

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2381

2001 SENATE JUDICIARY

SB 2381

## 2001 SENATE STANDING COMMITTEE MINUTES

### BILL/RESOLUTION NO. SB 2381

Senate Judiciary Committee

☐ Conference Committee

Hearing Date February 7th, 2001

Tape Number	Side A	Side B	Meter #
1		x	33.1-end
2	x		0-11.4
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on SB 2381: A BILL FOR AN ACT TO AMEND AND REENACT SECTION 53-06.2-10.1 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO SIMULCAST WAGERING.

**Representative Mahoney**, representing district 33, testifies in favor of SB 2381. This bill is designed to bring simulcast company into ND. Changes technology by having these accounts. Will help bring in more tax revenues for the state. **Bob Benette** said something about constitutional problems. We think we can get past them. Some proposed amendments, for making accounts to established in ND (see amendments).

**Susan Balla**, President of the Racing Commission, (Bullet points attached) testifies in support of SB 2381. Language is for clarity purposes, line 5 page 2, after "wager," An account wager, insert, made on an account established in ND may only be made through the licensed simulcast service provider authorized by the commission. This is language awarded by a licenses. There are comments in support of the bill. There are licenses which provide for technical services to

**Page 2**

**Senate Judiciary Committee**

**Bill/Resolution Number SB 2381**

**Hearing Date February 7th, 2001**

charitable organizations involved in paramutual wagering. Model that was set up in 1989 was economic, we designed a model to help this industry. Portion of money would be sent to the state. In last 10 years we have generated 6.1 to 6 million dollars. It is a self funding. These funds are used to fund the horse commission. Asking to do is what other states are doing. Adding an account, which is telebanking. Allow us to be competitive with other states. If someone from Fargo uses telebanking in New York they are taxed in that New York not ours. However if they come from outside the state into ours, we get the tax money. Who benefits? Charities involved, state of ND. The racing commission supports this bill.

**Senator Traynor, would you handle accounts for nonresidents?**

**Susan Balla, yes.**

**Senator Traynor, I heard there will be a track in Fargo. How will that impact you?**

**Susan Balla, we that as a benefit. This would allow us to keep funds going year round.**

**Senator Nelson, you alluded to NDSU, is the growth of horse racing attached to NDSU?**

**Susan Balla, yes, in the animal range science.**

**Senator Traynor, the fiscal note says its impossible to predict the impact. What would the revenues be?**

**Susan Balla, it is impossible to guess. We can have a positive effect if we allow revenues to come in.**

**Senator Watne, it also points out an enforcement issue. You are audited each week.**

**Susan Balla, yes. We can be audited to the key stroke. We can provide an audit trail.**

**Loren Schmidt, President of the Horse Racing Association. Supports bill. Will enhance our state.**

**Senator Watne, you will be able to fix your building?**

Page 3  
Senate Judiciary Committee  
Bill/Resolution Number SB 2381  
Hearing Date February 7th, 2001

Loren Schmidt, yes.

Lance Haagen, representing the racing commission, supports SB 2381.

Tracy Potter, neutral, the impacts on our charity is not certain. We will have a positive impact for the state. We would rather have people come to the site and gamble, rather than over computers. However, they do be over the phone already. We lost 11,000 dollars at Capital Lanes.

Senator Nelson, if this went through, if you set up an account would it be delegated to a charity?

Tracy Potter, that would be determined by the racing commission.

Senator Traynor, closed the hearing on SB 2381.

**SENATOR WATNE MOTIONED TO AMEND THE BILL, SECONDED BY SENATOR NELSON. VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. SENATOR WATNE MOTIONED TO DO PASS AS AMENDED, SECONDED BY SENATOR TRENBEATH. VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. SENATOR WATNE VOLUNTEERED TO CARRY THE BILL.**

## FISCAL NOTE

Requested by Legislative Council  
01/29/2001

Bill/Resolution No.: SB 2381

Amendment to:

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Account wagering is being used in other jurisdictions, and assuming the licensed North Dakota Service Provider would initiate account wagering, the potential revenue to the General Fund, and Racing Fund administered by the Racing Commission would most likely be positive. If account wagering is allowed, potentially more people will open wagering accounts in addition to those people that already attend simulcast locations. If there were simply a transfer of people from the simulcast locations to account wagering, the effect would be revenue neutral. However, in a competitive marketplace, and in a marketplace that is progressively becoming more electronically sophisticated, account wagering may result in an increase of wagering handle in North Dakota. Obviously, if the handle goes up, the percentage that by statute is deposited in the General Fund, as well as the Racing Fund administered by the Racing Commission office would increase. However, it is impossible to project with any accuracy what that increase in handle might be. The revenue aspect as it effects the operations of the Racing Commission would be neutral, since the Racing Commission is funded directly from appropriations, and therefore there is no correlation between simulcast handle and the appropriation to the Racing Commission.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

As stated above, it is impossible to accurately predict the amounts of any revenue with the implementation of this bill. However, theoretically, the revenues could only be positive. The funds that would be affected would be the General Fund through the parimutuel tax assessed and the Racing fund as provided for in

**North Dakota Century Code 53.06.2.**

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

It is not anticipated that this bill would change any of the FTE's of the North Dakota Racing Commission. However, there is potentially an enforcement issue that is unclear under the statute. There arises an issue as to which agency would be responsible for maintaining compliance or enforcing non-compliance with the bill. This most likely would require a legal opinion that is outside of the parameters of the Racing Commission office.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Depending upon the amount of increased handle, and any enforcement issues that would arise with this bill, it is possible there would need to be additional funds appropriated to the Racing Commission in order to monitor the account wagering and compliance with the bill. At this time, this agency is operating on an extremely thin margin because of the increase in dues and an increase in live racing, with no increase in its appropriation, and therefore any increase in additional workload could affect the appropriations required for the administration of the Racing Commission.

<b>Name:</b>	Paul Bowlinger/Kathy Roll	<b>Agency:</b>	Racing Commission, Office of Attorney General
<b>Phone Number:</b>	328-4280	<b>Date Prepared:</b>	02/02/2001

## **SENATE BILL NO. 2381**

**Page 2, line 5: After the word "wager", insert**

**"made on an account established in North Dakota"**

**Page 2, line 5: Following the word "through", remove**

**"a" and replace with "the"**



10765.0101  
Title.0200

Adopted by the Judiciary Committee  
February 7, 2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2381

Page 2, line 5, after "wager" insert "<sup>this gift</sup>made on an account established in North Dakota" and  
replace "a" with "the"

Renumber accordingly

Date: 2/7  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 238

Senate Judiciary Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amend SB ~~238~~ 2381

Motion Made By Watne Seconded By Nelson

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.		
Watne, D. Vice Chairman	X		Nelson, C.	X	
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 2/7  
Roll Call Vote #: 2

**2001 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 352581**

Senate	Judiciary	Committee
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☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

**Legislative Council Amendment Number**

Action Taken	Do Pass as Amended
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Motion Made By Watne Seconded By Trebeath

[illegible]

Total (Yes) 6 No 0

**Absent** 1

Floor Assignment Wagne

**If the vote is on an amendment, briefly indicate intent:**

**REPORT OF STANDING COMMITTEE (410)**  
February 8, 2001 1:25 p.m.

**Module No: SR-23-2738**  
**Carrier: Watne**  
**Insert LC: 10765.0101 Title: .0200**

**REPORT OF STANDING COMMITTEE**

**SB 2381: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2381 was placed on the Sixth order on the calendar.**

Page 2, line 5, after "wager" Insert "made on an account established in this state" and replace "a" with "the"

Renumber accordingly

**2001 HOUSE JUDICIARY**

**SB 2381**

## 2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2381

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-07-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		984 to 5072
Committee Clerk Signature <i>Joan Davis</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2381. Relating to simulcast wagering.

Rep Mahoney: District 33, introduced the bill on simulcast wagering. (see attached testimony)

Chairman DeKrey: If there are no questions, thank you for appearing.

Susan Balla: CEO of a company called Racing Services Inc, we are the license service provider and a system integrator and are licensed and regulated by the North Dakota Gaming Commission to provide the technical services that is the computer system, the telecommunications network, the satellite communications and simulcast services to the eligible organizations which are the charities and nonprofit which actually conduct the wagers. We have been at this for 10 years. In 1987 there was legislation passed for live paramutual horse racing. We had a governor that was interested in the development of racing as a economic segment of the agricultural industry. In 1988 the revenue question was studied and 1989 came back to the legislature and passed legislation for simulcasting. The model set aside industry funds for economic development and tourism. In ten years we have finally amassed and set aside enough funding to take this industry

forward, we have generated 6.9 million dollars to the general fund and another 6 million dollars to the industry fund. The next project is to take the funds and develop a live racing venue. This would do two things, horses that are running out of state would stay home and the economic development and tourism which would occur, we are looking at an economic spend recurring annually of 4.9 million dollars. There are two cities that are interested, Bismarck/Mandan and Fargo. Fargo is working with NDSU. This bill would work under the existing law. We would like to keep the dollars in the state. A player can now set up a telephone account out side the state, but with this law we would keep money in the state. (see attached )

Rep. Wrangham: I assume that the account would be set up by calling your organization.

Susan Bella: The racing commission would have to set up the rules, they would go to the local charities and then explains the procedure.

