

# **Submission to the Queensland Government Review of the Animal Care and Protection Act 2001**

**Coalition for the Protection of Racehorses  
(CPR)**

**2021**



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## Part 1: Introduction

Thank you for the opportunity to comment on this important legislation. Community attitudes towards animal welfare have changed dramatically over the past 20 years and the Coalition for the Protection of Racehorses (CPR) agrees that review of the ACPA is urgently required. CPR wishes to point out that all animals should be treated with respect, that they should not be used to benefit humans (unless the benefit is mutual), that they should not be treated cruelly, and their welfare must be given high priority. For this submission, CPR has focused only on Thoroughbred horses used by the racing industry.

Our submission is comprised of four parts, with Part 1 being the Introduction in which we outline our overall position. Part 2 is our review of ACPA and the ways in which its provisions for Thoroughbreds are constantly breached by the racing industry. In Part 3, we make recommendations for ACPA that will strengthen welfare regulations for horses. Part 4 is a review of the Queensland Racing Integrity Act (QRIA) and Australian Rules of Racing (ARR).

CPR's view is that with respect to Thoroughbreds, the way in which the ACPA defers to the Racing Integrity Act and its application and enforcement by the racing industry through the Australian and Local Rules of Racing, creates a false assurance to the Australian public that racehorse welfare is protected. We wish to point out, that even though the current regulatory framework contains provisions to safeguard animals, the welfare of Thoroughbreds is routinely and systematically compromised at every stage of their lives, by the racing industry. The lack of specification of welfare and cruelty actions in the ACPA has allowed the Rules of Racing to allow a number of activities that are in fact cruel, and harm Thoroughbreds.

The Discussion Paper notes that one of the purposes of the ACPA is to "...achieve a reasonable balance between the welfare needs of animals and the interests of people whose livelihood is dependent on the animals...". CPR holds a very strong view, that animals' welfare should not be compromised in order to provide benefits to humans. It is a false argument to submit that there is some kind of balance, when in reality, the scale is already stacked in the favour of humans, at substantial cost to animals' lives. The notion of a "reasonable balance" suggests an expectation that a compromise in animal welfare is acceptable, because human livelihoods will otherwise be impacted. Our view is that this position is unreasonable and unacceptable.

The relationship between humans and Thoroughbreds in racing is already, inherently unbalanced, with all the benefits accruing to humans (breeders, trainers, owners, jockeys, stable and track staff, punters and racegoers), including social benefits such as national identity, enormous income through gambling, with substantial economic profits for industry (tourism, hospitality, accommodation, catering, millinery and transport). Horses, on the other hand, suffer numerous minor and serious injuries through racing: exercise-induced pulmonary haemorrhage (EIPH), heart issues, limb injuries, death, deprivations caused by industry controlled breeding, feeding, training and housing regimes. This inherent imbalance is hidden, because of marketing efforts by government and industry, and also, that the benefits to humans and the negative impacts to animals are reported separately (Jones & McGreevy, 2010). For example,

reports about the massive economic benefits from racing, do not concurrently list the cost to horses who are killed, injured and crippled, as a result of their role in generating that income.

In his forward to the Discussion Paper, Minister Furwood stated that, “We want to make sure our laws, standards and penalties reflect contemporary community expectations while allowing animal industries to continue to operate appropriately and **without unnecessary regulatory burden.**” It is an assumption to claim that the Australian public do not want the use of animals to be heavily and carefully regulated. We submit also, that the inquiry should not underestimate community concern for animal welfare. Very recently, the Martin Inquiry (2020, p. 5) commented that “the image of horse racing in Australia has been savaged”, and that “Whether one acts through moral obligation or a realisation that if the industry loses public support, there will be no industry to support one’s livelihood, action must be taken immediately.” (p. 5). The horrors of the slaughterhouse recently exposed in Queensland resulted from a lack of oversight and concern for racehorses by many people and organisations involved in racing.

Horse racing is a system, about which the Martin Inquiry pointed out, that the horrors of horse slaughter is the endpoint. To continue to ignore the systematic nature of racing will further continue the denial of welfare for the animals providing these enormous benefits to the racing industry and all of those who participate in it. The fact the industry deems it necessary (and acceptable) to slaughter 10,000 of its participants per year, flies in the face of any sense of “balance” in racing. The fact that another 130 Thoroughbreds die on the racetrack – as a matter of routine – in addition to those who die in training, is a further example of an imbalance.

## Part 2: Review of existing ACPA

CPR has conducted a thorough review of the ACPA 2001 and notes that many of the existing regulations, if enforced, would lead to a complete overhaul, or even to the abolition of horse racing. Exemptions of the ACPA for industry, makes ACPA (for the most part) meaningless, acting only as a tool to imply animals in Queensland have protection from cruelty, when in reality they do not. So, we ask, where are these legal exemptions to ACPA 2001 for the racing industry? If such exemptions do not exist, why is ACPA not being enforced?

This section highlights the sections of the ACPA 2001 that horse racing is in systemic breach of.

