

**The Task Force on the Future of Off-Track Betting in New York State  
Summary of Comments Received from the May 2009 Request For  
Information From  
Tracks**

**Buffalo** – OTB’s contributed to decline in NY racing by continued bickering, unwarranted competition between entities, inconsistently maintained facilities, divergent presentation of product, unenthusiastic employees, poorly maintained facilities, confusion by patrons regarding such issues as surcharges, telephone & internet wagering, rebates, track signals offered, out-of-state jurisdictions taking advantage of situation with discriminatory pricing and “poachers” (national internet & telephone wagering operators) providing player incentives for which NYS cannot compete.

- Buffalo receives approximately \$1.2 million annually, most of which comes from Western OTB and is equally split with the horsemen. This represents 40% of Buffalo’s total income of which about half (\$580,000) is derived from out-of-state harness, \$100,000 from “dark Day” and the remainder from “regional” and “direct” payments. Buffalo receives no “maintenance of effort” payments as Western OTB does not offer nighttime thoroughbred. Income at Buffalo has declined steadily for years.
- The impact of the decline in racing revenue has had on purses has been offset by VLT contributions which represent 76% of purses earned. 11% of the total purse money comes from OTB.
- In-home simulcasting and the 25 surrounding OTB branches has had a negative impact.
- Western OTB refused to show Buffalo races in Monroe County, which again hurt them.
- Buffalo cannot compete with Western OTB or the national ADWs.
- The various monies the OTBs pay to the NY tracks (dark day, out-of-state Harness, Maintenance of effort, direct commissions and regional commissions) are relied upon by the tracks and horsemen. A complete analysis must be performed before proposing any changes to the distributions methods so not to enrich the OTBs and possibly injure the tracks or horsemen.
- The OTBs have joined together as a “buying co-op” so they can obtain favorable rates from out-of-state tracks. As a result the rates the OTBs pay is about half then the rates the NY tracks pay. Buffalo has been told they could not participate in the OTB buying co-op.

**FUTURE ROLE / RECOMMENDATIONS:**

- Need legislation to create a statewide Tote hub; statewide satellite/decoder communications network and require all tracks and OTBs to participate.

- Create a statewide television network for all OTBs and NY tracks with a regional approach.
- Create a statewide Internet and telephone wagering network for all OTBs and tracks and establish regionalized distribution of revenues.
- Need legislation requiring all out-of-state host fees paid by NY tracks and OTBs be negotiated as one statewide fee.
- Require all OTBs to give top priority to NY tracks with strict requirements for signal presentation.
- Require NY residents to bet through NY wagering venues (tracks & OTBs) only and no longer allow out-of-state providers (ADWs) to accept wagers from NY residents.

**Yonkers Raceway** – Presently Yonkers derives approximately \$12 million from all OTBs with a similar amount dedicated to purses which helps sustain racing. They obtained about \$300 million of loans to perform renovations to the track to accommodate video gaming. The loans were based on revenues, which OTB is a big part of losing any of this revenue could jeopardize their loan covenants. They race more days than any other track in North America (244) yet rank 6<sup>th</sup> in average purse per race. OTB plays a significant role in promoting their races but could do more. OTBs however showcase out of state races (which they make more money on) over Yonkers races. Agree that the payment schedule devised to limit the cannibalization of harness revenues from allowing nighttime thoroughbred (known as Maintenance of Effort payments) need to be revised (in an equitable way) due to the OTBs miscalculation of projected thoroughbred handle. Believes cost savings could be achieved by consolidating OTBs and suggest that the OTBs join the NY tracks in negotiating simulcasting rates. Currently OTBs pay about half of what the tracks pay for the same simulcast signal because of their “buying power”. By including the tracks everyone can pay less and therefore make more money. Also recommends that OTBs not be allowed get VLTS as this would jeopardize their investment and loan commitments and result in the canalization of VLT handle much like was done to the racing handle at the inception of OTBs. Lastly recommends the licensing of ADWs and be able to sign up customers and accept deposits like they do to “level the playing field”.

**Saratoga Gaming & Raceway** – The OTBs in their current form cannot fulfill its mission to raise revenue for local governments and strengthen NY’s racing and breeding industries. In every other state in the country the OTB systems are an extension of the tracks and not a direct competitor. Anything less than privatization of the OTBs simply will not work. Saratoga handle has steadily declined due to Capital OTBs numerous branches in surrounding County’s that have major populations and Capital OTB’s telephone and Internet wagering systems that accept Saratoga county residents. The regional OTB should act as a marketing tool to promote in-state racing, particularly the racetracks that exist within the OTB’s region. OTBs must continue to fund the tracks because of the detrimental effect they have on on-track betting. OTB’s

should continue to provide money to local governments but not at the expense of the tracks and the horsemen, who they are statutorily to provide for as well. OTBs mission to raise revenues for state and local governments directly conflicts with its mission to strengthen the racing and breeding industries in NYS.

