



Department  
for Culture  
Media & Sport

# Implementing the replacement for the Horserace Betting Levy

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## 1. Introduction

1.1 On 3 March 2016 government announced new funding arrangements for British racing which will create a level playing field for British based and offshore gambling operators, and ensure a fair return from all gambling operators to racing. Racing will be responsible for making decisions on spending the new fund which is intended to be in place by April 2017. **This report sets out further detail of the new funding system and provides a summary of responses to three consultations on the future of the Horserace Betting Levy which were conducted in 2014/15.**

1.2 The Horserace Betting Levy was introduced in the 1960s when off-course betting was legalised in 1961. The principle of transferring funding to racing from the proceeds of betting under statutory arrangements was first established in 1928 when the Tote was created as a non-profit making enterprise with surpluses distributed for the benefit of racing.

1.3 Presently gambling operators who are based offshore are not liable to pay the statutory Levy, although some do make voluntary contributions. Given the introduction and subsequent rapid growth in remote<sup>1</sup> gambling in recent years this has created a two-tier system which puts British-based operators at a competitive disadvantage. And it has resulted in lower Levy receipts than would have been the case had offshore operators been required to contribute. The Government's aim is to restore to racing a fair contribution from all operators, which has been lost to racing simply because of the shift towards offshore remote betting.

1.4 Between June 2014 and March 2015 the Government ran three consultations on the future of the Horserace Betting Levy and operator contributions to racing. These consultations explored, respectively: extension, modernisation and replacement of the current Levy. The Government is grateful to all those organisations and individuals who sent in responses - in particular those who

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<sup>1</sup> "Remote gambling" means gambling in which persons participate by the use of remote communication - "remote communication" means communication using— (a) the internet, (b) telephone, (c) television, (d) radio, or (e) any other kind of electronic or other technology for facilitating communication.

responded to all three consultations. Responses to these consultations included representatives of racing, betting, trade associations, veterinary groups and individuals. A summary of the consultation responses is appended to this paper.

1.5 The views expressed in the responses to these consultations, and further discussions with the betting and racing industries, informed the Government's proposals for a new funding arrangement for British racing. The Government announced implementation by April 2017 and this paper sets out more detail on the new arrangements and a more detailed timetable to meet that commitment.

## **2. Scope**

2.1 The new scheme will apply to all classes of operators who take bets on British racing. All operators, no matter where they are based, that benefit from British racing will be required to contribute to the industry.

2.2 However, we are aware that on-course operators have a distinct and unique position in the betting and racing sphere. The current Levy system was put in place to ensure that those who do not operate inside the racecourse also make a financial contribution to racing. Under the current system on-course operators pay a de minimis flat fee per year as a contribution to the Levy, alongside the fees they pay to individual racecourses if they want to take up a pitch for a specified time period. This arrangement recognises the vital and long standing role that on-course operators play in providing betting services for customers at the racecourse. We are considering how best to factor that into the new arrangements and will engage further with the on-course sector on this issue.

## **3. The level of contributions from gambling operators**

3.1 The amount payable by operators will reflect the degree of mutual interest between betting and racing. This is similar to the approach adopted in the French parafiscal levy on online horserace betting, where payments are based on common interest costs.

3.2 Through the consultation process it was argued that there should be more in-depth research, economic modelling and analysis to define and quantify the value of the common interest between betting and racing. The Government agreed the importance of ensuring a robust analysis, and in August 2015 commissioned an independent report of the funding of horseracing, which is due to report to Government later this month.

3.3 Over the next few months the Government will hold discussions with the betting and racing industries, and draw on the expertise of the Horserace Betting Levy Board, to inform a decision on the rate payable.

#### **4. Administration**

4.1 At present the Horserace Betting Levy Board approves the annual Levy scheme, collects the Levy from operators and applies the funds raised to one or more of the three Levy purposes set in legislation. Under the new arrangements the only function of the Levy Board that will continue is the collection of the funds. This administrative function will include responsibility for enforcement; i.e. ensuring that operators pay the amounts due. The current enforcement arrangements have two main components: civil action through the court process for non-payment of debt and, in conjunction with the Gambling Commission who are responsible for licensing all gambling operators who take bets from British customers, regulatory sanctions.

4.2 The Horserace Betting Levy Board has proved to be an effective agent for the collection of Levy funds from betting operators since its inception more than fifty years ago. The government believes that these arrangements will continue to be effective when extended to cover offshore operators.

4.3 Once the funds have been collected they will be passed to a racing authority which will be responsible for making decisions on spend in line with the overall purposes of the scheme, and with an appropriate reporting mechanism. The funds will benefit all those who play a part in enabling horse racing on which betting takes place, for example racecourses, breeding groups, veterinary groups, trainers and stable staff.

