

**Strictly Private and Confidential**

14 July 2022

Mr. Nick Hartery,  
Chairman,  
Horse Racing Ireland,  
Ballymany,  
The Curragh,  
Co Kildare,  
R56 XE37.

**Re: Corporate Governance Compliance and Shareholder Expectations 2022**

Dear Chairman,

The Minister for Public Expenditure and Reform and I have given consideration to the way in which Government objectives for Horse Racing Ireland (HRI) are formulated and shared with board members (the "Board"). Arising from that consideration, this Shareholder's Letter of Expectation forms a structured approach to confirming Government's objectives for HRI over the short and medium term with a view to assisting the Board in its operations and in complying with its obligations under the prevailing governance framework.

This letter is intended to provide guidance to the Board with respect to Government's current objectives for HRI and the primary considerations which will be taken into account in respect of matters for which consent may be required under legislation and the Code of Practice for the Governance of State bodies (the "Code").

We believe that this letter will be helpful to the Board, particularly in its corporate and strategic planning processes and it is our intention that we would issue a similar letter on an annual basis.

The specific objectives outlined in this letter should be considered in the context of the Government's overall policy objectives for HRI, namely that

- HRI shall have a multi-annual Statement of Strategy and draft annual business and financial plans which have been approved by its Board and should be aligned, where appropriate, to Departmental policy and its Statement of Strategy, taking account of the Body's legal framework
- HRI will maintain financial policies and a capital structure, taking account of future obligations (including pensions), that ensures that it remains financially viable.

Within the context of these objectives I note that matters arising from Brexit and the economic impact of the war in the Ukraine pose particular challenges for the business operations of HRI.

## **1. Animal Welfare**

The importance of a strong welfare and integrity foundation to the Horse Racing/Thoroughbred industry is crucial and this is well recognised throughout the industry. It is imperative that HRI continues to focus and develop this area, which includes working with the IHRB and other relevant stakeholders to ensure the highest standards of integrity and welfare are maintained.

## **2. Dividends**

It is our view that a new Dividend Policy, tailored to the specific circumstances of each commercial semi state body, should apply in the commercial state sector, with a view to facilitating management in prioritizing objectives and providing greater clarity on dividend payments over the medium term.

We therefore request that the Board of Horse Racing Ireland now develops a new formal dividend policy for the body which takes into consideration the following principles:

- a) an appropriate balance should be struck between payment of dividends and reinvestment in the business; in this context it is the strong objective that a robust medium term framework for the calculation of dividends be put in place which will reflect the imperative that HRI remain strong financially and in a position to invest commercially whilst also delivering an appropriate return to the Shareholder(s).
- b) the policy and its implementation over a five year period, taking into account structural, ownership, regional and other relevant differences.

And

- c) The policy should also be related to an agreed proportion of cash flow as well as net profit after tax (NPAT).

As indicated above, the objective of formulating a new dividend policy is to assist the Board by bringing clarity to the Government's objectives as regards future dividend payments over the medium term, thereby avoiding the uncertainty created by special dividends potentially being requested from time to time.

It may still be necessary or appropriate for special dividends to be paid from time to time (e.g., in event of sales of assets, windfall gains, etc.). In such instances, all procedures relating to procurement as set out in the Code of Practice for the Governance of State Bodies must be adhered to, including with regards to property valuation.

However, to the extent that any special dividend is paid, it is our expectation that the likely impact of such payment on the policy would be reviewed at the time. We also believe that greater certainty on dividend policy will assist in enabling informed decisions to be made on financial management and investment, while providing an appropriate, regular and predictable return to the Shareholder.

HRI should now consider the development of an appropriate Dividend Policy.

## **3. Return on Capital**

A key focus for the Shareholder in commercial State companies is the return generated on capital invested. We propose to augment our monitoring and measurement of HRI's investment returns and in this regard Appendix 1 includes a series of financial performance measures in respect of profitability and investment return which we propose to use for the purposes of on-going assessment of Company performance. While acknowledging that returns will vary from year to year it is, however, a key Government objective that Horse Racing Ireland delivers investment returns over the next five years, while also having regard to the cost of capital

This proposed approach to developing a perspective on shareholder return will be reviewed on an on-going basis and may be adapted as necessary

#### **4. Sectoral Policy Objectives**

In addition to the overall policy objectives of HRI listed above, we wish to ensure that Horse Racing Ireland continues to work actively to support general Government policy in the thoroughbred sector.