Rep. Wrangham: How would this work with someone out side of the state.

Susan Bella: I believe that there would be a number to call the charity to set up the account. We expect to propose to the racing commission a computer system we can log and monitor all charities. She goes on to explain further.

Rep. Wrangham: What does the Hospitality Association think of this project.

Susan Bella: I have visited with several and have a positive reaction.

Rep. Wrangham: How much of a problem does horse race wagering cause.

Susan Bella: We have not found any yet. This is a slower game, it doesn't have the same effect with immediate gratification.

Rep. Wrangham: You haven't contributed.

Susan Bella: We don't think so.

Rep Delmore: How many sites are there in the state.

Susan Balla: There are nine.

Rep Delmore: Are there any surrounding states that offer this.

Susan Balla: Idaho and goes on to name several more.

Rep Delmore: would you see any more sites opening.

Susan Balla: I believe with this we are going to better support and protect those that are open and may spur more development.

Rep Klemin: I am not sure how this works.

Susan Balla: Gives examples and further explains the process.

Rep Klemin: Can you follow this on the Internet.

Susan Balla: You can see it, but it is very jerky.

Rep Klemin: So you can do all this at home, you don't have to leave, how to get your money.

Susan Balla: You would have to cash out through the charity.

Rep Klemin: But when they win, does the money go into their account.

Susan Balla: Yes, until it is cashed out.

Rep Maragos: Is there a limit to the amount that you can bet.

Susan Balla: There is a minimum of \$2.00 , there is no maximum.

Chairman DeKroy: IF there are no further questions, thank you for appearing, anyone else wishing to testify either in support, opposition or neutral.

Bob Bennett: Attorney General's office, the Attorney General takes no position on this bill and so is neutral. He did receive a letter that raised from red flags which may have some violations to federal law it may involved some interstate wagers. (see attached letter).



Page 4

House Judiciary Committee

Bill/Resolution Number SB 2381

Hearing Date 03-07-01

Chairman DeKrey: How long have other states been doing the wagering.

Susan Balla: For at least eleven years. There has been telephone wagering for three to four years both interstate and intrastate. There is a federal statute and the opinion is that this type of wagering is acceptable. She goes on to explain further.

Chairman DeKrey: In other states have trouble with the federal government shutting them down.

Susan Balla: We have no knowledge that any state has been shut down.

Rep Maragos: Does this mean if a bet is made inside North Dakota, that they would still be in violation of this law.

Bob Bennett: Probably not. He went on to explain the jurisdiction problem. He asked that any additional papers to clear up the problem be directed to the US Attorney office.

Vice Chr Kretschmar: Are you familiar with the statute that Ms Balla refers to.

Bob Bennett: Yes.

Chairman DeKrey: what is the liability to the state if we pass this law and then the federal government shuts us down.

Bob Bennett: To the state none, those that are taking the bets would be subject to federal violation.

Rep Klemin: Something needs to be looked at.

Bob Bennett: The research was just done as of this last Monday, it may not violate the intrastate and instate as long as there is not use of intrastate telecommunications.

Rep Klemin: How is a person to know.

Rep Mahoney: How is this new system as to how it is handled now, have a concern under the current law.

Bob Bennett: It may be, then he goes on to explain in detail.

Chairman DeKrey: Where did the inquiry come from.

Bob Bennett: When SB 2381 came up, I talked with several people (from the legislative office) in the office and we thought that this should go to the US Attorney Office.

Rep Mahoney: I am disturbed, I am a sponsor and have not heard anything about this issue, but when this was coming through the Senate the issue was raised about the charitable handling the bets, we went the extra effort to make sure that we raised no North Dakota constitutional issue and now all of a sudden we have the federal issue that was never considered or looked at, do you people have a problem with account wagering that you are trying to find something.

Bob Bennett: The federal issue never came up until after the process had occurred. This is not a bill that I was tracking, the Attorney General is neutral.

Rep Delmore: With web sites, you can do this right now, are you looking irregularities there as well..

Bob Bennett: Some web sites, you can go on overseas sites, the federal government is looking at those.

Rep Delmore: None of the revenue is coming back from that, this bill will benefit North Dakota. As we look at technology there are many things that we have no control over.

Bob Bennett: I agree.

Chairman DeKrey: Are there any further questions, if none thank you for appearing, anyone in opposition, anyone neutral. We will close the hearing on SB 2381.

## 2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2381b

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-13-01

Tape Number	Side A	Side B	Meter #
TAPE I		x	4240 to 5740
Committee Clerk Signature <i>Joan Duro</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2381.

### COMMITTEE ACTION

#### DISCUSSION

Rep Grande moved a DO NOT PASS, seconded by Rep Kingsbury.

#### DISCUSSION

Chairman DeKrey: the clerk will call the roll on a DO NOT PASS motion on SB 2381. The motion falls with a vote of 4 YES, 9 NO and 2 ABSENT. Rep Delmore moved a DO PASS, seconded by Rep Maragos. The clerk will call the roll on a DO PASS motion on SB 2381. The motion passes by a vote of 9 YES, 4 NO and 2 ABSENT. Carrier Rep Maragos.

Date: 03-13-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB-2381

House JUDICIARY

Committee

☐ Subcommittee on \_\_\_\_\_  
or  
☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken

Do Not Pass

Motion Made By

Rep Grande

Seconded By

Rep Kingsbury

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey		✓			
VICE CHR -- Wm E Kretschmar		✓			
Rep Curtis E Brekke					
Rep Lois Delmore		✓			
Rep Rezael Disrud		✓			
Rep Bruce Eckre		✓			
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin		✓			
Rep John Mahoney		✓			
Rep Andrew G Maragos		✓			
Rep Kenton Onstad		✓			
Rep Dwight Wrangham	✓				

Total (Yes) 4 No 9

Absent 2

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*fails*

Date: 03-13-01  
Roll Call Vote #: 2

**2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB-2381**

House JUDICIARY

Committee

☐ Subcommittee on \_\_\_\_\_

or

☐ Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken

Do Pass

Motion Made By

Rep Delmore

Seconded By

Rep Maragos

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke					
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande		✓			
Rep G. Jane Gunter		✓			
Rep Joyce Kingsbury		✓			
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham		✓			

Total

(Yes)

9

No

4

Absent

2

Floor Assignment

Rep Maragos

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
March 13, 2001 12:53 p.m.

**Module No: HR-43-5467**  
**Carrier: Maragos**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2381, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS (9 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2381 was placed on the Fourteenth order on the calendar.**

2001 TESTIMONY

SB 2381

## **LEGISLATIVE TESTIMONY**

**Senate Bill 2381**

**Sponsored by**

**Senators Jerry Klein, Russell Thane**

**Representatives John Mahoney, Rick Berg and Arlo Schmidt**

- This bill is a technical bill.
- It is not an expansion of gambling in North Dakota
- It enables the use of technology currently used in other states.
- Currently, citizens can set up accounts in other states and be taxed in that state. We want to keep those dollars at home. We would like to have people in other states set up accounts here and be taxed in North Dakota.
- This activity is already permitted in the existing state statutes and rules and is regulated by the North Dakota Racing Commission under the existing charitable system.
- Charities have been losing funds to other states. This will keep the dollars at home and ensure keeping the tax dollars at home.
- The state and local charities and North Dakota horse industry will benefit from this legislation.
- Legislation is supported by the North Dakota Racing Commission.



Prepared for House Judiciary  
March 7, 2001

**LEGISLATIVE INTENT FOR SENATE BILL NO. 2381**

**It is the intent of Senate Bill 2381 that account wagering is to be conducted under the existing charitable system, and licensed and regulated in accordance with rules adopted by the North Dakota Racing Commission as provided for under 53-06.2.**

## U. S. Department of Justice

*United States Attorney  
District of North Dakota*



*William L. Guy Federal Building  
220 East Rosser Avenue - Room 372  
P. O. Box 699  
Bismarck, ND 58502-0699*

*701-530-2420  
FAX: 701-530-2421*

March 5, 2001

The Honorable Wayne K. Stenehjem  
Attorney General  
State of North Dakota  
600 East Boulevard Avenue  
Bismarck, ND 58505-0040

Re: Engrossed Senate Bill No. 2381

Dear Mr. Stenehjem:

We have been contacted by your office regarding Engrossed Senate Bill No. 2381. The inquiry involves whether the proposed law may violate federal gambling laws. Upon our preliminary review of Engrossed Senate Bill No. 2381 and relevant federal law, we have concerns that the adoption of the Bill may result in a North Dakota State law authorizing gaming procedures which may conflict with federal gambling laws.

It is our understanding horse race betting is legal in North Dakota pursuant to NDCC § 53-06.2 through simulcast racing, which must be run by a charity. It appears that Engrossed Senate Bill No. 2381, among other things, would amend NDCC § 53-06.2-10.1 to permit "account wagering" and the receipt of bets or wagers via wire communications transmitted in interstate and foreign commerce.

