

Supplementary note

by Mr Nicholas Finney and Professor John Pickering

1. We are entirely in agreement with our colleagues in relation to the public interest detriments identified in paragraphs 2.202 and 2.203. In addition to those findings of adverse effects, we are also of the opinion that the merger creates a further detriment to the public interest by virtue of the enhanced role and influence of Ladbroke in BAGS and the high proportion of BAGS races, and even greater proportion of BAGS revenue, now accounted for by Ladbroke.

2. The relevant market in this case is the supply of BAGS contracts to the greyhound tracks. The greyhound track business is not in a healthy state and BAGS contracts constitute a valuable source of additional revenue to tracks. While we understand these contracts represent a small proportion of total greyhound racing income, other revenue is generated by BAGS meetings. Since profitability tends to be highly dependent on marginal business, so the overall revenue from BAGS meetings may be a key element in the overall profits of a track. This is supported by the evident desire of tracks generally to tender for such contracts. Indeed the BGRB confirmed that the income from BAGS fees was important to the tracks that held such meetings (see paragraph 2.59).

3. Ladbroke is the dominant bookmaker in BAGS by virtue of its market leadership in bookmaking. Following the merger, it will have a scale monopoly in BAGS-funded greyhound race meetings and its share of the revenue from BAGS contracts. Ladbroke itself recognized the possibility of public interest concerns in this respect and proposed, by way of remedy, to dispose of the two Coral greyhound racetracks it had acquired as a result of the merger and to restrict the proportion of BAGS fixtures provided by Ladbroke to the pre-merger level of 25 per cent (see paragraph 6.89(b)).

4. As a rational decision-taker, Ladbroke can be expected to seek to benefit from the merger by maximizing its share of the revenue available from BAGS contracts. It may achieve this either through charging higher contract prices for its existing BAGS meetings or by quoting lower tender prices so as to increase the proportion of all BAGS meetings awarded to it.

5. There are no effective competitive constraints to this conduct since:

- (a) BAGS is a distinct but supportive activity to greyhound racing generally. It therefore constitutes a separate market segment.
- (b) By its dominance in BAGS, Ladbroke can achieve significant influence over BAGS decisions. The weak corporate governance procedures in BAGS, as revealed in paragraph 2.62, reinforce this concern.
- (c) Other bookmakers may not challenge Ladbroke's conduct in respect of BAGS contracts if, as may be expected, Ladbroke ensures that the size of bookmaker payments to BAGS does not increase.
- (d) Other track owners are unlikely to oppose these developments and so undermine BAGS while Ladbroke ensures that they continue to receive some revenue through BAGS.

6. The overall implications of this analysis are that Ladbroke's position in relation to BAGS matters will allow it to increase its share of BAGS funding to the detriment of other

track operators. We expect this, in time, to cause the demise of some tracks and reduce investment in others, thereby strengthening the position of Ladbroke's tracks still further. The effect will be to impair greyhound racing by weakening the quality, and reducing the supply, of greyhound tracks.

7. In our view this further public interest detriment serves to reinforce the importance of achieving, as the only appropriate remedy, the divestment by _____ of the entirety of the Coral business which it acquired from Bass (see paragraph 2.208).

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