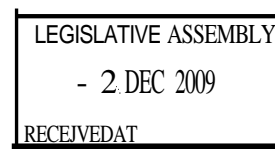


27th November 2009



The Chairman
Joint Standing Committee Review of RWWA 2003 Act
C/- Western Australian State Parliament
Harvest Terrace
Perth WA 6005

E mail: john.mcgrath@mp.wa.gov.au

Dear Chairman

We write to you in response to the public announcement calling for submissions to your Committee in relation to the Review of RWWA and more specifically S122 of the Act.

We are TAB Agents who currently own the Morley TAB located at 250 Walter Road Morley. We have been TAB Agents for approximately 10 years having owned two other TAB's (namely Carlisle and Midland) during that time. Our current partners Hans and Vicki Gisler are also in complete agreement with this submission. They have been part owners of the Morley TAB for approximately 22 years.

We wish to make a formal submission to the Committee. We make it under a "Without Prejudice" basis as we do not intend to receive any adverse treatment from any RWWA employees in the future as a result of our honest and forthright comments and views.

In addition, both Wayne Barnes and Tim Barnes would like to request an invitation to present our comments in person (if the Committee deems it appropriate to offer an invite).

To begin we wish to highlight in bullet point form our key concerns. Further explanation of each bullet point is expanded upon later in the document.

Key Concerns:

- 1) RWWA has an untenable position as being both our "Arbiter" and at the same time our "Competitor". This significant conflict of interest should no longer continue,
- 2) Territorial Rights for Agents,
- 3) Term of Contract and impact on value of TAB businesses,
- 4) RWWA Board Representation for TAB Agents,
- 5) Body of Appeal for Unresolved Disputes,
- 6) Inequality in Marketing spend on Retail TAB's versus RWWA's Internet and Phone Account business,
- 7) Credit facilities offered to Internet and Phone account holders whilst our Punters are prevented by Legislation from Credit Betting,

- 8) "Special" Rebates being offered to Internet and Phone Account customers and not to regular members of the public who choose to punt in Retail TAB outlets,
- 9) Dedicated (and tape recorded) Telephone lines ought to be permitted in each SL1 Agency to allow customers to have the Agent place bets for them (provided no credit betting occurred),
- 10) Protected rights of Burswood Casino (ie. Crown Ltd) having a legislated monopoly on "casino games",
- 11) Unfairness in Agents having to pay insurance on "RWWA's money",
- 12) Requirement for independence re selling and purchase of Agencies. RWWA should not be allowed to be involved in the matching of interested purchasers with the intended seller of an Agency,
- 13) Security installation to Agencies - this is clearly a RWWA responsibility and should be attended to forthwith,
- 14) New bet engine released in 3 phases - why not budget for the whole project and do it in one go?
- 15) Lack of refurbishments - extremely dated Agencies. At current rate it will take approx 15 years to have all current Agencies upgraded,
- 16) Lack of flexibility given to Agencies re opening and closing times, and
- 17) RWWA needs to spend more on signage at Agencies.

Detailed explanation follows for each of the above bullet points:

1). It is contended that in the current situation where RWWA is our arbiter and competitor at the same time, this is totally unjust and more than probably dishonorable. They claim the Agents or shop front businesses produce some 84% of RWWA income and carry the burden of being the face of RWWA to the public, yet at every opportunity they are attempting to steal our business by developing/supporting telephone account betting, internet and their latest development and placement of SL3 in close proximity to current Agencies. Some empathy could be expressed if SL3 were situated only in areas where it is inequitable to have a permanent Agency or even a Pub TAB, such as small country communities that are currently not serviced.

2). In the matter of territorial rights, previously it would appear that insufficient consideration was given to this important issue. With the extremely large amounts of money now being paid for the goodwill of our (SL1) businesses (ie. up to \$1.5m for some larger full time Agencies), the owner should be entitled to full protection of their investment by the granting of a territorial right. This does not have to be a blanket cover, as if RWWA wishes to expand its business, the Agents should have the right to either permanent financial compensation or the right to operate any new forms of competition (within their designated territory) should they so desire.

