

Title: A consultation on the replacement of the Horserace Betting Levy with a Horserace Betting Right IA No: DCMS 085 Lead department or agency: Department for Culture, Media and Sport	Impact Assessment (IA) Date: 15/12/2014 Stage: Consultation Source of intervention: Domestic Type of measure: Primary Legislation Contact for enquiries: Susan.Shaw@culture.gsi.gov.uk 020 7211 6084
Summary: Intervention and Options	RPC Opinion: AMBER

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?
£27.5m	£27.5m	-£2.52m	Yes
			ZNC
What is the problem under consideration? Why is government intervention necessary? The statutory Horserace Betting Levy was originally established in 1961 to compensate racecourses following the introduction of off-course betting, and recognised the symbiotic relationship between the two industries of Racing and Betting. This relationship continues, with the purpose of the levy being a mechanism for betting operators to contribute to the funding of the racing industry e.g. to ensure that racing remains attractive to betting customers. However, the system has come under increasing strain in recent years, in large part due to leakage resulting from shifts of horserace betting overseas. Moreover, aspects of the current system, such as Government's direct involvement, are considered outdated.			

What are the policy objectives and the intended effects?

Government aims to either replace the current Horserace Betting Levy with a statutory Horserace Betting Right that would allow the racing sector to sell the right to place bets on its events, in a comparable way to the system currently in operation for sports betting in the state of Victoria, Australia, or to reform the existing Levy with a view to reducing the role of Government.

Based on consultations with stakeholders in both racing and betting sectors, government considers that it has a decent understanding of the implications of Levy reform. However, in order to make an informed decision on final policy design, government intends to consult in more detail on the implications and potential policy design of a Horserace Betting Right.

What policy options have been considered, including any alternatives to regulation?

The Government currently considers two substantive policy options:

Option 0: Do nothing - keeping existing Levy with no changes

Option 1: Levy replacement

Option 2: Levy reform

While the Department does not have a preference between Option 1 and Option 2 at this stage, the proposed further consultation, and hence this IA, will focus on Option 1 exclusively. The Department's IA on the previous consultation on Levy reform or replacement contained a more detailed assessment of Option 2, and was found fit for purpose by the RPC.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 01/2020

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by Responsible Minister:

Helen Grant

Date: 15/12/2014

Summary: Analysis & Evidence

Option 1

Description: Independent commercial agreement based on a horserace betting right

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 27.5	High: 27.5	Best Estimate: 27.5

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.02			0.2
High	0.02			0.2
Best Estimate	0.02			0.2

Description and scale of key monetised costs by 'main affected groups'

Individual bookmakers will have to familiarise themselves with the legislation. Our best estimate of these costs is close to £20,000.

Other key non-monetised costs by 'main affected groups'

Option 1 is expected to lead to a substantial shift in bargaining power from the betting industry to the racing industry, due to Racing effectively operating as a commercial monopoly which would entail costs to bookmakers. Moreover, individual negotiation on the part of bookmakers could potentially impose additional costs on smaller betting operators relative to the status quo. We will seek information on these costs as part of the consultation and through further stakeholder engagement. While zero sum transfers within business are not listed on this page, an indicative range of their potential magnitude is given in the analysis section.

The Department is not able to quantify the cost of structures set up by business to replace the HBLB, and does not consider them as a cost within the meaning of OITO.

Finally, this option may result in additional enforcement costs for the public sector, although the consultation will seek ways to minimise these costs.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			3.2	27.5
High			3.2	27.5
Best Estimate			3.2	27.5

Description and scale of key monetised benefits by 'main affected groups'

Moving to a negotiation mechanism between Betting and Racing that is no longer reliant on direct government involvement means that firms within Betting and Racing will no longer have to finance the costs of the Horserace Betting Levy Board and the Bookmakers' Committee out of transfers from Betting to Racing, as is currently the case. These savings constitute a benefit to business. While businesses would be expected to set up their own negotiation structures at their own expense, notably a 'nominated body' negotiating on behalf of Racing, these would no longer be financed through government mandated fees.

Other key non-monetised benefits by 'main affected groups'

Any losses to Betting due to shifts in bargaining power would accrue to Racing as gains.

Key assumptions/sensitivities/risks	Discount rate (%)	3.50%
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A key assumption for the purposes of this IA is that Racing would be able to negotiate as a de facto monopoly able to exercise a high degree of price discrimination and acting to maximise economic profits, and that Betting would not negotiate collectively. Theoretical implications of altering the latter assumption are discussed below.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.0	Benefits: 2.5	Net: 2.5	Yes	ZNC

Evidence Base

Context

The Horserace Betting Levy

The Levy is collected by the Horserace Betting Levy Board from the gross profits of betting on British horseracing (i.e. horseracing in England, Scotland and Wales) and distributed to help improve horseracing and, in particular, breeding and veterinary research and education.

