



ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL

June 2, 2008

Hon. Bobby L Rush, Chairman
Hon. Ed Whitfield, Ranking Member
Subcommittee on Commerce, Trade and Consumer Protection
House Energy and Commerce Committee
Room 2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Rush and Congressman Whitfield:

Thank you for your letter of May 22, 2008 and the opportunity to address the questions you have posed and to share information concerning the issues you have raised.

Racing Commissioners International (RCI) is a not-for-profit trade association whose members include 37 individual US state racing commissions; 3 county racing commissions in the State of Alabama; as well as 5 provincial racing commissions in Canada plus the federal Canadian Pari-Mutuel Agency as well as federal regulators in Mexico, Trinidad-Tobago, Jamaica, and Puerto Rico. Our primary function is to provide services to those members who are the primary governmental entities tasked with regulating the pari-mutuel wagering on horse and greyhound racing as well as the participants and conduct of these sports. In the United States, the state regulators operate pursuant to authorizing state statutes which direct and govern their individual activities and powers.

State racing commissions in the United States generally are not regulators of the breeding industry or its practices. In those cases where they distribute breeding fund monies the function is largely ministerial. Certainly the statements you cite in your letter about genetic infirmities and the warping of the breed, if substantiated to be true, would justify increased oversight and scrutiny of this portion of the horse industry beyond what may already exist in individual state agriculture agencies.

States regulators, with the exception of Delaware and Pennsylvania where there are separate commissions regulating standardbred and thoroughbred racing, regulate all racing and wagering on thoroughbred, Standardbred, and quarter horses as well as greyhounds. My response to your questions is reflective of all of horse racing and includes pertinent information about the considerable Standardbred and quarter horse racing activity that occurs in the United States. The data and statistics were provided the association by the member jurisdictions. In those cases where we could not amass the exact data you requested in the time allotted we sought to obtain other data which might be helpful to you in assessing the situation.

Question 1:

How many trainers have been penalized for medication or performance enhancing drug infractions during the last five years? Please list their names, the nature of their infractions, and the terms of the penalties.

Answer:

Of the approximately 15,000 licensed horse trainers in the United States, 1,335, or 8.9%, have been cited for a medication rule violation during the past five years. The severity of these violations varies. Of 1,897 individual medication violations during the past five years, slightly more than two thirds – 67.6% - were for overages of Class 4 and Class 5 drugs that are recognized as therapeutic medications administered by licensed veterinarians in the course of what they determine to be normal equine care. The more severe violations for Class 1 (33) and Class 2 (134) substances totaled 167.

The list of infractions is attached in Appendix “A” as well as the RCI drug classifications, Appendix “B”. It is important to note that any review of this list does not indicate the exact overage of the substance found, any mitigating or aggravating facts, or whether the final sanction was the result of a settlement plea, litigation, or the initial sanction imposed by the Stewards. In some cases the maximum penalty that can be imposed is limited by state statute. Facts concerning individual cases are not reflected in this listing and can be obtained directly from the applicable racing commission.

The purpose of the equine drug testing program conducted and funded by the state racing commissions is to ensure that no horse is running under a performance enhancement. This program is not designed to provide governmental review of the veterinary care given individual equines. While state racing commissions have jurisdiction over the adherence to the rules of racing, commissions generally do not pass judgment on the adequacy of equine veterinary care. This is the responsibility of the jurisdictional entity that grants the underlying state license to practice veterinary medicine. Commissions have from time to time, referred individuals to those entities for review.

Question 2:

In the past five years, how many horses have suffered injuries on racetracks around the country? Please list the nature and severity of these injuries.

Answer:

In response to your question we have surveyed the individual US racing commissions and have enclosed the information they have submitted. (Appendix “C”). RCI does not maintain such data on a national basis, although we have supported through our active participation in the Grayson Jockey Club Welfare of the Horse process, the creation of an injury tracking system for overall research purposes and our individual members have encouraged tracks to voluntarily participate in this system, which now receives data from approximately sixty thoroughbred racetracks across the country.

Please be aware that in most, if not all, jurisdictions horses are only allowed to race after a race day examination for soundness by a veterinarian. In most instances that veterinarian is either a track employee or a regulatory veterinarian. Horses not suitable to race are precluded from participating.

