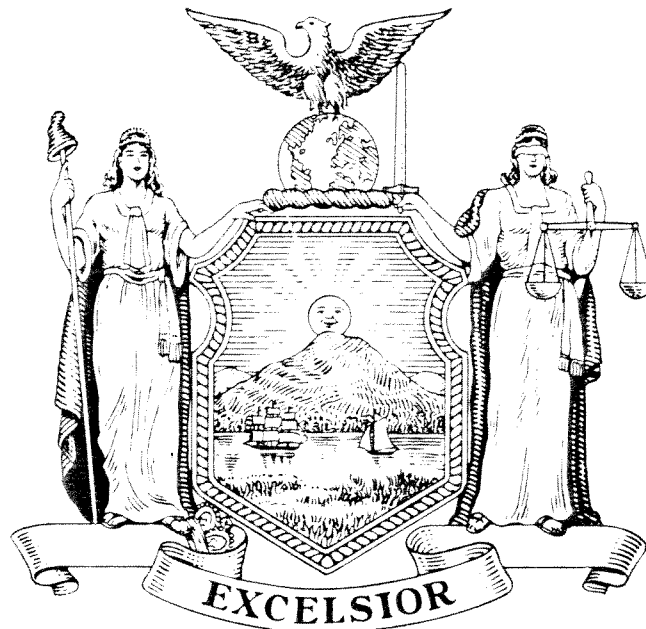


**STATE OF NEW YORK
SIMULCAST REPORT
1989**



**NEW YORK STATE
RACING & WAGERING BOARD**

MARIO M. CUOMO
Governor

RICHARD F. CORBISIERO, JR.
Chairman

BENNETT LIEBMAN
Member

JOSEPH P. NEGLIA
Member



STATE OF NEW YORK
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March 31, 1990

To the Honorable Mario M. Cuomo, Governor:

In accordance with the provisions of Section 1002(2) of the Racing, Pari-Mutuel Wagering and Breeding Law, I am pleased to submit to you the sixth annual Simulcast Report of the Racing and Wagering Board.

Nineteen hundred and eighty-nine saw New York State continue to lead the nation in total dollars wagered on horse races. Combined handle, both on and off-track, totalled over \$3.2 billion. The Board has identified simulcasting as a significant factor in the maintenance of New York's position. Simulcasting is now an integral part of the state's racing and wagering scheme. Simulcast activities during 1989 and its results are described in detail in this report.

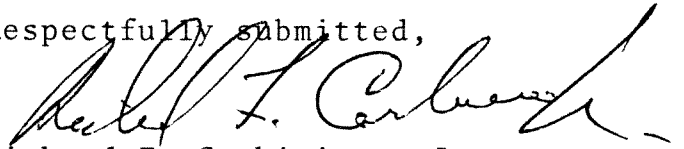
The racing and wagering industry is an important component of the Empire State's economy. It generates substantial revenue for state and local governments and employs tens of thousands of New Yorkers. The industry however, is plagued by significant differences among its various components. The Board believes that 1989's 3.2% decrease in handle levels from 1988 could be reversed if the members of the racing and wagering community simply worked together in the best interest of racing. The acrimony which characterizes many of the relationships within the racing and wagering community inhibits its continued well being. The Board is forced to devote considerable time and effort to mediate these disputes.

The Board strongly believes that there must be a cooperative partnership among all elements of the industry if New York is to maintain its preeminence in the racing world. Only together can we continue to effectively promote and enhance this unique and exciting sport.

In this report, the Board recommends that simulcasting be made a permanent part of New York's racing and wagering system, while giving the Board the necessary authority to insure its proper and lawful conduct. As we enter the last decade of this century, the New York State racing, wagering and breeding industries should be encouraged to move towards the goals of expanding the economy of and interest in racing, insuring the public's confidence in the sport, and achieving true industry-wide cooperation.

The Board's staff, particularly Steven H. Richman, Eileen M. Clarke-Brady, Arthur Schechter and John M. Dailey, are commended for their extraordinary efforts in the preparation of this report.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Richard F. Corbisiero, Jr.", written in dark ink.

Richard F. Corbisiero, Jr.
Chairman

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EDITOR'S NOTE

The New York State Racing and Wagering Board's 1989 Simulcast Report is somewhat different than its five prior editions. In addition to reporting on simulcast activities by New York State's race tracks and off-track betting corporations for the calendar year 1989, we have sought to put simulcasting in perspective, as we approach the expiration of the current statutory experiment.

Following the introductory sections, we have added a new part. This "Overview" of the entire simulcast experiment (1984 to date) attempts to briefly summarize New York's experience during the last five years as well as highlight significant trends. Much of the information has been gleaned from prior simulcast reports, as well as the collective knowledge of the writers and researchers for this report. Each OTB Operations Analyst is intimately familiar with his or her OTB region. The Chief of Racing Operations and the Board's auditing staff are in daily contact with the State's race tracks. This accumulated wisdom hopefully offers some insight into the simulcast experiment. In addition, the multi-year charts are a handy reference tool in showing where New York State is and how it got there.

Following this new section, we return to the traditional format of earlier reports. The report describes the statutory evolution of the simulcast law as well as Board practices and procedures in effectuating the statute. It goes on to detail the significant activities, accomplishments and problems encountered by each participant in simulcasting during 1989. It also explains the techniques involved in both the interfacing of wagers and the transmission of the simulcast signal. Finally, the report seeks to analyze what additional betting dollars have been generated by simulcasting.

We then present the Board's recommendations for statutory changes as well as its conclusion. The appendices provide detailed financial schedules relating to simulcasting and the State's race tracks and OTB corporations.

We join Chairman Corbisiero in commending the extraordinary work of the members of the 1989 Simulcast Report staff. Their dedication to this effort and to serving the people of this Empire State are in the best tradition of public service.

INTRODUCTION

Nineteen hundred and eighty-nine was the fifth full calendar year in which comprehensive statewide simulcasting of horse races within New York State occurred. It is the last full year for the current experiment. "Simulcasting" is the display of live televised horse races on which pari-mutuel betting is permitted at a site other than the track where the race is held.

It was authorized by Governor Cuomo and the Legislature in July 1984, on a one-year experimental basis. The purpose of the 1984-85 experiment was to determine if simulcasting could promote the overall growth of the racing, pari-mutuel wagering and breeding industries, resulting in additional revenues for the support of racing associations and corporations, purses, breeders, off-track betting corporations, labor, and state and local government. The one-year experimental scheme for simulcasting ran from July 1, 1984 to June 30, 1985, pursuant to Chapter 363 of the Laws of 1984.

After careful study and analysis of that experiment during 1985, including this Board's 1984 Simulcast Report and recommendations to the Governor and Legislature (dated March 27, 1985), the Legislature then passed and Governor Cuomo approved, Chapters 286 and 287 of the Laws of 1985. The 1985 laws amended the provisions of Article X of the Racing, Pari-Mutuel Wagering and Breeding Law and authorized

comprehensive statewide simulcasting for five years through June 30, 1990. In extending the provisions of Article X, the Legislature continued to find that the racing, breeding and pari-mutuel wagering industry is an important sector of the economy of this State, providing substantial revenues to state and local governments, and employing thousands of state residents. The Legislature determined that simulcasting holds the potential for strengthening and furthering these economic contributions and that it is in the best interest of the State to continue to encourage simulcasting.

Amendments relating to simulcasting were enacted during the 1986, 1988, and 1989 legislative sessions. These amendments expanded the type of services and amenities off-track betting corporations could offer in designated simulcast facilities, limiting the occasions when track consents are required for simulcasting, and expanded wagering and simulcasting opportunities on two major series of races, the Breeders' Cup (thoroughbred) and the Breeders' Crown (harness). The specific provisions of these statutory amendments are discussed later in this report.

The Legislature continued general supervisory and regulatory jurisdiction for all simulcasting in the New York State Racing and Wagering Board (Board) in accordance with basic guidelines established by the Legislature in Article X. In exercising its regulatory authority, the Board was directed (by the Legislature) not to authorize any

simulcasts which would jeopardize present racing or employment opportunities or which would infringe on the current operations or markets of the race tracks and the regional off-track betting corporations which generate significant revenues for local governments in the State.

Section 1002(2) of the Racing, Pari-Mutuel Wagering and Breeding Law (hereinafter Racing Law) requires the Board to submit annually a report on March thirty-first following each year in which simulcasting is conducted, to the Governor and the Legislature. This report on simulcasting is to evaluate its compatibility with the well being of the horse racing, breeding and pari-mutuel wagering industries in the State and the Board is to make any recommendations it deems appropriate. In accordance with the statutory mandate, the Board respectfully submits this, its fifth report, for the year ending December 31, 1989.

DEFINITIONS

In order to better understand this report on simulcasting, several specialized technical terms must be defined.

A SIMULCAST is the display of live audio and visual signals of thoroughbred, harness or quarterhorse races conducted at a track in the State for the purposes of pari-mutuel wagering at a site away from the track.

A SENDING TRACK is the race track holding the races from which simulcasts originate.

There are three types of SIMULCAST RECEIVING FACILITIES - an OTB SIMULCAST BRANCH (including an OTB telebranch and an enhanced OTB telebranch), a RECEIVING TRACK or a SIMULCAST THEATER (including demonstration projects).

An OTB branch is the ordinary operating component of an OTB corporation, which is authorized to accept wagers. When simulcasting is permitted, it is then licensed as an OTB SIMULCAST BRANCH. This type of facility only offers the audiovisual signal of the races.

During 1985, a special type of OTB branch was developed, called a TELEBRANCH. A telebranch is a licensed OTB branch with additional amenities for patrons, including larger screens, food and non-alcoholic beverage service.

Chapter 919 of the Laws of 1986 as amended by Chapter 467 of the Laws of 1989 created a third category of OTB branches which offers simulcasting. The Board has classified this category as an ENHANCED TELEBRANCH. An enhanced telebranch has all the amenities of a telebranch. In addition, an enhanced telebranch serves alcoholic beverages with the approval of the Board and issuance of appropriate licenses by the New York State Liquor Authority. The statute authorizes 15 enhanced telebranches in New York City and no more than three (3) such facilities per county for all other regions. The statute sets forth the minimum seating requirements in a restaurant setting for this new

type of facility and authorizes the use of credit cards for the purchase of food and beverages.

A RECEIVING TRACK is a licensed pari-mutuel race track where simulcasts, which originate from another licensed pari-mutuel track, are displayed.

A SIMULCAST THEATER is defined as a public entertainment and wagering facility. It has such amenities as a large projection screen, a display system for odds, pools, and payout prices, areas for viewing and seating, food, alcoholic and non-alcoholic beverage service. An admission fee is charged, and winning wagers on in-state simulcast races are not subject to the 5% OTB surcharge.

In the July 1985 legislation, special types of simulcast theaters called SPECIAL DEMONSTRATION PROJECTS were created for purposes of stimulating economic development, employment opportunities and state and local revenues. These special demonstration projects were authorized only in privately owned hotels in Sullivan and Ulster Counties for the exclusive use of guests of the hotel. Hotels in Greene County were made eligible by a 1986 statutory amendment. Additionally, one such special demonstration project was authorized within the City of New York. These facilities were authorized to be operated (a) by an OTB corporation or (b) jointly by an OTB corporation and a track. In either case, an outside or third party may participate in the operation of these facilities. To date, no applications for any of these licenses have been made.

Simulcasting uses the existing PARI-MUTUEL SYSTEM of betting (the only legalized form within the State of New York). In that system, all monies bet on a given race go into a pool. Odds on each horse or combination of horses are based upon the amount of money bet on each horse or combination in relation to the amount of the pool. Neither the track at which the races are run nor OTB contributes any funds to the pool from which winning bets are paid.

During the first year of the experiment (1984-85), minimum compensation to tracks simulcasting to OTB branches was calculated on the basis of incremental handle.

INCREMENTAL HANDLE was defined as the amount by which total monies bet at designated OTB facilities during the simulcast experiment exceeded the total amount wagered in those facilities during a previous non-simulcast time period. That time period was defined by statutory formula. Simply stated, it was the difference in a simulcast branch's handle before and after simulcasting.

Currently, compensation to the sending tracks by off-track betting corporations and receiving tracks is by agreement and, while some of the agreements still calculate on the basis of incremental handle, the computation of incremental handle differs substantially from the former statutory formula. In calculating simulcast handle, several of the agreements allowed for what has been called cannibalization.

CANNIBALIZATION is the reallocation of bettors and their dollars to a simulcast facility from nearby OTB branches which do not have simulcasting. Again, simply put, simulcast branches tend to draw customers from non-simulcast branches.

The July 1985 amendments to the simulcast statute deleted the incremental handle standard and its statutory formulation, and left compensation as a matter to be agreed upon by the tracks and the OTB corporations.

However, a new formula defining simulcast handle was written. The new definition does not apply to compensation to be paid by an OTB corporation for simulcasting. It serves as the basis for competing tax credits now granted by the State to the tracks (except the New York Racing Association) as an incentive to encourage the tracks to simulcast their races to OTB branches. For this purpose, SIMULCAST HANDLE is defined as the entire handle of an OTB simulcast branch on the races of the track being simulcast.

OVERVIEW: THE SIMULCAST EXPERIMENT - 1984 to 1990

As we approach the statutory conclusion of the current simulcast experiment (July 1, 1984 - June 30, 1990), it is an appropriate time to make an assessment.

While the Board's Annual Simulcast Reports have detailed specific activities for each calendar year, we have not attempted an overall summary until this time. In addition to the narrative, the Board's audit staff has prepared comprehensive summary schedules covering the ten year period 1980 to 1989 describing on and off-track betting handles, distribution of revenues from on and off-track betting and OTB net earning and surcharge available for localities. The final chart in this section summarizes OTB total handle by corporation since the inception of off-track betting.

During Governor Cuomo's tenure, statewide pari-mutuel handle both on and off-track increased by over \$350 million to \$3.3 billion. This is in large part due to the introduction of simulcasting in 1984, principally off-track. The results on-track are not as promising.

On-track thoroughbred racing showed some decline during the period from 1983 to 1989. Total attendance dropped by over 350,000 persons, while handle declined from \$968 million to \$886 million, a decrease of over \$82 million. In accordance with the drop in handle, revenue to State and local governments from thoroughbred racing on-track also declined slightly. The thoroughbred industry has

successfully utilized simulcasting (particularly track to track simulcasting) to recoup some of its losses. In 1989, the New York Racing Association's in-state track to track simulcasts generated handle of over \$161 million. When included in the on-track thoroughbred handle, 1989's total rose by some \$80 million compared to 1983.

The State's harness industry has not shown the ability to maintain its financial position, despite the innovative concept of simulcasting or the additional tax relief legislation which has been in place during most of this period. The State saw one harness track, Roosevelt Raceway, close its doors in 1988, while the other tracks continue in steep decline. Despite an increase of more than 60 racing programs in 1989 (over 1983), attendance fell by over two million people, while handle dropped over \$240 million. In this sector, the falloff in other indicators, such as State revenue, is clear. For example, in 1983, New York State received over \$34 million in pari-mutuel tax revenues from the harness tracks; last year the State received only \$6 million from the pari-mutuel tax on harness racing. This reflects both a decline in harness handle, as well as a reduction in the pari-mutuel tax rates. The Board does not foresee any indication that business may increase in the future.

Off-track betting conducted by six public benefit corporations, saw significant benefits as a result of simulcasting, begun in 1984. In comparing the year 1983

(pre-simulcasting) with 1989, one can see the results: handle increased by more than \$200 million so that in 1989 off-track's total handle of \$1.9 billion exceeded the combined statewide on-track handle for all tracks by \$482 million. In addition, off-track betting provides significant sources of revenue for the local governments (\$102.7 million) the race tracks (\$103.8 million), the State (\$28.8 million) and the breeding funds (\$11.6 million). With over 270 branches, more than half of which simulcast races and some of which are enhanced facilities offering additional amenities and services, OTB's handle has continued to rise.

Despite its problems, the horse racing and breeding industry remains a significant component in the State's economic scheme. The industry provides tens of thousands of jobs statewide.

It ranges from veterinarians to grooms on-track, clerks and technicians off-track, managers and farm help at the breeding sheds, as well as many outside vendors and suppliers. In addition, it has been and continues to be an essential part of each area's local economy, often providing a key element in maintaining the vitality of communities.

ASSESSMENT OF RESULTS

During the experimental simulcasting period, there has been no real growth. While total handle has risen \$204 million to \$3.4 billion, that is an increase of only 6.5%,

well below the rate of inflation and represents a substantial loss in "real dollars".

As was to be expected, on-track handles declined over the period by \$257 million to \$1.3 billion (only partially offset by track to track handle increases of \$125 million) with harness tracks falling an alarming 31%.

Off-track betting, which would have been expected to benefit substantially from simulcasting, did rise \$337 million to \$1.9 billion for the period, but its rate of rise (21%) over the five years was also a loss in "real dollars" for the period.

What trends, if any, emerged during the five years indicated a shift of night harness racing handle to daytime simulcast thoroughbred handle, and to a lesser extent, to harness handle at OTB facilities. On-track harness handle declined \$178 million during the five year period. Track to track thoroughbred simulcasting at harness tracks however, grew by \$119 million, and off-track betting on harness races increased \$49 million.

Yonkers/Roosevelt Raceways' total on-track handle declined by \$130 million over the period while NYRA simulcasts at Yonkers attracted \$106 million and off-track betting grew \$43 million.

Saratoga Raceway lost \$15 million in on-track harness handle during the period, but gained \$13 million in NYRA track to track simulcast handle and \$2 million in OTB handle.

One other notable event was the dramatic growth in the Finger Lakes thoroughbred off-track handle from the simulcasting of its races to a statewide OTB audience, on the one day a week when NYRA is closed. For the period, Finger Lakes off-track handle on NYRA dark days, increased \$43 million. Finger Lakes competed, not only with out-of-state thoroughbred tracks, but also against metropolitan harness tracks which conducted afternoon racing.

The Finger Lakes results seem to have been the only statistics which met the optimistic predictions for simulcasting.

While simulcasting as a growth generator was disappointing, it still may have stemmed substantial erosion of the pari-mutuel betting dollar. For the five years before simulcasting, total handle grew only \$49 million (1.5%), on-track handle declining \$72 million (4.4%) and off-track only increasing \$120 million (8.2%). During the simulcasting experiment, total handle increased \$204 million (6.5%), declining \$133 million (8%) on-track and increasing \$337 million (21%) off-track.

The developments during the past six years (1983-1989) are briefly summarized in the following narratives for off-track betting corporations and race tracks in New York State.

WESTERN REGIONAL OTB

Simulcasting at Western Regional Off-Track Betting Corporation began to expand dramatically in 1986. Western

grew from three simulcast branches in 1984 and 1985 to 30 in 1986. From 1980 to 1985, thoroughbred racing showed modest gains overall. The handle rose from \$95.6 million in 1980 to \$102 million in 1985, a 7.3% increase. In 1982 and 1985, there was actually a drop in handle from the previous year. The harness handle was much worse. From 1980 to 1985, the handle declined from \$50.9 million to \$40.7 million, a decrease of 20%. This occurred during a steady expansion of the general economy.

Coincidental with the expansion of simulcasting in 1986, was a large increase in the thoroughbred handle. The handle increased to \$120.2 million or 17.1% over 1985. This was followed by increases of 14.8% to \$138 million in 1987, 3.6% to \$143 million in 1988 and 1.4% to \$145 million in 1989. By 1989, Western had simulcasting in 45 of 47 branches. The saturation effect can be seen in 1988 and 1989. The dramatic handle increases of 1986 and 1987 began to diminish with the continuing presence of simulcasting in most of Western's branches.

A certain amount of handle was undoubtedly cannibalized from non-simulcast branches. However, such large gains in 1986 and 1987 broke the early 1980's pattern of slow and erratic growth. Much of the early gains must be considered wagers by new fans or increased wagers from old ones.

Harness racing saw steady, if unspectacular growth with the advent of simulcasting. The handle increased in 1986 to \$47 million or 15.5%. In the following years, handle

increased much slower. In 1987, the handle increased to \$49.5 million or 5.3%, \$50.2 million or 1.4% in 1988 and \$51.9 million or 3.3% in 1989. Although growth has remained small, simulcasting reversed a trend of erratic, overall decline in total handle from 1980 to 1985. The increase in total handle generated by simulcasting has benefited all those who participate in racing and base their revenues directly on a percentage of handle.

Local governments revenues are determined by several other factors. Surcharge is a function of the amount of winning wagers placed in a region. It is also affected by the 1985 statutory amendment which allows an OTB corporation to retain as operating revenues 90% of a corporation's share of surcharge on wagers placed outside a special betting district while the track in the special betting district is simulcasting. Surcharge revenues grew dramatically from 1985 to 1987, rising approximately \$1 million per year. Since that time, total surcharge generated has remained constant at approximately \$8 million per year.

The net benefits to localities are paid only after all operating costs of the corporations are deducted. Therefore, the net benefits to localities are a function of the spending policies of the corporation. Net benefits to localities have remained constant since 1986 in Western at approximately \$4 million per year. One factor contributing to this is Western's ambitious capital construction policy which may eventually produce steady, long-term

profitability. However, both surcharge and net benefits to localities are up considerably over the pre-simulcast period.

CAPITAL REGIONAL OTB

Simulcasting began at Capital OTB in 1984 and has expanded to nearly every branch. Capital has accomplished this by converting an average of five or six branches to simulcast branches each year. Since Capital has achieved near total simulcasting, it is focusing more attention on converting simulcast branches to telebranches and enhanced telebranches.

Capital OTB's handle has grown an average of 9.3% per year from 1984 to 1989 (over 54% from 1984 to 1989). This growth is well above the rate of inflation for this period, which averaged approximately 3.7% per year. Along with the increase in total handle came an increase in simulcast handle. After the initial cannibalization with the introduction of simulcasting, Capital's simulcast handle increased at a slightly higher rate than total handle (little cannibalization). In recent years, with the stabilization of total handle and the continuing climb in simulcast handle, it appears cannibalization is increasing.

The increased handle may be attributed in part to Capital OTB's aggressive capital improvement plan. From 1985 to 1989, Capital has expended approximately \$13.2 million on improving branches. Most of this money was spent on the simulcast theater and to upgrade branches to telebranches

and enhanced telebranches. The return on portions of this investment has been minimal.

Financing for these projects has been obtained through bank borrowing. The method of financing as well as the amount may be the reason for Capital's low return to its participating counties. In 1984, Capital returned \$2.7 million to its participating counties representing 1.9% of its handle. This return has decreased to \$783,000 or 0.34% of handle in 1989. The total return for the period 1984 to 1989 was \$10 million or 0.86% of handle. Western OTB, which is very similar to Capital OTB in size and handle, returned \$22.1 million or 2.12% of handle for the same period. Included in these returns was a \$1 million a year guarantee to the City of Schenectady for the years 1976 through 1987. While the expiration of this guarantee did not change the total amount of benefits to participating counties, it did change how the monies were distributed.

Capital OTB has attempted to increase handle with frequent and inventive promotions. While Capital has expended large amounts of the corporation's money on these promotions, few of them have shown measurable results.

CATSKILL REGIONAL OTB

The first of Catskill OTB's simulcast experiments began in August of 1984. In total, 14 simulcast experiments at eight branches were conducted. All eight branches displayed races from the New York Racing Association (NYRA) while six of those same eight branches simulcast harness races from

Roosevelt Raceway. These eight branches immediately increased their net handle over the previous year by 25%.

In 1985, three additional existing regular branches were made into simulcast branches, bringing Catskill to a total of 11 simulcast branches. Besides NYRA and Roosevelt, Yonkers Raceway and Finger Lakes Race Track simulcast signals were added. Because of the simulcast statute which provides that regional tracks could veto simulcasting of races to any branch within 31 miles of its location, Monticello blocked Catskill from receiving simulcast signals from any harness track at a Catskill branch in Middletown, New York. During this year, simulcast expenses of Catskill approached \$1.5 million. Included in these expenses were wages, additional computer costs, satellite system fees, simulcasting compensation to the tracks, administrative and promotional costs. Also during 1985, legislative authorization for "special demonstration projects" for simulcasting into privately owned hotels in Sullivan and Ulster counties for registered guests only was given. This idea remained dormant for the rest of the decade because of Catskill OTB's inability to secure the necessary permission of participating parties headed by Monticello Raceway.

In 1986, Catskill simulcast branches increased by four to 15 simulcast facilities. In addition, Catskill OTB took advantage of 1985 amendments to the Racing Law and added restrooms and vending machines to four of its facilities. These facilities proved to be a convenience for the

customer, and did not appreciably add to the betting handle of the corporation.

In 1987, Catskill simulcast branches remained at 15. However, Monticello Raceway for the first time permitted simulcasting of harness races into Middletown. This was a change in its traditional position as its on-track patronage and volume of business continued to decline, and it began to look for new sources of revenue. Two more simulcast facilities added restrooms and vending machines. Simulcasting expenses continued to spiral upward.

In 1988, Catskill OTB opened its most modern simulcast facility in Nanuet. It met with opposition from Yonkers Raceway management which prevented Catskill OTB from having both the simulcast and the live call of any harness racing at Nanuet. In effect, this closed the Nanuet facility at 6 p.m. This facility is strategically located at the head of the Garden State Parkway where it joins with the New York State Thruway. It was built specifically to draw customers from New Jersey to New York State and away from the Meadowlands located in northeastern New Jersey.

In 1989, Catskill OTB continued with 16 simulcast facilities which displayed thoroughbred racing, but Nanuet was again stopped by Yonkers Raceway from simulcasting any harness racing whatsoever. One of the main Catskill OTB facilities was relocated. A crowded and uncomfortable Suffern simulcast branch was relocated to downtown Suffern at the site of a closed supermarket. In November, a new

facility was opened with comforts not before known to Suffern patrons. It was immediately met with approval by Rockland County OTB customers who flocked to the new branch.

Throughout the more than five years of simulcast experiments, Yonkers Raceway has been consistently losing harness customers to OTB in New York City and Catskill as well as to the Meadowlands. Yonkers also wanted to get the dollars bet directly at its track rather than at OTB. Additionally, Catskill OTB felt it was losing its daytime customers to Yonkers Raceway which had a track to track afternoon simulcast from the operating NYRA track.

Catskill OTB maintained that it was losing many customers from its Rockland and Orange County facilities to Yonkers. The average large bettor would go to the Yonkers simulcast because there was no surcharge on winning wagers at Yonkers, while there was a surcharge at all Catskill facilities as required by law. For example, a winning bettor bets \$50 to win on a NYRA race and the winning horse pays \$10 at the NYRA track. The winning bettor both at NYRA and at Yonkers receives a total of \$250 back. The winning bettor at Catskill OTB (because of the surcharge) receives not \$250 but \$235. Naturally, patrons who wager larger sums of money are going to patronize the facility where the payoffs are the greatest. The logical answer to this dilemma was for Catskill OTB to build a simulcast theater in Rockland County. This facility would charge an admission fee and pay track prices. Catskill OTB determined that this

was not feasible because upon construction of such a facility, Catskill OTB would not be assured of having any simulcast signal from the race tracks for its customers as happened in Nanuet.

As the decade of the 1990's arrived, Catskill OTB found its simulcast contracts with NYRA, Yonkers and Finger Lakes all had expired. Catskill OTB continued to accept wagers without simulcasting. Many Catskill OTB customers were content to place their bets and then listen to the live call from NYRA at the former simulcast branches. They could also call a "900" telephone number operated by an outside firm and pay to listen to the track announcer's stretch call of the race or watch the NYRA sponsored and produced evening television replay on their local cable system.

SUFFOLK REGIONAL OTB

The first simulcasting in New York State took place at two branches in New York City and started on March 3, 1982 at two branches in Suffolk County. The experiment was very well received. Harness handle at the two branches increased from \$10,000 per day to \$40,000 per day, but the high cost of delivering the picture (\$49,000 per month) ate up most of the profit.

In February 1984, the corporation switched from microwave to satellite for the simulcast picture and reduced the cost to \$17,000 per month.

The experimental branches offered no patron facilities; by law they were not permitted to do so. However, new

legislation which took effect on July 1, 1984, extended the experiment for one year, and enlarged it to encompass the whole State. The legislation permitted restrooms and seating, authorized simulcast theaters, and included simulcasting from the rest of New York State's tracks.

In August 1984, Suffolk simulcast the NYRA/Saratoga meet, and NYRA simulcast handle immediately outpaced that of harness simulcasts.

Suffolk moved quickly in 1985 when the current law took effect, to streamline its operations and upgrade its branches. Eight branches have been closed since 1985, reducing the number of outlets from 27 in that year to 19 in 1989, including one simulcast theater. Suffolk has relocated four simulcast branches. A fifth branch, Hauppauge, became the newest simulcast branch. These new facilities are attractively appointed, with comfortable seats, vending machines and simulcast viewing areas. In addition, restrooms have been added to all the branches (except one) and most branches have been refurbished.

Suffolk is now looking at the remaining non-simulcast branches, hoping to combine some of them, reducing the number of locations by three. However, it may be hampered by some landlords refusal to rent to OTB.

Suffolk's simulcast theater, "Tel-A-Race", was established in 1986. It was enlarged in 1989 from 7,000 to 14,000 square feet. The additional space allowed the corporation to increase the size of the restaurant area, and

add four additional betting windows for a total of 14 windows. There is a new theater area, and 33 additional television sets. This larger space will permit Suffolk to do more promotions and special events. It has contacted civic and professional groups seeking customers for a "Night at the Races" and similar events.

The simulcast theater has been very successful. Its handle has risen from an average of \$60,000 a day in 1986 to \$103,000 per day in 1989.

Suffolk Regional Off-Track Betting Corporation has enjoyed a very successful six years. Handle increased from \$141 million in 1985 to \$207 million in 1989. Profit, expressed as a percentage of handle, has risen from \$2.8 million, or 1.98% to \$5.4 million or 2.6%. The racing industry, the State, and the County of Suffolk have all been beneficiaries of this increase.

In addition, surcharge income has risen from \$3.2 million in 1984 to \$3.8 million in 1989.

NASSAU REGIONAL OTB

Nassau Regional Off-Track Betting Corporation conducted three simulcast experiments in 1984 and grew to a high of 36 simulcast operations in 1989. These simulcast operations were all conducted at only ten of their 21 branches.

In 1984, Nassau OTB claimed a loss of \$23,000 as a direct result of simulcasting. In the years 1985 and 1986, the corporation considered that simulcasting was not a losing proposition, although no profits directly related to

simulcasting were ever recorded. In 1987, Nassau OTB became involved in the area of improvements and capital investments, and in 1988, established a restructuring program which included the opening, closing and relocation of various branches. These changes in 1987 and 1988 were made in response to simulcasting.

In 1984, Nassau OTB simulcast the NYRA/Saratoga meet into two branches. It also simulcast Roosevelt Raceway races into one branch.

In 1985, in addition to simulcasting NYRA and Roosevelt, Nassau OTB added Finger Lakes and Yonkers.

Nassau OTB's early efforts to increase simulcasting were marred somewhat by Yonkers constantly changing approval of various sites. This caused confusion among its customers and employees. In addition, Nassau OTB was never able to obtain a long-term contractual agreement with Yonkers. This resulted in frequent changes in the level of compensation paid to Yonkers. Nassau OTB's relationship with Yonkers in requesting and/or receiving permission for expansion has improved.

In 1986, Suffolk Meadows Race Track (quarterhorse) and Monticello Raceway were added to Nassau's list of simulcast tracks. It should be noted that Roosevelt Raceway was not part of Nassau OTB's simulcast handle in 1986.

In 1986, as in the previous two years, simulcast operations at Nassau OTB were limited because of the statutory track consent requirements, the close proximity of

Nassau OTB's branches to local tracks (Belmont, Roosevelt) and self-serving interests. At times, negotiations became disputes that gave rise to open hostility among the parties that were aired publicly. This was the year Nassau OTB introduced Self-Automated Machines (SAMs) into 11 branches. These color-coded, touch-activated, tellerless betting machines were exclusively used by Nassau OTB. Restroom facilities were installed in some simulcast branches.

In 1987 and 1988, Nassau OTB reduced its simulcast tracks to NYRA, Yonkers and Monticello (one day). Two additional satellite receivers were purchased, bringing its total to nine. The relationship with its regional harness track worsened. Roosevelt Raceway refused to simulcast into Nassau branches during any part of 1987 or 1988. Nassau OTB in turn, denied Roosevelt Raceway consent to conduct track to track wagering on NYRA. With the closing of Roosevelt Raceway in 1988, this persistent problem for Nassau OTB became moot.

In the area of improvements and capital investments, Nassau OTB spent a quarter of a million dollars renovating and relocating its Green Acres branch in 1988 only to be denied simulcast from NYRA.

In 1987, a new concept to increase handle was suggested by corporate management. Nassau wanted to install a combined telephone and video display screen unit, a Direct Line System in various locations. It remained under review until the latter part of 1989 when a one year limited

experiment was authorized. To date, this system has not been activated.

In 1988, Nassau OTB simulcast races from NYRA, Yonkers and Monticello. Nassau's commitment to SAMs continued to progress at a steady pace. The number of SAMs increased to 150 as compared to 115 in 1987.

In 1988, Nassau OTB established a restructuring program which included the opening, closing and relocation of various branches. A new branch in Jericho was opened. It offered simulcasting from NYRA, Yonkers, Finger Lakes and Monticello. There were many SAMs available for use plus comfortable seating.

In 1989, the Hicksville branch was relocated. This branch was unique in that it offered the use of "Tiny Tims" to its patrons. These units enabled a patron to bet without leaving his/her seat. A patron must have a daily or a regular telephone betting account in order to use these Tiny Tims.

Since Nassau OTB began simulcasting in 1984, it has generated \$20.5 million in revenue to New York State in tax, breakage and uncashed tickets. The racing industry has benefited greatly from simulcasting to Nassau OTB. The tracks (NYRA, Roosevelt, Yonkers, Finger Lakes and Monticello) have jointly received \$53.7 million in statutory payments during 1984 through 1989, plus an additional \$4.3 million in contractual payments for a total of \$58 million.

The breeders funds (thoroughbred and harness) have jointly received \$6.1 million since simulcasting to Nassau OTB began in 1984.

Nassau County itself has received \$38.6 million from surcharge, plus \$29.6 million in net revenue for a total of \$68.2 million during 1984 through 1989.

Surcharge revenues to localities outside Nassau County totaled \$15.9 million for the years 1984-1989.

An overview for the years 1984 through 1989, shows that the dollar amounts rise substantially each year, but net revenue from handle is not as dramatic. Nassau OTB's net revenue as a percentage of handle, has risen ever so slightly from 1984 through 1988, but has fallen a bit in 1989. The increased payments that Nassau OTB makes to obtain simulcasting, plus the cannibalization factor have shown that simulcasting is not the boon it was first made out to be.

