

MEDIA STATEMENT

Thursday 21 May 2015



Commissioner delivers Report regarding the Special Inquiry into the late scratching of horses from the 2014 (Harness Racing) Ballarat Pacing Cup

The Racing Integrity Commissioner, Sal Perna, has delivered to the Minister for Racing and Harness Racing Victoria (HRV), a Report on his Special Inquiry into the late scratching of six out of 10 horses from the Harness Racing Victoria Ballarat Pacing Cup on 13 December 2014.

The Inquiry was conducted at the request of both the Minister and HRV, seeking answers to specific questions regarding the circumstances of the late scratching of horses in the Group 1 Ballarat Pacing Cup (Race 7) following detection by Stewards of non-compliant (oversized width) US style sulkies that the Stewards' Panel prohibited from racing that evening.

The Commissioner's comprehensive investigation involved his use of 'Board of Inquiry' powers to compel attendance of witnesses, including HRV officials and racing industry participants, to answer questions under oath and produce documents.

The Commissioner's report outlines his findings based on evidence obtained in the Inquiry and eight recommendations for both the harness industry and Government (set out in **Attachment 1**).

The Commissioner found that there was no evidence prior to the race meeting that non-compliant sulkies were being used in Victoria and therefore, it was reasonable for the Stewards to think that oversized sulkies would not be an issue at the race meeting.

Nor did the Commissioner find evidence that the non-compliant sulkies were ordered by trainers or drivers to be manufactured contrary to the 'Sulky Standards' or that the sulkies were later modified to exceed the 'Sulky Standards'.

The decision of the Stewards' Panel was either questioned or challenged during the race meeting by both participants and HRV management, who entered the Stewards' Room a number of times encouraging the Stewards to reconsider their decision. Despite these approaches, the Stewards' Panel maintained its decision, but afforded the participants the opportunity to swap sulkies.

The Commissioner determined that the Stewards' Panel took the correct course of action, in accordance with the Rules of Racing, in prohibiting the use of sulkies that breached the Rules.

Sal Perna
RACING INTEGRITY COMMISSIONER

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www.racingintegrity.vic.gov.au

ATTACHMENT 1

Commissioner's Findings

The Commissioner made the following findings in his report:

1. HRV Stewards first became aware of a potential issue with oversized sulkies on Wednesday 10 December 2014, following advice from Harness Racing Australia (HRA) of a complaint regarding their possible use and requesting HRV Stewards to measure sulkies at future race meetings.
2. HRV Stewards had not been provided with any evidence prior to the Ballarat Pacing Cup meeting on 13 December 2014 that non-compliant (oversized) sulkies were being used in Victoria and as such there was no reason for the Stewards to think that oversized sulkies would be an issue at the Ballarat Pacing Cup meeting.
3. There was an industry assumption that the US-based manufacturer of the sulkies, the Australian sulky distributor, the sulky owners (HRV registered trainers and drivers) and the Stewards, would all ensure that the sulkies complied with the Rules of Racing and the 'Sulky Standards' (i.e. a maximum width of 1300mm). However, what was identified, was that little, if any, compliance checking was conducted by any of those parties.
4. The UFO model sulky was approved for use in Australia by Harness Racing Australia (HRA) in October 2012 following an extensive testing program required. The UFO 'Aussie Alien' model sulky (a non-offset variation) was approved by HRA in July 2014 without similar testing.
5. The first known order of an 'Aussie Alien' in Victoria, later determined to be oversized, was 20 March 2014. That sulky was subsequently used in numerous races and until it was measured at the Ballarat Pacing Cup meeting.
6. There is no evidence that the non-compliant sulkies were ordered by trainers or drivers to be manufactured contrary to the Sulky Standards or that the sulkies were later modified to exceed the 'Sulky Standards'.
7. Following HRV receipt of the HRA advice on 10 December 2014, regarding their potential use, the HRV Chairman of Stewards immediately directed the HRV 'Compliance Steward' to measure sulkies at future race meetings and report back to him.
8. Only one HRV Steward has dedicated 'Compliance Steward' responsibilities, including the checking of sulkies against the 'Sulky Standards'. However, over time that Compliance Steward has performed most of his duties as a member of the Stewards' Panel at race meetings.
9. The first race meeting at which the Compliance Steward was rostered following the HRA advice of 10 December 2014, was at

Tabcorp Park, Melton on 11 December 2014. Whilst the Compliance Steward was rostered on the Stewards' Panel, he nonetheless examined US-style sulkies. All measured sulkies complied with the Sulky Standards (1300mm width).

