

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair
Rebecca Kelly Slaughter
Alvaro M. Bedoya
Melissa Holyoak
Andrew Ferguson**

**ORDER APPROVING THE REGISTRATION RULE MODIFICATION PROPOSED BY
THE HORSERACING INTEGRITY AND SAFETY AUTHORITY
April 19, 2024**

**I. Background Information Concerning HISA’s Proposed Modification of the
Registration Rule**

The Horseracing Integrity and Safety Act of 2020¹ recognizes a self-regulatory nonprofit organization, the Horseracing Integrity and Safety Authority (“HISA” or “the Authority”), which is charged with developing proposed rules on a variety of subjects relating to horseracing.² Those proposed rules and subsequent proposed rule modifications take effect only if approved by the Federal Trade Commission (“the Commission”).³

On June 29, 2022, the Commission approved the Registration Rule proposed by the Authority, which established the requirements for Covered Horses and Covered Persons, including Racetracks, to register with the Authority.⁴ Subsequently, when the Commission approved the Anti-Doping and Medication Control (“ADMC”) Rule proposed by the Authority, which was the last of the initial rules required by the Act, the Commission recognized “that there may be some benefit for all of the horseracing rules to be reviewed simultaneously once they

¹ 15 U.S.C. §§ 3051–3060.

² *See id.* § 3053(a).

³ *See id.* § 3053(b)(2).

⁴ *See* Fed. Trade Comm’n, Order Approving the Registration Rule Proposed by the Horseracing Integrity and Safety Authority (June 29, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/P222100CommissionOrderRegistrationRuleFinal.pdf.

have been in effect for enough time to provide all stakeholders with an opportunity to evaluate them.”⁵ Accordingly, the Commission directed the Authority “to review all of its existing rules (Racetrack Safety, Assessment Methodology, Enforcement, Registration, and ADMC) and submit any proposed rule modifications to the Commission by September 27, 2023.”⁶ The Commission further ordered the Authority to:

[D]iscuss each of the suggestions made by commenters that the Authority committed to further consider and the reasons that the Authority did or did not adopt the suggestion within the text of the proposed rule modification.... In this way, by considering updates to all the rules at once, the Authority, the public, and the Commission [would] be able to evaluate how the rules interact in practice and to examine both sides of the “cost” and “benefit” ledger at the same time.⁷

On September 27, 2023, the Authority submitted to the Commission a proposed modification of the Registration Rule, by which the Authority aimed to “enhance and refine the requirements and procedures for the registration of Covered Persons, Covered Horses, and Racetracks.”⁸ In its submission, the Authority noted that it had not previously committed to further consider any comments that were submitted in response to the Federal Register notice for the original Registration Rule.⁹

As required by the Act,¹⁰ the Commission published the proposed modification of the Registration Rule in the Federal Register on February 20, 2024.¹¹

II. Discussion of Public Comments

⁵ See Fed. Trade Comm’n, Order Approving the Anti-Doping and Medication Control Rule Proposed by the Horseracing Integrity and Safety Authority at 6-7 (Mar. 27, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/P222100CommissionOrderAntiDopingMedication.pdf.

⁶ *Id.*

⁷ *Id.*

⁸ Fed. Trade Comm’n, *Notice of Horseracing Integrity and Safety Authority (HISA) Proposed Rule Modification* (“Notice”), 89 Fed. Reg. 12,839 (Feb. 20, 2024), <https://www.federalregister.gov/documents/2024/02/20/2024-03301/horseracing-integrity-and-safety-authority-registration-rule-modification>.

⁹ *Id.* at 12,841.

¹⁰ 15 U.S.C. § 3053(b)(1).

¹¹ See Notice, 89 Fed. Reg. 12,839.

Two public comments were filed in response to the Commission’s Federal Register notice. The Authority provided its response to the filed comments by letter to the Commission.¹²

One comment, by a veterinarian, objected to the proposed new requirement in HISA Rule 9000(d) that Veterinarians provide their license number for each jurisdiction in which they are currently licensed by state veterinary licensing authorities.¹³ The commenter opined: “[t]he ability of HISA to check on our state veterinary license status seems to be overreaching their authority as a racing authority, not a veterinary authority. That is the job of the state veterinary board, and both tracks that I have worked at require signatures from the track-employed commission veterinarians who verify our state licensure status prior to allowing us to obtain a racing commission license in that state.” The Authority responded that there are several instances in the Racetrack Safety Rules that specifically require Veterinarians who provide veterinarian services to Covered Horses to be licensed in the applicable jurisdiction. The Authority stated that the new provisions of Rule 9000(d) will allow the Authority to verify compliance with the Racetrack Safety Rules. Given that the Act identifies “Veterinarians” as “Covered Persons,”¹⁴ and given that the Authority’s Racetrack Safety Rules expressly apply to Veterinarians, the Commission concludes that the proposed registration requirement for Veterinarians is consistent with the Act.

The second comment opined that “[h]orse racing should be eliminated, rather than having veterinary standards,” and stated, “[t]here is no excuse for permitting extreme pushing of these animals to the breaking point, either by leg fractures which cause the horses to be put down, or

¹² The FTC posted this letter on regulations.gov as a related document on Docket FTC-2024-0020. *See* <https://www.regulations.gov/docket/FTC-2024-0020>.

¹³ Cmt. of Erin Barrett, <https://www.regulations.gov/comment/FTC-2024-0020-0004>.

¹⁴ 15 U.S.C. § 3051(6).

other causes of deaths in horse racing.”¹⁵ The Authority responded that this comment is not relevant to any decisional criteria provided by the Act, which are whether the proposed modification is consistent with the Act and the Commission’s procedural rules. The Commission agrees.

III. Conclusion

According to the Authority, the proposed changes to the Registration Rule will “enable the Authority to possess accurate and timely information concerning Covered Persons and Covered Horses.”¹⁶ Some of the changes will alter the current registration requirements, but the Authority believes the new requirements are not burdensome, and the Commission agrees. The Act makes registration of Covered Persons with the Authority a required condition of participating in Covered Horseraces and in the care, ownership, treatment, and training of Covered Horses.¹⁷ By registering, Covered Persons also agree to be subject to and comply with the Authority’s rules developed under section 3054(c) of the Act,¹⁸ and registration allows the Authority to effectively administer the Racetrack Safety and ADMC programs required by the Act.¹⁹

In the Commission’s view, the Authority has provided a sound basis for its proposed modification to the Registration Rule. The Commission further believes that the proposed modification is consistent with the Act and with the Commission’s procedural rules.²⁰ Accordingly, by this Order, the Commission approves the proposed rule modification.

¹⁵ Cmt. of Kermit Kubitz, <https://www.regulations.gov/comment/FTC-2024-0020-0005>.

¹⁶ Notice, 89 Fed. Reg. 12,839.

¹⁷ 15 U.S.C. § 3054(d)(1).

¹⁸ 15 U.S.C. § 3054(d)(2); HISA Rule 9000(g).

¹⁹ See 15 U.S.C. §§ 3055(a)(1), 3056(a)(1).

²⁰ See 15 U.S.C. § 3053(c)(2).

For the foregoing reasons, the Authority's proposed modification to the Registration Rule is APPROVED.

By the Commission.

April J. Tabor
Secretary