This will require an appropriate level of on-going investment by HRI, with care being taken to ensure that core areas of activity are prioritised within the resources available to the company for reinvestment.

#### **5. Governance Arrangements**

##### **Corporate Plan**

The Code sets out the governance Framework for the internal management, and the internal and external reporting Relationships of commercial and non-commercial State bodies. As you know, the Code requires State bodies to prepare a rolling five-year corporate plan, which should be submitted to the parent Department within six months of the year end. We will engage with you in this annual process, in order that we can provide feedback to you on these plans in a timely fashion.

##### **Reporting**

The Business and Financial Reporting Requirements document, appended to the Code, sets out the reporting requirements to which State bodies should adhere, including the provision of interim and final annual accounts.

In this context, the current arrangement for six-monthly review meetings between HRI and this Department is considered to be good practice, and we should continue to use this mechanism to review progress in relation to the financial performance measures referred to above (as set out in Appendix I) and other key performance indicators.

Accordingly, the metrics set out in the Appendix to this letter should be calculated by the Company and submitted along with the interim and annual accounts with a brief commentary under each of the headings on the performance outcome, e.g. in line/on target with corporate plan and budget etc.

The Minister has informed the CEO of HRI by letter of 26<sup>th</sup> May 2022 that in the context of a recommendation made in the Joint Oireachtas Committee on Agriculture Food and Marine report published in November 2021 entitled Horse Racing in Ireland, it is his considered opinion that the interests of HRI would be best served in terms of enhanced transparency and corporate governance by including details of the number of employees whose total employee benefits for the reporting period fell within each pay band of €25,000 from €50,000 upwards and an overall figure for each employer pension contributions in the annual report and /or audited financial statements of HRI as required by the Code .

##### **Board Evaluation**

Consistent with the requirement in the Code, we expect that the Board constantly reviews its own operation and performance and that of its individual members and that the Board undertakes an evaluation of its performance on an annual basis.

## Roles and Responsibilities

The roles and responsibilities of the Board, Chairperson and the CEO of HRI and the Accounting Officer of the Department are outlined in Appendices 2 -5.

HRI has clearly indicated its commitment to ensure ongoing compliance with corporate governance, reporting and related obligations and shall adhere at all times to the principles of good corporate governance as set out in the Code. HRI and its subsidiaries have undertaken to confirm to the Minister that they comply with the Code in their governance practices and procedures.

The Chairperson of HRI will provide, as required in the Code, written confirmation on an annual basis in the Chairperson's Comprehensive Report to the Minister for Agriculture, Food and the Marine that it is in compliance with all requirements of the Code applicable to it.

In relation to relevant legislative obligations, HRI undertakes to ensure compliance with its obligations under its governing legislation and, if applicable, the Companies Acts.

Specific Compliance Requirements:

HRI confirms its adherence to the following:

- DPER Circular 25/2016: Protocol for the Provision of Information to Members of the Oireachtas by State Bodies (See paragraph 7 of the Circular)
- Circular 13/13: The Public Spending Code: Expenditure Planning, Appraisal & Evaluation in the Irish Public Service - Standard Rules & Procedures
- DPER Circular 13/2014: Performance Delivery and Corporate Governance Agreement

That HRI is compliant with Department of Public Expenditure and Reform (DPER) guidelines on grants to public bodies as set out in the Public Financial Procedures, the Public Spending Code and shall also adhere to the terms of the DPER Circular: 13/2014 - Management of and Accountability for Grants from Exchequer Funds. HRI will ensure that, in addition to this document, it has appropriate systems in accounting, administrative and management reporting and internal audit to ensure proper administration of its grant.

Should you have any queries in relation to any matters set out in this letter, you may engage with my Department and in this regard please feel free to make arrangements with your usual contacts.

