previously FastBet).

The contractual arrangements in place between the ACT Race Club and the above two corporate bookmakers essentially involve two components:

- a flat amount of commercial rent (based on a benchmark applicable to the area); plus
- a scaled fee based on betting turnover, the rate ranging from 0.5% down to 0.06%. This incorporates payment for items such as the Australian Prices Network.

NORTHERN TERRITORY

As at 1 July 2002, four corporate bookmakers in the Northern Territory offered betting on racing – IASBet, Sportingbet, CentreRacing and Consolidated Gaming Corporation.

In each case, the corporate bookmaker pays a commercial rent to the race club plus fees covering items such as access to the Australian Prices Network. Corporate bookmakers are also prominent sponsors of race clubs.

2.9 RELIANCE OF INDIVIDUAL RACE CLUBS ON WAGERING REVENUES

The basic “fuel” for the racing industry is the prizemoney distributed by individual race clubs.

The accounts of Australia’s race clubs tend to emphasize the heavy reliance on wagering revenue flows.

Example – Australian Jockey Club Limited (AJC)

In financial year 2000/01, TAB Limited (NSW) totalizator betting turnover on racing events conducted by the AJC (Randwick and Warwick Farm in Sydney) was \$315 million (off-course) and \$64 million (on-course). Bookmaker turnover at AJC meetings was \$169 million.

In terms of wagering revenue, the AJC received a distribution from TAB Limited of \$37.1 million and \$2.1 million in fees (levies of 1% of turnover plus stand fees) from bookmakers fielding at its meetings. The next greatest contributor to (net) revenue was *Sponsorship and Promotional Rights* at \$11.3 million. *Membership subscriptions* were \$3.4 million and *Admission charges* totaled \$2.3 million.

The stand-out expenditure item was *Prizemoney, etc* of \$34 million.

Chapter 3 CONCERNS OF THE RACING INDUSTRY

3.1 OVERVIEW

Cross-border remote betting by bookmakers is a rapidly changing area of the Australian wagering environment which has highlighted the importance of the racing industry being able to ensure that it receives a fair commercial return from the intellectual property associated with Australian racing", Australian Racing Board Chairman, Mr Bob Charley AO, said today.

In recent times a grave threat to the Racing Industry's revenues has emerged as the established wagering environment is changed by new operators who take a free ride and bet on Australian racing without making any compensating payments.

It is a simple economic proposition that if operators are taking bets without returning anything to the industry then Australian racing suffers financially.²⁵

The growth in cross-border bookmaker betting over the past six years or so has given rise to concerns in all three codes of the national racing industry. Similar views have also been voiced recently by Racing Ministers in several jurisdictions. The concerns are on two main fronts:

First, there are concerns regarding aspects of the integrity of (totalizator) wagering, the possible growth in illicit wagering activity and the erosion of important punter consumer protection measures, all as a consequence of differences between the wagering regimes under which the corporate bookmakers in the two Territories currently operate and the wagering regimes applicable to stand-up bookmakers. These concerns include:

- the growth in bookmaker betting where payouts are based on the dividends of a totalizator – and the consequent increased risks of (perceived) totalizator (TAB) pool manipulation;
- the dissemination of bookmaker odds away from the racecourse via media such as the Internet – and the ensuing risk of increased illegal "SP" bookmaker activity; and
- the situation where some (corporate) bookmakers are able to excuse themselves from an otherwise universal requirement of Australian bookmakers to set punters, on demand, to a predetermined level at the odds on display – known as a minimum wager obligation. These obligations are regarded in some quarters as both an important consumer protection measure for the punter and a means of safeguarding against odds manipulation to the detriment of other bookmakers.

²⁵ Australian Racing Board Media Release, 31 July 2002

Second, there are concerns regarding the transfer of wagering activity on racing away from the more populous States. These States – primarily New South Wales, Victoria and Queensland – provide the racing product upon which the bulk of race wagering in Australia occurs. Chapter 2, sets out the wagering revenue flows to the Australia racing industry.

Racing industry members on the Task Force also emphasized the long-term focus of these concerns. While, while the current adverse effects on racing industry wagering revenues may be relatively modest, further growth in cross-border betting has the potential to cause irreparable damage to the industry.

3.2 BOOKMAKERS – VARIATIONS IN OPERATING CONDITIONS ACROSS STATES AND TERRITORIES

Up until early 1996, operating conditions for licensed bookmakers across Australia were, generally speaking, homogeneous. That is, the regulatory and operating regimes for bookmakers in each of the eight Australian States and Territories were broadly similar.

Even with the introduction of bookmaker telephone betting in 1994, all States and Territories maintained broadly similar arrangements in terms of bookmaker access to the off-course race wagering market via telephone.

However, with the introduction of “corporate bookmaker” regimes in the Northern Territory and the ACT from the mid-1990s, the operating conditions for bookmakers began to vary markedly between jurisdictions – and even within jurisdictions.

Several aspects in which those differences are now manifested are examined in detail in appendices B2 to B5 to this report. They are summarized below:

3.2.1 BOOKMAKER PAYOUTS BASED ON TOTALIZATOR (TAB) DIVIDENDS

As canvassed in appendix A1, wagering on racing in Australia has traditionally been characterized by two alternative forms of betting:

- totalizator betting (the exclusive domain of TABs)
- fixed odds betting (in the sense that bookmakers displayed a price for each runner in a race and the odds applicable to a betting transaction between bookmaker and punter were predetermined at the time of the bet).

Additionally, bookmakers have traditionally been permitted to offer “starting price” or “top fluctuation” – in both cases the odds

being a derivative of bookmaker (as against totalizator) betting on a race.

The arrival of corporate bookmakers in the Northern Territory in 1996 saw the first widespread promotion by bookmakers in Australia of bet forms based on the dividends of a totalizator. Since then, several corporate bookmakers in the Northern Territory have embraced TAB-odds betting as the only form of wagering offered on the majority of racing events upon which they field – as evidenced by perusal of the relevant bookmaker Web sites.

Also, one corporate bookmakers in the Australian Capital Territory has indicated to the Task Force that it has to date taken some sizeable wagers at TAB-odds. While the practice is technically permitted in some other jurisdictions (eg Victoria and Queensland), it is understood that the volume of activity by bookmakers to date has been relatively minor.

3.2.2 BOOKMAKER INTERNET BETTING ON “CURRENT” RACING EVENTS

In a parallel timeframe to the birth of TAB-odds bookmaker betting in Australia, the off-course dissemination of bookmaker odds on “current”²⁶ racing events commenced in 1996 with the licensing of corporate bookmakers in the Northern Territory. The vehicle used exclusively has been the Internet. As at 1 September 2002, three Northern Territory corporate bookmakers have been displaying odds and displaying bookmaker odds on current racing events over the Internet – CentreRacing, IASBet and CGC (SportsBet).

Additionally, one corporate bookmaker in the ACT – SportOdds.com – is displaying current racing odds on the Internet.

Some jurisdictions, including New South Wales and Victoria, permit their respective TABs and some authorized bookmakers to post prices on the Internet with respect to pre-post betting on feature racing events.

In several Australian jurisdictions there exists longstanding legislative prohibitions against the off-course dissemination of bookmaker odds on current racing events. These are set out in appendix B3.

²⁶ As set out in appendix A1, the term “current” racing betting refers to bets processed during the currency of the relevant race meeting. It is distinguished from “futures” or “pre-post” betting.

