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HOME OFFICE
QUEEN ANNE'S GATE LONDON SW1H 9AT

Prime Minister ^{"11"}

27 April 1984

Woodrow Wyatt raised this with you. Content with the Home Secretary's approach?

Can this be commended to Sir Woodrow?
ms

Dear David,

THE HORSERACE TOTALISATOR BOARD

You wrote on 28 March asking for a note setting out the Home Secretary's views on the proposals from the Horserace Totalisator Board (the Tote) for their transfer to the private sector and the way it will be progressed.
... I enclose a note which examines the possibility of transfer.

The Home Secretary has examined and discussed the possibility of transferring the Tote to the private sector. Both he and Mr Hurd were anxious that the concept should be looked at sympathetically. However he has concluded after an examination of the Tote's origins, functions and powers that 'privatisation' - the sale to the ^{*}public sector of publicly owned assets, the proceeds to go to public funds - cannot be applied in those terms to the Tote. The note enclosed sets out the discussion in more detail but the arguments are these.

?
*private

First the Tote is not a publicly owned body in the usual sense. If it was sold to the private sector the proceeds would not go to public funds. The Horserace Betting Levy Board would probably have the best claim. Second, the Tote makes no call on public funds and only minimally on public service manpower, so privatising it would lead to no savings there. Third, the Tote is a non-profit making body; one of its functions is to provide money for racing through its betting activities. No private sector buyer would be interested in taking it on in those terms, while the racing world would be strongly opposed to any arrangement which took some or all of the Tote's 'profits' from racing to give to shareholders. Fourth, the totalisator operation is a natural monopoly and if privatised would have to be subject to more detailed control than is necessary for a Board to which the Home Secretary appoints the Chairman and members.

/The

David Barclay, Esq

The Home Secretary's present conclusion is therefore that transfer of the Tote to the private sector would not have the advantages normally sought from this kind of exercise. He does consider, however, that there is scope for the regime under which the Tote operates to be liberalised. The Chairman of the Tote has asked for extensions of its powers to conduct pool betting on sports other than horseracing and to take fixed odds bets on non-sporting events. The Home Secretary has asked the Minister of State (Mr Hurd) to pursue these with Sir Woodrow Wyatt, and discussions on these and other issues of concern to the Tote will be held shortly, following a number of informal conversations between Sir Woodrow and Mr Hurd.

Yours ever,

Christine.

MRS C J HEALD

THE HORSERACE TOTALISATOR BOARD

Before looking at the question of transferring the Tote to the private sector it is necessary first to set out the background to the Tote itself.

Origin and functions of the Tote

2. The primary function of the Tote is to contribute money to racing. The Tote was originally set up by the Racecourse Betting Act 1928. Under that Act, a Board was established, with five Government members and seven nominated by racing, and given power to run totalisator betting on racecourses or to authorise any other person to do so. The Board was also given power to borrow and lend money for its purposes. Money staked with the Tote was required to be distributed among winners, subject only to the deduction of a percentage to be fixed by the Board. Deductions were required, after expenses had been met, to be put into a fund to be distributed in accordance with a scheme, prepared by the Board and approved by the Home Secretary, for purposes conducive to the improvement of breeds of horses or the sport of horseracing. The Board set itself up by borrowing money from the private sector. It was not the recipient of Government funds.

3. The second main function of the Tote is to provide an alternative service to the customer. Originally this had a social element in that the Tote was (and perhaps still is) seen as a more respectable form of betting preferred by many to betting with bookmakers. More recently, the price returned by the Tote's pools is seen as a necessary element of competition with the bookmakers' prices, given that the on-course market could be dominated by the large bookmaking chains enabling them to manipulate the prices against the public interest.

4. The Board's powers were first extended by the Betting and Gaming Act 1960 which enabled the Board to engage in pool betting off-course as well as on-course. They were narrowed in the following year by the Betting Levy Act 1961 which transferred the function of distributing money to racing to the newly created Horserace Betting Levy Board and, in consequence, reduced the size of the Board to 4 (the non-government appointed members being eliminated) which henceforth became renamed the Horserace Totalisator Board; and abolished the totalisator fund, the Board's surpluses becoming payable instead to the Levy established by the same Act.