NEW YORK CITY OTB

New York City OTB (NYCOTB) conducted a limited simulcast experiment for the period October 22, 1981 to July 1, 1985. On October 22, 1981, simulcasting of harness races commenced at two branches in Staten Island, New York. Both Yonkers and Roosevelt Raceways agreed to participate in this experiment. The two simulcast branches (Grant City and Richmond Avenue) showed dramatic increases in handle from the pre-simulcast figures, while thoroughbred handle declined significantly.

Simulcasting under the current statute commenced with the NYRA/Saratoga meet in August 1984 at the same two Staten Island branches which were receiving harness racing. NYCOTB added one additional branch, at John Street in lower Manhattan, to receive the NYRA simulcast only on weekdays. Transmission of the signal began on December 10, 1984.

NYCOTB felt that fees charged by Roosevelt were too high to justify further televising of harness racing. Yonkers Raceway was unwilling to negotiate different terms from those agreed upon by Roosevelt. Therefore, at the conclusion of the Roosevelt meet on November 3, 1984, simulcasting into the New York City area was halted except for the two Staten Island branches. Simulcasting resumed under a new contract in 1985.

During 1984, NYCOTB did not make any capital investments, nor were any improvements made to branches for simulcasting.

In 1985, NYCOTB opened with 126 branches and ended with 118. Seventeen simulcast branches were operated, five of which simulcast NYRA races. Total 1985 simulcast handle was \$135.2 million, of which \$64.7 million was thoroughbred, and \$70.5 million was harness.

In 1986, NYCOTB opened with 118 branches and ended with 110. A total of 128 simulcast operations were conducted. Thirty-two branches simulcast Saratoga thoroughbred races that year, as well as varying numbers of branches for other NYRA tracks and Finger Lakes. Simulcasts of harness races

were displayed from Yonkers, Roosevelt and Monticello Raceways. The major event of 1986 was the opening of New York City's first simulcast theater, the "Inside Track", at 1011 Second Avenue, Manhattan. Its total 1986 handle was \$26.4 million, with a daily average handle of about \$100,000. This is to be compared with NYCOTB's total 1986 simulcast handle of \$269.2 million (of which \$176.8 million was thoroughbred, and \$92.4 million was harness) out of a total corporate handle of \$947.8 million (of which \$749.9 million was thoroughbred and \$197.9 million was harness).

NYCOTB opened with 110 branches in 1987 and ended with 106. The number of simulcast branches increased to 36. A total of 131 simulcast operations were conducted. The significant event of 1987 was the opening of the second simulcast theater, the "Select Club", at 165 Water Street, Manhattan. Opened on March 24, 1987, its total handle was \$17.1 million. This, added to the total 1987 handle for the "Inside Track" (\$40.8 million), produced a combined simulcast theater total handle of \$57.9 million. This figure compared with the NYCOTB 1987 simulcast handle of \$373.2 million, of which \$272.2 million was simulcast thoroughbred handle, and \$101 million was simulcast harness handle.

In 1987, the proportion of simulcast thoroughbred handle showed a sharp increase compared with simulcast harness handle over 1986. It was also a year in which thoroughbred vs. harness simulcast handle showed an increase

for thoroughbred. The year 1985, the first significant one for simulcast handle, showed a simulcast thoroughbred-to-harness handle ratio of about 6.4 to 7 or slightly less than even. In 1986, the ratio changed to almost 2 to 1, in favor of thoroughbred. In 1987, the ratio increased to about 3 to 1, in favor of thoroughbred.

In 1988, NYCOTB opened with 106 branches and ended with 102. A total of 129 simulcast operations were conducted. The number of simulcast branches remained constant at 36.

The "Select Club", operating for its first full year, generated \$30.1 million in handle. The "Inside Track" generated \$43.9 million in handle, with both theaters' combined total handle reaching \$74 million, another record.

The 1988 total simulcast handle was 38.4% of NYCOTB's corporate handle, which exceeded \$1 billion (though down \$3 million from 1987). Of the \$1 billion-plus corporate handle, \$821 million was for thoroughbred and \$179 million was for harness. Of the \$384.4 million simulcast handle, \$286.1 million was for thoroughbred and \$98.3 million was for harness.

In 1989, NYCOTB opened with 102 branches and ended with 100. The number of simulcast branches remained constant at 36. A total of 129 simulcast operations were conducted. "Select Club" handle was \$33 million; "Inside Track" handle was \$42.4 million; both combined were \$75.4 million, or about \$1 million higher than 1988. Total NYCOTB simulcast handle for 1989 was \$363.2 million (\$275.6 million

thoroughbred and \$87.6 million harness) which was 38.6% of NYCOTB's 1989 corporate handle of \$940.8 million.

During 1989, two new telebranches opened. One, at Williamsbridge Road, the Bronx, replaced two smaller nearby branches. Handle thus far has been below expectations. This facility was affected by a dispute between NYRA and NYCOTB over simulcasting. It was finally agreed, in late November, that simulcasting was to be allowed on the first floor, but resolution of the upstairs portion (enhanced telebranch) was put off until June 1990. NYCOTB transferred simulcasting from its Parkchester branch to Williamsbridge Road when the agreement was reached. Therefore, this branch has no additional amenities and, as of the end of 1989, has had no approval by the State Liquor Authority for a license to operate bar facilities.

The second telebranch opened in Staten Island, replacing a nearby branch. Handle thus far has not been up to expectations. Known as the "Winner's Circle", it had sought permission from the Board to charge a \$2 admission fee. The Board approved the fee contingent upon full food and beverage service (including alcohol) being made available to customers. Judicial review by NYCOTB is being sought on the Board's determination. The amenities are not currently available.

The year 1989 saw the onset of a diminishing NYCOTB handle. Reasons given have been extremely bad weather and factors beyond NYCOTB's control. In any case, there can be

no doubt that escalating operating costs, particularly rents, are a contributing factor. In 1989, the corporation spent over \$8.7 million for rent alone, a one year increase of over \$1.2 million. Continued escalation of rents is a certainty for the years to come. Simulcast costs exceeded \$1 million in 1988 and \$900,000 in 1989.

Revenues have decreased during the past few years as well. Total operating revenue dropped about \$5.5 million from 1988 to 1989, while total operating expenses increased about \$2.6 million in the same period.

During the five-year period, simulcast handle has become an ever-increasing percentage of corporate handle: from 15.5% in 1985; 31% in 1986; 38% in 1987; 38.4% in 1988 and 38.6% in 1989.

In the same five-year period, the number of branches has been decreasing steadily, from 126 at the beginning of 1985 to 100 at the end of 1989. Total rent costs, however, have been increasing, as cited previously.

Lastly, revenues peaked between 1986 and 1988 and have gone down perceptibly since. Benefits to New York City from operations respectively were: \$10.7 million, \$11 million and \$12.7 million for 1986, 1987 and 1988. This constituted approximately 1.1% of NYCOTB's total handle. In 1989, a sharp drop to \$4.7 million (0.5% of handle) occurred. NYCOTB revenue to all tracks showed, respectively, amounts of \$49 million, \$52.3 million, \$52.2 million for 1986, 1987 and 1988, with a drop to \$48.4 million in 1989. Total

revenue from surcharges showed a similar pattern, respectively, from \$39.4 million, \$40.2 million, and \$39.1 million for 1986, 1987 and 1988. In 1989, it dropped to \$36.6 million.

The high plateau of expansion and increased revenue from larger handles was reached in the 1986 - 1988 period, and it remains to be seen whether improved marketing, better weather and enhancements or upgrading of existing facilities will keep handles from shrinking further.

With operating costs escalating, and increased competition from other forms of gambling available, such as lotteries, casinos in neighboring states and a current generation of potential bettors more interested in sports than in racing, new methods and ideas will have to be explored if NYCOTB wishes to maintain its pre-eminent position among State OTB corporations. Simulcasting has clearly been, during its brief existence, the bright spot of NYCOTB's overall operation.

TRACK TO TRACK SIMULCASTS:

The first track to track simulcast experiment was the display of NYRA's Saratoga thoroughbred meet to Aqueduct Race Track in August 1984. The simulcast handle from 1984 to 1989 has consistently remained in the \$30 million range; accordingly payments made to the State, the horsemen (as accrued purse obligations) and the thoroughbred breeding fund have remained fairly constant. Daily average

attendance during this period (1984-89) was 6,384 and daily average handle was \$1.2 million.

In 1984, NYRA contributed \$2.4 million from Aqueduct operation to the New York State Thoroughbred Racing Capital Investment Fund. In 1985, a statutory amendment directed that the resulting simulcast profits be retained by NYRA rather than the Fund. As a result, simulcast profits of \$10.8 million from 1985 to 1989 were included in NYRA revenues during those years, and were subject to the State's franchise tax on NYRA.

During the simulcast period, contrary to other on-track trends Saratoga Race Track has grown in popularity. It has experienced increases in handle and attendance from \$76 million in 1984 to \$85 million in 1989, while attendance has risen from 690,000 in 1984 to 726,000 in 1989.

In 1984, NYRA entered into agreements with Buffalo Raceway, Finger Lakes Race Track and Saratoga Raceway for the simulcast and acceptance of wagers on NYRA races. Finger Lakes and Saratoga Raceway's first years of simulcasting were deemed successful and have continued to be successful. Buffalo Raceway took the NYRA simulcast from 1984 to 1986, but discontinued the simulcast in 1986 because it wasn't profitable.

Saratoga Raceway's track to track simulcast handle has grown from \$6 million in 1984 (108 days) to \$18.9 million in 1989 (282 days), while on-track handle during the

corresponding period has decreased from \$46 million to \$31.5 million.

The purse money distributed to horsemen from on-track handle (from 1984 to 1989) has declined from \$5.9 million to \$5.3 million. From 1984 to 1989, the NYRA simulcast has generated \$678,000 in purse money for Saratoga's harness horsemen or an average of \$113,000 annually.

Although Saratoga Raceway's on-track handle has declined while the NYRA simulcast has increased, it is difficult to say definitively that the NYRA simulcast has cannibalized the on-track harness handle. The NYRA simulcast may be a contributing factor, but regardless of that fact, on-track harness handle might have continued to decline.

Finger Lakes on-track handle has remained relatively steady during the 1984 to 1989 simulcast of NYRA races. The on-track handle has averaged approximately \$50 million per year during this period, while the NYRA simulcast handle has fluctuated from a high of \$9.8 million (194 days) in 1985 to a low of \$5.9 million (88 days) in 1989.

In 1985, Finger Lakes experienced a poor opening meet, with on-track wagering down by almost 20%. Horsemen attributed the sharp decline to simulcasting and called a four day strike in August. Thereafter, an agreement was reached barring simulcasting during the race meeting except for certain stakes and graded events.

It should be noted that prior to the strike, there had been simulcasting from NYRA on FLRA dark days. Then simulcasting was stopped 15 days prior to the commencement of the racing season for 1986. In subsequent years, simulcasting continued until the meet began. This explains the dramatic drop in the number of days of NYRA simulcasting to Finger Lakes through the years.

The NYRA simulcast to Finger Lakes has continued to be successful. However, the competition of a premier thoroughbred product with its own racing had a dramatic effect on FLRA's on-track handle in 1985. In order to maximize its own product, FLRA had to exercise prudent business judgement relative to the NYRA simulcast.

The NYRA to Yonkers Raceway simulcast has been the most successful track to track simulcast operation in New York State. This simulcast began on March 24, 1986 after long negotiations between Yonkers Raceway and NYRA, the Standardbred Owners Association (SOA), New York City OTB and Catskill OTB. New geographic boundaries were established to facilitate this experiment and to allow Yonkers Raceway's live racing to be shown at the simulcast theater, The Inside Track. The contract between Yonkers Raceway and the SOA, provided that, when Yonkers conducted harness racing, the horsemen would receive (as accrued purse obligations) 50% of the net revenue from wagering on NYRA races.

From 1984 to 1989, Yonkers simulcast handle has risen from \$56.7 million in 1986 (242 days) to \$105.8 million in

1989 (306 days). As a result, this simulcasting has generated an enormous sum of money for NYRA and its horsemen as well as Yonkers Raceway and its horsemen. From 1986 through 1989, NYRA and its horsemen received \$26.5 million, Yonkers Raceway received \$13.5 million and the Yonkers horsemen received \$4 million in accrued purse obligations.

The horsemen's share of the revenue stream increased dramatically with the closing of Roosevelt Raceway in 1988, because the SOA agreement with Yonkers Raceway provided sharing 50% of the net revenue only when there was racing at Yonkers Raceway.

Even with the closure of Roosevelt Raceway and with Yonkers Raceway assuming its dates, the aggregate on-track handle continues to decline. The NYRA simulcast has been an important component in maintaining Yonkers Raceway's profitability.

The simulcasting of NYRA races to out-of-state tracks has grown dramatically from \$5.4 million in 1984 to \$53.5 million in 1989.

NYRA's on-track handle was \$942 million in 1984 and has dropped to \$838 million in 1989, a decrease of \$104 million. However, the handle at track to track wagering sites has grown from \$8.6 million in 1984 to \$161.8 million in 1989, an increase of \$153.2 million. As a result, NYRA's overall handle has increased to \$1 billion, but its growth has been due to its track to track simulcasting.

Until the end of 1989 no harness racing had been simulcast track to track in New York State. Among the reasons given for this "failure" to undertake experimentation is the concern that such simulcasting would further erode on-track harness handle and attendance. The 1989-90 Yonkers to Vernon simulcast experiment is on-going as this report is written. It is too soon to draw any conclusions from this experiment.

Summary of On and Off Track Betting Handles 10 years 1980-1989

<u>Thoroughbred On Track Handles</u>	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
Betting On Track's Own Racing	979,615,642	943,803,900	975,009,346	967,949,064	993,759,727	969,147,310	947,582,302	933,722,070	930,171,955	885,577,374
Track to Track Betting	-----	-----	-----	-----	8,637,869	63,991,364	110,584,644	150,722,950	154,687,783	161,793,488
Total On-Track Thoroughbred	<u>979,615,642</u>	<u>943,803,900</u>	<u>975,009,346</u>	<u>967,949,064</u>	<u>1,002,397,596</u>	<u>1,033,138,674</u>	<u>1,058,166,946</u>	<u>1,084,444,970</u>	<u>1,084,859,738</u>	<u>1,047,370,862</u>
<u>Harness-On Track Handles</u>										
Betting On Track's Own Racing	664,220,633	640,467,113	642,461,095	616,224,657	569,300,972	563,048,647	531,699,080	496,546,785	432,867,233	390,940,037
Track to Track Betting	-----	-----	-----	-----	-----	-----	-----	-----	-----	440,015
Total On-Track Harness	<u>664,220,633</u>	<u>640,467,113</u>	<u>642,461,095</u>	<u>616,224,657</u>	<u>569,300,972</u>	<u>563,048,647</u>	<u>531,699,080</u>	<u>496,546,785</u>	<u>432,867,233</u>	<u>391,388,052</u>
COMBINED ON TRACK HANDLES	<u>1,643,836,275</u>	<u>1,584,271,013</u>	<u>1,617,470,441</u>	<u>1,584,173,721</u>	<u>1,571,698,568</u>	<u>1,596,187,321</u>	<u>1,589,866,026</u>	<u>1,580,991,755</u>	<u>1,517,726,971</u>	<u>1,438,758,914</u>
<u>Thoroughbred Off Track Handles</u>										
Betting on New York Track Racing	986,534,503	1,033,729,207	1,052,993,311	1,086,395,855	1,123,592,422	1,127,817,113	1,276,036,035	1,386,370,593	1,448,877,666	1,438,390,769
Betting on Out of State Racing	76,842,479	77,072,592	76,940,106	83,114,518	97,387,862	84,417,655	77,049,128	89,907,954	85,868,954	70,506,112
Total Off Track Thoroughbred	<u>10,063,376,982</u>	<u>1,110,801,799</u>	<u>1,129,933,417</u>	<u>1,169,510,373</u>	<u>1,221,980,284</u>	<u>1,212,234,768</u>	<u>1,353,085,163</u>	<u>1,476,278,547</u>	<u>1,534,746,620</u>	<u>1,508,896,881</u>
<u>Harness Off Track Handles</u>										
Betting on New York Sate Racing	399,245,802	394,561,914	391,352,576	362,482,310	362,287,578	362,478,134	402,332,726	432,767,136	415,603,477	411,041,039
Betting on Out of State Racing	-----	-----	-----	-----	25,217	16,434	-----	118,916	487,351	363,193
Total Off Track Harness	<u>399,245,802</u>	<u>394,561,914</u>	<u>391,352,576</u>	<u>362,482,310</u>	<u>362,312,795</u>	<u>362,494,568</u>	<u>402,332,726</u>	<u>432,886,052</u>	<u>416,090,828</u>	<u>411,404,232</u>
COMBINED OFF TRACK HANDLES	<u>1,462,622,784</u>	<u>1,505,363,713</u>	<u>1,521,285,993</u>	<u>1,531,997,683</u>	<u>1,583,493,079</u>	<u>1,574,729,336</u>	<u>1,755,417,889</u>	<u>1,909,164,599</u>	<u>1,950,837,448</u>	<u>1,920,301,113</u>
Quarter-Horse-On & Off-Track-1986 †							<u>11,680,469</u>			
TOTAL HANDLES STATEWIDE BETTING	\$3,106,459,059	3,089,634,726	3,138,756,434	3,116,166,404	3,155,191,647	3,170,916,657	3,356,964,384	3,490,156,354	3,468,564,419	3,359,060,027

SUMMARY OF DISTRIBUTIONS OF REVENUES FROM ON AND OFF TRACK BETTING 1980-1989

(PRELIMINARY)

	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
COMBINED HANDLES NY BETTING	\$3,106,459,059	3,089,634,726	3,138,756,436	3,116,166,404	3,155,191,647	3,170,916,057	3,356,964,384	3,490,156,354	3,468,564,419	3,359,060,027
COMMISSION AND BREAKAGE TAKEOUTS	\$ 580,163,057	582,280,227	584,240,186	586,289,523	606,603,950	605,810,981	642,071,405	664,076,505	655,376,482	638,218,172
REVENUES TO NEW YORK STATE										
Commissions and Breakage-NY Betting	\$ 111,115,835	107,850,906	98,444,897	102,890,598	102,892,630	93,310,249	86,643,830	93,430,963	\$ 88,550,330	81,141,151
Commissions Connecticut OTB	2,440,514	2,525,957	2,546,341	1,744,697	958,426	902,983	878,984	408,629	328,469	573,791
Commissions Other States Betting	-----	18,830	107,245	61,009	-----	-----	-----	-----	-----	-----
Uncashed Warming Tickets	7,648,867	7,676,597	8,314,767	8,494,080	8,055,032	8,342,742	8,785,133	9,164,880	9,725,764	9,290,998
State Admission Taxes	646,344	629,809	643,969	621,199	616,924	568,681	552,208	531,162	486,580	463,866
MRA Franchise Fees	19,894,649	9,288,986	6,895,456	4,892,390	12,677,931	10,227,032	1,854,891	3,546,304	1,521,366	-----
Licenses, Fingerprints and Fees	460,394	501,819	711,492	798,161	847,716	865,247	900,537	850,184	1,048,449	1,470,455
Total Revenue to NY State	142,206,603	128,497,904	117,664,167	119,502,134	126,048,659	114,216,934	99,615,583	107,932,172	101,660,958	92,940,261
Less Credits To Tracks	(1,194,792)	(1,021,023)	(1,245,225)	(1,157,940)	(242,719)	(1,387,350)	(3,235,250)	(4,142,809)	(3,625,984)	(3,786,834)
Net Revenue to NY State	141,011,811	127,476,881	116,418,942	118,344,194	125,805,940	112,829,584	96,380,333	103,789,313	98,034,974	89,153,427
REVENUES TO TRACK CORPORATIONS										
Commissions and Breakage-NY Betting	\$278,607,452	278,876,899	288,493,202	285,035,700	293,761,723	309,559,886	329,744,501	329,137,220	325,771,956	316,023,223
Commissions Connecticut OTB	3,223,048	3,336,302	3,352,926	3,303,840	8,319,045	8,140,319	8,592,763	8,509,320	8,846,866	8,040,997
Commissions Other States Betting	-----	32,524	190,429	-----	-----	-----	3,197,021	3,976,242	4,729,167	6,304,238
Statutory Tax Credits	1,194,792	1,021,023	1,245,225	1,157,940	242,719	1,387,350	3,235,250	4,142,809	3,625,984	3,786,834
Total Racing Revenues To Tracks	283,025,292	283,266,748	293,281,782	289,497,480	302,323,487	319,087,555	344,769,535	345,765,591	342,973,973	334,155,292
Less Purses From Track Commissions	(113,849,361)	(115,367,281)	(120,108,036)	(124,074,652)	(122,599,903)	(136,135,248)	(140,727,837)	(146,576,864)	(145,512,366)	(138,074,353)
Net Racing Revenues To Tracks	\$169,175,931	167,899,467	173,173,746	165,422,828	179,723,584	182,952,307	204,041,698	199,188,727	197,461,607	196,080,939
REVENUES TO LOCAL GOVERNMENTS										
OTB Surcharges	\$62,702,461	65,025,991	65,283,975	65,562,430	67,748,055	67,365,896	72,266,443	75,959,043	75,547,336	74,174,076
OTB Net Revenues (Profits)	50,378,208	46,096,054	35,749,138	31,089,642	29,676,146	22,137,079	29,867,237	33,221,944	35,672,751	28,621,452
Admissions and Local Taxes	1,551,076	1,559,802	1,407,342	1,354,565	1,263,623	1,118,400	1,092,800	1,312,857	1,380,496	1,287,465
Total Revenues to Local Governments	\$114,631,745	112,676,647	102,440,455	98,006,637	98,687,824	90,621,375	103,226,480	110,493,844	112,600,583	104,082,933
COMMISSIONS & BREAKAGE TO BREEDERS FUNDS	7,239,565	15,273,182	15,610,387	15,579,440	15,777,331	16,787,074	20,973,619	21,973,619	21,518,604	20,809,982

Summary of OIB Net Earnings and Surcharges Available For Localities 1980-1989

OIB Regional Corporation	New York City	Nassau	Suffolk	Catskill	Capital	Western	Combined
Net Earnings To Localities	\$24,824,030	\$9,405,306	\$6,280,490	\$3,261,141	\$2,393,051	\$4,214,190	\$50,378,208
Surcharge To Localities	37,688,613	6,139,757	5,044,588	3,175,527	4,488,209	6,165,767	62,702,461
Total Benefits 1980	62,512,643	15,545,063	11,325,078	6,436,668	6,881,260	10,379,957	113,080,669
Net Earnings To Localities	\$25,443,121	\$8,543,363	\$6,249,875	\$2,163,166	\$1,656,502	\$2,035,027	\$46,091,054
Surcharge To Localities	38,472,567	6,509,001	5,303,898	3,466,146	4,788,929	6,485,450	65,025,991
Total Benefits 1981	63,915,688	15,052,364	11,553,773	5,629,312	6,445,431	8,520,477	111,117,045
Net Earnings To Localities	\$16,466,245	\$7,911,048	\$5,561,597	\$2,792,506	\$1,055,589	\$1,962,153	\$35,749,138
Surcharges To Localities	37,938,612	6,705,876	5,597,622	3,525,465	5,457,644	6,058,756	65,283,975
Total Benefits 1982	54,404,857	14,616,924	11,159,219	6,317,971	6,513,233	8,020,909	101,033,113
Net Earnings To Localities	\$11,274,116	\$7,014,084	\$4,990,814	\$2,759,296	\$2,106,448	\$2,944,884	\$31,089,642
Surcharges To Localities	37,048,169	6,854,888	5,859,246	3,800,893	5,872,734	6,126,500	65,562,430
Total Benefits 1983	48,322,285	13,868,972	10,850,060	6,560,189	7,979,182	9,071,384	96,652,072
Net Earnings To Localities	\$10,286,688	\$6,466,815	\$4,014,303	\$2,928,210	\$2,735,740	\$3,244,390	\$29,676,146
Surcharges To Localities	37,819,532	6,851,044	6,141,211	4,185,931	6,387,164	6,363,174	67,748,056
Total Benefits 1984	48,106,220	13,317,859	10,155,514	7,114,141	9,122,904	9,607,564	97,424,202
Net Earnings To Localities	\$6,963,677	\$5,318,502	\$2,793,826	\$2,788,110	\$1,590,578	\$2,682,386	\$22,137,079
Surcharges To Localities	37,290,802	6,656,311	6,037,802	4,590,404	6,764,447	6,026,130	67,365,896
Total Benefits 1985	44,254,479	11,974,813	8,831,628	7,378,514	8,355,025	8,708,516	89,502,975
Net Earnings To Localities	\$10,704,636	\$5,600,079	\$3,539,312	\$3,399,844	\$2,531,902	\$4,091,464	\$29,867,237
Surcharges To Localities	39,356,797	7,131,206	6,707,709	5,072,005	6,942,261	7,056,465	72,266,443
Total Benefits 1986	50,061,433	12,731,285	10,247,021	8,471,849	9,474,163	11,147,929	102,133,680
Net Earnings To Localities	\$11,036,354	\$6,557,830	\$5,302,616	\$5,093,808	\$1,032,887	\$4,198,449	\$33,221,944
Surcharges To Localities	40,216,008	7,687,530	7,087,736	5,553,400	7,425,432	7,988,937	75,959,043
Total Benefits 1987	51,252,362	14,245,360	12,390,352	10,647,208	8,458,319	12,187,386	109,180,987
Net Earnings To Localities	\$12,723,979	\$7,212,535	\$5,421,935	\$5,143,811	\$1,331,278	\$3,839,213	\$35,672,751
Surcharges To Localities	39,059,290	8,302,842	6,901,658	5,610,118	7,799,285	7,874,143	75,547,336
Total Benefits 1988	51,783,269	15,515,377	12,323,593	10,753,929	9,130,563	11,713,356	111,220,087
1989 Preliminary Figures:							
Net Earnings To Localities	\$4,679,764	\$7,462,982	\$5,424,895	\$5,123,959	\$782,941	\$5,146,911	\$28,621,452
Surcharges To Localities	36,579,707	8,835,633	7,093,276	5,582,217	8,015,546	8,067,695	74,174,074
Total Benefits 1989	41,259,471	16,298,615	12,518,171	10,706,176	8,798,487	13,214,606	102,795,526

OTB TOTAL HANDLE BY CORPORATION (SINCE INCEPTION)

	NEW YORK CITY	NASSAU	SUFFOLK	CATSKILL	CAPITAL	WESTERN	TOTAL
	\$	\$	\$	\$	\$	\$	\$
1971	118,584,596	---	---	---	---	---	118,584,586
1972	450,316,518	---	---	---	2,316,716 ^A	---	452,633,234
1973	691,280,360	---	---	---	11,414,046 ^A	---	702,694,406
1974	786,711,622	---	---	---	15,098,937 ^A	13,440,146	815,250,705
1975	773,550,528	27,903,980	30,367,693	---	9,808,799 ^A	55,239,443	906,858,411
1976	785,910,123	69,662,629	67,723,374	15,561,237	40,303,650	73,741,970	1,052,902,983
1977	777,437,682	90,692,862	77,426,355	41,729,116	55,041,267	85,725,016	1,128,052,298
1978	791,853,715	102,674,979	87,840,290	52,433,415	67,987,889	103,739,971	1,206,530,259
1979	835,815,437	134,958,752	109,146,866	66,849,752	91,720,613	133,535,290	1,372,026,710
1980	879,639,694	142,586,319	117,253,545	73,982,592	102,669,278	146,491,353	1,462,622,784
1981	891,276,192	149,594,168	122,394,341	80,120,747	108,653,823	153,324,442	1,505,363,713
1982	883,510,575	155,304,423	130,558,401	82,561,063	124,920,812	144,429,719	1,521,285,993
1983	866,764,759	159,442,909	136,539,171	88,668,362	134,616,018	145,961,464	1,531,992,683
1984	886,006,827	156,728,337	142,821,166	96,713,909	147,563,225	151,659,615	1,583,493,079
1985	871,867,750	155,085,757	140,669,804	106,081,129	157,719,562	143,303,334	1,574,729,336
1986	945,803,419	165,303,500	167,050,479	117,491,015	193,409,257	167,696,983	1,756,754,653
1987	1,003,377,015	180,195,868	195,383,498	132,723,923	209,892,621	187,591,674	1,909,164,599
1988	1,000,766,523	196,117,404	201,599,802	135,770,751	223,291,861	193,291,107	1,950,837,448
1989	940,787,164	212,472,817	206,786,117	135,137,777	226,130,290	196,986,948	1,920,301,113

BACKGROUND SUMMARY: SIMULCASTING 1979 - 1988

New York has been a leader in the development of simulcasting. Beginning in 1979, the State undertook various experiments and test projects relating to simulcasting, including the first comprehensive statewide experimental program during 1984-1988.

For the purpose of understanding what the State has done in the past, the following information summarizes New York's efforts during the period of October 1979 through December 1988, as stated in prior simulcast reports.

SIMULCAST OPERATIONS BY OFF-TRACK BETTING CORPORATIONS

AND RACE TRACKS BEFORE JULY 1, 1984 (PRE-ARTICLE X)

Prior to the commencement of the experimental scheme in July 1984, several limited simulcast programs were authorized.

Within the State, the Legislature authorized the New York City Off-Track Betting Corporation to display in two existing OTB facilities on Staten Island, the telecast of live audio-visual signals of harness racing. This experiment began in October 1981, at the Grant City and Richmond Avenue branches. A similar program was undertaken in Suffolk County by that county's regional off-track betting corporation in March 1982, at its Sun Vet and Shirley branches. The authority for this simulcasting expired on June 30, 1985 (pursuant to Section 521(8) of the Racing Law, as amended). Subsequent simulcasts to these

locations have been treated as regular simulcasts, under the provisions of Article X.

Two substantial ongoing simulcast operations of New York racing to points outside the State have also been conducted. The first involves the ongoing transmission of live audiovisual signals from New York thoroughbred and harness tracks to the State of Connecticut for its off-track betting system. This system, operated in part by General Instrument, AmTote Systems Division, first received televised pictures of New York Racing Association (NYRA) thoroughbred programs and harness racing from Roosevelt and Yonkers Raceways in October 1979 at one facility, a new Teletrack, located in New Haven.

The only other state receiving daily simulcasts of New York's races is Nevada. Beginning in June 1983, NYRA and Caesars Palace entered into an agreement to simulcast NYRA racing to a licensed race book at Caesars Palace and other locations in the State of Nevada. In June 1984, Yonkers and Roosevelt Raceways' harness simulcasts were also made available to licensed race books in Nevada. A detailed discussion of the New York - Nevada arrangements is contained hereinafter. In addition, on numerous special occasions, New York stakes and feature races are simulcast to various out-of-state tracks. These simulcasts are the subject of specially negotiated agreements, approved by the Board on a case by case basis, and must comply with the provisions of the federal Interstate Horseracing Act of 1978.

SIMULCASTING OPERATIONS BY OFF-TRACK BETTING CORPORATIONS AND
RACE TRACKS DURING 1984

After the enactment of the experimental simulcast statute in July 1984, all of the State's off-track betting corporations and six of the State's ten tracks participated in the experiment.

A total of 55 simulcast licenses were issued, four to tracks, and 51 to off-track betting branches. The two tracks, which only transmitted simulcasts, were not required to be licensed under terms of the law.

The first experiment was conducted by NYRA with simulcasts of its Saratoga races to its Aqueduct track beginning August 1, 1984. During August, the New York City, Nassau, Suffolk and Catskill OTB regions followed with simulcasts of both Saratoga thoroughbred races and Roosevelt Raceway harness races. Eventually, during 1984, the Capital and Western regions and Saratoga Raceway, Finger Lakes Race Track and Buffalo Raceway joined the experiment.

All of the simulcasting was done by agreement between the tracks and OTB corporations. The tracks charged the OTB corporations an additional percentage of handle (approximately 4%) above the regular statutory percentages (approximately 5%). This was based upon a computation of additional incremental handle caused by simulcasting. Thus, for this incremental handle, the OTB corporations paid the tracks approximately 9%, rather than the usual 5%.

Track to track simulcasting was also based on contractual agreements. Saratoga Raceway, Finger Lakes Race Track and

Buffalo Raceway all simulcast NYRA races and paid about 7.1% of their handle to NYRA.

SIMULCAST OPERATIONS BY OFF-TRACK BETTING CORPORATIONS
AND RACE TRACKS DURING 1985

Nineteen hundred and eighty-five was the first complete calendar year in which comprehensive statewide simulcasting of horse races within New York State occurred. During the course of that year, the Legislature passed and the Governor signed into law a five-year authorization for comprehensive statewide simulcasting through June 30, 1990.

The Board issued a total of 84 simulcast facility licenses in 1985: 80 to off-track betting corporations and four to race tracks. Included therein was the State's first simulcast theater license. It was issued to the Capital District Regional Off-Track Betting Corporation for its simulcast theater within the Teleplex Racing Center, Albany, New York. This simulcast theater opened to the public for wagering on October 19, 1985.

The 1985 statewide simulcast handle totaled \$395.2 million of which \$331.2 million was wagered at off-track betting facilities, while \$64 million was wagered at track to track simulcast locations. All simulcasting between sending tracks and receiving tracks, as well as to off-track betting corporation facilities, was done pursuant to contractual agreements between the respective parties. The compensation paid to the sending tracks following the five-year renewal of the statutory

authorization was somewhat less than it was under the one year experiment (pre-July 1985).

The New York City, Nassau, Suffolk and Catskill Regional Off-Track Betting Corporations considered that their respective 1985 simulcast operations were, at the least, not a losing proposition. The Capital District Regional Off-Track Betting Corporation, as well as Finger Lakes Race Track, Saratoga Raceway and NYRA's simulcasts to Aqueduct from Saratoga, were successful. Both the Western Regional Off-Track Betting Corporation and Buffalo Raceway concluded that their experiences with simulcasting in 1985 were not financially successful.

With the enactment of the 1985 Omnibus Racing Legislation, all parties hoped that the statutory amendments would enhance the success of simulcasting and result in the overall improvement of the racing, pari-mutuel wagering and breeding industries.

SIMULCASTING OPERATIONS BY OFF-TRACK BETTING CORPORATIONS

AND RACE TRACKS DURING 1986

During 1986, regular track to track simulcasting was continued by Finger Lakes Race Track and Saratoga Raceway on NYRA races, as well as Aqueduct's simulcasting of the Saratoga 24-day meeting. Yonkers Raceway, having contracted for necessary consents of the New York City and Catskill Regional Off-Track Betting Corporations, in conjunction with its own races to them, began simulcasting NYRA races on March 24, 1986 (the opening date was delayed until the track and its horsemen reached agreement on the horsemen's purse share).

Thereafter, Buffalo Raceway, which had ceased simulcasting NYRA races early in 1985, did simulcast these races for nine days during the Erie County Fair when the track was not conducting harness racing.

During 1986, simulcasting of in-state races by all off-track betting corporations continued, on an expanded basis, on races from NYRA, Yonkers and Roosevelt Raceways. Capital OTB continued to simulcast Finger Lakes races on NYRA dark days and Saratoga Raceway races.