## **5. Legislative framework**

5.1 The necessary legislative changes will be made by secondary legislation using powers in section 2 of the Gambling (Licensing and Advertising) Act 2014<sup>2</sup>.

## **6. State aid**

6.1 The Government is legislating to give racing new rights to funding from bets taken on British racing. We have noted the principles established in the French parafiscal Levy which secured State aid approval, and consider that approval provides certainty for all parties. We propose to seek State aid approval for these new funding arrangements.

## **7. Timetable to implementation**

- Spring 2016 - period of consultation with betting and racing industries to inform the level of contributions from betting.
- Summer/ autumn 2016 - State aid notification process with the European Commission.
- End 2016 - Statutory Instrument and full impact assessment published.
- April 2017 - new funding model comes into force.

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<sup>2</sup> This is subject to the affirmative procedure, requiring the agreement of both Houses of Parliament.

## Annex A: Summary of consultation responses

### 1. First Consultation: Extending the Horserace Betting Levy

1.1 The first consultation ran for eight weeks from 26 June 2014 to 21 August 2014. This was a technical consultation on using the Secretary of State's power under Section 2 of the Gambling (Licensing and Advertising) Act 2014 to amend legislation by order so as to extend the Levy system to offshore remote gambling operators. This would align the Levy system with the new point of consumption licensing regime. 14 questions were asked about the mechanics of extension.

1.2 The consultation generated 23 responses from a wide range of respondents including individual members of the public, companies involved in the betting and racing sectors and trade associations. The responses are broken down as follows:

The British Horseracing Authority, the Racecourse Association and the Horsemen's Group submitted a collective response on behalf of the British racing industry	1
Letters supporting the collective response (without addressing the questions individually) from racecourses and various racing organisations	12
Gambling trade associations	3
Individual betting operators	6
Horserace Betting Levy Board	1
<b>TOTAL</b>	<b>23</b>

1.3 The 14 questions in the consultation focused on specific changes to the existing system to bring about extension and other issues that the Government thought might need to be addressed to ensure that any extended Levy would be a

compatible State aid. The 12 letters supporting the racing industry's collective position did not engage directly with the questions. The Horserace Betting Levy Board's submission consisted principally of operational observations from the Executive. A summary of the responses from the betting and racing industries is below.

### *Betting*

1.4 The responses from trade associations and betting operators were largely consistent in arguing that:

- There should be more in-depth research, economic modelling and analysis – in particular to define and quantify the value of the common interest between betting and racing. Impact assessments should take into account recent government initiatives impacting on the betting industry.
- The Levy should reflect the needs rather than the wants of racing – something it argued that was established both by the determination of the 50th Levy in 2010/11 and in the deal agreed for the 53rd Levy.
- An extension of scope should not mean an increased quantum going to racing.
- Racing's "needs" should take into account the total inflows into racing from betting, including media fees (which have increased more than the Levy has declined): the media fees negotiating framework would be an appropriate replacement for the Levy.
- State aid concerns had not been adequately addressed.

### *Racing*

1.5 Racing's response strongly supported the extension proposals set out in the consultation document.

1.6 The first consultation document can be found here:

<https://www.gov.uk/government/consultations/extending-the-horserace-betting-levy-a-consultation-on-implementation>

## 2. Second consultation: Modernising the Horserace Betting Levy

2.1 This consultation ran for 10 weeks from 27 August 2014 to 5 November 2014. This sought views on two options for ensuring that remote offshore gambling operators would contribute: either through a State aid compliant reformed Levy or commercial arrangements underpinned by statute.

2.2 The second consultation on reform or replacement of the Horserace Betting Levy generated 101 responses from a wide range of respondents including individual members of the public, companies involved in the betting and racing sectors and trade associations. The responses are broken down as follows:

The British Horseracing Authority, the Racecourse Association and the Horsemen's Group submitted a collective response on behalf of the British racing industry.	1
Letters supporting the collective response from racecourses, various racing organisations, owners, trainers and breeders. These letters did not address the individual questions but stressed their support for the collective position.	69
Gambling trade associations	7
Individual betting operators	6
Bookmakers' Committee	1
Veterinarians	7
Horserace Betting Levy Board	1

Individuals and other organisations	9
<b>TOTAL</b>	<b>101</b>

2.3 This consultation examined two options for the future of the Levy. Option 1 was a reform of the current Levy system. Option 2 was a rights based model - whereby a property right, directly enforceable by the owner of the right, would be vested in a racing “product” - or a regulatory model - whereby bets could not be taken on British Horseracing unless the betting operator was authorised by the governing body to do so. Respondents to this consultation fell into four groups:

- Respondents who argued that Option 2 was the best way forward and set out proposals for how a new statutory framework might operate but who also engaged fully with Option 1 (racing).
- Respondents who believed that Option 1 was the best way forward and raised issues about the principle of replacing the Levy without putting forward any proposals that might address those concerns (betting). This was not unexpected, given that Option 2 was much less well developed than Option 1.
- Those who believed that the Levy should be abolished without a replacement – some betting respondents plus some individuals.
- Veterinarians who stressed the need to retain support for equine veterinary education and research, whatever Option was adopted.