### Chapter 3 General Animal Offences

#### 17. Breach of duty of care prohibited

**(1) A person in charge of an animal owes a duty of care to it.**

**(2) The person must not breach the duty of care. Maximum penalty—300 penalty units or 1 year’s imprisonment. Notes— 1 This provision is an executive liability provision— see section 209. [s 18] Animal Care and Protection Act 2001 Chapter 3 General animal offences Page 20 Current as at 1 July 2016 Authorised by the Parliamentary Counsel 2 See also section 9 (Act does not affect other rights or remedies).**

**(3) For subsection (2), a person breaches the duty only if the person does not take reasonable steps to:**

**(a) provide the animal's needs for the following in a way that is appropriate**

**(i) food and water;** the food provided to horses in racing is entirely inappropriate for their biological needs: it is high protein feed provided intermittently. Horses have evolved to graze throughout the day, meaning gastric acid is produced regularly. When grazing is not possible, as it stands for all horses in training, this acid leads to stomach ulcers in approximately 90% of horses (Begg & Sullivan, 2003). Therefore, food is not being provided to horses in racing "in a way that is appropriate".

**(ii) accommodation or living conditions for the animal;** the accommodation in which horses are kept whilst being used to race is entirely inappropriate. They are confined to stalls most of the day, which in addition to their feeding regime, leads to stomach ulcers (Begg & O'Sullivan, 2003). They also suffer from inflammatory airway disease caused by excessive exercise as well as agents such as dust, allergens and endotoxins whose sources include bedding, feed, loosebox materials, and sources outside the loosebox such as debris from swept laneways, stable corridors, human and mechanical activity. Additionally, being unable to graze and move freely, and unable to interact and socialise naturally with other horses is detrimental to both their physical and mental wellbeing (Linklater et al., 2000).

**(iii) to display normal patterns of behaviour;** in horse racing, a foal will be "broken" – meaning they will be taught to comply with human commands through learned helplessness techniques – which compels the horse to obey due to fear, pain, or both. The horses that rebel against the oppressive training methods will be forced even more harshly into compliance. If they fail to comply, they will be deemed rogue horses and removed/banned from racing, often to be discarded. Barrier behaviour incidents frequently reported in industry Steward reports are one clear demonstration of this. (*CPR – Barrier Behaviour*). Additionally, the regular confinement of horses used in racing commonly results in horses expressing stereotypical behaviours such as wood chewing, windsucking, weaving and box walking.

**(iv) the treatment of disease or injury;** it is systemic in racing that horses are not only not treated for many injuries, but the very act of racing is in fact knowingly causing injury. At least one horse is killed on Australian racetracks every three days as a result of racing related injuries – (<https://horseracingkills.com/issues/deathwatch/>). Government and industry funded studies have proven that bone fatigue is the leading factor of catastrophic injuries for racehorses, leading to their death. Bone fatigue can only be addressed through longer and more frequent periods of rest (*Whitton et al. 2013*), yet the racing industry has no regulations or limitations on how often a horse can be raced. Trainers and owners are knowingly racing horses who are at risk of life-threatening injuries.

## **Chapter 3 Part 2 Cruelty offences**

### **18 Animal cruelty prohibited**

**(1) A person must not be cruel to an animal. Maximum penalty—2000 penalty units or 3 years imprisonment. Note— This provision is an executive liability provision—see**

**section 209. [s 18] Animal Care and Protection Act 2001 Chapter 3 General animal offences Current as at 1 July 2016 Page 21 Authorised by the Parliamentary Counsel**  
**(2) Without limiting subsection (1), a person is taken to be cruel to an animal if the person does any of the following to the animal—**

**(a) causes it pain that, in the circumstances, is unjustifiable, unnecessary or unreasonable;**

Despite the prohibition against cruelty stated above, cruelty to horses is inherent to horse racing, as outlined below.

A 2016 survey of Australian trainers by Findley *et al.* demonstrated that 85% of standardbred trainers use tongue-ties (also common in Thoroughbred racing), with 23% reporting complications after the use of ties, including lacerations, swelling, bruising and head shyness. Other studies have also shown that tying a horse's tongue causes them stress, causes ischemia and can cause long-lasting damage to the horse's highly vascularized tongue (McLean & McGreevy, 2010).

Studies have proven that taking away a horse's ability to graze throughout the day leads to stomach ulcers, causing them pain (see clause 17 3(i)).

**(b) beats it so as to cause the animal pain;** Beating horses with a whip is accepted and standard practice in horse racing. Studies have proven that humans and horses have the equivalent anatomic structures to detect pain in the skin (Tong *et al.* 2020)).

**(c) abuses, terrifies, torments or worries it;** forcing a horse into the barriers (a process that occurs at the beginning of every single race), can be terrifying for horses whose natural instincts have evolved to fear entering confined spaces. There are countless examples of horses refusing to enter the barriers, rearing, becoming cast and being fractious in the barriers throughout official Stewards reports. eg. on just one racing day (5.11.19), well over 50 incidents were recorded at the gates (<https://horseracingkills.com/2021/04/09/barrier-behaviour/>). Also, watching behind the barriers on any given race day is guaranteed to witness racing participants using physical force and mental fear tactics to force horses into the barriers eg. buggy whips, twisting ears, yanking bits, pulling tails, kicking with spurs.