The concept of a statutory Levy on the proceeds of horserace betting was first introduced by the Betting Levy Act 1961 to offset the decline in race day revenue (gate receipts) following the legalisation of bookmakers' off course operations, which had meant that people wishing to place a bet on a horserace no longer needed to attend it. The Levy ensured that some proceeds from off-course operations were returned to racing.

The Levy in its present form was introduced by the Betting, Gaming and Lotteries Act 1963 ('the 1963 Act'), sections 24-31. This Act created the HBLB; set out the purposes to which the Levy should be applied; provided for a Bookmakers' Committee to recommend annual Levy Schemes; and established Levy appeal tribunals. The Horserace Betting Levy Act 1969 ('the 1969 Act') introduced the process whereby the Secretary of State determines a Levy scheme should the HBLB not accept a recommendation from the Bookmakers' Committee; and put in place sanctions in the event that bookmakers failed to pay their contribution to the Levy. The Horserace Betting Levy Act 1981 enabled bookmakers to make Levy payments on account.

Liability to pay Levy

"Bookmakers" who are liable to pay the Levy are defined in sections 27(2)(a) and 55(1) of the 1963 Act. Section 27(2)(b) of the 1963 Act provides that bookmakers can be "divided for the purposes of the levy into different categories". Separate provision (section 30) is made for the Levy to be paid by the Tote (pool betting). The HBLB agrees directly with the operators of the Tote (Betfred since 2011) what they will pay in any Levy period.

"Bookmaker" has been broadly interpreted by the HBLB in the ensuing 50 years to embrace all on-shore licensed betting platforms and categories as they have developed. This means that the Levy is currently collected from off-course betting on British horseracing, pool betting (run by Betfred following the sale of the Tote in 2011), and on-course bookmakers. Off-course betting includes bets placed at Licensed Betting Offices (LBOs), spread betting firms and bet broking operations, including betting exchanges. It also includes onshore remote betting.

The HBLB has never sought to collect the Levy from offshore gambling operators. Remote betting is a relatively recent development and it was generally accepted that the 1963 Act was not considered to have extra-territorial effect. In addition, the HBLB has never sought to collect levy from the customers of betting exchanges (as opposed to the betting exchanges themselves) on the grounds that they are not leviable bookmakers – a view that was confirmed by the Court of Appeal in 2013. The move to a point of consumption licensing regime in the Gambling (Licensing and Advertising) Act 2014 means that Government is now in a position to identify Leviable offshore betting operations.

Annual Levy Schemes

The Bookmakers' Committee (comprised wholly of representatives from the betting industry) recommends each year the categories, rates, conditions and definitions of the Scheme to be applied from April in the following year and forwards them to the Levy Board for consideration.

Membership of the Levy Board is as follows:

Chairman – appointed by the Secretary of State
2 independent Government appointed members – appointed by the Secretary of State
3 Jockey Club nominees, currently:
<ul style="list-style-type: none">• British Horseracing Authority Chief Executive• Racecourse Association Chairman• Horsemen’s Group Chairman
Bookmakers’ Committee Chairman (Ex-officio)

The Bookmakers’ Committee has a great deal of scope in recommending how the Levy is to be calculated as no formula is set out on the face of the legislation. Currently, for all bookmakers other than racecourse bookmakers, the Levy is collected as a percentage of gross profits on British horserace betting business – irrespective of where the customer is located. However, in the past various other models have been applied for calculating the Levy, including fixed fees or as a percentage of turnover. These different methods reflect the fact that each Levy Scheme is agreed annually.

The 1969 Act makes provision for the Secretary of State to determine a Levy Scheme if the Levy Board is unable to give its approval by 31 October in the year preceding that in which it is to be applied (section 1) and separate provision for a determination process for the Tote (section 5). In the last decade, the Secretary of State has been called upon twice to determine a Levy Scheme; the 47th Levy Scheme (2008/9) and the 50th Levy Scheme (2011/12).

Appeal and enforcement

The HBLB sends annual assessment notices to all bookmakers liable to pay the Levy. Section 28(5)-(7) of the 1963 Act makes provision for bookmakers to appeal against their assessment notice (and hence liability to pay Levy) and for the HBLB to refer their case to one of the two Levy appeal tribunals (one for England and Wales and one for Scotland). In practice, this is a very rare occurrence and a Tribunal last sat in the 1980s. HBLB now attempts to resolve any disputes directly with the bookmaker, thus negating the time and cost of a Tribunal hearing.

