

**NATIONAL COMPETITION POLICY  
LEGISLATION REVIEW**

**BETTING CONTROL ACT 1954**

**TOTALISATOR AGENCY BOARD BETTING ACT 1960**

**29 September 1998**

**Office of Racing, Gaming and Liquor  
Western Australia**

# **REVIEW CONDUCT**

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## 1. INTRODUCTION

This report details a review of legislation governing the conduct of betting in Western Australia. The review was undertaken in accordance with commitments of the Western Australian Government under the National Competition Policy Agreement.

The legislation examined in the review was as follows.

- *Betting Control Act 1954* (as amended by the *Betting Control Amendment Act 1998*).
- *Betting Control Regulations 1954*.
- *Totalisator Agency Board Betting Act 1960*.
- *Totalisator agency Board Betting Regulations 1960*.

The *Betting Control Act 1954* and the *Totalisator Agency Board Betting Act 1960* together provide the framework within which betting is conducted in Western Australia at racecourses (on-course) and at sites remote from racecourses (off-course). The two Acts are linked through the circumstances of their origins, the controls they impose on the activities to which they relate and the industries that they service. In view of this inter-relationship, it was considered appropriate to undertake a joint review of the two Acts.

As required by the Competition Principles Agreement, the terms of reference for the review were to:

- clarify the objectives of the relevant legislation;
- identify the nature of any restrictions on competition;
- analyse the likely effects of the restrictions on competition;
- assess and balance the costs and benefits of the restriction; and
- consider alternative means for achieving the same result.

The review examined sections of the legislation that potentially restrict or constrain an individual or organisation from undertaking or participating in any economic activity. Constraints on economic activity were considered as restrictions on competition regardless of whether the constraint applies equally or unequally to all parties affected by the legislation. It may be argued that if the restriction applies equally to all participants in a particular industry then it is not considered to constitute a restriction on competition. However, from a broader perspective such restrictions may affect competition for resources between industries and thus potentially influence the allocation of productive resources through the economy. In this sense, National Competition Policy (NCP) is about identifying government regulation of any sort that creates friction for any economic activity. It is from this standpoint that this review was undertaken.

## 2. THE BETTING INDUSTRY IN WESTERN AUSTRALIA

The Betting Industry in Western Australia is, to a large extent, a subset of the racing industry. Racing industry organisations for thoroughbred, harness and greyhound racing are heavily reliant on revenue from betting activities. Similarly, the betting industry needs the racing product to conduct its business, although sports betting is increasingly becoming an important part of the betting market.

The betting industry in Western Australia comprises three types of service providers:

- bookmaking businesses operated by 65 licensed bookmakers (as at 31 July 1998) who offer fixed odds betting services at racecourses and sporting venues throughout the state;
- racing clubs which operate 63 parimutuel totalisators at their respective racecourses; and
- the Totalisator Agency Board (TAB) which operates an off-course parimutuel totalisator service at 291 agencies throughout the State.

The following table provides details of betting-industry revenues and returns to the racing industry and the government from betting activities. In 1997/98 these three sectors generated net revenues after payment of dividends of \$148.5 million on turnover of \$995.4 million. From this revenue, a direct contribution of \$61 million was made to the racing industry with the State Government collecting taxation of \$36.9 million.

<b>Betting Service</b>	<b>Total Turnover (\$million)</b>	<b>Net Revenue after Payment of Dividends (\$million)</b>	<b>Direct Revenue to Racing Industry (\$million)</b>	<b>Taxation Revenue to Government (\$million)</b>
TAB	735.4	126.7	45.0	36.8
Racing Club Totalisators	70.4	12.3*	12.3	0
Bookmakers	189.6	9.5**	3.7	0.1
<b>TOTAL</b>	<b>995.4</b>	<b>148.5</b>	<b>61.0</b>	<b>36.9</b>

All figures are for the 1996/97 financial year.

\* estimate based on 17.5 per cent commission rate.

\*\* estimate based on 5 per cent margin.

### **3. BETTING LEGISLATION**

#### **3.1 Scope of the Legislation**

##### **3.1.1 Betting Control Act**

The long title of the Betting Control Act is:

*An Act to authorise, regulate and control, betting and bookmaking on horse and greyhound racing and on sporting events; to regulate the assessment, collection and allocation of a levy on money paid or promised to bookmakers or the Totalisator Agency Board as consideration for bets; to authorize, regulate and control the use of totalisators and betting with, or through, the Totalisator Agency Board; to repeal certain Acts; to amend certain Acts; and for other purposes.*

The Betting Control Act establishes the Betting Control Board and provides for the Board to undertake activities for the regulation of betting on horse racing, greyhound racing, and sporting events. Section 6G of the Act lists the Board's duties as being:

- *to administer the law relating to the regulation of betting carried on under [the Betting Control Act] or the Totalisator Agency Board Betting Act 1960;*
- *to review the conduct, extent and character of that betting, including the provision, use and location of the betting facilities, and to cause licences, permits and authorizations relating to that betting to be issued as appropriate;*
- *in conjunction with the Gaming Commission and the racing industry controlling authorities, taking into account the requirements and interest of the community as a whole, to formulate and implement policies for the scrutiny, control and regulation of that betting;*
- *[to administer licences, permits, approvals and authorizations] ... in respect of persons, premises, facilities, equipment and betting operations concerned with betting or in relation to whom or which a licence, permit, approval or authorisation is sought;*
- *to advise the Minister, either of its own motion or upon the request of the Minister, as to any matter relating to that betting;*
- *to make recommendations to the Minister in relation to the control or supervision of particular kinds of betting in particular circumstances, and as to the fees and charges to be prescribed;*
- *to administer a scheme for the collection and verification of the payments of bookmakers' betting levy; and*
- *to enforce, and to prosecute persons contravening [the Betting Control Act] and the Totalisator Agency Board Betting Act 1960.*

### **3.1.2 Totalisator Agency Board Betting Act**

The long title of the Totalisator Agency Board Betting Act is:

*An Act to constitute a Totalisator Agency Board, to authorize the provision and operation of betting services on totalisators through the TAB and betting with the TAB and for incidental and other purposes.*

The Act provides for establishment of the TAB as a statutory corporation. Functions of the TAB are specified in Section 4 of the Act as follows.

- *To carry on principally, the business of operating an off-course totalisator betting service on racing and certain sporting events.*
- *To carry on any other business considered by the Board to be conducive to the success of or incidental to the principal business, but so that such other business is not conducted to the detriment of the principal business or in a manner which confers any unfair commercial advantage.*
- *To invest, re-invest or otherwise use and employ funds for the time being held by the TAB in such a manner as the Board thinks fit.*

Section 4 also stipulates that the TAB is to perform its functions in accordance with prudent commercial principles and use reasonable endeavours to derive a profit.

### **3.2 History and Background to the Current Legislation**

The following excerpts from the Report of the Royal Commission on Betting (1959) provide a summary of events leading up to development of the Betting Control Act in 1954.

#### **On-Course Betting**

*Bookmakers operated on the racecourses throughout the State for many years prior to 1955. Some doubts were expressed as to whether on the strict construction of the criminal code their operations were legal; nevertheless, their activity received authoritative recognition, the racing clubs licensing the bookmakers and receiving fees in consideration of their being allowed to bet on the course and the Government exacting a Stamp Duty on all tickets issued by the bookmakers on the course.*

#### **Off-Course Betting**

*By virtue of the Police Act Amendment Act, 1893, and the Criminal Code, it was unlawful to keep a place of betting, if the betting was done with persons resorting thereto or for cash. There was no statute expressly dealing with street betting, nor was betting with infants prohibited. It appears that there was nothing stopping a bookmaker carrying on a credit betting business, providing there was no resorting to the premises.*



*Evidence was given that prior to 1954 there were probably 150 bookmakers throughout the State operating a credit business through the medium of the telephone, telegraph or post. In the metropolitan area these bookmakers were linked in an Association styled "The Turf Commissioners' Association", with a membership of about 65.*

*Illegal bookmaking was extensive in Western Australia over many years. Prior to 1942, it was largely a matter of illegal shop betting with police efforts of enforcement being frustrated by the inadequacy of the then existing law.*

*Following an amendment to the law in 1942, the police were able to close the betting shops whereupon the illegal bookmaker moved into the street. In the absence of any specific prohibition of street betting, the only avenue of law enforcement was to take prosecutions under a regulation made under the Traffic Act, the basis of which was the obstruction of traffic and loitering and acting in any way to the annoyance of other pedestrians.*

*The operations of the off-course bookmakers were facilitated both by the ample broadcasting and press coverage of racing news, and more particularly by the service provided by two press agencies, Tates Press and Telegraph Agency and The Goldfields Press Agency.*

*I refer to the comment upon these Press agencies made in the Report of the Royal Commission on Betting held in Western Australia in 1948, that "there is no doubt that these press agencies provide a very efficient service to their subscribers and that the present system of off-course betting is largely dependent on their services for its successful operation."*

*The same Royal Commission reported on the state of the law on betting as follows:*

*"This review will serve to show that Western Australia has lagged far behind England and the other States so far as betting legislation is concerned. The present state of the law here can only be regarded as chaotic and hopelessly inadequate and ineffective in the light of present-day conditions. The enactment of a betting and gaming code is an urgent necessity."*

*It was this chaotic state of the law which ultimately brought about the enactment of the Betting Control Act, 1954, under which all bookmakers were to be licensed. The 1948 Royal Commission reported against the establishment of an off-course totalisator mainly on the grounds that it was impracticable.*

On the fifth attempt to establish legislation to control off-course betting, Parliament passed the *Betting Control Act* on 30 December 1954 and it came into full operation on 1 August 1955. The purpose of the *Betting Control Act* was to legalise and regulate the conduct of on-course and off-course betting by bookmakers, and to regulate the assessment and collection of taxation on betting activities.

The operations of private off-course betting shops continued until concerns about their impact on the racing industry lead to the 1959 Royal Commission. The questions the Royal Commission addressed were as follows.

- Should betting shops continued in their present form?
- Are modifications to the present form of betting shops desirable?
- Should the betting shops be abolished?
- If they should be abolished, should all off-course betting be banned as in South Australia?
- Alternatively, should some form of totalisator be established as an avenue to off-course betting?

After taking evidence from racing, betting and community organisations, and other interested parties, and investigating practices interstate and overseas, the 1959 Royal Commissioner concluded the following.

*“I find that the betting shops have had certain beneficial results -*

- (a) They have provided the Government with a fruitful source of revenue.*
- (b) They have provided punters with facilities for betting off-course on local and Eastern states races in an orderly manner in well conducted premises.*
- (c) They have virtually eliminated illegal betting.*
- (d) They have relieved the police of the onerous task of combating illegal betting under defective laws.*

*Nevertheless I find that the betting shops have had undesirable effects which decisively outweigh the beneficial results.*

- (a) The shops have had an adverse effect upon the racing industry and are likely in time to bring it to a standstill. They have caused a decline in the revenues and prosperity of the racing clubs, the breeders of horses, the owners and trainers of horses, the on-course bookmakers and the on-course totalisator. They have reduced the number of patrons attending the race meetings.*
- (b) The favourable conditions under which the shops have operated have encouraged betting and increased its volume, especially in relation to Eastern States galloping and local trotting races.*
- (c) The shops have been granted a valuable monopoly which has enabled the offcourse bookmakers to make substantial profits and to dispose of their licences if they so desire for large sums by way of goodwill.*

The report also identified widespread tax evasion and price manipulation by offcourse bookmakers due to the absence of direct supervision.

In view of these conclusions the 1959 Royal Commission recommended the abolition of off-course betting shops to be replaced with an off-course totalisator system, citing benefits as:

- (a) *it will achieve the same beneficial results attributable to the betting shops;*
- (b) *it will eliminate the personal profit motive inherent in the betting shop system;*
- (c) *it will operate impartially and fairly in the interests of punters and will secure that the profits to be derived from betting will be wholly available for distribution between the Government and the racing clubs;*
- (d) *it will eliminate the starting price system with its undesirable features;*
- (e) *it will provide adequate facilities for betting but without the encouragement to bet and the incentive to loiter which are characteristic of the shops;*
- (f) *by providing less facilities for the punter, it may encourage him to attend the racecourse and thereby do something to restore the declining fortunes of the racing clubs and related bodies;*
- (g) *it should return an adequate revenue, easy and certain of collection to the racing clubs.*

These conclusions lead to the passing of the *Totalisator Agency Board Betting Act* in 1960 to establish the TAB and amendments to the Betting Control Act to abolish off-course betting shops. The amendments to the Betting Control Act were made over several years as trading premises of the TAB were progressively established throughout the State.

In his second reading speech in support of the Totalisator Agency Board Betting Bill 1960 the then Minister of Police made the following remarks-

*I think it can be fairly claimed that this legislation, if it is accepted by Parliament, will bring about a measure of social reform in that the existing incentive to promote off-course betting under the present law will largely disappear; and the substitution of betting against deposits held by the TAB for credit betting at present made possible by legislation of this Parliament in off-course betting shops sited to tempt wage earners within their doors will, I believe result in money required for providing essential family needs being spent for such purpose and not for payment of losing credit bets.*

*A substantial drop in turnover through the off-course totalisator compared with off-course betting shops has been allowed for, because credit betting off-course in totalisator regions will no longer be legal, and bets will be possible only in cash or against cash deposits or winnings held by the TAB.*

*This Government desires to foster racing, both gallops and trots, in Western Australia, and is convinced that replacement of off-course bookmakers by an off-course totalisator covering the bulk of the State will be a big forward stride in keeping racing clean and healthy, and in maintaining public interest and confidence in the sport.*

This mix of on-course betting by bookmakers and racing clubs, and off-course betting through the TAB has continued to the current day. However, in the last five years there have been important changes to the Acts which have altered the scope of permitted betting

activities. Amendments to the Betting Control Act have extended the permissible activities of on-course bookmakers to:

- the ability to attend at, and field on, professional foot races;
- unrestricted cross-code betting;
- the ability to bet on sporting events from a betting stand during a race meeting;
- authorisation to accept sports bets by telephone;
- authorisation to accept race bets by telephone;
- authorisation for sports bookmakers to operate at any time from a racecourse; and
- authorisation for bookmakers to attend at and bet on any sporting event approved for the purpose by the Betting Control Board.

The initial constraints placed on the TAB in the original 1960 Act, aimed at not encouraging people to bet or to loiter, have also been largely removed with the TAB being permitted to meet:

- the entertainment requirements of its customers; and
- demand for revenue returns from the racing industry.

### **3.3 Objectives of the Legislation**

It was surmised from the history of the two Acts that the broad objective of the betting legislation is to ensure that betting is conducted in a manner that satisfies the recreational interests of punters while protecting interests of the community in general and particular elements of the racing industry.

It is considered that the objectives of the Betting Control Act are:

- to ensure the integrity of betting conducted in Western Australia, and prohibit certain forms of betting that are deemed contrary to the public interest;
- to minimise the adverse social effects of lawful betting; and
- to establish and maintain a source of revenue for the State and for the racing industry.

It is considered that the objectives of the Totalisator Agency Board Betting Act are:

- to establish, in the form of a public authority, an off-course totalisator betting system to service the off-course betting requirements of the community in a manner which minimises the adverse social effects of that betting; and
- to establish and maintain a source of revenue for the State and for the racing industry.

## 4. RESTRICTIONS ON COMPETITION

### 4.1 General Nature of Restrictions

Before reviewing the legislation to determine potential restrictions on competition, it is necessary to define what would in general constitute a restriction on competition within the context and scope of the legislation.

The scope of the Betting Control Act and Totalisator Agency Board Act includes both regulation and establishment of a government trading enterprise. Two clauses of the Competition Principles Agreement are therefore considered relevant for the review of the betting legislation.

- Clause 3(1), stating that the government businesses should not enjoy any net competitive advantage simply as a result of their public-sector ownership.
- Clause 5(1), stating that legislation (including Acts, enactments, ordinances or regulations) should not restrict competition unless it can be demonstrated that: (a) the benefits of the restriction to the community as a whole outweigh the costs; and (b) the objectives of the legislation can only be achieved by restricting competition.

The Betting Control Act requires licensing and other authorisation of persons, organisations and activities associated with betting. The Act also constrains the scope of betting activities and the manner in which betting activities may be undertaken. Provisions of the Act are thus potentially important in: (i) restricting the individuals or organisations in society that can undertake betting activities; (ii) imposing costs on individuals or organisations engaged in betting activities, both directly through imposition of fees and charges and indirectly through constraints on activities; and (iii) influencing competition between businesses engaged in different forms of betting, and between the betting industry and other gambling industries. Where these effects occur, provisions of the Betting Control Act may conflict with Clause 5(1) of the Competition Principles Agreement unless the restrictions provide a net public benefit and there is no less restrictive means of achieving that public benefit.

The Totalisator Agency Board Betting Act specifies the scope of activities that may be engaged in by the TAB, the manner in which these activities may be undertaken, and the financial framework within which the TAB must operate. Provisions of the Act are thus potentially important in: (i) restricting the commercial opportunities and constraints of the TAB; and (ii) influencing the relative competitive position of the TAB *vis a vis* other businesses in the betting industry and generally in the gambling industry. Where these effects occur, provisions of the Totalisator Agency Board Betting Act may conflict with Clauses 3(1) and 5(1) of the Competition Principles Agreement unless the restrictions provide a net public benefit and there is no less restrictive means of achieving that public benefit.

The above generic descriptions of potential restrictions on competition were utilised to identify specific restrictions in the Act and regulations. The restrictions thus identified are described below.

## 4.2 Betting Control Act 1954

The Betting Control Act is reviewed below and potential restrictions on competition identified.

Sections 1 to 4 of the Act contain definitional and transitional provisions and were not considered to give rise to any potential restrictions on competition.

Sections 4A and 4B provide for the Act to apply to certain sporting events other than horse and greyhound races. Provisions of these sections give rise to the following potential restriction.

- Conduct of betting by a bookmaker in relation to a sporting event may only occur for “designated” events for which general approval for betting has been granted by the Betting Control Board, and where the events are conducted at places registered for the purpose by the Board (BCA Sections 4A(1))
- A person who desires to conduct a designated sporting event at a registered place must obtain a permit for the event from the Betting Control Board. Applications for such permits must be accompanied by such information as is prescribed or as is otherwise required by the Board. (BCA Section 4A(2))
- Bookmakers may only conduct betting on sporting events, and on specific contingencies of sporting events, approved for bookmaking by the Betting Control Board. (BC Act Section 4B(2))
- Bookmaking for sporting events may only be conducted at a race course. (BC Act Section 4B(4))
- Bookmaking conducted from a race course on sporting may only be conducted by bookmakers that hold a bookmaker’s licence endorsed to authorise such betting (BC Act Section 4B(1)).
- Bookmaking for sporting events may only be conducted by bookmakers for whom a permit has been granted for that specific purpose by the authority controlling the race course at which bookmaking occurs. (BC Act Section 4B(4))

Section 5 provides for the legalisation of betting with bookmakers. This section gives rise to the following potential restrictions.

- Betting with bookmakers and related transactions may only be conducted on a race course and, in limited circumstances, at other premises prescribed by the Betting Control Board. (BC Act Sections 5(1), 5(1a)).
- Betting with bookmakers may not occur on Anzac Day prior to 12 noon. (BC Act Section 5(1)).

Sections 6 to 6G, 7, 9 and 10 provide for establishment and operation of the Betting Control Board as the public authority administering the Act. No provisions of these sections are considered to give rise to potential restrictions on competition.

Section 8 of the Act has been repealed.

Section 11 provides for the licensing of bookmakers by the Betting Control Board. This section gives rise to the following potential restrictions.

- A person wishing to obtain a licence to act as a bookmaker or a bookmakers employee must apply to the Betting Control Board and must furnish any information in support of the application as the Board may require, and must pay a prescribed fee. (BC Act Sections 11(1), 11(3)).
- Bookmakers' licences and bookmakers' employees licences are not transferable. (BC Act Section 11(2))
- The Betting Control Board is not required to specify reasons for refusal of licence applications. (BC Act Section 11(3))
- An applicant for a bookmaker's licence may be required to lodge with the Betting Control Board a bond as security for due observance by the bookmaker and the employees of the bookmaker of the provisions of the Betting Control Act and the terms and conditions of any licence issued under the Act to that bookmaker or such employees. (BC Act Section 11(3)(a)).
- A bookmaker's licence or bookmaker's employee licence cannot be granted to any person under the age of 18 years. (BC Act Section 11(5)(b))
- A bookmaker's licence or bookmaker's employee licence cannot be granted to a body corporate. (BC Act Section 11(5)(c))
- A bookmaker's licence or bookmaker's employee licence cannot be granted to an undischarged bankrupt. (BC Act Section 11(5)(b))
- A bookmaker is responsible for all actions of an employee relating to the bookmaking business, is severally liable with the employee for offences against the Betting Control Act, and is generally required to be present at or in close proximity to the area in which the employee is conducting bookmaking activities. (BC Act Section 11(7)(a))
- The Betting Control Board may apply a security lodged by a bookmaker against a betting debt of the bookmaker, regardless of the date the debt was incurred, and debts to the Betting Control Board. (BC Act Sections 11(12), 11(13))
- Any person carrying on the business of bookmaking, or any aspect of the business of a bookmaker must do so in accordance with a licence issued by the Betting Control Board. (BC Act Section 11(16))

Section 12 relates to the activities of bookmakers on a race course. This section gives rise to the following potential restrictions.

- A licensed bookmaker must obtain a permit from the committee or other authority controlling a racecourse in order to conduct business on that racecourse. (BC Act Section 12(1))

- The committee or other authority controlling a race course may attach any such conditions as it sees fit to a bookmaker's permit. (BC Act Section 12(2))
- Bookmaking activities may only be carried on in areas of a race course specifically set aside for that purpose by the committee or other authority controlling the race course. (BC Act Section 12(3))
- Except for betting on sporting events, bookmaking activities may only be conducted on a race course during the holding of a race meeting at the race course. (BC Act Section 12(3))
- On Anzac Day, bookmaking activities may only be conducted during the period commencing at 12 noon and ending at the completion of the race meeting. (BC Act Section 12(3))
- A bookmaker wishing to appoint an agent to act in his or her place at a race meeting must obtain a permit from the committee or other authority controlling the race course. (BC Act Section 12(4))
- A committee or other authority controlling a race course is required to ensure that bookmakers are appropriately licensed, to maintain records on bookmaking activities and ensure that these are delivered to the Board in the appropriate manner, and is required to ensure payment of bookmakers' betting levy. (BC Act Section 12(5)).

Section 12A provides for stewards in charge of a race meeting to grant a temporary bookmaker's employee's licence for the duration of a race meeting. This section was not considered to give rise to any additional restrictions to those already established by provisions of Section 11 relating to licensing of bookmakers employees.

Section 13 provides for payment of annual licences fees by bookmakers to the Betting Control Board. This section gives rise to the following potential restriction.

- The holder of a bookmaker's licence is required to pay an annual licence fee at a prescribed rate assessed on the total turnover of the bookmaking during the preceding year of assessment. (BC Act Section 13(1))

Section 13 also provides for regulations to be made under the Act in relation to various scales of fee rates, the nature of records to be maintained by bookmakers, and the manner of payment of fees to the Board. As these provisions comprise heads of power for the Board, they were not in themselves considered to constitute potential restrictions on competition.

Section 14 to 17 relate to the payment by bookmakers of levies on betting turnover. These sections give rise to the following potential restrictions.

- A bookmaker is required to pay a levy assessed on the whole of that bookmaker's annual betting turnover, including bets placed as a bookmaker either on-course or at prescribed premises. (BC Act Sections 14, 15, 16).



- A bookmaker is required to maintain records and accounts of all betting transactions and betting turnover and to provide these records to relevant racing clubs and/or the Betting Control Board (BC Act Sections 14, 15, 16, 16A).
- A racing club is required to apply one-half of bookmaking levies retained by the club towards increasing stakes. (BC Act Section 15(5))

Sections 17A to 17F relate to the operation of totalisators by racing clubs. These sections give rise to the following potential restrictions.

- A racing club operating a totalisator is required to pay an annual licence fee assessed on the total turnover of the totalisator during the preceding year. (BC Act Section 17A(1))
- A racing club operating a totalisator is required to maintain records of totalisator turnover and provide these to the Betting Control Board for the purpose of assessing the amount of the annual licence fee. (BC Act Section 17A(5))
- Racing clubs wishing to operate a totalisator must obtain approval from the Betting Control Board. (BC Act Section 17B(1), 17D)
- A racing club wishing to obtain authorisation to possess and operate a totalisator must apply to the Betting Control Board and must furnish any information in support of the application as the Board may require. (BC Act Section 17D)
- A person under the age of 18 years is prohibited from participating in the use of totalisator facilities. (BC Act Section 17B(3))
- The committee or authority of a racing club authorised to possess and operate a totalisator is required to maintain records of the transactions made in relation to the totalisator. (BC Act Sections 17B(5))
- Sporting organisations conducting a sporting event designated to allow bookmaking are not permitted to possess or operate a totalisator. (BC Act Section 17C)
- The TAB must deduct commission at a prescribed rate from every totalisator bet received by the TAB or one of its agencies. (BC Act Section 17E)
- A racing club must deduct commission at a prescribed rate from every totalisator bet received by the racing club. (BC Act Section 17FE)

Sections 18, 18A, 18B, 19, 19A provide for the collection of licence fees, bookmaking levies and penalties for payment to the Betting Control Board. This section gives rise to the following potential restrictions.

- A racing club is required to maintain records of bookmaking activities and collect payments of bookmaking levies and provide these records and payments to the Betting Control Board. (BC Act Section 18A(1))

Section 20 provides for officers authorised by the Betting Control Board or authorised under the Gaming Commission Act 1987 to have powers of inspection of bookmaking activities and records. No potential restrictions on competition are considered to arise from these provisions.

Sections 21 and 22 relate to conduct of betting. This section gives rise to the following potential restrictions.

- Bookmakers and the operators of totalisators are prohibited from betting with a person under the age of 18 years. (BC Act Sections 21(1)(a), 21(3)(a))
- Bookmakers and the operators of totalisators are prohibited from betting with a person who appears to be under the influence of alcohol. (BC Act Sections 21(1)(b), 21(3)(b))
- The operator of a totalisator is prohibited from employing any person under the age of 18 years (BC Act Section 21(3)(d)).
- The operator of a totalisator must limit the sound from broadcast programmes or television so as not to constitute an annoyance to persons outside of the totalisator premises (BC Act Section 21(3)(e)).
- Persons under the age of 18 are prohibited from entering the premises of a totalisator while it is open for the receiving of bets, and from betting with a totalisator or a bookmaker, or having betting undertaken on their behalf. (BC Act Section 22)

Sections 23 and 24 of Act define unlawful betting and provides for penalties for unlawful betting. This section gives rise to the following potential restrictions.

- Betting on races is prohibited other than in accordance with provisions of the Betting Control Act. (BC Act Section 23(1))
- Placing bets on behalf of persons under 18 years of age, or on behalf of persons otherwise prohibited from betting, is prohibited. (BC Act Section 23(2))
- A current bookmakers' licence is required for a person to act as a bookmaker. (BC Act Section 24(1)(a))
- A person may not bet with any person acting as a bookmaker unless the person acting as a bookmaker is the holder of a current bookmakers licence, and the betting is carried out in accordance with the Betting Control Act. (BC Act Section 24(1)(b), 24(1)(c))
- A person may not bet by means of a totalisator unless that totalisator is authorised to operate under, and is operated in accordance with written law, and the betting is carried out in accordance with written law. (BC Act Sections 24(1)(d), 24(1)(e))

Section 25 provides for and operators of totalisators to be ordered not to bet with certain persons. This section gives rise to the following potential restriction.

- Bookmakers and operators of totalisators may be ordered not to bet with a person likely to be impoverished by betting. (BC Act Sections 25)

Sections 26, 26A, 26B, 26C provide powers for the police force to take action against persons suspected of engaging in activities associated with betting contrary to the Betting Control Act. These sections were not considered to give rise to any restrictions on competition.

Section 27 prohibits betting at unauthorised premises and provides for penalties for betting at unauthorised premises. This section gives rise to the following potential restrictions.

- The owner or occupier of a premises is prohibited from using the premises for betting except where the premises is on a racecourse where a race meeting is being held; by means of a totalisator duly authorised under a written law; in accordance with the Betting Control Act; by the TAB in accordance with the Totalisator Agency Board Betting Act; or in accordance with the Gaming Commission Act. (BC Act Section 27)

Sections 28, 28A to 28G, 30, 30A, 31 and 31A define offences with respect to betting, and provide for judicial proceedings and penalties in relation to these offences. Most provisions of these sections relate to prohibitions or restrictions imposed by other sections of the Act. Potential restrictions arising from these sections are as follows.

- Racing clubs operating totalisators are not permitted to act on any telegraphic, telephonic or radiographic instruction relating to investments on the totalisators. (BC Act Sections 28E, 28F)
- Any employee of a bookmaker must hold a bookmaker's employee's licence. (BC Act Section 31(1)(a))
- Bookmakers are prohibited from allowing any other person to have an interest, financial or otherwise, in the business of that bookmaker. (BC Act Section 31(1)(c))
- A Bookmaker is prohibited from paying commission or give any inducements to any person on behalf of any other person making or taking bets with that bookmaker. (BC Act Section 31(1)(e))

Section 32 provides for resolution of disputes relating to bets with bookmakers. This section was not considered to give rise to any restrictions on competition.

Section 32A provides the Betting Control Board with disciplinary powers over holders of licences or authorisations issued under the Betting Control Act. This section was not considered to give rise to any restrictions on competition additional to the prohibitions and restrictions arising from other sections of the Act.

Section 33 provides for the governor to make regulations for giving effect to the operation of the Act. This head of power was not considered in itself to give rise to any restrictions on competition.

Section 34 provides for coordination of provisions of the Betting Control Act with other Acts relating to gaming, betting, horse racing and greyhound racing. This section was not considered to give rise to any restrictions on competition.

Section 36 requires the Minister to undertake reviews of the operation of the Act. This section was not considered to give rise to any restrictions on competition.

### **4.3 Betting Control Regulations 1978**

Provisions of the Betting Control Regulations 1978 are reviewed below and potential restrictions on competition identified.

Regulations 1 to 3 relate to citation, transitional provisions and interpretation. These regulations were not considered to give rise to any restrictions on competition.

Regulations 4 to 8 relate to administration of operations of the Betting Control Board. These regulations were not considered to give rise to any restrictions on competition.

Regulations 9 to 16 relate to procedural matters for licences and approvals granted under the Betting Control Act. These regulations were not considered to give rise to any restrictions on competition.

Regulations 17, 17A and 17B specify fees relating to bookmakers' and totalisator licences. In combination with provisions of the Betting Control Act relating to fees for approvals and licences, these regulations are considered to give rise to potential restrictions on competition.

Regulations 17C, 17D, and 17E provide for the retention of commissions and percentages of bets by the TAB and racing clubs. These regulations were not considered to give rise to any restrictions on competition.

Regulation 18 specifies amounts of security to be lodged with the Board under Section 11 of the Betting Control Act on an application for a bookmakers licence. In combination with Section 11 of the Act, these regulations are considered to give rise to potential restrictions on competition.

Regulations 19 to 24 have been repealed.

Regulations 25 to 29 relate to the maintenance of a register of licences issued under the Betting Control Act and provide powers for the Betting Control Board to demand return or production of licences. These regulations were not considered to give rise to any restrictions on competition.

Regulation 30 provides for bookmakers to undertake advertising. This regulation was not considered to give rise to any restrictions on competition.

Regulations 31 to 35 have been repealed.

Regulation 36 relates to betting tickets used by bookmakers. This regulation gives rise to the following potential restrictions on competition.

- Bookmakers may only use betting tickets approved by the Board and must comply with requirements for numbering, provision of information on each ticket, and procedures for issue and cancelling of tickets. (BC Regs Regulation 36)

- Bookmakers may not sell or transfer a betting ticket to any other bookmaker unless it is in respect to a bet. (BC Regs Regulation 36)

Regulation 37 relates to the keeping of records by bookmakers on betting transactions. This regulation gives rise to the following potential restrictions on competition.

- Records of betting transactions by bookmakers must include specified information on each transaction and must be maintained on forms provided by the Betting Control Board. (BC Regs Regulation 37)
- Bookmakers may only use a computer to conduct their business upon obtaining approval from the Board and authorisation from the committee or other authority controlling the race course. (BC Regs Regulation 37)

Regulations 38 and 39 relate to the supply of record books to bookmakers and contingencies for loss of books. These regulations were not considered to give rise to any restrictions on competition.

Regulations 40 to 42 have been repealed.

Regulation 43 relates to the delivery of betting material (betting records) to the Betting Control Board. This regulation gives rise to the following potential restrictions on competition.

- Betting material requested by the Betting Control Board from bookmakers must be completed prior to delivery to the Board and delivered within a specified time period. (BC Regs Regulation 43)

Regulations 44 to 47 have been repealed.

Regulations 48 to 52 relate to rules of betting. These regulations give rise to the following potential restrictions on competition.

- All bets must be in accordance with rules of betting set out in the appendix to the regulations. (BC Regs Regulation 48)
- Bookmakers are constrained as to the types of bets that may be made. (BC Regs Regulations 50 to 55)

Regulation 56 relates to the making of betting transactions on premises in which liquor is sold. This regulation gives rise to the following potential restriction on competition.

- The holder of a bookmakers licence, other than where an agent of the TAB, may not make transactions in relation to bets in any premises licensed under the Liquor Licensing Act 1988. (BC Regs Regulation 56)

Regulations 57 to 59 relate to the use of stands by bookmakers at race meetings. These regulations are considered to give rise to the following restrictions on competition.

