

Virginia Racing Commission

July 20, 2004

New Kent County Administration Building

12007 Courthouse Circle

New Kent, Virginia

Call To Order: A public hearing of the Virginia Racing Commission was called to order at 3:15 p.m. to receive public comment regarding the Proposed and Fast-Track regulations on Advanced Deposit Account Wagering (11 VAC 10-45).

**Presiding
Chairman:** Anne D.W. Poulson

**Commissioners
Present:** Peter C. Burnett, Vice Chairman
Dr. George W. Rimler
James G. Davis
Mark T. Brown

Staff Present: Stanley K. Bowker, Executive Secretary

Others Present: Teresa C. Griggs, Esq., Attorney General's Office
James R. Kibler, Jr., Esq., Special Counsel

Public Comment: **David Bonnifield** (Youbet.com) suggested a change in the regulation be made to base the source market fees on a percentage of net commissions and that this be enunciated in the regulation specifically, not to be negotiated with third parties, but rather to be set and paid to the Commission directly and then distributed by the Commission to the racetrack licensee and horsemen.

Todd Bowker (AmericaTab) stated that his company supports the concept put forth by Mr. Bonnifield of Youbet.com, but that if the percentage of net commissions was set too high, that his company might not be able to operate profitably in Virginia.

John Hindman (TVG) said that because of the current rules, TVG has not had a thorough examination of the merits of its application and as a result has been denied a fair hearing. The

statute does not require a source market fee arrangement with Colonial Downs. Federal law and Oregon law allows TVG to accept pari-mutuel wagers from any state where horse racing is legal. Colonial Downs is using the source market fee requirement in an attempt to extract additional economic benefit for itself. The rules work to benefit Colonial Downs and its account wagering system because Colonial Downs can control whether any other account wagering companies can get licensed in Virginia.

Greg Scoggins (Express Bet, Inc.) said the regulation should be amended to allow for the mechanism of having either the Racing Commission decide the issue of source market fees or having a three out of four, two out of three party decision because the way the law is currently drafted, they would have a difficult statutory prohibition to get past in order to become licensed in Virginia.

Ian Stewart (Colonial Downs) stated that the account wagering laws and regulations were developed by all the players in Virginia and that the system we've set up is actually working. He said it will take time, but once the account wagering companies realize that they're going to have to live within the rules and negotiate in good faith rather than working to change the rules, progress on additional contracts will be made.

Frank Petramalo, Jr. (VHBPA) said that the horsemen's group supports the regulations as proposed and believed that the changes suggested by AmericaTAB and Youbet.com are unwarranted and not in the best interests of racing in Virginia. He also stated that he felt like the negotiations were at an impasse and that the Commission should offer the parties a chance to pursue neutral third party mediation or neutral third party arbitration in order to reach an agreement.

Jerry Canaan (Virginia Harness Horse Association) agreed with the comments made by Mr. Petramalo and did not think there was any need to change anything in the regulations.

Adjournment: The public meeting was adjourned at 5:48 p.m.

FOR THE COMMISSION

Stanley K. Bowker, Executive Secretary

Date

