



40 East 52nd Street
New York, NY 10022
Telephone (212) 371-5970
Fax (212) 371-6123
Internet: www.jockeyclub.com

The Honorable John D. Rockefeller IV
Chairman
United States Senate
Committee on Commerce, Science, and Transportation
428 Hart Office Building
Washington, D.C. 20510

July 11, 2012

Dear Senator Rockefeller:

Please find attached the written submission prepared in connection with my appearance on behalf of The Jockey Club during the July 12, 2012 hearing on "Medication and Performance-Enhancing Drugs in Horse Racing".

Sincerely yours,

James L. Gagliano
President & Chief Operating Officer

cc: The Honorable Senator Kay Bailey Hutchinson

**Written Testimony of James Gagliano, President and Chief Operating Officer, The Jockey Club
United States Senate Committee on Commerce, Science, and Transportation
Submitted July 11, 2012**

As the President and Chief Operating Officer of The Jockey Club, I welcome the opportunity to participate in today's hearing on "Medication and Performance-Enhancing Drugs in Horse Racing." We appreciate the Committee's attention to issues that we view as critically important to our industry.

The Jockey Club has voiced its concern that the improper use and overuse of medication in racing endangers our human and equine athletes, threatens the integrity of our sport and erodes consumer confidence in our game. We strongly believe that our sport needs uniform rules, tough new penalties, and effective enforcement to ensure clean competition and improvements in racing safety. This is consistent with our core belief that *horses should compete only when they are free from the influence of medication*.

In this testimony, we will briefly describe the role of The Jockey Club in the Thoroughbred industry and the major initiatives spearheaded by The Jockey Club to improve the health and safety of jockeys and Thoroughbreds, as well as to comment on efforts to bring forward improved medication rules, standards and penalties.

The Jockey Club is the breed registry for Thoroughbreds in North America. The organization was formed in 1894 to maintain the integrity of *The American Stud Book* and ensure that all foals are the descendants of a sire (father) and dam (mother) that were registered Thoroughbreds. To register a Thoroughbred in North America, breeders must comply with the rules of registration as set forth in the *Principal Rules and Requirements of The American Stud Book*. You can learn more about The Jockey Club here: jockeyclub.com.

Over many years, The Jockey Club has devoted significant resources — financial, technological and human — to equine medication and drug testing issues. Our efforts have included:

- The Jockey Club funded "Building a World-Class Drug Detection System for the Racing Industry," a benchmark study conducted by McKinsey & Company in 1991 that is still used as a primary planning document for North American drug labs.
- Since its formation in 2008, The Jockey Club's Thoroughbred Safety Committee has issued numerous recommendations to state racing commissions regarding the adoption of rules related to medication and drug testing (jockeyclub.com/tsc.asp), several of which have been adopted and incorporated into regulation, racetrack "house rules" or national standards.
- The Jockey Club engaged McKinsey & Company in 2011 to study the Thoroughbred racing and breeding industry ("Driving Sustainable Growth for Thoroughbred Racing and Breeding"), which led The Jockey Club to undertake several medication- and safety-related initiatives. Those initiatives include the creation of the Reformed Racing Medication Rules (jockeyclub.com/pdfs/reformed_rules.pdf) and the launch of two websites: an advocacy website for medication reform, (cleanhorseracing.org), which includes a series of essays and statements from The Jockey Club, several of which are attached to this letter, and a searchable online database of rulings on Thoroughbred trainers from racing regulatory authorities, (thoroughbredrulings.com).
- The Jockey Club has also funded the Racing Medication and Testing Consortium's Drug Testing Initiative, an industry-led effort to set laboratory standards and accreditation criteria (jockeyclub.com/mediacenter.asp?story=349).

