Submission from NSW Bookmakers' Co-operative Limited on behalf of NSW On-Course Bookmakers to NSW Government Review of Proposed Point of Consumption Tax on Wagering

Summary of Key Recommendations

The NSW Bookmakers' Co-operative Ltd (the "Co-op") as the representative organisation for approximately 180 NSW On-course Bookmakers makes this submission to the NSW Government in respect of the proposed introduction of a Point of Consumption ("POC") Tax on Wagering. In summary the Co-op makes the following key recommendations:

- **A new incremental tax on wagering is *not* supported by the Co-op as it is likely to have negative net outcomes for the wagering and racing industries, including on our individual members;**

- **Should the NSW Government decide to introduce a POC tax, on-course bookmakers should be made exempt by category, based on their unique role in the racing industry and their different (small) business model compared to other major wagering organisations;**

- **If introduced, any POC model for NSW should only relate to telephone and internet betting. Terrestrial wagering (i.e. on-course and over the counter) forms should not be taxed as these forms already operate under higher cost base and taxation arrangements;**

- **A tax-free wagering gross profit threshold of $3m p.a. per operator is recommended as part of any NSW POC model. Tax should only apply incrementally to profits above that level. Such a threshold will minimise business disruption and viability risk to smaller wagering operators including on-course bookmakers that have grown their businesses. The current South Australian threshold is totally inadequate in a New South Wales business scale context;**

- **If introduced, any POC model for NSW should be based on *Wagering Profits, not Wagering Turnover*. A tax on turnover will more dramatically impact lower margin operators and will have significant unintended consequences in terms of negative impacts on overall industry betting turnovers and related Government and Racing Industry revenues. Any POC should also be levied net of GST to avoid double-taxation; and**

- **Wagering profits derived by a wagering operator from another operator should be exempt from the tax.**

NSW On-Course Bookmakers

On-course bookmakers (numbering approximately 180 in NSW) are a vital part of the Racing Industry and provide direct support to race clubs in enhancing the race day experience for racegoers, attracting attendances at race meetings and driving overall betting revenues that are integral to the Industry's commercial viability.

Our members are essentially sole traders or (limited by licensing regulations) partnerships that operate as small businesses. However in an overall Racing Industry sense they employ significant numbers of people, many in casual and part-time positions. They are a significant employer in country and regional areas of NSW at race meetings held throughout these areas of the State.

Due to a number of structural and competitive factors, our sector of the wagering market has been in decline for the last few decades. This has resulted in both the numbers of on-course bookmakers and their total betting turnover falling significantly.

Crucial changes to the wagering market over this period include falling racecourse attendances (other than on carnival days) and the emergence of 'corporate' bookmakers, servicing the off-course punter via internet and telephone betting.

Accordingly, latest industry statistics indicate that the current share of the total wagering market held by on-course bookmakers is less than 2%, having fallen from over 50% a few decades ago.

To remain viable on-course bookmakers must be afforded different fee and taxation arrangements to their much larger scale competitors in the wagering market. Those corporations benefit from economies of business scale and the cost savings associated with their predominantly off-course customer market and related operating technologies.

A number of our members have embraced the internet and online wagering capabilities to grow their small businesses via necessary reach to their regular clients when they are not able to attend the races in person. However these businesses are relatively small in comparison with the fully corporate operations (TABs and NT-licensed corporates) and should be categorised differently from them in this tax review.

The recommendations in this submission are vital to ensure the continuing viability of all of our small business members and their unique role in supporting the NSW Racing Industry.

Following are our responses to the specific questions raised in the NSW Treasury Consultation Paper issued in March 2018:

Q1: Should NSW introduce a POC tax on Wagering? If so, why? If not, why not?

The Co-op *does not* support the introduction of a new POC wagering tax. Our firm view is that such a tax will have negative impacts on the wider racing and wagering industries as a result of the incremental cost burden that this tax implies.

As with any business or commodity within the economy, the provision of and demand for betting on racing and sports events is directly related to the costs associated with providing these products and the profit margins that providers can obtain in the course of their businesses.