The Gambling Act 2005 (Horserace Betting Levy) Order 2007 requires the Gambling Commission to review an operating licence if the HBLB notifies the Commission that the holder of an operating licence is in default of Levy payments. The Gambling Commission must provide the operating licence holder with an opportunity to make representations before coming to a conclusion. If the default on Levy payments is proven, and the HBLB confirms they want the operating licence to be revoked, the Gambling Commission must revoke the operating licence.

Levy income and distribution

The majority of Levy income is expended in direct support of horseracing. A breakdown of annual Levy expenditure is provided on p. 10.

Betting on horseracing

‘Racing’ is used as shorthand for a wide range of stakeholders in the British horseracing industry – including racecourses, racehorse owners, jockeys, trainers and breeders. It does not have any separate legal identity, but is governed and regulated by the British Horseracing Authority, whose member organisations cover the full breadth of the sport: The Racecourse Association, Racehorse Owners Association, Thoroughbred Breeders Association and Licensed Personnel comprising trainers, jockeys and stable staff.

Racing is the second most popular spectator sport in the country. Certain major race meetings attract the largest crowds, such as Royal Ascot (280,268 in 2012 at an average of 56,053 a day) and the Cheltenham Festival (237,369 people in 2012 at an average of 59,342 a day). Horseracing also appeals to a very broad

segment of the population throughout the country – with even relatively small weekday regional fixtures regularly attracting over 1,000 people, predominantly from local communities.¹

Year	2006	2007	2008	2009	2010	2011	2012
Attendances	5.9m	5.8m	5.7m	5.7m	5.8m	6.2m	5.6m

Source: Deloitte (2013)

Horseracing is the most televised live sport on terrestrial TV, being shown on Channel 4 which had 88 days (representing more than 300 hours) of coverage in 2013. Audience figures for Channel 4 were 42 million in 2011 (up by around 5 million people compared with 2010) and the BBC attracted 21 million viewers (up around 4 million on 2010).

Combined with the British thoroughbred breeding industry, horseracing is the largest sporting employer in Britain. It employs around 17,400 people fulltime directly, with indirect and associated employment taking the total to approximately 85,000. It has an overall economic impact, including capital expenditure, of over £3.5bn. (Deloitte, 2013)

The 58 racecourses are located across England, Wales and Scotland, from Newton Abbott in the south to Perth in the north, Ffos Las to the west and Great Yarmouth in the east. The racecourses, predominantly rural but many in urban areas or on the fringes of major cities, also act as major social hubs on race days and non-race days alike.

According to the British Gambling Prevalence Survey 2010 published by the Gambling Commission (2010) 73% (35.5 million) of the adult population in Great Britain participate in some sort of gambling activity. The proportion of respondents betting on horseracing in the four weeks preceding the survey is set out in the table below were:

Year	Year to March 2010	Year to March 2011	Year to Sept 2011
Betting on horse races or virtual horse races with a bookmaker (not including online)	3.5%	4.0%	4.6%

Source: Deloitte (2013)

Without the racecourses, racehorse owners, trainers, jockeys and stable hands there would be no races and no betting profits (with a commensurate impact on the off-course betting industry and the existence of betting shops). Similarly, without betting on horseracing (and the contribution of an agreed proportion of those profits to the sport) the equilibrium size of the horseracing market would be more limited than under the status quo.

The horserace betting market in the UK is relatively broad with a number of different betting opportunities for British customers. Licensed bookmakers are available at racecourses, off-course betting shops, via telephone, internet and via the use of handheld electronic devices such as smartphones. Customers can choose fixed odds betting, pool betting, or can bet through betting exchanges.

Gambling Commission licensed betting operator gross profits on all horseracing:

Year	2008/09 (£m)	2009/10 (£m)	2010/11 (£m)	2011/12 (£m)	2012/13 (£m)	2013/14 (£m)
Betting shops	843.79	768.42	704.78	675.25	697.56	677.51
Remote betting	n/a	201.29	105.97	92.21	111.99	114.99
Pool betting	85.01	78.36	84.45	88.23	84.55	100.00
On-course	23.17	24.03	21.09	20.91	18.58	20.42
Total	951.97	1072.1	916.29	876.6	912.68	912.92

Source: Gambling Commission (2014)²

¹ Deloitte (2013). Economic Impact of British Racing 2013. http://www.britishhorseracing.com/economic_impact_2013/

² <http://www.gamblingcommission.gov.uk/Gambling-data-analysis/statistics/Industry-statistics.aspx>

The betting shop market of over 9,000 shops is dominated by four main high street operators, accounting for 87% of all betting shops:

Organisation	31 Mar 2010	31 Mar 2011	31 Mar 2012	31 Mar 2013	31 Mar 2014
William Hill	2,263	2,350	2,320	2,345	2,382
Ladbrokes	2,073	2,097	2,131	2,227	2,293
Gala Coral Group	1,645	1,712	1,725	1,745	1,812
Betfred	829	840	1,345	1,369	1,381
Tote ³	512	514			
Other operators ⁴	Approx 1,500	1,554	1,607	1,380	1,153
Total	Approx 8,822	9,067	9,128	9,066	9,021

Source: Gambling Commission (2014)

*During 2010/11 the Commission requested gambling premises data from all licensing authorities in Great Britain in order to update its location database. All but 14 licensing authorities responded and this information is used here where previously the Commission has published only estimates. All other figures are obtained directly from operators.