10. The first confirmation of the use of a non-compliant sulky was at the Ballarat Pacing Cup meeting on 13 December 2014 when the Compliance Steward (while rostered on a Stewards' Panel) commenced measuring sulkies prior to Race 1 at approximately 6.30pm. The first UFO 'Aussie Alien' examined was measured at 1350mm, thereby exceeding the approved width of 1300mm in the 'Sulky Standards'. The next two UFO 'Aussie Aliens' also measured at 1350mm. All three affected trainers/drivers were subject to a unanimous ruling of the Stewards that there was no discretion under the Rules of Racing and the 'Sulky Standards' to permit oversized sulkies to be used. The three affected trainers/drivers sourced replacement sulkies and took part in Race 1.
11. Prior to Race 2, six more sulkies were measured. Five were found to be compliant (including an 'Aussie Alien') but another 'Aussie Alien' was found to be oversized (1350mm).
12. After Race 2 (7.00pm), a further four sulkies were measured, one of which, a 'Dooza' brand sulky, measured at 1325mm.
13. The Stewards' Panel issued no formal communication to participants or generally on the basis that their decision not to permit non-compliant sulkies would be common knowledge through participants talking to each other or seeing horses return to the 'horse movement area' to swap sulkies.
14. The decision of the Stewards' Panel continued to be either questioned or challenged during the race meeting by both participants and HRV management who entered the Stewards' Room a number of times encouraging the Stewards to reconsider their decision. At one point HRV management advised the Stewards that they were considering overruling the Stewards' Panel. Despite these approaches, the Stewards' Panel maintained its decision, but afforded the participants the opportunity to swap sulkies.
15. As a result of the Stewards' advice to trainers and drivers that the decision not to allow non-compliant sulkies would not be changed, at 8.53pm two trainers chose to withdraw their horses from the Pacing Cup due to start at 9.32pm. One trainer (Emma Stewart) had four runners in the Cup and the other (David Aiken) had two runners. Whilst the official records will indicate that these four horses were 'scratched', the fact is that they were 'withdrawn'. As a consequence of the six 'scratchings', four horses were left to compete in the Group 1 Race. Both trainers, who had become aware of issues with oversized sulkies earlier that evening, cited a number of reasons why they would not, or could not, swap sulkies.
16. A total of 20 sulkies were checked on the evening of the Ballarat Pacing Cup race meeting. Seven were detected as non-

compliant (oversized in width). Six were UFO 'Aussie Aliens' (1350mm) and one was a 'Dooza'(1325mm).

18. Both legally and operationally, the Stewards could not have permitted the use of the oversized sulkies. The 'Sulky Standard' is clear and prescriptive and the relevant Rule allows for no discretion. Accordingly, the Stewards' Panel took the correct course of action, in accordance with the Rules of Racing, in prohibiting the use of sulkies that breached the Rules.
19. There was a lack of (timely) communication to participants by the Stewards and/or HRV management in relation to the Stewards' detection of non-compliant sulkies and decision to prohibit same.
20. There is a lack of clarity and understanding of the Rules of Racing relevant to the powers of the Stewards and HRV as a 'Controlling Body'.

Commissioner's Recommendations

The Commissioner has made the following eight **Recommendations** as a result of this Special Inquiry and Findings:

Recommendation 1 - That HRV immediately restore the dedicated position of Compliance Steward.

Recommendation 2 - That HRV introduce a training process that provides all Stewards with skills and knowledge in compliance.

Recommendation 3 - That HRV introduce a requirement that Stewards' Panels at all race meetings consist of a minimum of four Stewards, one of which is the dedicated compliance steward.

Recommendation 4 - That HRV introduce a requirement that integrity officials, not only Stewards, but also others that come under the 'General Manager Integrity' organisational structure such as industry liaison/licensing and investigations, be required to maintain an official work diary.

Recommendation 5 - That HRV amend the Rules of Racing to introduce the requirement that participants must advise of a change to their sulkies.

Recommendation 6 - That HRV urge HRA to introduce a requirement that every new sulky that is purchased or obtained for use in Harness Racing, is, prior to its use in racing, subject to testing which includes measuring of the width of a sulky to ensure that the sulky conforms to the 'Sulky Standard'.

Recommendation 7 - That HRV commission a review of the Rules of Racing relating to Stewards' powers and the powers of the controlling body with a view to eliminating lack of clarity and understanding.

Recommendation 8 - That this Government reconsider my previous recommendation to amend the *Racing Act 1958* to establish an independent body with responsibility for integrity across the three codes and remove such responsibility from the controlling bodies. (See *Recommendation 11, 2012 Own Motion Inquiry into Race Fixing dated 23 January 2013*).