The proposed amendment to NDCC § 53-06.2-10.1 in Engrossed Senate Bill No. 2381 would specifically authorize the licensed simulcast service provider to engage in "account wagering." Account wagering "means a form of parimutuel wagering in which an individual deposits money in an account and uses the account balance to pay for parimutuel wagers." (SB No. 2381) In essence, a bettor would deposit money on account with the licensed simulcast service provider and could then place bets or wagers from the account in person, or "by direct telephone communication, or through other electronic communication in accordance with rules adopted by the Commission." (Senate Bill No. 2381)

The Honorable Wayne K. Stenehjem

Page 2

March 5, 2001

Under this amendment it appears that a bettor could deposit money in his wagering account with the service provider, then contact the service provider by telephone, e-mail, or facsimile to place a bet on a certain race, and the amount of the bet would be withdrawn from the bettor's account. However, it appears that an account wager placed by telephone or other electronic communication transmitted in interstate or foreign commerce may constitute a violation of 18 U.S.C. § 1084, transmission of wagering information in interstate or foreign commerce. (See United States v. Southard, 700 F.2d 1, 20 (1st Cir. 1983); United States v. Reeder, 614 F.2d 1179 (8th Cir. 1980); United States v. Scavo, 593 F.2d 837, 840-42 (8th Cir. 1979); Truchinski v. United States, 393 F.2d 627, 630-31 (8th Cir. 1968); United States v. McDonough, 835 F.2d 1103, 1104 (5th Cir. 1988))

A two year felony is committed under 18 U.S.C. § 1084(a) if:

"Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest. . . ."

18 U.S.C. § 1084(b) provides a limited exception for the unlawful transmission in interstate or foreign commerce of certain information in connection with bets and wagers. It states:

"Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State or foreign country where betting on that sporting event or contest is legal into a State or foreign country in which such betting is legal." (emphasis supplied).

However, although Section 1084(b) provides a partial exception for the transmission of news reporting of sporting events and information assisting in the placing of bets or wagers on a sporting event, there is no specific exception for the transmission in interstate or foreign commerce of bets or wagers themselves.

The Honorable Wayne K. Stenehjem

Page 3

March 5, 2001

As we read the proposed amendment set forth in Engrossed Senate Bill No. 2381, it appears that the resulting state law may authorize the transmission in interstate and foreign commerce of actual bets and wagers, not just news reporting or wagering information, in violation of 18 U.S.C. § 1084. Depending on the specific facts of a case, the placement of a bet or wager under the account wagering provision could violate federal law unless the bettor was in North Dakota at the time he placed the bet and the electronic information was not transmitted in interstate or foreign commerce. Furthermore, even the placement of a bet or wager by electronic means from one location within North Dakota to another location within North Dakota may constitute the transmission of a bet or wager in interstate or foreign commerce, as many telecommunication companies and e-mail service providers route calls and e-mails to locations outside of North Dakota before transmitting the messages back into North Dakota. Finally, although there is some conflicting case law, a person, such as a service provider under Senate Bill No. 2381, who receives bets or wagers transmitted to him in interstate or foreign commerce may violate 18 USC § 1084(a) and be prosecuted, depending on the facts and circumstances of a specific case. (See United States v. Reeder, 614 F.2d 1179 at 1184-85; United States v. Pezzino, 535 F.2d 483, 484 (9th Cir. 1976); United States v. Sellers, 483 F.2d 37, 44-45 (5th Cir. 1973); United States v. Tomco, 459 F.2d 445, 446-47 (10th Cir. 1972); and Sagansky v. United States, 358 F.2d 195, 200 (1st Cir. 1966) (Compare United States v. Stonehouse, 452 F.2d 455, 456-58 (7th Cir. 1971)).

We hope that this information may be helpful to you and your office. Please call if you have any questions.

Sincerely,

LYNN E. CROOKS  
United States Attorney

By:



SCOTT J. SCHNEIDER  
Assistant United States Attorney

SJS:ram

Service: LEXISNEXIS

TOC: United States Code Service: Code, Const. Rules, Conventions & Public Laws : /.../: CHAPTER 57.  
INTERSTATE HORSERACING : § 3002. Definitions

Citation: 15 U.S.C. sec. 3002

**15 USCS § 3002**

**UNITED STATES CODE SERVICE**

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\*\*\* CURRENT THROUGH P.L. 106-580, APPROVED 12/29/00 \*\*\*  
\*\*\* WITH A GAP OF 106-554 \*\*\*

**TITLE 15. COMMERCE AND TRADE  
CHAPTER 57. INTERSTATE HORSERACING**

**15 USCS § 3002 (2000)**

**§ 3002. Definitions**

For the purposes of this Act [15 USCS §§ 3001 et seq.] the term--

- (1) "person" means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other organization or entity;
- (2) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;
- (3) "interstate off-track wager" means a legal wager placed or accepted in one State with respect to the outcome of a horserace taking place in another State and includes pari-mutuel wagers, where lawful in each State involved, placed or transmitted by an individual in one State via telephone or other electronic media and accepted by an off-track betting system in the same or another State, as well as the combination of any pari-mutuel wagering pools;
- (4) "on-track wager" means a wager with respect to the outcome of a horserace which is placed at the racetrack at which such horserace takes place;
- (5) "host State" means the State in which the horserace subject to the interstate wager takes place;
- (6) "off-track State" means the State in which an interstate off-track wager is accepted;
- (7) "off-track betting system" means any group which is in the business of accepting wagers on horseraces at locations other than the place where the horserace is run, which business is conducted by the State or licensed or otherwise permitted by State law;
- (8) "off-track betting office" means any location within an off-track State at which off-track wagers are accepted;
- (9) "host racing association" means any person who, pursuant to a license or other permission granted by the host State, conducts the horserace subject to the interstate wager;
- (10) "host racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate the conduct of racing within the host State;
- (11) "off-track racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate off-track betting in that State;
- (12) "horsemen's group" means, with reference to the applicable host racing association, the group which represents the majority of owners and trainers racing there, for the races subject to the interstate off-track wager on any racing day;
- (13) "parimutuel" means any system whereby wagers with respect to the outcome of a horserace are placed with, or in, a wagering pool conducted by a person licensed or otherwise permitted to do so under State law, and in which the participants are wagering with each other and not against the operator;

(14) "currently operating tracks" means racing associations conducting parimutuel horseracing at the same time of day (afternoon against afternoon; nighttime against nighttime) as the racing association conducting the horseracing which is the subject of the interstate off-track wager;

(15) "race meeting" means those scheduled days during the year a racing association is granted permission by the appropriate State racing commission to conduct horseracing;

(16) "racing day" means a full program of races at a specified racing association on a specified day;

(17) "special event" means the specific individual horserace which is deemed by the off-track betting system to be of sufficient national significance and interest to warrant interstate off-track wagering on that event or events;

(18) "dark days" means those days when racing of the same type does not occur in an off-track State within 60 miles of an off-track betting office during a race meeting, including, but not limited to, a dark weekday when such racing association or associations run on Sunday, and days when a racing program is scheduled but does not take place, or cannot be completed due to weather, strikes and other factors not within the control of the off-track betting system;

(19) "year" means calendar year;

(20) "takeout" means that portion of a wager which is deducted from or not included in the parimutuel pool, and which is distributed to persons other than those placing wagers;

(21) "regular contractual process" means those negotiations by which the applicable horsemen's group and host racing association reach agreements on issues regarding the conduct of horseracing by the horsemen's group at that racing association;

(22) "terms and conditions" includes, but is not limited to, the percentage which is paid by the off-track betting system to the host racing association, the percentage which is paid by the host racing association to the horsemen's group, as well as any arrangements as to the exclusivity between the host racing association and the off-track betting system.

#### **HISTORY:**

(Oct. 25, 1978, P.L. 95-515, § 3, 92 Stat. 1811.)

(As amended Dec. 21, 2000, P.L. 106-553, § 1(a)(2), 114 Stat. 2762.)

#### **HISTORY; ANCILLARY LAWS AND DIRECTIVES**

##### **Explanatory notes:**

The amendment made by § 1(a)(2) of Act Dec. 21, 2000, P.L. 106-553, is based on § 629 of Title VI of H.R. 5548 (114 Stat. 2762A-----), as introduced on Oct. 25, 2000, which was enacted into law by such § 1(a)(2).

##### **Effective date of section:**

For the effective date and application of this section, see 15 USCS § 3001 note.

##### **Amendments:**

2000. Act Dec. 21, 2000, in para. (3), inserted "and includes pari-mutuel wagers, where lawful in each State involved, placed or transmitted by an individual in one State via telephone or other electronic media and accepted by an off-track betting system in the same or another State, as well as the combination of any pari-mutuel wagering pools".

#### **NOTES:**

#### **RESEARCH GUIDE**

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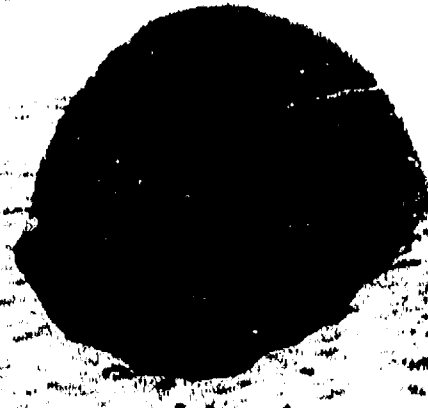
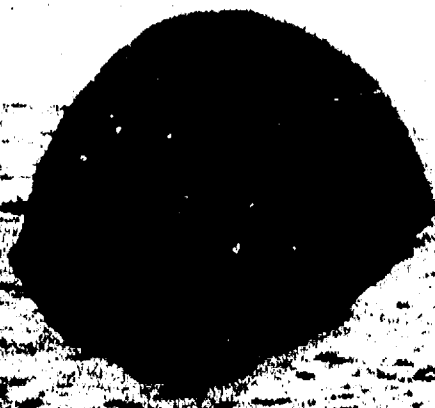
38 Am Jur 2d, Gambling § 59.