In the context of the (thoroughbred) racing industry's position on the off-course dissemination of bookmaker prices, Rule 160B of the Australian Rules of Racing states,

No person shall, without the permission of the Stewards –

(1) transmit in any way from the grounds of a racecourse any betting odds being offered by bookmakers on any horse that is competing at a racecourse in Australia or elsewhere.

It has been pointed out to the Task Force that – in arguing that Rule 160B is not being breached – at least some of the corporate bookmakers involved in disseminating bookmaker odds on current racing events are relying on a relatively narrow definition of what constitutes the “transmitting” of betting odds.

Beyond the corporate bookmakers in the two Territories, the vast majority of Australian bookmakers are limited in their off-course dissemination of odds to the provision of prices on certain runners to clients who contact the bookmaker via approved telephone networks.

In this area of the off-course dissemination of bookmaker odds, the corporate bookmakers presently have an avenue for access to the off-course market not available to their stand-up counterparts.

It is also understood that, as at 1 September 2002, several other jurisdictions were exploring the issue of bookmaker current racing betting via the Internet.

3.2.3 MINIMUM BET LEVELS ON BOOKMAKER REMOTE BETTING

Minimum bet levels have been an integral part of bookmaker telephone betting since its introduction in around 1994.

The rationale most commonly offered for the imposition and maintenance of bookmaker telephone minimum bet levels has been the recognized desirability of avoiding any excessive transfer of betting turnover from off-course totalizator (TAB) systems.

A secondary rationale has arisen more recently in some circles – that of responsible gambling concerns associated with any widespread expansion in access of off-course punters to bookmaker (and, hence credit) betting.

Following a high degree of consistency among States and Territories at the inception of telephone betting, considerable disparity has evolved. As at 1 September 2002, applicable bet levels range from \$200 to nil.

A further aspect of disparity has arisen in the case of the Northern Territory – with a difference between the minimum bet applicable to telephone (\$50) and Internet (nil) betting.

Minimum bet levels have been the subject of considerable focus by each jurisdiction as part of National Competition Policy reviews of wagering legislation.

3.2.4 RESPONSIBLE WAGERING

In recent years State and Territory Governments and the racing industry have developed and implemented various policies and measures in the responsible wagering area.

At its May 2001 meeting in Alice Springs, the Conference of Australian Racing Ministers, endorsed “in principle” the *National Guidelines for Responsible Wagering Practices*.

These guidelines were subsequently amalgamated with *The Machine Gaming Consumer Protection, National Guidelines* and the *Advertising of Gambling Products, National Standards for Gaming Machines*. These amalgamated guidelines were considered at the May 2002 Adelaide meeting of the Conference of Australasian Racing Ministers.

At its May 2002 meeting in Melbourne, the Conference noted that each jurisdiction has different ministerial arrangements in that not all Racing Ministers are also Gaming Ministers and there are fundamental differences between wagering and gaming, which present some difficulties in combining the two forms of gambling into a single set of guidelines. Accordingly, the Racing Ministers considered it important for them to maintain control over the guidelines as they relate to wagering. It was therefore agreed that no further action was necessary to progress a combined set of guidelines for responsible wagering and gaming and that each jurisdiction would continue to develop its own codes of practice.

3.2.5 MINIMUM WAGER OBLIGATION ON BOOKMAKER RACING BETTING

For many decades bookmakers fielding on racing at virtually every racecourse in the three codes across Australia have been subject to a “minimum wager obligation” imposed by the racing industry.

This involves a stipulation that a bookmaker must, on demand by a punter, lay a bet to a predetermined amount on any runner in a race on which the bookmaker is fielding – at the odds displayed by the bookmaker.

The rationale for the minimum wager obligation likely stems from one or both of two bases:

- As a means of reducing the risk of a bookmaker artificially “blowing out” the price of a runner with a view to an associate backing that runner with another bookmaker (in that or another ring), with an SP operator or with a totalizator under circumstances where the first bookmaker does not genuinely wish to lay the runner at the price on his or her board. Smaller betting rings, particularly, tend to be vulnerable to this type of activity.
- As a consumer protection measure, to ensure that all punters are treated fairly by bookmakers. There is a general recognition that one of the main contributions bookmakers make to the racing industry is as an added attraction to punters to attend race meetings (rather than bet from off the course). It would be unpalatable to have a situation where a bookmaker posts, say, 3/1 about a runner but when an associate of the stable producing that runner attempts to place a bet, the bookmaker declines and turns the price into, say, 2/1 without laying a wager at the original displayed price.

In 1996, the Northern Territory Government introduced a regime where corporate bookmakers were permitted to exempt themselves from the applicable minimum wager obligations at the racecourses at which they field. Perusal of the Web sites of the corporate bookmakers concerned indicates that all have taken the opportunity to include provisions within their own betting rules to the effect that they have the right to refuse or limit any racing (or sports) wager.

This discretion to reject racing wagers represents a competitive advantage the corporate bookmakers in the Northern Territory enjoy over all other bookmakers in Australia. What is of particular relevance in this respect is that some of the corporate bookmakers' main competitors among Australian bookmakers are the “rails” fielders at Melbourne and Sydney metropolitan thoroughbred racecourses. These particular bookmakers are subject to the highest minimum wager obligation in Australia – to lose up to \$5,000 in any one bet.

3.3 CONCERNS REGARDING THE FINANCIAL LINK BETWEEN RACING AND WAGERING

The racing industry has expressed concern regarding possible adverse effects on its financial viability as a result of the transfer of wagering activity to jurisdictions permitting (corporate) bookmakers to operate under relatively more favourable conditions.

Chapter 2 canvasses the extent to which the racing industry has grown reliant on revenue flows from wagering occurring on its product – particularly from off-course.

The Task Force understands that the bulk of the betting turnover on Australian racing of the corporate bookmakers in the two Territories is sourced not from punters within their respective jurisdictions but rather from punters in the more populous States such as New South Wales, Victoria and Queensland. These three States also supply the racing product upon which the corporate bookmakers (along with TABs and most other Australian bookmakers) conduct the bulk of their race wagering – as evidenced by their Internet betting sites.

Under the current financial arrangements between the racing industry and the corporate bookmakers there is minimal direct revenue flow from those bookmakers to the State-based racing industries upon which they base most of their wagering.

In the case of the Northern Territory, corporate bookmakers pay a tax to the Government of 0.33% of race wagering turnover. Payments to the race clubs at which they are based include rent (at commercial rates) for racecourse premises, along with charges and sponsorship. By comparison, metropolitan bookmakers in Sydney, for example, pay to race clubs a 1% levy on all betting turnover plus stand fees.

During discussions with Task Force members in Darwin as part of the consultative process, IASBet principals emphasized the significance of that firm's contribution to Australian racing and wagering. It was indicated that this contribution manifested itself in areas such as bets back with TABs and bookmakers and value-added services which act as drivers to wagering turnover, eg the *Read Ratings* tipping service.

The corporate bookmakers located in the ACT pay 1% (less a GST offset payment) of their racing turnover to the ACT Government. They also pay rent (calculated on a commercial basis) plus a "fee" (partly on a cost recovery basis) to the ACT Racing Club.

State racing industries receive upwards of around 4.5 cents²⁷ in the dollar of betting turnover with their respective TABs and around 1 cent in the dollar (taking into account both levies and stand fees) on much of the (thoroughbred) betting turnover with bookmakers fielding at their own racecourses.

²⁷ refer chapter 2, section 2.3

During discussions with Task Force members as part of the consultation process, one ACT-based corporate bookmaker pointed to what it perceived as differential cost structures between corporate and stand-up bookmakers. For example, corporate bookmakers have greater costs in terms of overheads, telecommunications and marketing. It was suggested this represented partial justification for the differing regulatory and operational regimes for corporate and stand-up bookmakers in the two Territories.