Yours sincerely



Charlie Mc Conalogue TD  
Minister for Agriculture, Food and the Marine

## Appendix 1: Financial Performance Measures

### Shareholder Return

Measure	Calculation
Dividend pay out	(i) Dividends paid / Adjusted net profit after tax (prior year) (ii) Dividends paid / net cash flow from operating activities (iii) Dividends paid / (net cash from operating activities less capex)
Return on Equity	Adjusted net profit after tax / Average Equity
Earnings Growth	Compound Annual Growth Rate in Adjusted net profit after tax

### Profitability / Efficiency

Measure	Calculation
Return on Capital Employed (ROCE)	(i) Adjusted EBIT / Average Capital Employed (ii) Adjusted EBIT/Adjusted Average Capital Employed

### Wages and Salaries

Measure	Calculation
Average Pay	Wages & Salaries Cost /Average no. of employees
Average Pay incl. Employer Contributions	Wages & Salaries plus Employer Pension Contributions /Average no. of employees

### Leverage / Solvency / Credit Metrics

Measure	Calculation
Gearing Ratio (net)	(i) Net debt / Net debt plus equity plus minorities (ii) Net debt / Net debt plus pension liabilities plus employee related liabilities plus equity plus minorities
EBITDA Interest Cover	Adjusted EBITDA / Net Interest Payable
Interest Cover	PBIT/Net Interest Payable
FFO / Debt	Funds from Operations / Gross Debt
Financial covenant metrics	e.g Net Debt/EBITDA, others

### Definitions of Key Terms used in calculations

Term	Definition
Adjusted EBIT	Earnings before interest and tax adjusted for exceptional items and IFRS fair value movements
Adjusted EBITDA	Earnings before interest, tax, depreciation and amortisation adjusted for exceptional items and IFRS fair value movements
Adjusted Net Profit after Tax	Net profit after tax adjusted for exceptional items and IFRS fair value movements
Adjusted Capital Employed	Net debt plus equity plus pension liabilities plus employee related liabilities

Capital Employed	Net debt plus equity
Dividends Paid	Dividends paid during the financial year per the cashflow statement (excl. special dividends)
Equity	Total shareholder(s) equity taken from the balance sheet
Funds from Operations	Net cashflow from operating activities (post interest and tax paid and pre-w capital changes)
Gross Debt	Interest bearing debt such as loans, bonds and commercial paper <i>plus</i> interest bearing finance leases
Fair value adjustments	Includes unrealised fair value gains / losses on derivatives or all fair value gains / losses on derivatives where the entity does not separately identify unrealised items.
Net cashflow from operating activities	Taken directly from the cashflow statement - ensure interest paid is included
Net Debt	Interest bearing debt such as loans, bonds and commercial paper plus interest bearing finance leases less cash

## **Appendix 2: Role of the Board**

### **Principles**

Each State body should be clear about its mandate and from that identify the various functions, roles and responsibilities entailed in the delivery of that mandate.

The Board is collectively responsible for leading and directing the State body's activities. While the Board may delegate particular functions to management the exercise of the power of delegation does not absolve the Board from the duty to supervise the discharge of the delegated functions.

The Board should fulfil key functions, including: reviewing and guiding strategic direction and major plans of action, risk management policies and procedures, annual budgets and business plans, setting performance objectives, monitoring implementation and State body performance, and overseeing major capital expenditure and investment decisions.

The Board should act on a fully informed and ethical basis, in good faith, with due diligence and care, and in the best interest of the State body, having due regard to its legal responsibilities and the objectives set by Government.

The Board should promote the development of the capacity of the State body including the capability of its leadership and staff.

The Board is responsible for holding the CEO and senior management to account for the effective performance of their responsibilities.

### **Code Provisions**

- **Leadership:** The Board's role is to provide leadership and direction of the State body within a framework of prudent and effective controls which enables risk to be assessed and managed. The Board should agree the body's strategic aims with the Minister and parent Department, to the extent relevant, and ensure optimal use of resources to meet its objectives.
- **Ethical Standards:** The Board has a key role in setting the ethical tone of a State body, not only by its own actions but also in overseeing senior management and staff. High ethical standards are in the long-term interests of the body and a key means to make it credible and trustworthy. It is important that the Board sets the correct 'tone from the top'. The Board should lead by example and ensure that good standards of governance and ethical behaviours permeate all levels of the organisation.

