

## NSW RACING INDUSTRY

# CUSTOMERS! --- SHUT UP!

A report recently tabled in the NSW Parliament about the administration of racing, proposes legislation to displace the incumbent 'consumer representative'. The recommendation 'to alter the method of appointment of the consumer representative' is couched in terms of "encouraging the appointment of persons who are attuned to the views and needs of consumers of racing and betting services, and to provide for the regular provision of fresh and contemporary thinking...". To this end 'the nominated consumer representative will be limited to serving one two-year term'.

As the nominated consumer representative for racing in NSW, my first two-year term concludes at the end of September this year. I would normally be eligible to serve another two terms, each of two-years.

I have been critical of the administration of racing in NSW -- and in Australia more generally. This challenge to my role is not unexpected -- it is nonetheless notable that my contribution will be recognised in a special Act of Parliament.

In an industry where people commonly hold key positions for 'life', it is unusual that the consumer representative alone would, by special Act of Parliament, be limited to a single term of two years.

### **"There's nothing wrong with racing in NSW"**

This recent report on the racing industry is the second within six months where the Parliament and the community have been told that no substantial changes are required to either the administration of racing in NSW or to the regulations governing betting on racing in NSW.

This 'no problems' assessment is surprising when it is otherwise evident that racing in NSW is going backwards. The refusal of the NSW Government to bring its racing legislation into line with national competition policy will probably be criticised later this year by National Competition Council. NSW tax payers may be 'fined' as a consequence, with associated distributions of Commonwealth funding being withheld for 'non-compliance'.

There is much that is wrong with the administration of racing in NSW. Silencing a critic is not the answer.

## **Racing's regulators beyond the law?**

The report recently presented to the NSW Parliament was a scheduled five-year review of the Thoroughbred Racing Board (TRB) Act.

There were five recommendations made. The overriding recommendation, contrary to the weight of submissions, is that the existing structure and composition of the TRB be retained. The relevant minister was reported in the press to have said that 'no change was necessary', on the day following the closing date for submissions. This was not surprising -- apparently 'nothing' ever needs changing in the going-backwards NSW racing industry. Two of the other four recommendations concern minor administrative amendments affecting licensed persons.

That leaves two recommendations -- both of which affect the racing industry participants body (RIPAC) on which the consumer representative sits. One of these, as mentioned, would displace the incumbent consumer representative. The other one -- requiring the TRB to respect RIPAC -- warrants a little background.

RIPAC is established as a statutory body. The existing TRB Act provides for the TRB to involve RIPAC in an advisory capacity when setting industry policy and to this end, requires that two conjoint meetings be held each year between the TRB and RIPAC. In the event, the TRB unilaterally chose to disregard RIPAC, including not meeting as required. The recommendation now put would see amendments to the legislation elaborating the consultation requirements -- RIPAC submissions to be tabled at TRB meetings; TRB to respond in reasonable time and minutes of conjoint meetings to be provided to RIPAC.

One might reasonably wonder if the NSW Parliament would sensibly be asked to waste time considering such unnecessary legislative amendments as these are. One might reasonably hope that someone in the NSW Parliament might ask why the chairman and the chief executive of TRB felt at liberty to ignore legislative requirements imposed on them. Such disregard for the law would seem to be a more interesting question than considering amendments elaborating on what an already clear law actually meant.

Both the relevant, retiring, minister and staff of his Department were well aware of the disregard shown for the legislation, and RIPAC, by the TRB. It is not known if the Auditor General noted the failure to comply.

## **Racing on the wrong track**

The Australian racing industry is on the wrong track -- everyone agrees that there is far too much racing.