Chapter 4 PRINCIPLES PUT FORWARD BY THE AUSTRALIAN RACING BOARD

4.1 OVERVIEW

There exists a national peak body for each of the three codes of racing in Australia.

Thoroughbred racing accounts for over 70% of wagering on racing in Australia. The peak national body is the Australian Racing Board (ARB).

Set out below, in general terms, is the proposal of the ARB on the broad area of bookmaker betting on racing and specifically that of cross-border betting, as provided to the Task Force during the course of its deliberations.

4.2 OUTLINE OF AUSTRALIAN RACING BOARD POSITION

- 1 Recognition of the “rights” of the racing industry in respect of:
 - the imposition of charges on bookmakers (in respect of betting on racing); and
 - a requirement that bookmakers betting on racing do so with the consent of the race club conducting the race meeting (or the relevant racing controlling body).

- 2 Conduct of bookmaker operations
 - There is introduced a blanket national prohibition against bookmakers basing payouts on the dividends of a totalizator or any derivative thereof.
 - A reasonable minimum wager obligation (liability) should apply to all bookmaker betting on racing.
 - The racing industry has an unfettered discretion to set minimum bet levels for all “remote” bookmaker racing betting.
 - Bookmakers are not to disseminate odds off the course, without the express permission of the racing industry. This encompasses the posting, display or transmission of bookmaker odds via the Internet, television, telephony, 3G, etc.
 - Bookmakers are to be subject to a uniform national regime with respect to responsible wagering – including all aspects of credit betting.

3 Imposition and distribution of “product fee”

The imposition of a “product fee” on bookmakers, on a national basis, has been proposed as a means of providing a wagering revenue stream to the Australian racing industry – as provider of the racing product upon which the betting takes place.

In addition to the above ARB position, during the course of the Task Force’s deliberations, racing industry members of the Task Force were also generally supportive of the following:

Racing industry supervision of bookmaker activities in respect of:

- The conduct of all bookmakers (fielding on racing) throughout Australia being subject to the rules and regulations of the racing industry.
- A requirement that all bookmakers fielding on racing continue to operate from licensed racecourses only.
- Uniform national bookmaker regulatory provisions across the three codes.

Most of the substantive matters arising from the above positions are covered within the Task Force’s terms of reference.

Chapter 5 SUMMARY OF THE TASK FORCE'S EXAMINATION OF THE ISSUES ARISING

5.1 CHAPTER STRUCTURE

This summary sets out under the following headings key aspects of the Task Force's deliberations and related recommendations:

- 5.2 Contribution of bookmakers to racing
- 5.3 Racing industry supervision of bookmaker operations
- 5.4 Bookmakers – variations in operation conditions
- 5.5 Product fee on bookmaker racing betting
- 5.6 Summary of recommendations

5.2 CONTRIBUTION OF BOOKMAKERS TO RACING

While the racing industry has highlighted its concerns (refer chapter 3) relating to bookmaker cross-border betting, at the same time it seeks that these remain in perspective.

One point that must be made abundantly clear is that this issue is not about bookmakers in general. Bookmaking is a time-honoured and quintessential element of Australian racing.

Instead, this issue has been brought to the forefront by the relatively new phenomenon of large-scale companies, including overseas-controlled interests, using bookmaker licences to commercially exploit Australian racing.²⁸

The ongoing decision to retain licensed bookmakers as an integral element of racing, represents tangible recognition of their contribution to racing over and above the fees collected by the industry from bookmakers directly. This contribution manifests itself in several forms, including:

- Adding value to the race meeting experience for punters, thereby attracting customers to race meetings. Race clubs then benefit in a financial sense in the form of gate takings, food and beverage sales, etc. Additionally, it is recognized that attendance at race meetings not only creates atmosphere, but is often a catalyst for the ownership of a racing animals.
- Accommodating larger-scale punters who, due to the size of their wagers, may be disadvantaged when betting into totalizator pools

²⁸ Australian Racing Board, Media Release, 31 July 2002

because of the “crushing” effect on the approximate dividend of the runner supported. Further, some of the amounts bet may then be bet back with other bookmakers or into TAB pools.

- The provision of a genuine alternative market for racing punters. It is widely acknowledged that punters appreciate the opportunity to compare and arbitrage between totalizator betting and the fixed odds available from bookmakers. Taking advantage of such arbitrage opportunities can result in a punter achieving an effective reduction in the overall “retention rate” of the wagering operator(s) with whom they bet. As a consequence, over a period a punter may be able to turn over punting expenditure more times before it is finally lost.

5.3 RACING INDUSTRY SUPERVISION OF BOOKMAKER OPERATIONS

The majority view of the Task Force is that the imposition of a condition in the licence of every bookmaker throughout Australia requiring compliance with (National) Rules of Racing/Betting (of the relevant code of racing) is the most efficient means of:

- (i) addressing a range of issues associated with disparities in bookmaker operating conditions throughout Australia, alluded to above; and
- (ii) applying a product fee to bookmaker betting on racing.

A concomitant of the imposition of this standard bookmaker licence condition is the introduction of certain uniform provisions in the (National) Rules of Racing/Betting across the three codes of racing dealing with a range of bookmaker operating areas set out in 5.4 following.

5.4 BOOKMAKERS – VARIATIONS IN OPERATING CONDITIONS ACROSS STATES AND TERRITORIES

5.4.1 OVERVIEW

Section 3.2 in chapter 3, *Concerns of the racing industry* sets out a range of matters relating to the operating conditions of bookmakers. In particular, the industry’s concerns relate to aspects of the operating conditions of corporate bookmakers in one or both of the Northern Territory and the ACT. Each of the matters arising is the subject of a separate appendix in Group B. Following is a summary of the Task Force’s examination of these.

5.4.2 BOOKMAKER PAYOUTS BASED ON TOTALIZATOR (TAB) DIVIDENDS

Bookmaker “TAB-odds betting” involves a bookmaker entering into a contract of wager with a punter under circumstances where the payout will be based upon (or in some way related to) the dividend declared by a totalizator (TAB) – rather than at predetermined odds.

Extent of the practice among Australian bookmakers

While almost all betting by stand-up bookmakers throughout Australia is at genuine “fixed odds”²⁹, several of the corporate bookmakers in the Northern Territory (and, to a lesser extent the ACT) promote “TAB-odds betting”. Perusal of the Internet betting sites of some corporate bookmakers reveals this is the only form of betting offered on over 50% of the race meetings on which they field – including virtually all harness and greyhound racing.

The Task Force has been informed that TAB-odds betting by bookmakers has to date represented only a relatively small proportion of bookmaker betting in some the Australian States (eg Victoria) where the practice is currently not prohibited.

The table below sets out the applicable legislation and/or relevant racing industry rules regarding the practice of bookmakers basing payouts on the dividends of a totalizator (TAB).

	Permitted?	Particulars
ACT	Yes	
NSW	No	
NT	Yes	Some conjecture regarding precise legal position
QLD	No	Exception for place only betting by bookmakers
SA	(Yes*)	Bookmaker Licensing Rules require bookmakers to display a fixed price about each runner
TAS	No	
VIC	(Yes)	Exception to legislation permits licensed bookmakers to bet TAB-odds, subject to conditions
WA	No	WA Turf Club’s rules of betting require a bookmaker to display fixed odds about every runner

* In South Australia, bookmakers are permitted to accept bets a TAB-odds if approached by a punter to do so.