Source: LEGISLATION  
TOC: [United States Code Statutes Code Const. Rules Conventions & Public Laws : /.../ : CHAPTER 57.](#)  
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# HORSEPLAYER

## A NOTE FROM THE PUBLISHER

Has racing kept pace with the latest technological advances?

It has been slightly more than two-and-a-half years since our last issue on the role of technology in racing, handicapping and wagering, and, for the most part, racing has done a reasonably good job of moving into the 21st century.

While racing still has some distance to go before entirely shedding its long-held image of wise guys chomping on cigars, past performances rolled up and tucked in their hip pockets, there are more techno-savvy handicappers than ever, and all across the board, too. Young and old, casual fan and serious pro alike, the players of today are using computers in unprecedented numbers, especially to stay in touch, at the click of a mouse, with what's going on in racing on a moment-by-moment basis. Results, entries, scratches, headlines - all out there, lots of it free.

Moreover, online wagering and past-performance information have really begun to take off, so much so that handicapping a race and placing a bet on it have become virtually identical to the process high-tech stock investors employ to analyze a stock and then execute the buy right from their computers. Experienced horseplayers have come to love the convenience, and racing's marketers should further exploit that convenience to get computer-hugging, Internet-surfing young adults into the handicapping-and-wagering mix. In this issue, we will highlight the advances made in online, both by computer and telephone, wagering technology.

Although technology is most often associated with computers, racing has also used television, of the satellite and subscriber variety more so than the broadcast or cable kind, to reach out. The at-home handicapper can now put himself right in the thick of things, every day of the year, just by switching on the tube. These racing-oriented signals provide not only crystal-clear pictures and sounds from the racetracks they cover, they also offer informative analysis and commentary that can help viewers, particularly the novices, let go of intimidation and begin to participate in the fascination of studying the horses and making real-live wagers. If these companies succeed in growing the fan base, it can only help. We'll take a closer look at the new role of television in covering racing.

Of course, all this technology has spawned numerous online resources purportedly dedicated to helping handicappers. But do they? We'll find out.

And as wonderful as technology has been in transforming racing and handicapping and wagering into an easier, more attractive pursuit than ever, it is helpful to remember that no machine in a box can do it all. Indeed, even for the sharpest computer handicapper, when it comes to beating the races, the most important computer of all is still the one that sits not on a desk or a lap, but between your ears.

*Thomas D. Quigley*

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**Publisher**  
Thomas Quigley

**Editor-In-Chief**  
Clinton Smith

**Editorial Director**  
Steve Unile

**Associate Editor**  
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**Designer**  
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**Contributing Writers**  
Dean Arnold  
Steve Davidowitz  
Bill Finley  
Scott Finley  
Jason Levin  
Tim McCarthy  
Richard Nilsen

**Contributing Photographers**  
Kaley Barrett  
Shigeki Kikkawa  
Dwayne Loo

**General Manager**  
Jeff Solman

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Steve Terelak

For subscription orders or change of address requests,  
please call (800) 334-6560

**Chief Financial Officer**  
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**Chief Technology Officer**  
Stuart Slagle

**Color Separation & Stripping**  
Western Laser Graphics Inc.

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R.R. Donnelley & Sons

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# Online Betting

in the  
Internet Age

## POINT, CLICK, ACTION!

In the emerging Information Age in which we now live, the Internet has been indomitably woven into the fabric of our everyday lives. Rarely a day passes without e-mail, browsing through news, information and entertainment websites, online shopping or the latest stock market news of dot-com booms and busts.

The racing industry has enthusiastically embraced the Internet as a tremendous tool with which to educate its fans and inform its players. However, it has shied away from adopting it as the instrument for which it seems even better suited - distributing the excitement and challenge of horse racing to new markets, while extending wagering functionality beyond the restraining and sometimes over-regulated confines of racetracks and off-track betting facilities.

Hampered by state regulations in many jurisdictions, confronted by crusading politicians preaching against the evils of gambling, and facing an uncertain reception in Washington, most tracks have held back and taken a wait-and-see approach with respect to interactive wagering.

Yet there is hope on the horizon.

Pioneering efforts by a handful of enterprising operations have established that there is a huge pent-up demand for the convenience and enhanced experience offered by online betting.

Several states have passed enabling legislation. Other interactive betting bills have narrowly missed in California and New Jersey due to last-minute governor vetoes.

In one of his last acts before leaving office, President Clinton signed an omnibus bill into law that contained an amendment to the Interstate Horseracing Act of 1978. It addressed the legality of cross-state co-mingling of simulcast pools and expressly sanctioned interstate account wagering "by telephone or other electronic media," so long as account wagering is legal in each state involved.

"The recent clarification of the Interstate Horseracing Act has substantially improved the legislative environment on a Federal level for Internet account wagering," explained John Hindman, Vice President Communications of Television Games Network (TVG).

Account wagering - whereby a player may bet against funds on deposit and through a variety of communications tools - is the wave of the future. In examining the online technology, features and functionality now available to horseplayers in many states, it becomes apparent that North America's racing fans could be in for a dynamic and exciting ride in the years ahead.

**BY SCOTT FINLEY**



First out of the gate back in the last century, Youbet has set the pace in interactive wagering since 1998. Their 16,000-plus customers bet in excess of \$100 million in 2000.

"Our approach has been that the game [of racing] requires richness of media and speed of performance," said Ron Luniewski, Youbet's Chief Operating Officer. "It needs to be quite fast and compelling."

If you are on any racing-oriented mailing list, one or more of the ubiquitous Youbet software CD kits has certainly found its way into your mailbox. Yet in order to install and use the product, one had to practically have the computer skills of Bill Gates and the intellect of Andy Beyer before ever placing a wager.

"In 1998 a CD-based product could accomplish our goals," explained Luniewski. "As technology has evolved, we've kept the same goal, but we can now achieve it through a web-based product."

A complete working version of the browser-based version is now available. Youbet's software continues to offer real-time odds, live race video and downloaded past performances. New features promise to make access and use far easier than before.

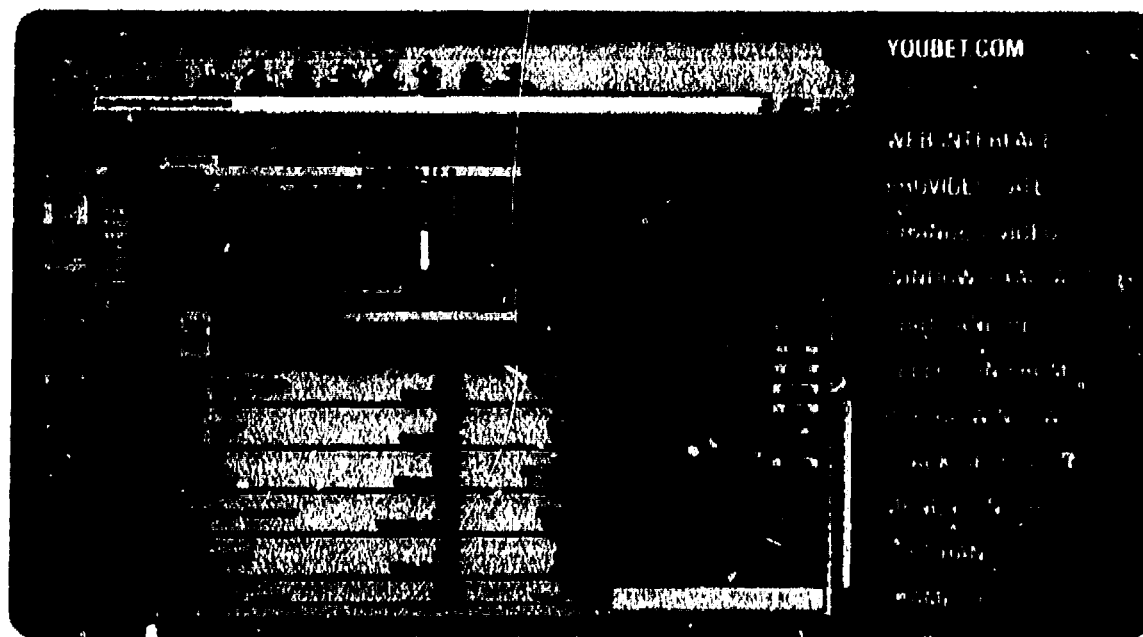
"A real strength of the new product is its ease of access, performance and our consistent delivery of 100k video feeds from the major tracks," Luniewski said. "Audio/video has always been our key differentiation."

During a test drive of Youbet's new browser-based service, the streaming video appeared smooth and consistent throughout an afternoon of racing, even at dial-up speeds of 45k. The only criticism was the small, fixed viewing window, which made races difficult to follow from tracks not using a split-screen close-up simulcast presentation.