Many state racing commissions rely on a system known as the “Vet’s List” where horses who have been injured or deemed ill are excluded from competition for a period of time, pending clearance from an examining veterinarian. Horses are added to the vets list for various reasons that include sickness (fever, sore feet, respiratory problems, colic) or unsuitability to race. Commission veterinarians will scratch horses just prior and during racing for lameness, flipping in the paddock, post-parade and gate, severe hives, unruly behavior or any other reason the horse is deemed unfit for racing, including complaints from the rider that the horse is not traveling right. Horses may also be put on the Vet’s list after racing for lameness.

Regulatory commissions rely on the recommendations of the examining veterinarians in determining the suitability for competition. The “Vets List” exists to protect the equine athlete and exclude horses that should not be allowed to race for a period of time. In some cases where a horse is excluded from competition on the advice of the private attending vet, the racing commission would not necessarily be informed as this has been treated as a private matter between the attending veterinarian, the trainer, and the owner.

Question 3:

Does RCI and/or its members support a comprehensive tracking system for track related injuries in Thoroughbred racehorses? Would it support tracking such injuries (and deaths) according to type of injury, track, trainer, breeder, owner, and other germane categories?

Answer:

As stated above, RCI has supported the work of the Grayson Jockey Club Research Foundation to create such a system on a national basis. We would support similar efforts on the part of the other equine breed registry organizations and/or their affiliates. The issue for state regulators is whether participation in such a system should be mandatory or voluntary, public or private, and a determination as to who is best suited to maintain and operate such a system with the requisite expertise to analyze patterns, identify specific cause and effect relationships and recommend solutions justified by the research.

RCI would be happy to participate in an effort involving the American Association of Equine Practitioners, the three breed registry organizations (The Jockey Club, the US Trotting Association, and the American Quarter Horse Association), and others as appropriate to create a uniform injury tracking system to support research and equine management policies to ensure the welfare of the equine athletes. Certainly factors essential to analyzing this data will include: horse’s name, type of injury, facility, specific track at the facility (if applicable), trainer, weather, track condition, track superintendent, and attending veterinarian.

While the existing vets list system does provide a mechanism to exclude horses that should not be running, the information retained as well as the record retention policy varies jurisdiction from jurisdiction and sometimes from track to track. RCI would support standardization in this area.

Question 4:

In states where a portion of slot revenues are required to fund breeding initiatives, what are the regulations, if any, that state authorities impose on breeding operations that receive this subsidy to ensure that Thoroughbreds are biologically engineered to be durable and sound?

Answer:

Jurisdictional responses to this question are included in Appendix "D".

Question 5:

Does RCI and/or its members support a central body or league to govern horseracing, similar to what is in place in Great Britain and other countries? Why or why not?

Answer:

RCI believes it important to distinguish between a central authority that would govern business and breeding issues and a central authority that would govern the "integrity" issues pertaining to the gambling on the sport. While RCI does not have a formal position on the creation of a "league" for thoroughbred racing, an entity to coordinate and govern such matters as pricing, product distribution, marketing, breeding practices, veterinary care practices and generic business practices is viewed as something that might help the sport. Certainly thoroughbred racing has taken some steps in this direction by the creation of the National Thoroughbred Racing Association.

The creation of a national governmental or quasi-governmental authority to address the "integrity" issues would impose a costly duplication on an already regulated industry and potentially disenfranchise tens of thousands of local horsemen as well as potentially infringe upon the rights of individual states who have allowed racing and pari-mutuel wagering in the first place. Pari-mutuel wagering on equine racing has been historically allowed in states solely for the support of local agricultural economies. Over the years the states have shown no proclivity to relinquish oversight of this activity. The creation of any new authority to duplicate or coordinate policies of individual state commissions will, by necessity, require a new tax on the industry.

Having said this, RCI members do support uniformity in regulation and have processes in place to develop uniform Model Rules. Although the association does not have the power to compel its voluntary members to enact these rules we encourage them as often as practical to be incorporated by reference in state statutes and commission rules or to enact them individually. Despite our limitations, RCI is the closest entity to a national governing body of regulators addressing integrity issues. Our Model Rules represent thorough discussions that involve all aspects of the regulated industry as well as the collective deliberations of state regulators. The RCI Model Rules or the process of developing such rules has not come under criticism.