**(d) overdrives, overrides or overworks it;** Recent studies by Professor Chris Whitton and his team at the Melbourne University Equine Centre demonstrate that bone fatigue is the leading cause of catastrophic injury in racehorses. Recommendations include significantly increasing the frequency and duration of rest without training and racing (Whitton *et al.* 2013 & Whitton Presentation). There are currently no limits on how often a horse can be raced, nor are there requirements for spelling frequency or duration. CPR's Deathwatch reports (CPR Deathwatch 2020) demonstrate that catastrophic limb injuries are the leading cause of death on the racetrack,

The racing industry is knowingly overworking horses to the point of serious injury, most often, if not always, resulting in death. Almost all horses experience exercise-induced pulmonary haemorrhage (EIPH) to varying degrees while being raced (Sullivan & Hinchcliff, 2015). This condition goes mostly unnoticed and therefore unreported on race day as it mostly occurs deep in the lungs and is therefore only detected via endoscopy. CPR's Deathwatch Report 2020 tracked EIPH when it is reported, mostly due to epistaxis (blood reaching the nostrils) and found Stewards reported horses to

be bleeding from one or both nostrils on 483 occasions. Only about 1.1% to 3.5% of horses show visible signs of bleeding, with blood at the nose (Sullivan & Hinchcliff, 2015). The rest are more difficult to diagnose because they bleed into their lungs without it being visible. In short, the overworking of horses in racing to the point of bleeds and fatal injury is standard practise and inherent to horse racing.

**(e) uses on the animal an electrical device prescribed under a regulation;** anecdotal evidence suggests that electrical devices (also known as jiggers) are often used on racehorses in training. Top trainers, Darren Weir and Ben Currie have both recently been charged with using them. Although already illegal, enforcement is difficult.

**(f) confines or transports it—**

**(i) without appropriate preparation, including, for example, appropriate food, rest, shelter or water; or**

**(ii) when it is unfit for the confinement or transport; or**

**(iii) in a way that is inappropriate for the animal's welfare;** During training, most racehorses are kept for up to 22 hours per day in a stall about the size of a standard bedroom. Such excessive stabling causes major disruption to a horse's normal behaviour, including its normal feeding patterns, resulting in both digestive – The prevalence and distribution of gastric ulceration in 345 racehorses (Begg & O'Sullivan, 2003) and behavioural abnormalities (Linklater et al., 2000). Horses like to move constantly and selectively graze for most of the day. Unable to socialize and move freely, many stabled racehorses will develop abnormal behaviours such as wood chewing, box walking (round and round the stall), windsucking (gripping an object with their teeth and sucking in air) and weaving (swaying the head, neck and forequarters from side to side). Confinement also leads to other serious health problems endemic amongst racehorses, including stomach ulcers (cited above) and inflammatory airway disease (Malikides & Hodgson, 2003).

**(iv) in an unsuitable container or vehicle;** the recent *'Inquiry into animal cruelty, in the management of retired thoroughbreds and standardbreds'* found Queensland's Code of Practice for the Transport of Livestock does not sufficiently address the specific needs of horses during transportation. This is now under review.

**(g) kills it in a way that—**

**(i) is inhumane;** at least one horse is killed every three days in Australia from injuries sustained on the racetrack, ranging from limb breaks, broken necks, exercise-induced pulmonary haemorrhage, heart attack, fractured pelvis, fractured shoulder and more. These injuries are sustained as a direct result of being raced and cause the horses to endure excruciating pain and suffering. Horses are also commonly killed at a knackery or slaughterhouse, against their will, when injured or simply when no longer wanted. We argue that killing someone who does not want to die can never be humane.

**(ii) causes it not to die quickly;** CPR's 2020 report *'The Slaughter of Thoroughbred and Standardbred Racehorses in Australia: an estimate on the numbers killed for human consumption'*, was based on analysing video evidence obtained inside the kill box at Meramist slaughterhouse in Caboolture QLD.

The findings demonstrate:

- Captive bolt gun misfired several times, causing severe distress to the horse;

- Captive bolt gun not killing the horse on first attempt causing the horse to react violently;
- Several horses not killed by the captive bolt gun and then shackled and hung while their throats are slit, still apparently breathing;
- Electric prods used on horses who were reluctant to enter the kill box;
- A horse apparently stuck had his leg shackled while in the kill box and a winch used to force him forward. It resulted in the horse's leg breaking and a deep gash where the muscle was torn;
- A fallen horse dragged into the kill box with a winch;
- Horses able to see the horses before them being hung and having their throats slit;
- Horses with obvious lameness and other injuries being killed; and
- Horses being beaten and prodded with a poly pipe to make them move forward shows horses were incorrectly stunned

The racing industry continues to send horses to this facility, meaning racehorses continue to experience drawn-out, pain-filled, terrifying deaths. (*CPR The slaughter of Thoroughbred and Standardbred racehorses in Australia*)

or

**(iii) causes it to die in unreasonable pain;** See above

**(h) unjustifiably, unnecessarily or unreasonably—**

**(i) injures or wounds it;**

as detailed above (i), injuring and wounding horses is commonplace in horse racing. Gambling profits and entertainment are no justification for causing significant pain, suffering and death

or

**(ii) overcrowds or overloads it. [s 19]**

### **Examples of routine welfare breaches in thoroughbred racing**

On race days, horses are routinely subjected to incidents that negatively impact their welfare and cause them pain. A very small sample of injuries were sourced from Stewards reports in Queensland, South Australia and Victoria. The range of injuries as shown in Table 1, are typical of those recorded in the Stewards reports for all states and all racetracks. A basic lack of attention to the horses' welfare is also shown, with some attending to the track and being scratched because they are found to be lame, and others suffering injuries in the float. *Flying Nostra* was transported for six hours on the morning of her race – and then her performance was questioned, as was *Sunny Cowboy* who was found to be dehydrated – a basic lack of care. *Stagecraft* was banned from racing by the Stewards after being presented a third time with heart issues. No penalties were reported for the humans who are in charge of these horses.