For those home-based handicappers with a broadband Internet connection, streaming video has just about come of age. The services and connection speeds are only going to get better, faster and cheaper. The day is not too far off when online streaming may become the predominant means of watching and wagering on racing.

In describing another useful feature of Youbet's web-based product, Luniewski described an "Inside Track" service for major circuits.

"Press box correspondents constantly feed on-site reports, sending sophisticated handicapping information, post-parade and bias analysis, as well as information on weather changes and how the track is playing that day," he said.



**TECHNOLOGY**

"This year, we are starting some initiatives to expand into wireless," Luniewski continued.

"By leveraging our core technology, Youbet will be able to deliver a subset of our content to handheld devices and cellular phones."

"With our new products, I feel very confident that we can stay in markets we are in and also open up new ones," Luniewski concluded.

Youbet offers wagering over their online platforms to residents of 37 states.



Backed by some of the most powerful players in the racing and media industries, TVG launched their cable television network in July, 1999.

TVG features 12 hours of live programming daily with exclusive racing from major circuits such as New York (NYRA), California (Hollywood Park, Del Mar, Oak Tree at Santa Anita), Kentucky and Maryland.

Racing is presented in an ESPN SportsCenter format, with attractive co-hosts providing race analysis and handicapping information for experienced players, glib quips aimed at younger viewers and educational programming designed to attract a new fan base that racing so desperately seeks.

Coverage of key international racing events such as the Dubai World Cup, Britain's Royal Ascot and France's Prix de l'Arc de Triomphe further embellishes TVG's cachet.

While it is available on cable systems in Kentucky, the DISH network satellite distribution system, with its five million subscribers, has become TVG's primary delivery method. TVG is available nationwide on Channel 405 on all Dish Network program packages.

# Online Betting

The online wagering product launched by TVG in June 2000, will help to expand their reach and fulfill their promises to the racing industry's establishment of new revenue and new players.

"One of our advantages is that we can supply so much more information online," said John Hindman, TVG's Vice President of Communications. "We've done several things in the past year to add innovative services to TVG."

"We offer multiple websites for people with different types of hardware, equipment, or wagering goals," he continued.

"There's a full service site with all the bells and whistles, but if just getting online quickly and making a bet is the goal, there's a different site that operates much faster, where you don't have to load all the features."

Hindman explained that speed and convenience were paramount when TVG designed their online betting site.

"We offer numerous shortcuts. Our players can create a profile of the types of races they like to play, and then be presented with only the information for those races."

"Cards can be sorted by horse, trainer or jockey," Hindman added. "For example, if you want to see only those races where (Gary) Stevens is riding for (Bob) Baffert, then TVG can deliver the data to your screen in that exact format."

Other innovative features are custom cards and "time-slot" past performances. A racing fan wishing to play races only between 8 p.m. and 10 p.m. may order up programs and past performances for just those tracks and races that fall into the designated time slot. Handicapping information can be charged to the player's credit card.

Whether their customers are betting by telephone, over the Internet or via a set-top cable box, TVG believes in providing players with more than just the basic information.

"We feel that it's important to provide players with some complementary handicapping information," Hindman said.

"We offer various stats and features about each horse for both the novice and established player. Our goal is to give them a feel for a race, and then get them interested in betting that race."

While the online wagering platform is important to TVG, their marketing and product strategy from the beginning has been to foster the growth of interactive digital television.

**Belmont Park**

**5**

TVG

INTERACTIVE  
TELEVISION

INTERFACE PROMPTS  
USERS THROUGH  
MULTIPLE SCREENS  
FOR HORSE

INFORMATION, LIVE  
ODDS, AND WAGER  
TYPES IN ORDER TO  
COMPLETE A TVG  
BET TICKET

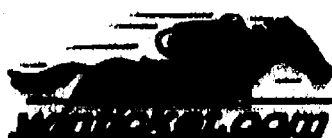


## POINT, CLICK, ACTION!

"We've been pleased with both the reception and the activity of our online product," said Hindman, "but the end game is wagering through the TV via the remote control and a set-top box."

"One of TVG's biggest assets is our ability to use technology to make an impact for racing and allow many more viewers to watch and bet using the TVG network."

NTRA Services, the provider of wagering services for TVG customers, accepts wagers from residents of four states: Kentucky, Louisiana, Maryland and Oregon.



The newest player on the interactive wagering stage is WinTicket.com, the new service from Ohio TAB.

Owned jointly by Beulah Park and River Downs, Ohio TAB has been providing account wagering services since 1994. They launched their online product in September, 2000.

"WinTicket.com is really just a self-service terminal for Ohio TAB," said Todd Bowker, General Manager of Ohio TAB. "But you could call it the ultimate self-service terminal."

"Our online product has been very positively received by our customers. During January we did a customer service survey and we got rave reviews. The growth at Ohio TAB since we introduced WinTicket.com has been dramatic."

After just four months of operation, the WinTicket.com online service now accounts for more than half of Ohio TAB's account wagering volume.

"WinTicket.com has brought a lot of people back to Ohio TAB," Bowker proclaimed. "In talking to our customers, we learned we were losing many of them to our competitors because they offered wagering by computer. This was our prime motivation to start our interactive service."

"Now, many inactive customers have come back," concluded Bowker, "and it's their return that we are most pleased with."

Ohio TAB's surge in business is impressive, considering that the WinTicket.com wagering interface is pretty basic. Yet horseplayers have been coming back for more.

"Our product will continue to evolve," Bowker confessed. "We didn't have the huge budget that some of our competitors have enjoyed when developing their systems. Still, it's an excellent product that we are

very proud of, and we have found that our customers love its simplicity and the speed of placing bets.

"In software terms, our customers are seeing Version One. We are already in the planning stages for Version Two, which will be available later this year," Bowker hinted. "We will be expanding our features, especially in the areas of account maintenance and streaming video, largely due to feedback we have gotten from our customers."

"We try to be very pro-customer," Bowker said. "We listen carefully to everything they tell us, because without them, we won't be in business long. Fortunately, horseplayers are not afraid to tell you what they think, and we have gotten some great ideas and feedback from our customers. We try to be as responsive to our customers' needs as possible."

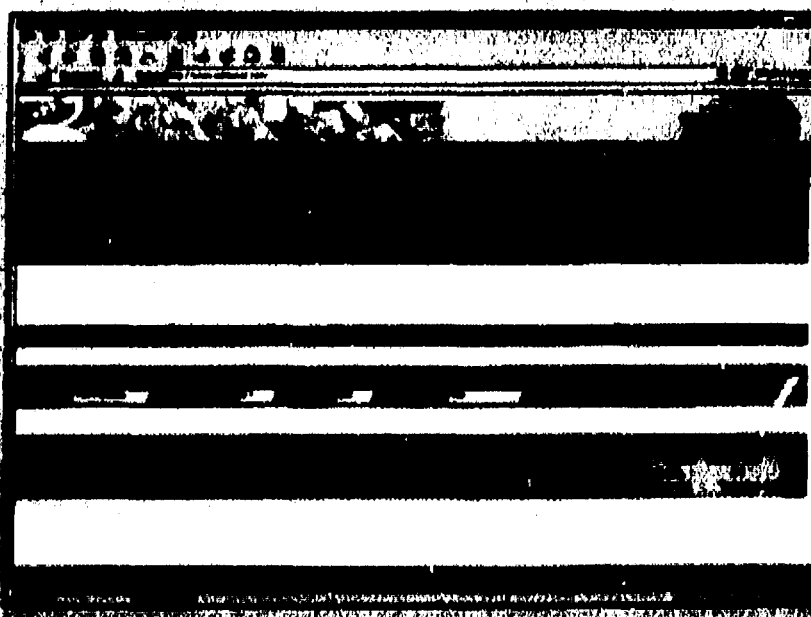
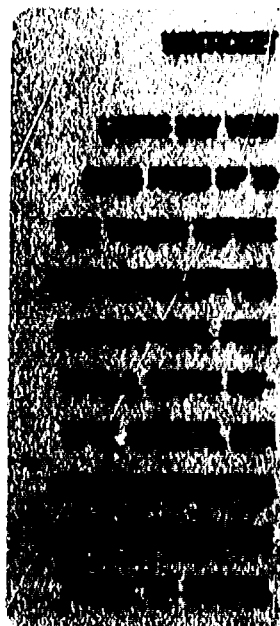
Yet the sheer convenience of betting online can also be cited as a factor.

"Many of our customers still prefer going to the track, but because of work schedules or living too far away, they don't get there as often as they would like to," Bowker maintained. "Our service lets them follow their favorite tracks and horses when they otherwise couldn't."

"Home wagering has the potential to make as large an impact on our industry as simulcasting has. If two groups from outside racing (Youbet and TVG) thought enough about the potential of interactive wagering to start companies to provide the service, the industry should take notice. We are excited about the possibilities for growth in handle nationwide through using new technology and increasing convenience for the horseplayer."

And that's at Beulah Park. Imagine the results if the major racing circuits embraced this new wave of technology.

Ohio TAB offers wagering accounts to residents of 36 states.



## FAIR GROUNDS NET BET

In August, 2000, Louisiana became the latest state to enact legislation permitting Internet account wagering.