These shops employ approximately 52,000 full and part time staff, with a broad mix of opportunities for men and women as well as flexible working options.

Year	at 31 Mar 2009	at 31 Mar 2010	at 31 Mar 2011	at 31 Mar 2012	at 31 Mar 2013	at 31 Mar 2014
Average number of employees (including full and part time posts)	n/a	54,956	55,411	55,846	55,223	52,003

Source: Gambling Commission (2014)

Over the counter betting, including that on horseracing, is important for betting shops. Non-remote betting generated around £3.2 billion of gross gambling yield in 2013/14, a figure which has increased over recent years. This is because although the gross profits from over the counter betting have fallen from £1.7 billion to just over £1.5 billion in the last 5 years, the 34,000 gaming machines to be found in betting shops brought in just over £1.5 billion up from £1.1 billion in the same period. Betting therefore still plays an important role in overall shop profitability, but has been making up a smaller share of overall profits in recent years.

Policy objectives

For the last 50 years the Horserace Betting Levy has provided a well-understood funding agreement between the Betting Industry and Racing, based on recognition that the structure of the market dictates that some mechanism to ensure a symbiotic relationship between Betting and Racing is needed to avoid coordination failures. This argument remains today, but both the industry and the sport have changed dramatically in recent years, meaning that the current system is no longer fit for purpose. The main problem lies in the fact that there has been “leakage” from Levy yield as gambling operators have moved their remote businesses offshore and therefore outside the scope of the Levy. That is why government took a power in the 2014 Gambling Act to extend the Levy to all gambling operators taking bets on British horseracing holding a Gambling Commission licence.

While finding a way to deal with “leakage” has been the primary policy objective, government is also seeking to address other concerns about the existing Levy arrangements which include:

- The way in which the Levy is calculated is not transparent as the Bookmakers Committee annually proposes schemes based on the “needs” of racing and the ability of bookmakers to pay. The Levy Board can only accept or reject any proposed schemes and there is no scope for formal, more commercially-based negotiations between betting and racing to set Levy rates.

³ The Tote has now been purchased by Betfred.

⁴ The 2011 & 2012 figures are an estimate based on notifications received from licensing authorities.

- The governance structures (Board and Bookmakers' Committee) have remained broadly unchanged since 1963 so do not reflect the modern betting and racing industries.
- Annual Levy Schemes do not allow Betting and Racing to develop plans together over a longer period to give both greater certainty over the expected levels of income and expenditure.
- Government believes it should not act as arbitrator between betting and racing by carrying out a Determination when the industries fail to agree on a Levy Scheme.
- There is a view that distributing the Levy should be in the hands of racing rather than the Levy Board.

The primary policy objective is to ensure the mutual vitality of the betting and racing industries, and to ensure social welfare is maximised, by correcting a clear market failure arising from the spillover of benefits from one sector to the other. Government believes there is a continuing need for a statutory framework (whether a reformed Levy or something else) to underpin commercial agreements between the betting and racing industries based on the value of the racing product to punters (and therefore betting operators). A statutory framework can ensure that there are no free-riders benefitting from the investment of other gambling operators in the racing "product". It also recognises that financial agreements based on the value of the racing "product" to punters (and hence betting operators) are significantly different from the optional purchase of goods and services such as media rights.

While this is the overarching objective, there are some basic criteria that a reformed Levy or a replacement solution should satisfy:

Criterion	Description
Fair	The system must: <ul style="list-style-type: none"> • create level playing fields – whether they be for betting operators or for racecourses, or between racecourses and horsemen (for example). We do not want to incentivise anti-competitive behaviours. • facilitate genuine negotiation between betting and racing on amounts/rates and expenditure.
Sustainable	The system must be: <ul style="list-style-type: none"> • future-proofed so that it can adapt to developments in the betting and racing industries, and provide certainty to enable both betting and racing to plan ahead. • robust, transparent (as far as is possible in a commercial environment) efficient, and proportionate.
Enforceable	The system must offer effective enforcement mechanisms available to all parties to prevent any party breaching their obligations.
Legally sound	The system must comply with UK and EU law.
Remove Government	We are consulting on two statutory options for a system, so government would have to be involved to the extent that it passed the legislation. But beyond that, government wants to be as far as possible removed from any direct involvement in activities that take place under the legislation.