Previously there was financial compensation paid to SL1 Agents should an SL2 (Pub TAB or other outlet) be opened up within a prescribed distance from the current Agency. Our understanding was that this compensation was paid for a period of only 3 years. We would suggest that this was grossly unfair as if your business was to be affected and

compensation considered equitable in the first place, then it naturally follows that it should be in place for the entire time that the competition exists. Because of these mentioned circumstances it is obvious that a precedence has been formed because of this 3 year period and hence the precedence should be continued whilst the competition exists.

3). Another bone of contention is the fact that the term of the existing 2006 ABL Agreement (and hence the business) is for a period of only 10 years, at the completion of which the owner has no legal right or guarantee of being granted another similar contract thus potentially jeopardizing the vast amount of money invested to purchase the business in the first place. This situation is untenable from our Agent's position. In our view an Agent ought to have an ongoing "licence" and not be locked into a fixed term. We would expect the terms within each contract or Agreement to be able to be reviewed every 5 years with mutual agreement from RWWA and the Agent(s).

4). At present TAB Agents do not hold any seat on the Board of RWWA. We feel this would be beneficial for Agents to have, a "voice" at Board level. We also respect the fact that large Boards can be cumbersome too.

(5). At present there is no formal Appeal Body for Agents to go to should they have "unfair" decisions made (primarily) by RWWA executives. At present the TAB Agents have a group of four elected Agents sitting on a Committee known as the Agents Advisory Council (AAC). This group meets approximately 10 times per year with RWWA Senior Management (excluding the CEO Mr Richard Burt). At times this meeting appears as though it is a forum for discussion, however, whenever RWWA wishes, some decisions are just "steam rolled" or "rail roaded" through.

(6). In relation to the marketing dollars spent on SLI TAB Agents compared to RWWA's (direct and highly competitive) business of Phone and Internet Betting, there is significant inequalities. Retail TAB Outlets (ie. SLI and SL2 Agencies - Full Time TAB's and Pubtabs combined) bring in 84% of gross wagering. The remaining 16% is obviously Phone and Internet business. There seems a massive inequity in the dollars being spent by RWWA on their side of the business (that produces only 16% of the Gross Revenue) compared to the lifeblood and mainstay of the wagering business (ie, that of "Retail"). As an example, it is understood that the TAB recently provided an expense free day for approximately 120 telephone account holders to the Kalgoorlie Racing Round. It is understood that an aeroplane was chartered, accommodation, meals and refreshments provided and it is estimated that the cost would probably have been in the vicinity of \$1000 per person for that event. On these figures for just the one day alone, the cost would amount to approx \$120,000 compared to direct Marketing Expenditure on each Agency for the whole year of \$700 per Agency! (ie. approx \$58,100 for the whole year on all 83 SLI TAB outlets)! It is clearly evident that the Agents are being severely disadvantaged through the expenditure of the marketing dollar on SLI's compared to RWWA's Internet and Phone Account business. It is inappropriate for RWWA to apportion the cost of Tabform to SLI Agents as has been done in previous meetings at AAC level and pretend that it is spent on SLI TAB Agents only.

7). Another seriously important demarcation is the fact that the TAB offer telephone and internet customers the ability to deposit monies into their accounts over the phone via credit card. This would appear to be highly hypocritical in the extreme as Agents are totally forbidden to allow any form of credit betting. Again it is clear that there is one rule for the arbiter and a completely different rule to which the Agent must abide. This again demonstrates the extreme hypocrisy of the management of the TAB and in fact is in direct contradiction to their highly publicized responsible gambling policy. This highlights the inequity between telephone/internet betting versus retail outlets.

At present Agents are expected to assist (to the Agents detriment) in the expansion of their own competition by being paid a minimal amount for the opening of accounts and also depositing monies into these accounts. If a trailing commission could also be implemented this would create a far more harmonious situation between the current Agents and the hierarchy of the TAB.