Fair Grounds Race Course in New Orleans took advantage of the new law and opened a telephone betting operation last November as a prelude to the anticipated launch of their Internet platform later this month.

Despite minimal local marketing and almost no national promotion, Fair Grounds has managed to establish a nice little account-wagering business in just three months.

"Our initial thrust has been regional," explained Bryan Krantz, Fair Grounds President and General Manager.

"We're trying to build the business one block at a time, but our long range view is to broaden our market. The Internet component of our account wagering system is our most important long-term tool to develop that broader market."

Echoing the words of Todd Bowker, Krantz believes that, "Internet wagering is critical to the future of racing. It will be a key element of how we grow our product in the next generation and could prove the most important development since simulcasting."

Fair Grounds Net Bet will be fully integrated with the telephone and on-track account wagering systems, as well as the popular Player Rewards program Fair Grounds has offered for several years.

From a single account, players may place a wager at the track, an OTB, by telephone or on the Internet, and receive "frequent-player" points for all transactions.

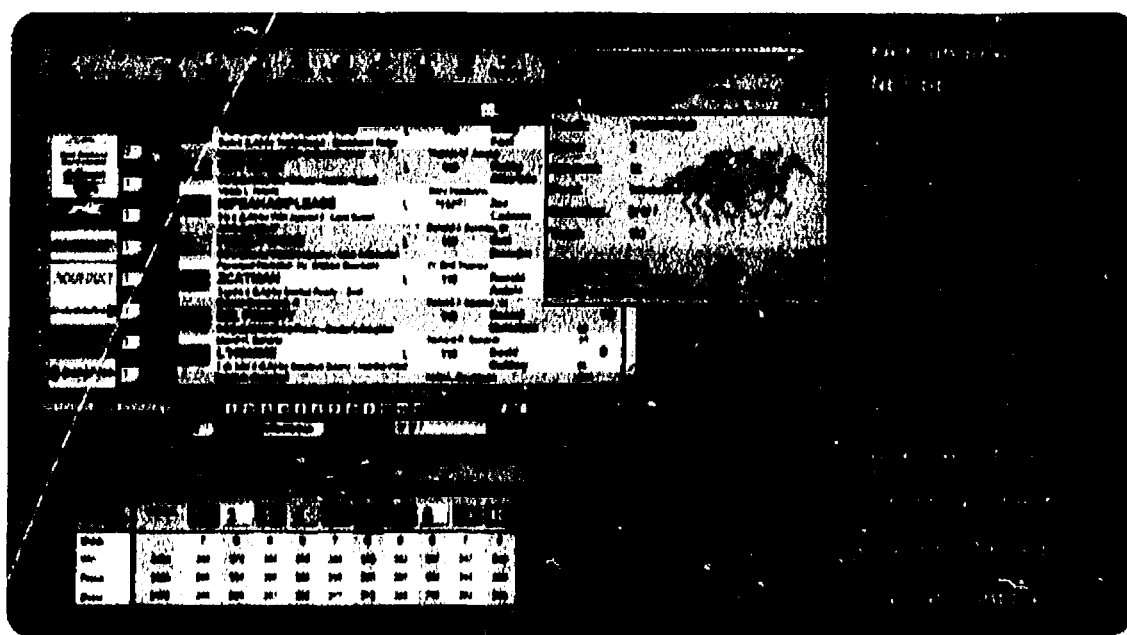
"Shortly after we roll out our Internet product, we intend to offer an enhanced version of Player Rewards that will address our local, as well as more distant customers," predicted Krantz.

Fair Grounds hopes to eventually add live online simulcasting of British racing to Net Bet, with the goal of building a 24-hour Internet racing presence.

"Our relationship with the Arena Leisure group, which operates six tracks in England, should give us a head start on bringing the quality and excitement of British racing to our account wagering customers," Krantz said.

Arena, in conjunction with Autotote, Fair Grounds' tote supplier, developed the software that Fair Grounds will use for Internet account wagering. The software will also be used by Rupert Murdoch's News Corp. and Britain's Channel Four Television to support online betting over their soon to be launched \$600 million British racing channel.

The wagering interface features real-time odds and interactive program pages on the same screen, along with three dif-



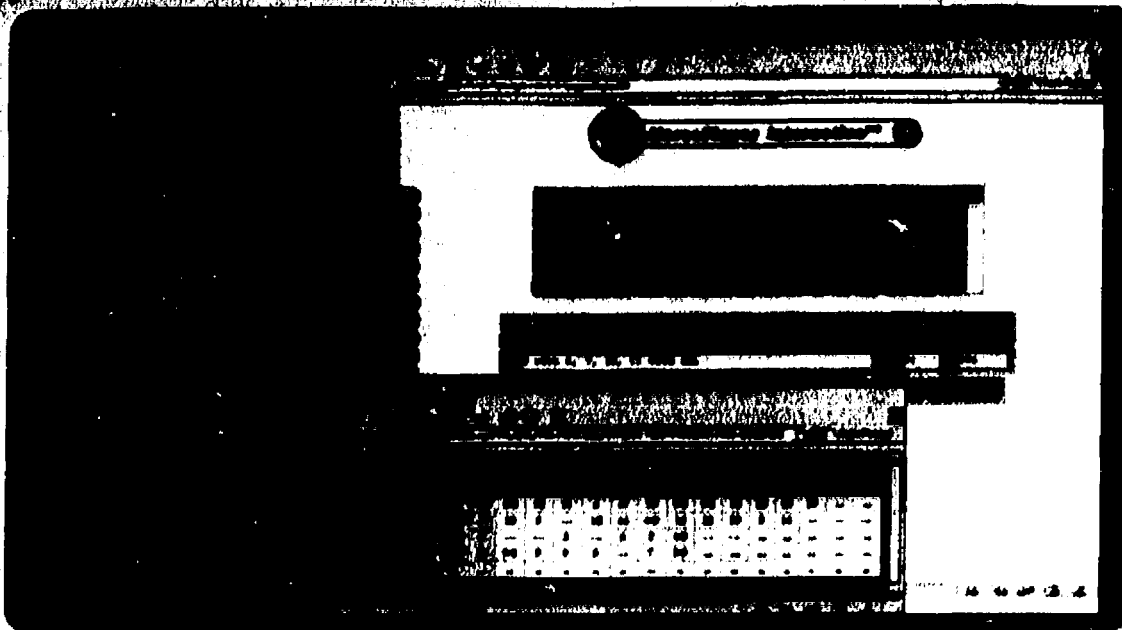
ferent betting tools which closely resemble Autotote's popular self-service terminals. The software will be integrated into Fair Grounds' existing website, <http://www.fgno.com>.

"After our live meet closes [end of March]," Krantz said, "we're looking at the Internet to maintain the momentum we've established with account wagering. Even though we've experienced some growing pains with our telephone betting service, the great news is there's a tremendous demand for the product."

Fair Grounds has plans to develop a regional cable television show featuring racing from other tracks in Louisiana, Arkansas and Texas. Undoubtedly, the spread of such a regional show will nicely complement Fair Grounds' account wagering services.

Fair Grounds offers wagering accounts to residents of 30 states and most foreign countries. Legal counsel is currently researching the number of states whose residents may also bet over the Internet.

(Continued on page 17)



Since 1997, HorsePlayer Interactive, the account wagering operation of the Ontario Jockey Club (OJC), has offered racing enthusiasts the ability to wager over the phone.

OJC has embarked upon an ambitious expansion plan to bring account wagering to a far wider audience.

Through acquisitions and partnership agreements with a host of Canadian tracks, HorsePlayer Interactive may now also serve residents of Alberta, New Brunswick, Prince Edward Island and over 80 percent of Ontario. OJC has also announced plans to purchase Hastings Park Racecourse in Vancouver.

"We're building a Canadian network," said Andrew Gaughan, Vice President Business Development at OJC. "Our vision is an across-Canada in-home wagering network, distributed by cable TV, set-top boxes, Internet and the telephone."

The Criminal Code of Canada contains explicit language regarding account wagering, which is legal only on or off-track with self-service terminals and over the telephone. However, in a clever work-around, the OJC has developed software that uses an Internet front-end to generate touch tones that access the tote directly over telephone lines in the exact manner as with approved telephone wagering.

"We tested our Internet front-end software the second week of January with the Canadian Pari-Mutuel Agency (CPMA)," Gaughan revealed. "There are some minor bugs that need to be fixed and then we'll enter a beta testing phase with 30 to 50 select customers that are big players and knowledgeable Internet users."

"I have 100 percent confidence that CPMA will approve us."

"Our online account wagering system keeps to the spirit and letter of the law," Gaughan continued. "We worked with

regulators and players alike content that their funds and wagers are safe.

Gaughan promised a number of new features to an already rich HorsePlayer Interactive website when the new service makes its debut later this year.

"We will have a better look and feel and will launch our own version of WebTote with double the capacity," Gaughan said.

"This system is a building block. Once we've gotten this approved, we'll begin to work on other devices like wireless. OJC plans to also layer on additional front-ends like a set-top box for digital TV."

HorsePlayer Interactive offers wagering accounts to residents of four provinces and most foreign countries (including the United States). All accounts are held in Canadian dollars and bets are made into Canadian pari-mutuel pools.

## Final Thoughts

Online account wagering, with the additional features and powerful information it provides the horseplayer, offers racing its greatest opportunity ever to revitalize the game and create an entirely new generation of fans.