5. Following the legalisation of off-course betting offices in the 1960s racecourse attendances declined and the Tote's on-course operations became increasingly unprofitable. In order to enable the Tote to continue to provide an on-course pool betting service in competition with bookmakers, the Tote had to be able to offer customers off-course the same facilities as bookmakers were able to. Shops providing only Tote odds were at a fatal disadvantage compared with the ordinary bookmaker. The Tote could only survive if it could tap the profitable off-course fixed odds market. So the Tote Board's powers were extended by the Horserace Totalisator and Betting Levy Board's Act 1972 which empowered the Board to undertake fixed odds betting in addition to pool betting (and removed the limit on the size of the Board).

6. Today the Tote has a monopoly of pool betting on horseracing on and off-course and can take fixed odds bets on any sporting event. (The Secretary of State can by order extend the Tote's powers to cover betting on other events).

7. The Tote has never received any public funds, nor is any public service manpower devoted to it (apart from small proportions of the time of a few Home Office officials). Furthermore the Government has no contingent liability if the Tote runs into trouble. This was made quite clear in an exchange of correspondence with the Chairman in 1979.

8. The Tote is unique. It is not a nationalised industry in the usual sense. It is a non-profit making body the Chairman and members of whose Board are appointed by the Home Secretary, and whose 'profits' go to benefit racing.

Privatisation

9. Privatisation is usually achieved by sale to the private sector of publicly owned assets, the proceeds of which go to public funds. As the examination of the Tote's origins and functions above suggests, privatisation cannot be applied in those terms to the Tote. As the Tote has never received any public funds, the Government would have neither legal nor moral claims on the proceeds of the sale of the Tote. There would therefore be no question of the Government receiving financial gain from the sale. Indeed as the Tote and its predecessor have pulled themselves up by their own bootlaces it is difficult to see who the appropriate beneficiary of any such sale might be. The Horserace Betting Levy Board would probably have the best claim on the proceeds.

10. Taken in isolation, the Tote's bookmaker function does not have to be exercised by a statutory body. It could be disposed of to the private sector relatively easily. But, run by the Tote, this activity generates a surplus from which racing benefits and it has probably also succeeded in keeping the Tote's pool betting in existence.

11. The Tote's pool betting operation, its original function, is another matter. Like a lottery, pool betting is capable of substantial manipulation at the expense of the customer if it is not properly run. The lightest controls in this area are those over the football pools which are, however, more or less sui generis. The totes run by dog tracks are subject to detailed and elaborate controls contained in statutory regulations, and these include a power for the Secretary of State to fix the percentage which the operators may deduct. The probability is that the controls necessary to ensure that a 'privatised' Tote operated with propriety might in practice prove more onerous than those which the Tote currently operates under.

12. As the Tote is non-profit making it is difficult to see who would be interested in buying it if the profits continued to go to racing. The racing world would be strongly opposed to any diminution of the income of racing and it is difficult to see what advantages might flow from such a diversion of the profits.

Econ Bl: ~~Protestation~~ A9

27 APR 1984





file
cc CST
Bry

10 DOWNING STREET

From the Private Secretary

1 May 1984

Dear Christine,

Thank you for your letter of 27 April about the Horserace Totalisator Board. The Prime Minister accepts the arguments set out in your letter on the prospects for transferring the Tote to the private sector. As I mentioned to you, the Prime Minister was concerned that these arguments should be conveyed to Sir Woodrow Wyatt and you undertook that Mr. Hurd would in any event be writing to him.

*Yours ever,
Tn*

(Timothy Flesher)

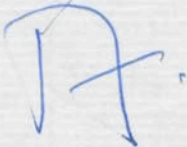

Mrs. C.J. Heald,
Home Office

Bry

PRIME MINISTER

You asked in relation to the attached minute from the Home Office about the Tote whether the information set out in it could be communicated to Sir Woodrow Wyatt. I understand that Mr. Hurd is writing to Sir Woodrow covering all the points raised.

