



The Federation of Racecourse Bookmakers Limited



Association of
Racecourse Bookmakers

National Association
of Bookmakers

Rails Bookmakers
Association

Federation of Racecourse Bookmakers Ltd, 19 Culm Valley Way, Uffculme, Devon, EX15 3XZ

FRB REACTION TO NORTHERN RACING PROPOSAL ON LIST POSITIONS

Notice to members – Thursday 14th May 2009

It was announced in the Racing Post yesterday that Northern Racing Ltd have proposed to continue to allocate betting pitches according to the existing seniority lists until 2042 with certain conditions attached, but only in respect of existing betting areas and without a dispute resolution mechanism in place.

Whilst we are disappointed that the proposal was not put to bookmaker representatives in the course of negotiations, we are encouraged by the shift from the RCA's originally stated position that 'from September 2012 racecourses will not recognise lists or transfers of picks as between betting operators'¹, at least in respect of the 9 Northern racecourses. We presume that this is not a 'take it or leave it' scenario, but rather a step towards an accommodation that is acceptable to both sides. We also hope that this signals a change in stance from the RCA and their members generally, thus providing the starting point for progress towards the essential UK-wide agreement for tenure.

Dispute resolution is needed to ensure fair and reasonable access charges

Having now had the chance to examine Northern Racing's proposal in more detail, we note that it states that 'neither bookmakers nor the racecourses will be entitled to refer any issue to arbitration'.

It is our firm view that betting pitches must continue to be allocated to the seniority list and that the amount that bookmakers will pay to bet from that pitch from September 2012 will be determined via commercial negotiation between the respective parties. In the case that the negotiating parties cannot agree, a dispute resolution mechanism must be in place to ensure that access charges are fair and reasonable to both sides. The process must be swift, cheap and the determination binding to both parties.

At the Working Party set up by the Minister for Sport, the RCA suggested a system of 'Right of First Refusal' (RoFR) for pitch allocation with access charges set by the racecourse. We strongly oppose RoFR. Under this system, if the bookmaker cannot pay what the racecourse demands, the racecourse will offer the same position to somebody else, leaving the bookmaker with nothing. RoFR is a diktat, not a negotiation.

It is unclear at this stage to what extent Northern Racing's proposal differs from RoFR. Northern have proposed that from September 2012, the daily fee will be increased by 25% and reviewed every five years thereafter.

We would welcome clarity on whether Northern Racing are proposing that charges would simply be imposed on bookmakers or whether they would be subject to negotiation. In the event that a bookmaker cannot accept the fees that the racecourses want to charge, it seems that Northern Racing are proposing that the bookmaker in question would have to go to the Courts. We believe that this is an unreasonable position due to the expense, time and inconvenience involved in having to go to the Courts every time there is a dispute. Most on-course bookmakers are small family businesses who may not be able to afford to go down this route, hence it favours the racecourses. Incidentally, it is not clear what the bookmaker would pay whilst waiting for a determination.



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Access charges – rate setting

As Northern Racing are aware, the five times rule is in place until 31st August 2012 so access charges negotiated on a commercial basis cannot be brought in until then. As the RCA has stated that ‘we question the need to set the rate now’², we are surprised that Northern Racing has proposed to do so. In any case, the dispute resolution mechanism should ensure that access charges are fair and reasonable to both sides.

New betting areas must be allocated according to existing lists

Northern Racing have only proposed to use ‘Bookmakers’ Lists....as the basis for allocating positions in Existing Betting Rings until 31st August 2012’.

Firstly, we do not understand why racecourses seem to be reluctant to allocate new betting areas according to existing seniority lists. In the same way as access charges for pitches in existing betting areas are determined, rates for positions in new betting areas would be subject to commercial negotiation between the list position holder and the racecourse. Again, the dispute resolution mechanism would be there as ‘backup’ to ensure fairness to both sides in case the parties do not agree. We do not see why not allocating new betting areas according to the seniority list would generate any more revenue for racecourses.

Aside from this, it is our firm view that new betting areas must be allocated according to existing seniority lists. List positions are assets that confer a priority order of pitch selection and it would be unfair for existing assets bought in good faith to be devalued by new betting areas. Of course, the introduction of any new betting areas would impact on the value-generating capacity of existing pitch locations and hence the access charges attached to them; it is impossible to agree access charges without knowing where the goalposts are.

Duration of tenure

Northern Racing Ltd has proposed to allocate existing betting areas according to existing seniority lists for 30 years from 1 September 2012. It is worth reiterating that the FRB’s position stated in the Working Party final statements was that ‘there should be a 99 year term that must apply to all existing and new betting areas, and to all racecourses and all bookmakers’³. There is clearly much more work to be done in this area.

List position sales

Under Northern Racing’s proposals, racecourses would receive a commission of 10% of the sale price (plus VAT) on list position trades. It is worth noting that if a commission on sales is agreed, the amount will be dictated by the market value of the asset, which in turn is dictated by the rights that the asset entails.

² Letter from Stephen Atkin to Racecourse Chairmen and Managers 16th October 2008

³ <http://www.culture.gov.uk/images/publications/ExistingbettingareasworkingpartyFinal.pdf>



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Moving forward

Gerry Sutcliffe MP, the Minister for Sport, stated the following in a debate yesterday:

‘I am frustrated by the fact that no progress has been made, although I am heartened by reports in the Racing Post this morning. I made it clear to the working group that there should have been discussions between the racecourse operators and the Federation of Racecourse Bookmakers. I will try to arrange such a meeting. I have given the racecourse operators another opportunity, and some have taken it up, but, if we cannot make progress, I shall reconvene the working group in the near future to have one last crack at it. If we do not get a solution that meets the requirements of all sides, I will consider legislation, because this can and should be resolved. I will not allow discussions to take place until we reach the deadline with nothing happening. That would be the wrong thing to do. I give assurances to my hon. Friends that we will deal with the matter.’

We are heartened and reassured by the Minister’s comments.

As stated above, we hope that today’s developments signal a change in stance from the RCA and their members generally, thus providing the starting point for progress towards the essential UK-wide agreement for tenure. FRB will continue to engage with all relevant parties, including Northern Racing, and will continue to support necessary measures to ensure that all bookmakers’ assets at all racecourses are protected. In this regard, a UK-wide solution for the duration of tenure and the method for ensuring fair and reasonable access charges is critical. Whilst access charges may vary from course to course as per commercial negotiations, the period during which betting pitches are allocated according to the seniority list must not.

We also support the Minister’s idea on the Working Party and of course will attend if and when it takes place with a view to achieving an overall solution. It is worth noting here that the RCA announced that from ‘1 September 2012, racecourses will not recognise lists’. The RCA also negotiate on behalf of their members on the AGT contract.