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Via fax and email

Mr. John D. Sabini
Chairman
New York State Racing and Wagering Board
One Broadway Center (Suite 600)
Schenectady, NY 12305

Dear Chairman Sabini:

On behalf of the Stewards of the The Jockey Club, I appreciate the opportunity to provide comments concerning the use and regulation of Lasix® for racehorses and equine drug policy in general.

Before responding specifically to the seven questions you provided, I would like to share some information about The Jockey Club and our longstanding commitment and resolve with regard to the medication issue in Thoroughbred racing.

By way of background, The Jockey Club is the breed registry for Thoroughbreds in North America. The organization was formed in 1894 to maintain the integrity of *The American Stud Book* and ensure that all foals are the descendants of a sire (father) and dam (mother) that were registered Thoroughbreds.

In addition to our Registry, The Jockey Club operates several commercial companies that serve the technology, data and pedigree information needs of the Thoroughbred industry. Our customers include racetracks, owners, trainers, sales companies, racing fans and other Thoroughbred organizations. We reinvest the profits from those affiliated companies into the industry.

Among the numerous projects we have funded are the Racing Medication & Testing Consortium, the Racing Officials Accreditation Program, the Thoroughbred Aftercare Alliance, the National Thoroughbred Racing Association/NTRA Communications and the University of Arizona Race Track Industry Program.

The Jockey Club also oversees two charitable foundations: The Grayson-Jockey Club Research Foundation (traditionally the nation's leading private, non-corporate source of equine research funding); and The Jockey Club Safety Net Foundation (a charitable trust created to provide financial relief to needy members of the Thoroughbred industry and their families).

Additionally, The Jockey Club, through its active participation in the International Federation of Horseracing Authorities (IFHA), represents the interests of Thoroughbred breeding and racing in North America. The IFHA seeks to coordinate and harmonize the rules of the member-countries regarding breeding, racing and wagering and to ensure the quality and fairness of racing and the welfare of horses and jockeys.

In 2008, The Jockey Club formed the Thoroughbred Safety Committee to develop a process to study issues and propose recommendations on matters affecting the health and safety of the racehorse including medication reform. The committee comprises a broad cross section of industry leaders with diverse backgrounds including veterinary medicine, owners, breeders and riders. The committee meets at least quarterly to consider input from invited guests and commissions research into a variety of subjects.

Over many years, The Jockey Club has devoted countless resources, financial, technical and human, to the medication dilemma that has challenged our industry. Among the initiatives The Jockey Club has supported over the years include:

- McKinsey Study concerning drug testing in North America - 1991
- Racing & Medication Testing Consortium - 2002
- Drug Testing Initiative of the RMTC - 2009
- Revisions to *The Principal Rules and Requirements of The American Stud Book*, including the 2011 addition to deny privileges to individuals determined to have significant medication violations in Thoroughbred racing
- Thoroughbred Regulatory Rulings - 2011
- Reformed Racing Medication Rules - 2012
- *cleanhorseracing.org* - 2012

Our stance has not wavered one bit: We believe that the overuse of medication endangers our human and equine athletes, threatens the integrity of our sport and erodes consumer confidence in our game. Horses should compete only when they are free from the influence of medication.

In the atmosphere of today's sports world, where the acronym PED (Performance Enhancing Drugs) regularly litters reports on baseball, track and field, football, cycling, etc., no sport should expect its public, or its honest participants, to embrace a philosophy of performance enhancement. The public is our customer, and the customer should not be asked to embrace a knowingly sullied product.

Many observers today believe that the Thoroughbred is not as sound and hardy as it once was, and the generations of horses racing on medication and then dominating the gene pool are suspected of causing or contributing to that decline. Thus, the welfare of the breed merges with the welfare of the business. If the rest of the world increasingly looks on the American Thoroughbred as a tainted product, the impact on the international market is easily predictable.

The proper treatment of animals is a high priority to the public, now more than ever. Reaction to the recent multi-part investigative series by *The New York Times* proves that.

Even the horseman who sincerely believes he or she is doing right by the horse by racing on medications should grasp that the public can hardly be expected to distinguish between a syringe that provides the proper therapy and one that introduces chicanery. Survey after survey has said that medication adversely affects the public's acceptance of sports.

Last summer, The Jockey Club engaged the international management consulting firm McKinsey & Company to review the status of Thoroughbred Breeding and Racing and make recommendations for remedial action.