"It doesn't take someone with a master's degree in computer science to see that our society is using computers and technology more and more every day," proclaims Winticket.com's Todd Bowker

"It's only natural then that horseracing use this technology. This is something that racing really needs to embrace. The tracks and states that don't will fall behind." **HP**

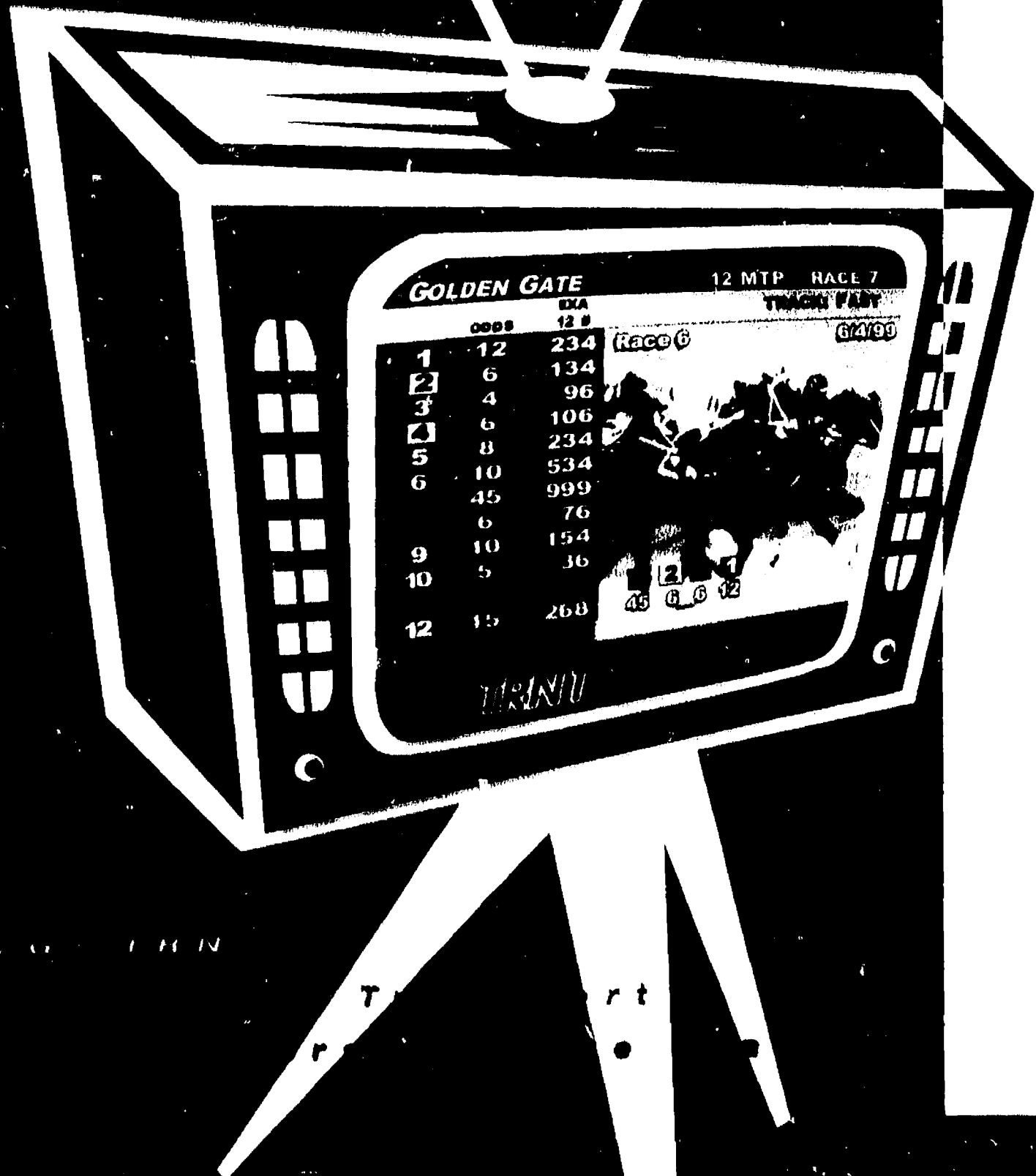
Scott Finley is Vice President Marketing for Autotote, the leading global supplier of pari-mutuel systems. He has followed technology trends in racing for years and lectured at numerous industry conferences on the Internet's impact on racing.



Room for Two TV Vehicles

on The Information

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# RETAKE

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1

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## TVG

**TV Games Network** is a Ferrari - it's slick, hip, sassy and, well, not exactly practical or for everyone.

Debuting during the summer of 1999, TVG promised its viewers and the industry that it represented the future of horse racing. Wanting to be anything but your grandfather's simulcasting program, TVG hoped to appeal to a new fan, a younger, hipper patron who would be lured to the sport by the entertainment value as well as the gambling factor. The powers that be at the network hoped that they could both attract new fans and keep existing fans tuned in as well. Backed by the deep pockets of corporate parent Gemstar International, as well as the NTRA and such powerful circuits as NYRA, Hollywood Park and the top Kentucky tracks, TVG's launch was an exciting time for horse racing.

From the time it sprung out of the gate, its been somewhat of a bumpy ride. TVG took its lumps from hardcore patrons who thought their needs were being ignored; its wagering system currently handles minimal amounts of money and TVG's relationship with the NTRA has been a bone of contention to many tracks, some of which have dropped out of the NTRA over this problem. But TVG is alive and well, still hoping to find the right mix in its programming so that it can keep the novice and the grizzled horseplayer happy at the same time. And its goal remains unchanged: to provide entertaining coverage of horse racing and to create a new breed of horseplayers who watch and wager from their homes.

"Our goal is to present balanced programming that both appeals to the racing fan and attracts new viewers to the network," said John Hindman, TVG's VP of Communications. "It's a balance we constantly work to achieve."

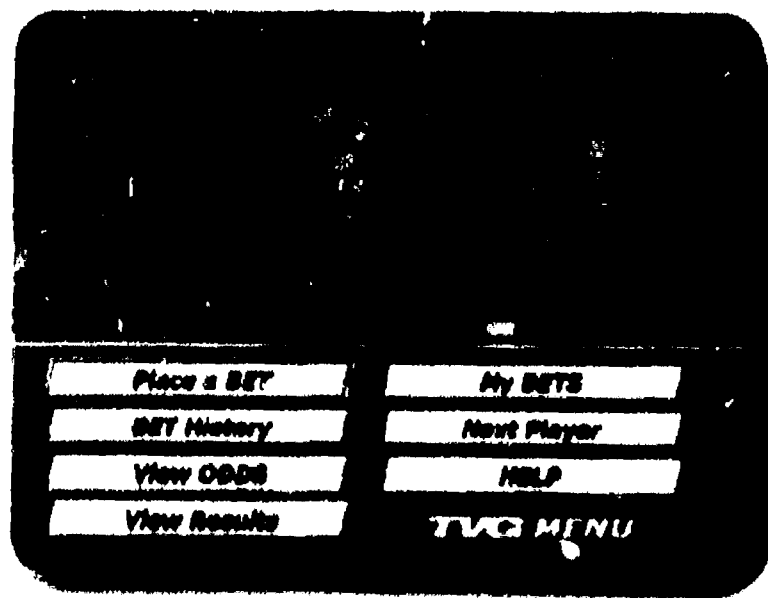
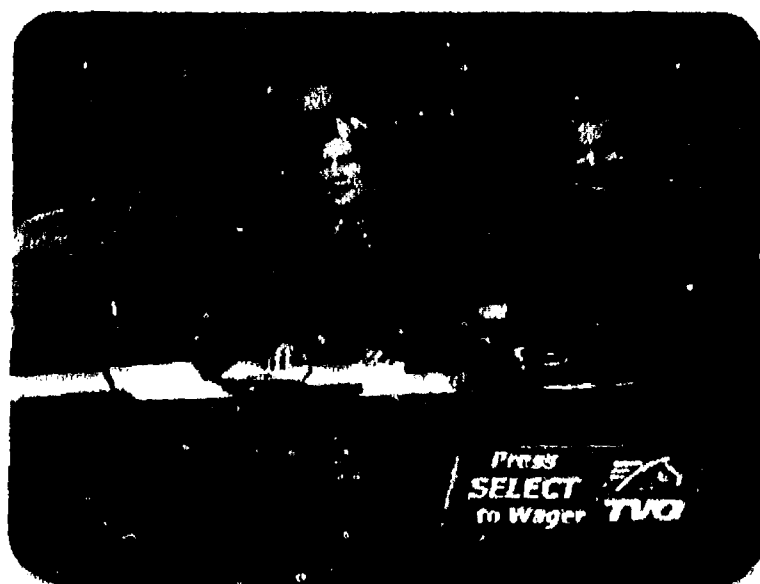
Many felt that TVG went too far in its early months, disregarding the needs of existing horse racing fans and gamblers while presenting programming that was off-the-wall. Racing seemed secondary while on-air hosts, some of whom knew next to nothing about horse racing, babbled on about their last date, their tastes in music and the latest episode of "Dawson's Creek." While most of the banter was weak, some of the features TVG did on racing personalities were excellent.