During 2014, the Government has published two consultations. The first, a technical consultation on extending the Levy to remote offshore betting operators ran for eight weeks from 26th June to 21st August. The second, on reforming or replacing the Levy, ran for ten weeks from 27th August to 5th November. As a result of our analysis of the responses to the two consultations it is clear we need to understand in more detail how a replacement for the Levy would work. In order to enable a fair discussion on Levy reform it is important that we work up the "racing right" proposal and engage constructively with stakeholders so that a fully informed decision can be made.

Option 1: A commercial agreement underpinned by statute: A Horserace Betting Right.

In the consultation we are seeking views about how commercial agreements between British racing and the betting industry underpinned by statute could be made to operate effectively and meet the five policy tests set out above.

If Government decides to proceed to implement a Horserace Betting Right, we expect that primary legislation would be passed to give effect to most if not all the following intentions (a final decision on provisions would take account of consultation responses):

- A Nominated Body would be recognised by statute to represent racing. The nominated body would collect and distribute authorisation fees. The legislation would confer a power on the Secretary of State to specify a replacement entity in secondary legislation.
- It would be illegal for a betting provider to offer a betting service on British racing without first reaching an agreement with the Nominated Body and obtaining an authorisation to take bets on British horseracing.
- A new licence condition would be attached to a Gambling Commission licence making it a requirement to have an authorisation from the Nominated Body to take bets on British horseracing.
- An authorisation would be issued in accordance with the appropriate licensing scheme. The Nominated Body would have the power to set authorisation fees; these would not be set out in the legislation.
- A new tribunal would handle dispute resolution and make binding determinations on issues of disagreement between the Nominated Body and betting/individual betting providers.
- The nominated body would have a civil right of enforcement if a betting provider did not obtain the required authorisation. The Gambling Commission would be given the power to revoke the operating licence of any betting provider that did not obtain the required authorisation.
- Authorisation fees would be used for defined purposes through a trust account.

Likely Distributional Impact

A key advantage of this option is that it requires no on-going involvement from Government in the financial nexus between horseracing and betting.

However, subject to final policy details and competition law, there is a considerable possibility that this option would lead to a shift in negotiating positions and profits within business, namely from Betting to Racing. Subject to competition law, the collective body negotiating on behalf of Racing would effectively act as a monopoly able to exercise a high degree of price discrimination. The 53rd Levy Scheme commencing this year already includes aspects indicative of this type of price discrimination and larger bookmakers' higher willingness to pay, such as abatements on rates paid by less profitable betting offices run by smaller bookmakers, and a joint 'voluntary contribution' of £4.5m annually by the four largest bookmakers over the next four years.⁵

Lyons⁶ explores the theoretical impact of racing collectively negotiating with individual bookmakers in a study on the economics of British horseracing, concluding that "this would allow [Racing] to play off one bookmaker against another to extract the full surplus".

Some respondents to government's previous consultation on reform or replacement of the Levy were concerned that this option paves the way for a future betting right to cover all sports but this is a replacement for an already-existing arrangement of transfer of funds from Betting to Racing. It should not therefore be assumed that it would, even eventually, apply to other sports.

Analysis

⁵ <http://www.hblb.org.uk/document.php?id=488>

⁶ Lyons, Bruce (2009) *The Orders and Rules of British Horseracing: anticompetitive agreements or good governance of a multi-sided sport?* In: Cases in European Competition Policy: the Economic Analysis. Cambridge University Press, Cambridge, pp. 192-216.

The following represents the Department's indicative assessment of the likely direction of impacts of Option 1. In the IA on the previous consultation on reform or replacement of the Levy, the Department set out that it would engage with key stakeholders in order to develop a more detailed estimate of costs and benefits of this option. This further consultation forms a key part of this process, and the accompanying IA sets out in more detail the Department's expectation of the magnitude and direction of impacts, although much of the evidence base remains unchanged from the previous IA.

While this IA focuses solely on the potential effect of a racing right relative to the status quo of the current Levy, Betting is subject to a number of other regulatory and fiscal changes at the moment. The Gambling (Licensing and Advertising) Act 2014 changed the regulation of remote gambling from a point of supply to a point of consumption basis. This came in on 1st November 2014. Prior to this a gambling operator required a licence from the Gambling Commission only if one piece of its equipment was based here. This has changed, and a GC licence is required if an operator is selling to consumers based in Great Britain. HMRC, via the Finance Act 2014, has made a similar change in terms of tax - changing from a point of supply to a point of consumption model. This measure took effect on 1st December 2014.