- **Compliance:** The Board should review the controls and procedures adopted by the State body to provide itself with reasonable assurance that such controls and procedures are adequate to secure compliance by the State body with their statutory and governance obligations.
- **Collective Responsibility:** The collective responsibility and authority of the Board should be safeguarded. All Board members should be afforded the opportunity to fully contribute to Board deliberations, and where necessary to provide constructive challenge, while excessive influence on Board decision-making by one or more individual members should be guarded against.
- **Board Oversight Role:** The management of the State body has a duty to provide the Board with all necessary information to enable the Board to perform their duties to a high standard. The Board of the State body should take all necessary steps to make themselves aware of any relevant information and access all information as necessary.
- While the Board of a State body may establish an Audit and Risk Committee to assist with its consideration of issues relating to audit, governance and risk management, the Board of the State body maintains responsibility for and makes the final decisions on all of these areas.
- **Advice to Minister:** The Board should ensure that the Chairperson keeps the relevant Minister advised of matters arising in respect of the State body.

[Source – Chapter 1, Department of Public Expenditure and Reform Code of Practice of the Governance of State Bodies 2016]

## Appendix 3: Roles of the Chairperson

### Principle

The Chairperson is responsible for leadership of the Board and ensuring its effectiveness on all aspects of its role.

The Chairperson should display high standards of integrity and probity and set expectations regarding culture, values, and behaviours for the State body and for the tone of discussions at Board level.

### Code Provisions

- **Board's Agenda:** The Chairperson and the CEO are responsible for the effective management of the Board's agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues. The Chairperson and the CEO should meet in advance of the Board meeting to agree the agenda.
- **Openness and Debate:** Essential to the effective functioning of the Board is dialogue which is both constructive and challenging. The Chairperson should promote a culture of openness and debate by facilitating the effective contribution of key management and all Board members.
- **Timely Information:** The Chairperson is responsible for ensuring that the Board receive accurate, timely and clear information. The Chairperson should ensure effective communication with all relevant stakeholders.
- **Board Skills:** Where a Chairperson is of the view that specific skills are required on the Board, he/she should advise the relevant Minister of this view for his/her consideration sufficiently in advance of a time when Board vacancies are due to arise. This is in order to seek to ensure that the process undertaken under the Guidelines for Appointments to State Boards identifies candidates with those skills and so that the Minister may take the Chairperson's views into consideration when making appointments from qualified candidates from the stateboards.ie process.
- **Information Flows:** Under the direction of the Chairperson, the responsibilities of the Secretary of the Board include ensuring good information flows within the Board and its committees and between senior management and non-executive Board members, as well as facilitating induction, mentoring and assisting with ongoing professional development as required.
- **The Chairperson's Comprehensive Report to the Minister:** The Chairperson of each State body will furnish to the Minister and, where appropriate, NewERA in conjunction with the annual report and

financial statements of the State body, the comprehensive report as outlined in paragraph 1.9 of the Code's associated document *Business and Financial Reporting Requirements*.

- Statement on Internal Control: The Chairperson will provide a report to the Minister regarding the system of internal control which shall be included in the annual report of the State Body. This statement should be reviewed by the Body's external auditors to confirm that it reflects the audited body's compliance with the requirements of paragraph 1.9(iv) of the Chairperson's Comprehensive Report and is consistent with the information of which they are aware from their audit of the financial statements. The external auditor should include their report on this matter in their audit report on the financial statements.
- Oireachtas Committee: Persons being proposed by Ministers for appointment as Chairpersons of State bodies shall make themselves available to the appropriate Oireachtas Committee to discuss the approach they will take to their role as Chairperson and their views about the future contribution of the body or Board in question.