- A bookmaker may only make betting transactions from a stand or other specified area allocated by the committee or other authority controlling the race meeting. (BC Regs Regulation 57)
- No person other than the bookmaker or a licensed employee is permitted upon the betting stand of the bookmaker. (BC Regs Regulation 58)
- A bookmaker or employee is required to remain at the allocated betting stand for at least 15 minutes after declaration of correct weight for the last race on the programme at any meeting on which the bookmaker is operating. (BC Regs Regulation 58)
- A bookmaker carrying on business at a race meeting is required to display on the betting stand a tablet or sign indicating the name of the bookmaker. (BC Regs Regulation 59)

Regulations 60 to 62 relate to the use of betting boards by bookmakers. These regulations are considered to give rise to the following restrictions on competition.

- Display of betting boards is required to be in accordance with requirements of, or approval by, the committee or other authority controlling a race meeting. (BC Regs Regulation 60)
- A bookmaker is required to display a betting board with the names of horses or greyhounds in each race and the relevant odds. (Regulation 61)

Regulation 63 relates to the placement of bets by bookmakers with other bookmakers. This regulation is considered to give rise to the following restriction on competition.

- For the purposes of calculating turnover on which levy is payable, a bookmaker is not permitted to deduct the amount of a bet laid off with another bookmaker from the total of the bets the bookmaker has received. (BC Regs Regulation 63)

Regulations 64 and 65 relate to the responsibilities and duties of bookmakers. These regulations are considered to give rise to the following restriction on competition.

- A bookmaker betting in a grandstand enclosure in the metropolitan area cannot accept a bet of less than one dollar. (BC Regs Regulation 64)
- A bookmaker is compelled to accept bets to lose the amount prescribed under the rules or by the committee or other authority controlling the race course on which the bookmaker is betting. (BC Regs Regulations 64, 65)
- A bookmaker is not permitted to bet on any race other than a race run at the race course on which he is betting on unless the bookmaker is permitted to do so by the committee or other authority controlling that race course. (BC Regs Regulations 64, 65)

Regulations 66 and 67 have been repealed.

Regulation 68 provides for the Betting Control Board to obtain information for the purpose of settling betting disputes from persons associated with betting or the conduct of race meetings. This regulation is considered to give rise to the following restriction on competition.

A racing club, the committee or other authority controlling the race course or any race meeting, an any steward or other person acting in the course of the administration of any racecourse or race meeting on behalf of any such club, committee or other authority, shall, on demand by the Board for the purposes of these regulations, produce to the Board relevant material or information in their possession and relating to any preliminary or other hearing of a betting dispute which is the subject of an appeal to the Board. (BC Regs Regulation 68)

Regulation 69 lists prescribed premises under Section 5(1) of the Act at which betting transactions may be undertaken. In combination with Section 5(1) of the Act, this regulation gives rise to the following restriction on competition.

- Betting with bookmakers may only be conducted on a race course, at the premises in the local government district of Perth known as the “Tattersalls Club”, and at other premises prescribed by the Betting Control Board. (BC Regs Regulation 69).

Regulation 70 relates to the operation of totalisators by racing clubs. This regulation gives rise to the following potential restriction on competition.

- Totalisator bets received by a race club may only be transmitted to totalisator pools of other clubs or the TAB with the authorisation of the club receiving the bet or the TAB, respectively. (BC Regs Regulation 70)

Regulations 71 and 72 relate to the receipt by bookmakers of bets by telephone. These regulations give rise to the following potential restrictions on competition.

- Bookmakers must be authorised by the Board to carry on business by means of on course telephone betting. (BC Regs Regulations 71, 72)
- Bookmakers authorised by the Betting Control Board to accept bets by telephone must also obtain permission for such from the committee or other authority controlling the race course. (BC Regs Regulations 71, 72)
- Bookmakers accepting telephone bets must use a telephone system that has been approved by the Board. (BC Regs regulations 71, 72)
- A bookmaker cannot accept a telephone bet on a horse or greyhound race unless the bet greater than or equal to \$200 or the amount to be won is greater than or equal to \$2,000. (BC Regs Regulations 72)
- A bookmaker can only accept telephone bets on a race being conducted as part of another race meeting in the state with the permission of the committee or other authority controlling that other race meeting. (BC Regs Regulation 72)

#### **4.4 Totalisator Agency Board Betting Act 1960**

Provisions of the Totalisator Agency Board Betting Act (TABB Act) are reviewed as follows and potential restrictions on competition identified.

Sections 1 to 3 of the Act contain definitional and transitional provisions and were not considered to give rise to any potential restrictions on competition.

Sections 4 to 16 provide for the establishment of the Totalisator Agency Board (TAB) as a body corporate governed by a board appointed by the Minister. Provisions of these sections were not considered to give rise to any potential restrictions on competition. Section 14(1) of the Act provides for exemption of Board members from personal liability for any action undertaken in good faith in connection with duties carried out under the Act. However, this provision has effect subject to the Statutory Corporations (Liability of Directors) Act which means that members of the Board have similar potential liabilities as directors of corporations generally.

Section 17 relates to the establishment of offices and agencies by the TAB. Provisions of this section give rise to the following potential restrictions on competition.

- The approval of the Minister is required for the TAB to establish a TAB agency. (TABB Act Section 17(1)).
- A TAB agency cannot be established in any licensed premises unless the portion of those premises which is to be used as a totalisator agency is clearly defined. (TABB Act Section 17(2)).

Sections 18 and 19 specify financial arrangements and borrowing powers for the TAB. These sections give rise to the following potential restrictions on competition.

- The TAB is able to compulsorily acquire an unsecured loan of \$100 000 from the Western Australian Turf Club and the Western Australian Trotting Association to meet expenses associated with the establishment of the TAB and its offices and agencies, and the conduct of its operations until such time as the TAB is able to meet the expenses in full from its funds. (TABB Act Sections 18(1), 18(2), 18(3))
- The TAB is required to pay an annual fee to the Betting Control Board to meet the costs of that Board in regulating TAB operations (TABB Act Section 18(7))
- The TAB must gain the approval from the Treasurer to borrow moneys. (TABB Act Section 19(1))
- Borrowings of the TAB may be guaranteed by the Treasurer. (TABB Act Section 19(2))

Section 19A defines the scope of sporting events on which the TAB may conduct totalisator betting. Provisions of this section give rise to the following potential restriction on competition.



- In relation to betting on sporting events, the TAB may only conduct betting on cricket matches, Australian Rules Football matches, and other sporting events prescribed in the Totalisator Agency Board (Betting) Regulations 1988. (TABB Act Section 19(1))

Section 20 provides for lawful off-course betting with the TAB. Provisions of this section give rise to the following potential restrictions on competition.

- The TAB may only conduct betting on races held at venues prescribed in the Totalisator Agency Board (Betting) Regulations 1988. (TABB Act Section 20(1))
- A TAB agency can only be situated on a race course under approval of the racing club having control and management of the race course. (TABB Act Section 20(1))

Section 21 relates to the transmission of totalisator bets through the TAB. Provisions of this section give rise to the following potential restrictions on competition.

- Bets made through the TAB and transmitted to an on-course totalisators are deemed to be received by the TAB as an agency for the racing club and form part of the moneys invested with the on-course totalisator. (TABB Act Section 21(1)).
- The TAB may only transmit bets and itself make bets to on-course totalisators as may be prescribed in the Totalisator Agency Board (Betting) Regulations 1988. (TABB Act Section 21(2))

Section 21A relates to the transmission of bets to the TAB from racing clubs. Provisions of the section were not considered to give rise to any restrictions on competition.

Sections 22 and 23 relate to the payment of dividends by the TAB. Provisions of this section give rise to the following potential restrictions on competition.

- The TAB is required to make payments of dividends on bets in accordance with prescribed procedures and timing. (TABB Act Section 22)

Section 24 has been repealed.

Section 25 relates to the payment of taxation by the TAB. Provisions of this section give rise to the following potential restrictions on competition.

- The TAB must pay tax on its betting activities assessed on the whole of its betting turnover. (TABB Act Section 25)

Section 26 provides for the TAB to establish and operate reserve accounts. Provisions of the section were not considered to give rise to any restrictions on competition.

Section 27 provides for the TAB to participate in combined totalisator pool schemes with other states or territories or with other authorities or bodies corporate prescribed in the Totalisator Agency Board (Betting) Regulations 1988 for such purpose. Provisions of this section were not considered to give rise to any restrictions on competition.

Sections 28 and 28A stipulate requirements for the allocation of funds from the TAB to racing and sporting organisations. The distribution of operational surpluses or profits is

not in itself considered to be a restriction. The only restriction arising from these sections arises where a proportion of TAB turnover is required to be used for a particular purpose and thereby imposes a cost on the TAB as follows.

- In relation to sporting events, the TAB shall credit an amount representing 1.75% of the totalisator pool for these events for the purpose of promoting totalisator betting on sporting events. (TABB Act Section 28A)

Section 29 relates to the payment of stamp duties by the TAB. Provisions of this section give rise to the following potential restrictions on competition.

- No stamp duty is payable on any cheque drawn by the TAB. (TABB Act Section 29)

Sections 30 to 32 have been repealed.

Sections 33 to 35 relate to the receipt of bets by the TAB and the prevention of the TAB from receiving bets on credit. Provisions of these sections give rise to the following potential restrictions on competition.

- The TAB may only accept bets made in cash or by post telegram or telephone where the person making the bet has established with the TAB a credit account with sufficient funds available to cover the bet. (TABB Act Section 33)
- The TAB may not accept bets of less than 25 cents. (TABB Act Section 35)

Section 36 provides powers for members of the TAB, members of the Betting Control Board, the Commissioner of State Taxation and other duly authorised persons to enter and inspect premises at which betting takes place. Provisions of this section were not considered to give rise to any restrictions on competition.

Sections 37 to 39 have been repealed.

Section 40 provides for lawful broadcasting of information relating to payment of dividends on totalisator bets. Provisions of this section were not considered to give rise to any restrictions on competition.

Section 55 relates to the effect of bets transmitted by the TAB to on-course totalisators, on remuneration contracts for persons operating on-course totalisators, where these contracts existed prior to application of the Act. Provisions of this section were not considered to give rise to any restrictions on competition.

Section 56 provides for application of the Financial Audit and Administration Act 1985 to the TAB and its operations. Provisions of this section were not considered to give rise to any restrictions on competition.

Section 57 provides for the governor to make regulations for giving effect to operation of the Act. This head of power was not considered in itself to give rise to any restrictions on competition.

#### **4.5 Totalisator Agency Board (Betting) Regulations 1988**

The Totalisator Agency Board (Betting) Regulations relate generally to the operations of the TAB and its agencies. The regulations are arranged in seven parts, as follows.

- Part 1 - Preliminary.
- Part 2 - General Conditions Relating to Bets Made at or Through Totalisator Agencies.
- Part 2A - General Conditions Relating to Bets Received and Transmitted by Racing Club to TAB.
- Part 3 - Deposit Account Betting.
- Part 4 - General Provisions.
- Part 5 - Novelty Bets.
- Part 6 - Sporting Events.

The scope of each part of the regulations is reviewed below and potential restrictions on competition are identified.

##### *Part 1 - Preliminary*

Regulations 1 to 3 in Part 1 contain definitional and transitional provisions and were not considered to give rise to any potential restrictions on competition.

##### *Part 2 - General Conditions Relating to Bets Made at or Through Totalisator Agencies.*

Regulations 4 to 19 in Part 2 specify a range of rules for commercial operation of TAB agencies and betting transactions. These regulations give rise to the following potential restrictions on competition.

- The following persons are prohibited from entering a totalisator agency: a person under disqualification imposed under the rules of racing, trotting or greyhound racing; a person in respect to whom an order has been issued under Section 25 of the Betting Control Act, preventing any bookmaker from betting with that person; a person apparently under the influence of alcohol; a person who behaves in an undesirable, offensive or disorderly manner; and a person smoking a tobacco product. (TABB Regs Regulation 4)
- Bets made with the TAB are required to be a minimum of 50 cents and to be multiples of 50 cents. (TABB Regs Regulation 7(1))
- Dividends are required to be calculated and payable in multiples of 5 cents. (TABB Regs Regulation 7(2))
- Dividends on units of 50 cents are required to be declared by the TAB. (TABB Regs Regulation 8)

- The TAB may not accept bets from persons under the age of 18 years. (TABB Regs Regulation 9(2))
- Bets by telephone, post or telegram may only be accepted by the TAB where a deposit account has been established with the TAB for this purpose or where the bets are accompanied by a cash remittance. (TABB Regs Regulation 12)
- The TAB may not accept instructions for alternative bets in the event of a horse or greyhound selected for the bet being scratched, or participants in a sporting event not taking part. (TABB Regs Regulation 13(2))
- Totalisator tickets issued by the TAB must be marked with specified information describing the event to which the bet relates and the details of the bet. (TABB Regs Regulation 14)
- The TAB is required at all totalisator agencies to exhibit notices providing information necessary for the proper identification of events and contingencies to which bets may relate. (TABB Regs Regulation 15)
- The TAB is required to make dividends or refunds payable for a period of seven months after the events on which the respective bets were made. (TABB Regs Regulation 17)
- The TAB is required to make refunds of bets where an event to which bets relate does not occur or is postponed. (TABB Regs Regulation 19)

*Part 2A - General Conditions Relating to Bets Received and Transmitted by Racing Club to TAB.*

Regulations 19A to 19F in Part 2A specify a range of rules for transmission of bets from a racing club to the TAB. These regulations give rise to the following potential restrictions on competition.

- A racing club may not transmit bets to the TAB unless that racing club has been authorised by the TAB to transmit bets and the authorisation has not been withdrawn by the TAB. (TABB Regs Regulation 19A)

*Part 3 - Deposit Account Betting*

Regulations 20 to 29 in Part 3 specify a range of rules for betting with the TAB using deposit accounts established with TAB agencies. These regulations give rise to the following potential restrictions on competition.

- The TAB is required to print totalisator tickets for bets recorded against a deposit account. (TABB Regs Regulation 22)
- Dividends due and payable to a depositor shall be deemed to be credited to the depositor's account with the TAB immediately such dividends are known to the TAB. (TABB Regs Regulation 23)

- In respect of bets made with the TAB by post or telegram, the TAB is required to post dividends and refunds to the investor on the earliest convenient day next after the day of the race or sporting event on which the bets were made. (TABB Regs Regulation 27(2))

#### *Part 4 - General Provisions*

Regulations 30 to 37B in Part 4 specify a range of rules for betting with the TAB. These regulations give rise to the following potential restrictions on competition.

- The TAB is required to set the closing time for bets on races at the starting time for the races to which bets pertain. (TABB Regs Regulation 30(1))
- The TAB is required to display on notices the closing time for acceptance of bets on sporting events (TABB Regs Regulation 30(2))
- Where details of a bet otherwise properly received by the TAB to be recorded in a totalisator pool have not been duly recorded owing to a failure in the means of, or error in, transmission, or to other circumstances beyond the control of the TAB, the TAB is required to pay any dividend on the bet as if the bet had been duly recorded. (TABB Regs Regulation 31(2))
- Except in the case of novelty betting, where the TAB transmits bets to a totalisator operating on a race course and also conducts a totalisator pool for bets of the same kind on the same race or races, the pool conducted by the TAB shall be operated in accordance with the provisions governing the operation of the racecourse totalisator for bets of that kind. (TABB Regs Regulation 31(3))
- Certain maximum and minimum dividend payments pertain to bets lodged with the TAB for a race conducted on a racecourse situated outside the state. (TABB Regs Regulation 33(3))
- Dividends payable by the TAB must be made in accordance with rules and procedures prescribed in the regulations. (TABB Regs Regulation 34)
- The TAB is required to lodge with the Commissioner of Taxation monthly returns of all moneys paid to the TAB, and the amount of TAB betting tax payable in respect of those moneys. (TABB Regs Regulation 37)
- The fee payable by the TAB to the Betting Control Board under Section 18(7) of the Totalisator Agency Board Betting Act is required to be paid in such amounts and at such times as the Betting Control Board determines. (TABB Regs Regulation 37A)

#### *Part 5 - Novelty Bets*

Regulations 38 to 44 in Part 5 provide for the TAB to accept a range of types of bets known collectively as novelty bets. These regulations were not considered to give rise to any potential restrictions on competition.

## *Part 6 - Sporting Events*

Regulations 45 to 57 in Part 6 provide for the TAB to accept a range of types of bets on the sporting events of Australian rules football, cricket and soccer. In so far as the regulations do not provide for betting on other events, the regulations give rise to the following restrictions.

- In relation to betting on sporting events, the TAB may only conduct betting on cricket matches, Australian Rules Football matches, soccer matches and rugby matches. (TABB Regs Regulations 52, 55)

### **4.6 Summary of Restrictions**

#### **4.6.1 Preamble**

To provide for an orderly analysis of restrictions on competition, the potential restrictions identified in the legislation were grouped into the following categories according to a general area of application.

- Restrictions on events and contingencies for which betting may occur.
- Restriction on persons and organisations able to conduct betting.
- Constraints and costs imposed on bookmakers and operators of totalisators generally.
- Constraints and costs imposed on racing clubs, authorities controlling racecourses and owners/occupiers of premises.
- Constraints and costs imposed on punters.
- Constraints and costs imposed on the TAB.
- Competitive neutrality of the TAB.

The potential restrictions on competition in each of these categories are summarised and numbered below.

#### **4.6.2 Events and Contingencies on which Betting May Occur**

**Restriction 1:** Conduct of betting by a bookmaker in relation to sporting events may only occur for “designated” events for which general approval for betting has been granted by the Betting Control Board, may only occur where the events are conducted at places registered for the purpose by the Board. (BC Act Sections 4A(1), 4B(2))

**Restriction 2:** A person who desires to conduct a designated sporting event at a registered place must obtain a permit for the event from the Betting Control Board. Applications for such permits must be accompanied by such information as is prescribed or as is otherwise required by the Board. (BCA Section 4A(2))

**Restriction 3:** Sporting organisations conducting a sporting event designated to allow bookmaking are not permitted to possess or operate a totalisator. (BC Act Section 17C)

**Restriction 4:** In relation to betting on sporting events, the TAB may only conduct betting on cricket matches, Australian Rules Football matches and other prescribed sporting events. (TABB Act Section 19A(1), TABB Regs Regulations 52, 55)

#### **4.6.3 Restrictions on Persons and Organisations able to Conduct Betting**

##### *Operation of Totalisators*

**Restriction 5:** Operation of a totalisator and betting by means of a totalisator are prohibited other than for on-course totalisators operated by racing clubs and authorised under the Betting Control Act, and off-course totalisators operated by the TAB. A racing club wishing to possess and operate a totalisator must obtain authorisation from the Betting Control Board, must furnish any information in support of the application as the Board may require, and must pay ongoing annual licence fees assessed on the total annual turnover of the totalisator. (BC Act Sections 17A(1), 17B, 17D, 24(1); TABB Act Sections 19A, 20).

##### *Bookmaking Activities*

**Restriction 6:** A current bookmaker's licence is required for a person to act as a bookmaker. A person wishing to obtain a licence to act as a bookmaker must apply to the Betting Control Board and must furnish any information in support of the application as the Board may require, and must pay a prescribed application fee. Holders of bookmakers licences must pay ongoing annual licence fees assessed on the total annual turnover of the totalisator. (BC Act Sections 11(1), 11(16), 13(1), 24(1)(a); BC Regs Regulations 17, 17A)

**Restriction 7:** A current bookmaker's employee licence is required for a person to act as an employee of a bookmaker. A person wishing to obtain a licence to act as a bookmaker's employee must apply to the Betting Control Board and must furnish any information in support of the application as the Board may require, and must pay a prescribed fee. (BC Act Sections 11(3), 11(16), 31(1)(a))

**Restriction 8:** Bookmaker's licences and bookmaker's employees licences are not transferable. (BC Act Section 11(2))

**Restriction 9:** The Betting Control Board is not required to specify reasons for refusal of licence applications. (BC Act Section 11(3))

**Restriction 10:** A bookmaker's licence or bookmaker's employee licence cannot be granted to any person under the age of 18 years. (BC Act Section 11(5)(b))

**Restriction 11:** A bookmaker's licence or bookmaker's employee licence cannot be granted to a body corporate. (BC Act Section 11(5)(c))

**Restriction 12:** A bookmaker's licence or bookmaker's employee licence cannot be granted to an undischarged bankrupt. (BC Act Section 11(5)(b))

**Restriction 13:** Bookmaking conducted from a race course on sporting events may only be conducted by bookmakers that hold a bookmaker's licence endorsed to authorise such betting (BC Act Section 4B(1)).

**Restriction 14:** A licensed bookmaker must obtain a permit from the committee or other authority controlling a racecourse in order to conduct business on that racecourse. (BC Act Section 12(1))

**Restriction 15:** A permit from the committee or other authority controlling a racecourse is required for a bookmaker operating from that racecourse to bet on any race conducted at another racecourse. (BC Regs Regulations 64, 65)

**Restriction 16:** Bookmaking for sporting events may only be conducted by bookmakers for whom a permit has been granted for that specific purpose by the authority controlling the race course at which that bookmaking occurs. (BC Act Section 4B(4))

**Restriction 17:** A bookmaker wishing to appoint an agent to act in his or her place at a race meeting must obtain a permit from the committee or other authority controlling the racecourse. (BC Act Section 12(4))

**Restriction 18:** Authorisation from the Betting Control Board is required for a bookmaker to carry on business by means of on-course telephone betting. (BC Regs Regulations 71, 72)

**Restriction 19:** Bookmakers authorised by the Betting Control Board to accept bets by telephone must also obtain permission for such from the committee or other authority controlling the race course. (BC Regs Regulations 71, 72)

**Restriction 20:** A bookmaker can only accept telephone bets on a race being conducted as part of another race meeting in the state with the permission of the committee or other authority controlling that other race meeting. (BC Regs Regulation 72)

#### **4.6.4 Constraints and Costs Imposed on Bookmakers and Operators of Totalisators Generally**

**Restriction 21:** An applicant for a bookmaker's licence may be required to lodge with the Betting Control Board a bond as security for due observance by the bookmaker and the employees of the bookmaker of the provisions of the Betting Control Act and the terms and conditions of any licence issued under the Act to that bookmaker or such employees. The Betting Control Board may apply a security lodged by a bookmaker against a betting debt of the bookmaker, regardless of the date the debt was incurred, and debts to the Betting Control Board. (BC Act Section 11(3)(a); BC Act Sections 11(12), 11(13); BC Regs Regulation 18)

**Restriction 22:** A bookmaker is required to pay a levy assessed on the whole of that bookmaker's annual betting turnover, including bets placed as a bookmaker either on-course or at prescribed premises. (BC Act Sections 14, 15, 16).

**Restriction 23:** Racing clubs operating totalisators and bookmakers are required to maintain records and accounts of all betting transactions and/or betting turnover from the



respective activities and to provide these records to relevant racing clubs and/or the Betting Control Board. Racing clubs are required to maintain records of bookmaking activities and collect payments of bookmaking levies and provide these records and relevant payments to the Betting Control Board. (BC Act Sections 14, 15, 16, 16A, 17A(5), 17B(5), 18A(1)).

**Restriction 24:** Bookmakers are prohibited from allowing any other person to have an interest, financial or otherwise, in the business of that bookmaker. (BC Act Section 31(1)(c))

**Restriction 25:** A Bookmaker is prohibited from paying commission or give any inducements to any person on behalf of any other person making or taking bets with that bookmaker. (BC Act Section 31(1)(e))

**Restriction 26:** The committee or other authority controlling a race course may attach any such conditions as it sees fit to a bookmaker's permit. (BC Act Section 12(2))

**Restriction 27:** Bookmaking activities may generally only be carried on at racecourses or registered places of sporting events, and in areas of such premises specifically set aside for bookmaking purposes by the committee or other authority controlling the racecourse. A limited range of betting transactions may be conducted at other premises prescribed by the Betting Control Board. Except for betting on sporting events, bookmaking activities may only be conducted on a race course during the holding of a race meeting at the race course. (BC Act Sections 4B(4), 5(2), 12(3); BC Regs Regulation 69)

**Restriction 28:** Betting with bookmakers may not occur on Anzac Day prior to 12 noon. (BC Act Section 5(1); BC Act Section 12(3)).

**Restriction 29:** A bookmaker is responsible for all actions of an employee relating to the bookmaking business, is severally liable with the employee for offences against the Betting Control Act, and is generally required to be present at or in close proximity to the area in which the employee is conducting bookmaking activities. (BC Act Section 11(7)(a))

**Restriction 30:** Bookmakers may only use betting tickets approved by the Board and must comply with requirements for numbering, provision of information on each ticket, and procedures for issue and cancelling of tickets. This includes a prohibition on any bookmaker displaying any information on the face of a betting ticket other than his or her name and the initials of the controlling authority by which that bookmaker is registered (BC Regs Regulation 36)

**Restriction 31:** Bookmakers may not sell or transfer a betting ticket to any other bookmaker unless it is in respect to a bet. (BC Regs Regulation 36)

**Restriction 32:** Records of betting transactions by bookmakers must include specified information on each transaction and must be maintained on forms provided by the Betting Control Board. (BC Regs Regulation 37)

**Restriction 33:** Bookmakers may only use a computer to conduct their business upon obtaining approval from the Board. (BC Regs Regulation 37)

**Restriction 34:** Betting material requested by the Betting Control Board from bookmakers must be completed prior to delivery to the Board and delivered within a specified time period. (BC Regs Regulation 43)

**Restriction 35:** Bookmakers are constrained as to the types of bets they may make. (BC Regs Regulations 50 to 55)

**Restriction 36:** All bets with bookmakers must be in accordance with rules of betting set out in the appendix to the Betting Control Regulations 1998. (BC Regs Regulation 48)

**Restriction 37:** The holder of a bookmakers licence, other than where an agent of the TAB, may not make transactions in relation to bets in any premises licensed under the Liquor Licensing Act 1988. (BC Regs Regulation 56)

**Restriction 38:** A bookmaker may only make betting transactions from a stand or other specified area allocated by the committee or other authority controlling the race meeting. (BC Regs Regulation 57)

**Restriction 39:** No person other than the bookmaker or a licensed employee is permitted upon the betting stand of the bookmaker. (BC Regs Regulation 58)

**Restriction 40:** A bookmaker or employee is required to remain at the allocated betting stand for at least 15 minutes after declaration of correct weight for the last race on the programme at any meeting on which the bookmaker is operating. (BC Regs Regulation 58)

**Restriction 41:** A bookmaker carrying on business at a race meeting is required to display on the betting stand a tablet or sign indicating the name of the bookmaker. (BC Regs Regulation 59)

**Restriction 42:** A bookmaker is required to display a betting board with the names of horses or greyhounds in each race and the relevant odds. (Regulation 61)

**Restriction 43:** Display of betting boards by bookmakers is required to be in accordance with requirements of, or approval by, the committee or other authority controlling a race meeting. (BC Regs Regulation 60)

**Restriction 44:** For the purposes of calculating turnover on which levy is payable, a bookmaker is not permitted to deduct the amount of a bet laid off with another bookmaker from the total of the bets the bookmaker has received. (BC Regs Regulation 63)

**Restriction 45:** A bookmaker betting in a grandstand enclosure in the metropolitan area cannot accept a bet of less than one dollar. (BC Regs Regulation 64)

**Restriction 46:** A bookmaker is compelled to accept bets to lose the amount prescribed under the rules or by the committee or other authority controlling the race course on which the bookmaker is betting. (BC Regs Regulations 64, 65)

**Restriction 47:** Bookmakers accepting telephone bets must use a telephone system that has been approved by the Board. (BC Regs regulations 71, 72)

**Restriction 48:** A bookmaker cannot accept a telephone bet on a horse or greyhound race unless the bet is greater than or equal to \$200 or the amount to be won is greater than or equal to \$2,000. (BC Regs Regulations 72(d))

**Restriction 49:** Bookmakers and the operators of totalisators at racing clubs are prohibited from betting with a person under the age of 18 years. (BC Act Sections 21(1)(a))

**Restriction 50:** Bookmakers and the operators of totalisators at racecourses are prohibited from betting with a person who appears to be under the influence of alcohol, or with a person likely to be impoverished by betting and for whom an order has been issued under Section 25 of the Betting Control Act. (BC Act Sections 21(1)(a), 21(1)(b), 21(3)(a), 21(3)(b), BC Act Sections 25)

**Restriction 51:** The operator of a totalisator at a racing club is prohibited from employing any person under the age of 18 years (BC Act Section 21(3)(d)).

**Restriction 52:** The operator of a totalisator must limit the sound from broadcast programmes or television so as not to constitute an annoyance to persons outside of the totalisator premises (BC Act Section 21(3)(e)).

**Restriction 53:** Totalisator bets received by a race club may only be transmitted to totalisator pools of other clubs or the TAB with the authorisation of the club to which the bet is transmitted bet or the TAB, respectively. (BC Regs Regulation 70; TABB Regs Regulation 19A)

**Restriction 54:** Racing clubs operating totalisators are not permitted to act on any telegraphic, telephonic or radiographic instruction relating to investments on the totalisators. (BC Act Sections 28E, 28F)

**Restriction 55:** The TAB and racing clubs must deduct commission at a prescribed rate from every totalisator bet received. (BC Act Section 17E, 17F; BC Regs Regulations 17C, 17D)

#### **4.6.5 Constraints and Costs Imposed on Racing Clubs, Authorities Controlling Racecourses and Owners/Occupiers of Premises**

**Restriction 56:** A racing club, the committee or other authority controlling the race course or any race meeting, and any steward or other person acting in the course of the administration of any racecourse or race meeting on behalf of any such club, committee or other authority, shall, on demand by the Board for the purposes of these regulations, produce to the Board relevant material or information in their possession and relating to any preliminary or other hearing of a betting dispute which is the subject of an appeal to the Board. (BC Regs Regulation 68)

**Restriction 57:** A committee or other authority controlling a race course is required to ensure that bookmakers are appropriately licensed, to maintain records on bookmaking activities and ensure that these are delivered to the Board in the appropriate manner, and to ensure payment of bookmakers' betting levy. (BC Act Section 12(5)).

**Restriction 58:** A racing club is required to apply one-half of bookmaking levies retained by the club towards increasing stakes. (BC Act Section 15(5))

**Restriction 59:** The owner or occupier of a premises is prohibited from using the premises for betting except where the premises is on a racecourse where a race meeting is being held; by means of a totalisator duly authorised under a written law; in accordance with the Betting Control Act; by the TAB in accordance with the Totalisator Agency Board Betting Act; or in accordance with the Gaming Commission Act. (BC Act Section 27)

#### **4.6.6 Constraints and Costs Imposed on Punters**

**Restriction 60:** Betting on races is prohibited other than in accordance with provisions of the Betting Control Act, or with persons or organisations authorised to accept bets as bookmakers or operators of totalisators under the Act. (BC Act Sections 23(1), 24(1)(b), 24(1)(c))

**Restriction 61:** Persons under the age of 18 are prohibited generally from participating in the use of totalisator facilities, entering the premises of a totalisator while it is open for the receiving of bets, and from betting with a totalisator or a bookmaker, or having betting undertaken on their behalf. (BC Act Section 17B(3); TABB Regs Regulation 4)

**Restriction 62:** The following persons are prohibited from entering a totalisator agency and generally from making bets with a totalisator: a person under disqualification imposed under the rules of racing, trotting or greyhound racing; a person at risk of being impoverished by betting and in respect to whom an order has been issued under Section 25 of the Betting Control Act; a person apparently under the influence of alcohol; a person who behaves in an undesirable, offensive or disorderly manner; and a person smoking a tobacco product. (BC Act Sections 17B(3), 22, 23(2); TABB Regs Regulation 9(2))

#### **4.6.7 Constraints and Costs Imposed Specifically on the TAB**

**Restriction 63:** The approval of the Minister is required for the TAB to establish a TAB agency. (TABB Act Section 17(1)).

**Restriction 64:** A TAB agency cannot be established in any licensed premises unless the portion of those premises which is to be used as a totalisator agency is clearly defined. (TABB Act Section 17(2)).

**Restriction 65:** The TAB is required to pay an annual fee to the Betting Control Board to meet the costs of that Board in regulating TAB operations. The fee is required to be paid in such amounts and at such times as the Betting Control Board determines. (TABB Act Section 18(7); TABB Regs Regulation 37A)

**Restriction 66:** The TAB must gain the approval from the Treasurer to borrow moneys. (TABB Act Section 19(1))

**Restriction 67:** The TAB may only conduct betting on races held at venues prescribed in the Totalisator Agency Board (Betting) Regulations 1988. (TABB Act Section 20(1))

**Restriction 68:** A TAB agency can only be situated on a race course under approval of the racing club having control and management of the race course. (TABB Act Section 20(1))

**Restriction 69:** Bets made through the TAB and transmitted to an on-course totalisator are deemed to be received by the TAB as an agency for the racing club and form part of the moneys invested with the on-course totalisator. (TABB Act Section 21(1)).

