

Off the Bridle



by JOHN SCANLON

I WAS fascinated to read Bill Barber's exclusive story in the Racing Post last month about a potential legal challenge from Chelmsford City racecourse to the British Horseracing Authority (BHA) over the way it allocates fixtures to British racecourses.

Apparently, lawyers acting for the racecourse have issued a 'letter before action' to the BHA. Should the matter proceed to litigation, the case could amount to a challenge of the idea that racecourses 'own' their fixtures. At the moment, around 85% of the fixture list is made up of 'racecourse fixtures', those said to be owned by the tracks themselves, while the remaining 15% are 'owned' by the BHA, and are available for racecourses to bid for them.

Chelmsford City opened as Great Leighs in 2008, before being relaunched as Chelmsford City in 2015. It appears to be at a disadvantage in relation to the other all-weather tracks when it comes to fixture allocation as it has only 12 'racecourse' fixtures and a total of 41 race meetings in the 2024 fixture list.

Lawyers for the racecourse point out that Chelmsford City has always endeavoured to offer comparatively high levels of prize-money, and if they are limited to 12 fixtures plus others for which they have to apply to the BHA, it would be difficult to recoup the investment they have made in prize-money, in buildings and on the track.

The point at issue is whether the way the BHA allocates fixtures (and, in particular, the fact that it allocates 85% of fixtures to the same racecourses for the same meetings year in, year out) is anti-competitive and unlawful.

Of course, some might argue the BHA should not defend such a challenge. After all, it presumably wants the same outcome as Chelmsford. Racecourses, however, would wish any challenge to their 'ownership' of fixtures to be fiercely

defended. Will they attempt to force the BHA to defend? According to the Racecourse Association (RCA), the rights attached to racecourse fixtures were reinforced in a memorandum of understanding agreed as part of the creation of the BHA in 2007. David Armstrong, chief executive of the RCA, is quoted by Barber as having told the Racing Post in 2021: 'That has been a long-established principle and is very clearly defined from a legal point of view. Yes, the racecourses do own their fixtures.'

I would love to see this threatened litigation proceed, although I stress that I would not wish to take sides in the argument, as it is not an area of the law in which I am sufficiently versed to have a worthwhile opinion. That said, those of us who feel that the revisions to the 2024 fixture list which took so long to produce were underwhelming and

unambitious would probably welcome a successful challenge. After all, opening up 85% of the fixture list would enable a proper, thorough and radical review of the fixture list, so that a racing calendar could be assembled which would not only take into account the needs of the racecourses

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but also give proper weight to the needs of the bookmakers, owners, media, horsemen, racegoers and all other stakeholders. To take just a couple of examples, it is surely evident that where and when racing should be scheduled should take into account factors such as local holidays or public events, and a proper geographical spread of fixtures should increase potential attendances and offer opportunities for local trainers.

Sadly, the cynic in me feels that even if the litigation is to proceed, the time which would elapse before the case would be decided, with an inevitable appeal were the judgement to be in Chelmsford's favour, would suggest that the status quo is unlikely to be upset for at least three years. Can racing afford to wait that long, never mind Chelmsford City?

THAT edition of the Racing Post had Bill Barber echoing Thoroughbred Group chairman Julian Richmond-Watson's call for transparency over racecourses' income from media rights and a reader's letter making the same point. It's as if the powers that be at the paper had, overnight, read much of this column's output over the last few years and decided I was right. Better late than never, perhaps!

But, on the front cover, there was the *pièce de resistance*.

'A lack of transparency over the way money flows through the sport is causing suspicion and impeding progress, British racing was warned last night,' it said. The speaker? Julie Harrington, chief executive of the BHA. The venue? The 252nd Gimcrack Dinner at York Racecourse.

Ms Harrington was on top form, saying: 'We remain a global leader in breeding, training, racing. We're one of Britain's greatest exports, one of its most important soft power levers. We should be purring along like a Ferrari. But too often vested interests, siloed operations and a general

reluctance to embrace change makes it feel like we are driving a Ferrari with the handbrake on.'

I take no pleasure in hearing Ms Harrington now singing from the same hymn sheet as myself. What does strike me as remarkable, however, is that her comments came just weeks after David Jones, chair of the BHA's Commercial Committee, told the Horseracing Industry Conference at the same venue about the new-found spirit of collaboration among racing's stakeholders in the wake of the abandonment of the tripartite agreement and the agreement of a new governance structure. There, questions from the floor, including a question about disclosure of income from media rights were, albeit politely, dismissed as being unhelpful in the context of the new collaborative industry.

With all due respect to Mr Jones, I suspect Ms Harrington's concerns are closer to the reality of the suspicions that remain among racing's primary stakeholders. Here's hoping that the penny drops in 2024, and that David Jones's true spirit of collaboration emerges triumphant from the impasse.