There is significant interest on the part of key member jurisdictions in achieving uniformity by utilizing the authority federal law grants states to form interstate compacts. Some RCI members have expressed an interest in a partial emulation of the Canadian regulatory model by using an expanded interstate Racing Compact as the vehicle to set medication as well as other policies on a regional if not national basis. (In Canada provincial Racing Commissions license participants, officiate the races, investigate infractions, and adjudicate and sanction rule violators. There is a federal government agency, the Canadian Pari-Mutuel Agency, that monitors the wagering system and conducts all equine drug testing.)

In the United States there is an existing interstate compact of state racing regulators, the National Racing Compact. This Compact was formed for a narrow purpose: to facilitate the occupational licensing of owners and trainers participating in multiple jurisdictions. There are discussions underway by some jurisdictions on how the role of this Compact could be expanded into other areas. Legislation currently exists in fourteen states authorizing their state racing commissions to join the Compact: California, New York, Kentucky, Florida, New Jersey, Ohio, Delaware, Virginia, West Virginia, Oklahoma, Louisiana, Washington, Arizona and Nebraska. There is a belief that since these states – representing the bulk of pari-mutuel wagering on racing in the United States - have already joined an interstate compact of racing commissions, an expansion of the existing compact may be the most practical and efficient way to address cross jurisdictional integrity matters in a uniform and cohesive way.

We have heard suggestions that Congress could require adoption of RCI Model Rules or the creation and/or participation in an interstate compact as a condition for interstate simulcasting under the IHA. Certainly if these were the paths the Subcommittee were to recommend, many RCI members would find it preferable to any option that would result in a costly duplication of effort, infringement of states rights, or an additional layer of taxation on an already struggling industry.

Question 6:

In general what are the most pressing problems facing the Thoroughbred industry and what reforms can be initiated to address them?

Answer:

RCI believes that efforts to ensure the integrity of the sport must be supported with adequate resources and proper research upon which public policy can be based. While hard economic times present difficult challenges for state budget offices, racing oversight must not be victimized because there are more powerful constituencies demanding state resources. Certainly if this committee believed that there were specific things state racing commissions should be doing that they are not doing due to limited resources, the option of an unfunded mandate is certainly at your disposal.

The security of the pari-mutuel system has been a paramount concern for state regulators. RCI, working with the entity that monitors pari-mutuel wagering in Canada for the Canadian Pari-Mutuel Agency, has assisted in the development of an advanced computerized monitoring system capable of safeguarding the sanctity of racing's pari-mutuel pools. Last year RCI passed a model rule calling for the ubiquitous implementation of this new system either with state funding or by an unfunded mandate on the racing industry. Last month the New York State Racing and Wagering Board required independent monitoring effective January 1, 2009. Other jurisdictions are considering this. It remains our hope that the independent monitoring of the pari-mutuel system to ensure wagering security can be accomplished in cooperation with the racing industry sooner rather than waiting for the time consuming state by state rule promulgation process.

Another pressing problem facing the Thoroughbred industry is one that faces many industries that depend on disposable consumer income, the state of the economy particularly the rise in energy prices. As racing fans find more and more of their disposable income dedicated to pay higher energy costs there will be less left for entertainment such as wagering on a horse race. This is already impacting some forms of gambling and could have a devastating effect on the entire racing industry and the tens of thousands of families who depend on racing for their livelihood, particularly racing's backstretch workforce whose work skills may be limited to the care of the equine population.

Lastly, racing needs a broader fan base and should stop fighting with itself. This is not easily accomplished and may explain why some, out of frustration, call for a national authority to govern the sport. Certainly there are existing national industry organizations working in this area. These groups need to be encouraged, if not empowered to better coordinate the business aspects of their business.

RCI appreciates the opportunity to contribute to the subcommittee's examination of these issues. We stand ready to assist you in any way possible in finding workable solutions to the challenges we share.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward J. Martin". The signature is fluid and cursive, with a large initial "E" and "M".

Edward J. Martin
President

CC: RCI Members