**Restriction 70:** The TAB may only transmit bets and itself make bets to on-course totalisators as may be prescribed in the Totalisator Agency Board (Betting) Regulations 1988. (TABB Act Section 21(2); TABB Regs Regulation 36(3))

**Restriction 71:** The TAB is required to make payments of dividends on bets in accordance with prescribed procedures and timing. (TABB Act Section 22)

**Restriction 72:** The TAB must pay tax on its betting activities assessed on the whole of its betting turnover. (TABB Act Section 25)

**Restriction 73:** In relation to sporting events, the TAB shall credit an amount representing 1.75% of the totalisator pool for these events for the purpose of promoting totalisator betting on sporting events. (TABB Act Section 28A)

**Restriction 74:** The TAB may only accept bets made in cash or by post, telegram or telephone where the person making the bet has established with the TAB a credit account with sufficient funds available to cover the bet. (TABB Act Section 33; TABB Regs Regulation 12)

**Restriction 75:** Bets made with the TAB are required to be a minimum of 50 cents and to be multiples of 50 cents. (TABB Act Section 35; TABB Regs Regulation 7(1))

**Restriction 76:** The TAB is required to calculate and pay dividends in multiples of 5 cents. (TABB Regs Regulation 7(2))

**Restriction 77:** Dividends on units of 50 cents are required to be declared by the TAB. (TABB Regs Regulation 8)

**Restriction 78:** The TAB may not accept instructions for alternative bets in the event of a horse or greyhound selected for the bet being scratched, or participants in a sporting event not taking part. (TABB Regs Regulation 13(2))

**Restriction 79:** Totalisator tickets issued by the TAB must be marked with specified information describing the event to which the bet relates and the details of the bet. (TABB Regs Regulation 14)

**Restriction 80:** The TAB is required at all totalisator agencies to exhibit notices providing information necessary for the proper identification of events and contingencies to which bets may relate. (TABB Regs Regulation 15)

**Restriction 81:** The TAB is required to make dividends or refunds payable for a period of seven months after the events on which the respective bets were made. (TABB Regs Regulation 17)

**Restriction 82:** The TAB is required to make refunds of bets where an event to which bets relate does not occur or is postponed. (TABB Regs Regulation 19)

**Restriction 83:** The TAB is required to print totalisator tickets for bets recorded against a deposit account. (TABB Regs Regulation 22)

**Restriction 84:** Dividends due and payable to a depositor shall be deemed to be credited to the depositor's account with the TAB immediately such dividends are known to the TAB. (TABB Regs Regulation 23)

**Restriction 85:** In respect of bets made with the TAB by post or telegram, the TAB is required to post dividends and refunds to the investor on the earliest convenient day next after the day of the race or sporting event on which the bets were made. (TABB Regs Regulation 27(2))

**Restriction 86:** The TAB is required to set the closing time for bets on races at the starting time for the races to which bets pertain. (TABB Regs Regulation 30(1))

**Restriction 87:** The TAB is required to display on notices the closing time for acceptance of bets on sporting events (TABB Regs Regulation 30(2))

**Restriction 88:** Where details of a bet otherwise properly received by the TAB to be recorded in a totalisator pool have not been duly recorded owing to a failure in the means of, or error in, transmission, or to other circumstances beyond the control of the TAB, the TAB is required to pay any dividend on the bet as if the bet had been duly recorded. (TABB Regs Regulation 31(2))

**Restriction 89:** Except in the case of novelty betting, where the TAB transmits bets to a totalisator operating on a race course and also conducts a totalisator pool for bets of the same kind on the same race or races, the pool conducted by the TAB shall be operated in accordance with the provisions governing the operation of the racecourse totalisator for bets of that kind. (TABB Regs Regulation 31(3))

**Restriction 90:** Certain maximum and minimum dividend payments pertain to bets lodged with the TAB for a race conducted on a racecourse situated outside the state. (TABB Regs Regulation 33(3))

**Restriction 91:** Dividends payable by the TAB must be made in accordance with rules and procedures prescribed in the regulations. (TABB Regs Regulation 34)

**Restriction 92:** The TAB is required to lodge with the Commissioner of Taxation monthly returns of all moneys paid to the TAB, and the amount of TAB betting tax payable in respect of those moneys. (TABB Regs Regulation 37)

#### **4.6.8 Competitive Neutrality of the TAB**

**Restriction 93:** The TAB is able to compulsorily acquire an unsecured loan of \$100 000 from the Western Australian Turf Club and the Western Australian Trotting Association to meet expenses associated with the establishment of the TAB and its offices and agencies,

and the conduct of its operations until such time as the TAB is able to meet the expenses in full from its funds. (TABB Act Sections 18(1), 18(2), 18(3))

**Restriction 94:** Borrowings of the TAB may be guaranteed by the Treasurer. (TABB Act Section 19(2))

**Restriction 95:** No stamp duty is payable on any cheque drawn by the TAB. (TABB Act Section 29)

[Note that Restriction 24, Restriction 37, Restriction 54 and Restriction 74 also have implications for the competitive neutrality of the TAB *vis a vis* bookmakers.]

## 5. SUBMISSIONS TO THE REVIEW

A consultation program was undertaken to invite submissions to the review. This program was undertaken jointly for the reviews of betting, gaming and racing legislation, although these reviews are reported separately.

Invitations to make submissions to the review were made by written advice to persons and organisations with a known interest in the betting and gambling industries (Appendix A) and by public advertisement in a Saturday edition of *The West Australian* and an edition of the *Sunday Times* (6,14 December 1997: Appendix B).

Submissions that made general comments relating to all the legislation being reviewed or made specific comments in relation to the betting legislation were received from the following parties.

- Country Women's Association of Western Australia (Inc.).
- Lotteries Commission of Western Australia.
- Western Australian Turf Club.
- Western Australian Bookmakers' Association.

The contents of submissions from these parties are summarised below.

### ***Country Women's Association of Western Australia (Inc.)***

This submission was brief and generally limited to questioning the appropriateness of reviewing gambling legislation in accordance with the Competition Principles Agreement 1995. It was suggested that the gambling industry cannot be regarded as "a normal business operation" and that strict controls are necessary to contain criminal activities within the industry and social costs arising from gambling addiction. The view was put forward that there is no necessity for opportunities for gambling to be increased.

The potential for criminal activities to be associated with the betting and gambling industries and the potential social costs of problem gambling were considered in the review during the public-benefit assessments of potential restrictions on competition.

### ***Lotteries Commission***

The submission from the Lotteries Commission related mainly to gambling legislation. There were two issues raised in regard to betting. Firstly, there was seen to be a potential conflict of interest arising from the Executive Director of the Office of Racing, Gaming and Liquor sitting on the Board of the TAB. Secondly, there was concern expressed over the TAB providing a range of lottery-style products though "mystery bets". There was some suggestion that the Lotteries Commission is constrained by existing legislation in competing with the TAB on such products that resemble a lottery more closely than a betting activity.



As these issues do not relate explicitly to provisions of the legislation, they were not addressed as part of the review.

### ***Western Australian Turf Club***

The submission from the Western Australian Turf Club focused on a proposal by the club to conduct two-up games on Anzac Day.

This issue does not relate explicitly to provisions of the Betting Control Act or the Totalisator Agency Board (Betting) Act and is was therefore not addressed by the review.

### ***Western Australian Bookmakers' Association***

The Western Australian Bookmakers Association made a lengthy and detailed submission relating to restrictions imposed on the activities of bookmakers through the Betting Control Act. Several constraints on the activities of bookmakers arising from the legislation were identified in the submission and were grouped as follows.

- Restrictions and obstacles on entry to the bookmaking industry including licensing and requirements for security bonds.
- Restrictions and constraints on the conduct of bookmaking activities including the constraints on the locations of bookmaking activities, the times at which bookmakers may operate, the services that bookmakers can offer and the general conduct of a bookmaking business.
- Restrictions and constraints which operate to discriminate between operators within the betting industry, particularly in relation to events for which bookmakers may take bets, limitations on the locations from which bookmakers may operate, limitation in relation to telephone betting by bookmakers, and discrimination in the charging of levies on bookmakers' turnover.

The submission provided analysis and data on these restrictions that has been incorporated into the assessment of public costs and benefits where appropriate.

The submission made general conclusions on the net benefits and desirability of the major restrictions on bookmakers activities arising from the legislation. In general, the association was supportive of the licensing system and the requirements for security bonds to be paid by bookmakers. The association was generally opposed to the restrictions on locations at which bookmakers may operate, and the times at which bookmakers may operate. The association also discussed in some detail the prohibition of issue of bookmakers licences to corporations and suggested that this restriction imposes costs on bookmakers as a result of additional taxation and unlimited liability. A licensing system allowing the licensing of corporations but requiring the separate licensing of persons managing bookmaking activities was proposed as an alternative to the current arrangements. All of these issues were addressed in the review.

The submission also addressed several issues relating to calculation of levies payable by bookmakers. As indicated in Section 6 of this report, these are regarded as issues relating generally to taxation and are excluded from the scope of the review.

## **6. ASSESSMENT OF RESTRICTIONS**

### **6.1 Preamble**

In discussions between the Office of Racing, Gaming and Liquor and the Competition Policy Unit of Treasury, it was determined that several of the potential restrictions on competition do not require public-benefit analyses due to the restrictions being either obviously in the public interest or being unlikely to impose any significant costs on providers of betting services or the economy generally. These restrictions are listed as follows and are not further addressed in this report.

- Restriction 14: A licensed bookmaker must obtain a permit from the committee or other authority controlling a racecourse in order to conduct business on that racecourse. (BC Act Section 12(1))
- Restriction 15: A permit from the committee or other authority controlling a racecourse is required for a bookmaker operating from that racecourse to bet on any race conducted at another racecourse. (BC Regs Regulations 64, 65)
- Restriction 16: Bookmaking for sporting events may only be conducted by bookmakers for whom a permit has been granted for that specific purpose by the authority controlling the race course at which that bookmaking occurs. (BC Act Section 4B(4))
- Restriction 17: A bookmaker wishing to appoint an agent to act in his or her place at a race meeting must obtain a permit from the committee or other authority controlling the racecourse. (BC Act Section 12(4))
- Restriction 19: Bookmakers authorised by the Betting Control Board to accept bets by telephone must also obtain permission for such from the committee or other authority controlling the race course. (BC Regs Regulations 71, 72)
- Restriction 26: The committee or other authority controlling a race course may attach any such conditions as it sees fit to a bookmaker's permit. (BC Act Section 12(2))
- Restriction 29: A bookmaker is responsible for all actions of an employee relating to the bookmaking business, is severally liable with the employee for offences against the Betting Control Act, and is generally required to be present at or in close proximity to the area in which the employee is conducting bookmaking activities. (BC Act Section 11(7)(a))
- Restriction 32: Records of betting transactions by bookmakers must include specified information on each transaction and must be maintained on forms provided by the Betting Control Board. (BC Regs Regulation 37)
- Restriction 34: Betting material requested by the Betting Control Board from bookmakers must be completed prior to delivery to the Board and delivered within a specified time period. (BC Regs Regulation 43)

- Restriction 36: All bets with bookmakers must be in accordance with rules of betting set out in the appendix to the Betting Control Regulations 1998. (BC Regs Regulation 48)
- Restriction 38: A bookmaker may only make betting transactions from a stand or other specified area allocated by the committee or other authority controlling the race meeting. (BC Regs Regulation 57)
- Restriction 39: No person other than the bookmaker or a licensed employee is permitted upon the betting stand of the bookmaker. (BC Regs Regulation 58)
- Restriction 40: A bookmaker or employee is required to remain at the allocated betting stand for at least 15 minutes after declaration of correct weight for the last race on the programme at any meeting on which the bookmaker is operating. (BC Regs Regulation 58)
- Restriction 41: A bookmaker carrying on business at a race meeting is required to display on the betting stand a tablet or sign indicating the name of the bookmaker. (BC Regs Regulation 59)
- Restriction 42: A bookmaker is required to display a betting board with the names of horses or greyhounds in each race and the relevant odds. (Regulation 61)
- Restriction 43: Display of betting boards by bookmakers is required to be in accordance with requirements of, or approval by, the committee or other authority controlling a race meeting. (BC Regs Regulation 60)
- Restriction 45: A bookmaker betting in a grandstand enclosure in the metropolitan area cannot accept a bet of less than one dollar. (BC Regs Regulation 64)
- Restriction 47: Bookmakers accepting telephone bets must use a telephone system that has been approved by the Board. (BC Regs regulations 71, 72)
- Restriction 50: Bookmakers and the operators of totalisators at racecourses are prohibited from betting with a person who appears to be under the influence of alcohol, or with a person likely to be impoverished by betting and for whom an order has been issued under Section 25 of the Betting Control Act. (BC Act Sections 21(1)(a), 21(1)(b), 21(3)(a), 21(3)(b), BC Act Sections 25)
- Restriction 52: The operator of a totalisator must limit the sound from broadcast programmes or television so as not to constitute an annoyance to persons outside of the totalisator premises (BC Act Section 21(3)(e)).
- Restriction 56: A racing club, the committee or other authority controlling the race course or any race meeting, and any steward or other person acting in the course of the administration of any racecourse or race meeting on behalf of any such club, committee or other authority, shall, on demand by the Board for the purposes of these regulations, produce to the Board relevant material or information in their possession and relating to any preliminary or other hearing of a betting dispute which is the subject of an appeal to the Board. (BC Regs Regulation 68)

- Restriction 57: A committee or other authority controlling a race course is required to ensure that bookmakers are appropriately licensed, to maintain records on bookmaking activities and ensure that these are delivered to the Board in the appropriate manner, and to ensure payment of bookmakers' betting levy. (BC Act Section 12(5)).
- Restriction 60: Betting on races is prohibited other than in accordance with provisions of the Betting Control Act, or with persons or organisations authorised to accept bets as bookmakers or operators of totalisators under the Act. (BC Act Sections 23(1), 24(1)(b), 24(1)(c))
- Restriction 64: A TAB agency cannot be established in any licensed premises unless the portion of those premises which is to be used as a totalisator agency is clearly defined. (TABB Act Section 17(2)).
- Restriction 65: The TAB is required to pay an annual fee to the Betting Control Board to meet the costs of that Board in regulating TAB operations. The fee is required to be paid in such amounts and at such times as the Betting Control Board determines. (TABB Act Section 18(7); TABB Regs Regulation 37A)
- Restriction 66: The TAB must gain the approval from the Treasurer to borrow moneys. (TABB Act Section 19(1))
- Restriction 68: A TAB agency can only be situated on a race course under approval of the racing club having control and management of the race course. (TABB Act Section 20(1))
- Restriction 69: Bets made through the TAB and transmitted to an on-course totalisator are deemed to be received by the TAB as an agency for the racing club and form part of the moneys invested with the on-course totalisator. (TABB Act Section 21(1)).
- Restriction 70: The TAB may only transmit bets and itself make bets to on-course totalisators as may be prescribed in the Totalisator Agency Board (Betting) Regulations 1988. (TABB Act Section 21(2); TABB Regs Regulation 36(3))
- Restriction 71: The TAB is required to make payments of dividends on bets in accordance with prescribed procedures and timing. (TABB Act Section 22)
- Restriction 75: Bets made with the TAB are required to be a minimum of 50 cents and to be multiples of 50 cents. (TABB Act Section 35; TABB Regs Regulation 7(1))
- Restriction 76: The TAB is required to calculate and pay dividends in multiples of 5 cents. (TABB Regs Regulation 7(2))
- Restriction 77: Dividends on units of 50 cents are required to be declared by the TAB. (TABB Regs Regulation 8)
- Restriction 78: The TAB may not accept instructions for alternative bets in the event of a horse or greyhound selected for the bet being scratched, or participants in a sporting event not taking part. (TABB Regs Regulation 13(2))

- Restriction 79: Totalisator tickets issued by the TAB must be marked with specified information describing the event to which the bet relates and the details of the bet. (TABB Regs Regulation 14)
- Restriction 80: The TAB is required at all totalisator agencies to exhibit notices providing information necessary for the proper identification of events and contingencies to which bets may relate. (TABB Regs Regulation 15)
- Restriction 81: The TAB is required to make dividends or refunds payable for a period of seven months after the events on which the respective bets were made. (TABB Regs Regulation 17)
- Restriction 82: The TAB is required to make refunds of bets where an event to which bets relate does not occur or is postponed. (TABB Regs Regulation 19)
- Restriction 83: The TAB is required to print totalisator tickets for bets recorded against a deposit account. (TABB Regs Regulation 22)
- Restriction 84: Dividends due and payable to a depositor shall be deemed to be credited to the depositor's account with the TAB immediately such dividends are known to the TAB. (TABB Regs Regulation 23)
- Restriction 85: In respect of bets made with the TAB by post or telegram, the TAB is required to post dividends and refunds to the investor on the earliest convenient day next after the day of the race or sporting event on which the bets were made. (TABB Regs Regulation 27(2))
- Restriction 86: The TAB is required to set the closing time for bets on races at the starting time for the races to which bets pertain. (TABB Regs Regulation 30(1))
- Restriction 87: The TAB is required to display on notices the closing time for acceptance of bets on sporting events (TABB Regs Regulation 30(2))
- Restriction 88: Where details of a bet otherwise properly received by the TAB to be recorded in a totalisator pool have not been duly recorded owing to a failure in the means of, or error in, transmission, or to other circumstances beyond the control of the TAB, the TAB is required to pay any dividend on the bet as if the bet had been duly recorded. (TABB Regs Regulation 31(2))
- Restriction 89: Except in the case of novelty betting, where the TAB transmits bets to a totalisator operating on a race course and also conducts a totalisator pool for bets of the same kind on the same race or races, the pool conducted by the TAB shall be operated in accordance with the provisions governing the operation of the racecourse totalisator for bets of that kind. (TABB Regs Regulation 31(3))
- Restriction 90: Certain maximum and minimum dividend payments pertain to bets lodged with the TAB for a race conducted on a racecourse situated outside the state. (TABB Regs Regulation 33(3))

- Restriction 91: Dividends payable by the TAB must be made in accordance with rules and procedures prescribed in the regulations. (TABB Regs Regulation 34)
- Restriction 92: The TAB is required to lodge with the Commissioner of Taxation monthly returns of all moneys paid to the TAB, and the amount of TAB betting tax payable in respect of those moneys. (TABB Regs Regulation 37)

The National Competition Policy Unit of Treasury also indicated that potential restrictions on competition that relate to taxation are outside the scope of the review. For this reason, the following potential restrictions are not addressed further in this report.

- Restriction 22: A bookmaker is required to pay a levy assessed on the whole of that bookmaker's annual betting turnover, including bets placed as a bookmaker either on-course or at prescribed premises. (BC Act Sections 14, 15, 16).
- Restriction 44: For the purposes of calculating turnover on which levy is payable, a bookmaker is not permitted to deduct the amount of a bet laid off with another bookmaker from the total of the bets the bookmaker has received. (BC Regs Regulation 63)
- Restriction 72: The TAB must pay tax on its betting activities assessed on the whole of its betting turnover. (TABB Act Section 25)

Two other potential restrictions on competition relate to issues of competitive neutrality of the TAB that will be addressed in a separate review of competitive neutrality currently being undertaken by the TAB. These two restrictions are as follows and are not addressed further in this report.

- Restriction 94: Borrowings of the TAB may be guaranteed by the Treasurer. (TABB Act Section 19(2))
- Restriction 95: No stamp duty is payable on any cheque drawn by the TAB. (TABB Act Section 29)

The remaining restrictions were broadly classified as "major" or "minor" in accordance with the Department of Treasury's *Legislation Review Guidelines*. The following restrictions were regarded *a priori* as potentially having a substantial impact on betting industries and therefore classified as major restrictions.

- Restrictions 1, 2, and 3 that restrict the scope of events and contingencies of events for which betting may occur.
- Restrictions 5 and 6 that restrict opportunities to operate totalisators.
- Restrictions 7 and 8 that require licensing of bookmakers and bookmakers employees.

All other potential restrictions on competition were classified as minor restrictions for the purposes of the review.

Assessments of the advantages and disadvantages of each restriction and any alternative and less restrictive means of achieving legislative objectives are detailed in the remainder of this chapter.

## 6.2 Restrictions on Events and Contingencies for which Betting May Occur

**Restriction 1: Conduct of betting by a bookmaker in relation to sporting events may only occur for “designated” events for which general approval for betting has been granted by the Betting Control Board, may only occur where the events are conducted at places registered for the purpose by the Board. (BC Act Sections 4A(1), 4B(2))**

### *Potential Disadvantages of the Restriction*

- Restricted business opportunities for bookmakers and betting opportunities for punters.
- Costs imposed on bookmakers by restrictive conditions on approvals.
- Restricted financial opportunities of organisations staging sporting events.

### *Potential Advantages of the Restriction*

- Fair and proper conduct of betting activities at sporting events.
- Reduced negative impacts of betting activities on the community through limiting the scope of events on which betting with bookmaking may occur, and the venues at which betting with bookmakers may occur.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 1.1* Restricted business opportunities for bookmakers and betting opportunities for punters.

*How?:* Restricted scope of sporting events for which bookmaking may be undertaken.

*Estimate of Impact:* Unquantified. Considered to be small effects from the requirement for designation of sporting events, potential substantial effects from requirements for registration of venues.

*Supporting Evidence:* The restriction arises from new legislative provisions introduced in August 1998. Consequently the impact of the restriction is not yet evident.

The requirement for designation of sporting events is not considered to impose a significant constraint on business activities of bookmakers since it is expected that major sporting events for which bookmakers would wish to conduct betting will be approved as a matter of course. This will include high profile sports and sports conducted at state, national or international level would generally receive automatic approval.

The requirement for venues to be registered may impose greater costs on bookmakers through restricting the venues at which bookmakers may field. Venues will only be approved where the relevant sporting

organisation is able to put sufficient controls in place to monitor betting activity to the satisfaction of the Betting Control Board. The cost of doing this may result in sporting organisations limiting application for venues to be registered. Nevertheless, it is likely that larger venues of high profile sports where there is potential for high bookmaking turnover will be registered.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers and punters.

*Public Objectives Affected:* Economic/financial.

**Effect 1.2** Costs imposed on bookmakers.

*How?:* Restrictive conditions on approvals to undertake bookmaking for sporting events.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The conditions attached to approvals will generally only formalise the activities undertaken by bookmakers rather than constraining these activities. For example, the conditions may describe the event contingencies that may be bet upon and the types of bets placed. Formal description of these are necessary to avoid betting disputes and to facilitate resolution of any disputes that do occur.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

**Effect 1.3** Restricted financial opportunities of sporting organisations.

*How?:* Limited opportunities to obtain revenues from levies and commissions on bookmaking where the sport is not designated or particular premises registered.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Refer to supporting evidence for Effect 1.1. It is considered that authorisations for sporting events and venues for bookmaking activities will not be greatly constrained.

*Effects When?:* Ongoing.

*Affects Who?:* Organisations controlling sports and sporting events.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 1.4** Fair and proper conduct of betting activities at sporting events.

*How?:* Provision for the Betting Control Board to control and monitor the conduct of betting.

*Estimate of Impact:* Unquantified, considered substantial.

*Supporting Evidence:* In determining approvals for betting on sporting events the Board considers whether the particular sport is sufficiently well organised and regulated to prevent persons from influencing the results of events in order to benefit from the betting on the events. For example, granting of authority for betting on an event would generally require the existence of a



national or State organisation or association for the sport with sufficient powers and resources for monitoring the sport and ensuring that persons engaging in betting do not affect event outcomes. Also, the rules and procedures for betting would have to be formalised to allow betting disputes to be avoided or resolved.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, sporting organisations, sport participants and spectators.

*Public Objectives Affected:* Avoidance of “public bads”.

**Effect 1.5** Reduced negative impacts of betting activities on the community.

*How?:* Limitation of the scope of events for which betting with bookmakers may occur, and the venues at which bookmaking may occur.

*Estimate of Impact:* Unquantified, potentially significant.

*Supporting Evidence:* Impacts on the community from effects of gambling may be a secondary consideration in determining whether to designate an event or register a venue for bookmaking. For example, registration is may not be granted for a venue within a geographical area for which there are known gambling problems in the local community. Due to the provisions of the legislation being new, there are no examples of such a withholding of authority.

*Effects When?:* Ongoing.

*Affects Who?:* Western Australian public.

*Public Objectives Affected:* Avoidance of “public bads”.

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### ***Assessment of Public Benefit***

The restriction was assessed as giving rise to potentially substantial costs on bookmakers and sporting organisations, mainly though the potential restriction on locations at which bookmaking may occur. Substantial benefits were assessed as arising from the provision for the Betting Control Board to ensure that bookmaking activities and the relevant sporting events are able to be monitored and controlled so as to avoid betting-related corruption in the sports, and to a lesser extent limiting the extent of bookmaking activities where this is regarded as in the public interest. In view of an envisaged high potential for betting-related corruption, the restriction was assessed as providing a net public benefit.

### ***Alternative Means of Achieving the Legislative Objectives***

An alternative means of regulation would be to remove requirements for authority to be obtained from the Betting Control Board, but impose a duty on sporting organisations to monitor and control betting activities and ensure that these are carried out in a fair and proper manner. This is not considered to be a practical alternative. The high potential for betting-related corruption is considered to justify more rigorous overseeing of the monitoring and control of betting by a regulatory authority that does not have a financial interest in the betting activities. Also, the current restriction allows the potential community effects of betting to be taken into account in determining whether betting should occur for a sporting event or at a particular venue. It would be difficult to impose a requirement on sporting organisations to consider such effects.

## *Conclusion*

The restriction was assessed as providing a net public benefit. There was not considered to be any alternative and less restrictive means of achieving the legislative objective and it was therefore concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 2: A person who desires to conduct a designated sporting event at a registered place must obtain a permit for the event from the Betting Control Board. Applications for such permits must be accompanied by such information as is prescribed or as is otherwise required by the Board. (BCA Section 4A(2))**

### *Potential Disadvantages of the Restriction*

- Restricted business opportunities for bookmakers and betting opportunities for punters where issue of permits is restricted.
- Costs imposed on organisations staging sporting events through costs of procuring permits, or where issue of permits is restricted.

### *Potential Advantages of the Restriction*

- Fair and proper conduct of betting activities at sporting events.
- Reduced negative impacts of betting activities on the community through limiting the scope of events on which betting with bookmaking may occur, and the venues at which betting with bookmakers may occur.

## *Assessment of Costs and Benefits*

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### Potential Disadvantages and Costs

*Effect 2.1* Restricted business opportunities for bookmakers and betting opportunities for punters

*How?:* Restrictions on issue of permits.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Permits would not be unduly restricted for sporting events and venues that have otherwise been approved for betting with bookmakers. The purpose of the permits is mainly to ensure that the Betting Control Board is aware of the times and places at which betting occurs rather than restricting the carrying out of betting activities.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers and punters.

*Public Objectives Affected:* Economic/financial.

*Effect 2.2* Costs imposed on sporting organisations.

*How?:* Costs of obtaining permits and permit fees.

*Estimate of Impact:* Costs of up to about \$100 per event.

*Supporting Evidence:* Costs may arise from permit fees of \$30 per event and the time requirements to undertake the administrative actions necessary to procure permits. Costs are low as a result of the simplicity of application forms and procedures, and the ability of sporting organisations to obtain permits for several scheduled events in one application, reducing administrative costs.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

***Effect 2.3*** Fair and proper conduct of bookmaking activities at sporting events.

*How?:* Provision for the Betting Control Board to be made aware of the conduct of events for which bookmaking services will be offered and thus for the Board to monitor the conduct of betting.

*Estimate of Impact:* Unquantified but substantial benefit.

*Supporting Evidence:* The purpose of the permits is mainly to ensure that the Betting Control Board is aware of the times and places at which betting occurs rather than restricting the carrying out of betting activities, and to allow monitoring of betting activities by the inspectorate of the Betting Control Board.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, sporting organisations, sport participants and spectators.

*Public Objectives Affected:* Avoidance of “public bads”.

***Effect 2.3*** Reduced negative impacts of betting activities on the community.

*How?:* Limitation of the scope of events on which betting with bookmaking may occur, and the venues at which betting with bookmakers may occur.

*Estimate of Impact:* Unquantified but substantial benefits.

*Supporting Evidence:* Although the main purpose of the permits is mainly to ensure that the Betting Control Board is aware of the times and places at which betting occurs, a secondary benefit is allowing the Board to “fine tune” controls over the scope of sporting events for which betting may be conducted. For example, although the Board may have provided authorisation for betting on a particular sport at a venue, requirements for permits allow for prevention of betting on junior competitions of this sport for which betting would be regarded as undesirable.

*Effects When?:* Ongoing.

*Affects Who?:* Western Australian public.

*Public Objectives Affected:* Avoidance of “public bads”.

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#### ***Assessment of Public Benefit***

The restriction was assessed as giving rise to only small costs that would be incurred by sporting organisations in obtaining permits. Substantial benefits would arise from provision for the Betting Control Board to ensure that bookmaking activities and the

relevant sporting events are able to be monitored and controlled so as to avoid betting-related corruption in the sports, and further provision to restrict the scope of sporting events for which betting may occur where this is regarded as being in the public interest. In view of an envisaged high need for monitoring of betting, the restriction was assessed as providing a net public benefit.

### *Alternative Means of Achieving the Legislative Objectives*

There is not considered to be any less restrictive alternative to the permit system in providing for the Betting Control Board to be made aware of the times and locations at which bookmaking activities are conducted.

### *Conclusion*

The restriction was assessed as providing a net public benefit. There was not considered to be any alternative and less restrictive means of achieving the legislative objective and it was therefore concluded that the provisions of the legislation giving rise to the restriction should be retained.

### **Restriction 3: Sporting organisations conducting a sporting event designated to allow bookmaking are not permitted to possess or operate a totalisator. (BC Act Section 17C)**

#### *Potential Disadvantages of the Restriction*

- Restricted financial opportunities of organisations staging sporting events and betting opportunities for punters.

#### *Potential Advantages of the Restriction*

- Protection of government revenue streams derived from betting on sporting events with the TAB.

#### *Assessment of Costs and Benefits*

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##### Potential Disadvantages and Costs

*Effect 3.1* Restricted business opportunities for sporting organisations and betting opportunities for punters.

*How?:* Restricted operation of totalisators.

*Estimate of Impact:* Unquantified, but potentially substantial reductions in betting opportunities for punters.

Forgone revenue to sporting organisations of potentially several hundred thousand dollars per annum.

*Supporting Evidence:* As a result of the restriction, totalisator betting may only be conducted from the venue of a sporting event via telephone betting with the TAB, unless a TAB agency is established at the venue. This restricts opportunities for persons attending sporting events to engage in

totalisator betting.

The prohibition of sporting organisations from operating a totalisator prevents the sporting organisations from generating revenues from such an activity. The loss of potential revenue would probably only apply to sporting organisation staging large and high profile sporting events that could justify the relative high costs of operating a totalisator.

*Effects When?:* Ongoing.

*Affects Who?:* Sporting organisations and punters.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

***Effect 3.2*** Protection of government revenue streams derived from betting on sporting events with the TAB.

*How?:* Restriction of totalisator betting on sporting events to betting with the TAB.

*Estimate of Impact:* Loss of government revenue of potentially up to a few hundred thousand dollars per annum.

*Supporting Evidence:* Government revenue derived from TAB betting on sporting events was approximately \$250 000 in 1997/98. Some of this may be lost to sporting organisations if they were able to operate their own totalisators. However, it is considered that the loss to government would be small as the high costs of operating totalisators would tend to limit their use by sporting organisations, or would result in totalisators being operated in conjunction with the TAB. Also, operation of totalisators by sporting organisations would tend to generate new betting business from patrons of the sporting event rather than, necessarily, attracting punters from the TAB.

*Effects When?:* Ongoing.

*Affects Who?:* Western Australian public via government.

*Public Objectives Affected:* Economic/financial.

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#### ***Assessment of Public Benefit***

The restriction was assessed as giving rise to costs through restricting the betting opportunities of punters and through imposing costs potentially in the order of several hundred thousand dollars per annum on sporting organisations through restricting opportunities of these organisations to conduct totalisator betting. Benefits were assessed as arising from a protection of a government revenue stream to the value of a few hundred thousand dollars per annum. In total, the restriction was assessed as giving rise to a net public cost.

#### ***Alternative Means of Achieving the Legislative Objectives***

No alternative means of regulation for protecting the government revenue stream were considered.

## *Conclusion*

This restriction was assessed as giving rise to a net public cost with no significant public benefits. It was therefore concluded that the provisions of the legislation giving rise to the restriction should be repealed (BC Act Section 17C). This would allow sporting organisations to operate totalisators under the same rules as currently apply to racing clubs.

**Restriction 4: In relation to betting on sporting events, the TAB may only conduct betting on cricket matches, Australian Rules Football matches and other prescribed sporting events. (TABB Act Section 19A(1), TABB Regs Regulations 52, 55)**

### *Potential Disadvantages of the Restriction*

- Restricted business opportunities for the TAB and betting opportunities for punters.
- Competitive advantages or disadvantages to the TAB over alternative betting services for sporting events such as bookmakers.
- Restricted financial opportunities of sporting organisations for those sports for which the TAB may not accept bets.

### *Potential Advantages of the Restriction*

- Fair and proper conduct of betting activities at sporting events.
- Reduced negative impacts of betting activities on the community through limiting the scope of events on which betting with bookmaking may occur.

## *Assessment of Costs and Benefits*

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### Potential Disadvantages and Costs

*Effect 4.1* Restricted business opportunities for the TAB and betting opportunities for punters.

*How?:* Restricted scope of sporting events for which bookmaking may be undertaken.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* A sporting event is able to be prescribed to allow totalisator betting with the TAB subject to the event being sufficiently organised to allow for fair and proper conduct of the sport in the presence of betting. It is envisaged that all major events for which totalisator betting would be financially viable would be prescribed if requested by the TAB.

Until recently, the regulations limited TAB betting to cricket, Australian Rules football, Soccer and Rugby. The regulations have now been amended to extend the list of prescribed events.

*Effects When?:* Ongoing.

*Affects Who?:* TAB and punters.

*Public Objectives Affected:* Economic/financial.

**4.2** Competitive advantages or disadvantages to the TAB over other providers of betting services on sporting events.

*How?:* Differences in the range of sporting events for which betting services may be provided by the TAB and other betting-service providers.

*Estimate of Impact:* Currently negligible, potentially significant in the future.

*Supporting Evidence:* The ranges of sporting events for which betting may occur by the TAB and by bookmakers are currently determined by different regulatory procedures: designation of sporting events by the Betting Control Board for bookmakers; and prescription of sporting events in regulations for the TAB. This creates potential for inconsistencies in regulation of betting by the two types of service providers. The effect of this would currently be negligible due to the low level of betting on sporting events, but may increase in the future as the level of sports betting increases.

*Effects When?:* Ongoing.

*Affects Who?:* TAB and bookmakers.

*Public Objectives Affected:* Economic/financial.

**4.3** Restricted financial opportunities of sporting organisations.

*How?:* Limited opportunities for organisations controlling sports other than cricket, Australian rules football or other prescribed events to obtain revenues derived from commissions on totalisator betting with the TAB.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Refer to supporting evidence for Effect 4.1.

*Effects When?:* Ongoing.