[Source – Chapter 2, Department of Public Expenditure and Reform Code of Practice of the Governance of State Bodies 2016]

## **Appendix 4: Roles and Responsibilities of the Chief Executive Officer of a State Body under the aegis of the Department of Agriculture, Food and the Marine**

The Chief Executive of Horse Racing Ireland is responsible for the discharge of such functions, including the day to day operations of the Body, as may be assigned to him/her by the Board and is accountable in the manner provided for in:

- The Horse Racing Ireland Act 2016, Irish Horseracing Industry Act 1994
- The Horse and Greyhound Racing Act 2001, Horse and Greyhound Racing (Betting Charges and Levies) Act, 1999
- their contract of employment
- the *Public Financial Procedures* published by the Department of Public Expenditure and Reform in so far as it relates to the Chief Executive of a State Body.
- the *Code of Practice for the Governance of State Bodies* published by the Department of Public Expenditure and Reform in so far as it relates to the Chief Executives of a State Body.

The Chief Executive is responsible for:

- ensuring adherence to any policy directives issued to Horse Racing Ireland or any of its subsidiaries by the Minister for Agriculture, Food, and the Marine.
- ensuring that there are systems in place to provide relevant, accurate and timely information to the Department of Agriculture, Food and the Marine and, if relevant, to the Office of the Comptroller and Auditor General.
- ensuring adherence by Horse Racing Ireland to the *Code of Practice for the Governance of State Bodies* and relevant statutory requirements in so far as their role permits.
- ensuring that there is a clear framework for control and accountability of public funds in Horse Racing Ireland, including the operation of an internal audit function.
- ensuring that public funds received by Horse Racing Ireland are disbursed and accounted for in manner consistent with all relevant statutory requirements and in accordance with the terms and conditions of any sanction issued by the Department of Public Expenditure and Reform and/or the Minister for Agriculture, Food and the Marine and also with the requirements of the *Public Financial Procedures*;
- if appropriate, giving evidence to the Committee of Public Accounts of Dáil Éireann.

[Source – Department of Agriculture, Food and the Marine Internal Documents]

## Appendix 5: Roles and Responsibilities of Accounting Officer

The Secretary General of the Department of Agriculture, Food and the Marine is appointed, by the Minister for Public Expenditure and Reform, as the Accounting Officer for the funds voted to the Department by Dáil Éireann under the Exchequer and Audit Departments Act, 1866 and the Comptroller and Auditor General (Amendment) Act, 1993.

Under the Code (paragraph 8.5), “an Accounting Officer of the Government Department under whose aegis the State body lies should satisfy him/herself that the requirements of this Code are being properly implemented and observed. In support of this role, the Accounting Officer or his/her Department may also request further information/evidence that the entity is in compliance with the Code and the State Body should comply with all such reasonable requests”. In discharging this responsibility, the Accounting Officer will place a major reliance on the Code compliance affirmations made by the State Body, e.g. the Chairperson’s Comprehensive Report to the Minister and the State Body’s Annual Report.

For the purposes of this Agreement, the main responsibilities of the Accounting Officer are as follows:

- The safeguarding of public funds and property under his or her control.
- Ensuring that all relevant financial considerations are taken into account and, where necessary, brought to the attention of the Minister where they concern the preparation and implementation of policy proposals relating to expenditure or income for which he or she is Accounting Officer, including those relating to the State Bodies which require Ministerial approval.
- The adequacy of arrangements within the Department/Office to ensure the correctness of all payments under his/her control and the prompt and efficient recovery and bringing to account of all receipts connected with the Vote, or with any fund for which the Department is responsible, including those relating to the Department’s financial relationship with its State Bodies.
- Ensuring that the Department of Public Expenditure and Reform sanction for expenditure has been obtained and for the maintenance of a central record of both delegated and specific sanctions, including those relating to the Department and its State Bodies.
- Responsibilities in respect of Grants (formerly Grants-in-Aid) to outside agencies, particularly in regard to the conditions of the grant, the submission of accounts and being satisfied that the accounting systems and organisational arrangements of the grantee are adequate to ensure the proper administration of the money.
- Ensuring that there is a clear framework for control (including financial reporting) and accountability for public funds in bodies operating under the aegis of the Department.

[Source – Amended from “The Role and Responsibilities of Accounting Officers: A Memorandum for Accounting Officers, Department of Public Expenditure and Reform 2011”]