Nineteen hundred and eighty-six saw several new developments. When a strike by mutuel clerks at Roosevelt Raceway closed that track during the first week of January, arrangements were quickly made to open Monticello Raceway and simulcast its races from January 3 through January 6 instead. Off-track betting on Monticello races during the period jumped from an average \$112,000 per day to \$590,000 per day.

During the early Yonkers and Roosevelt Raceways meetings, both tracks limited their simulcasting to off-track betting corporations until firm agreements on compensation were reached. As a result, there was no simulcasting of Roosevelt Raceway to Nassau OTB during 1986, or to Suffolk OTB until August 1986. Yonkers denied the signal to New York City OTB from January 22 until March 1, to Suffolk OTB from January 22 to February 3, and to Catskill OTB from January 7 to March 7.

On April 12, 1986, New York City Off-Track Betting Corporation opened its first simulcast theater. For the rest of the year, the theater primarily offered simulcasts of NYRA races

in the afternoon and Roosevelt/Yonkers races at night. The total handle was \$26.4 million for a daily average of close to \$100,000 (the State's first simulcast theater in Albany operated for the full year and averaged \$71,000 in handle per day).

Also in April, Finger Lakes began a full season of daily simulcasting to the Western and Capital regions. For the year, combined on-track and off-track betting on Finger Lakes races increased by \$24 million to \$124 million, an increase of almost 25%.

On May 17, 1986, the State's third simulcast theater was opened in Suffolk County. Through December 31, \$11 million was wagered there for a daily average of almost \$50,000.

In July, the downstate off-track betting regions began interfacing their "dark day" pools at Finger Lakes and were able to offer the same betting pools available on-track. This, coupled with increased simulcasting, resulted in substantial increased betting.

In September, the new quarterhorse race track at Suffolk Meadows began simulcasting its races to the Nassau, Capital and Western OTB regions. For the 18 days, the total off-track handle was \$1.5 million, averaging \$82,000 per day.

Finally, during November and December, Batavia Downs and Buffalo Raceway inaugurated simulcasting to OTB branches in the Western and Capital regions. For this period, simulcast handle totaled \$5.5 million, increasing daily off-track betting by an estimated \$50,000 (31%) from \$160,000 to \$210,000.

Also during 1986, NYRA simulcast some of its feature races to 35 out-of-state tracks which handled \$24.7 million on those races and paid NYRA \$1.8 million. Roosevelt and Yonkers Raceways simulcast a few races to five tracks in other states yielding nominal results.

SIMULCAST OPERATIONS BY OFF-TRACK BETTING CORPORATIONS
AND RACE TRACKS DURING 1987

During 1987, regular track to track simulcasting of NYRA races was continued by Yonkers and Saratoga Raceways for the full year, by Finger Lakes for part of the year (91 days), as well as Aqueduct's simulcasting of the Saratoga 24-day meeting.

Buffalo Raceway, which had ceased simulcasting NYRA races early in 1985, and then simulcast those races for nine days during the Erie County Fair, when the track was not conducting harness racing in 1986, did no simulcasting at all in 1987.

During 1987, simulcasting of in-state races by all off-track betting corporations continued on races from NYRA, Yonkers and Roosevelt Raceways. Capital OTB continued to simulcast Saratoga Raceway races. More days of simulcasting of Batavia Downs and Buffalo Raceway's harness races took place in the Capital and Western regions.

During early 1986, Yonkers and Roosevelt Raceways had restricted their simulcasting to off-track betting corporations until firm agreements on compensation were reached. During 1987, no limitations were imposed by these tracks but only off-track handle on Yonkers appreciated substantially.

On March 24, 1987, New York City Off-Track Betting Corporation opened its second simulcast theater (the first having opened in 1986). Simulcasts of NYRA races in the afternoon and Roosevelt/Yonkers races at night were the primary offerings. The total handle for both theaters was \$58.1 million, for a daily average exceeding \$160,000 (in 1987, the one theater had averaged \$100,000). The State's first simulcast theater, in Albany, operated for the full year and averaged \$80,000 in handle per day, while Suffolk's theater also averaged \$80,000, operating the entire year.

In April, Finger Lakes began its second full season of daily simulcasting to the Western, Capital and Catskill regions and on NYRA "dark days" to the other OTB regions. For the year, off-track betting on Finger Lakes races increased \$31 million to \$106 million, an increase of almost 41%.

Suffolk Meadows, the "new" quarterhorse track which conducted racing in 1986, failed to re-open in 1987. For 18 days in 1986, limited simulcasting of its races had averaged \$82,000 per day.

Also during the year, NYRA simulcast some of its featured races to 60 out-of-state tracks which handled \$35.4 million on those races and paid NYRA \$2.5 million. Roosevelt and Yonkers simulcast a few races to tracks in other states yielding nominal results.

A serious disruption of Connecticut's off-track betting (and, therefore, simulcasting) on Roosevelt and Yonkers races occurred in midyear 1987, when the horsemen's association at

those tracks refused to give its consent (required Law) to the renewals of those contracts. As a estimated \$1.4 million (\$700,000 in purses; \$700,000 revenues) was irretrievably lost.

SIMULCASTING OPERATIONS BY OFF-TRACK BETTING CORPORATIONS AND RACE TRACKS DURING 1988

During 1988, regular track to track simulcasting races was continued by Yonkers Raceway and Saratoga the full year, by Finger Lakes for part of the year (9 well as Aqueduct's simulcasting of the Saratoga 24-day

During 1988, simulcasting of in-state races by all betting corporations continued on races from NYRA, Finger Lakes, Yonkers and Roosevelt Raceways. Capital OTB continued to simulcast Saratoga Raceway races and simulcasting Downs and Buffalo Raceway's harness races took place in Capital and Western regions.

In 1988, Roosevelt Raceway permanently terminated its remaining dates, less 19 days, were assumed by Finger Lakes Raceway. For 1988, primarily because of the lost dates, OTB handle on both tracks was down \$16 million. Total handle for both tracks, however, was down an additional million.

New York City Off-Track Betting Corporation operated two simulcast theaters for the entire year. Simulcasts of Finger Lakes races in the afternoon and Roosevelt/Yonkers races at night were the primary offerings. The total handle for both theaters

those tracks refused to give its consent (required by Federal Law) to the renewals of those contracts. As a result, an estimated \$1.4 million (\$700,000 in purses; \$700,000 in track revenues) was irretrievably lost.

SIMULCASTING OPERATIONS BY OFF-TRACK BETTING CORPORATIONS
AND RACE TRACKS DURING 1988

During 1988, regular track to track simulcasting of NYRA races was continued by Yonkers Raceway and Saratoga Raceway for the full year, by Finger Lakes for part of the year (99 days), as well as Aqueduct's simulcasting of the Saratoga 24-day meeting.

During 1988, simulcasting of in-state races by all off-track betting corporations continued on races from NYRA, Finger Lakes, Yonkers and Roosevelt Raceways. Capital OTB continued to simulcast Saratoga Raceway races and simulcasting of Batavia Downs and Buffalo Raceway's harness races took place in the Capital and Western regions.

In 1988, Roosevelt Raceway permanently terminated racing and its remaining dates, less 19 days, were assumed by Yonkers Raceway. For 1988, primarily because of the lost dates, total OTB handle on both tracks was down \$16 million. Total on-track handle for both tracks, however, was down an alarming \$49 million.

New York City Off-Track Betting Corporation operated two simulcast theaters for the entire year. Simulcasts of NYRA races in the afternoon and Roosevelt/Yonkers races at night were the primary offerings. The total handle for both theaters was \$73.2

million for a daily average exceeding \$200,000 (up 25%). (In 1987, the one theater had averaged \$100,000.) The State's first simulcast theater, in Albany, averaged \$90,000 (up 12.5%) in handle per day while Suffolk's theater averaged \$100,000 (up 25%).

In April, Finger Lakes began its third full season of daily simulcasting to the Western, Capital and Catskill regions and on NYRA "dark days" to the other OTB regions. For the year, off-track betting on Finger Lakes races again increased substantially to \$119 million, an increase of \$13 million or 12%.

Also during the year, NYRA simulcast some of its featured races to 63 out-of-state tracks which handled \$41.2 million on those races and paid NYRA \$2.4 million.

The disruption of Connecticut's off-track betting on Roosevelt and Yonkers races which occurred in midyear 1988 ended in 1988. As a result simulcasting now continues on a regular basis from Yonkers Raceway to that State.

APPLICATION PROCESS AND GUIDELINES

In authorizing intra-state simulcasting, the Legislature mandated that each track or off-track betting corporation must apply for a license to operate a simulcast facility. Such a facility may be a race track, an OTB branch or a simulcast theater.

Applications for licenses shall be in such form as may be prescribed by the Board and contain such information, material or other evidence the Board may require. In addition, the Legislature prescribed a \$500 per year license fee for each simulcast facility to be paid by the licensee.

The application itself must contain a SIMULCAST PLAN OF OPERATION which is subject to the review and approval of the Board. Section 1003(2) of the Racing Law specifies the contents of such plan.

Each applicant must also submit a feasibility study projecting the estimated revenues and costs to operate a simulcast facility. To be included in the study is the following information:

1. the number of simulcast races to be displayed;
2. the types of wagering to be offered;
3. the level of attendance expected and the area from which such attendance will be drawn;
4. the level of anticipated wagering activity;
5. the source and amount of revenues expected from other than pari-mutuel wagering;
6. the costs of operating the simulcast facility and the

identification of costs to be amortized and the method of amortization of such costs;

7. the amount and source of revenues needed for financing the simulcast facility; and
8. the probable impact of the proposed operation on revenues to local government.

In addition to the feasibility study, the Simulcast Plan of Operation details the security measures to be used to protect the facility, control crowds, safeguard the transmission of simulcast signals and accomplish the transmission of wagering data to effectuate common wagering pools. Information on the type of data processing, communication and transmission equipment to be utilized must also be provided. The applicant is required to describe the management groups responsible for the operation of the simulcast facility and the system of accounts employed to maintain a separate record of revenues collected by the simulcast facility, the distribution of such revenues and the accounting costs relative to the simulcast operation. The Simulcast Plan of Operation also specifies the location of each facility and includes confirmation from the appropriate local authorities that the location of the simulcast facility and the number of patrons expected to occupy such facility are in compliance with all applicable local ordinances.

The final requirement of Section 1003 states that an applicant must submit the written agreements or letters of consent by those parties specified in Sections 1007, 1008 and

1009 of the Racing Law (including as the case may be, race tracks, off-track betting corporations and/or local governments).

In addition, Section 1010 mandates that the Simulcast Plan of Operation shall include provision for job security for race track and OTB corporation employees within the region where the simulcast facility is located.

The Board has imposed additional requirements for licensing a simulcast facility. Following Board approval of the Capital District Regional Off-Track Betting Corporation's application to operate a telebranch in Albany during 1985, an unsuccessful law suit was commenced by area residents in an attempt to prevent the opening of the facility. New York State Supreme Court, Albany County, determined that the Board acted correctly in licensing the facility. During the course of preparing for this litigation, the Board was advised that it must insure compliance with the State Environmental Quality Act with respect to the determination of the environmental impact relating to a simulcast facility. Capital OTB submitted a comprehensive statement for the Albany facility, and it was then licensed by the Board. The court thereafter found that the Board properly licensed the facility. Accordingly, the Board now requires the submission of an Environmental Assessment Statement in a prescribed format for each new simulcast facility.

In 1986, the Board began an intensive effort to insure that all off-track betting facilities (including simulcast facilities) were in compliance with the New York State Uniform Fire Prevention and Building Code. A similar effort with respect to

track facilities was also undertaken. With respect to race tracks, the appropriate local governments' code enforcement officer was requested to inspect the facility and confirm its compliance with the State's Uniform Code.

In 1988, the New York State Department of State, through its Codes Division, determined that the responsibility for the administration and enforcement of the Uniform Code at facilities operated by off-track betting corporations is that of the participating county and/or city.

The procedures adopted by the Board to effectuate these statutory guidelines recognized that the Governor and Legislature wished to encourage the broadest possible utilization of simulcasting. Basically, applicants were required to submit an outline of the principal elements of the Simulcast Plan of Operation and feasibility study to the Board, together with proof of agreement by all the necessary and required parties. Upon receipt of the above, the Board reviewed a submission and made a determination thereon. In several instances, temporary licenses were issued contingent upon the receipt of further necessary and required documentation. For the Board, "a meeting of the minds" between the essential players in this arrangement was critical in making a determination to authorize a specific simulcast operation. Of course, a speedy submission of the necessary written materials has always been required.

SIMULCAST FACILITY LICENSING

In accordance with the provisions of Section 1002(1) of the Racing Law, the Board issued guidelines for applications for simulcast facility licenses. An annual licensing cycle of July 1 through June 30 of the following year was established to coincide with the statutory authorization concerning Article X.

With the effective date of the revised Article X, in 1985, the Board required each applicant to apply for a new simulcast facility license for the year July 1, 1985 through June 30, 1986. Accordingly, renewal procedures were implemented for the licensing years beginning July 1, 1986, July 1, 1987, July 1, 1988 and July 1, 1989. Under this procedure, 177 simulcast facility licenses were issued and a total of \$88,500 in fees was received and remitted to the State's general fund as of December 31, 1989.

A breakdown by applicant is set forth below:

1989 - 1990 LICENSING YEAR

<u>APPLICANTS</u>	<u>NUMBER OF LICENSES ISSUED</u>	<u>FEES PAID</u>
New York City OTB	41	\$20,500
Nassau OTB	11	5,500
Suffolk OTB	12	6,000
Catskill OTB	16	8,000
Capital OTB	48	24,000
Western OTB	45	22,500
New York Racing Assn.	1	500
Finger Lakes Race Track	1	500
Saratoga Raceway	1	500
Vernon Downs	1	500
<u>TOTAL (July 1 - Dec. 31, 1989)</u>	<u>177</u>	<u>\$88,500</u>

Two simulcast facility licenses had also been issued during the first half of 1989 for the prior licensing year, generating \$1,000 in fees.

Therefore, during calendar year 1989, a total of 179 simulcast facility licenses were issued and fees totaling \$89,500 were received by the Board and paid to New York State's general fund, pursuant to Section 1003 of the Racing Law.

STATUTORY AMENDMENTS - 1985

Legislation (Chapters 286 and 287, of Laws of 1985) enacted in July 1985, amended the Racing Law and empowered the Board to prescribe rules and regulations to govern certain activities authorized by the July 1985 amendments. These included courier betting, licensing of all participants in simulcasting and suspension of the OTB surcharge on certain telephone betting accounts.

The Board was empowered to prescribe rules to govern the conduct of employees who provide the courier betting service within the designated locations at tracks or OTB facilities. Courier betting has not yet been requested at any on or off-track wagering facility. However, the Board has adopted rules to govern such activity in the event that an authorized entity so requests.

In its 1984 Simulcast Report, the Board recommended that it be authorized to license any person, association or corporation participating in simulcasting, including those who create, distribute, transmit or display simulcast signals. The Legislature and the Governor accepted that recommendation. The Board had begun the process of drafting rules and regulations to govern this procedure, including defining those persons, associations or corporations who must be licensed under the provisions of Section 1003(5) of the Racing Law. However, it became clear that licensing only of OTB simulcast facilities was difficult. Accordingly, the Board has recommended legislation to

empower it to license all participants in off-track betting (see Recommendation #2).

The legislation added an entirely new Section 1012 to the Racing Law. It authorizes a regional off-track betting corporation to suspend the collection of the surcharge imposed under Section 532 on winning wagers placed on OTB telephone accounts with a minimum balance of not less than \$500 at the time of the wager. The consent of the track on which such telephone wager is accepted is required. Most corporations utilized this provision. Each corporation and track entered into a consent agreement. Some agreements provided that the surcharge would be suspended on telephone accounts with a minimum balance of not less than \$1,000 at the time of the wager, while others adopted the statutory minimum.

STATUTORY AMENDMENTS - 1986

The legislation governing simulcasting remained relatively constant during 1986. Chapter 872 of the Laws of 1986 (effective August 26, 1986) increased the number of OTB branches which receive the live audio call of NYRA races. Substantial changes affecting 1987 simulcasting were enacted on December 30, 1986 in Chapter 919 of the Laws of 1986. This legislation permitted all OTB regions to accept wagers on the Breeders' Cup races as a single out-of-region special event, allowed the State's tracks to also accept wagers thereon, authorized up to three OTB simulcast branches per region to sell liquor on premises and limited the

requirement of track consent to simulcast theaters within a 40-mile radius of the track.

STATUTORY AMENDMENTS - 1988

Several statutory amendments relating to simulcasting were enacted by the State Legislature during 1988. The most significant change was the passage of Chapter 261 of the Laws of 1988. It provided a new series of tax reductions for the State's harness tracks and Finger Lakes Race Track. It also established certain requirements for the tracks to receive such relief. The 1987 tax relief law required the Board to annually report on or before March 1, to the Director of the Budget, the Chairman of the Senate Finance Committee and the Chairman of the Assembly Ways and Means Committee on how the State's harness tracks and Finger Lakes Racing Association utilized the tax relief and other benefits authorized by Chapter 261 of the Laws of 1988.

Chapter 261 also added a new Section 906 to the Racing Law. It authorized every harness racing association or corporation, off-track betting corporation or simulcast theater operator to accept wagers on a series of harness races known as the Breeders' Crown. It also authorized simulcasts of those races to all harness race tracks as well as licensed OTB simulcast branches and theaters. This chapter also reimposed the State tax on simulcasts of New York harness races to OTB facilities within the State of Connecticut.

Other racing related legislation enacted into law during 1988 included Chapter 488 which mandates that 50% of the compensation received for international simulcasts or wagering on New York thoroughbred races, shall be allocated to purses.

The Board's legislative proposal to allow wagering on out-of-region races as part of an OTB corporation's program of races of special interest (i.e. special events) was enacted as Chapter 686. Previously, only out-of-state races qualified for this privilege. Finally, Chapter 687 prohibited the Board from authorizing simulcasts of thoroughbred races to a race track located in Suffolk County.

In addition, an important change affecting racing occurred on the federal level in 1988. As a result of a two year effort led by the Board, legislation was enacted in November 1988, to amend the federal criminal code [18 U.S.C. Section 1084(B)] to add foreign countries to the permissible areas for the transmission of wagering information (including simulcasts). This amendment, enacted as part of the Anti-Drug Abuse Act of 1988, permits the Board to approve simulcasts of New York races to foreign jurisdictions. One such agreement, between the New York Racing Association and Caliente Race Track in Tijuana, Mexico was approved by the Board in late January 1989.

Current New York law does not permit the transmission of simulcast signals into New York State from race tracks

located outside this State. However, as a result of this statutory amendment to Title 18 of the United States Code, OTB corporations can now accept wagers on races run outside the United States of America as a race of special interest.

STATUTORY AMENDMENTS - 1989

Four different bills were enacted into law during the 1989 legislative session which affected the conduct of simulcasting in New York State.

Chapter 467 of the Laws of 1989 expanded the number of enhanced OTB telebranches which could sell alcoholic beverages. The amendment provided that each county participating in off-track betting could have a maximum of three (3) enhanced telebranches and that within the City of New York, a total of fifteen (15) enhanced telebranches could operate. In addition, it also allowed for the sale of food and beverages using regular credit cards at all OTB branches offering food service.

Chapter 681 of the Laws of 1989 added a new Section 509-a to the Racing Law establishing an OTB Capital Acquisition Fund. The legislation was recommended by the Board in last year's Simulcast Report (Recommendation #4/1988) and was actively pursued by the Western Regional Off-Track Betting Corporation. The legislation provides that each OTB corporation may establish a Capital Acquisition Fund for the purposes of financing the acquisition, construction or equipping OTB facilities. The

fund consists of an allocation from the OTB corporation's pari-mutuel handle as set forth in the law. The statutory formula provides for an allocation of not more than one percent of the total pari-mutuel wagering pools for the quarter in which the contribution is made, nor shall such contribution reduce the amount of quarterly net revenues (excluding surcharge) to an amount less than fifty percent of such net revenues. In addition, the fund is capped on an annual basis by the lesser of one percent of the total pari-mutuel pools for the prior year or the undepreciated value of the corporation's property.

The Governor also signed into law Chapter 750 of the Laws of 1989. This new law requires the Board to insure that information relating to services for compulsive gambling problems are prominently displayed at all race tracks and off-track betting facilities throughout the State. The Board, together with the State's eight race tracks and six regional off-track betting corporations, have worked in cooperation with the State Office of Mental Health to design and implement a reasonable and effective system of notices to the betting public.

The final legislative amendment enacted in 1989 authorized regional off-track betting corporations to charge an admission fee (subject to the Board's approval) at telebranches and enhanced telebranches offering food, alcoholic or non-alcoholic beverages. Chapter 772 took effect with the approval of the Governor on December 4,

1989. To date, only one application under this provision has been made. The New York City Off-Track Betting Corporation applied for a \$2.00 admission fee for its proposed enhanced telebranch on Staten Island.

ADMINISTRATIVE ACTIONS

The Board also took a major step to improve the environment offered to off-track betting patrons as well as the communities in which OTB facilities are located. On December 6, 1989, the Board adopted rules and regulations requiring that all off-track betting corporation facilities shall be equipped with restrooms, except for good cause shown satisfactory to the Board. The rule, which became effective on January 1, 1990, should help the OTBs promote an improved image as a concerned member of the community and offer patrons additional comfort during the time they spend at OTB facilities.

The Board also authorized a one-year experiment to be undertaken by the Nassau and Suffolk Regional Off-Track Betting Corporations utilizing the "Direct Line System" (DLS). Using "Tiny Tims", the DLS will be placed into service at various locations on Long Island. Each OTB corporation has been authorized to install 90 Tiny Tims in various OTB branches as well as in 90 homes or offices of current telephone betting patrons. Finally, a maximum of 20 free-standing kiosks equipped with the DLS will be placed in various locations throughout each county. No such kiosks can be placed in premises licensed by the State Liquor

Authority. In addition, each proposed location must be approved by the Board and the criteria heretofore established for the siting of OTB branches (Board Rule 5204.14) will apply.

To date, Tiny Tims have been installed only in existing OTB facilities.

CONSULTATION PROCESS - 1989 SIMULCAST REPORT

In the course of reviewing 1989 simulcasting, the Board and its staff conducted a series of informal meetings and discussions with concerned members of the industry. The Board has maintained a continuing dialogue with representatives of the tracks, OTB corporations, horsemen's groups, staff members of the Legislature and other interested parties.

Each group was given the opportunity to present its views and opinions with respect to the effect of the statute, the problems encountered in implementing the statute and its recommendations for legislative action. As would be expected, the groups' representatives were forceful advocates of their respective interests and policy positions. The details of the problems encountered by each of the respective entities are further discussed within the context of the descriptive narratives for each OTB corporation and track.

During 1989, the Executive Chamber undertook a significant role with regard to racing legislation specifically relating to the re-opening of Tioga Park

(S.4730). As a result of the Governor's veto of that legislation (Veto Message #28, December 27, 1989), the Executive Chamber, in conjunction with the Board, has begun consultations with key legislative leaders and staff members as well as all segments of the racing and wagering community with a view towards designing a comprehensive legislative proposal to continue simulcasting and address other racing issues as well.

Finally, as a consequence of Board Recommendation #1 contained in the 1985 Simulcast Report, the Legislative Commission on Science and Technology (at the request of the Assembly Racing and Wagering Committee) completed a comprehensive study of the methodology presently employed within the industry to transmit various types of information among the respective entities.

In a report entitled "A Study of Off-Track Wagering and Simulcast Technology in New York State", released on March 11, 1988, the Legislative Commission evaluated the current state of the technology and recommended options for improvement. Of particular interest are the following significant conclusions of the report:

1. A statewide computer (tote) network is technologically feasible;
2. Post-time wagering off-track is technologically possible;
3. More timely off-track payouts can be achieved;
4. Various technologies can be employed for a statewide simulcast system;
5. Integration of voice, computer and video data

transmission has the potential for significant statewide cost consolidation.

The Board concluded its review of the Legislative Commission's report. The Board believes that the report offers recommendations which, if adopted, create the potential to improve and enhance this State's racing and wagering industry. The report can serve as one of the bases for making important public policy decisions which will shape the future of New York's racing and wagering in the 1990's and beyond.

SIMULCASTING OPERATIONS BY OFF-TRACK BETTING CORPORATIONS
AND RACE TRACKS DURING 1989

During 1989, the fifth full year of the simulcast experiment, all of the State's race tracks (with the exception of Vernon Downs and the Syracuse Mile) made a simulcast signal of its races available to the State's six off-track betting corporations. Five of the State's nine race tracks also were receiving tracks for simulcast signals.

The simulcasting of NYRA races was continued by Yonkers and Saratoga Raceways for the full year, by Finger Lakes for part of the year (88 days) as well as Aqueduct's simulcasting of the 24-day Saratoga meet. In addition, Vernon Downs began simulcasting races from both NYRA in the afternoon (139 days) and Yonkers Raceway in the evening (42 nights).

Simulcasting of in-state races by all off-track betting corporations continued on races from NYRA, Finger Lakes and Yonkers Raceway. New York City, Nassau and Catskill OTBs occasionally simulcast races from Monticello Raceway. Capital OTB continued to simulcast Saratoga Raceway races and simulcasting of Batavia Downs and Buffalo Raceway's harness races took place in the Capital and Western regions.

In 1989, the combined statewide on and off-track handle for all tracks fell by more than \$100 million, a 3.16% decline compared to 1988. On-track thoroughbred handle declined by almost 3.5%, while on-track harness handle fell

by over 9.5%. Total off-track handle declined by only 1.5% compared to 1988's levels. Total simulcast handle, however, continued to rise. During 1989, 36.8% of the State's total betting handle was wagered at simulcast facilities compared to 33.5% in 1988.

A total of 177 simulcast facility licenses were issued in 1989, ten more than in 1988. Four were issued to race tracks (Aqueduct, Saratoga Raceway, Vernon and Finger Lakes), four to simulcast theaters (two in New York City, one each in Albany and Hauppauge) and 169 to off-track betting branches throughout the State. Collectively, these facilities conducted 706 simulcast operations. Sixteen were conducted under various court orders as a result of the Catskill OTB/Yonkers Raceway litigation.

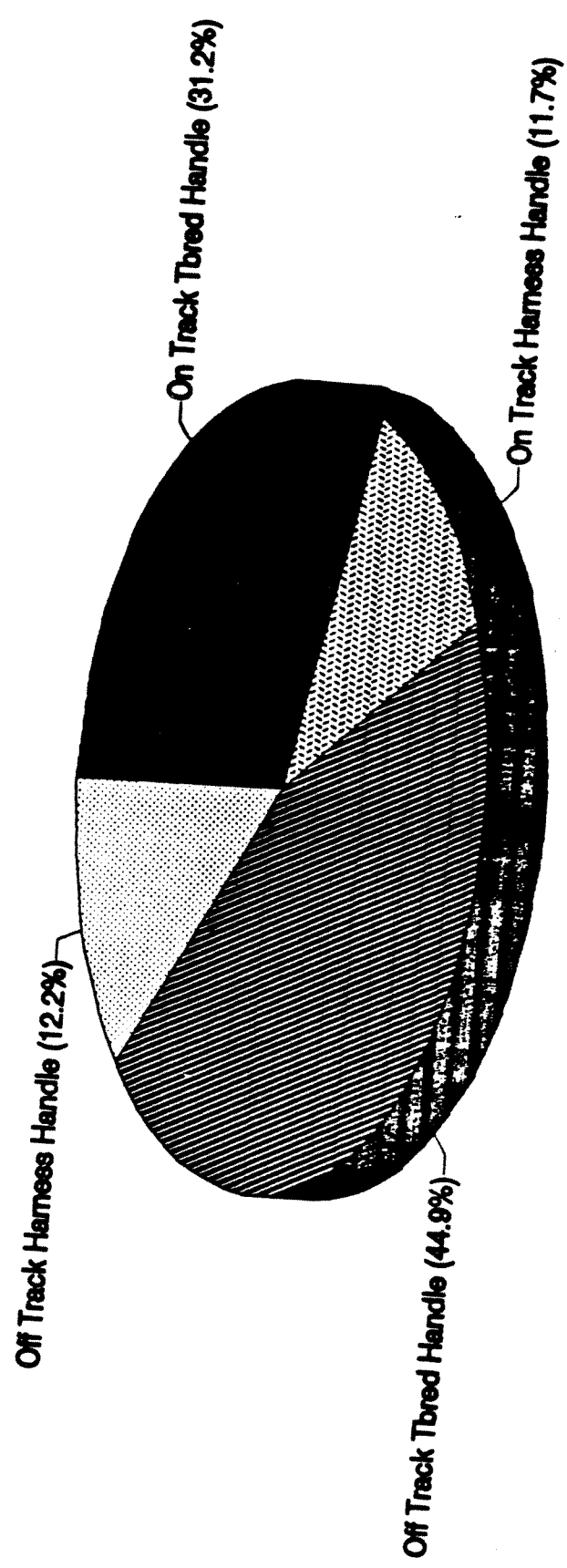
The Racing Law establishes three distinct classifications of simulcast facilities. Total simulcast handle during 1989 in each class were: Track to Track, \$162.3 million (up 9.5% compared to 1988); OTB Branches, \$1.06 billion (up 8.9%) and Simulcast Theaters, \$144.2 million (up 9.9%)

OTB simulcast handle on both NYRA and Yonkers races rose by approximately 8.8%, while Batavia/Buffalo's combined simulcast handle rose by 7.9%. Finger Lakes, which began its fourth full year of daily simulcasts to Western, Capital and Catskill, and on NYRA "dark days" to the other OTB regions, reported a 9.4% increase in simulcast handle in 1989. For the State's other tracks, simulcast handle

declined: 3.5% at Monticello Raceway and 7.3% at Saratoga Raceway.

A detailed narrative of the simulcast operations and other significant activities at the State's race tracks and off-track betting corporations during 1989 follows.

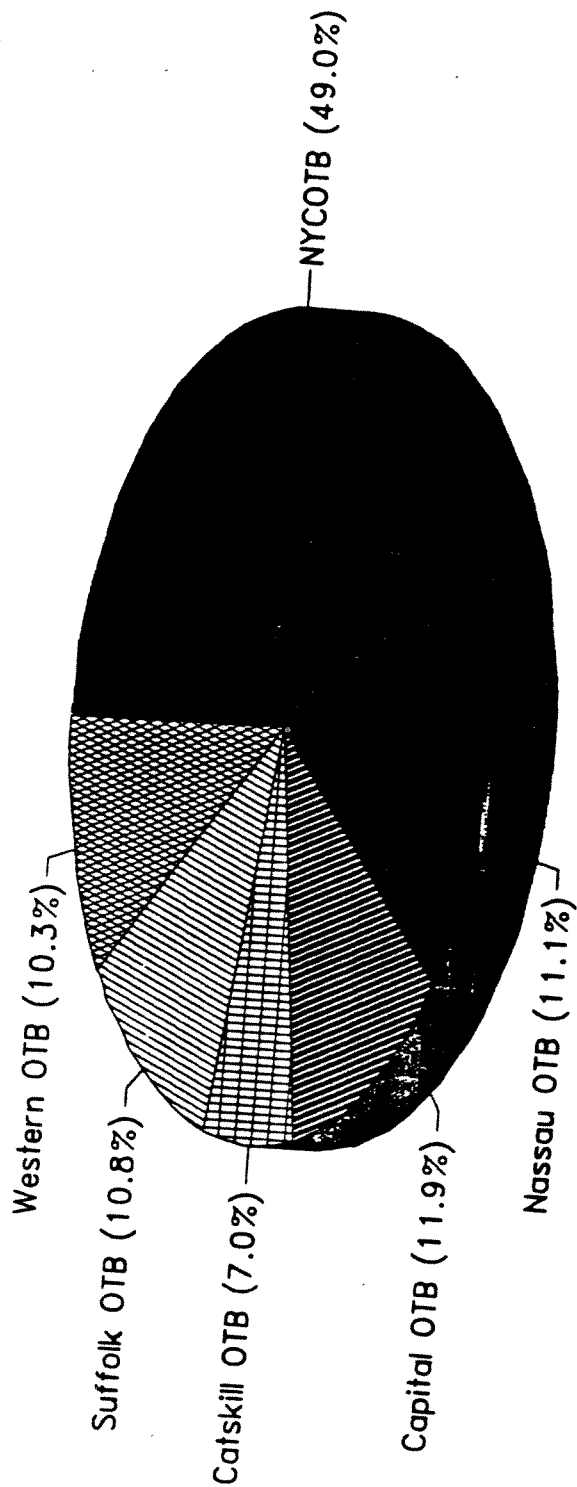
1989 TOTAL HANDLE
On-Track and Off-Track Combined



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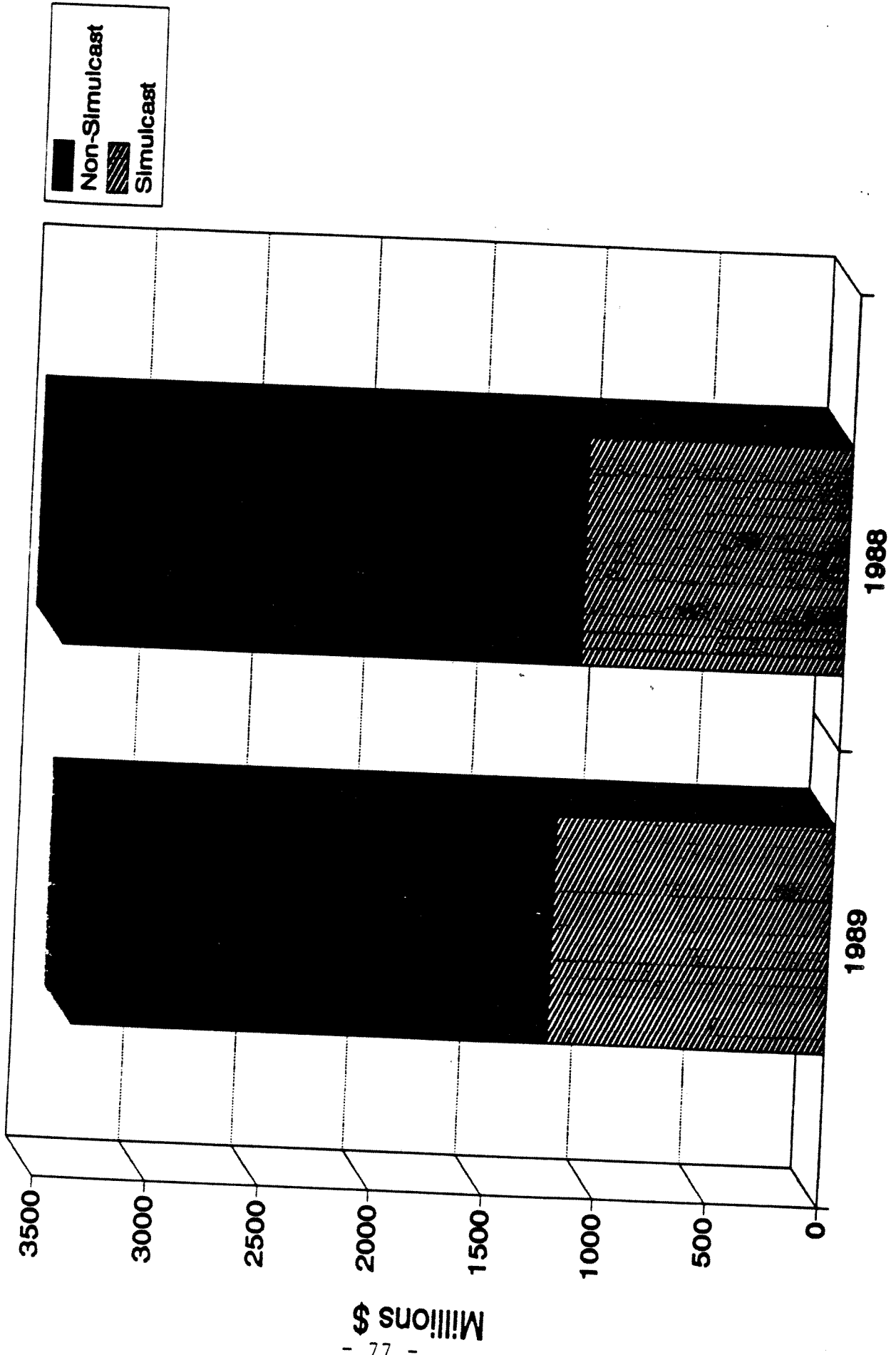
1989 STATEWIDE OTB HANDLE

(In Millions)



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COMPARISON OF HANDLE Simulcast & Non-Simulcast



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WESTERN REGIONAL OFF-TRACK BETTING CORPORATION

The Western Regional Off-Track Betting Corporation, located in western New York State, is comprised of 18 counties, 15 of which participate in the management of off-track betting. The two major cities in the Western area, Buffalo and Rochester, also participate as full members of OTB. Two branches, including Wyoming County's only location, were closed during the year and one newly constructed branch was opened. At the end of 1989 the total number of branches operating in Western was 47. In addition, Western relocated three existing branches, two into newly constructed buildings and the other into a completely renovated building.