Many forms of pain inflicted on horses are not recorded in the Stewards reports, unless they are blatantly in breach of the rules of racing (such as whip strikes above the limit), or that impact the horse's performance and by implication, the punters' and owners' winnings. There are frequent breaches to the rules of whipping, with horses subjected to intolerable levels of beating. Thus, pain inflicted on horses by whipping, forcing them into the barrier by kicking, twisting their ears and then racing which causes any number of issues such as lameness, heart, EIPH and catastrophic injuries is often not

reported and because it has become normalised, - there is no legislation against it at all.

**Table 1 Examples of welfare incidents suffered by Thoroughbreds on race day**

<b>Date</b>	<b>Race no</b>	<b>Track</b>	<b>Horse</b>	<b>Horse age</b>	<b>Incident</b>
9/1/2021	3	Werribee	Mandible	3	EIPH - has run 3 races only
23/1/2021	3	Gawler	Galahad Guru	5	Bilaterally lame
25/1/2021	4	Warrnambool	Max Mercury	4	Scratched due to injury in stable. Has run one prior race only
13/2/2021	4	Flemington	Caffrey	5	Pre race lame
16/2/2021	4	Swan Hill	Brolga Boy	4	Scratched - declared unfit. Has run one race only
22/2/2021	7	Terang	Grogans Anvil	8	4 x embargoes, EIPH,
7/3/2021	5	Balnarring	Stagecraft	7	6 x embargoes, banned by Stewards for reporting for third time with heart issues,
8/3/2021	7	Morphetville	Sin To Win	8	Pre race lame
27/3/2021	2	Morphetville	Blah Blah Blah	3	Pre race lame
3/4/2021	3	Mareeba	Libertys Luck	2	Third race. Sustained a serious racing injury during the race (ruptured near fore suspensory ligament). Dead
3/4/2021	5	Oakbank	Pentelligentsia	7	Whipped 18 times in a 4950m jumps race
3/4/2021	4	Eagle Farm	Centrefire	4	J Huxtable used his whip in an excessive manner, that being on 16 occasions
4/4/2021	4	Mornington	Voodoo Queen	5	Bilaterally lame
9/4/2021	8	Cranbourne	Filips star	5	Bilaterally lame
9/4/2021	5	Cranbourne	Lady Devereaux	3	Bilaterally lame
17/4/2021	2	Bowen	Sunny Cowboy	4	Performed disappointingly. A post-race veterinary examination revealed the gelding to be dehydrated.

20/4/2021	7	Mackay	Emilees Empire	3	A post-race veterinary examination revealed the filly to have cardiac arrhythmia.
21/4/2021	6	Murray Bridge	Atum	7	Scratched. Lameness detected <b>at the barrier</b>
26/4/2021	4	Mildura	Flying Nostra	3	Trainer admitted the horse had endured a six-hour trip on the morning of the race.
28/4/2021	4	Toowoomba	I Am Superior	3	L Cassidy reprimanded for using whip on 15 occasions.
29/4/2021	3	Rockhampton	Pure Purgatory	4	Rider T Brooker whip on 18 occasions prior to the 100m,

### Part 3: Recommended amendments to ACPA 2001

Animal sentience (their ability to feel, be self-aware and have an interest in living) must be recognised in the 2021 ACPA amendments and form the basis of the Act.

Exemptions to existing and future animal welfare laws through 'standards', industry 'codes of practice' and other industry 'Acts' must be removed. Animal cruelty should not be made acceptable based on species, nor the situation in which the animal may find themselves in. The suffering experienced from the cruelty inflicted upon them remains the same.

There must also be a publicly funded *Independent Animal Protection Agency* established, that is empowered by the Act to develop and enforce animal welfare legislation. This must be independent of any other ministers or departments, especially those whose responsibility it is to protect and enhance the interests of industries. As outlined in Part 1 of our submission, the existing ACPA defers to the Racing Integrity Act and the Australian Rules of Racing, giving the false impression that horses used by the racing industry are somehow protected from acts of cruelty. Section 4 below outlines this is certainly not the case. So long as horse racing persists, a well-resourced independent body is essential to overseeing the treatment of the horses it uses and enforcing the protections that exist within the Act. A continuation of the *fox guarding the hen house* approach is entirely unacceptable.

Or further recommendations for amendments to the existing ACPA are limited as, as covered above in Part 2, if ACPA was being enforced without exemption, would already lead to a major overhaul or even abolition of horse racing.

