



TEXAS RACING COMMISSION
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Ron Flatter
Managing Editor
Horseracing Nation
714 W. Main St.
Louisville, KY 40202

Dear Mr. Flatter -

I am responding to your call for a solution that racing's existing establishment can embrace through meaningful conversation. Your article "[*Critics of federal regulation should answer this call*](#)" makes a point that we need solutions to uniformity in horse racing standards, not continuing criticism of the current attempt that has experienced tremendous resistance: The Horseracing Integrity and Safety Act of 2020 (HISA). To that end, if Congress determines that there is a continued need for invention in the federal regulation of horseracing, I offer a solution in the form of a master cooperative agreement (MCA) grant program.¹ The MCA federal-state partnership model has worked effectively for over forty years to achieve uniformity throughout the United States of America in multiple industries including agriculture, animal health, public safety, and National Guard readiness programs.

Consider a Fresh Perspective. Although I am continuing my career in public service in the role of a racing regulator, I have decades of experience managing millions of dollars in the implementation of federal programs by state government public safety and national guard organizations resourced by MCA programs. The solution for increased safety and integrity in horseracing cannot be a "one size fits all proposition" given that for the past 125 years, the lead in this regulatory framework, will always be the state racing commissions -- as HISA's current construct acknowledges in its "voluntary agreement" efforts with each state.

There is no automatic preemption of state law in the HISA statute. In fact, HISA requires states to "opt-in" if their statute permits. Since the Texas Racing Act does not permit us to "opt-in" to use state funds, personnel, and equipment to enforce federal law, we have initiated legal challenges and made policy decisions to address the constitutional and resourcing issues presented. (See also [TXRC 2023 Pari-Mutuel Wagering Export Signal Policy](#)). We understand the economic impact of the cost of the decision on our racing associations and horsemen, however, Texans know that certainty is priceless -- when it comes to a regulatory environment where the agency licensees depend upon clarity from the state regulatory body to make their livelihood. Outside of the legal challenges presented, the practical reality is that the implementation of the HISA statute will fail to achieve uniformity in its current form because: 1) it does not purport to regulate all breeds of horses; and 2) there is no effective resourcing model.

What gets resourced, gets done. Without a federal appropriation administered through a federal-state cooperative agreement program — there are no resources for most states to hire additional staff and employees and submit even the baseline required documentation set forth in the current HISA regulations, much less pay the private HISA Authority to oversee unfunded federal mandates. Given that HISA cannot be implemented without the cooperation of the states, I will continue, as I have for over nine months, in writings and personal conversations with national industry leaders to advocate for a cooperative agreement program. MCAs acknowledge that state's governance model remains sacrosanct, while also providing resourcing to incentivize the achievement of uniform national standards.

There are three simple steps the Federal Trade Commission (FTC) can take to implement a master cooperative agreement. Over nine months ago, I described them in our FTC comment on the proposed the HISA Cost Allocation Regulations.² These steps provide a viable resourcing model to fill the gaps between state racing commission appropriated budgets and the lack of means to hire the level of qualified staff armed with the modern equipment necessary to achieve the standards envisioned by HISA regulations.

No partnership model succeeds by criticizing those who cannot afford to participate, whether they be regulators, racing associations or horseman. Therefore, national industry leader should: 1) Model a horseracing cooperative agreement grant program after other viable agricultural and public safety grant programs based on cost estimates provided by state racing commissions; 2) Acknowledge that the state racing commissions are not resourced to meet the HISA proposed standards, nor for horseman as they move through the racing circuits and use that feedback to continually to improve uniform HISA regulations; and 3) accept the challenge to do your own research where you will find that there is no known federal program requiring states to fund uniform standards without resourcing the effort through congressional appropriations.

There is a better way. Perhaps the most powerful move that the HISA board and staff could make is to open a dialogue on the cooperative agreement model and allow all stakeholders, each with their unique perspectives, experiences, and roles, to design and engage in implementing the future of the whole horseracing industry. No one benefits from the time spent in court and in public engaging in negative debates on the future of the industry. Those who are most vulnerable deserve our best effort to create solutions for all stakeholders, especially the equine athletes and horseman who invest heavily in this industry as a critical part of their livelihood.

Every Horseracing State has a National Guard MCA program. To illustrate the power of these in effect throughout the U.S., look at the National Guard (NG) MCA program. When I deployed to Afghanistan with fellow National Guard soldiers and airman from premier horseracing states such as California, New York, Kentucky, Louisiana, and West Virginia, I knew that they had all met uniform training and continuing education standards set forth in the National Guard MCA program.³ So why does the NGMCA with common safety and training standards for each state effectively achieve a common goal, to rotate service members to deploy in support of complex operations around the globe? It works because the resourcing model does not require absolute uniformity in lock step with the threat of substantial penalty or loss of business/investment. Instead, the cooperative agreement model encourages the achievement of shared goals through a partnership investment model where both parties commit resources and agree on the pathway to achieve a shared uniform goal.⁴

As I have continued to serve in my role as Executive Director, my focus is to make the Texas Racing Commission the most professional racing commission in America. That effort takes place not only on the ground in our great state, but also by seeking opportunities to collaborate with national leaders to meet future challenges. As I told Lisa Lazarus when she visited Texas last summer -- communication creates partnerships and partnerships create solutions. Texas would be proud to host a conversation with all stakeholders to determine if this cooperative agreement model is the solution that I believe this great industry has been seeking for over twenty years.

AMY F. COOK
Executive Director
Texas Racing Commission

cc:

Judge Robert Pate, Chair, Texas Racing Commission
Dr. Connie McNabb, DVM, Vice Chair, Texas Racing Commission
Mr. Charles Scheeler, President Horseracing Integrity and Safety Authority Board
Ms. Lisa Lazarus, CEO, Horseracing Integrity, and Safety Authority
Eric Hamelback, CEO, National Horseman's Benevolent and Protective Association
Terry Meyocks, President/CEO, The Jockey's Guild
Charles Gardiner III, Chair, Association of Racing Commissioners International
Ed Martin, President, Association of Racing Commissioners International

¹ Cooperative agreements are agreements between Federal agencies and non-Federal entities to stimulate or support a public purpose.

² <https://www.regulations.gov/comment/FTC-2022-0014-0006>

³ An important landmark anniversary for the National Guard | Constitution Center

⁴ The closest current model that is active in agricultural and animal health programs, are Bureau of Land Management Grant 15.229 -- Wild Horse and Burro Resource Management;⁴ and Department of Agriculture 10.025 -- Plant and Animal Disease, Pest Control, and Animal Care.⁴