The Jockey Club has also developed and promoted many initiatives that improve the safety and welfare of Thoroughbred horses and jockeys during racing as well as the proper treatment and care of Thoroughbreds following the conclusion of their racing or breeding careers. Specifically:

- The Jockey Club has developed and maintained the Equine Injury Database, the Jockey Health Information System (jockeyclub.com/safetyinitiatives.asp) and the pre-race examination software module (jockeyclub.com/mediaCenter.asp?story=428).
- The Jockey Club has developed the Jockey Injury Database, maintained by the Jockeys' Guild (jockeysguild.com/pressreleases.html).
- The Jockey Club has conducted biannual Welfare and Safety of the Racehorse Summits (grayson-jockeyclub.org/summitDisplay.asp).
- The Jockey Club has established the Thoroughbred Incentive Program, Thoroughbred Connect, the Retirement Checkoff Program and Tattoo Identification Services (tjctip.com, thoroughbredconnect.com, registry.jockeyclub.com).
- The Jockey Club has contributed to the work of the Thoroughbred Aftercare Alliance Foundation Inc. (thoroughbredaftercare.com).

These significant activities demonstrate progress in improving the safety and integrity of the sport of Thoroughbred racing. In addition to the much-needed ban on anabolic steroids a few years ago, we also have seen evidence of state regulatory authorities' efforts toward reform, in particular Kentucky's movement to eliminate Lasix in some races and New Mexico and California regulators' tightening rules on the use of Clenbuterol.

But the changes have not been fast or comprehensive enough in The Jockey Club's view.

For that reason, The Jockey Club drafted last year, and revised earlier this year, a document called, "Reformed Racing Medication Rules," with the goal of having it serve as the basis for new regulations and laws. This effort was undertaken with the input and guidance of a broad range of industry stakeholders, including regulators, trainers, breeders, owners, veterinarians, track operators and bettors.

Since that time, The Jockey Club has actively advocated for the adoption of the Reformed Racing Medication Rules by the state racing commissions in the states that conduct pari-mutuel racing and has promoted it through the media and our advocacy website, cleanhorseracing.org.

In addition, it is the position of The Jockey Club that we will support the adoption of the Reformed Racing Medication Rules as a federal law if an inter-state compact or action by states continues to prove unattainable.

On the matter of the Interstate Horseracing Improvement Act, The Jockey Club has carefully studied this proposed legislation. The Jockey Club applauds the goals and effort to coalesce very complex subjects into a unified law. We wish to point out, however, areas of concern to The Jockey Club.

First, the bill's definition of "performance-enhancing drug" is extremely vague and is overly broad, encompassing almost anything, and seeking the technically impossible "zero tolerance."

By contrast, the Reformed Racing Medication Rules strictly prohibit all medications except for just 25 appropriate therapeutic drugs allowed for use but withdrawn well before a race.

Second, the bill contains prohibitions only against "knowingly" providing horses with performance-enhancing drugs. This would introduce a new and extremely high prosecutorial hurdle that currently does not exist in racing. The Reformed Racing Medication Rules adopt the current standard of the strict liability of the trainer, the responsible party. We believe this will be far more effective.

Third, the bill includes a right of private action. We believe the medication issue is a regulatory one and that private litigation will serve only as a significant distraction from achieving the aims of this law.

Fourth, the bill seeks to achieve its ends by amending the Interstate Horseracing Act. We believe this will engender significant resistance by many industry stakeholders. We urge that if uniform medication reform is enacted at the federal level, it is undertaken on a stand-alone basis, and with a comprehensive funding solution and a coordinated prosecution structure.

Lastly, we are concerned that the penalties of the bill do not go far enough in some cases. In fact, there is a timely example that concisely illustrates this point:

Under the Reformed Racing Medication Rules, the recent outbreak of Dermorphin positives (a drug 40 times more powerful than morphine) would have triggered a minimum fine for the trainer seven and one-half times larger than the bill's and a minimum suspension twice greater than the bill's.

The Jockey Club's determination to enhance the welfare and safety of horses and riders is longstanding and well documented. We will continue to devote our human, financial and technological resources toward improving the safety and welfare of Thoroughbreds and their riders. We look forward to working with this Committee and other state or federal agencies or lawmakers interested in reform.

Thank you again for the opportunity to share The Jockey Club's perspective on important issues that have direct impact on the future of Thoroughbred racing.

James L. Gagliano
President & Chief Operating Officer

Attachments