²⁹ Refer definition in chapter 1.4. The Concise Oxford Dictionary refers to fixed odds betting as that which involves predetermined odds (at the time the contract of wager is entered into).

Examination of the practice of bookmaker TAB-odds betting

The appeal to punters of “TAB-odds” betting with bookmakers is two-fold:

First, provided the wager is not “bet back” by the bookmaker placed into the pool on which the payout is based, the approximate dividend on the supported runner is not “crushed” by the punter’s own bet.

Second, some of the bookmakers promoting TAB-odds betting offer the TAB dividend plus a premium (eg 2%) or offer the best dividend of two or more TAB pools.

It is arguable there are benefits to Australian wagering and racing from this practice in that it may result in a punter having a wager who would otherwise not do so because of concerns regarding the “crushing” effect of placing a bet directly into a relatively small pool. Further, some amounts may be bet back into TAB pools or with other bookmakers. In this respect, however, the phenomena of “hard” money may be relevant (refer section B2.5.2 in appendix B2).

There are five core arguments against the practice of bookmakers basing payouts on totalizator (TAB) dividends:

- 1 The risk of TAB/totalizator pool manipulation and the consequences for the integrity and fairness (actual and perceived) of totalizator betting.

The magnitude of the risk of totalizator pool manipulation is inversely correlated to the size of TAB pools. In Australia, TABs in smaller jurisdictions traditionally “pool” with larger TABs to provide their own punters access to larger, more robust pools which are less susceptible to erratic fluctuations in approximate dividends and to pool manipulation.

There is also the related, but separate consumer protection issue of the risk of a punter being misled regarding the betting back of a wager at TAB-odds into the relevant TAB pool.

- 2 The risk of an excessive transfer of wagers away from TAB/totalizator systems;
- 3 Possible abuse of the intellectual property rights of affected TABs;
- 4 The “free rider” effect. In two important areas TABs (and, indirectly, the racing industry) bear a significant proportion of the cost burden associated with racing and wagering:

- Costs of the off-course presentation the racing product to the general public (via Sky Channel, print media, etc); and
- Costs associated with operating totalizator wagering and ensuring its actual and perceived integrity. The integrity of the totalizator pool is just as important to a punter having a bet with a bookmaker at TAB odds as it is to a punter betting directly into a TAB pool.

In offering TAB-odds products, bookmakers are arguably unfairly “free riding” on this TAB (and racing industry) expenditure.

- 5 The absence of any benefits to the race wagering market in terms of the co-existence of bookmaker (fixed) odds and totalizator betting. In contrast, in a wagering environment where bookmakers are offering (genuine) fixed odds, the ability of punters to arbitrage between bookmaker odds and a totalizator(s) is generally regarded as having a positive effect on wagering levels. In the case of TAB odds betting, the payouts offered by the bookmaker are merely a function of TAB dividends.

These issues are canvassed in detail in appendix B2.

Position of Australian Bookmakers' Association

In its submission to the Task Force, the Australian Bookmakers' Association (ABA) stated,

If TAB odds betting is to remain in the realm of TABS then fixed odds race betting should be the domain of bookmakers.

Consequently, the ABA recommends that a national prohibition on bookmakers offering TAB odds be applied contingent upon TAB fixed odds betting being restricted to futures (to midnight on the day preceding the race) betting on group races - the same group race restriction should apply to bookmakers operating futures betting.

The scope of the Task Force's deliberations excludes any detailed examination of TAB betting. However, the Task Force acknowledges the concerns of the ABA regarding the possible encroachment of TAB fixed odds betting into the traditional realm of bookmakers.

Options

The Task Force has identified three options in this area:

- 1 Allow the status quo to continue.

That is, bookmakers in certain jurisdictions continue to offer TAB-odds bookmaking products while the practice is prohibited in other jurisdictions. If this option were adopted, it would seem likely there will be, over time, an expansion in the range of TAB-odds products and the number of operators offering these products.

- 2 Level playing field concept – allow all Australian bookmakers to offer TAB-odds products.
- 3 Level playing field concept – total national prohibition on bookmaker TAB-odds betting.

Task Force position

A majority of the Task Force recommends to the Conference of Australasian Racing Ministers option 3 above.

That a national prohibition be implemented with respect to the practice of bookmakers (or any entity other than a TAB or totalizator operator itself) basing payouts on the dividends of a totalizator.

This option could foreseeably be implemented by an amendment to the (National) Rules of Racing of the three codes – as part of a wider package that all Australian bookmakers betting on racing be required to operate under the Rules of Racing.

Further, the Task Force recommends that the Conference acknowledge the concerns of the Australian Bookmakers' Association with respect to any expansion in the time frames for fixed odds racing betting by TABs.

The Northern Territory (Government) Task Force members state “However, there is no evidence that this (pool manipulation) occurs. Corporates state that their products meet consumer demand, being the same basis on which all TABs offer fixed odds.”

“The so-called consumer protection concerns (ie. the amount might be bet-back into the TAB pool) are weak. There is clearly a consumer demand for these products. A punter (particularly a larger punter whose bets might influence the dividends) will understand that risk when choosing between

taking a fixed price dividend or a tote based dividend when laying the bet with a corporate bookmaker (or a TAB since TABs are increasingly offering fixed odd options on feature races).”

5.4.3 BOOKMAKER INTERNET BETTING ON RACING

Beginning in 1996, growing numbers of corporate bookmakers in the Northern Territory, and the ACT, have been posting fixed odds bookmaker prices on “current” racing events over the Internet and processing bets on these races over the Internet.

This has doubtless provided these corporate bookmakers with significant operational advantages over their stand-up bookmaker counterparts.

The precursor to this practice was the commencement around Australia, in 1994, of bookmaker telephone betting.

The major issue arising in the context of bookmaker Internet betting on current racing events is that of the dissemination of bookmaker odds off-course.

The matters below are canvassed in detail in appendix B3.

State and Territory legislative position re the dissemination of bookmaker odds off-course

Several jurisdictions have longstanding prohibitions on the dissemination away from licensed racecourses of bookmaker odds while race meetings are in progress. In the case of these jurisdictions, bookmaker telephone betting regimes provide for a limited exception to this prohibition in the case of licensed bookmakers.

Position under the Rules of Racing

In the case of thoroughbred racing, there is a specific rule in the Australian Rules of Racing. Rule 160B states,

No person shall, without the permission of the Stewards –

(1) transmit in any way from the grounds of a racecourse any betting odds being offered by bookmakers on any horse that is competing at a racecourse in Australia or elsewhere.

The question arises as to why corporate bookmakers who are displaying their fixed odds over the Internet are not in breach of this Rule. The attention of the Task Force has been drawn to

“legal advice” that bookmaker odds displayed on an Internet site based on a racecourse are “published” solely on that racecourse.

Position at Common Law

A defamation case currently part-heard before the Full Bench of the High Court, Dow Jones v Gutnick is potentially highly relevant in this area. The Court is being called upon to decide whether an item placed onto the Internet from USA can also be considered “published” in Australia. By extension, the decision may resolve the issue of whether bookmaker odds placed onto an Internet site on a racecourse might also be “published” throughout Australia. The case is examined in detail in section B3.5 in appendix B3.

Current disparity between bookmakers

Great disparity has now developed regarding the extent to which licensed bookmakers in Australia are able to disseminate their fixed odds prices to the off-course wagering market.