*Affects Who?:* Organisations controlling sports and sporting events.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 4.4** Fair and proper conduct of betting and sporting events.

*How?:* Limitation of the scope of events for which betting with the TAB may occur to events for which the sport is sufficiently well organised and controlled to prevent corruption in sporting outcomes, and for which the procedures and rules for betting are formally described.

*Estimate of Impact:* Unquantified but considered substantial.

*Supporting Evidence:* In making a determination on prescription of a sporting event to allow betting with the TAB, consideration is given to whether the particular sport is sufficiently well organised and regulated to prevent persons from influencing the results of events in order to benefit from the betting on the events. For example, granting of authority for betting on a event would generally require the existence of a national or State organisation or association for the sport with sufficient powers and resources for monitoring the sport and ensuring that persons engaging in betting do not affect event outcomes. Also, the rules and procedures for betting would have to be formalised to allow betting disputes to be avoided or resolved.

*Effects When?:* Ongoing.

*Affects Who?:* Western Australian public.

*Public Objectives Affected:* Avoidance of “public bads”.

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***Effect 4.5*** Reduced negative impacts of betting activities on the community.

*How?:* Limitation of the scope of events for which betting with the TAB may occur.

*Estimate of Impact:* Unquantified, potentially significant.

*Supporting Evidence:* The restriction provides for consideration of effects of betting on the community in determining the scope of betting activities by the TAB. Such considerations may not be taken into account if the scope of betting activities was left solely to commercial considerations of the TAB.

This is only a potential benefit as, to date, consideration of effects on the community has not affected decisions to prescribe sporting events to allow betting by the TAB.

*Effects When?:* Ongoing.

*Affects Who?:* Western Australian public.

*Public Objectives Affected:* Avoidance of “public bads”.

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### ***Assessment of Public Benefit***

Substantial benefits were assessed as arising from the government being able to ensure that sporting events are able to be monitored and controlled so as to avoid betting-related corruption in the sports, and to a lesser extent limiting the extent of betting activities where this is regarded as in the public interest. In view of an envisaged high potential for betting-related corruption, the restriction was assessed as providing a net public benefit.

However, the restriction was assessed as giving rise to a minor cost to the TAB, punters or sporting organisations. This cost results from the existence of relative competitive advantages and disadvantages across providers of betting services due to different means of regulating the range of sporting events for which betting may be conducted by the two providers. The TAB may only bet on events prescribed in regulation - a process which can take a number of months and be subject to disallowance by Parliament, whereas bookmakers only need obtain approval from the Betting Control Board to bet on a new event - a process that can be completed in a matter of days.

### ***Alternative Means of Achieving the Legislative Objectives***

An alternative means of regulation would be to alter legislation to provide for authorisation by the Betting Control Board of betting on sporting events by the TAB rather than requiring prescription of events under the Totalisator Agency Board Betting Act. This would allow for consistency in authorisations for bookmakers and the TAB. Adoption of this alternative would remove the ability of the Parliament to scrutinise and disallow any regulation. However, the Parliament has entrusted the Betting Control Board to regulate the conduct of betting on sporting events by bookmakers and there is no reason why the Board should not be considered suitable to, on behalf of the Parliament, exercise the same function in respect to sports betting conducted by the TAB.



## *Conclusion*

The restriction was assessed as providing a net public benefit and it was concluded that a system of authorisation for the TAB to conduct betting on sporting events should be retained. A less restrictive means of achieving this would be for authorisations to be granted by the Betting Control Board. Parliament currently entrusts the board to exercise this function in relation to bookmakers and there is no apparent reason why the Board should not be considered equally suitable to undertake the same responsibility in relation to the TAB. It was therefore concluded that the provisions of the legislation giving rise to the restriction should be repealed and replaced with a provision allowing the Board to authorise those sporting events on which the TAB may conduct betting.

### **6.3 Restrictions on Persons and Organisations able to Conduct Betting**

**Restriction 5: Operation of a totalisator and betting by means of a totalisator are prohibited other than for on-course totalisators operated by racing clubs and authorised under the Betting Control Act, and off-course totalisators operated by the TAB. A racing club wishing to possess and operate a totalisator must obtain authorisation from the Betting Control Board, must furnish any information in support of the application as the Board may require, and must pay ongoing annual licence fees assessed on the total annual turnover of the totalisator. (BC Act Sections 17A(1), 17B, 17D, 24(1); TABB Act Sections 19A, 20).**

#### *Potential Disadvantages of the Restriction*

- Reduced services to punters from totalisators as a result of lower numbers of operators of totalisators and less competition between such operators than would occur in the absence of licensing.
- Additional costs incurred by racing clubs operating totalisators through costs of applying for permits and furnishing information to the Betting Control Board.

#### *Potential Advantages of the Restriction*

- Fair and proper conduct of totalisator betting through government control of off-course betting and the ability of the Board to monitor the operation of racing club totalisators.
- Provision for collection of revenues by racing clubs and the government through an ability to monitor the activities of individual operators of totalisators.

## *Assessment of Costs and Benefits*

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### Potential Disadvantages and Costs

**Effect 5.1** Reduced services to punters from totalisators.

*How?:* Barriers to entry to the totalisator industry resulting in lower numbers of operators of totalisators and less competition between such operators than would occur in the absence of the restriction. The restriction results in a monopoly over on-course totalisators by racing clubs and a monopoly over off-course totalisators by the TAB.

*Estimate of Impact:* Negligible effect on the qualitative characteristics of betting services. Reduced competition between service providers may cause significantly higher prices for these services (ie. higher rates of commissions deducted from the totalisator pools).

*Supporting Evidence:* In practice, the Betting Control Board issues an authority to operate a totalisator to any racing club which is entitled to conduct a race meeting in accordance with the *Racing Restriction Act 1927* or the *Western Australian Greyhound Racing Association Act 1981*. This means that totalisators are or may be operated at every racing club meeting, although there are not totalisators being operated in competition at each meeting.

The TAB has an extensive network of agencies that provides ready access for punters to off-course totalisator services. As the TAB and race clubs use a combined betting pool and deduct commissions at the same rates, the on-course and off-course totalisators effectively offer a very similar betting service to punters. The only difference would be in facilities for punters at the locations of totalisators rather than differences in the betting product *per se*.

Prices for totalisator services in WA may be higher than would occur in the absence of the restriction and a more competitive totalisator betting industry. Evidence for this is the downward pressure on commission rates that has resulted from interstate and international competition in telephone betting services. In response to interstate competition, the TAB has reduced commissions on win and place bets from 15% to 14.25%, even though interstate competition is considered to affect only a small part of the TAB's market. It is envisaged that commissions would decrease further with greater competition in the local cash-betting market that is currently monopolised by the cartel of racing club totalisators and the TAB.

*Effects When?:* Ongoing.

*Affects Who?:* Punters using totalisator services.

*Public Objectives Affected:* Economic/financial.

**Effect 5.2** Additional costs incurred by racing clubs operating totalisators.

*How?:* Costs of applying for permits and furnishing information to the Betting Control Board.

*Estimate of Impact:* Negligible costs associated with gaining authorisation.

Total cost to all racing clubs in licence fees of approximately \$20 000 per annum.

*Supporting Evidence:* There is no application fee associated with gaining authorisation. Costs of providing information to the Betting Control Board would be small as

the Board only requires sufficient information to verify that a racing club is entitled to conduct a race meeting in accordance with the *Racing Restriction Act 1927* or the *Western Australian Greyhound Racing Association Act 1981*.

Licence fees for racing clubs are assessed at 0.03% of annual totalisator turnover. This rate is set to cover the costs of regulation only.

*Effects When?:* Ongoing.

*Affects Who?:* Racing clubs.

*Public Objectives Affected:* Economic/financial.

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#### Potential Advantages and Benefits

**Effect 5.3** Improved standards of practice in the totalisator industry

*How?:* Government control of off-course betting and the ability of the Board to monitor the operation of racing-club totalisators and use the threat of the withdrawal of totalisator authorisations to promote good conduct.

*Estimate of Impact:* Unquantified but considered to be substantial.

*Supporting Evidence:* The history of restricting private totalisator activities to racing clubs and establishment of the TAB (described in Section 3.2) indicates that substantial problems occurred in regulating the activities of private betting shops. The government's reasons for establishing the TAB included the perceived needs to create an off-course betting system that was less harmful to the betting public, less open to dishonest activities and easier to regulate and control. There is not considered to be any changes to social circumstances that make this situation any less relevant at the present time.

*Effects When?:* Ongoing.

*Affects Who?:* Punters and the broader community.

*Public Objectives Affected:* Economic/financial, avoidance of "public bads".

**Effect 5.4** Provision for collection of revenues by racing clubs and the government.

*How?:* Ability of racing clubs and government to monitor the activities of individual operators of totalisators.

*Estimate of Impact:* Annual revenues of approximately \$55 million to racing clubs and \$35 million to government from operation of totalisators.

*Supporting Evidence:* In the absence of regulatory controls over betting, the betting platform supplied by the racing industries would constitute a public good, being able to be used by providers of betting services for no charge. The regulatory control allows for the racing industry to secure a return on the betting "good" that the industry provides. Under current regulation, racing clubs are able to appropriate the profits from on-course totalisators and receive a proportion of commissions from the TAB.

Revenue to government is derived from the a 5% tax on TAB turnover.

Maintenance of financial returns to government and the racing industry are an explicit objective of the legislation.

In a less controlled totalisator industry, reduced rates of commission would probably result in lower returns to racing clubs, and possible lower net returns to government due to greater costs of monitoring totalisator

activities and collecting the revenues.

*Effects When?:* Ongoing.

*Affects Who?:* Racing clubs and Western Australian public

*Public Objectives Affected:* Economic/financial.

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### ***Assessment of Public Benefit***

The restriction was assessed as giving rise to costs on punters through significantly higher prices for totalisator betting services. Benefits were assessed as the ease of regulation by the government of off-course betting services and ease of collection of revenues from these betting services for return to the suppliers of the betting platforms and for general government revenue. In view of the explicit legislative objectives of controlling off-course betting and collecting revenues from off-course betting and the historical problems in achieving this in the absence of the current regulator framework, the restriction was assessed as providing a net public benefit.

### ***Alternative Means of Achieving the Legislative Objectives***

For on-course totalisators, the system of authorisation of racing clubs to operate totalisators is, in effect, a registration system with relatively small costs to the racing clubs. Removal of the restriction would not necessarily increase on-course competition between operators of totalisators as the number and operators of totalisators would still be subject to the control of racing clubs as the manager of racecourse premises. Consequently, the existing regulatory framework for on-course totalisators is considered to achieve a desired level of regulatory control at minimum cost to the industry and broader community. There is not considered to be any more favourable alternative.

For off-course totalisators, new legislation would be required to establish provisions for the licensing of further off-course totalisators in Western Australia as the current Betting Control Act does not provide for authorisation of such services. There are conceivably benefits to punters from a more competitive service to that currently provided by the TAB, although this would potentially reduce financial returns to the racing industry, which is in conflict to the objectives of the legislation.

A less restrictive regulatory framework would be for the current prohibition of additional off-course totalisator services to be replaced with provisions in the Betting Control Act to allow the Minister to enter into State agreements, ratified by Parliament, for the licensing of additional off-course totalisators if this is considered by government to be in the public interest. This would allow the government flexibility to manage trade-offs between benefits to punters from greater competition and the returns to government and racing clubs including-

- the value to the State of the TAB as a public asset;
- the value of the TAB's tax contribution to the State;
- the value of TAB profit distributions to the racing industry; and
- the benefit to the racing clubs of the totalisator network provided by the TAB.

## *Conclusion*

The restriction was assessed as providing a net public benefit in terms of the legislative objectives of monitoring and controlling off-course betting and securing a return from off-course betting for government and the racing industry. A less restrictive regulatory framework would be for the current prohibition of additional off-course totalisator services to be replaced with a provision in the Betting Control Act to allow the Minister to enter into State agreements, ratified by Parliament, for the licensing of additional off-course totalisators if this is considered by government to be in the public interest. In this regard, the impact on the overall public interest would need to take into account any diminution of the benefits provided by the TAB to the State and the racing industry by removing its monopolistic status.

It was therefore concluded that the provisions contained in the legislation giving rise to the restriction should be amended to establish a provision for the issue of additional off-course totalisator licences where it can be demonstrated that to do so will benefit the public interest.

**Restriction 6: A current bookmaker's licence is required for a person to act as a bookmaker. A person wishing to obtain a licence to act as a bookmaker must apply to the Betting Control Board and must furnish any information in support of the application as the Board may require, and must pay a prescribed application fee. Holders of bookmakers licences must pay ongoing annual licence fees assessed on the total annual turnover of the totalisator. (BC Act Sections 11(1), 11(16), 13(1), 24(1)(a); BC Regs Regulations 17, 17A)**

### *Potential Disadvantages of the Restriction*

- Reduced services to punters from bookmakers as a result of lower numbers of bookmakers and less competition between bookmakers than would occur in the absence of licensing.
- Additional costs incurred by bookmakers in applying for licences and furnishing information to the Betting Control Board.

### *Potential Advantages of the Restriction*

- Fair and proper conduct of bookmaking activities as a result of the ability of the Betting Control Board to exclude persons that are not considered fit and proper to conduct bookmaking.
- Provision for collection of revenues by racing clubs and the government through an ability to monitor the activities of individual bookmakers.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

**Effect 6.1** Reduced services to punters from bookmakers.

*How?:* Lower numbers of bookmakers and less competition between bookmakers than would occur in the absence of licensing.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The Betting Control Board does not impose an restriction on the total number of bookmakers licences issued but only refuses applications on consideration of an applicant not being a fit and proper person to conduct the business of a bookmaker. Competition between bookmakers is more likely to be affected by the number of bookmakers allowed by racing clubs to operate on racecourses, which is beyond the scope of the legislation.

The Betting Control Board has not refused any licence application over the past ten years, although one applicant withdrew his application on advice of the Board that he was ill-equipped in terms of experience to operate as a bookmaker and it would not be in his own best interest.

In its submission to the review, the Western Australian Bookmakers' Association expressed an opinion that there would not be any significant increases in numbers of bookmakers if restrictions on entry into the industry were relaxed. The Association suggested that numbers of bookmakers are limited by low numbers of people with appropriate skills and willing to take the financial risks inherent in bookmaking.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

**Effect 6.2** Additional costs incurred by bookmakers

*How?:* Costs of applying for licences and furnishing information to the Betting Control Board.

*Estimate of Impact:* Total application costs of up to approximately \$1000. Ongoing annual licence fees of \$275 to \$825.

*Supporting Evidence:* Application fee of \$300 and additional costs possibly in the order of a few hundred dollars to provide a police clearance and other documentation. Annual licence fees range from \$275 to \$825 depending upon the turnover of the bookmaker. These fees are set to recover costs of regulation.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

Potential Advantages and Benefits

**Effect 6.3** Improved standards of practice in the bookmaking industry.

*How?:* Ability of the Betting Control Board to exclude persons that are not considered fit and proper to conduct bookmaking.

Ability of the Betting Control Board to identify and monitor the activities of individual bookmakers.

The threat of cancellation of licences by the Betting Control Board provides a mechanism for enforcement of provisions of the Betting Control Act and for motivating good conduct by bookmakers.

*Estimate of Impact:* Unquantified but envisaged to be substantial.

*Supporting Evidence:* History has shown that in the absence of strong regulation, competition for the betting dollar and the drive for personal profit in what is ostensibly a money trade, has a high potential to result in an unacceptable level of dishonest and corrupt activities. An assurance of the personal integrity of bookmakers is an important part of this regulatory platform.

In considering applications for bookmakers licences, The Betting Control Board assesses the honesty and integrity of the applicant through interviews of character referees and determining if the applicant has any criminal convictions or convictions related to betting offences. Guidelines for the assessment of applications provide for refusal on several grounds, such as past convictions on serious offences relating to dishonesty or violence.

Although no licence applications have been refused over the last ten years, the restriction is considered to produce advantages through discouraging applications from persons for whom refusal of the application would be likely.

Licences have been cancelled or suspended at least twice over the past ten years in response to improper or illegal betting practices conducted by the licensee. 40 to 50 warnings of prospective cancellation or suspension have been issued over the same period.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial; risk/uncertainty.

**Effect 6.4** Provision for collection of revenues by racing clubs and the government.

*How?:* Ability of racing clubs and the Betting Control Board to monitor the activities of individual bookmakers and collect levies assessed as a proportion of turnover.

*Estimate of Impact:* Revenue of \$3.6 million to the racing industry.

*Supporting Evidence:* In the absence of regulatory controls over bookmaking, the betting platform supplied by the racing industries would constitute a public good, able to be used by providers of betting services for no charge. The regulatory control allows for the racing industry to secure a return on the betting “good” that the industry provides. Under current regulation, racing clubs are able to collect levies from on-course bookmakers on behalf of the government. The government currently allows these levies to be retained by the racing clubs.

In a less controlled bookmaking industry, racing clubs may still be able to obtain revenue from levies on bookmakers, but greater expenses would be incurred in monitoring bookmaking activities and collecting the revenues.

*Effects When?:* Ongoing.

*Affects Who?:* Racing clubs.

*Public Objectives Affected:* Economic/financial.

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### **Assessment of Public Benefit**

Given the nature of the betting industry and the opportunities that exist for corrupt and dishonest operators, an effective system for licensing bookmakers is judged to be essential

in regulating activities and avoiding adverse effects on the racing industry, punters and the wider community. Also, licensing is advantageous in providing for racing clubs to secure a return from bookmaking activities for the betting platform provided by the racing industry. Licensing is not considered to give rise to any significant costs either in associated fees and charges or in reducing numbers of bookmakers and competition between bookmakers. In total, licensing of bookmakers is considered to give rise to a net public benefit.

### ***Alternative Means of Achieving the Legislative Objectives***

The purposes of the current licensing system for bookmakers are principally to prevent dishonest or unscrupulous persons from operating as bookmakers and to facilitate the enforcement of appropriate conduct of business by bookmakers. Alternative means of achieving these objectives would be self regulation and regulation by a negative licensing system.

Self regulation of bookmakers may involve mechanisms such as registration by a privately organised association such as the Western Australian Bookmakers' Association. This was not considered to have any benefits to bookmaker's over the existing licensing system as a rigorous registration system would probably cause bookmakers to face similar fees and charges as apply to the current licences. Disadvantages of such a system would be the reduced ability of government to control participants in the industry and to monitor these participants. In total, it was considered that such an alternative would give rise to a net cost to the community relative to existing arrangements.

A negative licensing system bars certain persons from operating as bookmakers where such persons have a history of misconduct or are otherwise deemed unsuitable to act as bookmakers. The benefits of such an alternative would be reduced costs to bookmakers in obtaining licences. Costs of the alternative would arise from less effective regulation and greater regulatory costs for the racing clubs and the Betting Control Board in monitoring the activities of bookmakers. In total, it was considered that such an alternative would give rise to a net cost to the community relative to existing arrangements.

### ***Conclusion***

The provisions of the Betting Control Act requiring licensing of bookmakers was assessed as providing a net public benefit. There was not considered to be any alternative means of achieving objectives for control of bookmaking activities that would provide a net public benefit over existing arrangements. Therefore it was concluded that there should be no changes to the current provisions of the legislation giving rise to the restriction.



**Restriction 7: A current bookmaker's employee licence is required for a person to act as an employee of a bookmaker. A person wishing to obtain a licence to act as a bookmaker's employee must apply to the Betting Control Board and must furnish any information in support of the application as the Board may require, and must pay a prescribed fee. (BC Act Sections 11(3), 11(16), 31(1)(a))**

***Potential Disadvantages of the Restriction***

- Reduced business activities by bookmakers and reduced services to punters from bookmakers as a result of lower numbers of bookmaker's employees than would occur in the absence of licensing.
- Additional costs incurred by bookmaker's employees and bookmakers in applying for licences and furnishing information to the Betting Control Board.

***Potential Advantages of the Restriction***

- Fair and proper conduct of bookmaking activities by virtue of the ability of the Betting Control Board to exclude persons that are not considered fit and proper to conduct bookmaking activities.

***Assessment of Costs and Benefits***

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Potential Disadvantages and Costs

***Effect 7.1*** Reduced business activities by bookmakers and reduced services to punters from bookmakers.

*How?:* Lower numbers of bookmaker's employees than would occur in the absence of licensing.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The Betting Control Board does not impose any restriction on the total number of bookmaker's employee licences issued but only refuses applications on consideration of an applicant not being a fit and proper person to conduct the business of a bookmaker.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers and punters.

*Public Objectives Affected:* Economic/financial.

***Effect 7.2*** Additional costs incurred by bookmaker's employees and bookmakers.

*How?:* Costs of applying for licences and furnishing information to the Betting Control Board.

*Estimate of Impact:* Total application costs of up to one hundred dollars.

*Supporting Evidence:* Application fee of \$20 and additional costs of less than one hundred dollars to provide a police clearance and other documentation. There are no annual licence fees.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmaker's employees and bookmakers..

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

***Effect 7.3*** Improved standards of practice in the bookmaking industry.

*How?:* Ability of the Betting Control Board to exclude persons from acting as bookmaker's employees that are not considered fit and proper to conduct bookmaking activities.

The threat of cancellation of licences by the Betting Control Board provides a mechanism for enforcement of provisions of the Betting Control Act and for motivating good conduct by bookmaker's employees.

*Estimate of Impact:* Considered to be substantial.

*Supporting Evidence:* In considering applications for bookmaker's employee licences, The Betting Control Board assesses the honesty and integrity of the applicant through interviews of character referees and determining if the applicant has any criminal convictions or convictions related to betting offences. Similar guidelines apply to assessment of application as for bookmakers licences, although the Board has greater powers to exercise discretion.

About five licence applications have been refused over the last ten years due to criminal convictions of the applicants. The restriction is considered to produce advantages through discouraging applications from persons for whom refusal of the application would be likely.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, the racing industry and the general public.

*Public Objectives Affected:* Economic/financial; avoidance of "public bads".

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#### ***Assessment of Public Benefit***

Given the nature of the betting industry and the opportunities that exist for corrupt and dishonest operators, an effective system for licensing bookmakers' employees is judged to be essential in regulating activities and avoiding adverse effects on the racing industry, punters and the wider community. Licensing is not considered to give rise to any significant costs either in associated fees and charges or in reducing numbers of bookmakers' employees. In total, licensing of bookmakers is considered to give rise to a net public benefit.

#### ***Alternative Means of Achieving the Legislative Objectives***

Alternative means of maintaining standards of practice by bookmaking employees are (i) to do away with licensing of employees and hold the bookmaker responsible for the actions of employees; and (ii) use a form of negative licensing whereby persons found to have engaged in misconduct as a bookmaker's employee are subsequently prohibited from holding or securing such employment.

Section 11(7)(a) of the Betting Control Act provides for a bookmaker to be responsible for all actions of an employee relating to the bookmaking business, to be severally liable with the employee for offences against the Betting Control Act, and is generally required to be present at or in close proximity to the area in which the employee is conducting bookmaking activities. This is not considered to provide sufficient control over

bookmakers' employees as individual bookmakers may not have access to the necessary information to assess employees, nor undertake assessment to a sufficient degree of rigour.

A negative licensing system bars certain persons from operating as bookmakers' employees where such persons have a history of misconduct or are otherwise deemed unsuitable to act as bookmakers. The benefits of such an alternative would be reduced costs to bookmakers in obtaining licences. Costs of the alternative would arise from less effective regulation and greater regulatory costs for the racing clubs and the Betting Control Board in monitoring the activities of bookmakers. In total, it was considered that such an alternative would give rise to a net cost to the community relative to existing arrangements.

In general, it is considered necessary to regulate bookmakers' employees to a similar degree of rigour as for bookmakers. The main reason for this is that employees are able to effectively act as a bookmaker in situations where the bookmaker is sick or on leave, a bookmaker is operating a second stand, or there is insufficient bookmakers to meet demand at another race course.

### ***Conclusion***

The provisions of the Betting Control Act requiring licensing of bookmakers was assessed as providing a net public benefit. There was not considered to be any alternative means of achieving objectives for control of bookmaking activities that would provide a net public benefit over existing arrangements. Therefore it was concluded that there should be no changes to the current provisions of the legislation giving rise to the restriction.

### **Restriction 8: Bookmaker's licences and bookmaker's employees licences are not transferable. (BC Act Section 11(2))**

#### ***Potential Disadvantages of the Restriction***

- Reduced services to punters due to lower competition amongst bookmakers arising from restricted ability of prospective bookmakers and bookmakers employees to licences.
- Reduced incentives of bookmakers to develop bookmaking businesses due to the inability to capitalise on the sale of bookmaking businesses associated with a licence.

#### ***Potential Advantages of the Restriction***

- Fair and proper conduct of betting activities by virtue of an increased ability of the Betting Control Board to maintain control over participants in the bookmaking industry.

#### ***Assessment of Costs and Benefits***

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##### Potential Disadvantages and Costs

***Effect 8.1*** Reduced services to punters.

*How?:* Lower competition amongst bookmakers arising from restricted ability of prospective bookmakers and bookmakers employees to licences.

*Estimate of Impact:* No effect.

*Supporting Evidence:* The Betting Control Board does not limit the total number of licences issued.

*Effects When?:* Not applicable.

*Affects Who?:* Not applicable.

*Public Objectives Affected:* Not applicable.

**Effect 8.2** Reduced incentives of bookmakers to develop bookmaking businesses.

*How?:* Inability of bookmakers to capitalise on the sale of bookmaking businesses associated with a licence.

*Estimate of Impact:* No effect.

*Supporting Evidence:* As the Betting Control Board does not limit the total number of licences issued, the value of a licence would effectively be zero. Transfer of a bookmaking business as a going concern would be subject to arrangements between bookmakers and racing clubs, and would not be impeded by licensing unless the prospective purchaser was deemed by the Betting Control Board to not be a fit and proper person to hold a bookmaker's licence.

*Effects When?:* Not applicable.

*Affects Who?:* Not applicable.

*Public Objectives Affected:* Not applicable.

#### Potential Advantages and Benefits

**Effect 8.2** Improved standards of practice in the bookmaking industry.

*How?:* Ability of the Betting Control Board to control the holding of licences.

*Estimate of Impact:* Substantial.

*Supporting Evidence:* The control by the Betting Control Board over the identity of licensees is fundamental to the benefits of the licensing system as described in the assessment of Restriction 7.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, the racing industry and the general public.

*Public Objectives Affected:* Economic/financial; avoidance of "public bads".

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#### **Assessment of Public Benefit**

The prohibition on transfer of bookmaker's and bookmaker's employee licences was assessed as causing no costs to the bookmaking industry and providing benefits through facilitating the capture of benefits of the licensing system. In total the restriction was assessed as providing a net public benefit.

### *Alternative Means of Achieving the Legislative Objectives*

The alternative to the prohibition of transfer of licences while still controlling the identity of licence holders would be to allow transfer subject to the approval by the Betting Control Board. Since such an approval would be similar to approval for issue of a new licence, there was not considered to be any advantage to this alternative.

### *Conclusion*

The prohibition on transfer of bookmaker's and bookmaker's employee licences was assessed as providing a net public benefit. As there was not considered to be any beneficial alternative means of achieving the objective of the restriction, it was concluded that no changes to the relevant provisions of the legislation are necessary for compliance with National Competition Policy.

### **Restriction 9: The Betting Control Board is not required to specify reasons for refusal of licence applications. (BC Act Section 11(3))**

#### *Potential Disadvantages of the Restriction*

- Costs imposed on licence applicants or prospective applicants as a result of uncertainty in respect of decisions on licence applications.
- Reduced industry confidence in the Betting Control Board as a result of the absence of accountability of the Board in licensing decisions.

#### *Potential Advantages of the Restriction*

- No envisaged advantages: it is considered that a refusal by the Board to specify reasons for refusal of an application could not be successfully defended if challenged.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 9.1* Costs imposed on licence applicants or prospective applicants.

*How?:* Uncertainty in respect of decisions on licence applications.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The Betting Control Board has published guidelines for the assessment of licence applications. These guidelines are available to the public. In any case of prospective refusal of an application, other than where the application is to be automatically refused in accordance with the guidelines, an applicant is provided with opportunities to show cause or address the concerns of the Board.

The provision is not relied upon by the Board in refusing applications.

*Effects When?:* Ongoing.

*Affects Who?:* Applicants or prospective applicants for licences.

*Public Objectives Affected:* Economic/financial; risk/uncertainty.

***Effect 9.2*** Reduced industry confidence in the Betting Control Board.

*How?:* Absence of accountability of the Board in licensing decisions.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The Betting Control Board would provide any unsuccessful licence application with reasons for refusal of the application, regardless of the provision.

In its submission to the review, the Western Australian Bookmakers Association indicated general support for the licensing system.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmaking and racing industries.

*Public Objectives Affected:* Economic/financial; risk/uncertainty.

#### Potential Advantages and Benefits

*No envisaged advantages.*

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#### ***Assessment of Public Benefit***

The restriction is regarded by the Betting Control Board as unenforceable and has no bearing on licensing procedures or decisions. Consequently the restriction was assessed not giving rise to either costs nor benefits.

#### ***Alternative Means of Achieving the Legislative Objectives***

In view of the low costs of the restriction, no alternative means of achieving regulatory objectives were considered.

#### ***Conclusion***

The restriction was assessed as not giving rise to either costs or benefits. Therefore it was concluded that the relevant provisions of the legislation (BC Act Section 11(3)) should be amended to remove the restriction.

#### **Restriction 10: A bookmaker's licence or bookmaker's employee licence cannot be granted to any person under the age of 18 years. (BC Act Section 11(5)(b))**

#### ***Potential Disadvantages of the Restriction***

- Reduced services to punters from bookmakers as a result of lower numbers of bookmakers and bookmaker's employee's and less competition between bookmakers than would occur in the absence of the restriction.
- Increased costs to bookmakers through not being able to employ junior staff.
- Lack of opportunity for employment in the bookmaking industry for persons less than 18 years of age.

## ***Potential Advantages of the Restriction***

- Reduced negative community impacts of betting activity through less exposure of young people to betting.

## ***Assessment of Costs and Benefits***

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### Potential Disadvantages and Costs

***Effect 10.1*** Reduced services to punters from bookmakers.

*How?:* Lower numbers of bookmakers and bookmakers' employees and less competition between bookmakers than would occur in the absence of licensing.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Numbers of practicing bookmakers and competition between bookmakers are not considered to be restricted by licensing, and are more likely to be affected by the number of bookmakers allowed by racing clubs to operate on racecourses, which is beyond the scope of the legislation, than by restrictions on the issue of licences

In its submission to the review, the Western Australian Bookmakers' Association suggested that there would not be any significant increases in numbers of bookmakers if restrictions on entry into the industry were relaxed.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

***Effect 10.2*** Higher costs of bookmakers.

*How?:* Inability of bookmakers to employ junior staff at lower rates of pay.

*Estimate of Impact:* Unquantified, considered small.

*Supporting Evidence:* The employees of bookmakers are only required to be licensed where they participate in betting activities or betting transactions. The restriction bookmakers may give rise to higher costs to bookmakers due to the inability to employ persons under 18 years of age in these tasks, although it is considered that demand from bookmakers for junior staff in these positions would be small.

The restriction does not prevent a bookmaker from employing juniors for activities not directly relating to betting or betting activities, for example office duties.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

***Effect 10.3*** Lack of opportunity for employment in the bookmaking industry for persons less than 18 years of age.

*How?:* Prohibition on granting of licences to persons less than 18 years of age.

*Estimate of Impact:* Unquantified, considered small.

*Supporting Evidence:* The employees of bookmakers are only required to be licensed where they participate in betting activities or betting transactions. The restriction on bookmakers may give rise to higher costs to bookmakers due to the inability to employ persons under 18 years of age in these tasks, although it is considered that demand from bookmakers for junior staff in these positions would be small.

The restriction does not prevent a bookmaker from employing juniors for activities not directly relating to betting or betting activities, for example office duties.

*Effects When?:* Ongoing.

*Affects Who?:* Aspirants for employment in the bookmaking industry that are under 18 years of age.

*Public Objectives Affected:* Economic/financial; distributional.

#### Potential Advantages and Benefits

***Effect 10.4*** Reduced negative community impact of betting activity.

*How?:* Exclusion of persons under 18 years of age from betting activities.

*Estimate of Impact:* Substantial.

*Supporting Evidence:* The restriction is based on a premise of exposure to betting being likely to adversely influence the moral development of persons under the age of 18 years. Although the review did not encounter any evidence to support this premise, there is a strong social preference in the community for persons under 18 years of age to not be exposed to gambling activities for this reason. In view of this preference, there is considered to be a substantial benefit to the restriction.

*Effects When?:* Ongoing.

*Affects Who?:* General public.

*Public Objectives Affected:* Avoidance of “public bads”.

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#### ***Assessment of Public Benefit***

The restriction was assessed as likely to impose significant, though probably small, costs on bookmakers and persons under 18 years of age though restricting employment of minors in activities directly related to betting transactions. Benefits were considered to be substantial and arising from compliance with a general social preference that minors should not be exposed to gambling. In total, the restriction was assessed as providing a net public benefit.

#### ***Alternative Means of Achieving the Legislative Objectives***

In view of the low costs of the restriction, no alternative means of achieving regulatory objectives were considered.

#### ***Conclusion***

The restriction was assessed as providing a net public benefit. No alternatives were considered and it was concluded that the provisions of the legislation giving rise to the restriction should be retained.



**Restriction 11: A bookmaker’s licence or bookmaker’s employee licence cannot be granted to a body corporate. (BC Act Section 11(5)(c))**

***Potential Disadvantages of the Restriction***

- Higher costs on bookmakers through not being able to operate through corporate business structures.
- Competitive disadvantages to bookmakers *vis a vis* other suppliers of betting and gambling services that are able to operate through corporate structures.

***Potential Advantages of the Restriction***

- Fair and proper conduct of betting activities by virtue of the ability of the Betting Control Board to exclude from bookmaking activities persons that are not considered fit and proper to conduct bookmaking.
- Reduced risks to punters due to unlimited liability of bookmakers.