Western OTB conducted 219 simulcast operations at 46 branches during 1989 from the New York Racing Association (NYRA), Finger Lakes Race Track, Batavia Downs, Buffalo and Yonkers Raceways.

Within its region, Western OTB contains a thoroughbred track, Finger Lakes Race Track, and two harness tracks, Buffalo Raceway and Batavia Downs.

In 1989, Western OTB handled \$145.1 million on thoroughbred races and \$51.9 million on harness races for a total of \$197 million, an increase of \$3.7 million or 1.9% over 1988. This total accounts for 10.3% of all New York State off-track betting handle in 1989. Western ranks fifth in the State in terms of total betting handle. Based on its

total \$197 million handle for 1989 (as compared to \$193.3 million in 1988), Western generated the following:

	<u>1989</u>	<u>1988</u>
Statutory Payments:		
N.Y. State	\$ 2,908,962	\$ 2,886,196
Breeders' Fund	1,244,351	1,217,489
Tracks (incl. contractual)	12,804,404	12,063,326
Total Operating Expenses	19,529,002	19,489,067
Percentage of handle	9.9%	10.1%
Net Earnings to Own Localities	5,146,911*	3,839,213
Percentage of Handle	2.6%	2%
Surcharge:		
To Own Localities	4,361,243	4,285,321
To Localities Outside Region	3,706,452	3,588,822

*Includes \$1,150,752 in non-recurring revenue from Amtote settlement.

At year's end, Western was receiving simulcasts in 45 of 47 branches or 95.7% of all its branches. Of its total handle in 1989, \$168 million or 85.3% was wagered on simulcast races.

Western's 1989 handle for NYRA was \$87.9 million, an increase of \$4 million or 4.7% over 1988. Simulcast locations, of which 46 were operational for varying number of days during the year, accounted for \$82.8 million or 94.3% of total NYRA sales, an increase of \$8.4 million or 11.3% over 1988. The daily average handle for the simulcast locations was \$7,285 per branch compared to \$6,983 in 1988.

Western's 1989 handle for Finger Lakes Race Track was \$50.5 million, a decrease of \$1.5 million or 2.8% as compared to 1988. Simulcast locations, of which 46 were operational for varying numbers of days during the year, accounted for \$44 million or 87.1% of the total Finger Lakes

sales, a decrease of \$763,000 or 1.7% as compared to 1988. The daily average handle for simulcast locations was \$6,421 per branch, compared to \$6,465 in 1988.

Western's 1989 handle for Buffalo Raceway was \$20.6 million, a decrease of \$2.6 million or 11% as compared to 1988. Simulcast locations, of which 38 were operational for varying numbers of days during the year, accounted for \$17.1 million or 83.2% of the total Buffalo Raceway sales, an increase of \$687,000 or 4.2% over 1988. The daily average handle for the simulcast locations was \$5,573 per branch compared to \$5,584 in 1988.

Western's 1989 handle for Batavia Downs was \$24.1 million, an increase of \$2.2 million or 10% over 1988. Simulcast locations, of which 44 were operational for varying numbers of days during the year, accounted for \$19.1 million or 79.2% of the total Batavia Downs sales, an increase of \$7.8 million or 68.5% over 1988. The daily average handle for the simulcast locations was \$6,107 per branch compared to \$6,631 in 1988. The daily average handle may have decreased while both total and simulcast handle increased because of a significantly increased number of branches simulcasting Batavia in 1989.

Yonkers Raceway conducted both afternoon and evening programs during various periods in 1989. Western OTB'S 1989 handle for Yonkers Raceway was \$5.8 million, an increase of \$3.5 million or 151.6% over 1988. Simulcast locations, of which 46 were operational for varying numbers of days during

the year, accounted for \$4.9 million or 84.6% of total Yonkers sales, an increase of \$3 million or 154% over 1988. The daily average handle for the simulcast locations was \$2,871 as compared to \$2,563 in 1988.

Western OTB also accepted wagers on various out-of-state race tracks. The Racing Law authorized OTB corporations to accept wagers on out-of-state thoroughbred race tracks, when the non-profit racing association (NYRA) is not conducting racing. In addition, the Board may designate up to 15 thoroughbred and five harness races run outside an OTB region as races of special interest on which OTB may accept wagers. During 1989, Western OTB accepted wagers on ten out-of-state tracks on NYRA dark days. Total handle for these dark-day tracks was \$4.2 million. Wagering was also conducted on 15 thoroughbred races of special interest and one harness race of special interest. The series of races known as the Breeders' Cup (thoroughbred) and Breeders' Crown (harness) were each designated by law as one race of special interest. Western OTB's handle totaled \$2.3 million for the 16 special events. All out-of-state wagering amounted to \$6.5 million for Western OTB.

Western paid NYRA \$2.1 million in statutory payments, based on simulcast handle and \$932,000 in simulcast contractual payments. In early 1989, Western signed a new contract with NYRA which runs through June 30, 1990. This contract calls for NYRA to receive 4% of daily incremental simulcast pools generated by regular and multiple wagers; 6%

of exotic and super exotic wagers. The contract uses the base year of 1984 to determine incremental handle. NYRA pays for the uplink. If a simulcast theater is established in Western, NYRA will receive 5% on the first \$1 million in handle, 6 1/2% on the next \$500,000 and 7 1/2% on all handle over \$1.5 million.

Finger Lakes was paid \$2.3 million in statutory payments, based on simulcast handle and \$500,000 as a simulcast contractual payment. On April 12, 1989, Western signed a new agreement with Finger Lakes which runs through December 31, 1991. Under the terms of this agreement, Western will pay Finger Lakes an annual simulcast commission of \$500,000 or an amount equal to 1% of the simulcast handle, whichever shall be greater for each of the years 1989, 1990 and 1991. Finger Lakes will pay for the uplink. Should the relevant statutes or rules be amended after June 1990 to such an extent that it would affect the calculation of payment of the simulcast commission, the agreement provides that it will be similarly amended.

Buffalo Raceway was paid \$878,000 in statutory payments, based on simulcast handle and \$321,000 in simulcast contractual payments. On July 14, 1989, Western and Buffalo Raceway entered a contract agreement for the years 1989, 1990 and 1991. Under the terms of the agreement, Western will pay Buffalo Raceway 2% of the net simulcast handle. Payments will not be less than 1.5% of the total net handle wagered in Western branches except that

Sunday evening handle which is not simulcast to Western shall not be subject to the agreement. For any meet in which the payment does not equal or exceed 1.5% of total net handle, Western agrees that an additional payment will be made to Buffalo Raceway to bring total payment to an amount equal to 1.5% of total net handle for the year. Buffalo Raceway will pay for the uplink. During the three year term of the agreement, should relevant statutes or rules be amended after June 1990, to such an extent that it would affect the calculation of payment of the simulcast commission, the agreement provides that it will be similarly amended.

Batavia Downs was paid \$977,000 in statutory payments, based on simulcast handle and \$338,000 in simulcast contractual payments. Western's simulcast contract with Batavia runs through November 30, 1990. The contract calls for Western OTB to pay 1.4% of net handle per day. If the 1.4% of net handle is less than \$2,400 per day, Western will pay Batavia the difference between the total fee paid at 1.4% of net and the total of \$2,400 per day times the number of non-Sunday days the signal is provided.

Yonkers was paid \$102,000 in statutory payments, based on simulcast handle and \$26,000 in simulcast contractual payments. Western's simulcast contract with Yonkers is open ended. Western can accept Yonkers simulcasts anytime it would not interfere with racing at a regional harness track. Under the terms of the contract Western pays Yonkers 0.5% of

gross wagers generated at simulcast branches on the first \$100,000 and 1% on anything over \$100,000.

Wagering at Western OTB has produced significant payments both to in-region and out-of-region municipalities. Surcharge generated by wagering on NYRA was \$3.8 million; Finger Lakes, \$1.8 million; Batavia, \$1 million; Buffalo, \$873,000; and Yonkers, \$248,000.

A 1985 amendment to Section 532 of the Racing Law provided that, where a track located in a thoroughbred special betting district simulcasts outside such special betting district, the 50% share of surcharge allocated to the county in which such track is located shall be allocated 90% to the OTB operator and 10% to the county.

The meaning of this statute, which has produced \$361,000 in revenue for Western in 1989, was disputed by Ontario County (where Finger Lakes Race Track is located) in an appeal to the Board. Ontario County contended that the amount the corporation retained should only pertain to simulcast branches. In February 1989, the Board reaffirmed its prior interpretation of the law which provided for the application of the law on a corporate-wide basis.

Ontario County then challenged the Board's determination in this matter in an Article 78 proceeding against the Board and Capital District Regional Off-Track Betting Corporation in the Supreme Court of the State of New York, County of Schenectady. In this proceeding before the Honorable Robert F. Doran, Justice of the Supreme Court,

Ontario County argued unsuccessfully that the Board's decision failed to comport with the intent of the Legislature in enacting this amendment and that the Board's determination is not entitled to judicial deference. In a decision rendered on August 4, 1989 (and judgement entered on August 15, 1989), Justice Doran concluded that the courts should defer to the Board, as the governmental agency charged with the responsibility of administering the Racing Law, unless the Board interpretation is irrational or unreasonable. In this instance, the Court found that the Board's determination is neither irrational or unreasonable. Moreover, the Board's interpretation does not read counter to the clear wording of the law. Justice Doran unequivocally affirmed the determination of the Board in this matter.

In February 1990, Ontario County filed an appeal in this matter with the Appellate Division of State Supreme Court, Third Department. The appeal, which seeks to review Justice Doran's decision, has Ontario County presenting the same issues to the Appellate Division as was presented to Justice Doran. It is anticipated that the Appellate Division will hear the appeal during the April 1990 term, with a decision expected shortly thereafter.

For the simulcast signal from Yonkers Raceway, Western OTB paid a total of \$81,000 to a simulcast vendor. The cost of the signals from Finger Lakes Race Track, NYRA, Buffalo

Raceway and Batavia Downs were included in the contractual payments made to the tracks by Western OTB.

The State has granted all its harness tracks and Finger Lakes Race Track a tax credit (against the State's pari-mutuel tax on handle), as an incentive for simulcasting to OTB branches. Yonkers Raceway earns a 1.5% tax credit on simulcast handle, while the remaining harness tracks and Finger Lakes Race Track earn a 1% credit on simulcast handle. The State Department of Taxation and Finance reports that for calendar year 1989, Yonkers Raceway received \$48,000; Batavia Downs received \$167,000; Buffalo Raceway received \$209,000 and Finger Lakes Race Track received \$222,000 in simulcast tax credits. Therefore, on a simulcast handle of \$88.2 million, the various race tracks received a total tax credit of \$646,000 for simulcasts to Western OTB branches.

Western has continued to expand its installation of vending machines in its branches. The machines dispense hot and cold beverages, candy, snacks and pastries. These amenities, which are allowed only in simulcast branches have now been installed in a total of 29 branches, an increase of six branches over 1988. The total sales from the vending machines in 1989 were \$294,000, an increase of \$152,000 or 107% over 1988. This generated commissions of \$50,000 for Western, an increase of \$19,000 or 61.3% over 1988. Since the vending company assumes all installation expenses, there is no cost to Western for the operation of the machines.

Western eventually hopes to have vending machines in all simulcast branches where feasible.

During 1989, Western continued its policy of acquiring branches through a combination of purchasing existing facilities or constructing new facilities on its own land. Western believes that ownership, rather than leasing, results in lower operating costs and a greater degree of stability in branch operations.

In 1989, Western constructed three new branch facilities in Batavia, Albion and Hudson Avenue in Rochester. Western now has five facilities they have built from the ground up. In addition, Western renovated a building on Military Road in Niagara Falls for a new branch facility.

Western has acquired 17 properties through 1989 at a total cost of \$8.7 million, including costs for land, buildings, renovations and improvements. Western OTB plans to continue its acquisition program in 1990 when purchase, rather than lease opportunities, are beneficial to the corporation.

In 1989, the Board approved Western's application to sell \$1,805,000 in bonds or notes for future construction. This is in addition to the \$1,605,000 and \$1.5 million in bonds and notes authorized in 1988 and 1987 respectively.

The proceeds from the 1987 \$1.5 million bond issue were used to purchase the Royal Scot/Merrie Scot Restaurant in the town of Irondequoit, Monroe County. The corporation was

unsuccessful in obtaining building permits for the renovation, due to community opposition. The property was sold on November 28, 1989 for \$1.4 million.

At the time of the sale, there was a \$900,000 principal balance on the bonds. Proceeds from the sale of the property were used to retire the debt. Net revenues in the amount of \$537,786 previously allocated to debt service applicable to the land and buildings will be paid to the municipalities.

A new financing vehicle became available to Western in 1989. The New York State Legislature enacted legislation which allows all off-track betting corporations to establish a Capital Acquisition Fund to finance the acquisition, construction and equipping of facilities of the corporation. No contribution shall exceed the lesser of 1% of the corporation's quarterly net handle or 50% of the corporation's quarterly net revenues, exclusive of surcharge. The balance of the fund shall not exceed the lesser of 1% of total pari-mutuel wagering pools for the previous 12 months or the undepreciated value of the corporation's offices, facilities and premises.

On July 27, 1989, Western's Board formally established the Capital Acquisition Fund as a means of future financing. As of December 31, 1989, Western had made contributions to the fund of \$675,000 and earned an additional \$5,579 in interest. It expended \$12,100 leaving a balance of \$668,480 at year's end.

Western, at present, is not pursuing the acquisition of any simulcast theaters. It has been unable to reach any satisfactory agreements with the regional tracks. As an alternative, Western is vigorously pursuing the establishment of several enhanced telebranches. Currently, Western is looking at sites in Niagara Falls, Newark and Oswego.

On January 1, 1990, Board Rule 5204.16 went into effect. The rule requires every off-track betting facility to provide its patrons with restrooms unless good cause, satisfactory to the Board, can be shown.

Western, which currently has restrooms in 36 of its 47 branches, has asked for a waiver of the rule for its 11 branches without restrooms. The reasons generally cited are a lack of space and impending lease expirations. Western's request is currently under review by the Board.

Two major robberies occurred in Western in 1989. On the morning of April 12, 1989, \$13,250 was discovered missing from the Marway Circle branch in Rochester. No forced entry was discovered and to date no arrests have been made. A subsequent internal investigation led to several branch employees being suspended due to a failure to follow corporate procedures over an extended period of time.

On the morning of December 26, 1989, a robbery was discovered at the Bulls Head, Rochester branch. The vault room door was broken into and the fire and burglar alarms were ripped from the wall. The entire safe and its

contents, approximately \$10,000 were taken. The Rochester Police Department has made one arrest and three other suspects are under investigation.

Western is currently studying improved security systems for its branches.

CAPITAL DISTRICT REGIONAL OFF-TRACK BETTING CORPORATION

Capital District Regional Off-Track Betting Corporation is located in the northeastern portion of New York State. The major cities located within Capital OTB are Albany, Schenectady, Troy and Utica. The region is comprised of 20 counties; 15 of these counties as well as the City of Schenectady participate in off-track betting. Capital OTB started 1989 with 51 branches and one simulcast theater. During the year Capital OTB opened three new branches and ended 1989 with 54 branches and one simulcast theater.

Capital OTB conducted 220 simulcast operations. This was accomplished with 44 branches and the simulcast theater as compared to 40 and the simulcast theater in 1988. Forty-four branches and one simulcast theater displayed races from the New York Racing Association (NYRA), Finger Lakes Race Track, Yonkers Raceway and Batavia Downs. Four branches and the simulcast theater displayed races from Saratoga Raceway. Thirty-four branches and the simulcast theater displayed races from Buffalo Raceway.

Within its region, Capital OTB contains one thoroughbred track, Saratoga Race Track, a NYRA track, which operates

only during the month of August. It also contains two harness tracks, Saratoga Raceway and Vernon Downs.

In 1989, Capital OTB continued to operate New York State's first simulcast theater. This simulcast theater displayed races from NYRA, Finger Lakes, Batavia, Saratoga, Buffalo and Yonkers. In this simulcast theater, a bettor is able to view track odds, bet by number instead of by letter, and receive track prices, free of the OTB surcharge on in-state simulcast races. This theater accommodates 930 customers, has all the amenities of a race track and serves food and alcoholic beverages.

In 1989, Capital OTB handled \$184.1 million on thoroughbred races and \$44 million on harness races for a total handle of \$228.1 million, an increase of \$4.8 million or 2.2% over 1988. Capital OTB ranks second in the State in terms of total betting handle with 11.9% of the statewide handle. Based on its total \$228.1 million handle for 1989 (as compared to \$223.3 million in 1988), Capital generated the following:

	<u>1989</u>	<u>1988</u>
Statutory Payments:		
N.Y. State	\$ 3,353,932	\$ 3,296,912
Breeders' Fund	1,360,599	1,313,182
Tracks (incl. contractual)	13,333,805	13,079,106
Total Operating Expenses	27,389,180	25,939,558
Percentage of handle	12%	11.6%
Net Earnings to Own Localities	782,941	1,331,278
Percentage of Handle	0.3%	0.6%
Surcharge:		
To Own Localities	4,531,089	4,427,254
To Localities Outside Region	3,484,457	3,372,031

Of Capital OTB's 1989 total handle, \$175.5 million or 76.9% was wagered at simulcast facilities. Capital OTB distributed \$8 million in surcharge revenue to various counties, pursuant to Section 532 of the Racing Law. Total revenue from all concession operations at Capital OTB in 1989 was \$418,000, of which \$283,000 resulted from the simulcast theater.

Capital OTB's 1989 handle for NYRA was \$148.2 million, an increase of \$4.8 million or 3.4% over 1988. Simulcast locations accounted for \$123.1 million or 83% of the total NYRA sales, an increase of \$6.5 million or 5.6% over 1988. The daily average handle for these simulcast locations was \$9,673 per branch as compared to \$9,481 in 1988.

Capital OTB distributed \$5.5 million in surcharge revenue from winning NYRA wagers. Statutory payments, based on simulcast handle, to NYRA in 1989 were \$3.3 million. Simulcast contractual payments in 1989 totaled \$1.1 million. This contractual payment is based on a monthly minimum fee of \$17,818 plus any monthly simulcast handle percentage increase over 1986 multiplied by the monthly fee. For wagers placed at the simulcast theater Capital paid NYRA 6.5% of total NYRA wagers. This agreement with NYRA expired on September 30, 1987, and has been extended until further notice by verbal agreement between the parties.

It should be noted that, of Capital OTB's \$148.2 million NYRA handle, \$19.4 million was wagered during Saratoga Race

Track's August meet. This was a decrease of \$45,000 or 0.2% as compared to 1988. Simulcasting within the region accounted for \$16 million, or 82.2% of the total Saratoga thoroughbred wagers. The daily average handle for Capital OTB branches simulcasting Saratoga Race Track was \$15,655 per branch as compared to \$16,410 in 1988.

Capital OTB's 1989 handle for Saratoga Raceway was \$16.1 million, a decrease of \$2.1 million or 11.7% compared to 1988. Simulcast locations accounted for \$10.2 million or 63.3% of the total Saratoga sales, a decrease of \$1.9 million or 15.4% compared to 1988. The daily average handle for these simulcast locations was \$10,346 per branch as compared to \$11,925 in 1988.

Capital OTB distributed \$530,000 in surcharge revenue from winning Saratoga Raceway wagers. Statutory payments, based on simulcast handle, to Saratoga Raceway in 1989 were \$488,000. Simulcast contractual payments totaled \$153,000 in 1989. Capital OTB is making these payments under an agreement with Saratoga, which has not been reduced to writing. The proposed agreement expires either with the end of simulcast legislation or 1992.

Capital OTB's 1989 handle for Finger Lakes was \$27.3 million, an increase of \$369,000 or 1.4% over 1988. Simulcast locations accounted for \$23.6 million or 86.6% of the total Finger Lakes sales, an increase of \$518,000 or 2.2% over 1988. The daily average handle for these

simulcast locations was \$3,380 per branch as compared to \$3,328 in 1988.

Capital OTB distributed \$1 million in surcharge revenue from winning Finger Lakes wagers. Of this, \$469,000 was included in Capital OTB's regular earnings under the Board's interpretation of Section 532(3)(b)(v) of the Racing Law. Statutory payments, based on simulcast handle, to Finger Lakes in 1989 were \$810,000. Simulcast contractual payments totaled \$300,000 in 1989. This was an annual commission under an agreement with Finger Lakes which expired on December 31, 1989.

Capital OTB's 1989 handle for Yonkers Raceway was \$18.6 million, an increase of \$7.8 million or 71.8% over 1988. Simulcast locations accounted for \$15.6 million or 83.5% of the total Yonkers sales, an increase of \$6.8 million or 77.4% over 1988. The daily average handle for these simulcast locations was \$4,008 per branch as compared to \$5,058 in 1988. Yonkers 1989 handle, \$18.6 million, showed an increase of \$2.6 million or 16% over Roosevelt's and Yonkers' combined 1988 handle. The increase in total handle as well as simulcast handle is a result of the assignment of Roosevelt Raceway racing dates to Yonkers.

Capital OTB distributed \$662,000 in surcharge revenue from winning Yonkers wagers. Statutory payments, based on simulcast handle, to Yonkers in 1989 were \$335,000. Simulcast contractual payments totaled \$74,000 in 1989. The contractual payment is 0.5% of the total daily Yonkers pools

which exceed \$83,000 for each race day. Capital OTB also pays Yonkers an annual fee of \$50,000. While there is no written contract, Capital OTB does have a verbal agreement with Yonkers.

Capital OTB's 1989 handle for Batavia Downs was \$1.9 million, an increase of \$245,000 or 15.1% as compared to 1988. Simulcast locations accounted for \$1.4 million or 76.9% of the total Batavia sales, a decrease of \$570,000 or 66.1% as compared to 1988. The daily average handle for these simulcast locations was \$1,959 per branch as compared to \$2,747 in 1988. This decrease in daily average handle may be attributed to an increase in the number of branches simulcasting as well as the number of dates simulcast.

Capital OTB distributed \$70,000 in surcharge revenue from winning Batavia sales. Statutory payments, based on simulcast handle, to Batavia in 1989 were \$38,000. Simulcast contractual payments totaled \$15,000 in 1989. Capital OTB paid Batavia \$300 per race date when both of its regional tracks were dark and \$150 per race date when one regional track was dark. There was no simulcasting when both regional tracks were conducting races.

Capital OTB's 1989 handle for Buffalo Raceway was \$2.1 million, an increase of \$134,000 or 6.9% over 1988. Simulcast locations accounted for \$1.6 million or 76.9% of the total Buffalo sales, an increase of \$115,000 or 7.8% over 1988. The daily average handle for these simulcast locations was \$2,057 per branch as compared to \$2,411 in

1988. The decrease in daily average handle may be attributed to Capital simulcasting to a larger number of branches.

Capital OTB distributed \$78,000 in surcharge revenue from winning Buffalo wagers. Statutory payments, based on simulcast handle, to Buffalo in 1989 were \$43,000. Simulcast contractual payments totaled \$15,000 in 1989. Capital OTB paid Buffalo Raceway \$300 per race date when both of its regional tracks were dark and \$150 per race date when one regional track was dark. There was no simulcasting when both regional tracks were conducting races.

Capital OTB's combined 1989 handle for Batavia Downs and Buffalo Raceway was \$3.9 million, an increase of \$378,000 or 10.7% over 1988. Simulcast locations accounted for \$3 million or 76.9% of the \$3.5 million in total Batavia and Buffalo sales, an increase of \$685,000 or 29.4% over 1988. The daily average handle for these simulcast locations was \$2,009 per branch as compared to \$2,525 in 1988.

Capital OTB did not simulcast Monticello Raceway during 1989. The total handle for 1989 was \$451,000 (40 days) as compared to \$1 million (49 days) in 1988. The \$548,000 decrease in handle represents a 56.4% loss in handle.

In return for consent from Vernon Downs to simulcast races from harness tracks outside the special betting district to OTB branches within the district (when Vernon was conducting races), Capital agreed to guarantee a minimum payment of \$75,000 over the prior year's statutory

commissions. This payment was generated through additional regional track commissions on the out-of-district harness races permitted to be simulcast under this agreement.

Capital OTB paid the simulcast vendor a \$10,500 to \$11,500 per month fee for satellite transmission time for various race tracks. This resulted in Capital paying the vendor \$139,000 in 1989.

Capital OTB also accepted wagers on various out-of-state race tracks. The Racing Law authorized OTB corporations to accept wagers on out-of-state thoroughbred race tracks, when the non-profit racing association (NYRA) is not conducting racing. In addition, the Board may designate up to 15 thoroughbred and five harness races run outside of an OTB region as races of special interest on which OTB may accept wagers. During 1989, Capital accepted wagers on 11 out-of-state tracks on NYRA dark days. Total handle for these dark day tracks was \$5.9 million. Capital also accepted wagers on The Meadows, a Pennsylvania harness track, on Sunday nights for a short period during 1989. This was allowed when there was no in-state harness racing. Total handle for The Meadows was \$105,000. Wagering was also conducted on 15 thoroughbred races of special interest and two harness races of special interest. The series of races known as the Breeders' Cup (thoroughbred) and Breeders' Crown (harness) were each designated by law, as one race of special interest. Capital OTB's handle totaled

\$2.8 million for the 17 special events. All out-of-state wagers amounted to \$8.8 million for Capital OTB.

The State has granted its harness tracks and Finger Lakes Race Track a tax credit (against the State's pari-mutuel tax on handle), as an incentive for simulcasting to OTB branches. Yonkers Raceway earns a 1.5% tax credit on simulcast handle, while the remaining harness tracks and Finger Lakes Race Track earn 1% credit on simulcast handle. The State Department of Taxation and Finance reports that for calendar year 1989, Yonkers Raceway received \$185,000; Saratoga Raceway received \$66,000; Batavia Downs received \$7,800; Monticello Raceway received \$2,400 and Finger Lakes Race Track received \$105,000 in simulcast tax credits. Therefore, on a simulcast handle of \$41 million, the various race tracks received a total tax credit of \$366,000 for simulcasts to Capital OTB branches.

Capital OTB and Ontario County continued to debate the interpretation of Section 532(3)(b)(v) of the Racing Law. This law states: where a track located in a thoroughbred special betting district simulcasts outside such special betting district, the 50% share of surcharge allocated to the county in which such track is located shall be allocated 90% to the OTB operator (as regular earnings) and 10% to the county. Ontario County contended that this law applies only to surcharge generated by branches actually simulcasting. Capital OTB has been distributing all of the Finger Lakes surcharge under the amendment. In 1989 Capital retained

\$469,000 from Ontario County through this interpretation. The Board has rendered a decision in this matter reaffirming its prior interpretation upholding Capital OTB's position.

Ontario County then challenged the Board's determination in this matter in an Article 78 proceeding against the Board and Capital District Regional Off-Track Betting Corporation in the Supreme Court of the State of New York, County of Schenectady. In this proceeding before the Honorable Robert F. Doran, Justice of the Supreme Court, Ontario County argued unsuccessfully that the Board's decision failed to comport with the intent of the Legislature in enacting this amendment and that the Board's determination is not entitled to judicial deference. In a decision rendered on August 4, 1989 (and judgement entered on August 15, 1989), Justice Doran concluded that the courts should defer to the Board, as the governmental agency charged with the responsibility of administering the Racing Law, unless the Board interpretation is irrational or unreasonable. In this instance, the Court found that the Board's determination is neither irrational or unreasonable. Moreover, the Board's interpretation does not read counter to the clear wording of the law. Justice Doran unequivocally affirmed the determination of the Board in this matter.

In February 1990, Ontario County filed an appeal in this matter with the Appellate Division of State Supreme Court, Third Department. The appeal, which seeks to review

Justice Doran's decision, has Ontario County presenting the same issues to the Appellate Division as was presented to Justice Doran. It is anticipated that the Appellate Division will hear the appeal during the April 1990 term, with a decision expected shortly thereafter.

At the end of 1989, Capital OTB was operating 19 telebranches. These telebranches were operated with three styles of food service. The three styles are full restaurant, deli food and vending machine. Total concession sales for these telebranches in 1989 was \$305,000 resulting in \$20,000 in revenue for Capital.

The two telebranches operating with restaurant facilities are Plaza East (Utica) and Glens Falls. The Plaza East Racing Center, which was converted to a telebranch in 1987, has had several concessionaires since that time. This racing center was renovated at a cost of \$530,000. This facility offers deli food, table service (but no alcoholic beverages) and a simulcast viewing area. The daily average handle in 1989 for this facility was \$16,101 as compared to \$14,268 in 1986 (prior to conversion). Concession sales averaged \$70 a day for a total of \$25,469. Capital OTB received \$2,490 from this service.

In April 1989, Capital OTB opened the Glens Falls Racing Center, which was a conversion of an existing simulcast facility. Renovation costs were \$239,000. It offers deli food, table service (but no alcoholic beverages) and a

simulcast viewing area. The daily average handle, since the facility has been converted to a telebranch was \$19,977, an increase of \$5,784 or 40.8% over the pre-conversion period (January 1988 to March 1989). During 1989, concession sales averaged \$416 a day for a total of \$114,000. Capital received \$4,900 from these sales.

Both of these facilities are scheduled to be converted to enhanced telebranches (applications pending) in early 1990.

Two of the six facilities with deli food service, Woodlawn (Schenectady) and Delmar, are unique. The concessionaires that operate in these facilities are actually separate businesses. The design of these facilities allows the branch or the concessionaires to close while the other part remains open. Capital receives no income from these concessions. Of the remaining four facilities: New Lebanon, Ogdensburg, 80 Central Avenue (Albany) and North Pearl (Albany), New Lebanon is by far the most successful. In 1989, the first full year as a telebranch, this facility had a daily average handle of \$30,159 as compared to \$17,190 in 1987, an increase of 75.4%. Total concession sales for 1989 were \$100,000, a daily average of \$275. Capital received \$6,600 from this service.

In 1987, Capital OTB authorized vendors to install and maintain soda, snack and coffee machines in certain simulcast locations. At the end of 1989 Capital offered

vending machine service at the following facilities: Second Avenue (Troy); Sixth Avenue (Troy); Herkimer; Johnstown; Bridgeport (will be upgraded to an enhanced telebranch in 1990); Black River Blvd. (Rome); Columbia/Washington (Utica); Latham and East Greenbush (will be upgraded to an enhanced telebranch in 1990); Cohoes; Guilderland and Menands. Concession sales for 1989 were \$59,000, which produced \$4,700 for Capital OTB.

Financing for these and other projects has been through commercial loans. Capital OTB borrowed an additional \$290,000 in 1989. At the end of 1989 Capital OTB had five outstanding obligations:

<u>BANK</u>	<u>LOAN AMOUNT</u>	<u>OUTSTANDING BALANCE</u>	<u>PURPOSE</u>
Norstar Bank	\$7,500,000	\$6,400,000	Leasehold improvements
	290,000	268,250	Expand teletheater parking lot
	590,000	455,739	Mortgage (Imperial Racing Center)
M&T Bank	342,356*	182,590*	Restaurant and television equipment
Xerox Corp.	157,194	16,731	Copiers

(*Includes principal and interest)

The rate of interest for all of the Norstar Bank loans is 75% of the prime rate adjusted quarterly. There is a 12% maximum and a 6% minimum rate of interest. The outstanding commitments to M&T Bank are conditional sales contracts with interest rates that vary from 8.75% to 10.5%. The Xerox

Corporation note has a fixed interest rate of 9%.

In January 1990, Capital entered into an agreement with Norstar Bank to increase its leasehold improvements loan to the original balance of \$7,500,000. The additional monies will be used for leasehold improvements during 1990. This loan has a principal payment schedule which requires that the loan be paid in full by 1996.

In April 1989, the New York State Supreme Court, County of St. Lawrence upheld the Board's decision to allow Capital OTB to operate a branch in Gouverneur, St. Lawrence County. An Episcopal church, located within 350 feet of the branch, had sought to have the Board's decision to waive Rule 5204.14 overturned. This rule states: "Except for good cause shown satisfactory to the Board in individual circumstances, a corporation shall not open or maintain a branch office within 500 feet of an educational institution or place of worship". Following a request by the Town's governing body to approve Capital's application, an exhaustive investigation by the Board and unsuccessful negotiations between Capital and the church, the Board determined that good cause was shown and authorized establishment of the branch. The branch has been operating since February 1989, and no complaints have been lodged with the Board.

In December 1989, Capital continued to install PAMs. These machines are similar to SAM's used by NYRA. In addition to ten machines Capital installed in 1988

(described in the 1988 Simulcast Report) they are renting 60 new machines. The original 10 PAMs were produced by Control Data Corporation and were not frequently used. The new machines are being rented for \$12 a day from Video Lottery Consultants of Montana. The new machines appear to be a better product, and early indications are that the customers will use them.