It didn't matter. The viewer who wanted racing action and information typically wasn't happy with a network that

showed no more than six races an hour and ignored things as vital as exacta will-pays.

In time, though, TVG made many of the necessary adjustments. Exacta prices are now a regular feature, and TVG packs far more races than it used to into a programming hour. The on-air talent has made some adjustments, as well, focusing more on racing and handicapping information and less on Britney Spears. Yet it has refused to become a nuts-and-bolts simulcasting program.

"There are a lot of things that we do that actually appeal to both the new fan and the established player," Hindman said.



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"The way we have our commentary set up, we always have one television person and one horse racing person. We'll have a Caton Bredar there to give expert analysis of what happened in a race or what is likely to happen before the race is run and then we'll have another person like a Greg Wolf, her partner, and his job is to ask the questions that a new player at home would ask and add commentary that helps Caton express her expertise in layman's terms.

"Other things we do are features, unique things about horse racing that a newcomer wouldn't know about. We also try to do features on the nuances of horse racing or about what people do around the racetrack and who the personalities are. That may be something established fans don't know about. That should help a handicapper know more about the tracks they are wagering on and allow a newer fan to see what the sport is all about. The greatest part of racing is the people and the animals in the sport and highlighting those elements sells the sport."

And while some people still may prefer a more nuts-and-bolts telecast, even TVG's harshest critics will agree that the network does some things extremely well. It seems that every time it takes its show on the road, it hits a home run. TVG's coverage of such events as the Dubai World Cup and the Arc de Triomphe has been excellent and has given American viewers a much-welcomed opportunity to watch some of the best races run on foreign soil. Pre-Kentucky Derby and pre-Breeders' Cup shows that featured live workouts of the main contenders were valuable to handicappers plotting their wagering strategies.

Some of the on-air talent still isn't very knowledgeable, but others are terrific. Trainer Frank Lyons has a unique perspective and his insights are often very informative and opinionated. Caton Bredar is among the most polished TV racing personalities there is and Gary Seibel is a knowledgeable veteran of network racing broadcasts. Todd Schrupp has toned down his act while still able to add some personality and life to the show.

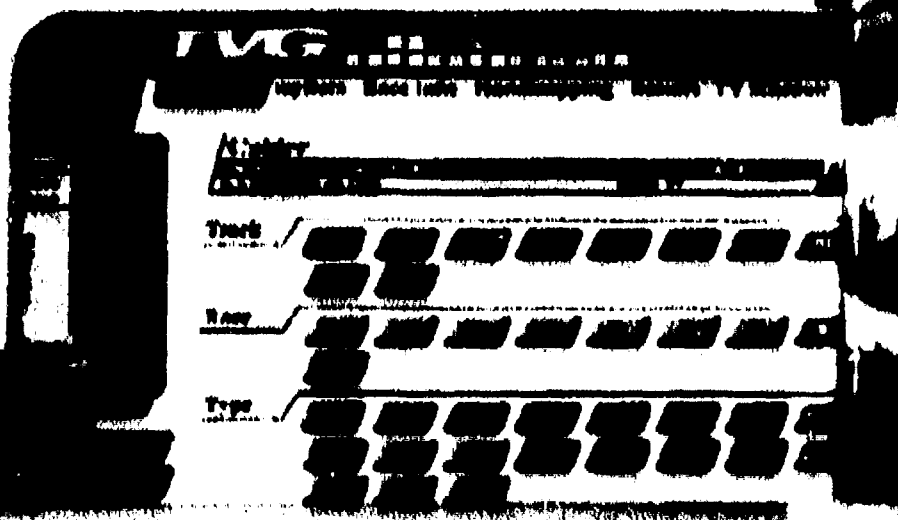
TVG executives hope that this is just the beginning of something special for the industry. As of now, TVG is only allowed to accept wagering from customers in four states -

Oregon, Maryland, Louisiana and Kentucky - but hopes to be able to add to its lineup when federal or some state laws are changed to make telephone wagering and betting over the Internet legal in more than just a handful of states. In the best-case scenario, TVG, currently available on the Dish Network and over cable systems in the Lexington and Louisville areas, will be a regular part of cable TV packages around the country and viewers will be able to bet on the races from set-top boxes not unlike cable remote controls.

"The interactive set-top box for remote control wagering is what we've always considered to be our holy grail and has always been, along with our quality programming value, what sets TVG apart, so it will be a very important part of our plan," Hindman said.

That's some of the good news. The bad news is that TVG and The Racing Network have been caught up in racing politics so that neither network is able to offer a full slate of top tracks. TVG is allied with the NTRA-friendly tracks and has exclusive agreements with NYRA and the Churchill Downs tracks, and races from those locales do not appear on TRN. Meanwhile, TRN is the network of favor of the Magna Entertainment tracks and some of the Mid-Atlantic tracks. Frank Stronach has a financial stake in TRN, which makes it unlikely his tracks will be appearing on TVG anytime soon.

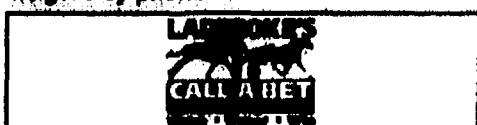
Obviously, TVG would like to see the Magna tracks return to the fold. It needs them to achieve its goal of presenting the best in racing action from around the country. The loss of Gulfstream and Santa Anita has been typical of some of the growing pains TVG has had to endure. TVG is a work in progress, better than it used to be but not as good as it can get.



No access to the Internet? You can still get in on the high-tech wagering revolution, and it's as easy as picking up your telephone - as long as you've given up your rotary-dial model and graduated to a touch-tone unit.

Three phone-betting outlets have automated their routines so that playing the tracks and horses of your choice is no more difficult than checking your bank balance or ordering movie tickets by phone.

The calls themselves are usually to toll-free numbers; however, each service has its own guidelines as to per-call costs or surcharges. Additionally, the availability of a service varies from state to state, so it's best to call the outlets you're interested in to make sure you can place your wagers by phone.



**Ladbrokes Call-A-Bet (1-800-LADBROKE)** offers a choice of live-operator or automated phone-wagering. You're not required to have a minimum balance

(other than to cover the cost of your wagers), and there are numerous ways you can make deposits into your account, including via major credit card (\$20 minimum, plus a 6 percent processing fee on the amount, charged to your credit card). There is a 35-cent per-call charge when you place a wager with a live operator; however, operator-handled balance inquiries are free. But if you use the automated touch-tone system to place your wagers, there is no charge.



**Autotote On the Wire (1-800-468-2260)** also offers a choice between human interaction and total automation, and there's no minimum balance requirement, either, other than the \$25 needed to open your account via check, money order or wire transfer. And regardless of how you place your bet, there are no fees for either the call or the transaction. High-rollers are offered a private VIP line to call to make their wagers without waiting.

**Philadelphia Park Phonebet (1-800-BET-2700)** has a \$1.50 access fee that is charged to your account with your first wager of the day, if you bet with a live operator. After that, any subsequent calls that day are free, which is helpful if you like to make bets multiple times a day or just before post time for each race. As with the other phone-wagering outlets, Philadelphia Park Phonebet's automated touch-tone system allows you to bet without incurring surcharges or fees. And a Phonebet bonus is that your action can be tracked and earn you points in a players-reward program. Bettors who exceed certain wagering thresholds can qualify for private VIP lines, free handicapping information upon request and even availability of in-home wagering machines that allow nearly last-second wagering.

While TVG and TRN are shown on the Dish Network, the truly hard-core racing fan will probably want a second dish to satisfy his viewing needs.

That's because nowadays, race-replay shows are more accessible than ever, thanks largely to the availability of DIRECTV. This personal-use satellite dish allows users to receive programming packages tailored to their interests. After purchasing and installing the dish, sports fans can order the Total Choice Sports option, which includes the basic Total Choice channels (similar to conventional cable television), plus channels such as The Golf Channel, SpeedVision and 23 regional sports outlets.

It's the regional outlets that should have racing fans excited. Fox Sports has channels in just about all the major mar-

kets, and a quick look through the DIRECTV listings shows that replays for Southern California, South Florida and New York are available from the Fox Sports regional affiliates in those areas.

Using February as an example, DIRECTV subscribers could have viewed Santa Anita's replays nightly on Fox Sports West, Gulfstream's on Fox Sports Florida and Aqueduct's on Fox Sports New York. And access to the Washington, D.C.-area Home Team Sports would have given them the Laurel replays, too.

For Quarter Horse racing fans, Los Alamitos replays can be seen on Fox Sports West 2, while harness aficionados can view the replays from The Meadowlands on Fox Sports New York.

In addition to the replays, there are locally produced live and studio

shows available.

"Santa Anita Live" is a Fox Sports West 2 program that typically runs for an hour each racing day and usually includes a real-time showing of the feature race. "Inside Santa Anita" is a weekly half-hour Fox Sports West studio show that highlights the coming weekend's stakes, while "The Inside Track" on Fox Sports New York spotlights NYRA action.

At times vary so a check of the DIRECTV listings is a must.

Fans who have satellite dishes not connected with DIRECTV, individual tracks broadcast replays "in the clear" via satellite. The coordinates for this programming vary from week-to-week or even day-to-day, and most racetracks' Web sites offer online information on the schedule of coordinates.



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