Consequences of this include:

- (national) racing industry policy relating to the off-course dissemination of bookmaker prices is now impossible to implement consistently throughout Australia
- the majority of bookmakers are at a distinct competitive disadvantage relative to their counterparts in terms of their ability to access the off-course market.
- the Internet has become a vehicle by which certain bookmakers are effectively circumventing legislation in some jurisdictions which proscribes the off-course dissemination of bookmaker odds other than by authorised means (eg official transmission between racecourses and bookmaker telephone betting). The primary mischief at which such legislation is aimed is the illegal (SP) betting.

Wider ambit than Internet

In hindsight, when Australian Racing Ministers considered the issue of bookmaker telephone betting back in 1993, it would have been then appropriate for any resolutions to have also covered Internet betting.

Similarly, it may be appropriate that any consideration by Racing Ministers and the racing industry of matters arising in the context of the Internet encompass other current (or future) forms of telecommunications technology which may also prove useful in the

dissemination off-course of bookmaker fixed odds on current racing events. That is, the issues here revolve around policy matters associated with the dissemination of bookmaker odds, rather than the Internet specifically.

Mobile telephones on racecourses

The Task Force notes the concerns expressed by one ACT bookmaker firm regarding the illicit use of mobile telephones on racecourses in the dissemination and receipt of bookmaker odds.

The Task Force agrees it would be in the best interests of wagering fairness if the racing industry were to develop and enforce a national position on the use of mobile telephones on licensed racecourses.

Options

The Task Force has identified four options in this area:

- 1 Allow status quo to continue.

That is, Northern Territory and ACT corporate bookmakers continue to maintain Web sites on which fixed odds on current racing events are displayed and on which fixed odds and TAB-odds bets are processed, in the absence of minimum bet levels.

Several other Australian jurisdictions have flagged their intention to further examine the possibility of allowing their racing bookmakers access to the off-course market via the Internet.

A decision by the Full Bench of the High Court in favour of the plaintiff in the Dow Jones case will likely see the display of bookmaker prices on the Internet give rise to issues in terms of legislation in several States, along with Australian Rule of Racing 160B.

- 2 Level playing field concept – allow all Australian bookmakers to display fixed odds on current racing events and process bets over the Internet.

Again, depending on the outcome of the Dow Jones case, implementation of this option may require significant legislative amendment in several jurisdictions.

In any event, it is understood that, for avoidance of doubt, the thoroughbred racing industry is likely to revisit AR 160B in the near future.

3 Level playing field concept – total prohibition on practice

This could be achieved by:

- Updating and enhancing AR 160B and introducing a similar (national) rule across the three codes of racing. To be fully effective, however, this would need to be part of a wider package requiring that all Australian (racing) bookmakers operate under National Rules of Racing; and/or
- The introduction of similar legislation in all States prohibiting the off-course dissemination of bookmaker odds on current racing events – other than in the context of authorized activities such as bookmaker telephone betting or by official racing industry services.

4 Transfer effective control over this area to the racing industry

The racing industry could then develop and implement a uniform national position across the three codes on the dissemination by bookmakers (only) of fixed odds from licensed racecourses. This would encompass any means of transmission.

Again, to be fully effective, this would need to be part of a wider package requiring that all Australian bookmakers fielding on racing events operate under uniform national Rules of Racing (across the three codes).

Task Force position

A majority of the Task Force recommends to the Conference of Australasian Racing Ministers option 4 above.

That the Conference request the national racing industry (across the three codes) develop a detailed proposal in terms of uniform national rules of racing/betting setting out the circumstances under which licensed bookmakers would be permitted to disseminate or display (by any means) fixed odds on racing events.

In this respect, the national racing industry is requested to then return to the Conference with a proposal reflecting an agreed national position.

Additionally, the Task Force recommends that the Conference request the national racing industry to develop and implement a national position across the three codes on the use of mobile telephones on licensed racecourses.

The Northern Territory (Government) Task Force members state, “Many bookmakers (including TABs) display pre-post odds on the internet and will accept bets via the internet or the phone. There seems little difference between this and doing so for “current” racing events. In any case, the practice of displaying current racing event odds over the internet is a display of that particular bookmakers’ odds (those odds may have regard to the bookmakers pricing fluctuations as a guide but do not represent the outright display of the bookmakers pricing service).”

5.4.4 MINIMUM BOOKMAKER “REMOTE”³⁰ BET LEVELS

Minimum bet levels have been a concomitant of bookmaker telephone betting on racing since its introduction in all Australian States and Territories in 1994.

At the same time, they have been the subject of almost continuous three-way debate – involving Governments, the racing industry, bookmakers themselves and even TABs.

In all States and Territories, minimum bet levels have now been examined as part of the National Competition Policy reviews of racing and wagering legislation. These reviews led to reductions in several jurisdictions.

The Productivity Commission, in its 1999 Report, Australia’s Gambling Industries, also concluded in favour of the abolition of minimum bet levels. In place of minimum bet levels, it suggested two possible alternatives:

- the establishment of racing industry legally enforceable “property rights” as a means of solving the “free rider” problem. Wagering operators would be required to negotiate fee arrangements for the right to bet on racing events, or
- a “levy” approach, whereby all wagering on racing would be subject to a levy, with a proportion being paid to the racing industry.

A wide range of issues relevant to minimum bet levels are canvassed in detail in appendix B4.

³⁰ Where a bookmaker transacts with customers who are remote from the racecourse at which the bookmaker is fielding. eg telephone, Internet.

Position in each State and Territory

Great disparity in these minimum bet levels has arisen between jurisdictions. Further, despite the conceptual similarities between bookmaker telephone and Internet betting, disparities exist even within jurisdictions, eg the Northern Territory, where the level for Internet betting is nil while the level for telephone betting is \$50.

Racing industry role in setting any minimum bet level

The origins of the involvement of Racing Ministers in the setting of minimum bet levels trace back to the commencement of bookmaker telephone betting in 1994.

There are several reasons in support of the concept of the racing industry having control over minimum bet levels applying to “remote” betting with all bookmakers:

- In the majority of Australian jurisdictions the control and regulation (as against the licensing) of some or all bookmakers is primarily the domain of the racing industry, rather than Government.
- With relatively minor exceptions, racing bookmakers in Australia are located on licensed racecourses.
- The structure of the racing industry in Australia, across the three codes, involves a National peak body coordinating rules of racing. Such bodies are well placed to introduce rules of racing/betting which establish a level playing field for all Australian bookmakers in the area of minimum remote bet levels.

Options

The Task Force has identified two options in this area:

- 1 Allow status quo to continue.

That is, persist with the situation where individual States and Territories are responsible for setting their own levels. To date, this approach has given rise to considerable disparity between jurisdictions in terms of:

- variations in the actual minimum bet levels themselves (from nil to \$200);
- the ambit of the applicability of minimum bet levels across different wagering media, eg in the Northern Territory a \$50 level applies to telephone betting but does not extend to Internet betting; and

- responsibility for the setting of levels. In several jurisdictions, the Minister is responsible but in Queensland, for example, it is the racing industry.

2 Level playing field concept.

The racing industry (across the three codes) establishes and oversees a uniform minimum bookmaker remote bet level applying to all racing bookmakers throughout Australia. This would include a discretion as to whether any minimum bet level is applied at all.

Particularly against the background of the current disparate situation between States and Territories, there would appear to be merit in the proposal that, in the event this option is adopted, that the racing industry is best positioned to decide upon and impose a national uniform minimum bet level.