***Assessment of Costs and Benefits***

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Potential Disadvantages and Costs

***Effect 11.1*** Higher costs on bookmakers.

*How?:* Prevention of bookmakers from operating through corporate business structures.

*Estimate of Impact:* Additional direct and indirect costs to individual bookmakers of potentially a few tens of thousand dollars per annum. Additional costs to the entire bookmaking industry of potentially up to a million dollars per annum.

*Supporting Evidence:* Bookmakers must pay taxation at rates of personal income tax rather than company tax, must accept risks associated with unlimited liability, and may have activities constrained by restricted avenues of credit.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

***Effect 11.2*** Competitive disadvantages to bookmakers *vis a vis* other suppliers of betting and gambling services that are able to operate through corporate structures.

*How?:* Higher costs of bookmakers as described for Effect 11.1.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* In its submission to the review, the Western Australian Bookmakers’ Association indicated that the betting odds offered to punters are “*not substantially determined by the overall administrative and operational costs that are required to be met by the bookmaker, but [instead] by the prospects of a particular result eventuating from a race or sporting*

event.”

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

***Effect 11.3*** Improved standards of practice in the bookmaking industry.

*How?:* Ability of the Betting Control Board to exclude persons that are not considered fit and proper to conduct bookmaking activities.

*Estimate of Impact:* Unquantified but considered substantial.

*Supporting Evidence:* The benefits of the current licensing scheme for bookmakers, as described in the assessment of Restriction 6, depends upon the control of individuals undertaking the bookmaking activities. Licensing of corporations to undertake bookmaking activities may cause a reduction in this control and hence the benefits of licensing.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, the racing industry and general public.

*Public Objectives Affected:* Economic/financial; avoidance of “public bads”.

***Effect 11.4*** Reduced risks to punters.

*How?:* Unlimited liability of bookmakers motivating bookmakers to abstain from bets with a high financial risk.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The requirement for bookmakers to lodge security bonds with the Betting Control Board reduces risks to punters. Unlimited liability of bookmakers is not considered to further reduce risks to any significant extent.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

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#### ***Assessment of Public Benefit***

The prevention of bookmakers operating as sole traders was assessed as causing additional costs to individual bookmakers of up to several tens of thousand dollars per annum, and costs to the entire bookmaking industry of potentially up to a million dollars per annum. Benefits from the restriction arise in control over persons acting as bookmakers and achieving the benefits of the licence system. In view of the perceived benefits of the licence system, it is considered that the restriction is in the public interest, albeit at high economic cost to bookmakers.

#### ***Alternative Means of Achieving the Legislative Objectives***

Any alternative and less restrictive means for achieving the legislative objectives would be to alter licensing provisions to a system similar to that for liquor licensing whereby a corporation may conduct bookmaking activities but the activities must be conducted under

the control of a licensed manager. To maintain control over the individuals involved in or with an interest in bookmaking activities, it would be necessary to amend the existing licence structure to provide for licensing of corporations, bookmaking managers and possibly directors of the corporations. Legal opinion may be necessary to frame the necessary changes to the licensing system, however it is considered that the following components of a licensing system would be necessary.

- Provision for bookmaking licences to be issued to corporations.
- Provision for authorisation or licensing of persons to act as directors of a bookmaking corporation, subject to probity checks on the persons.
- Probity checks on major shareholders in a position to influence the management of the company.
- Licensing of managers of bookmaking activities and assignment to managers of the rights, duties and responsibilities of bookmakers as conferred by the Betting Control Act.

Consideration may also need to be given to requirements for security bonds to be paid by bookmaking corporations, and the setting of these bonds in accordance with an potential for a greater propensity for corporate bookmakers to take financial risks in betting transactions when protected by limited liability.

Although additional administrative costs would arise from the greater complexity of a licensing system that allows for licensing of corporations, directors and managers, the lack of high costs in the liquor-licensing system would suggest that there are no major cost barriers to implementing such a system.

### ***Conclusion***

The restriction was assessed as being in the public interest by virtue of the ability to control the persons conducting bookmaking activities, although at a high economic cost to bookmakers. An alternative and less restrictive means of achieving these advantages would be to allow the provision of bookmakers licences to corporations subject to a suitable mechanism being established to exclude undesirable persons from acting as directors to bookmaking corporations and to licence managers of bookmaking activities. It was therefore concluded that the Betting Control Act should be amended to allow for the issue of bookmaking licences to corporations subject to amendments to the Act to allow for the licensing of managers of bookmaking activities conducted by these corporations and the authorisation or licensing of persons acting as directors of corporation undertaking bookmaking activities.

**Restriction 12: A bookmaker’s licence or bookmaker’s employee licence cannot be granted to an undischarged bankrupt. (BC Act Section 11(5)(b))**

***Potential Disadvantages of the Restriction***

- Reduced services to punters from bookmakers as a result of lower numbers of bookmakers and less competition between bookmakers than would occur in the absence of licensing.
- Absence of business opportunities for financial bankrupts in bookmaking.

***Potential Advantages of the Restriction***

- Reduced betting risks of punters that may otherwise arise from bookmakers from the inability of bookmakers to make payments for winning bets.

***Assessment of Costs and Benefits***

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Potential Disadvantages and Costs

***Effect 12.1*** Reduced services to punters from bookmakers.

*How?:* Lower numbers of bookmakers and less competition between bookmakers than would occur in the absence of licensing.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The restriction is not envisaged as having a significant effect on numbers of bookmakers. Competition between bookmakers is more likely to be affected by the number of bookmakers allowed by racing clubs to operate on racecourses, which is beyond the scope of the legislation.

In its submission to the review, the Western Australian Bookmakers’ Association expressed an opinion that there would not be any significant increases in numbers of bookmakers if restrictions on entry into the industry were relaxed.

*Effects When?:* Ongoing.

*Affects Who?:* Punters

*Public Objectives Affected:* Economic/financial.

***Effect 12.2*** Absence of business opportunities for financial bankrupts in bookmaking.

*How?:* Inability to obtain a licence to act as a bookmaker.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* An inability of undischarged bankrupts to obtain the necessary financial backing to commence business as a bookmaker would probably act as a greater barrier to entry to the bookmaking industry than inability to obtain a licence.

*Effects When?:* Ongoing.

*Affects Who?:* Undischarged bankrupts.

*Public Objectives Affected:* Economic/financial.

## Potential Advantages and Benefits

**Effect 12.3** Reduced betting risks of punters.

*How?:* Protection from an inability of bookmakers to make payments for winning bets.

*Estimate of Impact:* Unquantified, probably small.

*Supporting Evidence:* Operation as a bookmaker requires access to financial resources and lines of credit. An undischarged bankrupt operating as a bookmaker may not have access to such resources and may therefore have a restricted ability to meet payments for winning bets.

The impact is probably small since an inability of undischarged bankrupts to obtain the necessary financial backing to commence business as a bookmaker would probably act as a barrier to entry to the bookmaking industry. Also, some assurance for punters is provided by requirements for bookmakers to lodge security bonds with the Betting Control Board.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Risk/uncertainty.

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## ***Assessment of Public Benefit***

The prohibition on issue of licences to undischarged bankrupts was assessed as not giving rise to any significant costs, but possibly conferring a small benefit to punters through providing some assurance that bookmakers have sufficient access to financial resources to honour winning bets and thereby reducing the commercial risks of punters. The restriction was therefore assessed as being of net public benefit.

## ***Alternative Means of Achieving the Legislative Objectives***

In view of the low costs of the restriction, no alternative means of achieving regulatory objectives were considered.

## ***Conclusion***

The prohibition on undischarged bankrupts from holding bookmakers licences was assessed as giving rise to a net public benefit. No alternative means of achieving regulatory objectives were considered and it was concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 13: Bookmaking conducted from a race course on sporting events may only be conducted by bookmakers that hold a bookmaker’s licence endorsed to authorise such betting (BC Act Section 4B(1)).**

***Potential Disadvantages of the Restriction***

- Reduced services to punters from bookmakers as a result of lower numbers of bookmakers and less competition between bookmakers providing betting services for sporting events.
- Costs incurred by bookmakers in obtaining licence endorsements.

***Potential Advantages of the Restriction***

- Fair and proper conduct of betting activities at sporting events.

***Assessment of Costs and Benefits***

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Potential Disadvantages and Costs

***Effect 13.1*** Reduced services to punters.

*How?:* Lower numbers of bookmakers and less competition between bookmakers providing betting services for sporting events

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The Betting Control Board does not restrict the numbers of authorisations issued to bookmakers. The issue of authorisations is only undertaken to provide for the Betting Control Board to be made aware of those bookmakers conducting betting on sporting events.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

***Effect 13.2*** Costs incurred by bookmakers.

*How?:* Costs of obtaining licence endorsement.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Costs would be limited to small and one-off administrative costs associated with applying for endorsement of the licence. There are no application fees or additional licence fees.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

Potential Advantages and Benefits

***Effect 13.3*** Fair and proper conduct of bookmaking activities for sporting events.

*How?:* Provision for the Betting Control Board to be aware of bookmakers fielding on sporting events and thus to monitor these activities.

*Estimate of Impact:* Substantial benefits.

*Supporting Evidence:* The requirement for endorsement of bookmakers licences to allow betting on sporting events provides for the Betting Control Board to be made aware of the bookmakers conducting betting for these events. This is considered necessary to allow the Board to monitor activities of individual bookmakers for purposes of dispute resolution, application of different rates of tax to betting turnover relating to sporting events, and to ensure that only approved sporting events are being betted on.

Monitoring has in the past detected problems and infringements related to sports betting. This includes detection of illegal activity with regard to bookmaking on the winner of the 1997 Sandover Medal in Western Australia.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, sporting organisations, sport participants and spectators.

*Public Objectives Affected:* Avoidance of “public bads”.

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### ***Assessment of Public Benefit***

The requirement for endorsement of bookmakers licences to allow the respective bookmakers to bet on sporting events was assessed as not giving rise to any significant costs, but conferring substantial benefits by allowing the Betting Control Board to monitor bookmaking activities for sporting events. The restriction was therefore assessed as being of net public benefit.

### ***Alternative Means of Achieving the Legislative Objectives***

In view of the low costs of the restriction, no alternative means of achieving regulatory objectives were considered.

### ***Conclusion***

The requirement for endorsement of bookmakers licences to allow the respective bookmakers to bet on sporting events was assessed as giving rise to a net public benefit. No alternative means of achieving regulatory objectives were considered and it was concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 18: Authorisation from the Betting Control Board is required for a bookmaker to carry on business by means of on-course telephone betting. (BC Regs Regulations 71, 72)**

### ***Potential Disadvantages of the Restriction***

- Reduced services to punters from bookmakers as a result of lower numbers of bookmakers and less competition between bookmakers able to provide telephone betting services.
- Costs incurred by bookmakers.

## ***Potential Advantages of the Restriction***

- Fair and proper conduct of telephone-betting activities.

## ***Assessment of Costs and Benefits***

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### Potential Disadvantages and Costs

***Effect 18.1*** Reduced services to punters.

*How?:* Lower numbers of bookmakers and less competition between bookmakers able to provide telephone betting services.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The Betting Control Board does not restrict numbers of authorisations granted to conduct telephone betting.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

***Effect 18.2*** Costs incurred by bookmakers.

*How?:* Costs of obtaining authorisation.

*Estimate of Impact:* Negligible cost of obtaining authorisation. Costs of several hundred to a few thousand dollars may be incurred in obtaining equipment and establishing procedures for telephone betting.

*Supporting Evidence:* Costs directly related to obtaining authorisation would be limited to small and one-off administrative costs associated with application for authorisation. There are no application fees or additional licence fees.

To obtain authorisation a bookmaker would be required to have equipment for the recording of telephone-betting transactions and to put procedures in place to maintain records of transactions.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

### Potential Advantages and Benefits

***Effect 18.3*** Providing for fair and proper conduct of betting activities.

*How?:* Provision for monitoring of telephone betting activities.

*Estimate of Impact:* Substantial benefit.

*Supporting Evidence:* The Betting Control Board requires that telephone betting be undertaken according to procedures that allow appropriate records of telephone bets to be maintained, including tape recording of all betting transactions made by telephone. With telephone betting there is no provision for the person laying a bet to receive and check a betting ticket. For the purposes of dispute resolution, all telephone conversations for telephone betting are tape recorded by course stewards using a telephone system approved by the Board.

The requirement for authorisation allows the Board to ensure that the



relevant procedures are in place before telephone betting is conducted.

The records of telephone betting are used on an approximately monthly frequency to resolve betting disputes and to detect infringements by bookmakers with respect to rules of telephone betting, including failing to confirm bets and failing to quote betting-ticket numbers.

*Effects When?:* Ongoing.

*Affects Who?:* Punters engaging in telephone betting.

*Public Objectives Affected:* Economic financial; risk/uncertainty; avoidance of “public bads”.

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### ***Assessment of Public Benefit***

The requirement for bookmakers to obtain authorisation to conduct telephone betting was assessed as giving rise to costs of several hundred to a few thousand dollars on bookmakers. Some costs would be ongoing. Benefits were assessed as being substantial and arising from provision to monitor telephone betting activities and to ensure appropriate records are maintained of telephone bets. The restriction was therefore assessed as being of net public benefit.

### ***Alternative Means of Achieving the Legislative Objectives***

In view of the low costs of the restriction, no alternative means of achieving regulatory objectives were considered.

### ***Conclusion***

The requirement for authorisation of bookmakers to undertake telephone betting was assessed as giving rise to a net public benefit. No alternative means of achieving regulatory objectives were considered and it was concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 20: A bookmaker can only accept telephone bets on a race being conducted as part of another race meeting in the state with the permission of the committee or other authority controlling that other race meeting. (BC Regs Regulation 72)**

### ***Potential Disadvantages of the Restriction***

- Reduced services to punters and business opportunities to bookmakers.

### ***Potential Advantages of the Restriction***

- Maintenance of financial returns to small race clubs.

## ***Assessment of Costs and Benefits***

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### **Potential Disadvantages and Costs**

***Effect 20.1*** Reduced services to punters and business opportunities to bookmakers.

***How?:*** Absence of opportunity for punters to bet, or bookmakers to receive bets, on races held by a race club that has refused permission for telephone betting on these races.

***Estimate of Impact:*** Small effect on punters.

Negligible effect on bookmakers.

***Supporting Evidence:*** Telephone betting operates at all large race events and there is a general lack of interest by punters in telephone betting on the smaller events where no telephone bookmakers are operating. These are usually small country events.

Most country race clubs have in any case provided permission for telephone betting on their race events. Where a race club has not granted approval, there would be a reduction in services to punters wishing to make bets from off-course on these events. The value of such bets is, however, unlikely to be of sufficient magnitude to significantly affect betting turnover of bookmakers.

***Effects When?:*** Ongoing.

***Affects Who?:*** Punters, bookmakers.

***Public Objectives Affected:*** Economic/financial.

### **Potential Advantages and Benefits**

***Effect 20.2*** Maintenance of financial returns to minor racing clubs.

***How?:*** Where permission for telephone betting has not been granted by a race club, punters wishing to bet on events held by that club are required to attend the race meeting to place bets with bookmakers. This provides for the race clubs to secure a return on betting activities for which they provide the betting platform. For telephone betting, the bookmakers levy is collected by the race club from which the bookmaker is operating.

***Estimate of Impact:*** Negligible: revenues of at most a few hundred dollars per race meeting to minor race clubs.

***Supporting Evidence:*** Most clubs have granted approval for telephone betting.

General lack of interest in betting by telephone on the minor events where no telephone bookmakers are operating. These are usually small country events.

Punter that would bet via telephone betting if it was available are considered unlikely to attend a minor race meeting because of the inability to utilise telephone betting.

***Effects When?:*** Ongoing.

***Affects Who?:*** Racing clubs.

***Public Objectives Affected:*** Economic/financial.

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### *Assessment of Public Benefit*

The requirement for bookmakers to obtain permission to accept telephone bets on events at race clubs other than that at which they are fielding was assessed as giving rise to generally small or negligible costs and benefits. To the extent that it is an objective of the legislation to provide for race clubs to secure a return on racing products that provide the platform for betting, the restriction is assessed as providing a net public benefit, albeit small.

### *Alternative Means of Achieving the Legislative Objectives*

In view of the low costs of the restriction, no alternative means of achieving regulatory objectives were considered.

### *Conclusion*

The requirement for bookmakers to obtain permission to accept telephone bets on events at race clubs other than that at which they are fielding was assessed as giving rise to a small net public benefit. No alternative means of achieving regulatory objectives were considered and it was concluded that the provisions of the legislation giving rise to the restriction should be retained.

## **6.4 Constraints and Costs Imposed on Bookmakers and Operators of Totalisators Generally**

**Restriction 21: An applicant for a bookmaker's licence may be required to lodge with the Betting Control Board a bond as security for due observance by the bookmaker and the employees of the bookmaker of the provisions of the Betting Control Act and the terms and conditions of any licence issued under the Act to that bookmaker or such employees. The Betting Control Board may apply a security lodged by a bookmaker against a betting debt of the bookmaker, regardless of the date the debt was incurred, and debts to the Betting Control Board. (BC Act Section 11(3)(a); BC Act Sections 11(12), 11(13); BC Regs Regulation 18)**

### *Potential Disadvantages of the Restriction*

- Reduced services to punters from bookmakers if the requirement for bonds and sureties constitutes a barrier to entry to the industry and results in lower numbers of bookmakers and less competition between bookmakers than would occur in the absence of the requirement.

### *Potential Advantages of the Restriction*

- Reduced financial risks to punters, racing clubs and government arising from greater assurances that bookmakers will honour payments for bets, levies and taxes.

## ***Assessment of Costs and Benefits***

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### **Potential Disadvantages and Costs**

***Effect 21.1*** Reduced services to punters from bookmakers.

*How?:* The requirement for bonds and sureties constitutes a barrier to entry to the industry and results in lower numbers of bookmakers and less competition between bookmakers than would occur in the absence of the requirement.

*Estimate of Impact:* Significant but generally small barrier to entry to the bookmaking industry.

*Supporting Evidence:* Sureties are typically provided through financial guarantees which reduces the cost to bookmakers (see analysis of Effect 21.2).

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers

*Public Objectives Affected:* Economic/financial.

***Effect 21.2*** Costs imposed on bookmakers.

*How?:* Deposit of bonds and sureties to Betting Control Board.

*Estimate of Impact:* One-off costs to bookmakers of \$2 000 to \$30 000.

*Supporting Evidence:* The sureties required by the Betting Control Board range between \$20 000 and \$300 000. These are typically provided through financial guarantees. Most bookmakers provide sureties through the Western Australian Bookmakers' Association that operates a fidelity fund for the purpose, requiring deposits of cash by bookmakers equal to 10% of the value of the surety provided to the Betting Control Board.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers

*Public Objectives Affected:* Economic/financial.

### **Potential Advantages and Benefits**

***Effect 21.3*** Reduced financial risks to punters, racing clubs and government.

*How?:* Greater assurance that bookmakers will honour payments for bets, levies and taxes

*Estimate of Impact:* Recovery of money from a bond occurs approximately once every two to three years, ranging in value from about \$10 000 to \$50 000.

*Supporting Evidence:* Records of the Betting Control Board.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, racing clubs and government.

*Public Objectives Affected:* Risk/uncertainty.

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## ***Assessment of Public Benefit***

The requirement for bonds to be lodged by bookmakers with the Betting Control Board imposes costs on bookmakers, although the payment of bonds by means of financial guarantees substantially reduces the cost to bookmakers and the requirement is not

considered to give rise to a significant barrier to entry to the industry. The regular drawing on bonds by the Betting Control Board indicates that the bonds do serve to reduce risks to punters, racing clubs and government arising from bookmakers defaulting on debts. The restrictions was therefore assessed as providing a net public benefit.

### *Alternative Means of Achieving the Legislative Objectives*

The legislative objective is to protect the interests of punters, racing clubs and government in respect of bookmaking activities. There is not considered to be any alternative mechanism for achieving this objective at lower cost than the current requirement for bonds or sureties.

### *Conclusion*

The requirement for bonds and sureties from bookmakers was assessed as giving rise to a net public benefit and there was not considered to be any alternatives means of achieving the objective. It was therefore concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 23: Racing clubs operating totalisators and bookmakers are required to maintain records and accounts of all betting transactions and/or betting turnover from the respective activities and to provide these records to relevant racing clubs and/or the Betting Control Board. Racing clubs are required to maintain records of bookmaking activities and collect payments of bookmaking levies and provide these records and relevant payments to the Betting Control Board. (BC Act Sections 14, 15, 16, 16A, 17A(5), 17B(5), 18A(1)).**

### *Potential Disadvantages of the Restriction*

- Costs imposed on bookmakers, operators of totalisators and racing clubs in keeping records that they would not otherwise maintain.
- Costs imposed on racing clubs in the collection of bookmaking levies and making payments to the Betting Control Board.

### *Potential Advantages of the Restriction*

- Improved operation of betting activities for the punter and wider community through provision of information to the Betting Control Board necessary for monitoring of betting activities, and through collection of bookmaking levies.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 23.1* Costs imposed on bookmakers, operators of totalisators and racing clubs.

*How?:* Keeping of records that would not otherwise be maintained for normal business purposes.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Requirements for keeping of records and accounts are not significantly greater than would be undertaken as due process in good business practice.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers, operators of totalisators and racing clubs.

*Public Objectives Affected:* Economic/financial.

**Effect 23.2** Costs imposed on racing clubs.

*How?:* Collection of levy payments from bookmakers and forwarding of payments to the Betting Control Board.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Levies collected by racing clubs from bookmakers are for the most part retained by the racing club. The only payment of levies to the Betting Control Board is prescribed fractions of levies collected in relation to sports betting. The restriction is therefore not envisaged as imposing significant costs on racing clubs in addition to costs that would be already incurred in collecting levies for their own purposes.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers, operators of totalisators and racing clubs.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 23.3** Improved operation of betting activities for the punter and wider community

*How?:* Provision of information to the Betting Control Board necessary for monitoring of betting activities.

Collection of bookmaking levies for distribution to sporting organisations.

*Estimate of Impact:* Unquantified but considered to be substantial.

*Supporting Evidence:* As bookmaking is a business conducted largely with cash transactions, detailed records of betting transactions are necessary for the Betting Control Board to be able to monitor activities of bookmakers and ensure compliance with provisions of the legislation.

Collection by racing clubs of levies from betting on sporting events and payment to the Betting Control Board allows for sporting organisations and sports generally to secure a return from betting on the sporting events that provide the betting platform.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, government, general community and sports organisations.

*Public Objectives Affected:* Economic/financial, avoidance of “public bads”.

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#### **Assessment of Public Benefit**

The requirements for keeping of records and collection of bookmaking levies were assessed as providing substantial public benefits through improved ability of the Betting

Control Board to regulate the betting industry. Costs imposed on bookmakers, racing clubs and operators of totalisators by these requirements were considered to be negligible as most of the costs would be incurred by these parties in maintaining business records or collecting levies for their own purposes. In total the restriction was assessed as providing a net public benefit.

### *Alternative Means of Achieving the Legislative Objectives*

The objective of the restriction is to provide the Betting Control Board with the information required to regulate the betting industry. There is not considered to be any alternative to the legislative requirement in achieving this objective.

### *Conclusion*

The requirements for keeping of records and collection of bookmaking levies were assessed as providing a net public benefit with negligible costs imposed on participants in the betting industry. There was not considered to be a better alternative to achieving the legislative objective and it was therefore concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 24: Bookmakers are prohibited from allowing any other person to have an interest, financial or otherwise, in the business of that bookmaker. (BC Act Section 31(1)(c))**

### *Potential Disadvantages of the Restriction*

- Costs imposed on bookmakers through constraints on business organisation and financial resources able to be applied to bookmaking activities.
- Competitive disadvantages to bookmakers *vis a vis* other suppliers of betting and gambling services that are able to operate through multi-person partnerships or corporate structures.

### *Potential Advantages of the Restriction*

- Improved standards of practice in the bookmaking industry by the ability of the Betting Control Board to exclude persons that are not considered fit and proper to conduct bookmaking.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 24.1* Higher costs on bookmakers.

*How?:* Prevention of bookmakers from operating in financial partnerships or as multi-person business firms or corporations with consequent constraints on business organisation, ability to exploit scale economies, and constraints on financial resources able to be applied to bookmaking activities.

*Estimate of Impact:* Unquantified but potentially substantial.

*Supporting Evidence:* Conducting business as a bookmaker requires substantial financial backing. The restriction limits the financial resources able to be accessed by a bookmaker through preventing any person other than the bookmaker having a financial interest in the bookmaking business.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

**Effect 24.2** Competitive disadvantages to bookmakers *vis a vis* other suppliers of betting and gambling services that are able to operate through businesses organised other than as sole traders.

*How?:* Higher costs for bookmakers by virtue of limited avenues for securing financial resources.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The costs of finance are unlikely to significantly affect the betting transactions undertaken by a bookmaker. In its submission to the review, the Western Australian Bookmakers' Association indicated that the betting odds offered to punters are "*not substantially determined by the overall administrative and operational costs that are required to be met by the bookmaker, but [instead] by the prospects of a particular result eventuating from a race or sporting event.*"

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 24.3** Improved standards of practice in the bookmaking industry.

*How?:* Ability of the Betting Control Board to exclude from bookmaking businesses persons that are not considered fit and proper to conduct bookmaking activities.

*Estimate of Impact:* Unquantified, potentially substantial although limited by limited powers of enforcement.

*Supporting Evidence:* The benefits of the current licensing scheme for bookmakers, as described in the assessment of Restriction 6, depends upon the control of individuals undertaking the bookmaking activities. Provision for licensed bookmakers to undertake bookmaking activities in association with unlicensed business associates may cause a reduction in this control and hence the benefits of licensing. The particular concern in this regard is preventing a bookmaker from operating as a front for a person unable to obtain a bookmaking licence.

A difficulty in detecting persons with financial interests in the activities of a bookmaker makes enforcement of the restriction difficult. Any benefit of the restriction would probably be as a deterrent.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, the racing industry and general public.



### ***Assessment of Public Benefit***

The prohibition of any other person having a financial interest in the business of a bookmaker was assessed as potentially imposing substantial costs on bookmakers due to the consequent constraints on access to financial resources. Benefits were considered to arise from the control over persons associated with bookmaking businesses and achieving the benefits of the licence system. In view of the general benefits from controlling the ability of persons to act as bookmakers, the restriction was assessed as being in the public interest, albeit at some economic cost to bookmakers.

### ***Alternative Means of Achieving the Legislative Objectives***

This restriction has generally similar impacts to Restriction 11 that prohibits bookmakers from operating as corporations. The same option for a less restrictive means of achieving regulatory objectives is relevant, that is, providing for bookmakers to operate under corporate business structures subject to control by the Betting Control Board over persons acting as directors of such a corporation and licensing of managers of bookmaking activities.

### ***Conclusion***

The restriction on any other person having a financial interest in the business of a bookmaker was assessed as being in the public interest, although at a potentially high economic cost to bookmakers. An alternative and less restrictive means of achieving these advantages would be to allow the provision of bookmakers licences to corporations subject to a suitable mechanisms being established to exclude undesirable persons from involvement in partnerships or as directors of bookmaking corporations, and to licence managers of bookmaking activities. It was therefore concluded that the Betting Control Act should be amended to allow for the issue of bookmaking licences to partnerships and corporations subject to amendments to the Act to allow for the licensing of managers of bookmaking activities conducted by a partnership or corporation and the authorisation or licensing of directors of a corporation, or persons involved in a partnership, undertaking bookmaking activities.

**Restriction 25: A Bookmaker is prohibited from paying commission or give any inducements to any person on behalf of any other person making or taking bets with that bookmaker. (BC Act Section 31(1)(e))**

### ***Potential Disadvantages of the Restriction***

- Costs imposed on bookmakers through reduced ability to market betting services and stimulate demand for betting.

### ***Potential Advantages of the Restriction***

- Fair and proper conduct of betting activities.

## ***Assessment of Costs and Benefits***

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### **Potential Disadvantages and Costs**

***Effect 25.1*** Costs imposed on bookmakers.

***How?:*** Reduced ability to market betting services and stimulate demand for betting.

***Estimate of Impact:*** Unquantified, possibly substantial.

***Supporting Evidence:*** Bookmakers activities are constrained to particular locations and betting turnover may benefit from other persons soliciting bets on their behalf.

***Effects When?:*** Ongoing.

***Affects Who?:*** Bookmakers.

***Public Objectives Affected:*** Economic/financial.

### **Potential Advantages and Benefits**

***Effect 25.3*** Fair and proper conduct of betting activities.

***How?:*** Prevention of betting activities being conducted away from monitored sites.

***Estimate of Impact:*** Unquantified, potentially substantial.

***Supporting Evidence:*** In the absence of the restriction an employee or agent of a bookmaker may solicit bets or negotiate betting transactions at locations remote from the betting ring of race courses. This would reduce the ability of course stewards and the betting control board to monitor betting transactions and ensure that these transactions are made and recorded according to due process.

***Effects When?:*** Ongoing.

***Affects Who?:*** General public.

***Public Objectives Affected:*** Avoidance of “public bads”.

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## ***Assessment of Public Benefit***

The prohibition on bookmakers paying persons to solicit bets was assessed as giving rise to potentially substantial costs on bookmakers though limiting business opportunities. The benefits of the restriction were assessed as being substantial and arising from the ability to restrict betting activities to specific locations where the activities can be monitored. In view of the importance of monitoring betting activities, the restriction was assessed as providing a net public benefit.

## ***Alternative Means of Achieving the Legislative Objectives***

The objective of the restriction is to restrict bookmaking activities to a specific site to allow monitoring. There is not considered to be any alternative to the restriction in preventing *de facto* betting transactions occurring away from the monitored sites.

## *Conclusion*

The prohibition on bookmakers paying persons to solicit bets was assessed as providing a net public benefit. There was not considered to be any less restrictive alternative means for achieving the legislative objective and it was therefore concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 27: Bookmaking activities may generally only be carried on at racecourses or registered places of sporting events, and in areas of such premises specifically set aside for bookmaking purposes by the committee or other authority controlling the racecourse. A limited range of betting transactions may be conducted at other premises prescribed by the Betting Control Board. Except for betting on sporting events, bookmaking activities may only be conducted on a race course during the holding of a race meeting at the race course. (BC Act Sections 4B(4), 5(2), 12(3); BC Regs Regulation 69)**

### *Potential Disadvantages of the Restriction*

- Restricted business opportunities for bookmakers and reduced services to punters due to constraints on the locations and times at which bookmakers may operate.

### *Potential Advantages of the Restriction*

- Fair and proper conduct of betting activities.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 27.1* Restricted business opportunities for bookmakers and reduced services to punters.

*How?:* Constraints on the locations and times at which bookmakers may operate causing additional costs to be incurred by punters in using the services of bookmakers and competitive disadvantages of bookmakers *vis a vis* the TAB.

*Estimate of Impact:* Unquantified, likely to be substantial.

*Supporting Evidence:* An ability to operate off-course would allow bookmakers access to the off-course market currently dominated by the TAB. Ability to operate at times other than at the times of race meetings would enable bookmakers to offer an alternative “full-time” service and likewise attract business away from the TAB.

The submission to the review by the Western Australian Bookmakers Association suggested that removal of the restriction would result in a shift in betting business from the TAB to bookmakers to a value of \$28 million.

The impacts of restricted times and locations of activities by bookmakers has been lessened by provision for telephone betting and operation of bookmakers at registered venues of sporting events.

Telephone betting has enabled bookmakers to significantly expand bookmaking services beyond the race-course and compete with the off-course betting services offered by the TAB. Turnover from telephone betting totalled \$44.4 million in 1997/98, equating to 23.4% of total bookmakers turnover.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, bookmakers.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

***Effect 27.2*** Fair and proper conduct of betting activities.

*How?:* Restriction of the locations and times of bookmaking activities facilitates the monitoring and control of the activities.

*Estimate of Impact:* Substantial benefits from the restriction of locations of bookmaking activities to race courses.

Restrictions on times of bookmaking activities are not considered to give rise to significant benefits.

*Supporting Evidence:* The reason for the restrictions in the current legislation on the location at which bookmakers may operate is the problems that were generally experienced with off-course betting shops prior to the advent of the Betting Control Act. The Royal Commission reports and parliamentary speeches leading up to the Act indicated that adverse affects on the community arose from convenient access to betting shops, widespread availability of credit betting, and difficulties in monitoring and control of activities. It was generally perceived that problem gambling flourished unchecked, dishonest practices and tax evasion were common, and the economic viability of the racing industry was under threat from falling attendances at race courses and declining revenues due to the proliferation of betting shops. These problems have been generally resolved by the restriction of the times and locations of bookmaking activities. It is, however, considered that potential still exists for the same problems to arise if the restrictions were removed.

Bookmakers are currently the only suppliers of gambling products that are able to offer credit. This is largely a reflection of traditions of credit betting with bookmakers and it is unlikely that if regulation of betting activities were to be developed without this history that any credit betting would be permitted due the potential problems of indebtedness of punters. To reduce access to credit betting within the community, it is considered necessary to restrict the locations at which bookmakers can conduct business.

In relation to monitoring and control of bookmaking activities, the consolidation of bookmakers operations at racecourses allows for a more effective and cost efficient system of control. Authorities controlling racecourses employ stewards to supervise bookmaking activities. This system allows up to 30 bookmakers fielding at a racecourse venue to be supervised by a single betting supervisor employed by the race club. The Betting Control Board undertakes random monitoring of betting activities to ensure that the appropriate controls are in place. Any move to re-establish off-course betting shops would necessitate a large and costly supervision operation, with costs incurred by government. It is likely that any off-course bookmaking activities would be supervised much less

closely that currently occurs with a resultant increase in illegal bookmaking activities and lower taxation receipts.