Since December 1988, Capital has been besieged by employee theft. On December 29, 1988, a Charlestown (Herkimer County) employee issued himself \$3,000 worth of tickets without authorization and without paying for them. On January 11, 1989, the employee was charged with one count of Grand Larceny. He plead guilty to a reduced charge of Petty Larceny, a Class A misdemeanor and was fined \$100 and ordered to make restitution. Capital has recoved all monies.

In January 1989, a cashier at the Saranac Lake branch of Capital OTB issued himself over \$7,000 worth of tickets. The cashier initially issued himself \$3,244 worth of tickets without paying for them. The following day, as OTB officials monitored his ticket-issuing machine, he issued himself \$4,002 more in tickets in an attempt to recover the previous day's losses. The cashier was arrested and charged with two counts of Grand Larceny and two counts of Impairing the Integrity of a Pari-Mutuel System in the First Degree, a Class D felony.

In February 1989, an employee of the simulcast theater issued himself \$18,000 in tickets. This resulted in the employee being \$7,000 short. The employee was arrested and charged with Grand Larceny in the third degree, a Class D felony. He subsequently plead guilty to Petty Larceny, a Class A misdemeanor, and was sentenced to three years probation. Capital has been reimbursed though its insurance carrier.

In January 1990, an employee of the simulcast theater robbed the facility of \$30,000. The employee removed hundred dollar bills from their bundles and replaced them with single dollar bills. The theft was discovered the following day. He was arrested in Nevada and his extradition is pending.

On Friday, December 22, 1989 a security guard at the Teleplex Racing Center robbed the facility at gunpoint. After the facility was closed, the guard, brandishing a sawed-off shotgun, fled with \$20,000. If Aqueduct had not been cancelled he would have reaped a considerable amount more. On December 26, 1989 the suspect, armed with a 9 mm semi-automatic assault rifle was confronted by police in Virginia and was subsequently killed in a hail of bullets. One Virginia police officer was seriously injured but has since recovered. All monies have been returned.

In January 1990, the Plattsburgh branch of Capital OTB was robbed. After the telephone and electric to the back half of the building was cut, disabling the alarm, thieves

broke into an adjacent business. They proceeded to gain entry to the OTB branch and removed a 350 pound safe. The thieves cut open the safe and removed approximately \$20,000.

On June 26, 1989, there was a shooting in the parking lot of the simulcast theater in Albany. The victim, who was reportedly leaving a party at the facility, was shot after an argument over "neighborhood turf". The party, which started after racing had concluded, did not appear to be an activity which would increase interest in the horse racing industry. In September 1989, the defendant was sentenced to 3 to 9 years in prison for the shooting.

In June 1989, the former employee accused of starting the January 4, 1988 fire which shut down computer service for both Capital and Western OTBs was sentenced. This individual was charged with 3rd degree arson, a Class C felony, and 4th degree criminal mischief, a class A misdemeanor. Under a plea bargain agreement, the former employee plead guilty to 3rd degree criminal mischief. He was sentenced to 5 years probation and ordered to make restitution.

In January 1990, the Board enacted Rule 5204.16. This rule requires that all branches shall have restrooms unless good cause can be shown to the Board. At the beginning of 1990, Capital OTB had restrooms in 22 branches. After conversions and consolidations of various branches, Capital will have 30 branches without restrooms. Capital has made

little effort to install restrooms or seek a waiver of the rule for these facilities.

ENHANCED TELEBRANCH - 1989 UPDATE

Capital OTB operates six enhanced telebranches in different counties. The Imperial Racing Center, located in Schenectady, was purchased, renovated and equipped for approximately \$1.2 million. Within this facility, patron services have been allocated in a manner which distinctly complement each area. For example, the ground floor offers only wagering and comfortable simulcast viewing areas. One side of the second floor offers table service; the other side provides deli food service and a bar area. The third floor offers an additional table service area and also provides for administrative office space. The Imperial Racing Center had a daily average handle of \$26,379 and concession sales of \$776 a day for a total of \$281,000 in 1989. Capital received \$26,747 from these concessions. Since this facility opened Capital has found it hard to find a long-term concessionaire.

In Charlestown, Herkimer County, Capital OTB operates the Charlestown Racing Center which incorporates a restaurant and simulcast betting area. Purchase price of the restaurant portion was \$43,000 and renovation costs totaled \$11,000. In this facility, customer services include table service, a bar and a comfortable simulcast viewing area. In 1989, Charlestown had a daily average handle of \$10,774. Concession sales averaged \$87 a day for

a total of \$32,000 in 1989. Capital received \$6,500 from these concessions. In February 1990, the concessionaire for Charlestown resigned. Capital has applied for a new concessionaire to run both this facility and Plaza East in nearby Utica.

In Troy, Capital OTB operates the Troy Atrium Racing Center. The Racing Center was opened with renovation costs of \$863,000. This facility offers deli food service as well as table service, a bar, electronic sports information board and comfortable simulcast viewing areas. The daily average handle for 1989 was \$18,663. Concession sales averaged \$567 a day for a total of \$205,000 in 1989. Capital received \$36,000 from these concessions.

During 1989 Capital OTB upgraded three of its telebranches to enhanced telebranches. In August 1989, the telebranch portion of the Teleplex Racing Center (as described in the Teleplex Racing Center - 1989 Update) in Albany started serving alcohol. This was followed by the Gloversville Racing Center (Fulton County) in November 1989 and the Amsterdam Racing Center (Montgomery County) in December 1989.

Two of these facilities were improved in prior years. In August 1987, Capital OTB opened the Amsterdam Racing Center. Renovation costs for this facility were \$877,000. This facility offers deli food service, table service, alcoholic beverages and a simulcast viewing area. The daily average handle for 1989 was \$16,065. Concession sales

averaged \$502 a day for a total of \$182,000 in 1989. Insufficient data was available to analyze the alcohol sales.

In February 1988, Capital OTB opened the Gloversville Racing Center. Renovation costs for this facility were \$528,000. This facility offers deli food service, table service, alcoholic beverages and a simulcasting viewing area. The daily average handle for 1989 was \$10,546. Food sales averaged \$399 a day for a total of \$145,000. Alcohol sales averaged \$139 a day for the two months of operation (\$8,500 total).

TELEPLEX RACING CENTER -1989 UPDATE

The Teleplex Racing Center consists of a single building and contains two OTB facilities. The first facility, known as an enhanced telebranch, seats 270 people, offers food and alcoholic beverages and has no dress code. The telebranch does not charge an admission fee and winning wagers are subject to the 5% OTB surcharge. Deli style food service, offered here, yields daily average sales of \$439. Alcohol sales for the period of August to December averaged \$51 a day. The other facility, a simulcast theater, has an admission charge of \$3 per person; winning wagers on in-state simulcast races are not subject to the 5% OTB surcharge. All non-simulcast races and out-of-state special events are subject to the 5% OTB surcharge. This entertainment center offers food, alcoholic beverages, electronic sports information board, special sporting events

and assorted patron amenities. A dress code has been established. During 1989, concession sales averaged over \$1,435 a day, for a total of \$520,000. Capital received \$30,000 from these sales.

The Teleplex Racing Center's handle for 1989 was \$46.8 million, a daily average handle of \$129,391. The simulcast theater's handle for 1989 was \$32.6 million, a daily average handle of \$90,120. The telebranch's handle for 1989 was \$14.2 million, a daily average handle of \$39,271. In 1989 20.5% of Capital OTB's total handle resulted from wagers placed at this unique facility.

This exciting concept has shown that OTB, by improving its method of operation and increasing services to the public, can attract substantial additional business. This is evident in Capital OTB's improvements at the simulcast theater. In 1989, Capital OTB spent \$118,000 on capital improvements. Capital also spent \$290,000 to expand the simulcast theater parking lot. In a unique deal, Capital purchased a residential property. In exchange for a long-term lease for an additional parking area, Capital gave the newly purchased residence to the lessor. The residence, located between two parcels already owned by the lessor, made the property extremely valuable to him.

Capital OTB has sought to attract new business through various promotions. In 1989, Capital OTB displayed numerous closed circuit boxing events, conducted handicapping seminars and offered reduced admissions. Art exhibitions,

as well as charitable and political events, were held at the simulcast theater. Capital's most successful promotion appears to be its Monday Night Football promotion. This promotion, in conjunction with a local radio station, offered a cash prize to the person who picked the winning team along with the closest guess to the total score. It also offered a grand prize of money and two tickets to the Super Bowl for the most weekly wins. The success of this promotion, is reflected in increased attendance (up 131.7%) and handle (up 36.6%) for the first half of the promotion. As a result, Capital expanded it to other facilities and occasions. These activities brought in potential bettors.

The simulcast theater has generated additional revenue for state and local governments. Capital OTB collected \$167,000 in admission fees (a decrease of \$100,000) and paid \$5,800 in state admission taxes. Pursuant to Section 1009(10) of the Racing Law, Capital OTB paid the City of Albany \$326,000 in 1989. This payment is derived from an agreement with the City of Albany to pay 1% of the simulcast theater handle, in lieu of any other local tax.

CATSKILL REGIONAL OFF-TRACK BETTING CORPORATION

Catskill Regional Off-Track Betting Corporation is composed of 13 counties located in the eastern and southern parts of the State. The eight participating counties are Broome, Chemung, Chenango, Dutchess, Orange, Rockland, Tioga and Ulster. There are two race tracks located within the

boundary of Catskill OTB. Both are harness tracks and are located in non-participating counties. Monticello Raceway is in Sullivan County while Yonkers Raceway is in Westchester County.

In 1989, Catskill OTB had 29 branches in operation, two less than the previous year. In total, 63 simulcast operations were conducted.

Catskill OTB's 1989 handle was \$135.1 million, a decrease of \$700,000, or 0.5% from 1988. Of that total, \$95.2 million was wagered on thoroughbred races and \$39.9 million was wagered on harness races. The total handle for Catskill OTB represents 7% of all the New York off-track betting handle in 1989. Catskill ranks sixth in the State in terms of total betting handle. Based on its total \$135.1 million handle for 1989 (as compared to \$135.8 million in 1988), Catskill generated the following:

	<u>1989</u>	<u>1988</u>
Statutory Payments:		
N.Y. State	\$ 1,985,518	\$ 2,008,536
Breeders' Fund	875,114	894,642
Tracks (incl. contractual)	7,197,096	7,147,922
Total Operating Expenses	11,778,220	11,666,725
Percentage of handle	8.7%	8.6%
Net Earnings to Own Localities	5,123,959	5,143,811
Percentage of Handle	3.8%	3.8%
Surcharge:		
To Own Localities	2,991,331	3,018,221
To Localities Outside Region	2,590,886	2,591,897

Of Catskill OTB's total betting handle, \$110.3 million or 81.6% was wagered at simulcast branches. This represents an increase of \$3.4 million, or 3.2% over 1988.

The simulcasting of NYRA races into 16 branches reflected a handle of \$65.7 million, which was 81.8% of total NYRA handle. This was an increase of \$4.9 million or 8.1% over 1988. Daily average simulcast handle per branch was \$13,494 per branch, an increase of \$440 over 1988. Surcharge revenue of \$3.5 million on NYRA races was distributed by Catskill OTB.

Finger Lakes Race Track accounted for \$10.2 million in Catskill simulcast handle, which was 95.3% of the total Finger Lakes handle. This was an increase of \$1.3 million or 14.6% over 1988. Daily average simulcast handle was \$3,797 per branch, an increase of \$373 over 1988. Surcharge revenue of \$252,000 on Finger Lakes races was distributed by Catskill OTB.

Harness simulcast handle at 15 branches (Nanuet once again lacked Yonkers harness simulcasting) amounted to \$34.3 million in 1989. This was a decrease of \$2.9 million or 7.8% from 1988.

Monticello Raceway had just eight programs simulcast to Catskill OTB in 1989. These were Friday and Saturday programs from May 26 through June 10, as well as two Tuesday matinees on May 30 and June 6. Total simulcast handle was \$375,000, which was 8.3% of total Monticello handle. This was a decrease of \$725,000 or 66% from 1988, when 19 programs were simulcast to Catskill OTB. Daily average simulcast handle was \$2,842 per branch, a decrease of \$963 per branch from 1988. Surcharge revenue of \$179,000 on

Monticello races was distributed by Catskill OTB.

The Yonkers simulcast handle for 1989 reached \$34 million, which was 96% of total Yonkers handle. This was an increase of \$10.4 million or 44.1% over 1988. Yonkers had a monopoly on metropolitan New York harness racing in 1989. In previous years it split its season with Roosevelt Raceway in Westbury, Long Island. Daily average simulcast handle in 1989 was \$7,075 per branch, an increase of \$162 over 1988. Surcharge revenue of \$1.5 million on Yonkers races was distributed by Catskill OTB.

Catskill OTB also accepted wagers on various out-of-state race tracks. The Racing Law authorized OTB corporations to accept wagers on out-of-state thoroughbred race tracks, when the non-profit racing association (NYRA) is not conducting racing. In addition, the Board may designate up to 15 thoroughbred and five harness races run outside an OTB region as races of special interest on which OTB may accept wagers. During 1989, Catskill OTB accepted wagers on seven out-of-state tracks on NYRA dark days. Total handle for these dark day tracks was \$2.5 million. Wagering was also conducted on 14 thoroughbred races of special interest and one harness race of special interest. The series of races known as the Breeders' Cup (thoroughbred) and Breeders' Crown (harness) were each designated by law, as one race of special interest. Catskill OTB's handle totaled \$1.8 million for the 16 special events. All out-of-state wagering amounted to \$4.3

million for Catskill OTB.

Catskill OTB's simulcast expenses continued upward in 1989. Catskill paid NYRA \$3.3 million in statutory payments based on simulcast handle and \$150,000 in simulcast contractual payments. The Finger Lakes Racing Association received \$283,000 in statutory payments based on simulcast handle and \$80,000 in simulcast contractual payments. Monticello Raceway received \$25,000 in statutory payments based on simulcast handle and there were no simulcast contractual payments. For Monticello, Catskill OTB paid for part of the uplink/downlink costs. Yonkers Raceway received \$1.4 million in statutory payments based on simulcast handle. No simulcast contractual payments were made by Catskill OTB to Yonkers Raceway due to continuing litigation. In 1989, Catskill OTB's single simulcast vendor for all tracks received payments totaling over \$400,000.

The simulcasting of NYRA races into Catskill OTB was conducted under a 1985 simulcast contract that expired on January 30, 1990. This contract called for Catskill OTB to pay NYRA a \$50,000 yearly premium plus 6.5% of simulcast handle. The 6.5% premium rate reverted to the statutory rate in Rockland and Dutchess counties, when NYRA-Yonkers track to track wagering was in operation and the Catskill handle for Rockland and Dutchess counties was below the April 1985-March 1986 base level. Over the life of this contract, NYRA several times tried unsuccessfully to cancel the agreement. Termination was effected with the contract's

expiration on January 30, 1990.

The last full year of the most recent Catskill OTB-Finger Lakes simulcasting contract was 1989. This three year contract expired on March 30, 1990. The old contract called for Catskill to pay Finger Lakes an annual escalating simulcast commission. The payments were \$60,000 in 1987, \$70,000 in 1988 and \$80,000 in 1989. Catskill OTB made payments in equal monthly installments to Finger Lakes on the fifteenth of each month. These payments were in addition to payments required by Section 527 of the Racing Law.

The last simulcast contract that Catskill OTB had in effect with Yonkers Raceway called for Catskill to pay Yonkers a daily premium of 0.5% on simulcast handle up to \$82,000; 0.75% on the incremental \$30,000; 1% on the incremental \$50,000; and 1.3% on daily simulcast handle over \$162,000. A \$320 per day minimum premium was established. However, there were no premium commissions on Sundays and no premium commissions were payable at new branches, if at those locations, the handle was less than \$8,000 per program.

Catskill OTB has an informal agreement with Monticello Raceway regarding simulcasting. This most recent arrangement called for Catskill OTB to pay Monticello Raceway a \$250 per card premium for programs when Yonkers Raceway was closed. The \$250 was earmarked to help offset transmission costs of the programs from Monticello. The

cost of satellite time and other technical costs have hindered the amount of simulcasting from Monticello Raceway. The amount of business done on Monticello Raceway by Catskill OTB does not justify Catskill OTB alone paying 100% of the associated simulcasting costs. In the future, it appears that a consortium of OTB's will share the uplink/downlink satellite costs at Monticello Raceway.

The State has granted its harness tracks and Finger Lakes Race Track a tax credit against the State's pari-mutuel tax on handle, as an incentive for simulcasting to OTB branches. Yonkers Raceway earns a 1.5% tax credit on simulcast handle, while the remaining harness tracks and Finger Lakes Race Track earn a 1% tax credit on simulcast handle. The State Department of Taxation and Finance reports that, for calendar year 1989, Yonkers Raceway received \$512,000; Monticello Raceway received \$6,400 and Finger Lakes Race Track received \$51,000 in simulcast tax credits. Therefore, on a simulcast handle of \$11.3 million, the various race tracks received a total tax credit of over \$569,000 for simulcasts to Catskill OTB branches.

The newest Catskill simulcast branch opened in late November in Suffern. A large abandoned supermarket on Orange Avenue was converted into a comfortable and very well designed simulcast branch. Another Suffern simulcast branch which had been plagued with overcrowding was eliminated. This new branch also added handicapping desks and much needed restrooms for its patrons. There is also a vending

area with seating which offers a wide variety of snacks. Several large screen televisions are strategically placed throughout the facility.

In 1989, Catskill OTB had eight locations with various food and beverage vending machines. A specified eating and drinking area with seating is available to customers utilizing the machines. Sales from the combined locations totaled over \$111,000. Average commissions to Catskill OTB were 17.2%, resulting in a net income from food services of \$20,000. Several geographically separated vendors are retained by Catskill OTB.

Catskill OTB currently operates 16 simulcast branches, 11 of which are equipped with public restrooms. None of the 13 Catskill regular branches has public restrooms. To date, no application for exemptions from the restroom rule has been filed by Catskill OTB.

In 1989, Catskill OTB spent \$2.1 million in improving its facilities with the Suffern location accounting for the largest part of that expenditure. Since the enactment of the simulcasting law, Catskill OTB has had a major program of renovations, relocations and expansions. Most of the 29 branches have been refurbished. Two branches were expanded in their existing locations, while 15 branches moved to larger locations. Four facilities have existing space available and are ready for enhancement with restaurant-type amenities.

An important factor with expansion is the rental

increases incurred. Some of the increases can be attributed to the inflated real estate market in certain areas of the Catskill Region, but much of the increased rental expense can be blamed on the dramatic need for more space to provide customer accommodations such as desks for handicapping, seating, restrooms and vending areas. Rent increases of more than 100% were incurred during some relocations and those costs were in addition to the associated renovation and construction costs.

Catskill OTB has had several opportunities to construct a simulcast theater but has failed to do so. The underlying reason is that Catskill OTB needs long-term simulcasting contracts with the various race tracks in order to assure a product for an expensive simulcast theater. One of Catskill OTB's best facilities is located in Nanuet. Now in its second year of operation, this facility has yet to display any harness racing because of the absence of an agreement between Yonkers Raceway and Catskill OTB. Yonkers also has the territorial right to keep all other harness racing out of the Nanuet facility, so this branch closes its door at 6 p.m.

Special demonstration projects for simulcasting into privately owned hotels in Sullivan and Ulster Counties remain untapped. These facilities would be "for the exclusive use of registered guests only" at the participating hotels. The Concord Hotel in Kiamesha Lake has been designated by the Catskill Hotel Association to be

the first site. In 1989, Monticello Raceway continued to refuse to consent to the project.

SUFFOLK REGIONAL OFF-TRACK BETTING CORPORATION

Suffolk Regional Off-Track Betting Corporation, located in Suffolk County, had 18 branches and a simulcast theater operating in 1989. Suffolk OTB conducted 33 simulcast operations. Ten branches and the simulcast theater simulcast races from the New York Racing Association (NYRA) and nine of these and the simulcast theater displayed races from Yonkers. In August, Riverhead began Yonkers evening simulcasts, increasing the Yonkers simulcast branches to ten. The 11 NYRA simulcast facilities also simulcast Finger Lakes on 29 NYRA dark days from March 31 to November 28, plus 24 days during August. Suffolk did not simulcast Monticello during 1989.

In 1989, Suffolk handled \$151.3 million on thoroughbred races and \$55.5 million on harness races, for a total of \$206.8 million, an increase of \$5.2 million or 2.6% over 1988. This total amount accounts for 10.8% of all the New York State off-track betting handle in 1989. Suffolk OTB ranks fourth in the State in terms of total betting handle. Based on a total \$206.8 million handle for 1989 (as compared to \$201.6 million for 1988), Suffolk generated the following:

	<u>1989</u>	<u>1988</u>
Statutory Payments:		
N.Y. State	\$ 3,127,678	3,084,868

Breeders' Fund	1,312,116	1,280,092
Tracks (incl. contractual)	12,385,511	11,924,138
Total Operating Expenses	18,197,788	18,012,123
Percentage of handle	8.8%	8.9%
Net Earnings to Own Localities	5,424,894	5,421,935
Percentage of Handle	2.6%	2.7%
Surcharge:		
To Own Localities	3,773,314	3,653,741
To Localities Outside Region	3,319,962	3,247,917

Of Suffolk OTB's total handle, \$166.6 million, or 80.6% was wagered at simulcast branches. This represents an increase of \$15.9 million, or 10.6% over 1988. Suffolk distributed a total of \$7.1 million in surcharge revenue in 1989.

The simulcasting of NYRA races into 11 Suffolk OTB facilities, including one simulcast theater, accounted for \$106.5 million or 76.4% of the NYRA handle in Suffolk OTB, an increase of \$10 million, or 10.3% over 1988. The daily average handle for the simulcast locations was \$31,649 per branch, an increase of \$1,080 over 1988. Suffolk's contract with NYRA, which expires on June 30, 1990, provides for payment of 1.5% of net simulcast handle over the statutory rate, not to exceed 6.5% at simulcast branches, and 2.5% over statutory rates, not to exceed 7.5% at the simulcast theater. Under the terms of this contract, Suffolk paid NYRA \$1.8 million in contractual payments and \$5.3 million in statutory payments based on simulcast handle. Analysis shows that while simulcast handle was up 10.6%, contractual payments rose 11.9%. Suffolk distributed \$4.8 million in

NYRA surcharge revenue.

Harness races from Yonkers were simulcast into ten branches and one simulcast theater during 1989. Yonkers Raceways' handle at the simulcast facilities was \$49.5 million or 93.4% of Suffolk's handle for those tracks. Harness handle increased \$620,000 or 1.2% over 1988.

Evening simulcasting of Yonkers races resulted in an average daily handle of \$11,023 per branch, a decrease of \$1,946 or 15% from 1988. The simulcast of the Yonkers matinee averaged \$7,309 per day, a decrease of \$399 from 1988. It should be noted that while daily averages are down at Yonkers, total handle has increased. The daily average declined due to the increase in simulcast branches.

The contract with Yonkers called for a minimum payment of \$500 per evening, except for Sunday evenings when Yonkers receives 0.5% of simulcast handle. Payments are on an ascending scale, from 0.5% of handle up to \$90,000 and 1.3% on handle over \$210,000 for all wagers placed after 7 p.m. This contract expired on February 28, 1990. Yonkers received \$240,000 in contractual payments and \$2.3 million in statutory payments based on simulcast handle during 1989. Suffolk distributed \$1.8 million in surcharge revenue from Yonkers.

Finger Lakes racing was simulcast into ten branches and the simulcast theater for 29 NYRA dark days. During the NYRA Saratoga meet, Finger Lakes was simulcast into the Suffolk simulcast branches every day except dark days. This

generated handle of \$5 million, a daily average of \$9,112 per simulcast branch, an increase of \$1,521 over 1988. Finger Lakes simulcast handle increased \$2.4 million or 90.8% over 1988, due to the increased number of days of simulcasting. Under the terms of its agreement with Finger Lakes, Suffolk paid \$34,000, or \$1,000 per day, in contractual payments and \$204,000 in statutory payments, based on simulcast handle during 1989. Suffolk distributed \$24,000 in surcharge revenue from Finger Lakes.

Suffolk OTB also accepted wagers on two out-of-state race tracks. The Racing Law authorized OTB corporations to accept wagers on out-of-state thoroughbred race tracks, when the non-profit racing association (NYRA) is not conducting racing. In addition, the Board may designate up to 15 thoroughbred and five harness races run outside an OTB region as races of special interest on which OTB may accept wagers. During 1989, Suffolk OTB accepted wagers on six out-of-state tracks on NYRA dark days. Total handle for these dark day tracks was \$3.5 million. Wagering was also conducted on 13 thoroughbred races of special interest and two harness races of special interest. The series of races known as the Breeders' Cup (thoroughbred) and Breeders' Crown (harness) were each designated by law as one race of special interest. Suffolk OTB's handle totaled \$1.9 million for the 15 special events. All out-of-state wagering amounted to \$5.4 million for Suffolk OTB.

The State has granted its harness tracks and Finger

Lakes Race Track a tax credit (against the State's pari-mutuel tax on handle), as an incentive for simulcasting to OTB branches. Yonkers Raceway earns a 1.5% tax credit on simulcast handle, while the remaining harness tracks and Finger Lakes Race Track earn 1% credit on simulcast handle. The State Department of Taxation and Finance in calendar year 1989 reports that Yonkers Raceway received \$577,000 and Finger Lakes Race Track received \$30,000 in simulcast tax credits. Therefore, on a simulcast handle of \$44.5 million, the two race tracks received a total tax credit of \$607,000 for simulcasts to Suffolk OTB branches.

In addition to payments made to the tracks for simulcasting, the corporation has a simulcast vendor who is responsible for the encoding, uplinking and satellite transmission of Yonkers simulcasts. This vendor also provided the downlink for all other simulcasts at Suffolk facilities. Suffolk paid \$307,000 in 1989 for this service.

Suffolk has vending machines in five telebranches, which supply hot and cold drinks, candy, snacks, sandwiches and cakes. Under the contract, Suffolk was paid \$2,500 for the machines in Bohemia in 1989. The remaining machines occupy leased space in the branches at a rate which is approximately \$100 per square foot per year. Suffolk received \$20,000 for the space at the four telebranches.

Since 1987, Suffolk has moved and modernized five branches, Bohemia, Ronkonkoma, Shirley, West Islip and Riverhead. All of these branches offer bettors attractive

surroundings, with television viewing areas, vending machines and restrooms.

There is now only one simulcast branch which does not have seating or restrooms, Copiague. The corporation has been unable to receive permission from the Town of Babylon to relocate Copiague.

There are presently 40 SAMs (screen-activated betting machines) in Suffolk branches. The corporation is planning a promotion to encourage use of the machines. At present, there are no statistics available on the use of the SAMs although observations indicate that they are infrequently used.

Suffolk, prior to 1989, spent approximately \$1 million on refurbishing and relocating four simulcast branches, as well as adding restrooms to its branches. During 1989, \$444,000 was spent to relocate Riverhead and enlarge Tel-A-Race.

Suffolk has repaid \$4.2 million in delinquent payments to Suffolk County, and now finds itself with cash flow problems. It has been negotiating with various banks to borrow about \$2 million, an amount it feels is necessary to accomplish the rest of its modernization program. The most favorable offer was for a 20-year variable rate demand bond, which will cost approximately 10%. Final negotiations are under way.

TEL-A-RACE - 1989 UPDATE

Suffolk's simulcast theater, called "Tel-A-Race", opened in May 1986. The theater continues to be very popular. Handle in 1989 totaled \$37.3 million, virtually the same as 1988, though there was a slight increase in the daily average. The simulcast theater accounts for 18% of total handle in Suffolk.

NYRA handle in 1989 totaled \$25.8 million, or \$82,609 per day, compared to \$26.3 million or \$85,385 per day in 1988. This represents a decrease of \$1 million or 3.8% in total NYRA handle compared to 1988. There is no obvious explanation for the decline in handle. Speculation is that bad weather and short fields at NYRA/Aqueduct during winter months contributed to the decline. Certainly, observations at the theater support the view of a very successful operation.

At Yonkers, with matinees included, 1989 handle totaled \$10.9 million, or \$29,756 per day, compared to \$10.2 million or \$28,357 per day in 1988, an increase of 4.9%. Roosevelt Raceway's handle was included in the total 1988 figure. Most of Roosevelt's dates were assumed by Yonkers Raceway.

Finger Lakes handle was \$569,000 or \$11,386 per day, compared to \$414,000 or \$12,162 per day in 1988, a decrease of 6.4% in daily average. For the first time, Suffolk simulcast Finger Lakes five days a week during the NYRA/Saratoga meet, which accounts for the increase in Finger Lakes total handle. The balance of handle at Tel-A-

Race was comprised of \$98,000 in Monticello handle, plus out-of-state racing on NYRA dark days and special events.

Admission income in 1989 totaled \$255,000. This was comprised of \$238,000 in admissions at \$5 each, or an average of 131 people per day; plus 61 annual passes at \$150 each, and 101 senior citizen annual passes at \$75 each. The sale of the Daily Racing Form, Sports Eye and "tip" sheets, together with jacket rental, generated \$55,000 in additional income.

In early December, after months of work, an enlarged Tel-A-Race opened. Space went from 7,000 to 14,000 square feet. The total number of betting windows increased from 10 to 14. Three 46" TV's were added in the theater area, twenty 25" TV's throughout the area and eight 10" TV's in the restaurant. There are eight SAMs near the theater and 14 Tiny Tims in the bar area. Customers use the SAMs frequently, but the Tiny Tims are rarely used. The renovations cost the corporation \$218,000.

Daytime attendance and handle at this facility are much better than during the evening. In an effort to attract new customers to the theater, Suffolk is actively pursuing civic and fraternal organizations to promote a "Night at the Races", which will offer admission and dinner at a fixed price, and perhaps convince people to return on their own. Roosevelt Raceway, before it closed, featured such a program and Suffolk hopes to fill the void. There are several such events booked for the beginning of 1990, and Suffolk

continues to look for interested parties. In addition, special sporting events, mostly boxing have been offered. The success of these events has been determined by the quality of the offering.

NASSAU REGIONAL OFF-TRACK BETTING CORPORATION

Nassau Regional Off-Track Betting Corporation consists of one county, Nassau, on Long Island. Nassau OTB began and ended 1989 with 21 branches. Nassau OTB conducted 36 simulcast operations in 1989. Ten branches simulcast thoroughbred races from the New York Racing Association (NYRA). Eleven branches simulcast thoroughbred races from Finger Lakes Race Track. Seven of the branches that simulcast thoroughbred races also simulcast harness races from Yonkers Raceway, while one branch simulcast races from Yonkers Raceway for three days. Seven branches simulcast harness races from Monticello Raceway for eight days.

One track, NYRA's Belmont Park, is located in Nassau County. Within its region, Nassau OTB handles wagers on the three NYRA tracks (Belmont, Aqueduct, Saratoga) and two harness tracks (Yonkers, Monticello). Simulcast operations at Nassau OTB remain limited because of the statutory track consent requirements, the close proximity of Nassau OTB's branches to the local track and to self-serving interests. With the closing of Roosevelt Raceway in 1988, this problem for Nassau OTB has eased somewhat.

In 1989, Nassau OTB handled \$160.1 million on

thoroughbred races and \$52.4 million on harness races for a total of \$212.5 million, an increase of \$8.5 million or 5.6% over 1988. This total amount accounts for 11.1% of all the New York State OTB handle in 1989. Nassau OTB ranks third in the State in terms of total betting handle. Based on its total \$212.5 million handle for 1989 (as compared to \$196.1 million in 1988), Nassau generated the following:

	<u>1989</u>	<u>1988</u>
Statutory Payments:		
N.Y. State	\$ 3,171,439	2,936,348
Breeders' Fund	1,324,879	1,202,982
Tracks (incl. contractual)	12,026,160	11,006,054
Total Operating Expenses	16,944,584	15,462,267
Percentage of handle	8%	7.9%
Net Earnings to Own Localities	7,462,982	7,212,535
Percentage of Handle	3.5%	3.7%
Surcharge:		
To Own Localities	5,426,757	5,269,638
To Localities Outside Region	3,408,876	3,033,204

Of Nassau OTB's 1989 total handle, \$118.6 million or 55.8% was wagered at simulcast facilities. Total 1989 simulcast handle for Nassau was \$118.6 million which is 55.8% of total corporate handle. This is an increase of \$25.7 million or 27.7% from 1988. The simulcasting of NYRA races into ten Nassau OTB branches showed a 1989 total simulcast handle of \$83.2 million, an increase of \$10.3 million or 14.1% over 1988. The daily average handle for these simulcast locations was \$28,232 per branch, compared to \$27,185 in 1988, an increase of \$1,047 or 3.9%. This accounted for 55.9% of the total NYRA handle at Nassau OTB.

Finger Lakes races were simulcast into 11 branches for

33 days for the first time since 1986. This generated a simulcast handle of \$2.3 million, a daily average handle of \$6,466 per branch, an increase of 104.8% over 1986 (the last time Finger Lakes was simulcast into Nassau branches). Finger Lakes simulcast handle increased \$1.7 million or 289.2% over 1986. This accounted for 54.4% of the total Finger Lakes handle at Nassau OTB.

The simulcasting of harness races from Yonkers, including matinees into eight branches showed a 1989 total simulcast handle of \$32.9 million, an increase of \$13.3 million or 67.9% over 1988. This accounted for 66.5% of the total Yonkers handle at Nassau OTB. The daily average handle for these simulcast locations was \$12,898 per branch, as compared to \$12,352 in 1988, an increase of \$546 or 4.4%.

The simulcasting of harness races from Monticello into seven branches in 1989 showed a total simulcast handle of \$142,000, a decrease of \$224,000 or 61.3% from 1988. This accounted for 4.8% of the total Monticello handle at Nassau OTB. The daily average handle for these simulcast locations was \$2,530 per branch as compared to \$4,201 in 1988, a decrease of \$1,671 or 39.8%.

Nassau OTB also accepted wagers on various out-of-state race tracks. The Racing Law authorized OTB corporations to accept wagers on out-of-state thoroughbred race tracks, when the non-profit racing association (NYRA) is not conducting racing. In addition, the Board may designate up to 15 thoroughbred and five harness races run outside an OTB

region as races of special interest on which OTB may accept wagers. During 1989, Nassau OTB accepted wagers on seven out-of-state tracks on NYRA dark days. Total handle for these dark day tracks was \$4.6 million. Wagering was also conducted on 14 thoroughbred races of special interest and one harness race of special interest. The series of races known as the Breeders' Cup (thoroughbred) and Breeders' Crown (harness) were each designated by law as one race of special interest. Nassau OTB's handle totaled \$2.4 million for the 15 special events. All out-of-state wagering amounted to \$7 million for Nassau OTB.

Nassau OTB's contract with NYRA during the period January 1, 1989 through and including June 30, 1990, obligated them to pay 6.5% of the daily net NYRA handle at all OTB simulcast branches. Based on this contract, Nassau OTB paid NYRA \$1.2 million in simulcast contractual payments and \$4.2 million in statutory payments based on simulcast handle for the ten branches. Nassau OTB distributed a total of \$7.7 million in surcharge revenue on NYRA.