Factors in support of the racing industry assuming responsibility for minimum bet levels include:

- the key role the industry plays in the control and regulation of racing bookmakers in most Australian jurisdictions
- the current situation of racing bookmakers throughout Australia being located exclusively on licensed racecourses
- the structure of the racing industry within each code – having a peak national body with a pivotal role in rule-making.

Task Force position

A majority of the Task Force recommends to the Conference of Australian Racing Ministers option 2 above.

That the Conference request the national racing industry (across the three codes) to develop a detailed proposal regarding the imposition by the racing industry – through its National Rules – of a uniform minimum bookmaker remote bet level applying to all bookmaker betting on racing throughout Australia. This would extend to a discretion as to whether any minimum bet level is applied at all.

In this respect, the national racing industry is requested to then return to the Conference with a proposal reflecting an agreed national position.

5.4.5 MINIMUM WAGER OBLIGATIONS

The principle of the “minimum wager obligation” is that if a bookmaker is approached by a punter seeking to back a horse, the bookmaker is obliged to set that punter to at least a predetermined level imposed by the controlling body or race club, at the price then displayed.

A range of issues relevant to the minimum wager obligation is canvassed in detail in appendix B6.

Rationale for imposing minimum wager obligation

The Task Force formed the view – based on evidence before it – that the rationale for the minimum wager obligation likely stems from one or both of two bases:

- As a means of reducing the risk of a bookmaker artificially “blowing out” the price of a runner with a view to an associate backing that runner with another bookmaker (in that or another ring), with an SP operator or with a totalizator under circumstances where the first bookmaker does not genuinely wish to lay the runner at the price on his or her board. Smaller betting rings, particularly, tend to be vulnerable to this type of activity.
- As a consumer protection measure, to ensure that all punters are treated fairly by bookmakers. It prevents a situation where a punter challenges a bookmaker to a bet at a price displayed by the bookmaker and the bookmaker is able to reject the bet.

Position in each State and Territory

Stand-up bookmakers

Based on the information before the Task Force, stand-up bookmakers fielding at race meetings and in auditoria at every licensed racecourse throughout Australia are subject to a minimum wager obligation. The position by jurisdiction is set out in appendix A.

The level of the minimum wager obligation ranges from the very low (around \$500) up to \$5,000 (on rails bookmakers at metropolitan thoroughbred race meetings in Melbourne and Sydney).

Corporate bookmakers

Perusal of the “additional conditions” introduced by the corporate bookmakers betting on racing in the Northern Territory indicates that, of these corporate bookmakers, every one has absolved itself from the minimum wager obligation applying to bookmakers at the racecourses at which the corporates are located.

TABs

The vast bulk of racing betting turnover by all Australian TABs is on totalizator wagering.

However, under their respective licenses (or relevant legislation), several Australian TABs are permitted to offer “pre-post” or “futures” fixed odds betting on a limited number of top level racing events. Broadly, this betting product is similar to that which “doubles” bookmakers have marketed to on and off-course punters for many years.

Of the TABs, only TAB Limited (in NSW) is subject to a minimum wager obligation in respect of its fixed odds racing “futures” betting.

Options

The Task Force has identified three options in this area:

- 1 Allow status quo to continue.

That is, the issue of whether or not racing bookmakers operate subject to a minimum wager obligation is at the discretion of State and Territory Governments, State-based racing controlling bodies or individual race clubs.

Currently, and based on the information available to the Task Force, the only racing bookmakers in Australia operating in the absence of any minimum wager obligation are the corporate bookmakers in the Northern Territory.

- 2 Level playing field concept – have all Australian bookmakers, subject to some form of minimum wager obligation, to be overseen by the racing industry.)

That minimum wager obligations upon TAB fixed odds betting on racing be examined.

This would foreseeably result in the benefits of:

- mitigating the risk of odds manipulation by bookmakers with a view to supporting a horse with another bookmaker;
- preventing a situation where punters dealing with some bookmakers do not have the right to claim a bet at the odds posted; and
- avoiding a situation where bookmakers operating in one jurisdiction enjoy significant operational advantages over the counterparts elsewhere in Australia.

3 Level playing field concept – (the racing industry) removes all minimum wager obligations on bookmakers around Australia.

Given the enthusiasm with which the industry has embraced the imposition of this obligation, and maintained it for many decades, it would seem likely the racing industry would be reluctant to follow this path.

Further, the complete abolition of minimum wager obligations would likely give rise to (the increased risk of) conduct considered not in the best overall interests of racing. That is, betting ring price manipulation by bookmakers and the “unfair” rejection of requests for bets by punters.

Task Force position

A majority of the Task Force recommends to the Conference of Australian Racing Ministers option 2 above.

That the national racing industry (across the three codes) establish a basic requirement that all Australian wagering operators (including TABs) are subject to a minimum wager obligation with respect to all fixed odds betting on racing. The amount of the obligation applying to categories and classes of wagering operator should be reasonable and appropriate, having regard to their circumstances in which the operator fields.

For bookmakers, the principle of a minimum wager obligation could appropriately be included in the national Rules of Racing/Betting across the three codes of racing.

In the case of TABs specifically, upon receipt of a proposal from the industry, the Conference could examine the imposition of a minimum wager obligation on TABs through an appropriate additional clause in relevant licences/authorities or amendments to legislation.

The Northern Territory (Government) Task Force members state, “The corporates, when taking face to face wagers during a race meeting do comply with the minimum wager obligations. The 'rationale' does not apply to the 24/7 operations, as it is a highly competitive market in a totally commercial regime. The failure to accept wagers will directly affect the operators' client base.” However, during the consultation process, it was indicated to the Task Force that only a very small proportion of Northern Territory corporate bookmaker turnover is attributable to face-to-face betting.

5.5 “PRODUCT FEE” ON BOOKMAKER RACING BETTING

5.5.1 OVERVIEW

The payment of a “product fee” is a possible means of providing an income stream to the racing industry from bookmaker wagering on racing.

The Task Force examination of this issue is set out in appendix B6. Following are the recommendations of the Task Force under the relevant headings.

5.5.2 MEANS OF APPLICATION

The Task Force concludes that the most practical and efficient means of applying any product fee is by:

- The insertion of a provision by all State and Territory bookmaker licensing bodies into the licences of all bookmakers betting on racing that the Rules of Racing of the relevant code(s) are to apply.
- The insertion of a uniform rule into the National Rules of Racing/Betting across the three codes applying any product fee agreed upon.

The Task Force further notes that State and Territory Governments would always retain a “residual sovereign right” of the Crown to amend, through legislation, any aspects of product fees imposed by the racing industry.

Task Force position

The Task Force recommends to the Conference the approval in principle of a uniform national product fee on bookmaker betting on racing – imposed through the National Rules of Racing/Betting of the three codes.

5.5.3 NATURE AND SCOPE OF PRODUCT FEE

(i) Issue of extension to TABs

The scope of the Task Force's deliberations, as set out in chapter 1.3, is such that the focus on wagering operators is limited to bookmakers.

It is also relevant that TABs in most States and Territories have financial obligations to respective racing industries, arising from either commercial arrangements or statute.

The situation with respect to fixed odds racing betting by TABs in the ACT, Queensland and NT specifically is noted. The ACT TAB accepts fixed odds racing bets under a "Sports Bookmaker Licence". In Queensland, it is understood issues may have arisen following the categorization by TABQ of fixed odds racing bets as "sports bets".

Task Force position

The Task Force recommends to the Conference that any product fee should apply to bookmakers only.

(ii) Basis of calculation – turnover or gross margin

Task Force position

A majority of the Task Force recommends to the Conference that a product fee be calculated on betting turnover (as against gross margin). The primary consideration of the Task Force in this respect is the desirability of simplicity and ease of administration.