It thus has to be kept in mind that the counterfactual presented in this IA is based on the current status quo, in combination with some trends over recent years, and cannot represent an authoritative prediction on developments in the wider Gambling sector over the time frame considered.

Impact on administrative costs

There is potential scope for impacts through changes to structures and administration.

Currently, the HBLB costs are in the region of £3m with those of the Bookmakers Committee being around £230,000. However it should be noted that during 2010/11 the 50th Levy scheme for the following year could not be agreed and was therefore referred to the Secretary of State for determination. The Bookmakers' Committee's costs in that year increased by around £300,000, including for legal and consultancy advice. Similarly the HBLB administration costs were higher in that year than the previous or following one.

Levy expenditure	2008/09 (£000)	2009/10 (£000)	2010/11 (£000)	2011/12 (£000)
Horsemen/Prize money	59,418	64,000	48,963	33,736
Integrity services	24,978	25,342	21,835	16,399
Racecourses	7,729	6,638	3,910	1,533
Administration (HBLB)	3,614	3,153	3,403	2,622
Improvement of breeds	1,917	2,056	1,245	691
Veterinary	2,633	2,055	1,009	907
Training	973	1,225	892	910
Bookmakers' Committee	264	261	535	244
Other	449 (net)	1,135	2,017	2,174
Total	101,975	105,865	83,809	59,216

Levy expenditure	2012/13 (£000)
Horsemen	38,401
Racecourses	3,428
Raceday services	16,398
Training	870
Point to Point	235
Channel 4 Racing	720
Great British Racing International	350
Improvement of breeds	781
Veterinary	975
Administration (HBLB)	2,982
Bookmakers' Committee	228
Other	925
Total	66,293

The HBLB currently has 14 employees, excluding Board members (13.1 FTE). However, HBLB anticipates that from 2013 onwards they will have 13 staff (12.6 FTE). In addition, the Bookmakers' Committee has 2 staff (1.6 FTE). Staff costs for the HBLB are in the region of £1.2m.

HBLB has three executives and it is arguable that fewer than three might be required under a different organisational structure under the 'do nothing' option. Reducing staffing levels to around 10 (including 1 or 2 executives), could perhaps reduce staff costs to £800,000-£1m. HBLB accommodation costs are currently around £300,000 per year.

The replacement of the HBLB with a body that effectively sells horse race betting rights to bookmakers on behalf of the collective racing sector would likely entail a substantial change in administrative costs. Abolition of the HBLB and Bookmakers' Committee and the two Horserace Betting Levy Appeal tribunals would save c. £3.2m. As the HBLB and Bookmakers' Committee are currently financed through Levy expenditure, i.e. funds shifted from one business sector to another, they should be seen as a cost to business imposed by legislation in line with the Better Regulation Framework Manual. No longer requiring business to make this expenditure constitutes a benefit to business of **£3.2m per year**, with an NPV of £27.5m over 10 years. The Department aims to minimise the need for an extension of the Gambling Commission's remit through means of integrating dispute resolution for these measures in already existing mechanisms, e.g. within the current courts and tribunal service. The consultation will seek more detailed views on how this can be achieved. Should additional mechanisms for dispute resolution be necessary, these would effectively constitute a shift of costs from business to the public sector.

Distributional Impact between Racing and Betting

The following sets out government's initial assessment of the likely distributional impact between Betting and Racing, including overseas betting operators not covered by the current Levy. It should be noted that the Department is not able to make an authoritative prediction of the outcome of commercial negotiations between Betting and Racing, and that the following estimates should be seen as illustrative of the plausible magnitude and direction of any redistribution within business. Some assumptions need to be made to enable this analysis.

First, it has to be assumed that all parties will act in their rational self-interest and not put forward final negotiating positions that would lead to losses for both sectors. A number of responses to the previous consultation were doubtful of this assumption, but the Department considers that self-defeating negotiation stances would be both unlikely and impossible to model. In conjunction with this, the functioning of the current Levy is taken as evidence that reaching an agreement involving some transfer from Betting to Racing in exchange for a right to place bets is beneficial to both parties, and that both parties would lose from a breakdown of negotiations.

Second, it is assumed that the holder of the right to authorise betting on horse racing would effectively have a monopoly on the sale of this product, but that other betting products such as betting on greyhound races or sports betting are relatively close but imperfect substitutes. Furthermore, it is assumed that the holder of the betting right would be able to exercise a high degree of price discrimination between different customers (effectively different actors within Betting). In line with conventional economic theory, this means that the right holder will aim to set the price equal to the willingness to pay of individual Betting actors, thereby taking a high share of the overall surplus without setting prohibitive prices for any customers relative to the next best alternative.