#### Part 3 Prohibited events

##### Division 1 Preliminary 20 Meaning of prohibited event

**(1) A prohibited event means any of the following events— [s 21]**

**(e) an event prescribed under a regulation held for public enjoyment or entertainment, with or without charge to anyone present, at which anyone participating in the event causes an animal pain.**

CPR submits that a horse race, as currently practised by the racing industry, should be listed as a “prohibited event”. This is on the grounds that in all of its stages – breeding, training, racing and slaughter, racing is incorporated within a system that causes negative welfare to the horses involved through deprivations (inappropriate feed, housing, frequent transport and lack of social companionship), cruelty (including through the use of spurs, the bit, tongue-ties, whips, overwork and the taking of life). That is, a single race event, cannot be isolated from other components of the system that inflict lifelong welfare damage to Thoroughbreds as a part of its normalised, day-to-day operations. A horse that “breaks down” on the racetrack and fractures her pelvis for example, suffers from impacts caused by an inappropriate feeding regime, overwork in racing and training, lack of adequate rest and recovery. At the very least, Thoroughbred horse racing contravenes the above section, in that several people cause the animals pain.

**34 Possession of prohibited trap or spur unlawful (1) A person must not possess any of the following (a prohibited trap or spur) unless the person has a reasonable excuse— (a) a trap prescribed under a regulation to be a prohibited trap; (b) a spur with sharpened or fixed rowels;**

If horse racing persists, all spurs must be banned. They are designed to inflict pain and fear onto a horse by the jockey digging them into the horse’s sensitive flank. Additionally, so must whips, bits and tongue ties. They are all designed to dominate and therefore inflict fear and pain onto the horse, causing direct and indirect injury and suffering.

#### **Division 6**

**Inspector’s power to destroy animals 162 Power of destruction An inspector may destroy an animal, or cause it to be destroyed, if— (a) an inspector has seized the animal under this part or the person in charge of the animal has given written consent to the destruction;**

**(b) the inspector reasonably believes that the animal is in pain to the extent that it is cruel to keep it alive**

Proposed rewording

*(b) the inspector reasonably believes that the animal is in pain to the extent that it is cruel to keep them alive and it is deemed pain management would not be sufficient and the animal’s quality of life will be severely compromised even after veterinary treatment is provided.*

## Part 4: Review of the Queensland Racing Integrity Act, (QRIA) and Australian Rules of Racing (ARR)

The Australian public could reasonably assume that the very general definitions and welfare specifications contained in ACPA would be addressed in the specific legislation and rules that concern horse racing. It appears to be an assumption of the ACPA that the welfare of horses is adequately addressed by the Racing Integrity Act (2016) and the Australian Rules of Racing (2019) established and regulated by Racing Australia.

### The Queensland Racing Integrity Act, 2016

The racing industry and the animal welfare acts operate under the assumption that they regulate the use of animals, including that which causes negative welfare. Presumably, this is the “balance” referred to in the Discussion Paper. The ACPA states that it “does not affect the application of— (a) the Fisheries Act 1994; or (b) the Racing Act 2002; or (c) the Racing Integrity Act 2016.” CPR argues that the racing act and the Rules of Racing should be in line with the ACPA. The ACPA should determine and guide welfare standards in all other Acts. There should be no discrepancy/conflicts/exemptions that provide loopholes through which negative welfare impacts can be caused to a horse.

**The purpose of the Queensland Racing Industry Commission is:**

- (a) to maintain public confidence in the racing of animals in Queensland for which betting is lawful;**
- (b) to ensure the integrity of all persons involved with racing or betting under this Act or the Racing Act;**
- (c) to safeguard the welfare of all animals involved in racing under this Act or the Racing Act.**

The ACPA is intended to address welfare and cruelty of many types of animals being used in a wide range of uses. It could be expected that details regarding the specific needs of Thoroughbreds would be developed and expanded in industry specific legislation and regulations. CPR submits that the Racing Integrity Act and the Rules of Racing appear to be in contravention of the ACPA, and in some cases, outline the ways in which horses may be harmed (such as the section that specifies the number of strikes the industry allow in whipping, and the inadvertent admission that racing results in EIPH).

### Definitions

The definitions and sections of the Act fail to acknowledge the numerous actions and treatment of horses, that are conducted as part of the routine, systematic operations of racing, but which form direct and indirect harm to racehorses. While further detail is provided in the Australian Rules of Racing, it is by no means adequate, and only serves to regulate harmful activity, without prevention of harm.

### **Cruelty**

No definition is provided for “cruelty” thus we assumed the definition of ACPA stands, along with sections in Part 2 of this submission that relate to industry cruelty.

#### **“thing” includes an animal, whether dead or alive.**

An animal is not a thing. There are obvious welfare implications that result from conflating the realities of an inanimate object, a dead animal and a live animal.

### **Welfare**

The Queensland Racing Integrity Act (QRIA) defines an *animal welfare offence* as being linked to the ACPA, and *welfare* is only vaguely defined:

**“welfare, of an animal, means issues about the health, safety or wellbeing of the animal”.**

The definitions of “welfare” in the QRIA do not seem to add any new information beyond that specified in the ACPA. The QRIA has failed to include prohibitions against typical industry standards that actually cause negative welfare to Thoroughbreds. Again, this refers back to our Section 2 of this submission. It is therefore difficult to understand why these industry standards have become accepted, in contradiction of ACPA, through the day to day operations of the racing industry, specifically in relation to feed, housing, breeding, social companionship, training and racing. Given that the racing industry formulates and administers the Rules of Racing, this is very generous and allows treatment of horses that prioritises racing over animal welfare. This is not a “balance”, suggested by the Discussion Paper, but represents an unacceptable imbalance between the needs of humans and animals, with animals suffering the cost of human benefits.