I have yet to meet a regular punter who is not appalled by the consequences of 'too-much' racing. Customers are shortchanged when too much racing being crammed onto the broadcast media spoils the racing entertainment they pay for. The tax-paying public is shortchanged because public funds allocated as subsidies to racing are being wasted on the too-much quantity of racing that is unwanted and denies the quality racing entertainment that customers prefer. Australia as a whole is shortchanged because a national 'icon' industry is in disarray: the business of conducting export quality racing in the Asia-Pacific region that once belonged to Australia has been given away. The best of Australian racing resources now prefer to work in other countries.

These points have been made repeatedly over the past two years: not only have they been ignored, it has now been decided by the Minister for Racing (going backwards) that such views are not to be heard.

### **What's wrong with the administration of racing?**

The racing industry is still administered much as it was in the 19th-century. The 20th-century simply came and went leaving the administration of racing untouched. Racing is a major national industry that was not rationalised in the 80s and 90s when the rest of the economy was transformed. Rationalisation is a painful process as surplus resources are retrenched -- unfortunately with rationalisation denied to the racing industry, the abiding alternative is continuing irrationality. Industries that do not race on the pace eventually fail.

There is no commercial discipline in the administration of the racing industry. Race clubs -- again, far 'too many' race clubs -- are awarded public funding without proper accountability for the quality of the racing entertainment they provide. These days one would not even expect to find in former Socialist republics, major State businesses being run the way the racing industry still is in Australia. Without commercial disciplines, there is no proper accountability for public funding running into hundreds of millions of dollars that is given to the racing industry in Australia for (mis)allocation by 'administrators' using unchanging 'administrative criteria'.

### **Cut back the public funds!**

There have been pointed 'customer' complaints -- including about too much racing and the general disregard of off-course TAB customers. The 'interests of racing' politely tolerated such customer complaints prior to them being politely dismissed. What will not be tolerated apparently is any suggestion to cut back public funding of the too-much low-quality racing now being produced.

Only very reluctantly and tentatively did the 'interests of racing' agree to recognise as 'participants' the betting customers that contribute the TAB betting pools from which the racing industry is granted a share of the gross turnover. This 'recognition' does not, however, extend to respect for the customers.

Needless to say, the racing industry 'choked' on the suggestion that the broader tax-paying community be recognised as 'participants' in the racing industry. The 'interests of racing' called for the 'tongue tie' -- these words were not to be spoken. In my defence, these words were spoken because it is from the public purse that subsidies to the racing industry are paid. The general public -- including the non-betting public -- are entitled to be confident that government is sensibly deciding the 'how much' public funding of racing. Silently mouth the words - "Is all the public money given to the racing industry the best use of those public funds?" -- but do not say 'no' out loud.

### **Who subsidises racing anyway?**

The 'interests of racing' mindlessly believe that the funding of racing comes from money contributed by the betting customers. Superficially it may seem so, some 5% of betting turnover is given to race clubs. What the 'interests of racing' choose not to comprehend is that if subsidies were not given to race clubs, the total 'tax' takeout from race betting pools would not be reduced one jot -- simply, more would go to consolidated revenue, the public purse. The 'earmarking', for return to the racing industry, of a fixed share of total taxes on race betting is a political sleight of hand. What should be a recurrent 'on budget' funding decision by state governments (for which the racing industry has presented a cogent case) is presented as if there were no recurrent discretion. State governments have apparently entered into '99-year' contracts confirming this commitment to funding parochial racing industries that are increasingly irrelevant in a world that has moved on. The use of public funds to subsidise racing that does not meet the commercial 'cut' should stop.

There is a 'time bomb' ticking away for the racing industry -- but it must not be mentioned.

### **In 'the interests of racing'?**

Hundreds of millions of taxpayer dollars are handed to race clubs each year in Australia to subsidise the conduct of racing. Everyone actively participating in the racing industry -- breeders, owners, trainers, jockeys, farriers, veterinarians, stable hands, administrators, broadcasters etc. -- benefit financially from the flow of subsidies from the public purse. It is not in the interests of most active participants in the supply of racing to accept proposals that would impose commercial disciplines on the public funding of racing.