Nassau OTB negotiated a contract with Finger Lakes Race Track to simulcast the entire Finger Lakes card for each Tuesday commencing August 1, 1989. The agreement called for statutory payments, plus \$1,000 per week in simulcast fees regardless of the number of simulcast branches. On this basis, Nassau OTB paid Finger Lakes \$75,000 in statutory payments based on simulcast handle and \$17,000 in contractual payments. Surcharge payments on total Finger

Lakes handle in 1989 was \$31,000.

Nassau OTB has no written contract with Yonkers Raceway. However, compensation is based upon a minimum payment of \$300 a day with an additional 0.5% above the statutory rate for all wagers placed after 7 p.m. up to \$90,000 a day. The percentage increases as the handle increases. As a result of this ascending scale agreement, Nassau OTB paid Yonkers Raceway \$166,000 in simulcast contractual payments and \$1.5 million in statutory payments based on simulcast handle for its eight branches. Nassau OTB distributed a total of \$1 million in surcharge revenue on Yonkers wagers.

Nassau OTB's agreement with Monticello Raceway called for no simulcast contractual payments. Nassau OTB paid \$12,000 to Monticello in statutory payments based on simulcast handle for the eight days of simulcasting. Nassau OTB distributed \$59,000 in total surcharge revenue on Monticello wagers during 1989.

Nassau OTB's simulcast vendor was paid a total of \$288,000 in 1989 for providing the simulcast signal and other services.

The State has granted its harness tracks and Finger Lakes Race Track a tax credit (against the State's pari-mutuel tax on handle), as an incentive for simulcasting to OTB branches. Yonkers Raceway earns a 1.5% tax credit on simulcast handle, while Finger Lakes Race Track and all other harness tracks earn a 1% credit on simulcast handle.

The State Department of Taxation and Finance reports that, for the calendar year 1989, Yonkers received \$494,000 and Monticello Raceway received \$4,000 in simulcast tax credits for simulcasts to Nassau OTB branches. Therefore, on a simulcast handle of \$33 million, the two race tracks received a total tax credit of \$498,000 for simulcasts to Nassau branches.

Nassau OTB's commitment to screen activated machines (SAMs) is continuing to progress at a steady pace. At the close of 1989, 15 branches had approximately 166 SAMs as compared to the close of 1988 when 14 branches had approximately 150 of these machines.

In 1989, Nassau OTB continued its restructuring program, begun in 1988, which included the opening, closing and relocation of various branches. In 1989, the Hicksville branch was relocated. The corporation spent \$286,000 in vendor costs for construction, \$65,000 in labor costs and \$6,000 in advertising and promotional costs for this simulcast branch.

A new concept, conceived by corporate management in 1987, designed in 1988, became a reality in 1989. Nassau OTB has installed video display screen units, called "Tiny Tims" in the Hicksville branch. The Tiny Tim operates as a direct telephone line into the telephone betting facility located at Suffolk OTB headquarters. The video screen displays updated racing information, such as current odds, late scratches, jockey changes and race profiles. A patron

must have either a daily or a regular telephone betting account to use a Tiny Tim. No simulcasts are available on these units. There are currently 12 Tiny Tims in the Hicksville branch.

NEW YORK CITY OFF-TRACK BETTING CORPORATION

The New York City Off-Track Betting Corporation (NYCOTB), located entirely within the City of New York, is comprised of its five counties (New York, Kings, Richmond, Bronx and Queens). NYCOTB operated 102 branches at the beginning of 1989 and ended the year with 100 branches. One hundred twenty-nine simulcast operations were conducted during 1989. Twenty-one branches plus two simulcast theaters simulcast races from the New York Racing Association (NYRA) at Aqueduct and Belmont. Thirty-four branches plus two simulcast theaters handled NYRA's Saratoga races during the month of August. Twenty-eight branches plus two simulcast theaters simulcast Finger Lakes on NYRA dark days. Eleven branches plus two simulcast theaters displayed evening races from Yonkers. Twenty branches plus two simulcast theaters displayed matinee races from Yonkers, and 21 branches plus one simulcast theater displayed races from Monticello.

NYCOTB is part of the downstate OTB region which also includes the Catskill, Nassau and Suffolk OTB Corporations. The regional tracks handled by NYCOTB are NYRA (Aqueduct, Belmont and Saratoga), Yonkers and Monticello Raceways.

In 1989, NYCOTB handled \$773.2 million on thoroughbred races and \$167.6 million on harness races, for a total of \$940.8 million. This total accounts for 49% of the money wagered off-track in the State. Total corporate handle for 1989 decreased by \$62 million, or 6.2% from 1988. NYCOTB ranks first in the State in terms of total betting handle. Based on its total \$940.8 million handle for 1989 (as compared to \$1 billion in 1988), NYCOTB generated the following:

	<u>1989</u>	<u>1988</u>
Statutory Payments:		
N.Y. State	\$13,870,936	\$14,844,771
Breeders' Fund	55,542,113	5,856,496
Tracks (incl. contractual)	48,416,930	52,194,927
Total Operating Expenses	107,449,353	105,445,649
Percentage of handle	11.4%	10.5%
Net Earnings to Own Localities	4,679,764	12,723,979
Percentage of Handle	0.5%	1.3%
Surcharge:		
To Own Localities	28,511,444	30,473,982
To Localities Outside Region	8,068,263	8,585,308

The total 1989 simulcast handle for NYCOTB was \$363.2 million, which is 38.6% of total corporate handle. This is a decrease of \$21.2 million, or 0.2% from 1988.

The simulcasting of NYRA races into 21 NYCOTB branches and two simulcast theaters (plus 13 more branches during the four week Saratoga meet) showed a 1989 total simulcast handle of \$265.6 million (36.2% of total NYRA sales), a decrease of \$9.3 million, or 3.5% from 1988. The daily average simulcast handle was \$36,146 per branch, a decrease of \$2,210 from 1988.

The simulcasting of Finger Lakes races into 28 NYCOTB branches plus two simulcast theaters for 35 days showed a 1989 total simulcast handle of \$10.4 million (44% of total Finger Lakes sales), an increase of \$279,000 or 3% over 1988. The daily average simulcast handle was \$10,056 per branch, a decrease of \$37 from 1988.

The evening harness program from Yonkers Raceway into 11 branches plus two simulcast theaters showed a 1989 total simulcast handle of \$78.6 million, an increase of \$21.2 million, or 27% over 1988. The daily average simulcast handle was \$19,051 per branch, a decrease of \$875 from 1988.

The intermittent matinee harness program from Yonkers into 21 branches plus two simulcast theaters showed a 1989 total simulcast handle of \$8.8 million, an increase of \$3.4 million, or 38.4% over 1988. The daily average simulcast handle was \$8,440 per branch, a decrease of \$606 from 1988.

Therefore on a total Yonkers handle of \$152 million, \$87.4 million (57.5%) was simulcast handle.

The simulcasting of matinee harness races from Monticello Raceway into 21 branches plus one simulcast theater showed a 1989 simulcast handle of \$203,000; the simulcasting of evening harness races from Monticello Raceway into 11 branches plus two simulcast theaters showed a 1989 simulcast handle of \$537,000. The combined matinee and evening simulcast handle was \$740,000, (or 5.1% of total Monticello sales). This is a decrease of \$460,000 or 38% from 1988. The daily average simulcast handle was \$4,058

per branch for matinees, and \$5,164 for evening. The combined daily average simulcast handle was \$4,805 per branch.

NYCOTB also accepted wagers on various out-of-state race tracks. The Racing Law authorized OTB corporations to accept wagers on out-of-state thoroughbred race tracks, when the non-profit racing association (NYRA) is not conducting racing. In addition, the Board may designate up to 15 thoroughbred and five harness races run outside an OTB region as races of special interest, on which OTB may accept wagers. During 1989, NYCOTB accepted wagers on seven out-of-state tracks on NYRA dark days. Total handle for these dark day tracks was \$27.5 million. Wagering was also conducted on 12 thoroughbred races of special interest and two harness races of special interest. The series of races known as the Breeders' Cup (thoroughbred) and Breeders' Crown (harness) were each designated by law as one race of special interest. NYCOTB's handle totaled \$11.4 million for the 14 special events. All out-of-state wagering amounted to \$38.9 million for NYCOTB.

NYCOTB's contract with NYRA which expires on June 30, 1990, provides that NYRA receives simulcast contractual payments based on a comparison of current handle against a borough base from calendar year 1984. Payments are a straight 4% of this daily incremental simulcast net handle. The simulcast theaters pay 6.5% inclusive of statutory commissions on NYRA's daily net handle. Based on this

contract, NYCOTB paid NYRA \$980,000 for 1989 simulcast programs. Statutory payments based on simulcast handle were \$13.8 million for 1989. Surcharge revenue of \$28 million on NYRA races was distributed by NYCOTB.

NYCOTB paid Finger Lakes \$68,000 in simulcast contractual payments and \$290,000 in statutory payments based on simulcast handle for 1989. Surcharge revenue of \$945,000 on Finger Lakes races was distributed by NYCOTB.

Under the five-year contract with Yonkers Raceway (expiring June, 1990), NYCOTB has an ascending scale arrangement whereby wagers placed after 7 p.m. are calculated on a percentage of a predetermined handle figure. In no event does NYCOTB pay Yonkers less than \$750 for each evening of simulcasting, excluding Sundays. As a result of this agreement, NYCOTB paid Yonkers Raceway \$368,000 in simulcast contractual payments and \$4 million in statutory payments based on simulcast handle for 1989. Surcharge revenue of \$5.4 million on Yonkers races was distributed by NYCOTB.

NYCOTB paid no simulcast contractual payments to Monticello for 1989. However, \$38,000 was paid in statutory payments based on simulcast handle for 1989. Surcharge revenue of \$549,000 on Monticello races was distributed by NYCOTB.

The State has granted its harness tracks and Finger Lakes Race Track a tax credit (against the State's pari-mutuel tax on handle), as an incentive for simulcasting to

OTB branches. Yonkers Raceway earns a 1.5% tax credit on simulcast handle, while the remaining harness tracks and Finger Lakes Race Track earn a 1% credit on simulcast handle. The State Department of Taxation and Finance reports that for the calendar year 1989 Yonkers received \$1 million, Monticello received \$6,600 and Finger Lakes received \$49,000 in simulcast tax credits. Therefore, on a simulcast handle of \$80.5 million, the various race tracks received a total tax credit of \$1.1 million for simulcasts to NYCOTB branches.

The simulcast vendors for both thoroughbred and harness programs were paid a total of \$900,000 in 1989.

Income from vending machines in five branches generated \$3,700; program sales amounted to \$104,000, with net revenues amounting to \$5,000.

On August 8, 1989, a new branch opened with a 25 year lease on Williamsbridge Road, The Bronx. It replaced two nearby small branches. This facility was intended to be an enhanced telebranch. However, NYCOTB's contract with NYRA does not provide for NYRA simulcasts to this new facility. A temporary solution was agreed to on October 28, 1989. NYRA races were permitted to be simulcast on the first floor only, without any patron amenities. A final resolution to allow simulcasting for the enhanced facility (upstairs portion) was postponed until a new contract is negotiated. NYCOTB would like to offer a number of patron amenities, including an elevator, comfortable seats, counter-type food

service and a bar.

A new facility known as "The Winner's Circle" was opened on December 4, 1989, on Hylan Boulevard, Staten Island. This replaced an existing branch in the same shopping mall. Bar and restaurant facilities await appropriate licensing. An attractive two-story modern facility, the "Winner's Circle" has been leased by NYCOTB for ten years. It consists of two distinct sections. One is a traditional OTB simulcast branch. The other is scheduled to be an enhanced telebranch, which will have seating for 48 persons on the dining level, and theater-type seating for 102 persons on the ground floor.

NYCOTB, pursuant to Chapter 772 of the Laws of 1989, applied for permission to charge a \$2.00 admission fee at this proposed enhanced telebranch. The Board approved the admission fee only at such time as the full food and beverage service (including alcohol) is available to the betting public. NYCOTB is seeking judicial review of the Board's determination in Supreme Court, New York County.

The Board adopted a rule requiring restrooms in every off-track betting facility unless good cause satisfactory to the Board could be shown. NYCOTB's policy requires the installation of restrooms at all new facilities. By the end of 1989, there were five locations which had restrooms: the two simulcast theaters, the two new telebranches and the branch at 158 West 29th Street, Manhattan, which opened in January 1989.

NYCOTB intends to file a proposal with the Board, outlining plans to comply with the rule in the remaining branches. It is probable that NYCOTB will request waivers for a number of existing branches where space constrictions would make it extremely difficult to comply with the rule.

NYCOTB intends to continue taking advantage of more stable business conditions created by long-term simulcast contracts. It will continue to consolidate branches into more modern, efficient and streamlined operations.

In addition to construction of new telebranches in Manhattan, the Bronx and Staten Island, management intends to scrutinize costs and take advantage of any changes in legislation which will enhance its ability to generate revenue.

NYCOTB continues to seek legislative changes lifting restraints on the number and location of telebranches and simulcast theaters permitted by law. It will continue discussions with NYRA concerning simulcasts to specific areas of Queens and Brooklyn, the two most populous boroughs, and explore the possibility of legislation which would legalize betting on professional team sports. NYCOTB expects to see further streamlining of branch operations and growth of simulcast wagering in 1990.

NYCOTB'S INSIDE TRACK - 1989 UPDATE

NYCOTB's first simulcast theater, called the "Inside Track", continued to be profitable in 1989. This facility, located at 1011 Second Avenue, in mid-Manhattan, has seating for approximately 150 people. It offers full restaurant service including alcoholic beverages. The 5% surcharge on winning bets on in-state simulcast races is not applicable at this facility. A \$5 admission fee is charged.

During 1989, total handle was \$42.4 million, a \$1.5 million decrease or 3.5% below 1988. This is still the highest of any facility in New York City. The daily average thoroughbred handle was \$90,088, and the daily average harness handle was \$36,679. Total paid attendance for 1989 was 60,200. Per capita wagering was \$777 for thoroughbred and \$560 for harness. Total per capita wagering was \$706 for the Inside Track.

Revenue generated from the Inside Track amounted to \$3.4 million to the racing industry, \$574,000 to the State of New York and \$1.9 million to New York City. Total revenue from all 1989 admissions was \$301,000, of which \$12,000 was paid in State admission taxes. Total revenue from all concession operations for 1989 at the Inside Track amounted to \$129,000.

NYCOTB'S SELECT CLUB - 1989 UPDATE

NYCOTB's second simulcast theater, called "Skyward - The Select Club", is located at 165 Water Street in lower Manhattan's financial district. It accommodates 350

patrons. Alcoholic beverages and full restaurant service are available in a modern attractive setting. Track prices are paid on in-state simulcast races. A \$5 admission fee is charged. Operating for its second full year, this facility fulfilled expectations for handle and attendance. Total simulcast handle in 1989 was \$33 million, or \$2.9 million (8.8%) over 1988. The daily average thoroughbred handle was \$80,150, a decrease of \$599 from 1988, and the daily average harness handle was \$17,838, an increase of \$2,466 over 1988. Total paid attendance for 1989 was 50,000. Per capita wagering was \$675 for thoroughbred races and \$482 for harness races. Total per capita wagering was \$633.

Revenue generated from the Select Club amounted to \$2.5 million to the racing industry, \$448,000 to the State of New York and \$1.2 million to New York City. Total revenue from 1989 admissions was \$250,000, of which \$11,000 was paid in State admission taxes. Total revenue from all concession operations at the Select Club amounted to \$120,000 in 1989.

TRACK TO TRACK SIMULCASTING WITHIN NEW YORK STATE
NEW YORK RACING ASSOCIATION (NYRA) - SARATOGA TO AQUEDUCT

NYRA's 1989 Saratoga thoroughbred meet covered a 24-day period between August 2 and August 28, 1989. The 1989 total attendance for the simulcast dates at Aqueduct was 160,298 as compared to the 1988 total attendance of 162,614, a decrease of 2,316 or 1.5%. The total simulcast handle was \$29.1 million as compared to \$28.8 million in 1988, an

increase of \$0.3 million or 1%. During this period, daily average attendance was 6,679 per day (6,776 in 1988) and daily average handle was \$1.2 million, identical to 1988, resulting in a \$181 daily average per capita betting (\$186 in 1988). During this period, Saratoga Race Track's on-track handle was \$85.1 million, an increase of \$2 million over the corresponding period in 1988, while the total on-track attendance increased 54,000, resulting in a daily average of \$3.5 million and 30,281 respectively. NYRA attributes these increases to excellent weather in the month of August.

NYRA'S gross pari-mutuel revenue was \$5.3 million from the Saratoga to Aqueduct simulcast and \$237,000 from admissions, concessions and newsstand sales. The State of New York received \$816,000 in tax revenue, as compared to \$803,000 in 1988, the Thoroughbred Breeding and Development Fund received \$145,000 compared to \$144,000 in 1988. NYRA's horsemen received (as accrued purse obligations) \$1.1 million, an amount identical to 1988. Since simulcasting was from one facility of this franchised racing association to another of its track facilities, no contractual agreement was required.

In 1989, NYRA's "profit" from simulcasting from Saratoga to Aqueduct was \$2 million. In 1985, a statutory amendment directed that simulcast profits be retained by NYRA rather than the New York State Thoroughbred Racing Capital Investment Fund. As a result, the simulcast profit, \$2 million, is included in any other profit NYRA made during

1989, and is thereby subject to the State's franchise tax on NYRA.

TRACK TO TRACK SIMULCASTING: NYRA TO FINGER LAKES RACE TRACK

Finger Lakes conducted simulcasting on NYRA races for 88 days during the periods January 1 through March 23, and December 6 through December 31, 1989. Finger Lakes Race Track had an agreement with its horsemen's association in 1989 to pay their purse account 1% from simulcasting. Simulcasting on NYRA races was permitted until the commencement of the racing season. Finger Lakes horsemen received (as accrued purse obligations) \$69,000 compared to \$86,500 in 1988.

As a result, the 1989 total attendance was 35,514 (88 days) compared to 40,811 (99 days) in 1988, a decrease of 5,297 or 12.9%. Daily average attendance was 404 per day (412 in 1988), a 2% decrease. The daily average handle was \$66,971 (\$87,321 in 1988), a 23.3% decrease. Daily average per capita betting dropped to \$166 from \$212 in 1988. The total simulcast handle in 1989 was \$5.9 million as compared to \$8.6 million in 1988, a decrease of \$2.7 million or 33.4%.

From simulcast handle, Finger Lakes retained \$499,000 and earned \$26,000 in ancillary income from admissions, concessions, parking, etc. New York State received \$126,000 in tax revenue, and the Thoroughbred Breeding and Development Fund received \$23,000. NYRA received \$429,500 pursuant to a contract which provided that Finger Lakes pay

7.5% of the simulcast handle under \$3.5 million and 7% on anything over that amount. NYRA provided the uplink and transmission of the simulcast signal, while Finger Lakes was responsible for the transmission of wagering data to NYRA. The contract expires on June 30, 1990.

Batavia Downs received \$21,500 pursuant to a consent agreement with Finger Lakes Race Track. That agreement provided Finger Lakes would pay 1.5% of the total NYRA simulcasting handle to Batavia Downs.

Finger Lakes reported a net profit of \$85,000 from NYRA's simulcast.

TRACK TO TRACK SIMULCASTING: NYRA TO SARATOGA RACEWAY

Saratoga Raceway conducted 282 days of simulcasting NYRA races during 1989, compared to 284 days in 1988. The 1989 total attendance was 145,932 compared to 131,564 in 1988, an increase of 14,368 or 9.8%. The 1989 total simulcast handle was \$18.9 million compared to \$17.4 million in 1988, an increase of \$1.5 million or 8.6%. Daily average attendance rose from 463 in 1988 to 517 in 1989. The daily average handle was \$66,963 (\$61,290 in 1988). Daily average per capita betting dropped to \$129 from \$134 in 1988. On-track harness handle decreased \$3.5 million and attendance decreased 25,138 in 1989. Comparisons of the on-track harness dates show a daily average decline in attendance of 66, or a 3.4% decrease from 1988, and a decline in daily average handle of \$13,757, an 8.6% decrease.

Saratoga Raceway retained \$1.7 million from its 1989 simulcasting of NYRA races, in addition to \$167,000 in admissions and programs. Tax revenue to the State of New York was \$260,000, and the Thoroughbred Breeding and Development Fund received \$94,000. NYRA received \$1.3 million pursuant to a contract which provided that Saratoga Raceway pay NYRA 7% of the first \$10 million in handle and 7.5% on anything over that amount. This contract expires on June 30, 1990.

Pursuant to a verbal agreement, Saratoga Raceway's horsemen received 1% of NYRA simulcast handle at Saratoga for days when there was on-track harness racing. If there was no harness racing on simulcast days, horsemen did not receive any purse accruals. Saratoga Raceway's horsemen received (as accrued purse obligations) the sum of \$117,000 in 1989 from NYRA's track to track simulcasts.

The Board estimates that Saratoga Raceway's profit from NYRA simulcasts was approximately \$1.2 million.

TRACK TO TRACK SIMULCASTING: NYRA TO YONKERS RACEWAY

Yonkers Raceway conducted 306 days of simulcasting NYRA races during 1989, compared to 298 days in 1988. The 1989 total attendance was 607,000, compared to the prior year's attendance of 569,000. The 1989 total simulcast handle was \$105.8 million compared to \$99.8 million in 1988, an increase of \$6 million or 6%. Daily average attendance rose from 1,910 in 1988 to 1,984 in 1989, an increase of 3.8%.

Daily average simulcast handle rose from \$335,108 in 1988 to \$335,662 in 1989, an increase of \$554 or 0.2%.

From the simulcast handle, Yonkers Raceway retained \$8.9 million and earned \$845,000 in ancillary income from admissions, concessions and programs. New York State received \$1.9 million in tax revenue, and the Thoroughbred Breeding and Development Fund received \$529,000. NYRA received \$7.9 million pursuant to a contract which provided that Yonkers Raceway pay NYRA 7.5% of the total simulcast handle. NYRA provided the uplink and transmission of the simulcast signal, while Yonkers Raceway was responsible for the transmission of wagering data to NYRA. This contract expired on January 30, 1990.

Pursuant to a contractual agreement, Yonkers Raceway paid its horsemen 50% of the net revenue from wagering on NYRA races when there was on-track harness racing. Yonkers' horsemen received the sum of \$1.9 million (as accrued purse obligations) in 1989 from NYRA's track to track simulcasts. Yonkers Raceway reported a net income of \$3.5 million from the simulcast of NYRA races.

TRACK TO TRACK SIMULCASTING: NYRA TO VERNON DOWNS

Vernon Downs conducted 138 days of simulcasting NYRA races from January 4 through May 8, and November 15 through December 31, 1989. This was the first year Vernon Downs accepted the NYRA simulcast. The 1989 total attendance was 21,675 for a daily average of 157. The total simulcast handle was \$2.1 million for a daily average of \$25,590.

Daily average per capita betting was \$99 in 1989. On-track handle decreased \$0.3 million and attendance decreased 17,107 in 1989. Comparisons of the on-track harness dates show a daily average decline in attendance of 181, a 4.8% decrease from 1988, and a decline in daily average handle of \$8,479, a 4.1% decline.

Vernon Downs retained \$191,000 from its 1989 simulcasting of NYRA, and earned \$21,000 in ancillary income from admissions, concessions and programs. Tax revenue to the State of New York was \$32,000 and the Thoroughbred Breeding and Development Fund received \$11,000. NYRA received \$160,000 pursuant to a contract which provided that Vernon Downs pay NYRA 7.5% of the simulcast handle. This contract expires on April 2, 1990.

Pursuant to a verbal agreement, Vernon Downs' horsemen receive 50% of the net profit retained by the track. Vernon Downs' horsemen received \$750 (as accrued purse obligations) in 1989 from NYRA's track to track simulcast.

Vernon Downs' profit before general administrative costs and taxes was \$750.

TRACK TO TRACK SIMULCASTING: YONKERS RACEWAY TO VERNON DOWNS

The first track to track harness simulcast took place between Yonkers Raceway and Vernon Downs from November 15 through December 30, 1989. Vernon Downs conducted 44 days of simulcasting Yonkers races during this period. The total attendance was 3,658 and total handle was \$440,000.

Daily average attendance was 83 and daily average handle was \$10,000. Daily average per capita betting was \$120.

This simulcast was conducted when Vernon Downs wasn't racing. Yonkers horsemen received \$11,000 (as accrued purse obligations), which was half of Yonkers 5% contractual share of the handle. Vernon Downs' horsemen received \$2,470, which was half of Vernon Downs' profit from the Yonkers simulcast.

CATSKILL OTB - YONKERS RACEWAY DISPUTE

On February 3, 1989, the Board, by an Emergency Suspension and Notice of Hearing order, suspended the simulcast facility license of Yonkers Racing Corporation (Yonkers), effective February 6, 1989. Such suspension was based upon Catskill Regional Off-Track Betting Corporation's (Catskill) withdrawal of its written consent, which is statutorily required for the transmission of simulcast signals to Yonkers Raceway.

Section 1003 of the Racing Law provides that any racing association or corporation or regional off-track betting corporation must submit a "Plan of Operation" to the Board for review and approval to obtain a simulcast license to operate a simulcast facility. The written consents of New York City Off-Track Betting Corporation and Catskill along with other pertinent data were required to be submitted by Yonkers in its Plan of Operation for the simulcast of races from the New York Racing Association (NYRA) tracks to

Yonkers.

Section 1007(5) of the Racing Law, provides, in pertinent part, that:

"...simulcast transmissions into a receiving harness track located in Westchester County shall require the written consent of the New York City Off-Track Betting Corporation and the Catskill Regional Off-Track Betting Corporation." (emphasis added).

On March 5, 1986, after prolonged negotiations between Yonkers and Catskill during which each submitted various drafts and amendments, an agreement was signed describing the rights and obligations of the parties. It contained the consent of Catskill permitting Yonkers to receive the simulcasting of races from the NYRA tracks. The agreement provided that it would expire on January 30, 1990, approximately five months prior to the statutory termination date of the current simulcast experiment. The agreement also provided, in paragraph Seventh as follows:

"...however, that after August 1, 1988, either party may cancel this agreement upon six months written notice to the other party."

Thereafter, in a letter dated August 3, 1988, Catskill notified Yonkers by certified mail that it cancelled the agreement effective six months after Yonkers received Catskill's notice. In a letter dated January 11, 1989, Catskill notified the Board that it had given Yonkers the requisite six months notice on August 3, 1988 cancelling its consent and terminating the agreement.

On February 3, 1989, the Board, pursuant to Section

1004(3) of the Racing Law, issued the emergency suspension of Yonkers simulcast license, effective February 6, 1989 and provided for a hearing to be conducted on February 22, 1989.

Hearings in this matter were held at the offices of the Board on February 22, 1989 and March 7, 1989 before Victor A. Coccozziello as Hearing Officer. The Board was represented by Steven H. Richman, Esq., Catskill by Fabricant, Lipman & Stern, Esqs., Mark A. Stern, Esq., of Counsel and Yonkers by Bleakley & Schmidt, Esqs., Frederick J. Martin, Esq., of Counsel.

At the hearings, testimony was adduced and various documents were marked for identification and introduced into evidence as exhibits for the Board, for Yonkers and for Catskill.

Yonkers, through its counsel, argued that substantial economic loss, demands by Catskill for additional daily compensation, Catskill's failure to provide evidence of loss, contract interpretation and legislative intent all supported its contention that Catskill be prevented from withdrawing its consent.

Counsel for the Board stated that the only question before the Board concerned the interpretation of a specific clause relating to consent in the agreement; that it was on this basis, among other requisites, that the Board issued the simulcast facility license to Yonkers; that Catskill has demonstrated that it has effectively cancelled the agreement as of February 6, 1989 and that no evidence was submitted by

Yonkers during the course of the hearing to rebut the validity of such cancellation.

In his closing statement, Catskill's attorney reiterated that either party was entitled to cancel the agreement by giving six months notice to the other party and that such was the understanding of Timothy Rooney, President of Yonkers Raceway; that Mr. Rooney acknowledged that Yonkers had received the requisite six months notice by certified mail, that the argument by Yonkers relating to legislative intent and economic impact was not relevant and that the sole issue was whether the agreement had been terminated in accordance with paragraph Seventh.

Three principal questions were raised at this hearing:

- o Did Catskill have the right, pursuant to paragraph Seventh of the March 5, 1986 agreement, to unilaterally cancel the agreement, provided proper and timely notice is given?
 - o If Catskill had the right of cancellation and effectively exercised such right, did its action have the effect of Catskill withdrawing its consent to the simulcasting of the NYRA races to Yonkers?
 - o If cancellation of the agreement had the effect of withdrawing Catskill's consent to the simulcasting arrangements, did the Board act properly in suspending the simulcast license issued to Yonkers effective February 6, 1989?
- The Hearing Officer concluded that the answers to the

above questions were all "yes".

In his report, the Hearing Officer found that the parties represented by counsel negotiated the terms of the agreement. These terms dealt with, not only the consent of Catskill for the simulcasting of the NYRA races to Yonkers, but also other matters such as the rates chargeable by Yonkers for the simulcasting of its races to Catskill's branches. No evidence was adduced at the hearing that the parties were prevented from including an economic impact or irrevocability provision in the agreement, or even their understanding of legislative intent. Instead, the parties agreed that the only condition relating to the cancellation of the agreement was the provision for six months notice. It is clear that the exercise of cancellation was, pursuant to the terms of the agreement, available to both parties. The evidence further revealed that Catskill exercised the cancellation clause in accordance with the provisions of the March 5, 1986 agreement.

On September 13, 1989, the Board affirmed the recommendation of the Hearing Officer and made the following findings:

- o The simulcast facility license issued to Yonkers was based upon the consent of Catskill, as required by Section 1003 of the Racing Law.

o Catskill elected to cancel the agreement by notice by certified mail, received by Yonkers on August 3, 1988.

o The Board, in the absence of such consent as part of the Plan of Operation, must terminate the simulcast facility license held by Yonkers.

o On February 3, 1989, the Board properly and validly, within the scope of its authority, suspended the simulcast facility license of Yonkers, effective February 6, 1989.

Accordingly, the Board affirmed the recommendation of the Hearing Officer and revoked the simulcast facility license of Yonkers Racing Corporation effective September 24, 1989. That order of the Board was appealed by Yonkers under the provisions of Article 78 of the Civil Practice Law and Rules. The matter is now before the Appellate Division, First Department. A stay of the Board's revocation of Yonkers' simulcast facility license remains in effect.

On March 2, 1990, the Appellate Division of New York State Supreme Court, First Department heard arguments in this proceeding. In addition to the issues raised by the parties (i.e., Board exceeded its authority) the question of "mootness" arose. As discussed below, the contractual agreement upon which this dispute is based expired by its own terms on January 30, 1990. As such, the meaning and

effect of the consent provision that has been the subject of this litigation has been admitted by all parties to be moot. A decision of the Appellate Division in this matter is anticipated in the late spring of 1990.

In addition to the Board proceedings, multiple civil actions were commenced by Yonkers (against Catskill OTB in Westchester County); NYRA (against Catskill and Yonkers in Queens County); and Catskill (against NYRA in Rockland County). These various Supreme Court actions were consolidated before Justice Gerard E. Delaney in Supreme Court, Westchester County.

On April 12, 1989, Justice Delaney decided, as a matter of law, that Catskill properly terminated the March 5, 1986 agreement and that there was no written consent as required under Section 1007(5) of the Racing Law.

Justice Delaney issued a temporary restraining order (TRO) on May 2, 1989 terminating NYRA simulcasts to Yonkers. That order was stayed by the Appellate Division, Second Department on May 6, 1989, following a two day cessation of NYRA simulcasts to Yonkers. Subsequently, the Appellate Division vacated the May 2, 1989 TRO for lack of a showing of injury.

On November 23, 1989, Justice Delaney entered a preliminary injunction in those proceedings. His order enjoined Yonkers from conducting simulcasting of NYRA's races at its facility without the written consent of Catskill. As a consequence of this injunction, track to

track simulcasting was not conducted for five days at the end of November, 1989. On November 28, 1989, the Appellate Division, Second Department stayed enforcement of Justice Delaney's preliminary injunction, pending a full hearing of the appeal in this matter.

As a result of this court order, simulcasting of NYRA races to Yonkers continued despite the absence of a valid simulcast facility license through January 1990.

The appeal in this proceeding was heard by the Appellate Division, Second Department, on March 1, 1990. A decision is awaited.

As stated before, each of these three contracts (Catskill OTB and Yonkers; Yonkers and NYRA; Catskill and NYRA) expired on January 30, 1990. During January, the Board sought to encourage discussions between the parties in an effort to resolve the dispute and enable simulcasting throughout the Catskill Region (including Yonkers Raceway) to continue. These efforts were unsuccessful. Therefore, on January 31, 1990, the simulcasting of NYRA races to both Yonkers Raceway and 16 licensed simulcast facilities of Catskill ceased. On the next evening, Yonkers simulcasting of its harness races to 15 Catskill facilities also ceased. Since that date, the Board has continued to monitor developments. The Board convened a meeting of all involved parties on February 13, 1990. As a result, some limited discussions began. However, to date, no significant

progress can be reported in moving towards a negotiated solution by and between the parties.

SIMULCASTING OF NEW YORK RACES TO OTHER STATES

CONNECTICUT OFF-TRACK BETTING

Off-track betting on New York State racing began in the State of Connecticut on April 29, 1976, at 11 off-track betting branches. Agreements were signed with the New York Racing Association (NYRA), Yonkers Raceway, Roosevelt Raceway, American Totalizator (AmTote) and the State of Connecticut. These agreements were approved by the New York State Racing and Wagering Board.

On October 20, 1979, the New Haven "Teletrack" began simulcasting New York races into that facility under terms of these agreements. The Teletrack, a theater-like facility, charges admission, affords seating, food service, odds boards, programs and a dining room. A very large projection screen shows the racing program, plus background material on racing. It attempts to simulate the on-track experience.

AmTote purchased an eight acre site in New Haven and constructed its Teletrack with parking facilities for 800 vehicles. The Teletrack accommodates approximately 2,300 patrons at 40 cash/sell windows. There is seating for 1,800 in the "Grandstand" on the first floor, with 29 windows available. The second floor is the "Clubhouse" consisting of the balcony, seating 200, and the Ala Carte Restaurant, seating 165. The clubhouse is serviced by nine windows. On the third level are four V.I.P. rooms that accommodate a total of 100 patrons with two windows.

Patrons view NYRA simulcast races Wednesday through Monday and Yonkers simulcast races Monday through Saturday when available on the 24' x 32' projection screen, as well as on 18 monitors strategically placed throughout the facility.

A concessionaire operates the food and beverage service in the Teletrack and the fare ranges from hot dogs to full course meals. Alcoholic beverages are available.