## **Chapter 2 Queensland Racing Integrity Commission Part 2 Functions and powers**

**(1) The commission has the following functions:**

**(h) to keep records that provide for the identification and monitoring of animals; Example— records that show the ‘end-to-end tracking’ of an animal (i) to safeguard the welfare of any animal involved, whether directly or indirectly and whether lawfully or unlawfully, in racing; (j) to make decisions about disciplinary matters; (k) to prevent noncompliance and lapses in integrity, as far as practicable, in the racing industry; (l) to promote compliance and integrity, and to promote animal welfare and prevent animal cruelty, by educating, providing information for, and working with, participants**

This section reinforces the requirements of the ACPA, in that the Queensland Racing Integrity Commission’s function includes (i) to safeguard the welfare of any animal involved and (l) to promote animal welfare and prevent animal cruelty.

**Section 157 (Chapter 5 Investigation and Enforcement), specifies:**

**“Power to enter place in relation to animal welfare offence**

**(1) This section applies if an authorised officer reasonably suspects— (a) there is an imminent risk of death or injury to an animal at a place because of an accident or from an animal welfare offence; or Examples of imminent risk of death or injury to an animal—**

**1 a dogfight involving, or apparently involving, an imminent risk of death or injury to the dogs**

**2 the beating or torture of an animal at the place.**

Despite this apparent concern with “beating” an animal, the regulators and racing industry ignore the daily occurrences in which racing horses are beaten in full public view. This is a clear example of “venue exceptionalism” (Duncan et al., 2018), in which the same action (beating, ie whipping), is accepted at the race track, but would be penalised if undertaken elsewhere, or on another animal.

## **Division 5 Animal welfare directions**

**192 Application of division (1) This division applies if an authorised officer reasonably believes—**

**(a) a person has committed, is committing, or is about to commit, an animal welfare offence; or (b) an animal— (i) is not being cared for properly; or (ii) is experiencing undue pain; or (iii) requires veterinary treatment; or (iv) should not be used for work.**

**(i) Not being “cared for” “properly”.**

There is inadequate detail in the QRIA and the Rules of Racing to address what “not being cared for *properly*” means for the thousands of Thoroughbreds used by the racing industry.

**(ii) “undue” pain?**

What is undue pain? How is it measured, and by whom? At what point does pain become “undue”?

Once again, on a daily basis, horses currently experience the pain of gastric ulcers, being whipped, having their tongues tied, having bits in their sensitive mouths, spurs dug into their flanks and EIPH together with numerous other injuries caused on the racetrack, in training, and in the float to and from the track.

**(iv) should not be used for work**

Many horses should not be used for work, yet are forced to race, which causes them harm.

**193 Power to give animal welfare direction,**

**(3) Without limiting subsection (1), the direction may require any of the following actions to be taken— (a) care for, or treat, the animal in stated way; (b) provide the animal with stated accommodation, food, rest, water or other living conditions; (c) consult a veterinary surgeon about the animal’s condition before a stated time;**

This section fails to address the fact that current “standards” for routine food, housing, rest and water negatively affect racing horses’ welfare. Most certainly, most horses are housed, fed and watered, but these are guided by the economic and managerial needs of the racing industry. The standards used by the racing industry to care for horses, are not those that attend to the biological and psychological needs of a horse (refer to more detail in Part 2).

## Division 6 Authorised officer's power to destroy animals

### 196 Power of destruction

An authorised officer may destroy an animal, or cause it to be destroyed, if—

- (a) an authorised officer has seized the animal under this part or the person in charge of the animal has given written consent to the destruction; and
- (b) the authorised officer reasonably believes that the animal is in pain to the extent that it is cruel to keep it alive.

See Part 3 – Division 6 (b).

## Division 3 Offences relating to prohibited things or interfering with licensed animals, persons or things

**216 Definitions for division** In this division— interfere with, in relation to a licensed animal, licence holder or an official of the commission or a control body, means— (a) inflict or cause injury to the licensed animal, licence holder or official; or (b) threaten to inflict or cause injury to the licensed animal, licence holder or official; or (c) otherwise affect in a detrimental way the behaviour, performance or physical condition of the licensed animal, licence holder or official.

This regulation fails to address the obvious (and public) threats made by horse handlers that are evident in every race, on race day, that have been normalised as “racing”: threatening horses to enter the barrier, to run faster. Yelling, “riding”, bits, tongue-ties, spurs and whips are threats made upon the horse which cause them to race beyond their physical capacity, which in turn frequently results in catastrophic limb injuries, heart issues and EIPH. In other words, every horse race contradicts the QRIA.

## Australian Rules of Racing

Given the racing industry's intimate day to day contacts with horses, it could be deemed reasonable, that their expertise and knowledge may best suit the formulation, administration and management of the more detailed rules of animal welfare. Recently however, the Martin Inquiry informed the Australian public of the glaring failings of this argument. Not only have thousands of thoroughbreds suffered as a result, but there has also been a serious breach of trust in the relationship between the racing industry and the Australian community.

CPR does not dispute that the various acts and regulations provide some consideration for horses, but there are many omissions, and there is no acknowledgment that numerous welfare issues are caused by racing. For example, the rules fail to address known behavioural problems in horses that result directly from being housed in single stalls and fed a diet that causes them to develop gastric ulcers. There is nothing that refers to impaired welfare as a result of the conditions under which racing horses are forced to live through breeding, training and racing.