The provision restricting bookmakers to fielding only when a race meeting is in progress is a less relevant means by which the aims of the legislation are achieved. It is not clear why this restriction was originally included in the 1954 Act. It was most likely that the operations of race clubs at the time were centred on race day operations and there was not the capacity to supervise betting activities other than on race day. It was also evident that there were concerns over the level of betting on interstate events and limiting betting to race day would curtail this. These factors are considered to have little relevance at the present time. Sports bookmakers are permitted to operate at any time on a racecourse and these services are well run, easily regulated and well supported. Interstate ring bookmakers operate from early morning on race days. This service is also well supported by the betting public and provides a significant benefit to racing clubs.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, racing clubs, government, general public.

*Public Objectives Affected:* Avoidance of “public bads”.

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### ***Assessment of Public Benefit***

Restrictions on the locations of bookmakers activities were assessed as providing substantial benefits through reduced costs of monitoring bookmaking activities and reducing adverse impacts in the community from off-course betting and access to credit betting. Despite the potentially substantial costs imposed on bookmakers from reduced business opportunities, it was considered that the restriction on locations at which bookmaking may occur provides a net public benefit.

The restriction on times at which bookmakers may conduct betting activities were assessed as providing little public benefit while potentially imposing substantial costs on bookmakers from reduced business opportunities. The restriction on times of bookmaking activities were assessed as giving rise to a net public cost.

### ***Alternative Means of Achieving the Legislative Objectives***

The restriction on locations of bookmaking activities was acknowledged as imposing costs on bookmakers. Provision for telephone betting with bookmakers and for bookmaking activities to be conducted at sporting events has reduced these costs, while still providing for objectives to be met in monitoring bookmaking activities. Further relaxation of the restrictions on locations of bookmaking activities are not considered to be consistent with this objective.

The costs of restrictions on times of bookmaking activities could be reduced by relaxing the restrictions or leaving decisions on timing of the bookmaking activities up to racing clubs. Such relaxation of timing constraints has occurred in other states of Australia. Advantages include allowing for the conduct of “phantom” race meetings mainly in country areas, particularly where inclement weather has forced the cancellation of racing at a particular racecourse, and allowing establishment of a betting auditorium at a major racecourse. This has occurred in a number of other States. The major problem created by

the establishment of betting auditoriums - the transfer of patronage and betting turnover from one race course to another - has been overcome by negotiation of profit sharing arrangements between the clubs. Disadvantages of relaxing time constraints on bookmaking would be reduction in taxation revenue arising from transfer of some betting turnover from the TAB to an on-course betting auditorium. This may, in turn result in diminution in the value of the TAB as a public asset. Lifting of the restriction poses little threat to the community as those who wished to take advantage of the auditorium would still have to travel to the racecourse or arrange a telephone account as they are presently required to do.

### ***Conclusion***

Restrictions on the location of bookmaking activities were assessed as providing a net public benefit. Relaxation of the restrictions would be contrary to this benefit and the legislative objectives. It was therefore concluded that provisions of the legislation underlying the location restrictions should be retained.

The restrictions on timing of bookmaking activities were assessed as providing little if any public benefit and imposing substantial costs on bookmakers. While noting the potential for the diminution of the value of the TAB as a public asset, it appears that maintaining the restriction is not in the public interest. Providing that an adequate level of supervision can be maintained over bookmaking activities and subject to the necessary regulatory control being exercised by the Betting Control Board, the timing of bookmaking activities could be left to the discretion of race clubs and the authorities controlling the racing industry. It was therefore concluded that provisions of the legislation that restrict the timing of bookmaking activities should be repealed and replaced with provisions allowing bookmaking to occur at anytime from a racecourse subject to the approval of the Betting Control Board and the permission of the racecourse controlling authority.

**Restriction 28: Betting with bookmakers may not occur on Anzac Day prior to 12 noon. (BC Act Section 5(1); BC Act Section 12(3)).**

### ***Potential Disadvantages of the Restriction***

- Restricted business opportunities for bookmakers and reduced services to punters due to constraints on the times at which bookmakers may operate.

### ***Potential Advantages of the Restriction***

- Reduced community impact of betting activities through enforcing the observance of Anzac Day traditions.

### ***Assessment of Costs and Benefits***

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#### Potential Disadvantages and Costs

***Effect 28.1*** Restricted business opportunities for bookmakers and reduced services to punters.

***How?:*** Constraints on the times at which bookmakers may operate causing

limited opportunities for punters to use the services of bookmakers.

Competitive disadvantages to bookmakers *vis a vis* the TAB and on-course totalisators that are not subject to constraints on ANZAC day trading.

*Estimate of Impact:* Loss of revenue to bookmakers of up to several hundred thousand dollars.

*Supporting Evidence:* Bookmakers cannot receive bets on interstate races commencing before 12 noon (Western Australian time) on Anzac Day.

The submission to the review from the Western Australian Bookmakers Association indicated that the loss in betting revenue to bookmakers as a result of the restriction is approximately \$250 000.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, bookmakers.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

***Effect 28.2*** Reduced negative impacts of betting activities on the community.

*How?:* Enforcing the observance of Anzac Day traditions.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Observance of Anzac Day has waned since development of the legislation and the prevention of bookmaking activities prior to 12 noon is not generally considered important in the community observance of Anzac Day.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, general public.

*Public Objectives Affected:* Avoidance of “public bads”.

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#### ***Assessment of Public Benefit***

The prohibition of bookmaking activities on ANZAC day was assessed as imposing substantial costs on bookmakers for no significant benefit. The restriction was therefore assessed as giving rise to a net public cost.

#### ***Alternative Means of Achieving the Legislative Objectives***

No alternatives were considered.

#### ***Conclusion***

The prohibition of bookmaking activities on ANZAC day was assessed giving rise to a net public cost. No alternative means of achieving regulatory objectives were considered and it was therefore concluded that the provisions of the legislation giving rise to the restriction should be repealed.

**Restriction 30: Bookmakers may only use betting tickets approved by the Board and must comply with requirements for numbering, provision of information on each ticket, and procedures for issue and cancelling of tickets. This includes a prohibition on any bookmaker displaying any information on the face of a betting ticket other than his or her name and the initials of the controlling authority by which that bookmaker is registered (BC Regs Regulation 36)**

*Potential Disadvantages of the Restriction*

- Costs imposed on bookmakers by restrictions on use of betting tickets.

*Potential Advantages of the Restriction*

- Reduced negative impacts of betting activities on the community through facilitating the monitoring and control of bookmaking activities.

*Assessment of Costs and Benefits*

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Potential Disadvantages and Costs

*Effect 30.1* Costs imposed on bookmakers.

*How?:* Costs of procurement of betting tickets from the Betting Control Board or of producing computer-generated tickets in compliance with requirements of the Betting Control Board.

Reduced ability of bookmakers to advertise their business due to restrictions on the information that may be provided on the face of betting cards.

*Estimate of Impact:* Negligible additional costs in procuring, producing or issuing betting tickets.

Unquantified but potentially significant costs may be imposed on bookmakers through reduced potential to advertise their services on the face of betting tickets.

*Supporting Evidence:* The Betting Control Regulations (Regulation 36) require the Board to provide betting tickets at a reasonable cost.

Minimum information requirements for tickets do not exceed what would be good business practice for bookmakers in the absence of the restriction.

The prohibition of additional information on the face of the ticket reduces the ability of the bookmaker to advertise services.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, bookmakers.

*Public Objectives Affected:* Economic/financial.

Potential Advantages and Benefits

*Effect 30.2* Reduced negative impacts of betting activities on the community.

*How?:* Facilitating the monitoring and control of bookmaking activities.

*Estimate of Impact:* Unquantified but considered to be substantial.



*Supporting Evidence:* The information required to be provided on betting tickets allows each ticket to be uniquely identified and associated with a bookmaker. This reduces potential disputes in relation to bets and provides for the activities of bookmakers to be audited.

Standard formats for betting tickets reduce the potential for forging of tickets and facilitate monitoring of betting activities.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, general public.

*Public Objectives Affected:* Avoidance of “public bads”.

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### ***Assessment of Public Benefit***

The restrictions on use of betting tickets by bookmakers were assessed as providing benefits through providing for good commercial practice amongst bookmakers and facilitating monitoring and control of bookmaking activities by the Betting Control Board. Costs were assessed as small and arising from the restricted ability of bookmakers to advertise their services on the face of betting tickets. The restriction was therefore assessed as providing a net public benefit.

### ***Alternative Means of Achieving the Legislative Objectives***

The legislative objective underlying the restrictions on use of betting tickets by bookmakers is to ensure that sufficient information is provided on tickets to enable betting transactions to be uniquely identified. As long as the minimum information for this to occur appears unambiguously on betting tickets there is not considered to be any other public benefit in controlling information on the tickets. An alternative means of achieving the objective at lower cost would be for the legislation to require only the provision of the minimum information requirements. Other constraints on information provided on betting tickets could be abolished with the tickets only generally subject to approval by the Betting Control Board to ensure that the betting tickets generally meet requirements for security and identification.

### ***Conclusion***

The restrictions on use of betting tickets by bookmakers were assessed as providing a net public benefit. However, costs associated with the restriction could be reduced by removing constraints on information presented on betting tickets other than is required to ensure that betting transactions can be uniquely identified. It was therefore concluded that the provisions of the legislation giving rise to the restrictions should be retained, but amended to provide for removal of these constraints.

**Restriction 31: Bookmakers may not sell or transfer a betting ticket to any other bookmaker unless it is in respect to a bet. (BC Regs Regulation 36)**

### ***Potential Disadvantages of the Restriction***

- Costs imposed on bookmakers through being unable to obtain additional tickets from other bookmakers in situations where an individual bookmaker's supply of tickets is exhausted.

### ***Potential Advantages of the Restriction***

- Fair and proper conduct of betting and reduced negative impacts of betting activities on the community through facilitating the monitoring and control of bookmaking activities.

### ***Assessment of Costs and Benefits***

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#### Potential Disadvantages and Costs

***Effect 31.1*** Costs imposed on bookmakers.

*How?:* Bookmakers being unable to obtain additional tickets from other bookmakers in situations where an individual bookmaker's supply of tickets is exhausted.

*Estimate of Impact:* Small and infrequent costs.

*Supporting Evidence:* Bookmaking tickets are readily available from the Betting Control Board and planning of activities by bookmakers should result in avoidance of short supply of tickets.

*Effects When?:* Ongoing

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

***Effect 31.2*** Fair and proper conduct of betting and reduced negative impacts of betting activities on the community.

*How?:* Facilitation of monitoring and control of bookmaking activities.

Prevention of corrupt financial dealings between bookmakers.

*Estimate of Impact:* Unquantified but considered to be substantial.

*Supporting Evidence:* The information required to be provided on betting tickets allows each ticket to be uniquely identified and associated with a bookmaker. Exchange of tickets between bookmakers would negate this unique association and reduce the ability of racing clubs and the Betting Control Board to monitor and audit bookmaking activities.

The restriction prevents transfer of betting tickets between bookmakers undertaken for the purpose of corrupt financial dealings such as money laundering.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, general public.

*Public Objectives Affected:* Avoidance of "public bads".

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### *Assessment of Public Benefit*

The restriction on transfer of betting tickets between bookmakers was assessed as giving rise to substantial public benefits though facilitating the monitoring and auditing of betting transactions of individual bookmakers. The restriction was not considered to give rise to any legitimate costs and therefore was assessed as producing a net public benefit.

### *Alternative Means of Achieving the Legislative Objectives*

In view of the absence of costs associated with the restriction, no alternative means of achieving the regulatory objectives were considered.

### *Conclusion*

The restriction on transfer of betting tickets between bookmakers was assessed as producing a net public benefit. No alternative means of achieving the legislative objectives were considered and it was therefore concluded that the provisions of the legislation giving rise to the restriction should be retained.

### **Restriction 33: Bookmakers may only use a computer to conduct their business upon obtaining approval from the Board. (BC Regs Regulation 37)**

#### *Potential Disadvantages of the Restriction*

- Costs incurred by bookmakers where authorisation for use of computers is refused.

#### *Potential Advantages of the Restriction*

- Fair and proper conduct of betting activities.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 33.1* Costs incurred by bookmakers.

*How?:* Refusal of authority to utilise computers.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Applications for authority to use computers are not refused as long as the computer systems and procedures for maintaining betting records meet the requirements of the Board.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

*Effect 35.2* Fair and proper conduct of betting activities.

*How?:* Facilitation of monitoring and control of bookmaking activities.

*Estimate of Impact:* Unquantified but considered substantial.

*Supporting Evidence:* In the absence of computing facilities, records of betting transactions are maintained in ledgers supplied by the Betting Control Board. Authorisation for use of computers to maintain betting records is only granted where the Board is satisfied that records are maintained appropriately.

*Effects When?:* Ongoing.

*Affects Who?:* Punters, racing clubs, government, general public.

*Public Objectives Affected:* Avoidance of “public bads”.

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### ***Assessment of Public Benefit***

The requirement for bookmakers to obtain authorisation from the Betting Control Board before using computers to record betting transactions was assessed as giving rise to substantial public benefits through the Board being able to ensure that betting records are appropriately collected and maintained to allow monitoring and auditing of betting transactions. The restriction was not considered to give rise to any significant costs and therefore was assessed as producing a net public benefit.

### ***Alternative Means of Achieving the Legislative Objectives***

In view of the absence of costs associated with the restriction, no alternative means of achieving the regulatory objectives were considered.

### ***Conclusion***

The requirement for bookmakers to obtain authorisation from the Betting Control Board before using computers to record betting transactions was assessed as producing a net public benefit. No alternative means of achieving the legislative objectives were considered and it was therefore concluded that the provisions of the legislation giving rise to the restriction should be retained.

### **Restriction 35: Bookmakers are constrained as to the types of bets they may make. (BC Regs Regulations 50 to 55)**

#### ***Potential Disadvantages of the Restriction***

- Costs imposed on bookmakers and punters by constraints on types of betting products able to be offered to punters.

#### ***Potential Advantages of the Restriction***

- Fair and proper conduct of betting and racing activities.

## ***Assessment of Costs and Benefits***

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### **Potential Disadvantages and Costs**

***Effect 35.1*** Costs imposed on bookmakers and punters.

*How?:* Constraints on types of betting products able to be provided by bookmakers.

*Estimate of Impact:* Potentially significant although probably relatively small as a proportion of total bookmaking business.

*Supporting Evidence:* The constraints on bets relate to types of bets that would not be commonly made in the absence of the restriction. Most betting with bookmakers occurs as simple win and place bets.

*Effects When?:* Ongoing

*Affects Who?:* Bookmakers and punters.

*Public Objectives Affected:* Economic/financial.

### **Potential Advantages and Benefits**

***Effect 35.2*** Fair and proper conduct of betting activities.

*How?:* Prohibition of certain bet types that may create incentives for bookmakers or punters to attempt to influence event outcomes and the integrity of race activities.

*Estimate of Impact:* Potentially substantial benefits in ensuring the integrity of racing events, although the impact of the legislative restriction *per se* is reduced by the existence of parallel rules on betting implemented by racing clubs.

*Supporting Evidence:* The prohibited bets are generally those that create incentives and opportunities for bookmakers to attempt to influence outcomes of the race event on which bets are made. For example, one type of prohibited bet is a double event bet for which a punter would bet on a set of contingencies for two race events. If the punter won that part of the bet relating to the first event, the resultant dividend would be staked on the second event. As a result of the time delay between the two events, a bookmaker would face an incentive to attempt to influence the outcome of the second event to avoid a potentially large payout to the punter.

Racing clubs generally have their own rules relating to types of bets. These rules are based on the constraints in the Betting Control regulations and are similar between race courses. Control over the betting activities of bookmakers is exercised by the racing clubs using their sets of rules rather than through the regulations. As such, the actual impact of the constraints on betting implemented through the Betting Control Regulations is probably quite small.

*Effects When?:* Ongoing.

*Affects Who?:* Punters; the racing industry.

*Public Objectives Affected:* Avoidance of “public bads”.

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### ***Assessment of Public Benefit***

The constraints on types of bets able to be made by bookmakers were assessed as likely to impose costs on bookmakers and punter through restricting the types of betting services,

although this effect is likely to be small as a proportion of bookmaking turnover. Benefits were assessed as potentially substantial through promoting the integrity of racing events and betting activities, although the effect of the legislative restrictions per se is likely to be small due to exercise of parallel rules by racing clubs. In total, the restriction was assessed as producing a net public benefit.

### *Alternative Means of Achieving the Legislative Objectives*

An alternative and potentially less restrictive mechanism for ensuring that betting activities do not compromise the integrity of racing events is to remove the restrictions from the regulations and allow racing clubs to determine any constraints on types of bets according to the willingness of the clubs to devote resources to the management and control of betting and racing activities. The adoption of such an alternative would essentially amount to recognition of the existing role of racing clubs in controlling the scope of betting services, but to give the clubs greater flexibility in providing these services.

### *Conclusion*

The constraints on types of bets able to be made by bookmakers were assessed as producing a net public benefit, although the restriction is largely obsolete due to similar rules implemented by racing clubs. An alternative and potentially less restrictive mechanism for achieving the regulatory objective would be to remove the restrictions from the regulations and allow racing clubs to determine any constraints on types of bets according to the willingness of the clubs to devote resources to the management and control of betting and racing activities. It was therefore concluded that the provisions to the legislation giving rise to the restriction should be amended to replace the specific restrictions on betting with a more general provision for racing clubs to implement rules for the conduct of betting by bookmakers and the types of bets able to be made by bookmakers.

**Restriction 37: The holder of a bookmakers licence, other than where an agent of the TAB, may not make transactions in relation to bets in any premises licensed under the Liquor Licensing Act 1988. (BC Regs Regulation 56)**

### *Potential Disadvantages of the Restriction*

- No envisaged disadvantages.

### *Potential Advantages of the Restriction*

- No envisaged advantages.

### *Explanatory Note*

This restriction and the relevant provisions of the legislation are redundant given other provisions of the legislation that define betting and restrict the locations at which betting or betting transactions may occur. Section 24 of the Betting Control Act defines “betting” as including all financial exchanges made in associating with bet. Thus the restriction is

largely meaningless since there are no transactions made in relation to bets that are not in themselves part of betting and are therefore constrained by other provisions of the legislation as to the locations at which they can occur. Furthermore, Section 5(2) of the Betting Control Act provides for betting to occur at prescribed premises that include licensed premises. This directly contradicts the provisions of Regulation 56 that give rise to the restriction.

### ***Conclusion***

The prohibition on the making of betting transactions on licensed premises was found to be redundant. It was therefore concluded that the relevant provisions of the legislation should be repealed.

**Restriction 46: A bookmaker is compelled to accept bets to lose the amount prescribed under the rules or by the committee or other authority controlling the race course on which the bookmaker is betting. (BC Regs Regulations 64, 65)**

### ***Potential Disadvantages of the Restriction***

- Costs imposed on bookmakers through restricting their commercial freedom to determine the magnitude of bets they will accept.

### ***Potential Advantages of the Restriction***

- Increased betting revenues to racing clubs and betting opportunities for punters through assurance of punters that they can place bets to minimum amounts.

### ***Assessment of Costs and Benefits***

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#### Potential Disadvantages and Costs

***Effect 46.1*** Costs imposed on bookmakers.

***How?:*** A bookmaker must accept bets within limits specified in rules of betting established by a racing club, or “backstop” limits specified in the Betting Control Regulations. This reduces the commercial freedom of bookmakers to determine the size of bets made.

***Estimate of Impact:*** Potentially significant although unlikely to impose large costs on bookmakers. No effect of the backstop limits specified in the regulations.

***Supporting Evidence:*** The specified bets that must be accepted by bookmakers would not generally be refused by bookmakers in the absence of the restriction and are set at levels that are unlikely to expose bookmakers to large losses.

The “backstop” limits on the sizes of bets that are specified in the regulations are redundant as racing clubs have invariably specified higher limits in their own rules.

***Effects When?:*** Ongoing.

***Affects Who?:*** Bookmakers.

***Public Objectives Affected:*** Economic/financial.

## Potential Advantages and Benefits

**Effect 46.2** Increased betting revenues to racing clubs and betting opportunities for punters.

**How?:** Attraction of punters to racing clubs by provision of assurance to punters that they can place bets within specified limits.

**Estimate of Impact:** Potentially significant although probably small. No effect of the backstop limits specified in the regulations.

**Supporting Evidence:** The specified bets that must be accepted by bookmakers would not generally be refused by bookmakers in the absence of the restriction and are set at levels that are unlikely to expose bookmakers to large losses.

The “backstop” limits on the sizes of bets that are specified in the regulations are redundant as racing clubs have invariably specified higher limits in their own rules..

**Effects When?:** Ongoing.

**Affects Who?:** Punters, racing clubs.

**Public Objectives Affected:** Economic/financial; distributional.

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## ***Assessment of Public Benefit***

The constraints on bookmakers in regard to bets that must be accepted were assessed as likely to impose small costs on bookmakers through reducing their commercial flexibility in determining whether to accept or refuse bets, and providing benefits to punters and racing clubs through providing assurance to punters that bookmakers will accept any bets up to certain limits. The net effect is largely distributional, resulting in a transfer of wealth from bookmakers to punters and racing clubs. In so far as it is an objective of the legislation to promote revenues to the racing industry from betting activities, the restriction was assessed as producing a net public benefit.

## ***Alternative Means of Achieving the Legislative Objectives***

The limits specified by the regulations on the bets that must be accepted by bookmakers are effectively redundant as racing clubs have established high limits in their own rules. An alternative and potentially less restrictive mechanism for allowing racing clubs to manage bookmaking activities would be for the removal of the backstop limits from the regulations leaving only provision for racing clubs to set limits as they see fit. This would then not constrain betting activities other than to provide for enforcement of any rules set by racing clubs. The adoption of such an alternative would essentially amount to recognition of the existing role of racing clubs in controlling the scope of betting services, but to give the clubs greater flexibility in providing these services.

## ***Conclusion***

The constraints on bookmakers in regard to bets that must be accepted were assessed as producing a net public benefit. An alternative and potentially less restrictive mechanism for allowing racing clubs to manage bookmaking activities would be for the removal of the backstop limits from the regulations leaving only provision for racing clubs to set limits as they see fit. It was therefore concluded that the provisions to the legislation giving rise to



the restriction should be amended to remove the limits on bets that must be accepted by bookmakers, leaving only provision for racing clubs to set limits as they see fit.

**Restriction 48: A bookmaker cannot accept a telephone bet on a horse or greyhound race unless the bet is greater than or equal to \$200 or the amount to be won is greater than or equal to \$2,000. (BC Regs Regulations 72(d))**

***Potential Disadvantages of the Restriction***

- Reduction in bookmaking services available to punters.
- Costs imposed on bookmakers through restriction of business opportunities and placing bookmakers at a competitive disadvantage *vis a vis* the TAB, sports bookmakers and bookmakers in other states.
- Costs imposed on racing clubs through restricted abilities to attract bookmakers, maintain viable betting rings and obtain revenues from bookmaking levies.

***Potential Advantages of the Restriction***

- Maintenance of revenue streams to government and the racing industry from off-course betting with the TAB.
- Reduced negative impacts of betting activities on the community through lower levels of betting, particularly credit betting.

***Assessment of Costs and Benefits***

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Potential Disadvantages and Costs

***Effect 48.1*** Reduction in bookmaking services available to punters.

*How?:* Telephone bets of less than the minimum amounts not being able to be placed with bookmakers in Western Australia.

*Estimate of Impact:* Unquantified: potentially significant for small punters.

*Supporting Evidence:* The restriction would affect mainly country-race punters and greyhound/trotting punters that are generally small-time punters and unlikely to utilise telephone betting services offered by bookmakers in other states where the minimum betting limits are either lower or do not apply.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

***Effect 48.2*** Costs imposed on bookmakers taking bets on racing events.

*How?:* Restriction of business opportunities and placing bookmakers at a competitive disadvantage *vis a vis* the TAB, sports bookmakers and bookmakers in other states.

*Estimate of Impact:* Unquantified, considered substantial.

*Supporting Evidence:* The restriction places country and minor-code bookmakers at a particular disadvantage as a higher percentage of betting customers in this segment of the market bet in denominations less than the minimum level.

The submission to the review from the Western Australian Bookmakers' Association indicated that restriction reduces potential bookmakers turnover by approximately \$4 million per annum.

*Effects When?:* Ongoing.

*Affects Who?:* Punters

*Public Objectives Affected:* Economic/financial.

**Effect 48.3** Costs imposed on racing clubs.

*How?:* Restricted abilities of racing clubs, particularly small clubs, to attract bookmakers, maintain viable betting rings and obtain revenues from bookmaking levies.

*Estimate of Impact:* Substantial.

*Supporting Evidence:* Potential increase in bookmaking activities, turnover and racing club levies in the absence of the restriction.

*Effects When?:* Ongoing.

*Affects Who?:* Punters

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 48.4** Maintenance of revenue streams to government and the racing industry.

*How?:* Restriction of off-course betting by small punters to services provided by the TAB.

*Estimate of Impact:* Unquantified, considered small.

*Supporting Evidence:* The protection of revenue streams to the government and the racing industry from TAB turnover was the original reason for the minimum limits on telephone bets.

Telephone betting by bookmakers was first introduced in Western Australian in 1993 when sports bookmakers were authorised to receive bets by telephone. At the time, telephone betting for race bookmakers was rejected due to a concern that it would simply serve to divert betting turnover from the TAB to bookmakers. However, an increasing acceptance of telephone betting in other States, and a concern that betting turnover would be lost to interstate telephone betting services, lead to the introduction in 1993 of race telephone betting on a trial basis. For the purposes of the trial, a minimum telephone bet limit was set at \$250 or a bet to win \$2,000. This minimum limit was a national standard at the time designed to protect turnover of state-owned TAB businesses. After the trial the Betting Control Board conducted a review of the results and concluded that telephone betting had generated new turnover with little evidence of a significant transfer of turnover from the TAB. Consequently, in 1995 telephone betting was permitted on a permanent basis but subject to the same minimum bet limits due to ongoing, but generally unjustified, concerns of the government and racing clubs that

TAB turnover may be reduced by unrestricted telephone betting.

Despite the introduction of telephone betting for bookmakers in 1993 and telephone betting now comprising about 20% of bookmakers' turnover (19.3% in 96/97), TAB turnover has increased over the same period (16% increase in turnover over the three years to July 31 1997). This suggests that telephone betting within the limits of the current restriction has not caused a reduction in government revenue. Furthermore, most betting with bookmakers is win and place betting: such betting with the TAB has continued to increase regardless of the introduction of telephone betting.

Since 1995, most states, including Western Australia, have moved to reduce the minimum telephone betting levels. A minimum level as low as \$100 exists for race betting in a number of instances while no minimum level is common for sports betting. In Western Australia the minimum limit for race betting is currently \$200 or a bet to win \$2,000 with no minimum limit applied to sports betting. Bookmakers operating in other states are able to provide telephone-betting services to punters in Western Australia, although it is considered unlikely that small punters betting less than the minimum limits would make use of the interstate services.

*Effects When?:* Ongoing.

*Affects Who?:* Racing clubs, general public via the Western Australian Government.

*Public Objectives Affected:* Economic/financial; distributional.

**Effect 48.5** Reduced negative impacts of betting activities on the community.

*How?:* Lower levels of betting, particularly credit betting, than would occur in the absence of the restriction.

*Estimate of Impact:* Small.

*Supporting Evidence:* A continued growth in TAB betting has occurred at the same time as telephone betting has increased the turnover of bookmakers. This suggests that telephone betting generates new betting business and increases the level of betting in the community.

Bookmakers are the only providers of gambling services able to extend credit to customers. A secondary benefit of the restrictions on credit betting may be the restricted use of credit-betting services and thus reduction in risks of problem gambling. This effect is considered to be small as the restriction is not envisaged to cause a significant barrier to access to credit betting in addition to the existing requirements for a punter to establish an account with a bookmaker and the reluctance of bookmakers to establish accounts for persons that may constitute a credit risk.

*Effects When?:* Ongoing.

*Affects Who?:* General public.

*Public Objectives Affected:* Avoidance of "public bads".

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### ***Assessment of Public Benefit***

The restriction on minimum levels of telephone bets with bookmakers was assessed as giving rise to potentially substantial costs to punters, bookmakers and racing clubs, particularly in relation to betting services for small events and minor codes. Benefits may arise from protecting revenues to the government and racing clubs from TAB betting, and

in reducing risks of problem gambling through credit betting, but these benefits are considered to be small. In total the restriction was assessed as giving rise to a net public cost.

### *Alternative Means of Achieving the Legislative Objectives*

In view of the absence of significant benefits from the restriction, no alternative means of achieving regulatory objectives were considered.

### *Conclusion*

The restriction on minimum levels of telephone bets with bookmakers was assessed as giving rise to a net public cost. No alternative means of achieving regulatory objectives were considered and it was concluded that the provisions of the legislation giving rise to the restriction should be repealed.

**Restriction 49: Bookmakers and the operators of totalisators at racing clubs are prohibited from betting with a person under the age of 18 years. (BC Act Sections 21(1)(a))**

### *Potential Disadvantages of the Restriction*

- Costs imposed on bookmakers and racing clubs due to loss of potential business with persons under 18 years of age.
- Costs imposed on persons under 18 years of age due to being unable to engage in betting activities.

### *Potential Advantages of the Restriction*

- Reduced negative community impacts of betting activity through less exposure of young people to betting.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 49.1* Costs imposed on bookmakers and racing clubs.

*How?:* Loss of potential business with persons under 18 years of age.

*Estimate of Impact:* Potentially significant although small.

*Supporting Evidence:* Although it is likely that the restriction does cause some loss of business to bookmakers and racing clubs, the effect is likely to be small due to the low financial resources of most persons under 18 years of age and therefore the limited potential betting market with these persons.

*Effects When?:* Ongoing.

*Affects Who?:* Bookmakers and racing clubs.

*Public Objectives Affected:* Economic/financial.

**Effect 49.2** Costs imposed on persons under 18 years of age.

*How?:* Prohibition on betting with persons less than 18 years of age.

*Estimate of Impact:* Unquantified, considered small.

*Supporting Evidence:* Although it is likely that the restriction does constrain the activities of some persons, the effect is likely to be small due to the low financial resources of most persons under 18 years of age and therefore the limited potential betting activities of these persons.

*Effects When?:* Ongoing.

*Affects Who?:* Persons under 18 years of age that wish to engage in betting activities.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 49.3** Reduced negative community impact of betting activity.

*How?:* Exclusion of persons under 18 years of age from betting activities.

*Estimate of Impact:* Substantial.

*Supporting Evidence:* The restriction is based on a premise of exposure to betting being likely to adversely influence the moral development of persons under the age of 18 years. Although the review did not encounter any evidence to support this premise, there is a strong social preference in the community for persons under 18 years of age to not be exposed to gambling activities for this reason. In view of this preference, there is considered to be a substantial benefit to the restriction.

*Effects When?:* Ongoing.

*Affects Who?:* General public.

*Public Objectives Affected:* Avoidance of “public bads”.

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#### ***Assessment of Public Benefit***

The restriction was assessed as likely to impose significant, though probably small, costs on bookmakers and persons under 18 years of age though restricting the ability of minors to engage in betting activities. Benefits were considered to be substantial and arising from compliance with a general social preference that minors should not be exposed to gambling. In total, the restriction was assessed as providing a net public benefit.

#### ***Alternative Means of Achieving the Legislative Objectives***

In view of the low costs of the restriction, no alternative means of achieving regulatory objectives were considered.

#### ***Conclusion***

The restriction was assessed as providing a net public benefit. No alternatives were considered and it was concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 51: The operator of a totalisator at a racing club is prohibited from employing any person under the age of 18 years (BC Act Section 21(3)(d)).**

***Potential Disadvantages of the Restriction***

- Increased costs to racing clubs through not being able to employ junior staff in operation of totalisators.
- Lack of opportunity for employment in the betting industry for persons less than 18 years of age.

***Potential Advantages of the Restriction***

- Reduced negative community impacts of betting activity through less exposure of young people to betting.

***Assessment of Costs and Benefits***

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Potential Disadvantages and Costs

***Effect 51.1*** Higher costs to racing clubs.

*How?:* Inability to employ junior staff in operation of totalisators at lower rates of pay.

*Estimate of Impact:* Unquantified, considered small.

*Supporting Evidence:* The restriction only relates to the employment directly in betting activities or betting transactions. The restriction on operators of totalisators may give rise to higher costs due to the inability to employ persons under 18 years of age in these tasks, although it is considered that demand from for junior staff in these positions would be small.

The restriction does not prevent an operator of a totalisator from employing juniors for activities not directly relating to betting or betting activities, for example office duties.

*Effects When?:* Ongoing.

*Affects Who?:* Racing clubs.

*Public Objectives Affected:* Economic/financial.

***Effect 51.2*** Lack of opportunity for employment in the betting industry for persons less than 18 years of age.

*How?:* Prohibition on employment of persons less than 18 years of age in the operation of totalisators.

*Estimate of Impact:* Unquantified, considered small.

*Supporting Evidence:* As for Effect 51.1.

*Effects When?:* Ongoing.

*Affects Who?:* Aspirants for employment in the bookmaking industry that are under 18 years of age.

*Public Objectives Affected:* Economic/financial; distributional.

## Potential Advantages and Benefits

**Effect 51.3** Reduced negative community impact of betting activity.

*How?:* Exclusion of persons under 18 years of age from betting activities.

*Estimate of Impact:* Substantial.

*Supporting Evidence:* The restriction is based on a premise of exposure to betting being likely to adversely influence the moral development of persons under the age of 18 years. Although the review did not encounter any evidence to support this premise, there is a strong social preference in the community for persons under 18 years of age to not be exposed to gambling activities for this reason. In view of this preference, there is considered to be a substantial benefit to the restriction.

*Effects When?:* Ongoing.

*Affects Who?:* General public.

*Public Objectives Affected:* Avoidance of “public bads”.

