

Submission on the Greyhound Racing Regulation 2019

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Office of Racing

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The NSW Young Lawyers Animal Law Committee (**Committee**) makes the following submission in response to the draft Greyhound Racing Regulation 2019 (**Regulation**).

NSW Young Lawyers

NSW Young Lawyers is a division of the Law Society of New South Wales. NSW Young Lawyers supports practitioners in their professional and career development in numerous ways, including by encouraging active participation in its 16 separate committees, each dedicated to particular areas of practice. Membership is automatic for all NSW lawyers (solicitors and barristers) under 36 years and/or in their first five years of practice, as well as law students. NSW Young Lawyers currently has over 15,000 members.

The Animal Law Committee

The Committee comprises a group of over 400 members interested in animal welfare and laws regulating the treatment of animals. The Committee aims to raise awareness and provide education to the legal profession and wider community, while increasing understanding about the importance of protecting animals from abuse and neglect. A common theme amongst Committee members is a passion and desire to use their legal skills and the law to improve the welfare of animals.

Discussion

Functions and Reports of the Greyhound Welfare and Integrity Commission (the Commission) and Greyhound Racing NSW (GRNSW)

Under Part 2, the annual requirements for the Commission and GRNSW should be more extensive to ensure greater transparency and accountability within the industry. In particular, these bodies should be required to provide detailed information on the number of greyhounds euthanised within the industry, including for reasons such as injury, age, or being deemed unsuitable for re-homing. Evidence shows an alarming percentage of racing greyhounds die in NSW from injury at the track or from being euthanized – documents obtained under freedom of information laws showed this figure to be as high as 40%.¹

¹ Brad Esposito, 'Almost 40% of NSW Racing Greyhounds Are Leaving The Industry Dead', 2 May 2019, <https://www.pedestrian.tv/news/almost-40-of-nsw-racing-greyhounds-are-leaving-the-industry-dead/>.

Part 2 should also impose reporting requirements for the 'Greyhound as Pets' program coordinated by GRNSW, which is intended to re-home greyhounds that are retired from racing. The reporting requirements in the Regulation should require GRNSW to provide evidence of the number of greyhounds successfully re-homed through the program and information on what happens to greyhounds unable to be re-homed.

The NSW Office of Racing website states that 'the NSW Government is committed to an ethical and sustainable greyhound racing industry based on high standards of animal welfare'.² Transparency, through the reporting requirements proposed above, is essential if that object is to be achieved.

Registration of greyhounds, industry participants, trial tracks

The registration of greyhounds under Part 3 Division 1 should impose a further requirement to track each animal through their lifespan, not only until the end of the period for which a greyhound is registered. This is imperative to ensure transparency with respect to what happens to greyhounds after they are retired from racing in light of public concerns about the fate of "unwanted" retired racing greyhounds.

Under Part 3 Division 2, the proposed expansion of the definition of 'greyhound racing industry participant' to include a broader range of people increases the scope of who can be monitored under the Act. This is strongly supported in the interests of ensuring greater transparency and accountability within the industry. However, the industry should be called on to provide the necessary funding to the Commission to support the anticipated broadening of these monitoring powers, rather than it being funded by taxpayers.

Registration of greyhound racing clubs

No comment in relation to Part 3 Division 5.

Penalties

The penalties provided for in the draft Regulation are set at a very low level, by comparison to the penalties provided for under the Act. As one extreme example, the Act provides for fines (at current penalty unit rates) of up to \$110,000 for corporations or \$22,000 for individuals who commit offences under section 42(2). The proposed penalties under the Regulation are \$275 for a first offence or \$550 for a second or subsequent offence. That is, the penalty notice is between 0.25% and 1.25% of the statutory maximum fine. The

² NSW Government, *Greyhound Racing Regulation 2019*, <https://www.nsw.gov.au/improving-nsw/have-your-say/greyhound-racing-regulation-2019/>.

proposed penalty notice amounts for other offences, even if not quite as extreme as section 42(2), are nonetheless in most cases only a few percent of the fines allowed under the Act.

While it is accepted that there are utilitarian benefits in the use of penalty notices, and that penalty notice amounts by their nature should not be expected to be anywhere close to the maximum fines permissible after a prosecution, they also must be set at amounts that will penalise wrongdoers and provide real deterrence. On that basis, the Committee recommends that the penalty notice amounts be increased (ideally, at least doubled), particularly for second and subsequent offences.

Further, while a matter going beyond the text of the Regulation itself, it is essential that penalty notices are not used to the exclusion of prosecution. That is especially so if there is to be such a large disparity between the penalty notice amounts and the penalties available upon prosecution under the Act.

Other issues

The proposal to share information between the Commission and animal protection bodies, law enforcement and other Government agencies and bodies under Part 3 Division 4 is strongly supported.

However, in the interests of furthering transparency, the Commission should be obligated to provide such information rather than the conditional wording of 'may share information', unless a compelling reason is provided for refusing the request.

A body whose request for information is refused should also be provided with a right of review – in the Committee's view that could most easily be done by permitting appeals under the *Administrative Decisions Review Act 1997* (NSW) (although it is acknowledged that would require a corresponding amendment to the authorising Act).

This is vital to ensure greyhound racing participants who engage in live baiting and other cruel and illegal practices can be identified and appropriately prosecuted.

Finally, the Regulation should include a provision for requiring a bond for each puppy bred in the industry, as recommended by the NSW Government's Greyhound Industry Reform Panel and described as "essential" by Greyhound Racing NSW.³

³ Greyhound Racing NSW, 'Clarification of Wastage Figures', 24 May 2018, <http://www.grnsw.com.au/news/clarification-of-wastage-figures>.

Concluding Comments

NSW Young Lawyers and the Committee thank you for the opportunity to make this submission. If you have any queries or require further submissions, please contact the undersigned at your convenience.

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