Finally, it is assumed that the “price” of an authorisation to take bets on British horseracing would take the form of a fee charged as a percentage of profit and not turnover. As a consequence, Betting would not be at risk of nominal losses from any negotiation outcome. Rather, the remaining profits on horseracing bets would determine the opportunity cost of offering horseracing instead of other racing products.

Distributive impact compared to the current Levy if offshore operators are covered

£m	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Levy Counterfactual	80	80	71	63	61	59	59	59	59	59
Gross Wins British Racing										
LBOs	555	538	521	505	489	474	474	474	474	474
Telephone	49	49	49	49	49	49	49	49	49	49
Remote	337	357	372	381	386	387	387	387	387	387
Total	941	944	942	935	924	909	909	909	909	909
Betting Right Impact										
10.75%	21	22	30	37	39	39	39	39	39	39
50%	390	392	400	404	401	395	395	395	395	395
30%	202	204	212	217	216	214	214	214	214	214

Distributive impact compared to the current Levy if offshore operators are not covered

£m	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Levy Counterfactual	80	80	71	63	61	59	59	59	59	59
Gross Wins British Racing										
LBOs	555	538	521	505	489	474	474	474	474	474
Telephone	49	49	49	49	49	49	49	49	49	49
Remote	337	357	372	381	386	387	387	387	387	387
Total	941	944	942	935	924	909	909	909	909	909
Onshore Component										
LBOs	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Telephone	9%	9%	9%	9%	9%	9%	9%	9%	9%	9%
Remote	21%	21%	21%	21%	21%	21%	21%	21%	21%	21%
Betting Right Impact										
10.75%	0	0	0	0	0	0	0	0	0	0
50%	235	229	231	231	227	221	221	221	221	221
30%	109	106	110	113	112	109	109	109	109	109

The above tables are based on estimates underlying unpublished research by Regulus Partners.⁷ While the Department will seek to further improve its estimate of likely redistributive impact, the above uses a low estimate of 10.75% of profits on British horseracing (i.e. the current Levy rate) as a low estimate for the price of a betting right, a high estimate of 50% and a central estimate of 30%. These estimates aim to

⁷ Regulus Partners (August 2014). *Assessment of Levy leakage from offshore operators*. Unpublished.

strike a balance between economic theory and literature such as Lyons⁸, and consultation responses from stakeholders highlighting that Racing will have a strong interest in preventing a further decline in its attractiveness relative to other betting products for Betting.

The NPV of the central case of transfers relative to the counterfactual of the current Levy is **£1.82bn** if offshore bookmakers are covered, and **£941m** if they are not.

These estimates should be seen as illustrative, and are based on the simplifying assumption that predictions for 2020 will hold until 2024, and exclude the continuation of current rebates for smaller LBOs. The former assumption likely leads to an underestimate of the impact of offshore extension, while the latter assumption leads to a relatively small overestimate of transfers for the low estimate if offshore operators are included.

The principal assumption underlying the above estimates that could potentially be altered following consultation and receipt of further legal advice is that Betting does not negotiate collectively. If Betting does negotiate collectively in any final policy proposal, the likely impact will be a considerable shift in outcomes towards the status quo of the current Levy or an extended version of the current Levy, as both sides de facto negotiate collectively under the current system.

Finally, the above estimates do not include dynamic effects of a partial shift away from horse racing to other betting products in response to increases in the price of horse racing to bookmakers, e.g. through changed advertising behaviour by bookmakers or consumer pass through. Stakeholders have provided conflicting responses on the likelihood of these effects in previous consultations. If these effects were relatively strong in practice, they would give Racing an additional incentive to lower the price of its product in order to mitigate them.

Familiarisation

It is assumed that “familiarisation” means reaching the point where a manager or relevant employee of an organisation is aware of the changes in the law and how they impact upon their organisation. However, due to the concentration of both Racing and Betting industries, familiarisation costs will remain relatively low even for the substantial policy changes proposed.

Familiarisation costs for Racing are expected to remain negligible, as collective negotiation and the collective distribution of transfers from Betting would remain in place in principle on the side of Racing. However, off-course and remote bookmakers would need to familiarise themselves with the new framework.

It is expected that for smaller bookmakers, a corporate manager would require two hours to familiarise themselves with the legislation. It is assumed that for the four largest bookmakers, a corporate manager will take four hours to familiarise themselves with the new legislation. Accounting for 315 bookmakers outside of the largest four, and 43 remote bookmakers, this is equivalent to familiarisation costs of approximately £18,000.⁹

Small and Medium Sized Business Assessment

As small and medium sized businesses in the racing and betting sectors are currently covered by the HBLB system, it is not practically possible to exempt them from its replacement.