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## ***Assessment of Public Benefit***

The restriction was assessed as likely to impose significant, though probably small, costs on racing clubs and persons under 18 years of age though restricting employment of minors in activities directly related to betting transactions. Benefits were considered to be substantial and arising from compliance with a general social preference that minors should not be exposed to gambling. In total, the restriction was assessed as providing a net public benefit.

## ***Alternative Means of Achieving the Legislative Objectives***

In view of the low costs of the restriction, no alternative means of achieving regulatory objectives were considered.

## ***Conclusion***

The restriction was assessed as providing a net public benefit. No alternatives were considered and it was concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 53: Totalisator bets received by a race club may only be transmitted to totalisator pools of other clubs or the TAB with the authorisation of the club to which the bet is transmitted bet or the TAB, respectively. (BC Regs Regulation 70; TABB Regs Regulation 19A)**

## ***Potential Disadvantages of the Restriction***

- Restricted business opportunities of racing clubs that do not have permission to participate in common totalisator pools for races at other venues, and restricted services to punters betting at clubs.

## ***Potential Advantages of the Restriction***

- Provision for racing clubs to capture revenues generated by totalisator betting on events conducted by the clubs.

## ***Assessment of Costs and Benefits***

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### Potential Disadvantages and Costs

***Effect 53.1*** Restricted business opportunities of racing clubs that do not have permission to participate in totalisator pools for races at other venues, and restricted services to punters betting at clubs.

***How?:*** Where permission has been refused, a punters attending a race meeting are unable to place totalisator bets on events being held concurrently at another club and have these bets transferred to the totalisator pool of the club conducting the events.

***Estimate of Impact:*** Small but significant effect on punters attending minor race meetings and a corresponding loss of revenue for the race clubs holding these meetings.

***Supporting Evidence:*** Permission is often refused by metropolitan and other thoroughbred racing clubs for the transfer of totalisator bets to pools of these race clubs from trotting and greyhound race meetings being held concurrently. This would generally cause the trotting or greyhound race club to not accept totalisator bets on the thoroughbred races and thus prevent punters at the meetings from placing totalisator bets on the thoroughbred events.

***Effects When?:*** Ongoing.

***Affects Who?:*** Country race clubs and punters.

***Public Objectives Affected:*** Economic/financial.

### Potential Advantages and Benefits

***Effect 53.2*** Provision for racing clubs to capture revenues generated by totalisator betting on events conducted by the clubs.

***How?:*** Provides for a race club to prevent betting on their races from other clubs where there is no return to the club staging the event

***Estimate of Impact:*** Negligible.

***Supporting Evidence:*** Where a totalisator bet is transferred from another racing club, commission on the bet is retained by the club at which the bet was placed. Refusing permission for bets requires any such bet be either placed at the race club staging the event or at the TAB, either of which allows the racing club staging the event to receive part or all of the commission on the bet.

In practice the restriction is only utilised by the WA Turf Club on behalf of races conducted at its and other country thoroughbred racing clubs. The resultant gain in revenue to the thoroughbred racing clubs would be sufficiently small as to be insignificant relative to other totalisator turnover of the clubs. Refusal of permission is more likely to stop any betting occurring rather than cause the punter to travel to the race club staging the event or to place the bet with the TAB.

***Effects When?:*** Ongoing.



*Affects Who?:* Racing clubs.

*Public Objectives Affected:* Economic/financial.

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### ***Assessment of Public Benefit***

The ability of race clubs to prevent the transmission of bets on its events from other clubs was assessed as imposing a small although significant cost on small race clubs, and negligible benefits. A greater cost is imposed on punters attending a race meeting who are prevented from placing totalisator bets on races held at other racetracks. The restriction was thus assessed as giving rise to a net public cost.

### ***Alternative Means of Achieving the Legislative Objectives***

The objective of the restriction is to provide for racing clubs to capture a return on betting for which the clubs supply the betting platform. An alternative and less restrictive means for achieving this objective would be for an administrative mechanism to be put in place to ensure that a share of any commission from a totalisator bet is returned to the club providing the betting platform. However, it is likely that the costs of establishing and maintaining such a system would, to a large extent, outweigh the value of commission involved. Therefore, this alternative was not considered to be viable.

### ***Conclusion***

As this restriction places a significant cost on small racing clubs and the punters that attend race meeting conducted by those clubs for a negligible benefit the provisions that establish it should be repealed.

**Restriction 54: Racing clubs operating totalisators are not permitted to act on any telegraphic, telephonic or radiographic instruction relating to investments on the totalisators. (BC Act Sections 28E, 28F)**

### ***Potential Disadvantages of the Restriction***

- Reduced betting services available to punters.
- Costs imposed on racing clubs through reduced business opportunities and competitive disadvantages in betting activities *vis a vis* bookmakers and the TAB.

### ***Potential Advantages of the Restriction***

- Maintenance of revenue streams to government from off-course betting with the TAB.

### ***Assessment of Costs and Benefits***

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#### Potential Disadvantages and Costs

***Effect 54.1*** Reduced betting services available to punters.

***How?:*** Inability to make telephone bets with on-course totalisators.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Restricted choice for punters but negligible difference in services. The tote pools of the TAB and the race clubs are combined and the same dividends are paid regardless of where the investment is made. The only restriction in services would be where a punter may wish to place a bet on a totalisator with a race club rather than the TAB as a means of supporting the club, or if racing clubs would offer incentives to punters to bet with the club rather than with the TAB.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

**Effect 54.2** Costs imposed on racing clubs.

*How?:* Reduced business opportunities of racing clubs and competitive disadvantages in betting activities *vis a vis* bookmakers and the TAB.

*Estimate of Impact:* Significant although probably limited in impact to larger racing clubs.

*Supporting Evidence:* The availability of telephone betting on totalisators operated by racing clubs would most likely result in a direct shift of telephone betting custom from the TAB to racing clubs.

The return to a racing club is less if a totalisator bet for an event held by that club is placed with the TAB rather than with the racing club due to the government tax on TAB turnover. Thus it would be in the interests of racing clubs to have bets placed by telephone to on-course totalisators rather than the TAB.

High costs of establishing telephone betting facilities would probably limit the use of telephone betting to larger race clubs in the absence of the restriction.

*Effects When?:* Ongoing.

*Affects Who?:* Racing clubs.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 54.3** Maintenance of revenue streams to government.

*How?:* Restriction of off-course totalisator betting to the TAB.

*Estimate of Impact:* Availability of telephone betting on totalisators operated by racing clubs may result in a loss of government revenue of up to a few million dollars per annum.

*Supporting Evidence:* The availability of telephone betting on totalisators operated by racing clubs would most likely result in a direct shift of telephone betting custom from the TAB to racing clubs.

The TAB currently pays a state government tax of 5% of betting turnover amounting to \$33.9 million in 1996/97. As racing clubs currently do not pay this tax, a shift of telephone-betting activities to totalisators operated by racing clubs would reduce these revenue streams.

High costs of establishing telephone betting facilities would probably limit the use of telephone betting to larger race clubs in the absence of the

restriction.

*Effects When?:* Ongoing.

*Affects Who?:* General public via Western Australian Government.

*Public Objectives Affected:* Economic/financial/distributional.

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### ***Assessment of Public Benefit***

The prohibition of telephone betting on totalisators operated by racing clubs effectively restricts off-course totalisator betting to the TAB. The effect is largely distributional, providing for capture of a tax on off-course totalisator investments and diverting resources from racing clubs. Costs to punter are small as the totalisator betting services of the TAB and the racing clubs are essentially the same services as a result of combined pools. Given the low costs on punters, and in so far as it is an objective of the legislation to provide for collection of government revenue from betting activities, the restriction is considered to be in the public interest.

### ***Alternative Means of Achieving the Legislative Objectives***

An alternative and less restrictive means of achieving the legislative objective of raising government revenue from betting activities would be to remove the restriction on telephone betting activities with a racing club totalisator and subject both the TAB and racing-club totalisators to the same taxation arrangements. This would result in a net increase in government revenue through taxation of on-course totalisator betting and may be contrary to the legislative objective of ensuring a return from betting activities to the racing industry. Any move to establish on-course telephone totalisator betting would also require the establishment of expensive monitoring systems by government. It was thus considered that there is no net advantage to this alternative.

### ***Conclusion***

The prohibition of telephone betting on totalisators operated by racing clubs effectively restricts off-course totalisator betting to the TAB. The effect is largely distributional, providing for capture of a tax on off-course totalisator investments and diverting resources from racing clubs. Given the low costs of the restriction on punters, and in so far as it is an objective of the legislation to provide for collection of government revenue from betting activities, the restriction is considered to be in the public interest. There was not considered to be any alternative and less restrictive means of achieving the legislative objectives and it was therefore concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 55: The TAB and racing clubs must deduct commission at a prescribed rate from every totalisator bet received. (BC Act Section 17E, 17F; BC Regs Regulations 17C, 17D)**

### ***Potential Disadvantages of the Restriction***

- Reduced dividends to punters through restriction of competition between operators of totalisators.
- Costs imposed on the TAB and racing clubs through reduced flexibility in determining commission rates on totalisator betting and competitive disadvantages to Western Australian totalisators *vis a vis* totalisators in other states.

### ***Potential Advantages of the Restriction***

- Greater certainty for punters over betting outcomes due to fixed and known commission rates.
- Maintenance of returns to government and the racing industry from totalisator betting.

### ***Assessment of Costs and Benefits***

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#### Potential Disadvantages and Costs

***Effect 55.1*** Reduced dividends to punters

*How?:* Limited ability of operators of totalisators to compete with each other for betting custom. Commissions may be lower in the absence of the restriction.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* The absence of the restriction would not result in price competition between the TAB and racing clubs in totalisator services. The TAB and the Racing clubs combine totalisator pool and are effectively outlets for the same totalisator service charging the same rate of commission.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

***Effect 55.2*** Costs imposed on the TAB and racing clubs.

*How?:* Reduced flexibility in determining commission rates on totalisator betting.

*Estimate of Impact:* Contribution to a loss of totalisator custom to eastern states totalisators with an approximate value of a few tens of million dollars.

*Supporting Evidence:* The restriction does not prevent the TAB and racing clubs from altering commission rates, but increases the time necessary to alter rates due to the need to amend the Betting Control Regulations. This inflexibility in altering commission rates limits the ability of operators of totalisators in Western Australian to compete with totalisators in other states where there are no fixed commissions, but totalisator operators may adjust commissions within prescribed ranges. The privatisation of state totalisator agencies in the eastern states has resulted in increasing competition on commission margins and dividends with the result that commissions are generally lower in the eastern states and hence there has been a shift in telephone betting to totalisators in the eastern states.

The inflexibility of commission rates in Western Australia particularly restricts the ability of the TAB to respond to commission “sales” in other states, as have occurred in Victoria.

*Effects When?:* Ongoing.

*Affects Who?:* TAB and racing clubs operating totalisators.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 55.3** Greater certainty for punters over betting outcomes due to fixed and known commission rates.

*How?:* Commissions rate are public knowledge.

Known and generally constant commission rates provides for ease of resolution of betting disputes related to dividends.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Very few punters would be aware of the prescription of commission rates in the Betting Control Regulations.

Prescription of commission rates in the regulations would not provide for any greater public knowledge of rates that other means of publication.

*Effects When?:* Ongoing.

*Affects Who?:* Punters

*Public Objectives Affected:* Economic/financial, distributional.

**Effect 55.4** Maintenance of returns to government and the racing industry from totalisator betting.

*How?:* Reduced prospects for ruinous price competition between providers of totalisator services in a nationally oligopolistic totalisator market.

*Estimate of Impact:* Uncertain, potentially significant.

*Supporting Evidence:* Limited flexibility of commission rates and provision for commission rates to be subject to direction of regulatory authorities and the Minister may reduce prospects of interstate price wars on totalisator services. Lower commission rates may reduce revenues from TAB betting to racing clubs, particularly from the local betting market which is effectively monopolised by the Totalisator service of the TAB and racing clubs. Government revenue from totalisator betting would be relatively unaffected by changes in commission rates as it is calculated as a percentage of total betting turnover.

*Effects When?:* Ongoing.

*Affects Who?:* Punters

*Public Objectives Affected:* Economic/financial, distributional.

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#### **Assessment of Public Benefit**

The requirement for the TAB and racing clubs to deduct commissions at prescribed rates was assessed as giving rise to costs to the TAB through limiting the ability of the TAB to compete with eastern states totalisators in the telephone-betting market. Benefits were

limited to the possibility that the low flexibility in commission rates may reduce prospects for interstate “price wars” in totalisator services and hence protect revenue streams from totalisator betting to the racing industry. In total, the restriction was assessed as giving rise to a net public cost.

### *Alternative Means of Achieving the Legislative Objectives*

An alternative and less restrictive means of regulating totalisator commission rates would be to allow the operators of totalisators to determine rates subject to general direction from a regulatory authority. An appropriate model is considered to be the removal of restrictions on rates but provision for the publication of rates, advising of the Betting Control Board on changes to rates, and a reserve power of the Betting Control Board to direct the TAB with respect to the setting of rates.

### *Conclusion*

The requirement for the TAB and racing clubs to deduct commissions at prescribed rates was assessed as giving rise to a net public cost, mainly due to limited flexibility TAB to adjust rates and compete with eastern states totalisator operators in the telephone-betting market. An alternative and less restrictive means of regulating totalisator commission rates would be to allow the operators of totalisators to determine rates subject to general direction from a regulatory authority. It was therefore concluded that the provisions of the legislation giving rise to the restriction should be repealed and replaced with provision for the Betting Control Board to direct the TAB and racing clubs with respect to commission rates.

## **6.5 Constraints and Costs Imposed on Racing Clubs, Authorities Controlling Racecourses and Owners/Occupiers of Premises**

**Restriction 58: A racing club is required to apply one-half of bookmaking levies retained by the club towards increasing stakes. (BC Act Section 15(5))**

### *Potential Disadvantages of the Restriction*

- Costs imposed on racing clubs through reduced flexibility in use of moneys derived from bookmaking levies.

### *Potential Advantages of the Restriction*

- Provision of a secure proportional return to the racing industry that provides the betting platform for bookmaking activities.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 58.1* Costs imposed on racing clubs.

*How?:* Reduced flexibility in use of moneys derived from bookmaking levies.

*Estimate of Impact:* Potentially significant although currently negligible.

*Supporting Evidence:* Stakes are currently substantially greater than one-half of bookmaking levies hence the restriction does not currently constrain decisions of racing clubs.

Stakes are currently \$30 to 40 million/annum; total bookmaking levies are currently \$3 to 4 million/annum.

*Effects When?:* Ongoing.

*Affects Who?:* Racing clubs.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

***Effect 58.2*** Provision of a secure proportional return to the racing industry that provides the betting platform for bookmaking activities.

*How?:* Levies returned to owners.

*Estimate of Impact:* Potentially significant although currently negligible.

*Supporting Evidence:* Stakes are currently substantially greater than one-half of bookmaking levies hence the restriction does not currently constrain decisions of racing clubs.

Stakes are currently \$30 to 40 million/annum; total bookmaking levies are currently \$3 to 4 million/annum.

*Effects When?:* Ongoing.

*Affects Who?:* Racing industry.

*Public Objectives Affected:* Economic/financial.

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#### ***Assessment of Public Benefit***

The requirement of racing clubs to apply one-half of bookmaking levies to racing stakes was assessed as providing neither costs nor benefits at the current time as stakes are currently well in excess of bookmaking levies and hence the restriction does not constrain decision-making by racing clubs. In view of the current wide discrepancy between stakes and bookmaking levies, it is considered that the restriction is unlikely to be of any public benefit in the future.

#### ***Alternative Means of Achieving the Legislative Objectives***

In view of the absence of costs and benefits arising from the restriction, no alternative means of achieving regulatory objectives were considered.

#### ***Conclusion***

The requirement of racing clubs to apply one-half of bookmaking levies to racing stakes was assessed as providing neither costs nor benefits. It was therefore concluded that the provisions of the legislation giving rise to the restriction should be repealed.

**Restriction 59: The owner or occupier of a premises is prohibited from using the premises for betting except where the premises is on a racecourse where a race meeting is being held; by means of a totalisator duly authorised under a written law; in accordance with the Betting Control Act; by the TAB in accordance with the Totalisator Agency Board Betting Act; or in accordance with the Gaming Commission Act. (BC Act Section 27)**

***Potential Disadvantages of the Restriction***

- Costs imposed on owners and occupiers of premises through restricted abilities to use the premises for betting activities.

***Potential Advantages of the Restriction***

- Fair and proper conduct of betting activities and reduced negative impacts of betting activities on the community through facilitation of monitoring and control of bookmaking activities.

***Assessment of Costs and Benefits***

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Potential Disadvantages and Costs

***Effect 59.1*** Costs imposed on owners and occupiers of premises

*How?:* Restricted abilities to use a premises for betting activities.

*Estimate of Impact:* Potentially substantial costs in combination with other legislative provisions restricting the locations of betting activities.

*Supporting Evidence:* In itself the restriction is unlikely to impose any cost since conduct of off-course betting is already restricted by other provisions of the legislation.

*Effects When?:* Ongoing.

*Affects Who?:* Owners and occupiers of premises.

*Public Objectives Affected:* Economic/financial.

Potential Advantages and Benefits

***Effect 59.2*** Fair and proper conduct of betting activities and reduced negative impacts of betting activities on the community.

*How?:* Facilitation of monitoring and control of bookmaking activities

*Estimate of Impact:* Potentially substantial benefits in combination with other legislative provisions restricting the locations of betting activities.

*Supporting Evidence:* In itself the restriction is unlikely to provide any benefits since conduct of off-course betting is already restricted by other provisions of the legislation. The restriction does, however, provide for the prosecution of the owner or occupier of an premises at which illegal betting activities are conducted and thereby provides an additional disincentive for persons to engage in such activities.

*Effects When?:* Ongoing.

*Affects Who?:* Owners and occupiers of premises.

*Public Objectives Affected:* Economic/financial.

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### *Assessment of Public Benefit*

The restriction on owners and occupiers of premises from using the premises for the conduct of betting activities was assessed as giving rise to potentially substantial costs in combination with other legislative provisions that restrict the location of betting activities. Benefits of the restriction were assessed as substantial and arising from the ability to control illegal betting activities. In total, the restriction was assessed as providing a net public benefit.

### *Alternative Means of Achieving the Legislative Objectives*

No alternative means of achieving legislative objectives were considered.

### *Conclusion*

The restriction on owners and occupiers of premises from using the premises for the conduct of betting activities was assessed as giving rise to a net public benefit. No alternative means of regulation were considered and it was concluded that the provisions of the legislation giving rise the restriction should be retained.

## **6.6 Constraints and Costs Imposed on Punters**

**Restriction 61: Persons under the age of 18 are prohibited generally from participating in the use of totalisator facilities, entering the premises of a totalisator while it is open for the receiving of bets, and from betting with a totalisator or a bookmaker, or having betting undertaken on their behalf. (BC Act Section 17B(3); TABB Regs Regulation 4)**

### *Potential Disadvantages of the Restriction*

- Costs imposed on the TAB through not being able to take bets from persons under 18 years of age.
- Costs imposed on persons under 18 years of age through no being able to participate in betting activities.

### *Potential Advantages of the Restriction*

- Reduced negative community impacts of betting activity through less exposure of young people to betting.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 61.1* Costs imposed on the TAB.

*How?:* Inability to take bets from persons under 18 years of age.

*Estimate of Impact:* Potentially significant although small.

*Supporting Evidence:* Although it is likely that the restriction does cause some loss of business to operators of totalisators, the effect is likely to be small due to the low financial resources of most persons under 18 years of age and therefore the limited potential betting market with these persons.

*Effects When?:* Ongoing.

*Affects Who?:* TAB agencies, racing industry.

*Public Objectives Affected:* Economic/financial.

**Effect 61.2** Costs imposed on persons under 18 years of age.

*How?:* Prohibition on betting with persons less than 18 years of age.

*Estimate of Impact:* Unquantified, considered small.

*Supporting Evidence:* Although it is likely that the restriction does constrain the activities of some persons, the effect is likely to be small due to the low financial resources of most persons under 18 years of age and therefore the limited potential betting activities of these persons.

*Effects When?:* Ongoing.

*Affects Who?:* Persons under 18 years of age that wish to engage in betting activities.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 61.3** Reduced negative community impact of betting activity.

*How?:* Exclusion of persons under 18 years of age from betting activities.

*Estimate of Impact:* Substantial.

*Supporting Evidence:* The restriction is based on a premise of exposure to betting being likely to adversely influence the moral development of persons under the age of 18 years. Although the review did not encounter any evidence to support this premise, there is a strong social preference in the community for persons under 18 years of age to not be exposed to gambling activities for this reason. In view of this preference, there is considered to be a substantial benefit to the restriction.

*Effects When?:* Ongoing.

*Affects Who?:* General public.

*Public Objectives Affected:* Avoidance of “public bads”.

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#### ***Assessment of Public Benefit***

The restriction was assessed as likely to impose significant, though probably small, costs on the TAB and persons under 18 years of age though restricting the ability of minors to engage in betting activities. Benefits were considered to be substantial and arising from compliance with a general social preference that minors should not be exposed to gambling. In total, the restriction was assessed as providing a net public benefit.

### *Alternative Means of Achieving the Legislative Objectives*

In view of the low costs of the restriction, no alternative means of achieving regulatory objectives were considered.

### *Conclusion*

The restriction was assessed as providing a net public benefit. No alternatives were considered and it was concluded that the provisions of the legislation giving rise to the restriction should be retained.

**Restriction 62: The following persons are prohibited from entering a totalisator agency and generally from making bets with a totalisator: a person under disqualification imposed under the rules of racing, trotting or greyhound racing; a person at risk of being impoverished by betting and in respect to whom an order has been issued under Section 25 of the Betting Control Act; a person apparently under the influence of alcohol; a person who behaves in an undesirable, offensive or disorderly manner; and a person smoking a tobacco product. (BC Act Sections 17B(3), 22, 23(2); TABB Regs Regulation 9(2))**

### *Potential Disadvantages of the Restriction*

- Costs imposed on operators of totalisators through restricted business opportunities.
- Restricted betting opportunities for persons subject to prohibitions on totalisator betting.

### *Potential Advantages of the Restriction*

- Fair and proper conduct of betting and reduced negative impacts of betting activities on the community.
- Maintenance of social amenity of totalisator agencies.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 62.1* Costs imposed on operators of totalisators.

*How?:* Restricted business opportunities due to constraints on betting with prohibited persons.

*Estimate of Impact:* Potentially substantial.

*Supporting Evidence:* Prohibited persons may include large punters that have been found to infringe provisions of betting legislation and which may otherwise contribute substantially to betting turnover.

*Effects When?:* Ongoing.

*Affects Who?:* Totalisator agencies, racing industry.

*Public Objectives Affected:* Economic/financial.

**Effect 62.2** Restricted betting opportunities for persons subject to prohibitions on totalisator betting.

*How?:* Prohibition of persons from entering totalisator agencies or betting on totalisators.

*Estimate of Impact:* Substantial effect on individuals but generally small effect on betting customers *in toto*.

*Supporting Evidence:* Prohibition on betting is generally brought about by actions of the subject individuals and would apply to only a small proportion of the betting public.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 62.3** Fair and proper conduct of betting and reduced negative impacts of betting activities on the community.

*How?:* Provision to selectively exclude persons from betting activities where betting with these persons may result in: reduced integrity of betting activities; reduced integrity of the events to which betting relates, potential impoverishment of the punter or his/her dependents; and persons of diminished personal responsibility due to being under the influence of alcohol.

*Estimate of Impact:* Substantial.

*Supporting Evidence:* There are several examples of prohibition of person from betting on the basis of corrupt or criminal activities relating to betting or racing. The ability to exclude persons from betting for their own protection is considered generally desirable due to the potentially addictive nature of gambling activities.

*Effects When?:* Ongoing.

*Affects Who?:* Western Australian public.

*Public Objectives Affected:* Avoidance of “public bads”.

**Effect 62.4** Maintenance of social amenity of totalisator agencies.

*How?:* Provision to selectively exclude from totalisator agencies persons that are apparently under the influence of alcohol; that behave in an undesirable, offensive or disorderly manner; or are smoking.

*Estimate of Impact:* Substantial.

*Supporting Evidence:* The ability of a proprietor of a TAB agency to exclude persons from the agency that impose costs on other patrons by virtue of their behaviour is considered generally beneficial to persons engaging in betting activities.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Avoidance of “public bads”.

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### *Assessment of Public Benefit*

The provisions for exclusion of persons from totalisator agencies and totalisator betting was assessed as giving rise to potentially substantial costs through loss of custom to totalisator agencies. Substantial benefits were assessed as arising from the ability to ensure the fair and proper conduct of betting activities and the events upon which betting is based, reduced negative impacts of betting on the community, and the maintenance of social amenity of totalisator agencies. In total the restriction was assessed as giving rise to a net public benefit.

### *Alternative Means of Achieving the Legislative Objectives*

There was not considered to be any alternative and less restrictive means of achieving legislative objectives relating to the fair and proper conduct of betting activities and reducing negative impacts of betting on the community.

### *Conclusion*

The provisions for exclusion of persons from totalisator agencies and totalisator betting was assessed as giving rise to a net public benefit. There was not considered to be any alternative and less restrictive means of achieving the legislative objective. It was therefore concluded that the provisions of the legislation giving rise to the restriction should be retained.

## **6.7 Constraints and Costs Imposed Specifically on the TAB**

**Restriction 63: The approval of the Minister is required for the TAB to establish a TAB agency. (TABB Act Section 17(1)).**

### *Potential Disadvantages of the Restriction*

- Costs incurred by punters and the TAB through restricted numbers of TAB agencies.

### *Potential Advantages of the Restriction*

- Reduced negative impacts of betting activities on the community through consideration of potential harm to the community in establishing TAB agencies.

### *Assessment of Costs and Benefits*

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#### Potential Disadvantages and Costs

*Effect 63.1* Costs incurred by punters and the TAB.

*How?:* Restricted numbers of TAB agencies.

*Estimate of Impact:* Significant though small.

*Supporting Evidence:* The minister has never refused a proposal to establish a TAB agency, although there have been two instances in the last five years where a proposal for a TAB agency has been withdrawn due to community opposition and a likelihood of Ministerial refusal. There have been

several instances where the Minister has required more information on community impacts or allowed for establishment on a trial basis. No TAB agency has ever been discontinued after a trial period.

Costs incurred by the TAB are more likely to be a result of the administrative costs and delays associated with obtaining ministerial approval rather than refusal of agency proposals.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 63.3** Reduced negative impacts of betting activities on the community.

*How?:* Consideration of potential harm to the community in decisions for establishing TAB agencies.

*Estimate of Impact:* Negligible to date but potential future benefits.

*Supporting Evidence:* The minister has never refused a proposal to establish a TAB agency, although there have been one or two instances in the last five years where a proposal for a TAB agency has been withdrawn due to community opposition and a possibility of Ministerial refusal. There have been several instances where the Minister has required more information on community impacts or allowed for establishment on a trial basis. No TAB agency has ever been disallowed by the Minister after a trial period.

The withdrawal of proposals for TAB agencies has generally been in response to opposition from proprietors of existing agencies near to the proposed site of the new agencies. Such opposition does not relate to potential negative effects of gambling on the community.

There has been one recent case of withdrawal of a proposal for a TAB agency based on opposition from residents in the locality of the proposed site, although this opposition is suspected of being associated mainly with the establishment of a hotel rather than the TAB agency.

Despite the absence of any historical benefit to the restriction, the requirement for Ministerial approval provides for the veto of agency proposals where there may be negative effects of gambling on the community and also provides for community concerns to be aired even if they have no eventual impact on decisions to establish an agency. There is considered to be some benefits as a result of this.

*Effects When?:* Ongoing.

*Affects Who?:* Western Australian public.

*Public Objectives Affected:* Avoidance of “public bads”.

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#### ***Assessment of Public Benefit***

The requirement for Ministerial approval to establish TAB agencies was assessed as giving rise to significant though small costs to the TAB due to administrative costs and time delays in establishing agencies. Benefits were generally considered negligible, although the restriction does allow for community concerns over negative affects of gambling to be

addressed in the future if necessary. In total the restriction was assessed as giving rise to a net public cost.

### ***Alternative Means of Achieving the Legislative Objectives***

The objective of the restriction is to reduce negative impacts of off-course betting on the community. An alternative and less restrictive means of achieving this objective would be to replace the existing requirement for Ministerial approval with the lesser requirement for the TAB to advise the Minister or the Betting Control Board of proposals to establish agencies with provision for the Minister or the Betting Control Board to veto any proposal on the basis of negative effects of betting activities on the community. This would reduce administrative costs associated with establishing agencies and would reduce costs to the TAB associated with opposition to new proposals from proprietors of existing agencies and consequent delays in obtaining Ministerial approval.

### ***Conclusion***

The requirement for Ministerial approval to establish TAB agencies was assessed as giving rise to a net public cost. An alternative and less restrictive means of achieving legislative objectives would be to replace the existing requirement for Ministerial approval with the lesser requirement for the TAB to advise the Betting Control Board of proposals to establish agencies with provision for the Betting Control Board to veto any proposal on the basis of negative effects of betting activities on the community. It should also be noted that the Minister has the power under section 5(3) of the Totalisator Agency Board Betting Act to give directions of a general character as to the exercise of its functions. It was therefore concluded that the provisions of the legislation giving rise to the restriction should be amended to this effect.

**Restriction 67: The TAB may only conduct betting on races held at venues prescribed in the Totalisator Agency Board (Betting) Regulations 1988. (TABB Act Section 20(1))**

### ***Potential Disadvantages of the Restriction***

- Costs incurred by the TAB and reduced services to punters through restricted betting services of TAB agencies.

### ***Potential Advantages of the Restriction***

- No envisaged advantages: the relevant provisions of the legislation were initially introduced by racing clubs to restrict betting to local events, however the provisions have never been exercised for this purpose.

### ***Assessment of Costs and Benefits***

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#### Potential Disadvantages and Costs

***Effect 67.1*** Cost incurred by the TAB and punters.

***How?:*** Restricted betting services of the TAB.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Venues and races for which the TAB considers it commercially viable to conduct betting have, as a matter of course, been prescribed in the Totalisator Agency Board (Betting) Regulations. The only loss of services would have been during the time period between the commercial decision of the TAB to conduct betting for races at a particular race or venue, and that race or venue being added to the regulations.

*Effects When?:* Ongoing.

*Affects Who?:* TAB, punters, racing clubs.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

*No envisaged advantages.*

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#### ***Assessment of Public Benefit***

The restriction of the TAB to conducting betting only for events at prescribed venues was assessed as not giving rise to either significant costs or benefits.

#### ***Alternative Means of Achieving the Legislative Objectives***

No alternative means of achieving regulatory objectives were considered.

#### ***Conclusion***

The restriction of the TAB to conducting betting only for events at prescribed venues was assessed as not giving rise to either significant costs or benefits and serves no effective purpose. It was therefore concluded that relevant provisions of the legislation should be repealed.

**Restriction 73: In relation to sporting events, the TAB shall credit an amount representing 1.75% of the totalisator pool for these events for the purpose of promoting totalisator betting on sporting events. (TABB Act Section 28A)**

#### ***Potential Disadvantages of the Restriction***

- Costs imposed on the TAB through reduced business flexibility relating to promotion of betting services.

#### ***Potential Advantages of the Restriction***

- Development of financial resources available to sports organisations through promotion of sports betting with an associated return of levies to the relevant sports.

#### ***Assessment of Costs and Benefits***

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##### Potential Disadvantages and Costs

***Effect 73.1*** Costs imposed on the TAB.



*How?:* Reduced business flexibility relating to promotion of betting services.

*Estimate of Impact:* Uncertain, probably negligible.

*Supporting Evidence:* The requirement for the TAB to credit 1.75% of sports betting turnover to an account for the promotion of sports betting was introduced into the legislation as a means for the TAB to secure funds to promote sports betting TAB.

It is considered likely that the TAB may in the future wish to spend more than 1.75% of betting turnover on promotions of betting on sports events. In the past, sports betting has not been a significant commercial interest of the TAB. This is gradually changing as sports betting increases. If the provisions of the legislation giving rise to the restriction were strictly interpreted as preventing the TAB from spending more than 1.75% of turnover on promotion, then the restriction may impose significant costs on the TAB. This is considered unlikely as promotion activities may be able to be included as normal expenses and outgoings of the TAB. Section 28(1) of the Totalisator Agency Board Betting Act provides for the TAB to retain funds to meet expenses and outgoings, without defining what the expenses and outgoings may encompass. This is considered to provide the TAB with the ability to expend moneys on promotion in accordance with decisions made on a commercial basis.

*Effects When?:* Ongoing.

*Affects Who?:* TAB.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

***Effect 73.2*** Development of financial resources available to sports organisations.

*How?:* Promotion of sports betting with an associated return of levies to the sports organisations.

*Estimate of Impact:* Negligible.

*Supporting Evidence:* Refer to supporting evidence for Effect 73.1.

*Effects When?:* Ongoing.

*Affects Who?:* Sports organisations.

*Public Objectives Affected:* Economic/financial, distributional.

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#### ***Assessment of Public Benefit***

The requirement for the TAB to reserve 1.75% of totalisator pools from sports betting for promotion of betting on sports events was assessed as unlikely to give rise to either significant costs or benefits.

#### ***Alternative Means of Achieving the Legislative Objectives***

An alternative and less restrictive means of pursuing an objective of promoting betting on sports events would be to provide the TAB with commercial freedom to determine promotion expenditures. Section 28(1) of the Totalisator Agency Board Betting Act provides for the TAB to retain funds to meet expenses and outgoings, without defining what the expenses and outgoings may encompass. This is considered to provide the TAB

with the ability to expend moneys on promotion in accordance with decisions made on a commercial basis.

### ***Conclusion***

The requirement for the TAB to reserve 1.75% of totalisator pools from sports betting for promotion of betting on sports events was assessed as unlikely to give rise to either significant costs or benefits. A less restrictive alternative means of promoting sports betting would be to have promotion expenditures determined by the TAB according to decisions made on a commercial basis. It was therefore concluded that the provisions of the legislation giving rise to the restriction should be repealed.