30 April 1984





FILE
da

10 DOWNING STREET

From the Private Secretary

28 March 1984

Horserace Totalisator Board

The Prime Minister understands that the Home Secretary is considering proposals from the Horserace Totalisator Board for their transfer to the private sector.

BE | The Prime Minister would be grateful to be kept in touch with progress. Perhaps as a first step you could let me have a note which I could show to the Prime Minister setting out your Secretary of State's present views on this proposal, and the way in which it will be progressed.

David Barclay

Nigel Pantling, Esq.,
Home Office.



10 DOWNING STREET

Prime Minister

from W.W.

CR

26/3.

David. Would you
~~draft short letter~~
do have kindly saying
that I understand his
obj. has received proposals
for providing the table. May
I be kept informed please
no

from the Chairman:
Sir Woodrow Wyatt

tote

HORSE RACE TOTALISATOR BOARD

Tote House
74 Upper Richmond Road
London SW15 2SU
01-874 6411

P.M.

Also attach my letter of 7 Jul 1983
which you may like to glance at.
Progress is a bit snail's pace. I am told
a letter is on its way (nearly 9 mths!) to
further the matter.
Tote will make best use of amount of £1m (83-84)
W. W.

PERSONAL AND CONFIDENTIAL

12th March, 1984.

The Rt. Hon. Douglas Hurd, C.B.E., M.P.,
Minister of State,
Home Office,
50 Queen Anne's Gate,
London SW1H 9AT

As suggested by you we consulted Theodore Goddard.
I enclose a draft memorandum which we have worked out with them
and which I think could be a reasonable basis on which to begin
discussions.

I would be very glad if we could start such discussions
soon.

HORSERACE TOTALISATOR BOARD

Future Structure and Status of the Horserace Totalisator Board
("Tote")

I. Introduction

The purpose of this short paper is to outline proposals for the transfer of the Tote to the private sector and to draw attention to the major issues.

II. Outline Proposals

1. Horserace Totalisator p.l.c. ("New Tote") will be set up as a Companies Acts public limited company and the assets and liabilities of the Tote will be vested in it.
2. New Tote will have a share capital of which, say, 30 per cent will be in the form of 'A' Ordinary Shares and 70 per cent in the form of Ordinary Shares.
3. The 'A' Ordinary Shares will be offered for subscription in cash to The Racecourse Association Limited ("RCA") as being the organisation which represents all the sixty racecourses operating under the Rules of Racing in Great Britain and which, like the Tote, is interested in maintaining or improving racecourses in this country.
4. The Ordinary Shares will be offered for subscription in cash as to, say, between 21 and 28 per cent thereof (i.e. approximately 15-20 per cent of the total share capital) to the employees of the Tote at a discount and as to the balance to the public generally.
5. Part of the proceeds of the issue of the share capital of New Tote could be paid to H.M. Government by way of consideration for the vesting of the Tote's

assets in New Tote to reflect the fact that, although the Tote has never been owned or financed by the State, it may be said to have been set up and operated for the benefit of the public as a whole. The balance of such proceeds of issue would be retained by New Tote for the development of its business.

6. Of the Tote's two present exclusive rights, namely (i) the exclusive right to run totes at any approved racecourse (or to appoint agents to run totes) and (ii) the copyright in the tote dividends, will be vested in New Tote for an initial period of, say, 5 years ("the Initial Period"). Power will be granted to New Tote to dispose of or relinquish those exclusive rights (as regards (i) in whole but not in part) but only with the consent of RCA as the holder of the 'A' Ordinary Shares of New Tote.

7. Provisions will be included in the Memorandum of Association which will preclude a take-over of New Tote without the sanction of the Court under Section 206 Companies Act 1948 for the Initial Period.