Total handle in the State of Connecticut was \$198.8 million in 1989. The handle for the Teletrack alone was \$84.6 million, while the 14 branch offices and telephone betting had a total handle of \$114.2 million. The yearly average handle per branch (including telephone betting), was \$7.6 million compared with the yearly average of \$7 million at the 269 branches, plus four simulcast theaters in New York State. New York City OTB Corporation had a total handle in excess of \$941 million at 100 branches for a yearly average handle of \$9.4 million per branch.

AmTote, a division of General Instrument, owns and operates the Teletrack and leases the off-track branches. The State of Connecticut hires and pays the pari-mutuel clerks, security and maintenance personnel. AmTote paid approximately \$468,000 for transmission fees in 1989. Pursuant to agreements between Yonkers Raceway and the State of Connecticut, Connecticut pays a 5% commission on regular and multiple wagers and 7% on exotic wagers. In 1989, Yonkers Raceway received \$2 million under this agreement.

NYRA has a separate contract with Connecticut, with different commission rates. In 1989, NYRA received \$6.6 million in commissions from Connecticut.

AmTote receives approximately 4% of the annual Connecticut handle. In 1989, the State of Connecticut paid AmTote \$8 million.

Connecticut OTB has live calls in nine of its 14 branches. These are located in Bridgeport, Meriden, Waterbury, Bristol, New London, Torrington, Killingly, Norwalk and Norwich.

On New York dark days, Connecticut accepts wagers on races run in other states. Until 1987, when a dispute between the horsemen and the metropolitan area harness tracks disrupted simulcasting, there was no simulcasting into the Teletrack on a regular basis except from New York State.

Monticello Raceway simulcast to the State of Connecticut on one day during 1989. Simulcast handle was \$71,000 on that day. A contractual agreement between both parties, provided that Connecticut OTB pay Monticello Raceway a 4% commission on regular and multiple wagers, and 6% on exotic bets. Monticello Raceway's profit from Connecticut wagering was \$3,100, which was evenly shared between the track and its horsemen.

During 1989, Connecticut OTB, for the first time, simulcast thoroughbred races from the Meadowlands, Garden State Park and Atlantic City Race Tracks into its facility. This resulted in handle of \$7.6 million for the Meadowlands, \$6.3 million for Garden State and \$4.2 million for Atlantic City. Officials at Connecticut OTB considered New Jersey racing one of "the few

bright lights" during a year in which total handle dropped \$4 million. The decline was all at the Teletrack.

Connecticut OTB plans to open a second teletheater in Windsor Locks on October 1, 1990. This facility will accommodate 1,100 people and will be owned by Connecticut OTB.

Connecticut law currently restricts the Teletrack's operations to six days a week. This is usually accomplished by closing on Tuesday in the daytime, and on Sunday night. However, the days and nights of closing may be changed to other days as long as the total does not exceed six days.

NEVADA

In June 1989, NYRA and Caesars Palace of Las Vegas, Nevada renewed their agreement to simulcast NYRA racing to the race book operation located in Caesars Palace Hotel.

This agreement gave Caesars the exclusive right to the signal in the State of Nevada and included the right to disseminate the signal to other locations in Nevada. There are presently 44 licensed race books receiving the NYRA signal in Nevada.

This contract runs through December 31, 1992 and calls for NYRA to assume all transmission costs. In 1989, Caesars Palace paid a fixed fee of \$5,833 per day. This is less than the maximum fee authorized by the State of Nevada. NYRA received \$1.8 million under this agreement in 1989, while expending \$286,000 in transmission costs.

In 1989, there was no simulcasting of New York harness races to the State of Nevada.

SPECIAL EVENTS

On numerous occasions, New York stakes and feature races are simulcast to various out-of-state tracks. These simulcasts are the subject of specially negotiated agreements, approved by the Board on a case by case basis. These agreements must comply with the provisions of the federal Interstate Horseracing Act of 1978 (15 U.S.C. Section 3001).

NYRA simulcast selected races during 1989 to 78 out-of-state tracks. The guest or receiving track pays all charges to receive the race and pays NYRA 50% of its retained commission of the total pari-mutuel handle on that race. The total handle was \$53.5 million, of which \$3 million was paid to NYRA. The horsemen were paid \$2 million (as accrued purse obligations) and the New York State Thoroughbred Racing Capital Investment Fund received \$1 million. Similarly, Yonkers Raceway simulcast a few of its feature races to 15 out-of-state tracks. The handle on these races was \$1.2 million of which \$29,000 was paid to the track and its horsemen respectively. Additionally, in November 1988, there was a technical amendment to Section 1084(b) of Title 18 of the United States Code, which expanded the definition of permissible areas for the transmission of wagering information to include foreign countries. As such, NYRA entered into an agreement with Caliente Race Track and five affiliated Mexican race books to simulcast NYRA races daily beginning in late January 1989. Caliente Race Track agreed to pay NYRA \$1,200 per day for a total of \$329,000 in 1989.

Also, NYRA began simulcasting selected graded stakes to nine Canadian race tracks during 1989. Total handle on those races was \$3.3 million of which NYRA received \$145,500. The horsemen were paid \$73,000 (as accrued purse obligations) and the New York State Thoroughbred Racing Capital Investment Fund did not receive any money from international simulcasting.

INTERFACING OF OTB WAGERS WITH TRACKS

By law, all off-track betting wagers must be combined with comparable on-track wagers to constitute a single statewide pool for in-state races. Without this requirement, pari-mutuel wagering off-track would result in differing pay-off prices on the same winning selections. Among the six OTB corporations and nine potential simulcast tracks there could be up to 15 various pay-off prices throughout the State on each pari-mutuel pool in each race. Legislative policy directs uniform statewide pay-off prices and to make this possible, all on-track and off-track wagering pools are required to be combined through a process called "interfacing".

Each track in the State maintains a separate computer system to issue and record wagers made at the track. (The actual betting system is maintained and operated by specialized vendors, and at present, one vendor, Autotote, has three track operators, while another vendor, Amtote, has the other six tracks.)

In addition to the tracks' systems, off-track betting is conducted by separate off-track wagering systems. Nassau and Suffolk OTB regions share one system (under contract to Autotote), New York City and the Catskill OTB regions share another system (under contract with Amtote) and Capital and Western OTB regions' computers are headquartered in Schenectady (under contracts with Control Data Corporation).

Through 1984, in order to accomplish the necessary interfacing to combine off-track and on-track wagers, complicated and cumbersome techniques were employed. In general, New York

City OTB acted as the agent to gather all off-track bets together (through yet another separate computer system). After it had gathered all the OTB systems (which took from four to six minutes for regular and multiple pools, longer for exotic pools), it then transmitted the consolidated OTB data to the applicable track (another two minutes). As a result, substantial last minute betting time was lost at OTB branches. (In some locations, regular and multiple wagering was stopped from seven to ten minutes before the race.) These delays were barely tolerable for regular non-simulcast OTB betting. They were especially detrimental for simulcasting since they took away from the "live" quality of betting and removed the display of last minute odds fluctuations, the most meaningful betting information, from consideration by the bettors.

In the past few years technological advances have made dramatic improvements in the interfacing procedures. Through a new process the three separate OTB computer systems no longer have to feed into New York City OTB's system to be sent to the metropolitan tracks (Aqueduct, Belmont, Saratoga, and Yonkers). Now each of the three OTB systems sends its data directly into these tracks, virtually simultaneously, and is able to offer OTB regular betting pools up until almost one minute before the race, thereby substantially increasing last minute betting time. Last minute OTB betting on the races of other tracks in the State has also been improved. The metropolitan off-track betting corporations can now similarly interface with the upstate tracks, such as Finger Lakes.

Delay in effecting OTB pay-offs also has been substantially eliminated. While off-track pay-off prices are pegged to on-track prices, the OTB's, except at simulcast theaters, must deduct the statutory surcharge and enter the prices in their respective systems, but these delays have been eliminated and OTB prices are posted almost simultaneously with on-track prices.

Accordingly, the time for "churning" (i.e., the tendency of winning bettors to bet on the next race) has been increased. While ultimate last minute betting still has not been achieved the delay in cashing OTB winners appears to have been overcome.

The display of odds at OTB branches, however, is still a problem. Win pool odds can be displayed with a 15 second delay, but the display of current daily double, exacta and quinella odds is still inadequate.

The study by the Legislative Commission on Science and Technology has addressed these problems and offered recommendations, which hopefully will be followed up by the industry.

INTERFACE TECHNIQUES AMONG TRACKS

The problem of connecting different pari-mutuel on-track systems has been a matter of some concern in implementing track to track simulcasting. The law requires that all bets be combined at the sending track to assure uniform odds and uniform winning pay-off prices statewide. Because the receiving tracks want to offer their bettors the opportunity to view current odds and to place their bets up to the very last second before the race starts, the tracks that receive simulcasts on a regular

basis do not utilize their own on-track pari-mutuel systems. Instead, the computer vendor at the NYRA tracks ("Autotote"), furnishes these tracks with Autotote ticket issuing machines which, using computer "modems", are connected directly into the NYRA computer by telephone.

While no betting information is accumulated at such a track receiving the NYRA simulcast (the data being recorded solely in the NYRA track computer) each track is furnished with terminals from which it can output, at the receiving track, much of the same information it could produce from its own computers on its own races. This service by NYRA is included in the contractual compensation charge to the track for simulcasting.

This type of simulcast betting interface protocol is relatively expensive and vulnerable to telephone line disruptions.

In addition, because special telephone lines are usually employed which must be contracted for well in advance, and the terminals used are moved to other locations when not in use at a receiving track, this method inhibits the occasional simulcasting of NYRA races by in-state tracks, the use of feature races from other in-state tracks by NYRA or other tracks, as well as the statewide interfacing of out-of-state special thoroughbred or harness races. The Board is hopeful that the State's tracks can simplify the track to track interface system so that their tote computers can "speak" to each other and easily transmit their bets from the receiving track's computer systems to the sending track's system and permit the sending track's

system to transmit back the odds and prices to the receiving track's system for display to the public.

During 1988 and 1989, some progress toward this goal was made when several harness tracks attempted to take the Breeders' Crown series of harness races. Using Batavia Downs as the site of the statewide interface tracks with the same totalizator equipment were able to effect a practical interface. However, Saratoga Raceway, which has a different vendor, discontinued its simulcasting of those events because of the delays required in its interfacing with the computers at Batavia.

Presently, Finger Lakes has the ability to take bets on its own system and transmit the totals to NYRA for the Kentucky Derby, Preakness and Breeders Cup. The display of odds and prices from NYRA is accomplished over a separate telephone line using special video equipment. This methodology appears satisfactory and, hopefully can be expanded to enhance the ability of all the tracks to engage in special events simulcasting.

TRANSMISSION AND SECURITY OF SIMULCAST SIGNALS

The secure transmission of audiovisual signals in New York State is accomplished by the following means:

SATELLITE - A television signal is sent from an "earth station" (uplink) to a specific transponder (channel) on a designated satellite. The transponder reflects the signal back to earth in a huge "footprint" pattern. The average footprint covers the continental United States as well as parts of Canada, Mexico and the Caribbean. On the ground, the signal is picked up by a dish shaped antenna (downlink/dish). In order to prevent unauthorized recipients who have dishes from being able to receive and display the sound and picture, all racing television signals emanating from within New York State are encoded prior to being beamed to a satellite. The encoded signal contains an encrypted addressing system that activates only specified, authorized decoders.

Since June 1983, the NYRA daily racing program has been available on a satellite system. From June 1983, until July 1986, the "Orion" encryption system, manufactured by Oak Industries was utilized. In early 1985, Board personnel recovered a stolen decoder that had been adapted in such a manner that it was constantly addressed. Accordingly, it could be used to decode any satellite signal that employed the Orion system. Immediately after the recovery of this "bandit" decoder, the Board notified the manufacturer, all simulcast vendors and sending tracks of the security breach. Early in 1986, information was received by the Board that numerous bandit Orion

decoders were being sold in the New York City area. All concerned parties were notified of this development.

By July 1986, NYRA had contracted with a new encryption manufacturer, Scientific-Atlanta, to fulfill its encoder/decoder needs. Beginning with its Saratoga meet in August, NYRA encrypted its signal with Scientific-Atlanta's "B-Mac" system. It is interesting to note that immediately after changing to the B-Mac system, numerous telephone calls were received from around the country complaining that the NYRA signal could no longer be decoded.

NYRA transmits its simulcast signal utilizing an earth station located in the backstretch of Belmont Park. The property on which the earth station is built was leased from NYRA by Cablevision Program Services Company and Cablevision of Westchester in an agreement signed on September 26, 1978, and amended on October 10, 1978. A second amendment signed on September 15, 1980, transfers and assigns the above lease to Atlantic Transport Company.

The above agreements permitted the tenant to build a transmitting and receiving earth station consisting of two 11-meter dishes (transmitter antennae) and a microwave system on the grandstand roof to be connected to the earth station. A third dish has been added as per the amendment of September 15, 1980.

Under the agreements NYRA may receive, free of charge, any programming received by the tenant at the earth station. This tenant must provide to NYRA all necessary transmission time at published common carrier rates.

In 1989, all other race tracks in New York State converted to the B-Mac system. The major simulcast vendor, pursuant to direction of the Board, undertook this project to help maintain a minimum level of signal security for the Empire State's racing simulcasts.

During 1989, the New York City Police Department's Organized Crime Control Bureau and Public Morals Division continued investigations into the unauthorized receipt of racing signals. Several raids were made, numerous persons arrested and technical equipment confiscated. These actions were undertaken in cooperation with the Investigations Unit of the New York Racing Association, Inc., and the Board.

Early in 1990, these investigations led to several arrests at two locations. At these locations (one in Brooklyn and the other in Queens) "bandit" B-Mac decoders were recovered. These B-Mac decoders enabled the unauthorized sites to display simulcasts from New York's thoroughbred and harness tracks. A complete review of signal security and corrective measures are currently underway.

TERRESTRIAL MICROWAVE - A television signal transmitted point-to-point (line of sight). Depending on topography, this signal will travel only 25 to 40 miles before it must be amplified and retransmitted. In order to go long distances, this signal is directed over a string of microwave towers until it reaches its destination.

This method of transmission has certain drawbacks from a security point of view. Unless the system is privately wide

oval operated, the transmission cannot be encoded. Public carriers, such as Western Union and AT&T (which forward telephone calls in this manner), will not permit the encoding of transmissions. Therefore, terrestrial microwave signals from New York tracks are not encoded, with the exception of NYRA's microwave feed from Aqueduct to the earth station at Belmont on their private coded system. Another weakness of point-to-point transmission is that it may be intercepted along the path of the signal.

MULTIPOINT DISTRIBUTION SYSTEM (M.D.S.) - Broadcasts in a wide oval from the point of transmission. Depending on the height and wattage of the unit, the signal can travel 100 miles without loss of quality. In New York State, this system is used only by Capital OTB within the Albany area.

CABLE T.V. - Shielded coaxial cable used to carry the signal from the source to each designated receiver. This method of distributing a television signal is used primarily as an in-house system for a track to feed its monitors via Closed Circuit TV (CCTV), or by a local cable company (CATV) to service its subscribers.

New York City OTB (NYCOTB) uses a franchised cable company to service some locations in Manhattan. NYCOTB and its franchised cable company installed a cable encryption system in 1986. This system, manufactured by Zenith, uses an addressing system to activate only specific decoders in OTB branches. During 1987, there were confirmed reports of unauthorized reception of this signal.

Capital OTB owns and operates a franchised cable company that produces TV-12. This station carries the "live call" of races while the screen displays only odds and prices to cable TV subscribers as well as other cable companies.

For one night in November 1989, TV-12 carried a live telecast of the entire Saratoga Raceway harness program into homes and offices throughout the Capital District region via cable television. In addition to showing that night's full card of harness races, feature presentations such as interviews with track personnel, background information and handicapping commentary were included in the broadcast. This unique experiment was a joint effort of Capital District Regional OTB and Saratoga Raceway. It appears to be worthy of further study and experimentation.

It is simple and inexpensive to steal the programming, if access can be gained to the cable. Since 1985, when such a theft was discovered in New Lebanon, New York and successfully prosecuted by Board personnel, no other breach of this system has been detected.

DEDICATED LINE (LAND LINE) - "Hard line" system usually leased from the local telephone company to carry programming from the source to specific authorized locations. All OTB regions use this system to some degree.

Security is difficult because the system can be tapped easily. There have been instances of tampering in the past, but due to successful prosecutions and the notoriety they received, there were no reports of this problem in 1988 or 1989.

ADDITIONAL BETTING FROM SIMULCASTING

The major goal of the simulcasting legislation is to increase betting, resulting in increased revenues sufficient to cover the additional costs to deliver simulcasting, as well as yielding additional revenues to all parties. It is intended that these additional revenues more than offset losses resulting from cannibalization, i.e. business shifting from off-track betting corporations to nearby tracks doing track to track simulcasting or, from race tracks conducting racing to off-track betting operations offering simulcasting on those or other races.

Many imponderables arise initially in attempting to establish what portion of the total betting at a location is additional betting due to simulcasting, and what portion is betting which might regularly occur there or at another location. Tracks doing simulcasting are receiving bets on this product for the first time and so the total betting (or pari-mutuel handle) on simulcast races can be said to be entirely due to simulcasting. However, even this betting may be cannibalized from adjacent off-track betting areas, or from the regular on-track betting at the track on its own races. Even future betting at that track could be reduced due to the drain on total available leisure time betting money from the area population.

Determining the incremental betting from simulcasting at off-track betting corporations is even more complex, since there is already established betting on such races without simulcasting. The proximity of non-simulcast branches to a simulcast branch may cause business to shift from those branches

to the simulcast branch (OTB cannibalization). Further, if tracks located in an OTB region are conducting track to track simulcasting, simulcasting at OTB branches, while seeming to be disappointing, may really be successful, in that their simulcasting has stemmed a greater shift of business to the nearby track with track to track simulcasts.

In 1984, legislation guaranteed that horsemen would receive a portion of the OTB simulcast revenues, and established a measure for determining incremental OTB handle from simulcasting. The OTB corporations complained that the statutory method of computing incremental handle (basically the increase in a simulcast branch's weekly handle above the average week when it had no simulcasting) was unrealistic since the formula did not take into account cannibalization from other branches. Because of this, OTB claimed that since it had to pay larger commissions to the tracks for already established business, OTB was actually losing money through simulcasting. (New York City OTB claimed it lost almost \$500,000 on Roosevelt Raceway simulcasting in a three month period alone.)

In 1985, the Legislature amended this formula and dropped mandated allocations of OTB simulcast handle to the race tracks or its purses. It thereby abandoned any attempt to define incremental handle legislatively and left the parties free to negotiate such compensation.

Historical computations have shown large variations among branches due to live audio race calls, closer to post time betting, more up to date odds changes, opening and closings of

other nearby branches, longer hours of operation, new super exotic betting, let alone the introduction of simulcasting. Because of these and other multitudinous variables, determinations of increased handle directly attributable to simulcasting in a branch has proven impossible to calculate.

Contracting parties have attempted different formulae for determining fair compensation to tracks and horsemen. Most of these formulae are based on increases, if any, in a broad area or entire OTB region over prior years, with, in some cases, an allowance for natural growth.

With the abandonment of the incremental concept by the statute, the Board's staff has not attempted to make any "guess-timates" dressed up as "statistics" showing the actual increase in handle, if any, brought by simulcasting.

1985 RESULTS. The first full year of simulcasting, 1985, showed disappointing results. Even with dramatic amendments to the law effective July 1, 1985, very little was done immediately, and even some cutbacks were experienced. Simulcasts of Finger Lakes races on seven Tuesdays were initiated to OTB branches statewide, and the State's first simulcast theater opened in the Albany area. But day to day simulcasting of harness races from metropolitan New York harness tracks was cut back by those tracks and erosion of metropolitan daily on-track harness handle continued its trend.

1986 RESULTS. In 1986 however, simulcasting expanded and the results seemed to indicate that simulcasting did in fact, expand the overall market.

NYRA, which lost \$23 million of its on-track handle, gained \$173 million at track to track and off-track locations. Finger Lakes, which maintained its handle on-track, gained \$23 million off-track.

It seemed fair to say that the net \$173 million additional handle on in-state thoroughbred races in 1986 resulted from simulcasting. (Note: Catskill OTB, which feared a substantial reduction in its NYRA thoroughbred handle from the competition of the Yonkers Raceway track to track facility simulcasting of such races) showed a gain of \$4.4 million (or 6.4%) in its NYRA handle in 1986.)

The harness track situation was more perplexing. While off-track simulcasting of harness racing, despite disruptions, expanded in 1986 and gained \$39 million, stemming the trend of recent losses, the on-track handle continued to decline, losing \$31 million.

It was apparent that the 5.9% overall increase in statewide handle of \$184 million was almost all due to simulcasting (some resulting from increased harness programs and the then new quarterhorse track).

1987 RESULTS. Simulcasting in 1987 appeared to have reached maturity. Fifty percent of all off-track betting was done at simulcast branches or theaters -- 48.3% of all NYRA OTB handle, 71.1% of Finger Lakes OTB handle, 65.4% of Roosevelt/Yonkers OTB handle, 61.5% of Saratoga Raceway OTB handle and 53% of Buffalo/Batavia OTB handle.

Track to track operations just about duplicated 1986 operations but since they were on a full year basis a \$40 million gain in handle was registered, mostly at Yonkers Raceway (\$37.5 million) which operated for all of 1987 compared with nine months of 1986.

The track with the largest percentage gain of OTB handle was the Finger Lakes thoroughbred race track. For the year, OTB was 41.1% higher on Finger Lakes (+\$30,864,000) than in 1986. (Curiously, however, while New York City gained \$10.6 million in Finger Lakes handle, only \$2.3 million could be attributed to increased simulcasting.)

The largest percentage user of simulcasting was the Catskill region. Simulcasting represented 77.9% of its total handle: 77.5% of its NYRA handle, 92.6% of its Finger Lakes handle, 89.2% of its Roosevelt/Yonkers handle and 48.6% of its Monticello handle. (NYRA and Yonkers combined represented 71% of that region's total handle.)

Western region registered the largest conversion to simulcasting during 1987, going from \$54 million (32% of total handle) in simulcast handle in 1986 to \$132 million (70% of total handle) in 1987. However, while simulcast handle for 1987 increased \$78 million in Western, total OTB handle in the region increased only \$20 million, indicating that at least 3/4 of the increased simulcast handle there was cannibalized pre-existing business.

It would seem that 1987 results represented a fairly accurate summary of New York's simulcasting potential. The only

untapped areas remaining for possible dramatic growth seem to be at the tracks not yet conducting simulcasting, or at the tracks which are conducting simulcasting by their receiving additional tracks.

1988 RESULTS. The lack of any dramatic increases in betting handle during 1988 appeared to prove that the business stabilized in 1987. Fifty-five percent of all off-track handle was generated through simulcasting, 64% of all NYRA OTB handle (up from 48%), 79% of Finger Lakes' OTB handle, 68% of Roosevelt/Yonkers' off-track handle, 77% of Saratoga Raceway OTB handle and 65% of Buffalo/Batavia OTB harness handle.

Track to track simulcasting of NYRA races registered some small increases during the year. Curiously, the increase of Yonkers' simulcasting handle on NYRA races of \$4 million just about matched the decline of on-track handle at NYRA tracks.

Finger Lakes, again in 1988, registered the only substantial increases, which must be attributed to simulcasting. The handle on their races at OTB locations rose 12%. While this increase is not the same magnitude as 1987's (\$31 million), it still was a bright spot for the year.

The 1988 results continued the long-term trend of growth of OTB handle on thoroughbred racing (up \$64 million) and loss of on-track harness handle (down \$64 million) with on-track thoroughbred and off-track harness handle remaining relatively flat.

As stated in the 1987 Simulcast Report, simulcasting in New York appeared to have matured, and further dramatic growth was unlikely unless new sources were authorized.

1989 RESULTS. The trend establishing that simulcasting has matured and, as presently authorized, has exhausted any further growth potential, appears to have solidified during 1989.

In fact, business was down across the board with on-track declines continuing and off-track suffering smaller decreases.

The only two indicators showing increases were NYRA's track to track simulcasts (up \$7 million) and which was overwhelmed by NYRA's \$42 million on-track handle decline.

Finger Lakes off-track handle also rose \$4 million, just about balancing its on-track loss of handle.

RECOMMENDATIONS

In accordance with the provisions of Section 1002(2) of the Racing, Pari-Mutuel Wagering and Breeding Law, the New York State Racing and Wagering Board respectfully submits the following recommendations for consideration and appropriate action by the Governor and the Legislature:

RECOMMENDATION #1

The current statutory authority for simulcasting expires on June 30, 1990. The Board believes that the time has come to make simulcasting a permanent part of New York's racing and wagering scheme. During the last six years of experimentation, simulcasting has developed into an essential component of pari-mutuel wagering in this State. Simulcasting has been the only sector of the racing economy to show consistent growth and expansion during the experimental period, and in fact, now accounts for over \$1.2 billion or 36.8% of the total statewide pari-mutuel handle on horse racing.

The Board strongly recommends that the statutory authorization for the conduct of simulcasting in Article X be made a permanent part of the Racing, Pari-Mutuel Wagering and Breeding Law. This will enable all participants to plan for the future with full confidence that simulcasting is part of that future. It is evident that, if New York is to maintain its position in the racing and wagering community at large, simulcasting must continue.

RECOMMENDATION #2

During the last few years, both the New York State government and the racing and wagering industry have focused a great deal of attention on the issues of integrity and accountability. At the same time, the Board engaged in an intensive review of the ways and means to improve and enhance all aspects of integrity and accountability throughout the racing and wagering community.

The Board strongly supports the efforts to promote and insure professionalism, integrity and ethical conduct within all segments of the racing and wagering community. The State's six public benefit corporations which conduct off-track betting must heed that call, as well, and respond to the public's demand for accountability for all government agencies.

Therefore, the Board recommended, as both 1989 and 1990 departmental legislation, a series of proposals which would enhance the Board's oversight and regulatory functions with respect to OTB and help insure the integrity and accountability of this State's system of off-track betting. These proposals are designed to promote the more effective management of off-track betting and enable the Board to more effectively monitor and review their operations.

With respect to insuring the integrity of off-track betting activities, the Board has submitted three significant legislative proposals. They all relate to the ability of the Board to more effectively monitor, control and regulate the operations and

actions of the OTB Corporations, their employees and other participants in off-track betting.

The first proposal (A.6455; S.6024) would amend the Racing Law to empower the Board to impose monetary fines on off-track betting corporations and other persons or corporations participating in off-track betting. These fines would be imposed for violations of any provision of the Racing Law, the Board's Rules, Regulations and Directives, or the approved Plan of Operation for the conduct of off-track betting. Currently, the only sanction the Board can impose for a violation of the legal authority governing off-track betting is to suspend the Plan of Operation for a given corporation. This is clearly impractical. To terminate all corporate operations, or even a portion thereof, would result in a considerable loss of revenue to all segments of the racing industry as well as the State and local governments. That drastic action should only be taken in the most serious instances. The Board believes that it makes sense to hold individuals at OTB accountable for their own actions and the OTB corporations and local governments should not have to bear the full financial burden for the misconduct of OTB employees. In order to enable the Board to properly discharge its oversight, supervisory and regulatory functions, this additional, alternative sanction should be available to the Board. It should be noted that similar provisions exist for participants in thoroughbred, harness and quarterhorse racing as well as simulcasting (See: Sections 243, 310, 409 and 1005 of the Racing Law). There appears to be no substantive reason for not

employing this type of sanction to OTB as well. Accordingly, the Board recommends the prompt enactment of S.6024/A.6455.

The second proposal (A.4297; S.5897) would authorize the Chairman of the Board to designate a Board officer to preside at off-track betting hearings. Currently, the statute provides that the Chairman, a Board Member or the Board sitting en banc preside at hearings involving off-track betting. The thoroughbred, harness, quarterhorse and simulcast articles of the Racing Law permit the designation of an officer of the Board to preside at such hearings. This proposal will allow for the prompt scheduling of such hearings because of the availability of a greater number of individuals who may preside. The parties to the hearing are not prejudiced because the proceedings are subject to Governor Mario M. Cuomo's December 4, 1989 Executive Order No. 131, (relating to administrative hearings) and the State Administrative Procedure Act as well as the fact that the Board must review the report and recommendation of the hearing officer and it alone, makes the final determination.

The proposal recognizes the fact that today there are many more hearings held by the Board which require the availability of more than three individuals with many responsibilities to act as hearing officers than there were at the time the statute was originally enacted. It will also insure a uniform procedure with respect to all administrative hearings conducted by the Board. Accordingly, the Board recommends the enactment of A.4297/S.5897.

The final "integrity" proposal would authorize the Board to license any person, association or corporation participating in

off-track betting as the Board may by rule prescribe. This proposal (A.4301; S.6025) will conform the off-track betting article of the Racing Law to its sister provisions governing all types of racing as well as simulcasting in this State.

This proposed legislation is necessary for the purpose of maintaining proper control over the conduct of off-track betting within the Empire State. Events during the last few years (described in detail in this and prior simulcast reports), indicate the absolute need for the Board to have jurisdiction over certain individuals and corporations who perform services or functions which are essential for the conduct of efficient, effective and lawful off-track pari-mutuel operations.

As heretofore described, 1989 saw several serious and at times, tragic incidents occur in or at OTB facilities. We are indeed fortunate that no innocent victims suffered serious injuries as a result. However, with crimes ranging from arson and assault to armed robbery and the possession/use of illegal firearms, OTB employees need this check.

In addition, the Board has concluded that it will be difficult but not impossible to license only simulcast facilities, corporations or persons who work therein. The problem will lie with the OTB corporation because simulcasting has become an integral component of off-track operations. As such, with frequent personnel shifts as well as changing simulcast branch locations, the system of "total licensing", which is currently in place at all on-track locations within the State, should apply to OTB as well.

Moreover, for several years, the Board served as conduit for off-track betting corporations to conduct fingerprint checks on new employees. However, in 1988, the Board was advised by the New York State Division of Criminal Justice Services (DCJS) that the Board could not legally conduct such checks for OTB employees or disseminate any information received as result of such a check to any other agency, including the OTB Corporations. DCJS concluded that there is insufficient statutory authority. Thus, for the past two years, a new OTB employee has not been the subject of any criminal history check.

In order to insure the public's confidence in OTB and the integrity of the entire system of off-track betting, including its employees, A.4301/S.6025 should be enacted into law.

With respect to the issue of accountability and integrity in the management of off-track betting, the Board has recommended the enactment of legislation which would bar a director of a regional off-track betting corporation from holding any position of employment with that off-track betting corporation.

The board of directors of an off-track betting corporation is responsible for the management of that corporation, including the appointment of its officers. It is not in the public interest to have directors also serve as paid employees of that corporation including the position of President and Chief Executive Officer.

Under the common law doctrine of compatibility of office, dual employment is found to be contrary to public policy. In Formal Opinion No. 88-F1, Attorney General Abrams wrote:

"A director cannot effectively and impartially supervise himself nor can his colleagues on the board of directors exercise such supervision. Additionally, an appearance of impropriety would result. This dual employment would erode the natural checks and balances that flow from the employer-employee relationship to the detriment of corporate operations and public trust. Were this not prohibited, an entire board could serve as employees of the corporation creating conflicting interests and raising questions as to whether board decisions are made solely in the public interest".

The New York State Comptroller shares this concern. In recent audit reports, he concludes that service as a director of an off-track betting corporation as well as its president and chief executive officer, is contrary to the doctrine of compatibility of office. Recently, the Attorney General of the State of New York reached a different conclusion. He found that a director may serve as President and Chief Executive Officer, viewing it as an extension of his responsibilities as a director. This conflicting series of opinions requires prompt resolution.

For the reasons set forth above, the Board recommends the enactment of A.4298-A in order to clarify the legal status of directors as employees, as well as insure that a system of internal checks and balances are present within the decision-making structure of off-track betting corporations. It should be noted that this legislation is not directed at any individual or incumbent. Rather, the Board sees it as a necessary structural reform.

The Board has also submitted as departmental legislation, comprehensive legislation to improve certain financial and accounting practices of the State's off-track betting

corporations. The Board urges the enactment of A.9179/S.6782, which reflects many of the recommendations made by the State Comptroller in Draft Audit No. 88-S-81.

The State Comptroller has reported that certain current statutory authorizations result in confusion with respect to the accounting and financial reporting practices of the State's six off-track betting corporations. This proposal is designed to require uniform report of financial data (both on a monthly and annual basis) as well as require off-track betting corporations to conduct their financial activities in accordance with generally accepted accounting practices (GAAP) as promulgated by the State Comptroller.

The bill also extends the statutory time period for the submission of monthly financial reports from 15 days to 60 days. The current time frame is not a realistic standard for the submission of the comprehensive information required by the Board's Uniform System of Accounting and Reporting. The additional 45 days will allow for a more orderly and accurate submission by each of the State's six regional OTB corporations. The enactment of this legislation is necessary to insure that prompt, accurate and uniform financial transactions by all of the State's six off-track betting corporations.

Taken together, this recommended legislation would provide a firm basis by which the State of New York can insure that its system of off-track pari-mutuel wagering operates in an effective and efficient manner. It will promote greater accountability and integrity within this growing segment of the racing and wagering

industry. These proposals are of great importance to the Board, to enable it to exercise enhanced oversight and regulatory authority as well as essential to maintain the public's trust and confidence in racing and wagering activities, generally.

RECOMMENDATION #3

Most off-track betting corporations, as well as certain race tracks, have made sizeable investments in the establishment of new or renovated facilities offering additional amenities to their patrons. It is essential for these entities (and in the best interest of the State of New York) that the maximum utilization of these innovative, yet costly, facilities be encouraged.

Accordingly, the Board recommends that limited simulcasts from out-of-state race tracks into licensed simulcast facilities be authorized for races of significant public interest, such as the Kentucky Derby, the Preakness, the Breeders' Cup or the Breeders' Crown. A.6457/S.5898 contain authorization for up to 15 such thoroughbred events and 5 harness events and we urge its enactment.

RECOMMENDATION #4

The technical problems of simulcasting, which have inhibited its development, have been highlighted in this and prior Simulcast Reports, as well as the Report of the Legislative Commission on Science and Technology (discussed above). The problem areas are those of simulcast signal security and the efficient and effective transmission of wagering data to effectuate common pari-mutuel pools.

The Board has concluded that for simulcasting to continue and flourish, a minimum level of integrity, efficiency and security must be maintained. Therefore, the Board recommends that Article X be amended to give it explicit statutory authority to prescribe and enforce minimum standards in relation to the methodology, equipment and means employed to safeguard and control the transmission of simulcast signals and wagering data.

RECOMMENDATION #5

The Board recommends that Section 1007, subdivision 5 of the Racing, Pari-Mutuel Wagering and Breeding Law be amended to remove the current statutory prohibition of track to track simulcasting when the receiving track is conducting a different type of racing at a different time of day. It is the Board's understanding that this was the original intent of the drafters, and urges the enactment of this change to clarify a currently ambiguous situation.