Their analysis concluded that the sport is losing fans at a rate of 4% a year, and that concerns over animal safety/welfare and medication were constantly among the most significant themes. From the category of current racing fans, 78% said they would stop betting if they knew horses were not treated well; 38% said they would bet more if they knew horses were not given drugs; and 36% said medication is one of the top three issues facing racing.

In closing, The Jockey Club strongly urges the New York State Racing and Wagering Board to promulgate new rules that would ban the use of Lasix. Doing so will dramatically enhance the safety of our athletes, the integrity of our sport and consumer confidence in our game. It is the right thing to do.

Thank you again for the opportunity to share The Jockey Club's perspective and please let me know if you have additional questions or need more information.

The following pages have been provided by staff of The Jockey Club to answer the seven questions posed in your April 30 communication on this matter.

Sincerely,

Ogden Mills Phipps (by MI)

Ogden Mills Phipps
Chairman

QUESTIONS

1. What is the cost/benefit analysis of Lasix overall? For example, does the annual cost of Lasix shots plus the impact on the breed exceed the aggregate benefit for horses that are kept in racing, the prophylactic value, and the avoidance of costly alternatives (e.g., prolonged rest)? What alternatives are available?

Response:

To place costs in proper perspective, the proportion of horses compromised by exercise-induced pulmonary hemorrhage (EIPH), the prevalence and annual cost of furosemide treatment and the effect of furosemide on performance must be understood.

The direct costs of furosemide administration to Thoroughbreds is estimated at \$28 million annually to effectively treat just 2% to 6% of race horses with clinical symptoms of EIPH materially sufficient to affect racing performance. When the administrative costs associated with monitoring, determining eligibility for treatment as well as maintenance of regulatory and racing records for reporting is included, the cost may approach \$35 million annually. Arguably, 90% of the remaining starters without clinically significant symptoms of EIPH receiving furosemide each time they start: (i) ran 25 pounds lighter, (ii) finished up to 5.5 lengths faster and, (iii) extended their performance beyond natural limits.

The variability among horses attributable to differences in EIPH diagnoses, differences in response to treatment with furosemide, and differences in individual choices to receive treatment in the first place, understandably introduces layers of complexity and confuses domestic and international customers when they attempt to analyze North American race records.

- ***Proportion of EIPH in the population***
 - In 2005, Hinchcliff, et.al (J Am Vet Med Assoc 2005; 227:768–774) reported only 5.1% (38 of 744) of Australian horses had severe EIPH (category 3 or 4).
 - In 2009, Hinchcliff, et.al (J Am Vet Med Assoc 2009; 235:76–82) reported only 11.8% (18 of 152) of South African horses had severe EIPH (category 3 or 4).
 - In 2011, regulatory veterinarians in Hong Kong reported only 2.4% of race-horses in Hong Kong were retired due to EIPH-related issues confirmed by endoscopic examination or direct observation supported by analysis of racing performances.
 - After studying more than 900,000 starts over a decade of racing, only 0.23% to 0.32% of starts were accompanied by visible bleeding from the nostrils in Great Britain.
- ***Prevalence and annual cost of treatment with furosemide***
 - Of the more than 64,000 Thoroughbreds making a start in North America in 2011, 95% received furosemide (Equibase® data).
 - The annual cost of managing EIPH in U.S. pari-mutuel racing has been estimated to exceed \$100 million annually, \$28 million in direct costs for furosemide-related administration to Thoroughbreds alone (Hinchcliff, AAEP Proc. 2005; 51:342-347).
- ***Effect of furosemide on performance***
 - Horses administered furosemide run 3 to 5.5 lengths faster (Gross, et.al, J Am Vet Med Assoc 1999; 215:670-675).
 - Horses administered furosemide lose 2% to 4% of body weight within 4 hours of administration (in Gross, et.al, J Am Vet Med Assoc 1999; 215:670-675).

- Horses administered furosemide have greater blood levels of total carbon dioxide (alkalinization) that is strongly associated with enhancing racing performance beyond natural limits (Cohen, et.al, Equine Vet. J 2006; 38(6):543-548).

Options for managing EIPH without the use of furosemide were discussed at the international summit on race-day medication held at Belmont Park in June 2011. Among the alternatives raised by representatives from the Hong Kong Jockey Club in addition to participants in Australian racing included changes to training schedules that included brief furloughs from racing.