Some very basic word searches of the Australian Rules of Racing (ARR) found relatively little specification regarding horses and their welfare:

## Injury

There were six instances only relating to horse injuries, including twice for each of:

AR81 ineligible to race due to limb injury

AR105 trainer to report condition or injury that may have affected performance

AR132 whipping cannot cause injury to horse

No mention was made of the very many minor injuries suffered by thoroughbreds in the float on the way to and from the racetrack, from being fractious in the stall, the barriers and the mounting yard, among countless other incidents. The reason seems to be, that these injuries according to veterinarians, were not severe enough to prevent the horse from racing. That is, welfare is placed second to "racing". There is no acknowledgement that injuries are caused by inappropriate treatment of horses, such as would be evidenced by a system of penalties for horse handlers, including trainers and jockeys.

## Cruelty

**cruelty includes any act or omission as a consequence of which a horse is mistreated. (p. 14).**

There were five mentions only, of "cruelty" in the Rules, but no detail supplied as to what this means. Despite the prohibition against cruelty, horses are subjected to a range of cruel actions, such as being regularly whipped in every race. We note recently in Victoria, the three-year-old filly, *River Night* was violently whipped, as she headed toward the finish line, seconds before she "broke down" and was "euthanised".

This definition is ironic, given that the rules specify the ways in which horses may be beaten during a race (AR132), or kicked by spurs (AR125) or that AR132 states whipping should not cause injury to a horse. The limitations on racing due to a horse being diagnosed with EIPH (AR79), is also ironic, given it is a condition that is caused by racing (Sullivan & Hinchcliff, 2015).

These are examples of the invisible weights on horses, that help create the impression there is some kind of "balance" between humans and animals in racing. Both EIPH and whipping have been normalised within the culture of racing and regarded as acceptable and necessary outcomes of racing. CPR argues this false notion of balance needs to change, and the real impacts on animal welfare should be addressed in future legislation.

## Welfare

Of the 15 instances citing "welfare", five relate to the "image, interests, integrity and welfare of racing" (AR 23, 228, 230, 263, 270), and only six to horses. These relate to appropriate registered owners (AR34), riding skills (AR144), euthanasia (AR225) and a broad section on welfare of horses, including cruelty (AR231).

There is no dedicated chapter of horses, or horse welfare in the ARR. That is, Thoroughbreds and their welfare is not given a strong priority and is second to their

involvement in racing. Division 2 for example, contains much about horses, but in terms of their “participations of horses in races etc”. Even “euthanasia” is in Part 8 Race Meetings. This can be taken as the anthropocentric and self-centred attitude of the racing industry towards the animals that they force to race for human benefit.

Reference to horse welfare is mainly contained in the following Parts:

- Part 5 - Eligibility of horses to race
- Part 7 – Riders and horse handlers
- Part 6 – Trainers (matters affecting running of a race)
- Part 8 - Race meetings (euthanasia)
- Part 9 – Misconduct and other offences

## **PART 5 – ELIGIBILITY OF HORSES TO RACE**

AR 75 Stewards may prevent/ban horses from participating in races for reasons of safety or veterinary issues.

- (a) the horse has a galloping action or races in a manner likely to pose a safety risk to itself, any other horse, or any person; or**
- (b) the horse has barrier manners, or has exhibited any pre-race behaviour which is, considered to be unruly or intractable and/or which may pose a safety risk to itself, any other horse, or any person; or**
- (c) the horse is unsuitable to participate in any trackwork, jump-out, official trial or race, including without limitation because of any veterinary diagnosis or history.**

There appears to be **no penalty** for presenting a horse to race, who has a veterinary condition, a common incident is pre-race lameness, or any one of many types of injuries that are sustained during transport. The horse is simply “Scratched”. Neither is there any consideration for the incremental effects of intensive training and racing, such as development of stress fractures (*Whitton et al. 2013*) which only become evident when a catastrophic injury occurs.

### **Age of horses**

CPR acknowledges the prohibition on racing of yearlings (AR76), two-year-olds and 12+year-olds (AR78). As AR77 (below) shows, and as can be seen in practice on race days, allowances are made for two-year-olds to race. There is substantial evidence to show that the skeleton of a horse does not mature until approximately five years of age (Bennett, 2005). While some research shows that two-year-old racing does not cause damage, it is also suggested that many more fragile horses are removed from racing early on and are simply not left in the field in later years. Similarly, exceptions can be found for horses over 12 years of age to race (up until 13 years of age).

### **AR 77 2 year old horses**

**If a horse is a 2 year old: (a) the horse is ineligible for; and (b) a person must not enter or start the horse in, any race before 1 October or any other date determined by a PRA, and thereafter: (c) the horse is ineligible for; and (d) a person must not enter or start the horse in, (i) a race over more than 2,000 metres; (ii) a handicap for which horses over the age of 2 years are eligible which is run before 1 January, or another date as determined by a PRA.**

**AR 78 12+ year old horses** (1) Subject to subrule (2), if a horse is aged 12 years or more: (a) the horse is ineligible for; and (b) a person must not enter or start the horse in, any race.