**Restriction 74: The TAB may only accept bets made in cash or by post, telegram or telephone where the person making the bet has established with the TAB a credit account with sufficient funds available to cover the bet. (TABB Act Section 33; TABB Regs Regulation 12)**

***Potential Disadvantages of the Restriction***

- Costs imposed on the punters through not being able to conduct credit betting with the TAB and through having to make payments for bets through funds already deposited with the TAB or through cash payments.
- Restricted commercial opportunities and revenues of the TAB through not being able to accept credit bets and not being able to accept payments other than in cash.

***Potential Advantages of the Restriction***

- Reduced negative impacts of betting activities on the community through limited access to credit betting and reduced problem betting.

***Assessment of Costs and Benefits***

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Potential Disadvantages and Costs

***Effect 74.1*** Restricted services to punters.

*How?:* Lack of access to off-course credit betting and an inability to make payments for bets other than using funds already deposited with the TAB or cash payments.

*Estimate of Impact:* Unquantified, potentially substantial additional costs to punters wishing to utilise credit for betting purposes. Small but significant costs to punters due to limited mechanisms of paying for bets.

*Supporting Evidence:* The absence of credit betting with the TAB necessitates any punters wishing to bet using borrowed moneys for betting to establish lines of credit other than through the TAB. The absence of credit betting services with the TAB restricts, but does not prevent, access to credit for betting with the TAB, and increases the set of actions necessary for a punter to use credit in placing bets with the TAB.

Some large punters would wish to utilise credit facilities with the TAB, particularly punters exploiting arbitrage opportunities between totalisators in different states.

The restriction prevents punters from paying bets using EFTPOS facilities and other “cash substitutes”. With EFTPOS being increasingly used for consumer transactions, this is considered to impose a significant, although generally small, cost on punters.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

***Effect 74.2*** Restricted commercial opportunities and revenues of the TAB.

*How?:* Inability to accept credit bets and the consequent competitive

disadvantage of the TAB with bookmakers.

Inability to accept payments for bets by the “cash substitutes” of EFTPOS, debit cards, smart-cards and cheques.

*Estimate of Impact:* Losses of betting turnover potentially in the order of several tens of million dollars per annum as a result of the inability to accept credit bets.

Substantial costs and loss of revenue incurred by inability to use EFTPOS facilities and other cash substitutes in accepting payment for bets.

*Supporting Evidence:* The inability to accept credit bets is considered to place the TAB at a substantial competitive disadvantage with bookmakers. Information from one bookmaker indicated that 50% to 75% of the values of bets placed with bookmakers occurs on credit extended by the bookmakers. This would correspond to approximately \$90 million to \$130 million per annum. It is possible that at least some of this betting expenditure would be transferred to the TAB if the TAB was able to extend credit to punters. The extent of the transfer may be limited as most credit betting occurs by a few large punters, amounting to only about 10% of the total number of bets with bookmakers. Most of these large punters preferentially bet with bookmakers due to the availability of fixed odds.

The TAB would may increase betting revenues if able to utilise EFTPOS services or other cash substitutes that would remove the need for punters wishing to place large bets to carry large amounts of cash or to establish accounts with the TAB.

Inability to utilise cash substitutes would cause the TAB to incur costs associated with handling large amounts of cash.

*Effects When?:* Ongoing.

*Affects Who?:* Punters.

*Public Objectives Affected:* Economic/financial.

#### Potential Advantages and Benefits

**Effect 74.3** Reduced negative impacts of betting activities on the community.

*How?:* Limited access to credit betting and reduced problem betting.

*Estimate of Impact:* Substantial.

*Supporting Evidence:* The history of the current legislation outlined in Section 3.2 indicates that one of the main reasons for establishing the TAB was to overcome the harmful effects on the community of credit betting conducted by the off-course betting shops. The need to minimise the incidence of problem gambling is a priority for government and the containment of credit betting is considered central to this objective.

Although the inability of the TAB to extend credit does not prevent betting payments being made with borrowed funds, the restriction does reduce the ease of access to credit for betting purposes which is considered to substantially reduce risks of punter indebtedness and associated negative impacts of betting on the community.

The provision for bookmakers to undertake credit betting is only maintained by virtue of a tradition of credit betting with bookmakers. If betting legislation was being developed without constraints of historical precedents, it is unlikely that any provision would be made for credit betting.

*Effects When?:* Ongoing

*Affects Who?:* Western Australian public.

*Public Objectives Affected:* Avoidance of “public bads”.

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### ***Assessment of Public Benefit***

The requirement for the TAB to accept bets only through cash payments or through money in accounts held with the TAB was assessed as potentially imposing substantial costs on punters and the TAB through limiting access to credit betting and through restricting the use of EFTPOS facilities and other cash substitutes to make betting payments. In particular, TAB agents are faced with a considerable a constant security risk concerned with holding large amounts of cash.

Benefits were also assessed as substantial and arising from reduced negative impacts of betting on the community that may arise from availability of off-course credit betting. In total, the benefits of reduced risks of negative impacts of betting on the community were assessed as outweighing the costs to the TAB and punters and the restriction considered to be in the public interest.

### ***Alternative Means of Achieving the Legislative Objectives***

The objective of the restriction is to prevent off-course credit betting and reduce negative impacts of betting on the community. This is achieved through preventing off-course credit betting but the legislative provisions used to achieve this have the additional effect of preventing the use of cash substitutes, such as EFTPOS, for payment of bets. An alternative and less restricted means of achieving the legislative objective would be to allow punters to use payment mechanisms other than cash as long as this does not involve extension of credit by the TAB.

### ***Conclusion***

The requirement for the TAB to accept bets only through cash payments or through credit accounts held with the TAB was assessed as providing a net public benefit, although imposing unnecessary costs on punters and the TAB through restricting use of cash substitutes for betting payments. An alternative and less restricted means of achieving the legislative objective would be to allow punters to use payment mechanisms other than cash as long as this does not involve extension of credit by the TAB. It was therefore concluded that the provisions of the legislation giving rise to the restriction should be amended to this effect.

In relation to the restriction on credit betting by the TAB, the history of the current legislation indicates that one of the main reasons for establishing the TAB was to overcome the harmful effects on the community of credit betting conducted by the off-course betting shops. The need to minimise the incidence of problem gambling is a priority for government and the containment of credit betting is considered central to this objective

In this case, the principles of competitive neutrality would tend to support the removal of the current ability for bookmakers to undertake credit betting. However, it is clear that credit betting by bookmakers is a long standing tradition that provides a legitimate service

to large punters for whom a requirement to carry large amounts of cash to a racecourse presents an unacceptable security risk. In addition, a bookmaker advancing credit takes a personal financial risk and is therefore inclined to be circumspect in relation to the amount of credit he or she is prepared to offer. Given the reliance of bookmakers on their large credit clients any removal of this facility is likely to establish a significant cost on bookmakers through reduced business and on those punters through reduced services.

However, it is equally clear that current government policy is that credit betting will not be permitted in conjunction with any new form of gambling and it is likely that this would apply to any move to allow corporations to conduct bookmaking.

It is therefore concluded that the provision preventing the TAB from conducting credit betting should be retained.

## **6.8 Competitive Neutrality of the TAB**

[Note that Restriction 24, Restriction 37, Restriction 54 and Restriction 74 have implications for the competitive neutrality of the TAB *vis a vis* bookmakers. The competitive neutrality issues were addressed in the assessment of these restrictions in previous sections.]

**Restriction 93: The TAB is able to compulsorily acquire an unsecured loan of \$100 000 from the Western Australian Turf Club and the Western Australian Trotting Association to meet expenses associated with the establishment of the TAB and its offices and agencies, and the conduct of its operations until such time as the TAB is able to meet the expenses in full from its funds. (TABB Act Sections 18(1), 18(2), 18(3))**

### ***Potential Disadvantages of the Restriction***

- No envisaged disadvantages.

### ***Potential Advantages of the Restriction***

- No envisaged advantages.

### ***Explanatory Note***

This restriction and the relevant provisions of the legislation provided for establishment of the TAB during the 1960s and are now redundant. Any loans to the TAB made under these provisions of the legislation have long since been discharged and the provisions are effectively inoperative.

### ***Conclusion***

The provisions for the TAB to obtain loans from the Western Australian Turf Club and Western Australian Trotting Association were assessed as redundant and giving rise to no costs or benefits. It was therefore concluded that the relevant provisions of the legislation should be repealed.



## 7. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

The examination of the legislation pertaining to this review resulted in compilation of a list of 95 potential restrictions on competition. Discussions with the Competition Policy Unit of Treasury resulted in a determination that public benefit analyses were not required for 48 of these restrictions due to the restrictions being considered as obviously in the public interest or being unlikely to impose any significant costs on providers of betting services or the economy generally. A further 5 restrictions were removed from further consideration in the review by virtue of relating to taxation issues that are beyond the scope of the review, or being issues that will be examined in a competitive neutrality review of the TAB.

The remaining 42 potential restrictions on competition were assessed in respect of their potential costs and benefits and the possibility of using alternative and less restrictive means of achieving legislative objectives. Conclusions were drawn as to whether the provisions of the legislation should be retained amended or repealed. These conclusions are summarised below with specific recommendations for the retention, amendment or repeal of the respective sections of the legislation.

The following 22 restrictions were assessed as being in the public interest, and with no alternative and less restrictive means of achieving legislative objectives. It was concluded that the legislative provisions giving rise to these restrictions should be retained.

- Restriction 1: Conduct of betting by a bookmaker in relation to sporting events may only occur for “designated” events for which general approval for betting has been granted by the Betting Control Board, may only occur where the events are conducted at places registered for the purpose by the Board. (BC Act Sections 4A(1), 4B(2))
- Restriction 2: A person who desires to conduct a designated sporting event at a registered place must obtain a permit for the event from the Betting Control Board. Applications for such permits must be accompanied by such information as is prescribed or as is otherwise required by the Board. (BCA Section 4A(2))
- Restriction 6: A current bookmaker’s licence is required for a person to act as a bookmaker. A person wishing to obtain a licence to act as a bookmaker must apply to the Betting Control Board and must furnish any information in support of the application as the Board may require, and must pay a prescribed application fee. Holders of bookmakers licences must pay ongoing annual licence fees assessed on the total annual turnover of the totalisator. (BC Act Sections 11(1), 11(16), 13(1), 24(1)(a); BC Regs Regulations 17, 17A)
- Restriction 7: A current bookmaker's employee licence is required for a person to act as an employee of a bookmaker. A person wishing to obtain a licence to act as a bookmaker's employee must apply to the Betting Control Board and must furnish any information in support of the application as the Board may require, and must pay a prescribed fee. (BC Act Sections 11(3), 11(16), 31(1)(a))
- Restriction 8: Bookmaker’s licences and bookmaker’s employees licences are not transferable. (BC Act Section 11(2))



- Restriction 10: A bookmaker's licence or bookmaker's employee licence cannot be granted to any person under the age of 18 years. (BC Act Section 11(5)(b))
- Restriction 12: A bookmaker's licence or bookmaker's employee licence cannot be granted to an undischarged bankrupt. (BC Act Section 11(5)(b))
- Restriction 13: Bookmaking conducted from a race course on sporting events may only be conducted by bookmakers that hold a bookmaker's licence endorsed to authorise such betting (BC Act Section 4B(1)).
- Restriction 18: Authorisation from the Betting Control Board is required for a bookmaker to carry on business by means of on-course telephone betting. (BC Regs Regulations 71, 72)
- Restriction 20: A bookmaker can only accept telephone bets on a race being conducted as part of another race meeting in the state with the permission of the committee or other authority controlling that other race meeting. (BC Regs Regulation 72)
- Restriction 21: An applicant for a bookmaker's licence may be required to lodge with the Betting Control Board a bond as security for due observance by the bookmaker and the employees of the bookmaker of the provisions of the Betting Control Act and the terms and conditions of any licence issued under the Act to that bookmaker or such employees. The Betting Control Board may apply a security lodged by a bookmaker against a betting debt of the bookmaker, regardless of the date the debt was incurred, and debts to the Betting Control Board. (BC Act Section 11(3)(a); BC Act Sections 11(12), 11(13); BC Regs Regulation 18)
- Restriction 23: Racing clubs operating totalisators and bookmakers are required to maintain records and accounts of all betting transactions and/or betting turnover from the respective activities and to provide these records to relevant racing clubs and/or the Betting Control Board. Racing clubs are required to maintain records of bookmaking activities and collect payments of bookmaking levies and provide these records and relevant payments to the Betting Control Board. (BC Act Sections 14, 15, 16, 16A, 17A(5), 17B(5), 18A(1)).
- Restriction 25: A Bookmaker is prohibited from paying commission or give any inducements to any person on behalf of any other person making or taking bets with that bookmaker. (BC Act Section 31(1)(e))
- Restriction 31: Bookmakers may not sell or transfer a betting ticket to any other bookmaker unless it is in respect to a bet. (BC Regs Regulation 36)
- Restriction 33: Bookmakers may only use a computer to conduct their business upon obtaining approval from the Board. (BC Regs Regulation 37)
- Restriction 49: Bookmakers and the operators of totalisators at racing clubs are prohibited from betting with a person under the age of 18 years. (BC Act Sections 21(1)(a))

- Restriction 51: The operator of a totalisator at a racing club is prohibited from employing any person under the age of 18 years (BC Act Section 21(3)(d)).
- Restriction 54: Racing clubs operating totalisators are not permitted to act on any telegraphic, telephonic or radiographic instruction relating to investments on the totalisators. (BC Act Sections 28E, 28F)
- Restriction 59: The owner or occupier of a premises is prohibited from using the premises for betting except where the premises is on a racecourse where a race meeting is being held; by means of a totalisator duly authorised under a written law; in accordance with the Betting Control Act; by the TAB in accordance with the Totalisator Agency Board Betting Act; or in accordance with the Gaming Commission Act. (BC Act Section 27)
- Restriction 61: Persons under the age of 18 are prohibited generally from participating in the use of totalisator facilities, entering the premises of a totalisator while it is open for the receiving of bets, and from betting with a totalisator or a bookmaker, or having betting undertaken on their behalf. (BC Act Section 17B(3); TABB Regs Regulation 4)
- Restriction 62: The following persons are prohibited from entering a totalisator agency and generally from making bets with a totalisator: a person under disqualification imposed under the rules of racing, trotting or greyhound racing; a person at risk of being impoverished by betting and in respect to whom an order has been issued under Section 25 of the Betting Control Act; a person apparently under the influence of alcohol; a person who behaves in an undesirable, offensive or disorderly manner; and a person smoking a tobacco product. (BC Act Sections 17B(3), 22, 23(2); TABB Regs Regulation 9(2))

Remaining restrictions were assessed as being of either no public benefit or cost and therefore effectively redundant; as giving rise to a net public cost; or for which there are alternative and less restrictive means of achieving legislative objectives. These restrictions and recommendations for repeal or amendment of legislation are as follows.

- Restriction 3: Sporting organisations conducting a sporting event designated to allow bookmaking are not permitted to possess or operate a totalisator. (BC Act Section 17C)

This restriction was assessed as giving rise to a net public cost with no significant public benefits. It was concluded that the provisions of the legislation giving rise to the restriction should be repealed.

Recommendation: Section 17C of the Betting Control Act should be repealed and any other legislative amendments made to allow sporting organisations to operate totalisators under similar rules as currently apply to racing clubs.

Restriction 4: In relation to betting on sporting events, the TAB may only conduct betting on cricket matches, Australian Rules Football matches and other prescribed sporting events. (TABB Act Section 19A(1), TABB Regs Regulations 52, 55)

The restriction was assessed as providing a net public benefit and it was concluded that a system of authorisation for the TAB to conduct betting on sporting events should be retained. A less restrictive means of achieving this would be for authorisations to be granted by the Betting Control Board. Parliament currently entrusts the board to exercise this function in relation to bookmakers and there is no apparent reason why the Board should not be considered equally suitable to undertake the same responsibility in relation to the TAB. It was therefore concluded that the provisions of the legislation giving rise to the restriction should be replaced with a provision allowing the Board to authorise those sporting events on which the TAB may conduct betting.

Recommendation: Section 19A(1) of the Totalisator Agency Board Betting Act should be amended to remove the need for sporting events on which the TAB may conduct betting to be prescribed, and allow for the Betting Control Board to authorise the sporting events on which the TAB may conduct betting.

- Restriction 5: Operation of a totalisator and betting by means of a totalisator are prohibited other than for on-course totalisators operated by racing clubs and authorised under the Betting Control Act, and off-course totalisators operated by the TAB. A racing club wishing to possess and operate a totalisator must obtain authorisation from the Betting Control Board, must furnish any information in support of the application as the Board may require, and must pay ongoing annual licence fees assessed on the total annual turnover of the totalisator. (BC Act Sections 17A(1), 17B, 17D, 24(1); TABB Act Sections 19A, 20).

The restriction was assessed as providing a net public benefit in terms of the legislative objectives of monitoring and controlling off-course betting and securing a return from off-course betting for government and the racing industry. A less restrictive regulatory framework would be for the current prohibition of additional off-course totalisator services to be replaced with a provision in the Betting Control Act to allow the Minister to enter into State agreements, ratified by Parliament, for the licensing of additional off-course totalisators if this is considered by government to be in the public interest.

Recommendation: The Betting Control Act should be amended to allow for the licensing of persons or organisations to operate off-course totalisators.

- Restriction 9: The Betting Control Board is not required to specify reasons for refusal of licence applications. (BC Act Section 11(3))

The restriction was assessed as not giving rise to either costs or benefits and therefore to be essentially redundant. It was concluded that the relevant provisions of the legislation should be amended to remove the restriction.

Recommendation: Section 11(3) of the Betting Control Act should be amended to remove the provisions for the Betting Control Board to refuse an application for a bookmakers licence without specifying the reason for refusal.

- Restriction 11: A bookmaker's licence or bookmaker's employee licence cannot be granted to a body corporate. (BC Act Section 11(5)(c))

The restriction was assessed as being in the public interest by virtue of the ability to control the persons conducting bookmaking activities, although at a high economic cost to bookmakers. An alternative and less restrictive means of achieving these advantages would be to allow the provision of bookmakers licences to corporations subject to a suitable mechanisms being established to exclude undesirable persons from acting as directors to bookmaking corporations and to license managers of bookmaking activities. It was concluded that the Betting Control Act should be amended to allow for the issue of bookmaking licences to corporations subject to amendments to the Act to allow for the licensing of managers of bookmaking activities conducted by these corporations and the authorisation or licensing of persons acting as directors of corporation undertaking bookmaking activities.

Recommendation: Section 11(5)(c) of the betting Control Act should be repealed. Amendments to the Act should be made to require any bookmaking activities undertaken by a corporation holding a bookmakers licence to be under the control of a licensed manager with the same obligations, duties and responsibilities for a real person licensed as a bookmaker.

- Restriction 24: Bookmakers are prohibited from allowing any other person to have an interest, financial or otherwise, in the business of that bookmaker. (BC Act Section 31(1)(c))

The restriction on any other person having a financial interest in the business of a bookmaker was assessed as being in the public interest, although at a potentially high economic cost to bookmakers. An alternative and less restrictive means of achieving these advantages would be to allow the provision of bookmakers licences to corporations subject to a suitable mechanisms being established to exclude undesirable persons from involvement in partnerships or as directors of bookmaking corporations, and to licence managers of bookmaking activities. It was therefore concluded that the Betting Control Act should be amended to allow for the issue of bookmaking licences to partnerships and corporations subject to amendments to the Act to allow for the licensing of managers of bookmaking activities conducted by a partnership or corporation and the authorisation or licensing of directors of a corporation, or persons involved in a partnership, undertaking bookmaking activities.

Recommendation: In addition to recommendation made with respect to Restriction 24, the Betting Control Act should be amended to require authorisation by the Betting Control Board of any person to be involved in a partnership, or to hold a position of director of a corporation, licensed to conduct bookmaking activities.

- Restriction 27: Bookmaking activities may generally only be carried on at racecourses or registered places of sporting events, and in areas of such premises specifically set aside for bookmaking purposes by the committee or other authority controlling the racecourse. A limited range of betting transactions may be conducted at other premises prescribed by the Betting Control Board. Except for betting on sporting events, bookmaking activities may only be conducted on a race course during the holding of a race meeting at the race course. (BC Act Sections 4B(4), 5(2), 12(3); BC Regs Regulation 69)

Restrictions on the location of bookmaking activities were assessed as providing a net public benefit. It was concluded that provisions of the legislation underlying the location restrictions should be retained.

The restrictions on timing of bookmaking activities were assessed as providing a net public cost. Providing that an adequate level of supervision can be maintained over bookmaking activities, the timing of bookmaking activities could be left to the discretion of race clubs and the authorities controlling the racing industry. It was therefore concluded that provisions of the legislation that restrict the timing of bookmaking activities should be repealed and replaced with a provision allowing bookmaking to occur at anytime from a racecourse subject to the approval of the Betting Control Board and permission from the relevant racecourse controlling authority.

Recommendation: Section 12(3)(a) of the Betting Control Act should be amended to allow bookmaking to occur at anytime from a racecourse subject to the approval of the Betting Control Board and permission from the relevant racecourse controlling authority.

- Restriction 28: Betting with bookmakers may not occur on Anzac Day prior to 12 noon. (BC Act Section 5(1); BC Act Section 12(3)).

The prohibition of bookmaking activities on ANZAC day was assessed giving rise to a net public cost. It was concluded that the provisions of the legislation giving rise to the restriction should be repealed.

Recommendation: Section 12(3)(b) of the Betting Control Act should be repealed.

- Restriction 30: Bookmakers may only use betting tickets approved by the Board and must comply with requirements for numbering, provision of information on each ticket, and procedures for issue and cancelling of tickets. This includes a prohibition on any bookmaker displaying any information on the face of a betting ticket other than his or her name and the initials of the controlling authority by which that bookmaker is registered (BC Regs Regulation 36)

The restrictions on use of betting tickets by bookmakers were assessed as providing a net public benefit. However, costs associated with the restriction could be reduced by removing constraints on information presented on betting tickets other than is required to ensure that betting transactions can be uniquely identified. It was concluded that the provisions of the legislation giving rise to the restrictions should be retained, but amended to provide for removal of these constraints.

Recommendation: Regulation 36(2) of the Betting Control regulations should be repealed.

- Restriction 35: Bookmakers are constrained as to the types of bets they may make. (BC Regs Regulations 50 to 55)

The constraints on types of bets able to be made by bookmakers were assessed as producing a net public benefit, although the restriction is largely obsolete due to similar

rules implemented by racing clubs. An alternative and potentially less restrictive mechanism for achieving the regulatory objective would be to remove the restrictions from the regulations and allow racing clubs to determine any constraints on types of bets according to the willingness of the clubs to devote resources to the management and control of betting and racing activities. It was concluded that the provisions in the legislation giving rise to the restriction should be amended to replace the specific restrictions on betting with a more general provision for racing clubs to implement rules for the conduct of betting by bookmakers and the types of bets able to be made by bookmakers.

Recommendation: Regulations 50 to 55 of the Betting Control Regulations should be repealed. The regulations should be amended to provide for the committee or authority controlling a racecourse to implement rules in respect of the types of bets that may be made by bookmaker fielding on that race course, and to any bookmaker fielding on the racecourse to abide by these rules.

- Restriction 37: The holder of a bookmakers licence, other than where an agent of the TAB, may not make transactions in relation to bets in any premises licensed under the Liquor Licensing Act 1988. (BC Regs Regulation 56)

The prohibition on the making of betting transactions on licensed premises was found to be redundant. It was concluded that the relevant provisions of the legislation should be repealed.

Recommendation: Regulation 56 of the Betting Control Regulations should be repealed.

- Restriction 46: A bookmaker is compelled to accept bets to lose the amount prescribed under the rules or by the committee or other authority controlling the race course on which the bookmaker is betting. (BC Regs Regulations 64, 65)

The constraints on bookmakers in regard to bets that must be accepted were assessed as producing a net public benefit. An alternative and potentially less restrictive mechanism for allowing racing clubs to manage bookmaking activities would be for the removal of the backstop limits from the regulations leaving only provision for racing clubs to set limits as they see fit. It was concluded that the provisions to the legislation giving rise to the restriction should be amended to remove the limits on bets that must be accepted by bookmakers, leaving only provision for racing clubs to set limits as they see fit.

Recommendation: Regulations 64 and 65 of the Betting Control regulations should be repealed.

- Restriction 48: A bookmaker cannot accept a telephone bet on a horse or greyhound race unless the bet is greater than or equal to \$200 or the amount to be won is greater than or equal to \$2,000. (BC Regs Regulations **72(d)**)

The restriction on minimum levels of telephone bets with bookmakers was assessed as giving rise to a net public cost. It was concluded that the provisions of the legislation giving rise to the restriction should be repealed.

Recommendation: Regulation 72(d) of the Betting Control Regulations should be repealed.

- Restriction 53: Totalisator bets received by a race club may only be transmitted to totalisator pools of other clubs or the TAB with the authorisation of the club to which the bet is transmitted bet or the TAB, respectively. (BC Regs Regulation 70; TABB Regs Regulation 19A)

The ability of racing club to prevent the transmission of bets on its races from other racing clubs was assessed as giving rise to a net public cost. It was concluded that the provisions of the legislation giving rise to the restriction should be repealed.

Recommendation: The provisions contained in Regulation 70 of the Betting Control Regulations and Regulation 19A of the Totalisator Agency Board (Betting) Regulations relating to approval requirements for transmission of bets should be repealed.

Restriction 55: The TAB and racing clubs must deduct commission at a prescribed rate from every totalisator bet received. (BC Act Section 17E, 17F; BC Regs Regulations 17C, 17D)

The requirement for the TAB and racing clubs to deduct commissions at prescribed rates was assessed as giving rise to a net public cost, mainly due to limited flexibility to adjust rates and compete with eastern states totalisator operators in the telephone-betting market. An alternative and less restrictive means of regulating totalisator commission rates would be to allow the operators of totalisators to determine rates subject to general direction from a regulatory authority. It was concluded that the provisions of the legislation giving rise to the restriction should be repealed and replaced with provision for the Betting Control Board to direct the TAB and racing clubs with respect to commission rates.

Recommendation: Sections 17E(a) and Sections 17F(a) of the Betting Control Act should be amended to remove the requirement for the TAB and racing clubs to deduct commissions at prescribed rates from bets made on totalisators, and replace it with a provision for the Betting Control Board to direct the TAB and racing clubs with respect to commission rates.

- Restriction 58: A racing club is required to apply one-half of bookmaking levies retained by the club towards increasing stakes. (BC Act Section 15(5))

The requirement of racing clubs to apply one-half of bookmaking levies to racing stakes was assessed as providing neither costs nor benefits. It was concluded that the provisions of the legislation giving rise to the restriction should be repealed.

Recommendation: Section 15(5)(a) of the Betting Control Act should be amended to delete the requirement for clubs to apply a portion of bookmakers' betting levy retained towards increasing stakes.

- Restriction 63: The approval of the Minister is required for the TAB to establish a TAB agency. (TABB Act Section 17(1)).

The requirement for Ministerial approval to establish TAB agencies was assessed as giving rise to a net public cost. An alternative and less restrictive means of achieving legislative objectives would be to replace the existing requirement for Ministerial approval with the lesser requirement for the TAB to advise the Betting Control Board of proposals to establish agencies with provision for the Minister or the Betting Control Board to veto any proposal on the basis of negative effects of betting activities on the community. It was concluded that the provisions of the legislation giving rise to the restriction should be amended to this effect.

Recommendation: Section 17(1)(a) of the Totalisator Agency Board (Betting) Act should be amended to remove the requirement for the Minister to approve the establishment of offices or totalisator agencies by the Totalisator Agency Board. The Act should be amended to require the Totalisator Agency Board to advise the Betting Control Board of proposals to establish offices or agencies, and to provide for the Betting Control Board to veto the establishment of an office or agency where such establishment will have adverse effects on the community.

- Restriction 67: The TAB may only conduct betting on races held at venues prescribed in the Totalisator Agency Board (Betting) Regulations 1988. (TABB Act Section 20(1))

The restriction of the TAB to conducting betting only for events at prescribed venues was assessed as not giving rise to either significant costs or benefits and serves no effective purpose. It was concluded that relevant provisions of the legislation should be repealed.

Recommendation: Section 20(1) of the Totalisator Agency Board (Betting) Act should be amended to remove the requirement that a racecourse to be prescribed before bets may be placed with or received by the TAB in relation to races conducted on that racecourse.

- Restriction 73: In relation to sporting events, the TAB shall credit an amount representing 1.75% of the totalisator pool for these events for the purpose of promoting totalisator betting on sporting events. (TABB Act Section 28A)

The requirement for the TAB to reserve 1.75% of totalisator pools from sports betting for promotion of betting on sports events was assessed as unlikely to give rise to either significant costs or benefits. A less restrictive alternative means of promoting sports betting would be to have promotion expenditures determined by the TAB according to decisions made on a commercial basis. It was concluded that the provisions of the legislation giving rise to the restriction should be repealed.

Recommendation: Section 28A(2)(c) of the Totalisator Agency Board (Betting) Act should be repealed.

- Restriction 74: The TAB may only accept bets made in cash or by post, telegram or telephone where the person making the bet has established with the TAB a credit account with sufficient funds available to cover the bet. (TABB Act Section 33; TABB Regs Regulation 12)



The requirement for the TAB to accept bets only through cash payments or through credit accounts held with the TAB was assessed as providing a net public benefit, although imposing unnecessary costs on punters and the TAB through restricting use of cash substitutes for betting payments. An alternative and less restricted means of achieving the legislative objective would be to allow punters to use payment mechanisms other than cash as long as this does not involve extension of credit by the TAB. It was concluded that the provisions of the legislation giving rise to the restriction should be amended to this effect.

Recommendation: Section 33(a) of the Totalisator Agency Board (Betting) Act should be amended to provide for payment for bets by any mechanism approved by the TAB subject to any approved mechanism not involving provision of credit by the TAB or any employee of an agency of the TAB.

- Restriction 93: The TAB is able to compulsorily acquire an unsecured loan of \$100 000 from the Western Australian Turf Club and the Western Australian Trotting Association to meet expenses associated with the establishment of the TAB and its offices and agencies, and the conduct of its operations until such time as the TAB is able to meet the expenses in full from its funds. (TABB Act Sections 18(1), 18(2), 18(3))

The provisions for the TAB to obtain loans from the Western Australian Turf Club and Western Australian Trotting Association were assessed as redundant and giving rise to no costs or benefits. It was concluded that the relevant provisions of the legislation should be repealed.

Recommendation: Sections 18(1)(c), 18(3) and 18(4) of the Totalisator Agency Board (Betting) Act should be repealed.

## **8. IMPLEMENTATION OF LEGISLATIVE CHANGE**

It is proposed that legislative change in response to recommendations made in this review, other than those changes that only require a regulatory amendment, will not be initiated immediately, but rather postponed until early 2000 to take into account the findings of a current inquiry of the Productivity Commission into Australia's gambling industries. This inquiry is scheduled to be completed in August 1999. Recommendations involving amendment to regulations will be undertaken at the earliest opportunity

The terms of reference for the inquiry of the Productivity Commission are indicated in Appendix C. The inquiry will address many issues common to this review and in addition will examine in greater depth the social impacts of gambling activities and any concomitant need to restrict these activities. It is intended to re-examine the conclusions and recommendations of this review in light of the findings of the inquiry and to pursue legislative reform at this time.

## **APPENDIX A**

### **ORGANISATIONS AND PERSONS INVITES TO MAKE SUBMISSIONS TO THE REVIEW**

WA Turf Club  
WA Trotting Association  
WA Greyhound Racing Authority  
WA Totalisator Agency Board  
WA Provincial Thoroughbred Racing Association  
WA Country Trotting Association  
WA Country Racing Association  
WA Bookmakers Association  
Chief Steward, WA Greyhound Racing Authority  
Chief Steward, WA Turf Club  
Chief Steward, WA Trotting Association  
WA Lotteries Commission  
Great Southern Districts Trotting Council  
South Western Districts Trotting Council  
North Eastern Districts Trotting Council  
Betting Control Board of WA  
Gaming Commission of WA  
All Thoroughbred Racing Clubs registered with the WA Turf Club (42 in total)  
All harness racing clubs registered with the WA Trotting Association (22 in total)

**APPENDIX B**

**PUBLIC ADVERTISEMENT OF THE REVIEW**

**Advertised in "The West Australian" on Saturday 6 December 1997.**

**Advertised in the "Sunday Times on Sunday 14 December 1997.**

## APPENDIX C

### TERMS OF REFERENCE FOR THE PRODUCTIVITY COMMISSION INQUIRY INTO AUSTRALIA'S GAMBLING INDUSTRIES

The Commission should examine and report on:

- (a) the nature and definition of gambling and the range of activities incorporated within this definition;
- (b) the participation profile of gambling;
- (c) the economic impact of the gambling industries, including industry size, growth, employment, organisation and interrelationships with other industries such as tourism, leisure, other entertainment and retailing;
- (d) the social impact of the gambling industries, the incidence of gambling abuse, the cost and nature of welfare support services of government and non-government organisations necessary to address it, the redistributive effects of gambling and the effects of gambling on community development and the provision of other services;
- (e) the effects of the regulatory structures - including licensing arrangements, entry and advertising restrictions, application of the mutuality principle and differing taxation arrangements - governing the gambling industries, including implications of differing approaches for industry development and consumers;
- (f) the implications of new technologies (such as the internet), including the effect on traditional government controls on the gambling industries;
- (g) the impact of gambling on Commonwealth, State and Territory budgets; and
- (h) the adequacy of ABS statistics involving gambling.

Reference:

Productivity Commission, September 1998. *Inquiry into Australia's Gambling Industries Issues Paper*, <http://www.pc.gov.au/inquiry/gambling/issues.pdf>