The Northern Territory records its dissent and recommends that a product fee be calculated on gross margin.

(iii) Central collection point – peak national racing bodies

Task Force position

The Task Force recommends to the Conference that product fees (relating to “remote” bets) be paid to the peak national body of the code of the race on which the bet is placed.

In this respect, Tasmania records a qualification that the peak bodies have the willingness, capacity and legal authority to receive fees.

(iv) Base platform

Task Force position

The Task Force recommends to the Conference that product fees be payable on all racing bets transacted by bookmakers.

In the context of a product fee, the Task Force recognizes the distinction between “remote” and “face-to-face” bets. Hence, it is further recommended to the Conference that:

- product fees on “remote” bets be paid to the relevant national peak racing body; and**
- product fees relating to “face-to-face” bets be retained by the race club conducting the race meeting or auditorium where the bookmaker is fielding. In this respect, the relevant State controlling body or race club would have a discretion to provide rebates, etc to bookmakers as they see fit.**

(v) Bet back relief

Task Force position

A majority of the Task Force recommends to the Conference that, in the calculation of product fees payable, no allowance be made for bets back by bookmakers. The primary consideration of the Task Force in this respect is the desirability of simplicity and ease of administration.

The Australian Capital Territory, Victoria and the Northern Territory record their dissent. That is, in the calculation of product fees payable, the amount payable should take into account any bets back.

(vi) Overseas-sourced bets (on Australian racing events)

Task Force position

The Task Force recommends to the Conference that, overseas-sourced bets on Australian racing events be subject to any product fee.

The Northern Territory records a qualification to its support for this recommendation. In terms of the distribution of product fees relating to overseas-sourced bets, there should be some recognition of bookmaker efforts to attract “new money”.

(vii) Bets on overseas racing events from Australian punters

Task Force position

A majority of the Task Force recommends to the Conference that bets on overseas racing events (from Australian punters) be subject to the product fee.

The Northern Territory records its dissent.

In the context of product fees on bets on overseas racing events, the Task Force also notes that specific issues arise in terms of:

- the distribution of product fees relating to bets on overseas racing events; and
- the consideration of the interests of the overseas racing industry providing the product, ie there should be an appropriate agreement between the bookmaker and the relevant overseas racing body.

(viii) Bets on overseas racing events from overseas punters

Task Force position.

The Task Force is of the view that bets on overseas racing events from overseas punters should be excluded from any product fee regime.

However, the Task Force again notes the appropriateness of some form of agreement between the bookmaker and the relevant overseas racing body.

5.5.4 DISTRIBUTION OF PRODUCT FEE COLLECTIONS (on “remote” bets)

The Task Force has identified three possible bases for determining distribution of product fee collections:

- jurisdiction of the race (on which the bet is placed)
- jurisdiction of the punter (ie the “physical location” of the punter when placing the bet)
- jurisdiction of the bookmaker

In the interests of simplicity, the Task Force is of the view that any distribution based on the second alternative (jurisdiction of the punter) should be in accordance with a predetermined formula based broadly on jurisdictions’ relative adult population levels.

The third alternative (jurisdiction of the bookmaker) is regarded by the Task Force as being of potential relevance solely in the context of:

- overseas-sourced bets on Australian racing, or
- bets on overseas races from Australian punters.

Task Force position.

The Task Force recommends that the Conference refer to the national racing industry (across the three codes) the issue of distribution of product fee collections – with a view to the industry developing a detailed proposal for submission to the Conference.

5.5.5 RATE OF PRODUCT FEE

Task Force position.

The view has been expressed within the Task Force that a rate in the order of 1% may be appropriate.

However, the Task Force recommends that the Conference refer to the national racing industry (across the three codes) the issue of the rate of any product fee – with a view to the industry developing a detailed proposal for submission to the next meeting of the Conference of Australasian Racing Ministers.

It is further recommended that the Conference require the racing industry, within the above examination, to address the issues of:

- the relevance of existing levies, taxes etc on bookmaker racing betting in the various States and Territories;
- financial support for regional and country racing in terms of the distribution of product fee collections;
- a commitment from the industry regarding the maintenance of the rate of any product fee.

5.5.6 LEGAL ADVICE ON PRODUCT FEES

Task Force position.

The Task Force recommends that the Conference request the national racing industry (across the three codes) to obtain quality independent legal advice, in terms of the Trade Practices Act 1974 and any other relevant legislation or common law, on all aspects of a product fee regime.

5.6 SUMMARY OF RECOMMENDATIONS

(5.3) Racing industry supervision of bookmaker operations

The majority view of the Task Force is that the imposition of a condition in the licence of every bookmaker throughout Australia requiring compliance with (National) Rules of Racing/Betting (of the relevant code of racing) is the most efficient means of:

- (i) addressing a range of issues associated with disparities in bookmaker operating conditions throughout Australia, alluded to above; and
- (ii) applying a product fee to bookmaker betting on racing.

(5.4.2) TAB-odds bookmaking

A majority of the Task Force recommends to the Conference that a national prohibition be implemented with respect to the practice of bookmakers (or any entity other than a TAB or totalizator operator itself) basing payouts on the dividends of a totalizator.

This option could foreseeably be implemented by an amendment to the (National) Rules of Racing of the three codes – as part of a wider package that all Australian bookmakers betting on racing be required to operate under the Rules of Racing.

Further, the Task Force recommends that the Conference acknowledge the concerns of the Australian Bookmakers' Association with respect to any expansion in the time frames for fixed odds racing betting by TABs.

(5.4.3) Bookmaker Internet betting on racing

A majority of the Task Force recommends to the Conference that the national racing industry (across the three codes) be requested to develop a detailed proposal in terms of uniform national rules of racing/betting setting out the circumstances under which licensed bookmakers would be permitted to disseminate or display (by any means) fixed odds on racing events.

Additionally, the Task Force recommends that the Conference request the national racing industry to develop and implement a national position across the three codes on the use of mobile telephones on licensed racecourses.

(5.4.4) Minimum bookmaker “remote” bet levels

A majority of the Task Force recommends to the Conference that the national racing industry (across the three codes) be requested to develop a detailed proposal regarding the imposition by the racing industry – through its National Rules – of a uniform minimum bookmaker remote bet level applying to all bookmaker betting on racing throughout Australia. This would extend to a discretion as to whether any minimum bet level is applied at all.

(5.4.5) Minimum wager obligation

A majority of the Task Force recommends to the Conference that the national racing industry (across the three codes) establish a basic requirement that all Australian wagering operators (including TABs) are subject to a minimum wager obligation with respect to all fixed odds betting on racing. The amount of the obligation applying to categories and classes of wagering operator should be reasonable and appropriate, having regard to their circumstances in which the operator fields.

The principle of a minimum wager obligation could appropriately be included in the national Rules of Racing/Betting across the three codes of racing.

In the case of TABs specifically, upon receipt of a proposal from the industry, the Conference could examine the imposition of a minimum wager obligation on TABs through an appropriate additional clause in relevant licences/authorities or amendments to legislation.

(5.5) “PRODUCT FEE” ON BOOKMAKER RACING BETTING

(5.5.2) MEANS OF APPLICATION

The Task Force recommends to the Conference the approval in principle of a uniform national product fee on bookmaker betting on racing – imposed through the National Rules of Racing/Betting of the three codes.

(5.5.3) NATURE AND SCOPE

(i) Ambit

The Task Force recommends that any product fee should apply to bookmakers only.