2. How can a Lasix ban be introduced without causing major disruption and hardship? For example, proponents favor banning race day Lasix starting with two-year-old horses. Some suggest banning race day Lasix for major stakes races because of the impact on fan perception. Others suggest that dosage levels be gradually reduced each year. Should a racing circuit be available for horses that need Lasix to treat significant EIPH and keep racing?

Response:

Since 1995 (when New York became the last major state to permit the use of furosemide on race day), furosemide has been a part of the fabric of North American racing and breeding. Whether affecting a bettor's short-term decision based upon first time treatment, or potentially masking characteristics that may otherwise affect a breeder's long-term mating decision, furosemide touches the entire chain of production and should be gradually withdrawn in measured steps.

A progressive phased program beginning with all 2-year-old races in 2013 gives the New York State Racing and Wagering Board several advantages.

- First, with sufficient advance notice of the rule change, training and racing schedules can be adjusted starting with horses that have the least prior exposure to furosemide treatment, the 2-year-old population.
- Second, with race schedules characterized by fewer starts and longer intervals between starts, 2-year-olds are an ideal population for close monitoring and veterinary inspection over the course of the year.
- Third, older horses with longer histories of furosemide treatment are permitted its continued use during their 3- and 4-year-old and older race careers.
- Fourth, under this measured and closely monitored approach, the ban may be easily expanded to 3-year-olds the following year - horses already accustomed to furosemide-free competition as 2-year-olds. Narrow exceptions are possible for horses competing in races without age restrictions as local conditions require.
- Fifth, a progressive ban based upon foal crop starting with 2-year-olds minimizes disruption to racing form and provides the bettor time to transition handicapping strategies (further substantiating claims that furosemide provides performance enhancing effects to horses, including those without symptoms of EIPH).

3. What are the costs if Lasix use is curtailed? Who should bear the costs if Lasix is banned or curtailed? I.e., will individual owners and trainers bear the entire cost? Is there affordable insurance against the risk that a horse might be unable to race because of EIPH? Should breeders contribute? Will racetracks be able to attract enough horses to fill fields and how will that affect handle, revenue, and tax receipts?

Response:

The cumulative effects of the low incidence of severe EIPH in the population of race horses, a measured plan to phase out furosemide starting with horses having no prior exposure to its use in competition and, the time provided to adjust training and racing schedules and otherwise adapt to furosemide-free racing provides an optimal setting to mitigate risks associated with individual horses in the short-term.

As racing adapts to new regulations prohibiting race-day medications, redirecting the cumulative savings generated by reduced costs attributable to the furosemide treatment itself can only reduce the long-term economic risk of Thoroughbred ownership.

With a measured transition to furosemide-free racing starting with 2-year-olds, the estimated \$28 million annual cost burden currently associated with short-term efforts aimed at masking the symptoms of EIPH with furosemide become available to stakeholders for redeployment or cost avoidance.

Although more difficult to estimate, additional savings from costs currently associated with monitoring and reporting furosemide also become available for redeployment by the regulatory authority for existing and new initiatives to further the health, safety and welfare of our equine and human athletes.

In the final analysis, a measured approach starting with 2-year-olds provides all members in the chain of production from owners, breeders, trainers and bettors to buyers, both domestically and internationally, adequate time to rationally adjust their business models to balance any risks introduced by the change and better position themselves for long-term sustainable growth.

4. Is giving Lasix to all horses before any exertion actually a prophylactic? I.e., is there any scientific data that treating all horses before any exertion improves the prognosis of horses that experience a significant (grade 3 or 4) EIPH?**Response:**

There is ample scientific evidence demonstrating that furosemide does not cure EIPH nor does it improve the long-term prognosis of horses with severe EIPH. In 2009, Hinchcliff et.al (J Am Vet Med Assoc 2009; 235:76–82) reported that furosemide reduced symptoms of EIPH an average of 0.63 on a 5-point scale ranging from zero to four that is based upon visual inspection of airways with the aid of a flexible endoscope.

An improvement of 0.63 over a five-point scale equates to a 12.6% average improvement in symptoms after administration of furosemide to horses in South Africa.

Prophylactically treating 95% of all starters in pursuit of a 12.6% improvement in clinical symptoms that materially affect fewer than 10% of race horses invites critics to challenge the integrity of horse racing; especially in light of the performance enhancing effects seen in the majority of horses without any symptoms of EIPH.