Wagering is already a marginally profitable business for many operators. Our members in particular have been struggling for viability in their businesses where costs to turnover ratios are proportionately high. A further incremental cost burden (tax) will result in our members declining to take larger bets from punters (especially professional punters) where the expected profit margin on such activity is low.

These wagering market concepts are complicated but the Co-op also agrees with the statements made by Betfair on this issue where they conclude that any incremental tax will have to be passed onto customers, in the process curtailing some customers' motivation to bet on racing and encourage them to seek wagering products with better margins.

Total betting activity under both these scenario examples will decrease.

In addition, on-course bookmakers are proportionately high users of Betfair to manage their 'book risks'. If higher usage fees were to be applied this will act as a further disincentive to our members in taking larger bets from their own customers and laying off some or all risk via Betfair.

Wagering activity in Australia is heavily interrelated and these are just a few simplistic examples of how new costs in the system will have flow-on effects to overall betting volumes.

To summarise, a new tax would have the combined effects of reducing overall betting activity and threatening the commercial viability of many of our members who have limited opportunity to pass on such additional costs.

Q2: If NSW was to introduce a POC tax, which tax design elements should be harmonised across jurisdictions? Why?

The Co-op recommends the following arrangements be harmonised between jurisdictions:

- On-course bookmakers agreed nationally to be exempt by category or via appropriate level tax free thresholds (which may need to vary from State to State due to business scale differences);
- Telephone and Internet betting only to be taxed, not terrestrial based betting;
- Administrative arrangements for tax collection may follow the SA model;
- Administrative efficiency could be maximised and regulatory burden reduced via appointment of an agreed single national collection administrator;
- Tax rates to be harmonised to ensure competitive neutrality;
- Tax assessment methodology (e.g. gross wagering profits, net of GST) to be consistent across all jurisdictions to ensure competitive neutrality and minimise unintended consequences; and
- A national review mechanism to be established to periodically review tax efficacy and industry impacts and to recommend any appropriate variations in rates and/or arrangements.

Q 3-9: If NSW was to introduce a POC tax..:

Q3: Should a POC tax be levied on the operator's net wagering revenue (player loss) or on the operator's wagering turnover? Why?

The tax should be levied on player loss, not turnover.

Player loss or gross wagering revenue is a more competitively neutral basis to levy this tax as it does not comparatively disadvantage low (profit) margin operators as would a turnover based tax.

Most current wagering activity and indeed other modes of gambling including gaming products and casino play are taxed on a player loss basis for similar reasons.

The Co-op believes that a turnover based tax would produce unintended consequences for the wagering and racing industries. This would include a likely downturn in overall levels of wagering turnover, particularly betting sourced from the high value / professional punter segment of the market.

Q4: Should all forms of wagers (online and terrestrial) be captured by a POC tax at a common tax rate?

No. As stated previously, terrestrial wagering should not be taxed under a POC model as it represents a different category and cost base to the other 'remote' forms of betting.

Whilst a nationally consistent tax rate is preferred for competitive neutrality reasons, the selected rate should be at the lowest end of the various numbers being suggested. (i.e. no greater than 8%).

Q5: Should a common POC tax rate apply to all wagering types (fixed odds, totalisator, betting exchanges etc.)?

Yes. For regulatory and administrative simplicity a common tax rate is preferred.

Note that this can only logically apply if a profit based (rather than turnover based) model is implemented. Under a turnover based model all kinds of unintended distortions to wagering businesses and the wider industries will occur if a common rate for all types is implemented.

Q6: Should a customer's location be defined through their usual residential address for the purpose of a POC tax, or should it be based on where the bet was made? How should this be verified and updated?

For simplicity and regulatory certainty a 'residential address' based model should be adopted. This can be easily verified by regulators and operators according to the registered (residential) address recorded for the relevant betting account holder. Note that we recommend that terrestrial betting be exempt, which in turn means that all 'taxable' transactions would be account based.

A 'location of transaction' model is considered too difficult for all to implement, comply with and monitor.