8. The Ordinary Shares and the 'A' Ordinary Shares will rank pari passu in all respects except that the consent of the 'A' Ordinary Shares as a class will be required for:-
 - (i) any disposal by New Tote of the whole or a major part of its business;
 - (ii) any disposal or relinquishment by New Tote of its exclusive rights;
 - (iii) any winding up of New Tote;
 - (iv) any matter adversely affecting their rights, except for any changes in capital

from the Chairman:
Sir Woodrow Wyatt

tote

HORSE RACE TOTALISATOR BOARD

Tote House
74 Upper Richmond Road
London SW15 2SU
01-874 6411

7th July 1983

STRICTLY PRIVATE AND CONFIDENTIAL

The Rt. Hon. Douglas Hurd, M.P.,
Minister of State,
Home Office,
50 Queen Anne's Gate,
LONDON,
SW1H 9AT

PRIVATISATION

THE ADVANTAGES

1. The Home Office would not be bothered any more with answering for a gambling organisation it does not own or get benefits from. It is illogical that it should be and quite unnecessary and unproductive.
2. The Tote would be able to expand much more. As the previous Home Secretary pointed out in his letter of 5th September 1979 the Government does not stand behind the Tote in any way and expressly denies responsibility for its liabilities. It would not give us even a letter of comfort when we were seeking to borrow money to buy a large betting chain. If the Tote were on its own it could raise money through share capital and rights issues and so forth and expand its business considerably. The government would lose no money because it has never given the Tote any since its inception in 1928. The original money to start the Tote was borrowed from the banks without a guarantee from the government and was later converted into a loan stock which has been paid off years ago.
3. If privatisation allowed for, say, up to 15/25% of the new operation being owned by the Levy Board and, or, the Racecourse Association (the exact amount would have to be thought about more carefully) then racing would be assured of continued benefit through the profitability of the Tote.
4. Privatising the Tote would square with the government's philosophy.

30%
now
suggested

DIFFICULTIES

1. The Tote has a monopoly to run pools on approved horse racecourses and pools on horse racing off the course. This is a two way matter. Frequently it involves the Tote in running Tote cash operations on racecourses where it makes a loss. It is not statutorily obliged to do so but we do it because we feel that as we were set up to provide an alternative betting service we should always do so even when it involves inconvenience to ourselves. In my personal view there would have to be some legislation which maintained the Tote monopoly on running pools on horse races while requiring the Tote to continue to provide Totes on all approved horse race courses or arranging, as we have the power to do, for somebody else to run them on any course or courses where we felt it desirable or possible that this should be done; although this last would be unlikely as it would be impossible to maintain a uniformity of standard in Tote dividends for use off the course if more than one organisation were operating totes on racecourses.

There might be a possibility of hiving off the betting shops and privatising only them but this would be dangerous. The betting shops' profits have enabled us to tide the Tote over difficult times of falling attendances. - we would never have introduced our computerisation on courses which cost us £4.5 million if we had not had the resources of the betting shops to rely on. Indeed, the Tote on course was very near collapse when I became Chairman in 1976.

2. If the Tote were floated as an ordinary public company there would be the danger of one of the Big Four bookmakers, or anyone else, buying its shares and getting control of it. Then the determination to help racing and to maintain totes on racecourses even if they are unprofitable might be diminished. This might be averted by the Levy Board and, or, the Racecourse Association having A shares which should be able to block an undesirable takeover.

TOTE'S CONTRIBUTION TO RACING

1. Curiously the Tote has no instructions in the current Act of Parliament with what to do with any profits we make. We have over a period of years since I became Chairman paid something in the order of £1 million as a voluntary contribution in excess of our legal Levy requirement (and in excess of the rate charged to bookmakers) to the Levy Board.
2. We have spent £640,000 on sponsorship during the last three years. The rest of our profits we have used to develop the business.
3. It may be that part of the legislation required should enjoin on the Tote that they continue to provide sponsorship for races which presumably would be done anyway as other big bookmakers, though not all, do at the moment. But the previously mentioned suggestion of giving to the Levy Board and, or, the Racecourse Association 15/25% of the shares should ensure a substantial contribution to racing out of the profits. now 30%

WHAT SHOULD THE GOVERNMENT GET OUT OF IT?

*(superseded by Para 5 in draft
sent to H.O. on 12 Mar 86)*

1. Nothing. It has contributed nothing to the Tote unlike all the other ventures which are being privatised.

It has not even given us the comfort of a guarantee. The Tote has never been a charge of any kind on the public spending requirement and has expressly been excluded from having its debts paid by the government if it failed.

8

Woodrow Wyatt