5. What is the impact on fan support of allowing Lasix on race day?**Response:**

Surveys commissioned by the NTRA in 2005 and again in 2008 as well as research funded by The Jockey Club in 2011 and 2012 have consistently demonstrated that current rules regulating the use of drugs and/or medications in the racehorse are among the top three concerns expressed by customers. Rules permitting the administration of medications on race day pose a significant barrier to attracting new customers essential for growing the sport. Explaining the therapeutic value or necessity of treatment did little to persuade

respondents otherwise. It is difficult to attract new fans when they are told 95% of the athletes must receive a powerful, performance enhancing diuretic on the day of the competition, purportedly in the best interest of our equine athletes.

New customers are understandably confused by these statements and question their involvement in any sport where the athletes must be treated in order to compete.

These attitudes reflect the growing trend among fans and customers of organized sports of an increasing intolerance of drugs in competition. Survey after survey has demonstrated that horse racing is no different.

6. How will trainers react to a Lasix ban? What substitutes will be used and what impact will they have on race integrity and horse safety? Can they be readily detected like Lasix?

Response:

This matter has been carefully considered by The Jockey Club's Thoroughbred Safety Committee, and the committee has posed similar questions to several well-known domestic and international trainers and veterinarians. Consistently the response has been that trainers will adapt and they point to the success of international jurisdictions without this race-day medication as evidence.

History has demonstrated that horses bred and raced in the U.S. can successfully adapt and compete at the highest level in international racing without the use of furosemide. Horses bred and raced in other countries have similarly demonstrated their ability to return to furosemide-free racing overseas after adapting and competing at the highest level in U.S. racing where furosemide is permitted.

Responses from those groups advocating for the continued use of furosemide suggesting that its elimination will foster an increase in cloak-and-dagger behavior and treatments is irresponsible and frankly, appears to hold hostage the health and safety of the horse.

7. More generally, what are the most effective and practical steps for regulators to take to improve the safety and integrity issues caused by drug administrations to race horses? What other equine drug policy changes could reduce injuries and enhance the integrity of horse racing? Should regulators take a stricter approach, e.g., owner responsibility for drug positives, breeder liability for fatalities resulting from bone defects caused by overfeeding young horses, mandatory recuperation periods for horses that have sustained a soft tissue injury? Are the therapeutic drugs and treatments that mask the sensation of pain in a horse in the long run contributing to more breakdowns and less productive racing lives of race horses?

Response:

Our response to your multi-part questions begins and builds upon the processes created in 2008 through the formation of The Jockey Club Thoroughbred Safety Committee and its charge to improve the health and safety of our equine and human athletes. As discussed previously, its membership comprising leaders and experts from a broad cross section of the industry, produces practical recommendations to produce tangible improvements in safety.

We encourage the New York State Racing and Wagering Board to consider the expertise and depth of the committee among the resources available to them when analyzing and formulating new safety and medication initiatives for New York racing.

A recent product of the safety committee is the 2012 Reformed Racing Medication Rules, published by The Jockey Club (http://jockeyclub.com/pdfs/reformed_rules.pdf).

The reformed medication rules feature a new categorization of medications, more clearly defined regulatory limits, and dramatically remodeled penalties. We encourage all Thoroughbred racing jurisdictions to uniformly implement them in order to improve the integrity of the sport and enhance the safety of its athletes.

Summary of the Reformed Racing Medication Rules 2012:

- Horses should be allowed to compete only when free from the influences of medication
- Medications permitted in the race horse are subjected to stricter regulatory thresholds with increased recommended withdrawal times
- Furosemide is currently prohibited although this may be effected through a transitional process
- Only RMTC-accredited laboratories are permitted to test samples, with results available to the public
- Medication violations result in points that accumulate to trigger stronger sanctions for repeat violations, up to lifetime suspensions
- Medication histories for all horses available for review
- Contact with a horse within 24 hours of post time of the race shall be subject to surveillance; certain regulations and track ship-in policies may be subject to adjustment
- Reciprocal enforcement of uniform mandatory rest periods among racing regulatory authorities for horses with symptoms of exercise induced pulmonary hemorrhage
- Expansion of regulatory authority to include all jurisdictions where official “workouts” are conducted
- Administration and withdrawal guidelines are published for all approved therapeutic medication subject to regulatory control
- Best practices for improved security and monitoring of “in today” horses are provided for guidance to racing associations