Q7: What should the POC tax rate/s for NSW be? For what reasons?

The rate for NSW should be no greater than 8% of player loss (net of GST).

As stated previously there are significant risks that a higher rate will produce unintended consequences for the racing and wagering industries and ultimately for associated government taxation revenues.

A prudent initial approach would therefore be to introduce the tax at rates at the lower end of the scales being currently advocated. This will minimise the risks of industry disruption and other unintended consequences.

Ideally all States should over time attempt to harmonise rates to this same level.

Q8: Should there be a tax free threshold? If so, at what level? Should On-Course Bookmakers be exempt from the POC tax?

Yes. A tax free threshold would operate to alleviate some of the incremental cost burden on smaller operators. Such operators already face greater fixed and marginal costs to do business in comparison to the larger operators who benefit from economies of scale.

A tax free (gross wagering revenue) threshold of $3m p.a. is recommended, with incremental profits after that level incurring the tax.

This may appear to be a significant amount. However by way of example we are advised that some of our larger scale NSW on-course bookmakers have significant operating costs that must be funded out of their gross win. These include very substantial product fees to the NSW and national Racing Industry that effectively requires a relatively high annual gross profit level (before expenses) to produce an acceptable net profit return on their overall business investment.

All on-course bookmakers should be exempt from the tax, either by way of defined category (i.e. businesses with an on-course operational component) or via a suitably high tax free threshold that would protect our members from the additional tax burden.

It is also our firm view that all terrestrial transacted (i.e. 'face to face') wagering should be exempt from the tax, irrespective of business type and scale. This decision would be in harmony with the intent of the POC tax concept, which was essentially for governments to extract a revenue contribution from non-local licensing jurisdiction operators who were financially benefitting from '*cross border' trade* with the State's resident gamblers.

Q9: Estimates for the take-up of illegal offshore wagering are uncertain. Stakeholders are encouraged to provide any relevant information or evidence on the sensitivity of punters to changes in odds and shifting to offshore operators?

The Co-op only has encountered non-verifiable statements and opinion on this issue.

However it stands to reason that some punters, especially high stakes professional players who make a living from racing and sports gambling, will be further encouraged transfer their betting to offshore operators as the costs (in reduced betting odds and hence betting profitability margins) of betting with local Australian operators increase due to a POC tax.

Q10: What has been the experience of operators in complying with South Australia's POC tax administrative procedures?

Our NSW members have only limited exposure to the SA tax model as there are few NSW on-course bookmakers who have South Australian residents as customers. As such there is unlikely to be tax incurred or payable by them under the current SA tax free threshold level.

Comments from our sister representative body association in South Australia (The SA On-Course Bookmakers' League) indicate that the simplified administrative arrangements for their members have been well received. This includes annual-only reporting and payments in the case of the tax free threshold being exceeded. Declarations are accepted from below-threshold on-course bookmakers which reduces the administrative burden on these small operators.

A similar minimal burden approach in NSW is recommended for our members.

Q11: What are the practical issues and challenges for stakeholders in implementing a POC tax, and what would an appropriate implementation timeframe be in NSW?

There are many challenges for our on-course bookmaking sector, which is made up of comparatively small sole trader and partnership operators who lack the administrative resources of the larger wagering corporations.

Issues to resolve would include adjustments to administrative and reporting systems to verify tax free status and/or above-threshold positions and related tax liabilities as may be the case.

Our membership base is an ageing one with many, particularly in regional areas, not being well connected to the new technologies now at the disposal of most Australian businesses.

In general terms the new tax will take our members' some time and effort to understand and comply with, even if that is to notify and have verified their exempt status. Our larger operators will likely have a greater administrative challenge.

In these circumstances and given that we are now approaching the new financial year it may be prudent for the Government to defer the implementation of any NSW potential POC tax until 1 July 2019. This would also have the benefit of allowing further review of the outcomes of the new tax in the other States.

Q12: Is there a preference for a coordinated POC tax collected by a single state or revenue office?

Yes. This would simplify processes and minimise administrative burden for those impacted.

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