### *Criteria*

2.4 Respondents were asked to assess the two Options against the criteria set out in the consultation. There were mixed views on how the two options measured against the criteria. Some of the key points are set out below.

2.5 The collective response from racing argued that Option 2 was the fairer of the two options as it would capture all forms of betting activity on the sport, featured a

tribunal which would act as a safeguard against unreasonable behaviour by Racing and could be future-proofed more effectively to respond to trends in the British Betting market.

2.6 Betting respondents argued that the Government had underplayed the legal difficulties attached to Option 2, particularly over State aid.

2.7 Many of the concerns expressed around Option 2 centred on the potential for whatever model (regulatory or rights-based) was adopted to place racing in a dominant position and to disadvantage certain sizes and types of betting business.

2.8 Some respondents argued that Option 2 did not include any incentive for racing to seek greater efficiency in the system to reduce costs over time and there were also concerns around extraterritorial enforcement under Option 2.

2.9 The second Levy consultation document can be found here: <https://www.gov.uk/government/consultations/modernising-the-horserace-betting-levy-a-consultation-on-reform-or-replacement>.

### 3. Third consultation: Horserace Betting Right

3.1 This consultation ran for four weeks from 5 February 2015 to 12 March 2015, and generated 143 responses. Responses were received from a wide range of respondents including individual members of the public, companies involved in the betting and racing sectors and trade associations. The responses are broken down as follows:

The British Horseracing Authority, the Racecourse Association and the Horsemen's Group submitted a collective response on behalf of the British racing industry.	1
Letters supporting the collective response from racecourses, various racing organisations, owners, trainers and breeders. These letters did not address the individual questions but stressed their support for the collective position.	117

Gambling trade associations	4
Individual betting operators	7
Bookmakers' Committee	1
Responses from veterinarians	3
Responses from greyhound industry	2
Other responses	8
<b>TOTAL</b>	<b>143</b>

3.2 The British Horseracing Authority, the Racecourse Association and the Horsemen's Group submitted a response on behalf of all stakeholders in the British racing industry. This response was backed up by 117 letters of support.

3.3 The collective response from racing argued that a Right should be vested in a single racing authority as opposed to individual racecourses. Betting respondents had mixed views on this topic with some favouring a single racing authority while others argued it would be more appropriate for the right to be vested in racecourses to enable them to negotiate independently and competitively.

3.4 There were mixed views from all respondents on which activities could be funded from a Right with some consensus that mirroring existing Levy categories may be appropriate. However the funding of prize money was queried by some, with respondents arguing that this could cause insurmountable legal difficulties in terms of State aid.

3.5 Racing respondents agreed with the premise that disputes should be handled by a tribunal whilst betting raised a number of concerns including questions about membership, onward rights of appeal, running costs, long running cases and scope. Betting respondents were concerned that the racing authority should not have the same access to bookmakers' commercial information as the Levy Board.

3.6 Racing argued that the racing authority would not be able to enforce non payment unless government provided for regulatory consequences to supplement its normal commercial operations.

3.7 Betting respondents considered that enforcement - i.e. ensuring that bookmakers made the appropriate contribution to racing - could work in a number of ways but that whatever mechanism was adopted, betting operators should be able to offer bets on horseracing until any legal proceedings were concluded.

### *Criteria*

3.8 There were mixed views on how well the proposal would meet the five assessment criteria with a divergence of views among respondents on this issue.

3.9 Racing argued that the Right met all of the assessment criteria and was therefore fair, sustainable, legally sound, enforceable and capable of removing government from direct involvement in activities that take place under the legislation.

3.10 Betting respondents raised concerns around the application of the proposal against the assessment criteria and had particular concerns that the proposal would be susceptible to legal challenge.

3.11 Greyhound industry respondents stated the system would not be fair unless the Right was extended to greyhound racing.

3.12 Veterinarians argued that support should be retained for equine veterinary education and research and the requirement. They also argued that it is essential to keep independent distribution of veterinary education and research funding as veterinary research may generate conclusions that are uncomfortable to the industry and therefore it is essential that researchers have the freedom to question existing practices and suggest changes that enhance horse welfare.

3.13 The third consultation document can be found here: <https://www.gov.uk/government/consultations/horserace-betting-right-a-consultation->

[on-potential-structure-and-operation.](#)