In an effort to raise further revenues OTBs supported approval to allow them to offer wagering on out of state evening thoroughbred races which they said would add new handle and not cannibalize the NY harness handle. Maintenance of Effort payments or “hold harmless” payments were agreed to by the OTBs to mitigate the effect on NY handle. The thoroughbred handle they anticipated did not occur and harness handle declined thereby causing payments to be required to the harness tracks as a result of the OTB decision to take the evening thoroughbred signal. The OTBs ended up challenging the very legislation they championed. They lost and have still not paid the tracks.

OTBs should be mandated to promote NY racing first and over out of state racing to meet its mandate to act in the best interest of NY racing. This will be difficult, as the OTBs have been marketing the out of state products because they make more money from them then on NY tracks. As an alternative suggest repealing the hold harmless provisions and in its place require the OTBs to pay a less rate to the regional tracks on such wagers, thereby reducing their payments. In return they recommend that the tax on free play vouchers be lifted. Such non-taxable free play is a proven marketing tool in other jurisdictions and will benefit the horsemen, breeder’s track and State as well.

Supports the idea of the tracks joining the OTBs in negotiating simulcasting rates. Currently OTBs pay about half of what the tracks pay for the same simulcast signal because of their “buying power”. By including the tracks everyone can pay less and therefore make more money.

Amend Section 1003 of the Racing Law to no longer require mutual consent for video streaming racing and only require host track consent.

Ideally would like to prohibit out of state ADWs from accepting wagers from NY residents but believe this is impractical as NY tracks rely on ADWs revenues. Therefore suggest that ADWs be subject to the same statutory payments as the NY OTBs and pay a 5% commission to the NY OTBs.

Again stresses that the OTBs cannot, in their current form meet all their statutory requirements. Believe that consolidating the OTB’s and streamlining operations (they compare the numerous branch locations in NYS to PA, Arizona, Illinois, Indiana combined and conclude NY is over saturated with OTB branches.) will help but that only by privatizing (and continuing to allow payments to municipalities for 5 years) will the system really ever be fixed.

**Monticello Casino & Raceway** - OTBs have weakened harness racing to its lowest levels. They have interpreted statute to suit their own purposes such as denying Monticello is a regional track, refusing to pay statutory payments and creating an overall hostile atmosphere. Millions of dollars are owed to Monticello by NYC, Nassau and Suffolk OTBs with some liabilities going as far back as September 2007. The result has been Monticello having the lowest purse structure in the state, even with VLTs. The recommend:

- Downsizing operations
- Close unprofitable branches
- Streamline operations through the use of technologies
- Approach unions for contract concessions
- Cut pay/benefits
- Ensure benefit packages are in line with comparable industry
- Employee benefit contributions
- License OTB employees
- Eliminate political appointees
- Go lean and mean. 30 years ago Monticello had 127 mutuel tellers, they now have 15, their pension plan was eliminated in 1988 and there were no raises from 1985 to 2003.
- Address surcharge to see if still needed
- Require yearly financial audits including a review of operational procedures that are no longer relevant.
- Require out of state ADWs to contribute to NYS racing industry and charge them 10%, half of which goes to the OTBs and State and half to the industry. This would cut into their ability to offer rebates that the current take out structure in NY does not provide to the tracks and OTBs now.
- Privatize the OTBs
- Pursue sports betting.
- One telephone/internet wagering platform for the entire state.
- Pursue bookies and off shore rebate shops from offering NY tracks. Keep NY money in NY.
- Market protection, the market belongs to the tracks, not the OTBs who merchandise racing.
- Have the OTBs and NY tracks combine to negotiate one rate for all imports to benefit NY.
- Consolidate payments, commissions and settlements into one A/P & A/R department.

**New York Racing Association, Inc. (NYRA)** – Suggest that given the immediate financial shortfalls of New York City OTB that the Task Force first concentrate on a plan to reorganize NYC OTB's finances before they run out of money before the end of 2009. NYRA also provided a listing of goals of OTB/NYRA Restructuring that would streamline and improve the distribution of racing throughout the State. The goals included are:

- Eliminate duplicative costs
- Rationalize statutory rates based on current industry practices
- Increase payments to local government
- Statewide phone and internet account wagering platform

- Statewide television and video streaming broadcast
- Statewide integrated marketing strategy
- Contemporary retail network that presents horse racing in a positive entertaining environment
- Increase payments to purses
- Increase payments to breeders awards to ensure that New York continues growth and support for breeders
- Simplified business model where the track and the retail network have consistent goals
- Consolidate operating structures