While the Department does not currently have a precise estimate of SMEs within the Racing and Betting sectors, it is worth noting that Betting is dominated by a small number of large bookmakers controlling 87% of betting shops. As there are 319 licenses for off course betting currently issued by the Gambling Commission, this leaves 315 bookmakers outside of the major four, accounting for 1,153 betting shops.

⁸ Lyons, Bruce (2009) *The Orders and Rules of British Horseracing: anticompetitive agreements or good governance of a multi-sided sport?* In: Cases in European Competition Policy: the Economic Analysis. Cambridge University Press, Cambridge, pp. 192-216.

⁹ Based on ASHE 2014, allowing for 21% non-wage costs.

As stated above, smaller bookmakers benefit from several aspects of the current Levy. First, collective negotiation means that smaller bookmakers are not affected disproportionately by transaction costs. Second, the Levy currently includes abatements for less profitable betting shops of bookmakers with less than 100 betting shops. Allowing Racing to effectively set different prices for different categories of bookmakers will thus be crucial for the functioning of a Betting Right, and for the mitigation of adverse impacts on small business.

Impacts on SMEs within the racing sector are expected to be small, with SMEs likely to share in the predicted increase in profits for the overall racing sector.

Under Option 1, costs may increase for smaller Bookmakers as they would potentially need to negotiate directly with racing. The net impact of this change would depend on costs of negotiating with the body representing racing relative to the cost to individual bookmakers of current collective bargaining through the Bookmakers' Committee. Under the status quo, costs of the Bookmakers' Committee are financed via the Levy, and would average at less than £1,000 per licensed off-course bookmaker. It is worth noting that the body or bodies representing Racing would have an incentive to structure the process of negotiation in a way that does not impose prohibitive transaction costs on bookmakers, e.g. by means of rate cards and 'model contracts'.

The consultation will include several questions on how to mitigate the impact of the proposed changes on smaller bookmakers.

Competition Impact

While the consultation will seek views on this issue, we do not expect a large impact, either directly or indirectly, on the number and range of suppliers, or their ability or incentive to compete relative to the counterfactual. This crucially rests on the assumption that Racing would be able to offer its product to smaller Betting operators at a lower price.

Impacts on consumers and society

The replacement of the Levy is designed to create a more efficient means of addressing the spill-overs between the racing and betting industries. To the extent that this will help safeguard their symbiotic relationship for the foreseeable future, consumers and those with a wider interest in the racing industry (such as employees) will benefit from the proposals. There will be many dimensions to this, including stable supply and growth of the industry, higher quality of products, and greater integrity of the sport. These benefits are indirect, and do not fall upon businesses. They are difficult to quantify and are not monetised within this assessment.

The Gambling Act 2005 is underpinned by three licensing objectives. These are:

- To prevent gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
- To ensure that gambling is conducted in a fair and open way;
- To protect children and other vulnerable persons from being harmed or exploited by gambling.

We do not consider that the proposal will have any detrimental effect on the licensing objectives.

In line with the Better Regulation Framework Manual, this IA does not include the possibility of pass through to consumers, i.e. worsened odds on Horserace Betting, in its calculation of the impact on business. Previous stakeholder consultations have given conflicting accounts of the likelihood and potential magnitude of these impacts.

OITO

The Department considers these measures to fall within the scope of One In Two Out, as they do not meet any of the criteria for exception.

The Levy is a means of redistributing funds from one industry to another, in recognition of a symbiotic relationship that is prone to market failure. The static net direct effect of this transfer is always going to be zero or negligible, with the costs incurred by Betting offset by the benefits to Racing. The replacement set out in this consultation is about making this process more efficient. This is likely to lead to indirect benefits, such as increased investment as greater certainty is established, along with removing government from the process, but the main direct outcome is likely to be a change in administrative costs.

Our current assessment, prior to consultation and receipt of further legal advice, is that the direct costs and benefits to business of the two main options considered are more likely to count as a regulatory measure with a net benefit to business, and thus as Zero Net Cost.

As stated above, there is likely to be substantial redistribution within business as a consequence of the replacement of the Levy. However, it is not currently possible to estimate a net impact on business as a whole resulting from these shifts, and the purely redistributive impact estimated here would have to be revised if the underlying assumptions had to be changed, for example based on legal advice.

Prior to the consultation, the receipt of further legal advice and the finalisation of policy details, the Department is able to monetise the direct savings to business of retaining the money business is currently required to spend on financing the HBLB and the Bookmakers' Committee of approximately **£3.2m annually**, which significantly outweigh transitional familiarisation costs to bookmakers of c. £18,000. The combined impact of these measures is an **EANCB of -£2.52m**.