**BUT**

(2) The Stewards may give their express permission for a horse aged 12 years to start in a race/s during its 12 year old racing season, if: (a) the trainer provides to the Stewards a veterinary report in respect of the horse's condition and suitability to race, and any other information, examination or report as required by the Stewards; and (b) the Stewards are satisfied that the horse is suitable to race.

### **AR 79 Horses with bleeding**

The rules of racing prohibit horses who bleed twice from racing again. Yet, EIPH is caused by racing. In other words, acts that compromise welfare are permitted, up to the point it cannot be hidden, such as by a horse bleeding through the nose, or dying on the racetrack. The prohibitions on bleeding appear not to be motivated by animal welfare, but by the horse's ability to perform during a race.

## **PART 6 TRAINERS**

### **AR 105 Matters that may affect the running of a horse in a race**

(1) The trainer of a horse, or any person that is in control of a horse, that is nominated for a race must:

(a) ensure that the horse is fit and properly conditioned to race;

Professor Chris Whitton's work demonstrates, bone fatigue is the leading cause of catastrophic injury to racehorses and is most often impossible to diagnose until after the catastrophic injury occurs. The only treatment for bone fatigue is a reduction in the number of races and increased time at rest, yet there are no regulations to how often a horse can be raced and how much rest between racing a horse must be given (*Whitton – YouTube presentation*).

Parts (b) and (c.) relate to "the horse's performance in the race", which may not necessarily relate to the horse's welfare or wellbeing.

## **PART 7 – RIDERS & HORSE HANDLERS**

This part contains sections that provide for riders to harm racing horses, by the use of spurs (AR125, AR134) and whips (AR132), although apparently "excessive" whipping and spur use are not permitted. Yet breaches to whip rules still occur on just about all race days and penalties (when given) fail to act as a deterrent (*CPR – What happened on Cup Day where the world wasn't watching*) & (*CPR – Proposal for the Phasing Out of the Whip in Australian Thoroughbred Racing*)

## **PART 8 RACE MEETINGS**

### **Division 14 – Humane euthanasia of a horse**

#### **AR 225 Circumstances in which a horse may be humanely euthanised**

In most cases, horses are not “euthanised” on the racetrack. That is, they are not killed in circumstances that would lead to the horses making the same decision themselves, to alleviate their pain. Very little effort, and only in exceptional cases, are attempts made to save the animal. It is worth restating, that racing has directly caused the injury to these animals, either by an incident on race day, or by ignoring a gradual build-up of welfare issues that culminate in bone fracture for example.

## **PART 9 – MISCONDUCT & OTHER OFFENCES**

### **Division 5 – Misconduct in relation to the care and welfare of horses**

**AR 230 Duty to provide information in relation to corrupt etc conduct (1) A person who is directly or indirectly approached or requested to engage in conduct which could constitute:**

- (a) corrupt, dishonest, fraudulent, or improper conduct in connection with racing; or**
- (b) conduct which is detrimental to the image, interests, integrity or welfare of racing; or**
- (c) an act of cruelty to a horse, must provide full details of the approach or request to the Stewards as soon as is practicable.**

### **AR 231 Care and welfare of horses**

**(1) A person must not:**

- (a) commit or commission an act of cruelty to a horse, or be in possession of any article or thing which, in the opinion of the Stewards, is capable of inflicting cruelty to a horse;**
- (b) if the person is in charge of a horse – fail at any time:**
  - (i) to exercise reasonable care, control or supervision of the horse so as to prevent an act of cruelty to the horse;**
  - (ii) to take such reasonable steps as are necessary to alleviate any pain inflicted upon or being suffered by the horse;**
  - (iii) to provide veterinary treatment to the horse where such treatment is necessary for the horse; and/or (iv) to provide proper and sufficient nutrition for the horse.**

(a) also refers to spurs and whips which are somehow acceptable and permitted in the Rules, but also contradicts (b) (ii) inflicting pain on a horse.

(b) (iii) seems to uphold the horses’ need for “proper and sufficient nutrition”, even though the routine feed provided in stables causes gastric ulcers.

## **Conclusion**

Horse racing, by its nature, is in breach of the ACPA. For ACPA to not be meaningless for horses used in racing (and indeed the majority of animals in Australia), exemptions to the ACPA must be removed, including the concept of ‘balance’ which allows animals welfare to be almost entirely compromised when it serves the interests of humans. Additionally, ACPA must be enforced by the formulation of a publicly funded Independent Animal Protection Agency.

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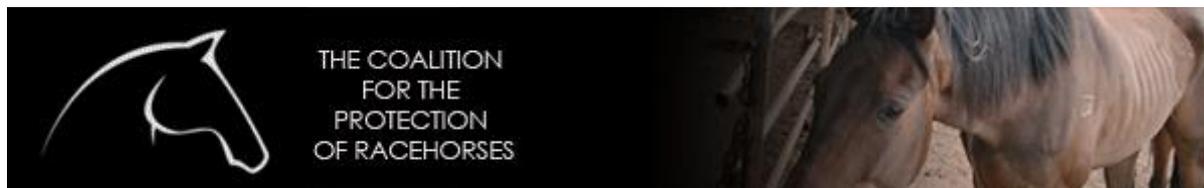
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<https://www.youtube.com/watch?v=75-GiNS7YBM&t=949s>

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