



January 24, 2018

**New York State Senate Committee on Racing, Gaming and Wagering
Witness Response Information: Hearing to Consider the Potential for Sports Betting in New York State
Testimony of Chris Kay, NYRA CEO and President**

Mr. Chairman:

Thank you for inviting us today. I am Chris Kay, the Chief Executive Officer and President of the New York Racing Association. The New York Racing Association conducts thoroughbred racing at Aqueduct Racetrack, Belmont Park and the Saratoga Race Course.

I have read the briefs filed by all the parties in the case of Christie vs. NCAA, the case involving sports wagering. The dispute arises out of the 1992 federal statute that banned sports wagering across the country, except in those states that already had regulatory oversight in place. In fact, four states at that time had such regulatory involvement that sports wagering was permitted to continue, and one state—New Jersey—was given the opportunity to implement additional regulations to come within the new federal statute. In other words, State regulatory involvement is important under the statute.

To that point about the importance of state regulation, New Jersey passed a law in 2012 that permitted sports book wagering at racetracks and casinos, the same gaming institutions that New Jersey had regulated for decades. The law vested the State with the same comprehensive regulatory abilities it already was using to regulate the existing wagering activities conducted at racetracks and casinos, and ensured that no such further activity with sports book wagering would occur unless it was properly licensed and regulated.

New Jersey's 2012 law was struck down by a federal appellate court on the grounds that it conflicted with, and was superseded by, the 1992 federal statute. In its opinion, the federal court stated that although the federal law prohibits the issuance of licenses for sports book wagering, New Jersey was not precluded from banning, in whole or in part, prohibitions on sport wagering. So New Jersey did precisely that: in 2014 it banned the prohibition of sports wagering to the extent it applied to racetracks and casinos. By so doing, New Jersey argues it complies with the federal decision and still can offer sports book wagering activity to its citizens, limited to those sites that it currently regulates.

New Jersey's opponents in the case argue that the 2014 statute is simply "wordsmithing" and achieves the desired effect of the 2012 law that was previously struck down. But what cannot be in dispute is the fact that under both the 2012 and 2014 New Jersey laws the activity of sports book wagering is limited to racetracks and casinos, institutions that New Jersey has comprehensively regulated for many decades.

Similarly, the State of New York has comprehensively regulated wagering at racetracks for many decades, and has just recently developed similar regulatory oversight for the casinos authorized in New York's 2013 statute. The same reasons why it is in the public's best interests that horseracing facilities be permitted to operate a sports book wagering operation in New Jersey apply equally here in New York, where our State has demonstrated its skill in comprehensive regulatory oversight of our racetracks and our wagering activities.

The case raises complex questions about federalism and the application of the Tenth Amendment of the U.S. Constitution. And Supreme Court decisions are normally written very narrowly, meaning their decisions try to address a specific issue involving a specific application of the specific statute in question.

If the Supreme Court permits New Jersey to offer sports book wagering, it is imperative that everyone fully understands the legislative language and intent, as well as legal principles, within that New Jersey law that are the determining and defining factors in the Supreme Court's opinion. But equally important is how sports book wagering would actually work after the Supreme Court's decision. Regarding how it would actually work in New York, we offer three observations:

First, this activity must be regulated, and the State of New York has a track record of extensive regulation at NYRA's racetracks—regulation that is working well. New Jersey currently regulates racetracks and casinos, and would now extend that regulation to include sports book wagering. The same logic justifying that regulatory extension to racetracks in New Jersey also applies to our racetracks here in New York.

Second, NYRA has a successful history serving the needs of many New Yorkers that want to wager on the sport of horse racing, and we should now be allowed to extend that service to include other sports. We have cultivated strong, long-term relationships with our loyal customer base because of the quality of the service we provide. To preclude racetracks like ours from being able to offer sports wagering would disrupt long-standing relationships developed over many years and decrease consumer choice. We do not see why this service should be limited simply to casinos, which were only recently created and regulated. Some of these casinos have only been open for business for a year or two. By contrast, this year we will celebrate our 150th running of the Belmont Stakes on June 9.

Third, permitting NYRA the opportunity to compete with the casinos would be a big benefit to all New Yorkers. Some of our locations are actually geographically closer to where many New Yorkers live and work than some of the casinos, and therefore more convenient. In addition, permitting us to offer this service will spur greater competition to provide the best possible service to our residents. Finally, our residents should have the right to choose between racetracks and casinos—always a good thing for the people of New York.

In conclusion, should the State decide to pursue sports wagering after the Supreme Court's opinion has been rendered, we would note that:

1. State regulation is critically important. The State has a track record of extensive regulation at NYRA racetracks, and should be extended into this additional area of sports betting.
2. NYRA has a successful history serving a large number of New Yorkers that wager on sports. Please do not disrupt or destroy those important relationships.
3. Please permit NYRA the opportunity to compete with the casinos to provide better service, more convenient locations, and greater choice to the public.

Three good reasons to add NYRA to the list of organizations that would offer sports book wagering in New York if, or when, it becomes legal to do so.