8). Questions should be asked of the TAB hierarchy if these large investing telephone and/or internet account holders are offered or given special benefits such as rebates on their wagering to entice them to bet direct with the TAB rather than have to pay the additional commission by totally bypassing the agents. If this position exists (as we believe it does) it places the Agents at an uncompetitive disadvantage not to mention the legal implications for the TAB.

With the implementation of Player, it is understandable how the above situation could arise, as the direct prices offered by Player are so inferior to the actual prices offered by Centrebet who are also the book manager of Player. This again discriminates against the current Agent.

9). Due to the current situation we contend that serious consideration should be given to allowing Agents to receive bets over the telephone similar to on course bookmakers. This solely dedicated telephone line could be recorded and only bets received (where the investor has already lodged a cash deposit) with the Agent of at least the amount lodged would be accepted. It is a known fact that a vast number of people using on course bookmakers and interstate betting agencies would invest their money direct with WA Agencies purely through genuine loyalty to the Agent. It is suggested that should this proposal be implemented it would be extremely beneficial to RWWA and the Agents' turnover. A system such as this would be fully scrutinized/secure, and could not be breached as all transactions etc would be recorded. This simply means that WA punter's money would be retained in Western Australia for the benefit of all stake holders.

10). It is common knowledge that the Burswood Casino owned by Crown Ltd (under the control of CEO James Packer) has legal protection by legislation, for a monopoly for the games that are offered at that location alone. Once again the Agents are placed at a serious disadvantage as the Casino is allowed to operate an extensive and lavish TAB Agency along with other gaming activities exclusively. We assert that it should most forcefully be put to the Review Panel that RWWA should be allowed to produce a continuous run of Keno games during opening hours in order that the customer can always have an interest if they so desire, not to mention the increase in turnover and benefit this would create to the State of Western Australia. It is indefensible that the Casino is allowed to operate a very large TAB Agency and still obtain legalized protection for Keno, where the profits go to a Public Company and the State's only share is from the Casino licensing fee, whereas if the TAB operated a Keno concept, the Government would receive a far larger annual increase in monies.

11). At present, SL1 TAB Agents are required to pay insurance on RWWA's money. The only cash that belongs to a TAB Agent is the starting float (which normally amounts to between \$3,000 and \$5,000 per Agency. All other cash held on the premises during each Agent's working week is generally that belonging to RWWA. Currently Agents are required to pay for insurance on amounts that can be as high as \$90,000 to \$100,000. The normal insurance cost for this type of cover is generally around \$1,800 per Agency.

12). Requirement for independence re selling and purchase of Agencies. RWWA should not be allowed to be involved in the matching of interested purchasers with the intended seller of an Agency. As each Agency is owned independently it is our view that RWWA should continue to have the final say as to whom is granted as being an eligible

person(s) to own and run a TAB, however, we contend that RWWA should not be trying to oust independent Business Brokers from assisting in negotiating transactions for selling Agents. The latest thoughts by RWWA are to (not only charge incoming Agents with a Training Fee) but to also levy an additional fee on Agents who are selling their Agency! In normal business practice, and Settlement costs are normally borne entirely by the purchaser (not the seller).

13). Occupational Health and Safety is a serious matter. RWWA has had this issue on the table since 2004 when negotiations originally commenced concerning the renewal of the TAB Agents Agreement. To date RWWA has been negligent in addressing this issue and carrying out the appropriate safety measures as recommended by an independent survey carried out for RWWA during 2007. At present 12 Agencies have been fitted with safety barriers across TAB counters and the remaining 71 Agents have been advised that due to cost constraints, only 10 more Agencies are planned to be fitted with safety barriers up until the 31st July 2010! The Agents Association has continued to call for more serious attitude towards the complete installation of all Agencies and this issue continues to fall on deaf ears. We hope it does not take a serious accident or death to occur before this matter is addressed.