Unable to negotiate any variation from the administratively imposed status quo, the 'paralysed' interests of racing can only see even more public money as the solution to obvious industry problems.

In these circumstances the 'customer representative' seeking a better deal for the betting customers, has a challenge in presenting the views of the industry participants that pay the subsidies. Refusing to hear the voice of rationality and substituting a more properly attuned 'customer representative' will prolong the problem, not solve the problem.

The interests of racing could first reconsider their sense of 'entitlement' to ever more public funding and then recognise clearly that the betting customers, and the funding community, want value for money. The general public does not appreciate the degraded entertainment and profligate of waste of public funds that shows up in the far-too-much racing now characterising the racing industry. Relatively few of the 22 000 races run in Australia each year warrant broadcasting beyond a limited locality, and even fewer warrant subsidies from the public purse to stage them.

### **Why would I want to be the consumer representative?**

Around the table where 'administrative' decisions about the racing industry are made, I believe there is only one 'participant' that is not in paid employment in the racing industry or otherwise involved as an owner or breeder of racehorses. The 'consumer representative' position is not a paid position. This 'consumer representative' has brought to the table views and needs of TAB customers that put in 90% of the betting turnover. With the benefit of long and competent experience in public policy matters, I have brought fresh and contemporary thinking to the racing industry. There is no industry in Australia where the words 'fresh and contemporary' have traditionally been so unlikely to be welcome -- and nothing seems to have changed.

I love racing. I carry Irish blood infused with racing culture. I have had a 'bet' on the races every Saturday for '40' years.

I am keen to expose issues that I believe are driving Australian racing backwards. I have long sought a better deal for the customers of racing. In 1995, in association with 'Choice', I negotiated with Ian Temby for customers to be represented in the administrative framework for racing in NSW. I have contributed subsequently -- including in a submission put to the National Gambling Inquiry in 1998 and in evidence given at the public hearings of that Inquiry. I have enjoyed ongoing contact with the initial 'consumer representative' on RIPAC and seek out other articulate voices wanting a better deal for the customers of racing.

Since being appointed as the 'consumer representative' I have been a more provocative commentator on racing industry policy issues. Open, 'no secrets' discussion papers have been circulated in the racing industry and carried on the internet media site 'crikey.com.au'. Australia's 'biggest' bookmaker Mark Read said of one landmark effort ("Racing out of control") that 'it was the best article about the Australian racing industry that he had seen'. A submission No. 062 ('Mair, P - Second Submission') lodged with the Committee reviewing the Trade Practices Act can be viewed on the internet. This submission calls for the intervention of the ACCC in requiring both fair-trading protections of the customers of racing and a better, more competitive environment for race betting entertainment nationally. [Go to 'tpareview.treasury.gov.au' -- extracts from my recent papers are available in the attachment to this 'racing' submission.]

The ideas I have put forward seeking a better deal for the customers of racing are generally considered to be thoughtful and well presented but confronting to the prevailing attitudes of the 'interests of racing'. The interests of racing have comprehensively ignored the views expressed. The suggestions of mine that draw a swift and damning response are those that would impose commercial disciplines on the management of the racing industry -- including, in particular, asking for a careful reassessment by State Treasuries of the public funding of the racing industry. What the taxpaying community (not least TAB punters) is getting in return needs to be weighed against the hundreds of millions of dollars from the public purse given to the racing industry. As of now, the two sides are badly out of balance.

If I were asked the question -- "Would the current allocation of public funds to racing in NSW survive careful testing against broader public interest criteria?" -- my clear and honest answer would have to be "No wafy".

I would like to think that the NSW Parliament would take this heartfelt assessment into account when asked to vote on legislative amendments that would displace the incumbent 'consumer representative' for racing in NSW.

At that time the Parliament might also like to ask the Minister for Racing to reconsider the disregard so far shown for the representations made on behalf of the customers of racing and taxpayers, by their appointed representative.

Peter Mair 10 July 2002