(ii) Basis of calculation

A majority of the Task Force recommends that any product fee be calculated on betting turnover (as against gross margin).

(iii) Central collection point

The Task Force recommends that product fees (relating to remote bets) be paid to the peak national body of the code of the race on which the bet is placed.

(iv) Base platform

The Task Force recommends that product fees be payable on all racing bets transacted by bookmakers.

It is further recommended that:

- product fees on “remote” bets be paid to the relevant national peak racing body; and
- product fees relating to “face-to-face” bets be retained by the race club conducting the race meeting or auditorium where the bookmaker is fielding. In this respect, the

relevant State controlling body or race club would have a discretion to provide rebates, etc to bookmakers as they see fit.

(v) Bet back relief

A majority of the Task Force recommends that, in the calculation of product fees payable, no allowance be made for bets back by bookmakers.

(vi) Overseas-sources bets (on Australian racing events)

The Task Force recommends to the Conference that, overseas-sourced bets on Australian racing events be subject to any product fee.

(vii) Bets on overseas racing events from Australian punters

A majority of the Task Force recommends to the Conference that bets on overseas racing events (from Australian punters) be subject to the product fee.

(viii) Bets on overseas racing events from overseas punters

The Task Force is of the view that bets on overseas racing events from overseas punters should be excluded from any product fee regime.

(5.5.4) DISTRIBUTION OF PRODUCT FEE COLLECTIONS (on “remote” bets)

The Task Force recommends that the Conference refer to the national racing industry (across the three codes) the issue of distribution of product fee collections – with a view to the industry developing a detailed proposal for submission to the Conference.

(5.5.5) RATE OF PRODUCT FEE

The Task Force recommends that the Conference refer to the national racing industry (across the three codes) the issue of the rate of any product fee – with a view to the industry developing a detailed proposal for submission to the next meeting of the Conference.

It is further recommended that the Conference require the racing industry, within the above examination, to address the issues of:

- the relevance of existing levies, taxes etc on bookmaker racing betting in the various States and Territories;
- financial support for regional and country racing in terms of the distribution of product fee collections;
- a commitment from the industry regarding the maintenance of the rate of any product fee.

(5.5.6) LEGAL ADVICE ON PRODUCT FEES

The Task Force recommends that the Conference request the national racing industry (across the three codes) to obtain quality independent legal advice, in terms of the Trade Practices Act 1974 and any other relevant legislation or common law, on all aspects of a product fee regime.

Chapter 6 RECOMMENDED APPROACH FOR IMPLEMENTATION

6.1 OVERVIEW

There are essentially two aspects to any courses of action identified by the Task Force:

- The actual measures identified, summarised below in section 6.2.
- The range of means by which those measures might be implemented, set out below in section 6.3.

6.2 MEASURES AVAILABLE

The objective of the Task Force is,

To examine the issue of cross-border betting and its impacts on the Australian racing industry and to make recommendations to Racing Ministers with respect to the long-term viability of the Australian racing industry in this regard.

The findings of the Task Force in terms of measures aimed at addressing concerns regarding the long-term viability of the Australian racing industry fall under three broad headings:

- 1 The rights of the racing industry in respect of:
 - the intellectual property in “racing information”;
 - a requirement that wagering operators accessing racing information for the purposes of accepting bets on racing do so only with the permission or consent of the race club responsible for the relevant racing product;
 - the supervision of all bookmakers in respect of certain aspects of their operations.
- 2 Measures relating to the regulatory and operational conditions of bookmakers betting on racing – aimed at “leveling the playing field” for Australian bookmakers.

The identified areas of current disparity in terms of bookmaker racing betting operations examined by the Task Force are:

- bookmaker payouts based on totalizator (TAB) dividends
- bookmaker Internet betting on racing

- minimum bet levels on “remote” bookmaker betting
- minimum wager obligations on racing betting

These findings are summarized in section 5.4.

- 3 The imposition of a “product fee” on bookmaker racing betting.

These findings are summarised in section 5.5.

6.3 IMPLEMENTATION OF IDENTIFIED MEASURES

The Task Force has identified several alternative means of implementing the measures identified:

- 1 Inclusion of a condition in the licences of all Australian bookmakers betting on racing requiring strict compliance with the (National) Rules of Racing and Betting applying to the relevant code of racing.
- 2 Insertion of uniform racing bookmaker betting provisions into the (National) Rules of Racing and Betting across the three codes of racing.
- 3 A requirement that all bookmakers fielding on racing operate exclusively from licensed racecourses.

In terms of the categories of measures alluded to in section 6.2 above (or individual measures within categories), these means of implementation could potentially represent substitutes or be complementary.

Additionally, the Task Force acknowledges that it may be possible to implement some of the measures by either:

- the application of the general law, or
- the introduction of (uniform) legislation in States and Territories.

However, the Task Force is of the view generally that, as means of implementing the measures identified, these tend to be relatively cumbersome and time-consuming.

6.4 RECOMMENDED APPROACH

A majority of the Task Force recommends to the Conference of Australasian Racing Ministers the following action:

- 1 The inclusion of a condition in the licence of every Australian bookmaker fielding on racing that the bookmaker is to operate under and in accordance with the National Rules of Racing and Betting of the relevant racing code as they stand from time-to-time.
- 2 The insertion of provisions in the (National) Rules of Racing across the three codes of racing which have the effect of:
 - prohibiting bookmakers from making or entering into, or offering to make or enter into, a bet the payout on which, if successful, is dependent upon the workings of a totalizator (that is, no TAB-odds betting by bookmakers); and
 - requiring that all bookmakers fielding on racing do so subject to a minimum wager obligation set by the racing industry.

With respect to this recommendation, the Northern Territory (Government officer) membership of the Task Force records its dissent.

- 3 A request of the national racing industry (across the three codes) in respect of the following aspects of bookmaker wagering:
 - The development of a detailed proposal in terms of uniform national rules of racing/betting setting out the circumstances under which licensed bookmakers would be permitted to disseminate or display (by the Internet or any other means) fixed odds on racing events.
 - The development of a detailed proposal in terms of the imposition by the racing industry, through its national rules, of a uniform minimum bookmaker remote bet level applying to all bookmaker betting on racing throughout Australia. This would extend to a discretion as to whether any minimum bet level is applied at all.
- 4 Agreement in principle to the concept of a “product fee” on all bookmaker betting on racing.
 - 4.1 A request of the national racing industry (across the three codes) that it develop a position in respect of the following aspects of a proposed “product fee” on bookmaker racing betting:
 - The basis for distribution of product fee collections;
 - The rate of any product fee.

- 4.2 A request of the national racing industry (across the three codes) that it obtain quality independent legal advice, in terms of the *Trade Practices Act 1974* and any other relevant legislation or common law, on all aspects of a product fee regime.
- 5 A request of the national racing industry (across the three codes) that it present to the next meeting of the Conference of Australasian Racing Ministers proposals in terms of:
 - item 3 above – off-course dissemination and display of bookmaker odds on racing events and minimum bet levels relating to remote bookmaker betting; and
 - item 4 above – various aspects associated with a bookmaker product fee regime.
- 6 The nomination of a sub-group of Government officer members of the Task Force to liaise with the racing industry during the period of development of a national racing industry position across the three codes in the areas identified by the Conference.
- 7 Additionally, a request of the national racing industry (across the three codes) that it develop and implement a uniform national position on the use of mobile telephones and other communications devices on racecourses.

6.5 RELEASE OF THIS REPORT

The Task Force recommends to the Conference that this report be released.