(14). The introduction of the new Bet Engine (titled Project Phoenix) has been long overdue. Agents collectively have been asking why it is necessary to roll out the new system in 3 separate phases. Once again, it seems like a "patchwork" approach; rather than budgeting, assessing and completing the project in one go and then having minor upgrades or alterations to troubleshoot any future problems.

15). There has been a continual lack of funds injected back into the upgrade of TAB Agencies. Many agencies appear extremely dated. At the current rate of refurbishments it is expected to take approximately 10 to 15 years for Agencies to be upgraded.

(16). The opening and closing times for our Agencies are set by RWWA. No consideration seems to be paid to profitability from an Agent's perspective. All Agents are permitted to remain open after a nominated closing time if the Agent is busy or if the Agent wants to. RWWA continues to dictate to Agents to remain open midweek for sometimes (3 Greyhound races being run over the last hour of trade) when many Agents would not even derive enough turnover to pay for the power to their fridge let alone paying a staff member at \$22 per hour. Note: A TAB Agent receives commission equivalent to 2.64% of turnover. To produce \$30 of income (BEFORE tax), an Agent must derive \$1,136 in turnover in that hour! The majority of Agents contend they would be lucky to take \$200 in the last hour on many midweek days!

17). More money needs to be spent on improved signage for full time (SL1) TAB's. A lack of capital expenditure is hurting our small businesses. We are not permitted to spend money on altering either the interior or exterior of our premises. The majority of TAB's are leased by RWWA. Some older buildings are still owned by RWWA.

Possible Solutions:

RWWA be disbanded and have the Western Australian Government offer the business for sale. The State Government to simply charge a tax with an agreed minimum amount to be charged to the buyer. This minimum amount should provide sufficient to cater for the funding requirements of the Industry as is the case now.

Federal Government control needs to be considered. If control is to continue to be left to individual States then cannibalism will continue and the strongest will survive. The smaller States will be decimated.

All bodies/entities that take bets should be subject to the same rate of tax. Part of that tax should be used for distribution to the industry (similar to what happens now in Western Australia).

Corporate Bookmakers who pay less tax and have no commitment to provide funding to the industry can continue to *offer* better incentives to punters, make more profit and add less back into the industry. Eventually there is no industry!

If RWWA continues in a similar fashion, then specifically Sports Betting needs to be addressed. RWWA should look to charge Centrebet a tax (or fee/commission) on Sports Betting and let the same odds be offered to all punters in TAB's as those offered by Centrebet. This would be preferable to RWWA getting Centrebet to manage its own book and RWWA taking the risk on running the book profitably! At present extremely disappointing odds are offered to the WA public and the difference in odds offered causes (generally larger) punters to bet with competitors to RWWA (primarily those Corporate bookmakers based in the Northern Territory and/or Tasmania. The current system is not sustainable by RWWA and will gradually reduce the total funds bet in Western Australia.

The Western Australian Government needs to potentially look at preventing RWWA from continuing to open new betting outlets (primarily in Hotels). The idea of "flooding" WA with betting terminals so as to make it appear a bigger barrier to entry for Eastern States betting outlets to come into WA is also not sustainable. Territorial -rights to WA TAB Agents needs to be considered as this will automatically create a barrier to entry. Whilst mentioning the rapid recent expansion of SL3 outlets and SL2 Pubtabs, it should be pointed out, the great hypocrisy of the TAB management in that they forcefully promote a responsible gambling policy yet are prepared to introduce SL3's in areas where minors are permitted to be and have access to gamble without question. Current Agents are strongly taken to task in regards to minors being in Agencies yet no thought seems to have been given to the policing and enforcement of this policy in regards to the implementation of SL3 outlets/machines.

In conclusion, we hope our submission is well received. We repeat that it is not our intent for this to be used against us by RWWA. We intend to be both constructive and objective in our comments. We look forward to any opportunity given to present our thoughts and comments in person.

Yours sincerely,



Wayne Barnes



Tim Barnes