RECOMMENDATION #6

The Board recommends that Section 1009 be amended to specifically provide that the surcharge on winning wagers not be applicable to wagers placed at simulcast theaters on simulcast events or ancillary races of special interest which are carried there. While presently assumed, enactment of this proposal would seem more consistent with the present statutory intent.

In addition, the Board recommends that simulcast theaters be authorized to conduct wagering on non-simulcast events as an adjunct to simulcast events. For example, New York City OTB's two simulcast theaters display harness racing from Yonkers

Raceway. This proposal would explicitly authorize NYCOTB's simulcast theaters to accept wagers on Monticello Raceway's evening harness program as well (however, surcharge is applicable). Finally, we recommend that all simulcast theater operations (and operators) conduct their activities in accordance with the provisions of Section 523 of the Racing Law, at all times. This will insure that all off-track operations be conducted in accordance with the statewide standard method of operations. Finally, with the present simulcasting statutory authorization about to expired on June 30, 1990 we strongly recommend that in drafting legislation to extend or make permanent such authorization, the regional philosophy which has governed racing and off-track betting since inception be kept prominently in view. Simulcasting makes possible the importation of significant competition for the wagering dollar from out-of-state race tracks as well as, within the State, from out-of-region race tracks.

The local components of the pari-mutuel racing industry are too important to the State's economy and culture to allow them to fail in a quest for growth of pari-mutuel revenues.

Accordingly, maintaining the health of all of the components of the State's racing industry: horsemen, breeders, suppliers, employees, tracks, as well as the State and local governments should retain first priority in any new statutory designs.

CONCLUSION

The foregoing has been a detailed analysis of simulcast operations during 1989 and the past five and one-half years. Substantial investments in simulcasting have been made by the various off-track betting corporations and the tracks. In the Board's view, these investments have yielded significant results. Simulcasting has been given the opportunity to develop; it is now an integral part of racing in New York and should be so recognized.

Of the varied problems associated with simulcasting, the Board believes that the technical problems have been or can be surmounted. Of more concern to the Board are the ongoing feuds between various segments of the industry. A sense of apprehension and distrust pervades the relationships that exist within the racing and pari-mutuel wagering community. Several specific instances have been described in this and prior reports.

Stripped of all its apparent glitter, racing can only exist if it serves the public. Its mainstay is the fans. The fans are not well served unless all elements of this diverse industry cooperate. The current statutory framework for the conduct of simulcasting sought to encourage cooperation by requiring negotiated agreements and consents between the parties, providing for joint efforts among race tracks and off-track betting corporations and by setting up the experiment on a "level playing field", giving no player an unfair advantage. Through simulcasting, as well as various tax reduction measures, the

tracks, their horsemen and OTB corporations were given an incentive to accomplish this statutory goal.

As we conclude the current experiment, it is clear that the present statutory system has not functioned as well as it was intended to. If the various segments of the industry continue to act only for narrow, parochial and selfish gains and, refuse to voluntarily cooperate in the public interest and for the benefit of all segments of the racing and wagering industry, as well as the State, its political subdivisions and its citizens, then the State will be forced to act and alter the system now in place.

The choice is up to the industry itself and time is running out. It is in their own best interest as well as the public's for all elements to cooperate. The industry should initiate efforts to take a broader view for the enhancement of the entire industry for the years to come before the expiration of the simulcasting authorization. If it fails to do so, the State of New York, which has authorized pari-mutuel wagering (and simulcasting) on horse races, must act swiftly and deliberately to reform this process and insure that the fans and the public good be served.

APPENDICES

The following charts summarize various financial results during the calendar year ending December 31, 1989. All figures are unaudited and tentative. As such, they are subject to revision and correction.

COMPARISON OF COMBINED ON AND OFF-TRACK HANDLES 1989/1988

	ON-TRACK HANDLE TOTALS		% of increase (decrease)	OFF-TRACK HANDLE TOTALS		% of increase (decrease)	COMBINED ON AND OFF-TRACK HANDLE TOTALS		% of increase (decrease)
	1989	1988		1989	1988		1989	1988	
NYRA									
Aqueduct	\$437,706,594	\$462,801,698	(5.42)	\$731,697,468	\$742,496,505	(1.45)	\$1,169,404,062	\$1,205,298,203	(2.98)
Belmont	315,668,751	333,705,670	(5.41)	471,772,489	473,933,387	(.46)	787,441,240	807,639,057	(2.50)
Saratoga	85,072,123	83,136,404	2.33	112,538,796	113,669,955	(1.00)	197,610,919	196,806,359	.41
NYRA TOTAL	\$838,447,468	\$879,643,772	(4.68)	\$1,316,008,753	\$1,330,099,847	(1.06)	\$2,154,456,221	\$2,209,743,619	(2.50)
Intertrack Simulcasts of NYRA at:									
Aqueduct (Saratoga Meet)	29,092,608	\$28,774,479	1.11	---	---	---	29,092,608	28,774,479	1.11
Finger Lakes	5,893,421	8,644,860	(31.83)	---	---	---	5,893,421	8,644,860	(31.83)
Saratoga Raceway	18,883,432	17,406,274	8.49	---	---	---	18,883,432	17,406,274	8.49
Yonkers Raceway	105,772,633	99,862,170	5.92	---	---	---	105,772,633	99,862,170	5.92
Vernon	2,151,394	---	---	---	---	---	2,151,394	---	---
Intertrack Simulcast Totals	\$161,793,488	\$154,687,783	4.59	---	---	---	\$161,793,488	\$154,687,783	4.59
TOTAL NYRA RACES	\$1,000,240,956	\$1,034,331,555	(3.30)	\$1,316,008,753	\$1,330,099,847	(1.06)	\$2,316,249,709	\$2,364,431,402	(2.04)
Finger Lakes	47,129,906	50,528,183	(6.73)	122,382,016	118,777,819	3.03	169,511,922	169,306,002	.12
TOTAL IN-STATE THOROUGHBRED	\$1,047,370,862	\$1,084,859,738	(3.46)	\$1,438,390,769	\$1,448,877,666	(.72)	\$2,485,761,631	\$2,533,737,404	(1.89)
Out-of-State Tracks	---	---	---	70,506,112	85,868,954	(17.89)	70,506,112	85,868,954	(17.89)
TOTAL THOROUGHBRED HANDLE	\$1,047,370,862	\$1,084,859,738	(3.46)	\$1,508,896,881	\$1,534,746,620	(1.68)	\$2,556,267,743	\$2,619,606,358	(2.41)
HARNESS RACING									
Batavia Downs	\$20,791,055	\$24,310,035	(14.48)	26,008,680	23,658,399	9.93	46,779,735	47,968,434	(2.44)
Buffalo Raceway	23,772,040	23,905,239	(.56)	22,670,686	25,089,953	(9.64)	46,442,726	48,995,192	(5.21)
Total Batavia/Buffalo	\$44,563,095	\$48,215,274	(7.57)	\$48,679,366	\$48,748,352	(.14)	\$93,242,461	\$96,963,626	(3.84)
Roosevelt Raceway	---	82,230,782	---	---	97,360,924	---	---	179,591,706	---
Yonkers Raceway	239,398,187	189,977,426	26.01	315,560,624	221,912,048	42.20	554,958,811	411,889,474	34.73
Total Roosevelt/Yonkers	\$239,398,187	\$272,208,208	(12.05)	\$315,560,624	\$319,272,972	(1.16)	\$554,958,811	\$591,481,180	(6.17)
Monticello	41,894,204	43,418,787	(3.51)	24,905,902	23,284,481	6.96	66,800,106	66,703,268	.15
Saratoga Raceway	31,407,914	34,984,062	(10.22)	16,105,517	18,254,963	(11.77)	47,513,461	53,239,025	(10.75)
Vernon Downs	31,356,732	31,676,454	(1.01)	5,584,097	5,855,313	(4.63)	36,940,829	37,531,767	(1.57)
Syracuse Mile	2,327,905	2,364,448	(1.55)	205,503	288,361	(28.73)	2,533,408	2,652,809	(4.50)
TOTAL ON-TRACK STATE HARNESS	\$390,948,037	\$432,867,233	(9.68)	\$411,041,039	\$415,704,442	(1.12)	\$801,989,076	\$848,571,675	(5.49)
Yonkers Simulcast At Vernon	440,015	---	---	---	---	---	440,015	---	---
TOTAL IN-STATE HARNESS	\$391,388,052	\$432,867,233	(9.58)	\$411,041,039	\$415,704,442	(1.12)	\$802,429,091	\$848,571,675	(5.44)
OTB Out Of State Tracks	---	---	---	363,193	386,386	(6.00)	363,193	386,386	(6.00)
TOTAL HARNESS HANDLE	\$391,388,052	\$432,867,233	(9.58)	\$411,404,232	\$416,090,828	(1.13)	\$802,792,284	\$848,958,061	(5.44)
ALL TRACKS COMBINED	\$1,438,758,914	\$1,517,726,971	(5.20)	\$1,920,301,113	\$1,950,837,448	(1.52)	\$3,359,060,028	\$3,468,564,419	(3.16)

SIMULCAST PART-MUTUEL HANDLES BY SIMULCAST LOCATIONS IN NEW YORK STATE (1989-1988)

LOCATION	COMBINED TOTAL		NYRA		FINGER LAKES		YONKERS		R/V		MONTICELLO		SARATOGA RACEWAY		BATAVIA/BUFFALO	
	1989	1988	1989	1988	1989	1988	1989	1988	1989	1988	1989	1988	1989	1988	1989	1988
TRACK TO TRACK																
Aqueduct	29,100,000	28,800,000	29,100,000	28,800,000												
Yonkers	105,800,000	99,900,000	105,800,000	99,900,000												
Saratoga Raceway	18,900,000	17,400,000	18,900,000	17,400,000												
Finger Lakes	5,900,000	8,700,000	5,900,000	8,700,000												
Vernon Downs	2,590,000	----	2,150,000													
TOTAL	162,290,000	154,800,000	161,850,000	154,800,000												
AT OTB BRANCHES:																
New York City OTB	364,140,000	311,100,000	265,600,000	218,600,000	10,400,000	9,600,000	87,400,000	81,700,000	740,000	1,200,000						
Nassau OTB	118,542,000	92,866,000	83,200,000	72,900,000	2,300,000	----	32,900,000	19,600,000	142,000	366,000						
Suffolk OTB	124,650,000	108,000,000	81,250,000	70,200,000	4,440,000	2,200,000	38,960,000	35,600,000	----	----						
Catskill OTB	110,275,000	106,800,000	65,700,000	60,800,000	10,200,000	8,900,000	34,000,000	36,000,000	375,000	1,100,000						
Capital OTB	175,520,000	176,809,000	123,100,000	122,000,000	23,600,000	23,900,000	15,600,000	12,700,000	----	909,000						
Western OTB	167,900,000	150,200,000	82,800,000	74,500,000	44,000,000	44,800,000	4,900,000	3,100,000	----	----						
TOTAL	1,061,027,000	945,775,000	701,650,000	619,000,000	94,940,000	89,400,000	213,760,000	188,700,000	1,257,000	3,575,000						
OTB TELETHEATERS																
New York City OTB	74,356,600	73,240,000	56,200,000	56,400,000	602,500	451,000	17,500,000	16,200,000	54,000	189,000						
Suffolk OTB	36,820,000	36,914,000	25,300,000	26,300,000	570,000	414,000	10,950,000	10,200,000	----	----						
Capital OTB	31,900,000	32,481,000	21,700,000	21,400,000	2,800,000	3,000,000	3,400,000	3,400,000	----	127,000						
TOTAL	143,076,500	142,635,000	103,200,000	104,100,000	3,972,500	3,865,000	31,850,000	29,800,000	54,000	316,000						
OTB STATEWIDE TOTAL	1,366,393,500	1,243,210,000	966,700,000	877,900,000	98,912,500	93,265,000	246,050,000	218,500,000	1,311,000	3,891,000						

1989 OFF-TRACK BETTING TOTAL HANDLE BY TRACK AND REGION

	NEW YORK CITY	NASSAU REGION	SUFFOLK REGION	CATSKILL REGION	CAPITAL REGION	WESTERN REGION	TOTAL ALL REGIONS
THOROUGHBRED RACING IN-STATE							
N.Y.R.A.							
Aqueduct	\$386,534,052	\$84,910,351	\$77,555,248	\$45,578,034	\$78,975,509	\$58,218,538	\$731,771,732
Belmont	266,427,764	51,684,627	51,012,535	27,938,378	49,856,896	24,058,219	470,978,415
Saratoga Flat	58,152,758	12,087,353	10,897,354	6,336,028	19,438,590	5,603,855	112,515,938
N.Y.R.A. TOTAL	711,114,574	148,682,331	139,465,137	79,852,440	148,270,995	87,880,612	1,315,266,085
Finger Lakes	23,189,900	4,316,293	6,431,928	10,658,931	27,268,293	50,516,087	122,381,432
Total In-State Thoroughbred	734,304,474	152,998,624	145,897,065	90,511,371	175,539,288	138,396,699	1,437,647,521
Total Out-State Thoroughbred	38,847,332	6,972,584	5,325,120	4,730,333	8,597,965	6,706,755	71,180,089
TOTAL THOROUGHBRED HANDLE	\$773,151,806	\$159,971,208	\$151,222,185	\$95,241,704	\$184,137,253	\$145,103,454	\$1,508,827,610
HARNESSES							
Yonkers Raceway	153,072,624	49,450,763	53,193,511	35,364,435	18,643,046	5,833,570	315,557,949
Monticello Raceway	14,518,819	3,035,456	2,254,120	4,514,136	450,925	98,372	24,871,828
Saratoga Raceway	---	---	---	---	16,105,547	---	16,105,547
Vernon Downs	---	---	---	---	4,616,561	967,536	5,584,097
Batavia Downs	---	---	---	---	1,862,546	24,146,134	26,008,680
Buffalo Raceway	---	---	---	---	2,062,353	20,608,333	22,670,686
Bat./Buf. Subtotal	---	---	---	---	3,924,899	44,754,467	48,679,366
Syracuse Mile	---	---	---	---	48,907	156,596	205,503
In-State Harness	167,591,443	52,486,219	55,447,631	39,878,571	43,789,885	51,810,541	411,004,290
Out-of-State Harness	45,993	16,668	14,529	9,897	203,153	72,953	363,193
TOTAL HARNESSES HANDLE	167,637,436	52,502,887	55,462,160	39,888,468	43,993,038	51,883,494	411,367,483
TOTAL OFF-TRACK HANDLE	\$940,789,242	\$212,474,095	\$206,684,345	\$135,130,172	\$228,130,291	\$196,986,948	\$1,920,195,093

STATEMENT OF REVENUES NET OF EXPENSES-1989 PRELIMINARY FIGURES

	<u>NYC OTB</u>	<u>MASSAU</u>	<u>SUFFOLK</u>	<u>CATSKILL</u>	<u>CAPITAL</u>	<u>WESTERN</u>
Non-Simulcast Handle	\$577,560,087	\$93,835,116	\$45,514,050	\$47,652,809	\$52,592,669	\$28,950,624
Simulcast Handle	363,227,076	118,638,979	161,170,295	87,477,363	175,537,622	168,036,324
<u>NET HANDLE</u>	<u>940,787,163</u>	<u>212,474,095</u>	<u>206,684,345</u>	<u>135,130,172</u>	<u>228,130,291</u>	<u>196,986,948</u>
OTB RACING REVENUE	177,001,238	40,548,863	39,469,841	25,994,533	43,466,589	39,189,856
Less: Statutory Payments to:						
N.Y. State	13,870,936	3,171,439	3,127,678	1,985,518	3,353,932	2,908,962
Breeder's Fund	5,542,113	1,324,879	1,312,116	875,114	1,360,599	1,244,351
Track (inc. Contractual)	48,416,930	12,026,160	17,355,511	(8) 7,197,096	13,333,805	12,804,404
City of Albany Tax	---	---	---	---	376,235	---
<u>Total Statutory Payments:</u>	<u>67,829,979</u>	<u>16,527,478</u>	<u>16,825,305</u>	<u>10,057,728</u>	<u>18,374,571</u>	<u>16,957,717</u>
Net Racing Revenue:	109,171,259	24,026,385	22,644,536	15,936,805	25,092,018	22,232,139
OTHER REVENUE:						
Admission Income	551,000	---	249,217	---	161,044	0
Lottery Income	---	---	59,432	232,311	832,987	342,206
Concession Income	899,789	---	60,882	---	417,894	43,322
Derived From Surcharge	---	---	---	---	469,163	361,031
Interest Income	1,252,776	145,509	150,619	386,837	239,264	162,387
Other	254,293	235,672	457,997	346,226	959,751	(C) 1,534,928
<u>Total</u>	<u>112,129,117</u>	<u>24,407,566</u>	<u>23,622,683</u>	<u>16,902,179</u>	<u>28,172,121</u>	<u>24,675,913</u>
TOTAL OPERATING REVENUE						
OPERATING EXPENSES:						
Branch Expenses	90,108,864	12,240,380	13,623,093	8,480,318	17,286,786	15,410,015
Corporate Expenses	17,340,489	4,704,204	4,574,695	3,297,902	10,102,394	4,118,987
<u>Total</u>	<u>107,449,353</u>	<u>16,944,584</u>	<u>18,197,788</u>	<u>11,778,220</u>	<u>27,389,180</u>	<u>19,529,002</u>
Percentage of Net Handle	11.4%	7.9%	8.8%	8.7%	12.0%	9.9%
NET EARNINGS TO OWN LOCALITIES	4,679,764	7,462,982	5,424,895	5,123,959	782,941	5,146,911
Percentage of Net Handle	.50%	3.5%	2.6%	3.7%	.34%	2.6%
* SURCHARGE TO OWN LOCALITIES (A)	28,511,444	5,426,757	3,773,314	2,991,331	4,531,089	4,361,242
Total Benefits to Own Localities:	33,191,208	12,899,739	9,198,209	8,115,290	5,314,030	9,508,154
SURCHARGE TO LOCALITIES OUTSIDE REGION	8,068,263	3,408,876	3,319,962	2,590,886	3,484,457	3,706,452
TOTAL BENEFITS TO ALL LOCALITIES	41,259,471	16,298,615	12,518,171	10,706,176	8,798,487	13,214,606
Percentage of Net Handle	4.3%	7.6%	6.0%	7.9%	3.8%	6.7%

* (A) This figure originally reported as \$36,420,426 was reduced \$7,908,982 for the amount distributed by NYC OTB for the other OTB's.
 (B) Due to continuing litigation with Yonkers Raceway concerning its simulcast contract, Catskill OTB has included in contractual payments an amount placed in escrow in anticipation of the eventual settlement of the dispute.
 (C) Includes rental income, misc. income, and Autole settlement.

ON-TRACK RACING STATISTICS
JANUARY-DECEMBER, 1988

JANUARY-DECEMBER: 1989

H A N D L E

A T T E N D A N C E

	RACING DAYS		T O T A L		DAILY AVERAGE		% OF AVGR. INCR. OR DLCK.		T O T A L		DAILY AVERAGE		% OF AVGR. INCR. OR DLCK.	
	1989	1988	1989	1988	1989	1988	1989	1988	1989	1988	1989	1988	1989	1988

THOROUGHBRED:

N. Y. R. A. (A)	306	308	4,218,506	4,284,790	13,786	13,912	(0.91)	838,447,468	879,643,773	2,740,024	2,855,986	(4.06)	1	
FINGER LAKES	168	172	392,341	403,734	2,335	2,347	(0.51)	47,129,906	50,528,183	280,535	293,769	(4.50)		

NYRA SIMULCAST AT:

AQUeduct(SARAHEET)	24	24	160,298	162,614	6,679	6,776	(1.43)	29,092,608	28,774,479	1,212,192	1,198,937	1.11		
FINGER LAKES	88	99	35,514	40,811	404	412	(1.94)	5,893,322	8,644,860	66,971	87,322	(23.31)		
SARATOGA	282	284	145,932	131,564	517	463	11.66	18,883,432	17,406,274	66,963	61,290	9.26		
VERNON	138	--	21,675	--	157	--	--	2,151,394	--	15,590	--	--		
YONKERS	306	298	607,054	569,100	1,984	1,910	3.87	105,772,633	99,862,170	345,662	335,108	3.15		

TOTAL THOROUGHBRED

	474	480	5,581,320	5,592,613	11,775	11,651	1.06	1,047,370,863	1,084,859,739	2,209,643	2,260,124	(2.23)		
--	-----	-----	-----------	-----------	--------	--------	------	---------------	---------------	-----------	-----------	---------	--	--

HARNESS:

BATAVIA	142	147	220,217	241,618	1,551	1,644	(5.66)	20,791,055	24,310,035	146,416	165,374	(11.46)		
RUFFALO	127	139	229,828	248,097	1,810	1,785	1.40	23,772,040	23,905,239	187,181	171,980	8.84		
MONTICELLO	210	180	334,711	349,991	1,594	1,944	(18.00)	41,894,204	43,418,787	199,496	241,215	(17.30)		
ROSELVELT	--	109	--	347,333	--	3,187	--	--	82,230,782	--	754,411	--		
SARATOGA	198	202	383,757	408,895	1,938	2,024	(4.25)	31,407,914	34,984,062	158,626	173,188	(8.41)		
SYRACUSE HILL	7	7	19,544	19,085	2,792	2,726	2.42	2,327,905	2,364,448	332,558	337,778	(1.55)		
VERNON	159	154	344,323	361,510	2,166	2,347	(7.71)	31,356,732	31,676,454	197,212	205,691	(4.12)		
YONKERS	365	247	990,570	800,009	2,714	3,239	(16.21)	239,398,187	189,977,426	655,885	769,139	(14.72)		

YONKERS SIMULCAST AT:

VERNON	44	--	3,658	--	83	--	--	440,015	--	10,000	--	--		
TOTAL HARNESS	1,208	1,185	2,526,608	2,776,538	2,092	2,343	(10.71)	391,388,052	432,867,233	323,997	365,289	(11.30)		
STATEWIDE TOTALS	1,682	1,665	8,107,928	8,369,151	4,820	5,027	(4.12)	1,438,758,915	1,517,726,972	855,386	911,548	(6.16)		
MEADOWLANDS	281	289	3,100,871	3,405,858	11,035	11,785	(6.36)	467,608,054	514,128,313	1,664,086	1,778,991	(6.46)		

(A) Figures include Aqueduct, Belmont, and Saratoga.

1989 NEW YORK RACING ASSOCIATION SIMULCASTS TO OTHER NEW YORK TRACKS

	Yonkers Raceway 1/1-12/31/89 306		Saratoga Raceway 1/1-12/31/89 282		Finger Lakes 1-1-3/23,12/6-12/31/89 88		Vernon Downs 1/4-12/31/89 138		Combined Totals 1/1-12/31/89 306 NYRA Days	
	Amount	Average	Amount	Average	Amount	Average	Amount	Average	Amount	Average
NYRA Betting At										
Dates										
Racing Days		1,984		517		404		157		
Attendance	607,054		145,932		35,514		21,675		810,175	2,648
HANDLE	Amount	\$	Amount	\$	Amount	\$	Amount	\$	Amount	\$
Regular	\$29,402,505	27.80	\$6,044,226	32.01	\$1,368,952	23.23	\$511,188	23.76	\$37,326,871	28.13
Multiple	67,613,335	63.92	11,193,008	59.27	3,863,277	65.55	1,406,115	65.36	84,075,735	63.36
Exotic	6,607,857	6.25	1,334,210	7.07	482,129	8.18	200,843	9.34	8,625,039	6.50
Super Exotic	2,148,936	2.03	311,988	1.65	179,064	3.04	33,248	1.54	2,673,236	2.01
Total Handle	\$105,772,633	100%	\$18,883,432	100%	\$5,893,422	100%	\$2,151,394	100%	\$132,700,881	100%
SHARING OF HANDLE										
State Tax	\$1,849,639	1.75	\$260,698	1.38	\$125,957	2.14	\$32,451	1.51	\$2,268,745	1.71
Breeders Fund	528,862	0.50	94,416	0.50	29,467	0.50	10,756	0.50	663,501	0.50
NYRA	7,901,576	7.47	1,352,688	7.17	429,025	7.28	160,224	7.45	9,843,513	7.42
Receiving Track	8,916,371	8.43	1,726,486	9.14	498,694	8.46	191,331	8.89	11,332,882	8.54
Commission/Breakage	19,196,448	18.15	3,434,288	18.19	1,083,143	18.38	394,762	18.35	24,108,641	18.17
Bettors	86,576,185	81.85	15,449,144	81.81	4,810,279	81.62	1,756,632	81.65	108,592,240	81.83
HANDLE	\$105,772,633	100%	\$18,883,432	100%	\$5,893,422	100%	\$2,151,394	100%	\$132,700,881	100%
% of Combined Handle		79.71%		14.23%		4.44%		1.62%		100%
Average Bet Per Capita		\$174		\$129		\$166		\$99		\$164

The receiving track shares and the commission and breakage totals were reduced for minus pools, which were added to the bettors' shares in the above summaries.

1989 NEW YORK RACING ASSOCIATION SIMULCAST TO OTHER TRACK CORPORATIONS
INDIVIDUAL TRACK OPERATING SCHEDULES, PURSE ALLOCATIONS AND PROFITS AND LOSSES

	<u>YONKERS RACEMAY</u>	<u>SARATOGA RACEMAY</u>	<u>FINGER LAKES</u>	<u>VERNON DOWNS</u>	<u>NYRA</u>	<u>COMBINED</u>
	<u>AMOUNT</u>	<u>AMOUNT</u>	<u>AMOUNT</u>	<u>AMOUNT</u>	<u>AMOUNT</u>	<u>AMOUNT</u>
	<u>PER DAY</u>	<u>PER DAY</u>	<u>PER DAY</u>	<u>PER DAY</u>	<u>PER DAY</u>	
Track Share of Commission & Breakage	\$8,916,371	1,726,486	498,694	191,331	9,843,513	\$21,176,395
Other Operating Revenue	842,263	167,136	25,601	20,867	-----	1,055,867
Total Simulcast Revenue	9,758,634	1,893,622	524,295	212,198	9,843,513	22,232,262
Total Meet Expense	(4,355,077)	(515,618)	(370,812)	(210,700)	-----	(5,452,207)
Profit Before Purse Share	5,403,557	1,378,004	153,483	1,498	9,843,513	16,780,055
Allocated To Purses	(1,872,000)	(117,406)	(68,797)	(749)	(4,921,756)	(6,980,708)
Simulcast Meet Profit (before 6 & A & Taxes)	\$3,531,557	1,260,598	84,686	749	4,921,757	9,799,347
Simulcast Days	306	282	88	138	306	
% of Combined Profit	36.04%	12.86%	.86%	.01%	50.23%	100%

The 306 simulcast days indicated for the NYRA column represents the number of NYRA racing days on which one or more of the three other tracks received NYRA races. The allocations to purses as shown for the receiving tracks were to each track's own racing. NYRA horsemen benefited by the \$4,921,756 in the NYRA column.

tot316

TRACK TO TRACK SIMULCASTS NYRA RACING - Handle at Receiving Tracks
5 Year Comparison of Combined On-Track and Simulcast Handles and Racing Days

<u>YONKERS RACEWAY</u>	<u>On-Track Own Racing</u>		<u>On-Track Simulcast NYRA Racing</u>		<u>Combined Handle</u>
	<u>Days</u>	<u>Handle</u>	<u>Days</u>	<u>Handle</u>	
1985	163	\$186,917,924		-----	\$186,917,924
(Decrease) Increase 1986		(14,873,827)		\$56,680,458	41,806,631
1986	182	\$172,044,097	242	\$56,680,458	\$228,724,555
(Decrease) Increase 1987		(8,097,899)		37,473,341	29,375,442
1987	193	\$163,946,198	304	\$94,153,799	\$258,099,997
Increase 1988		26,031,228		5,708,370	31,739,598
1988	247	\$189,977,426	298	\$99,862,169	\$289,839,595
Increase 1989		49,420,761		5,910,464	55,331,225
1989	365	\$239,398,187	306	\$105,772,633	\$345,170,820
<hr/>					
<u>SARATOGA RACEWAY</u>					
1985	187	\$38,566,022	282	\$17,220,227	\$55,786,249
(Decrease) 1986		(3,249,412)		(702,945)	(3,952,357)
1986	187	\$35,316,610	286	\$16,517,282	\$51,833,892
Increase 1987		804,070		2,379,997	3,184,067
1987	188	\$36,120,680	280	\$18,897,279	\$55,017,959
(Decrease) 1988		(1,136,618)		(1,491,005)	(2,627,623)
1988	202	\$34,984,062	284	\$17,406,274	\$52,390,336
(Decrease) Increase 1989		(3,576,148)		1,477,158	(2,098,990)
1989	197	\$31,407,914	282	\$18,883,432	\$50,291,346
<hr/>					
<u>FINGER LAKES</u>					
1985	161	\$48,911,640	194	\$9,823,826	\$58,735,466
Increase (Decrease) 1986		342,268		(634,452)	(292,184)
1986	161	\$49,253,908	114	\$9,189,374	\$58,443,282
(Decrease) 1987		(277,315)		(1,929,113)	(2,206,428)
1987	171	\$48,976,593	91	\$7,260,261	\$56,236,854
Increase 1988		1,551,590		1,384,598	2,936,188
1988	172	\$50,528,183	99	\$8,644,859	\$59,173,042
(Decrease) 1989		(3,398,277)		(2,751,437)	(6,149,714)
1989	168	\$47,129,906	88	\$5,893,422	\$53,023,328
<hr/>					
<u>VERNON DOWNS</u>					
1988	154	\$31,676,454	--	-----	\$31,676,454
(Decrease) Increase 1989		(319,722)		\$2,151,394	1,831,672
1989	159	\$31,356,732	138	\$2,151,394	\$33,508,126

1989 NYRA simulcast handles above include Kentucky Derby and Preakness betting-\$296,325 at Yonkers, \$206,986 at Saratoga, and \$15,090 at Vernon.

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NEW YORK RACING ASSOCIATION
1989 SARATOGA THOROUGHBRED SIMULCAST TRANSMISSION TO AQUEDUCT

Dates Raced August 2 through August 28, 1989
 Days 24
 Attendance 160,298
 Average Per Day 6,679
 % Of Handle

HANDLE:	AMOUNT		
Regular	\$8,836,218		
Multiple	17,721,216		30.37%
Exotic	2,067,740		60.91
Super Exotic	467,434		7.11
Total Handle at Aqueduct	<u>\$29,092,608</u>		<u>1.61</u>
			<u>100%</u>

STATUTORY DIVISION OF HANDLE:

State Tax	\$815,679	\$33,986	2.80%
Breeders Fund	145,463	6,061	.50
Track Share	4,351,291	181,304	14.96
Takeout	5,312,433	221,351	18.26
Bettors Share	23,780,175	990,841	81.74
Average Bet Per Capita	<u>29,092,608</u>	<u>1,212,192</u>	<u>100.00</u>
		\$181	

5 Year Comparison of Handle and Attendance - Saratoga Simulcast to Aqueduct

	Days	Handle	Average Per Day	% Change
1985 July 31 - Aug. 26	24	\$31,369,612	\$1,307,067	
Decrease 1986		(3,299,243)	(137,468)	(10.52%)
1986 July 30 - Aug. 25	24	\$28,070,369	\$1,169,599	
Increase 1987		2,341,242	97,551	8.34%
1987 Aug. 5 - Aug. 31	24	\$30,411,611	\$1,267,150	
Decrease 1988		(1,637,132)	(68,213)	(5.83%)
1988 Aug. 3 - Aug. 29	24	\$28,774,479	\$1,198,937	
Increase 1989		318,129	13,255	1.11%
1989 Aug. 2 - Aug 28	24	<u>\$29,092,608</u>	<u>\$1,212,192</u>	

SCHEDULE OF SIMULCAST REVENUES, EXPENSES AND PROFIT - AQUEDUCT

Track Share of Commission And Breakage Net of Statutory Payments	\$4,351,291
Other Operating Revenues	178,249
Total Revenues	<u>\$4,529,540</u>
Statutory Allocation for NYRA Purses	(1,070,342)
Other Operating Expenses	(1,446,567)
NYRA Profit - Paid Out As Franchise Fee Increment	<u>\$2,012,631</u>

nsd38

SARATOGA THOROUGHBRED MEETS of the New York Racing Association and Selected Simulcasts
Comparisons of Handle and Attendance - Totals, Daily Averages and Increases and Decreases

ON-TRACK HANDLE AT SARATOGA - 5 YEAR COMPARISON

DATES	DAYS	TOTAL FOR MEET		AVERAGE PER DAY		TOTAL FOR MEET		ATTENDANCE	
		AMOUNT	% CHANGE	AMOUNT	% CHANGE	AMOUNT	% CHANGE	AMOUNT	% CHANGE
1985 July 31-Aug. 26	24	\$76,209,836	(7,457)	\$3,175,410	(0.23%)	690,273	28,761	2.03%	
Increase (Decrease) -1985		(178,964)				14,054	584		
1986 July 30-Aug. 25	24	\$76,030,872	8,523,904	\$3,167,953	11.21%	704,327	29,346	2.57%	
Increase-1987		\$84,554,776	(1,418,321)	355,163		18,094	754		
1987 Aug. 8-AUG. 31	24	\$83,136,404	(1,935,719)	\$3,523,116	(1.68%)	722,421	30,100	(6.88%)	
(Decrease) -1988		1,935,719		(59,099)		(49,719)	(2,071)		
1988 Aug. 3-Aug. 29	24	\$85,072,123		\$3,464,017	2.31%	672,702	28,070	8.03%	
Increase-1989				80,655		54,039	2,252		
1989 Aug. 2-Aug 28	24			\$3,544,672		726,741	30,261		

NEW YORK CITY OTB SARATOGA THOROUGHBRED RACING - 5 YEARS COMPARISON

	NYC OTB HANDLE		AVERAGE PER DAY	
	AMOUNT	DAYS RACED	AMOUNT	% CHANGE
1985 JULY 3-AUG. 26	\$53,435,684	24	\$2,226,487	3.15%
Increase 1986	1,681,585		70,066	
1986 July 30-Aug. 25	\$55,117,269	24	\$2,296,553	9.38%
Increase	5,171,372		215,474	
1987 Aug. 8-Aug. 31	\$60,288,641	24	\$2,512,027	(1.36%)
(Decrease) 1988	(819,634)		(34,152)	
1988 Aug. 3-Aug 29	\$59,469,007	24	\$2,477,875	(2.21%)
(Decrease) 1989	(1,316,249)		(54,843)	
1989 Aug 2-Aug 28	\$58,152,758	24	\$2,423,032	

AT YONKERS RACEWAY - SARATOGA THOROUGHBRED SIMULCASTS

	YONKERS HANDLE		AVERAGE PER DAY	
	AMOUNT	DAYS RACED	AMOUNT	% CHANGE
1986 July 30-Aug. 25	\$7,095,423	24	\$295,643	26.51%
Increase 1987	1,881,286		78,387	
1987 Aug. 8-Aug. 31	\$8,976,709	24	\$374,030	0.52%
Increase 1988	47,096		1,962	
1988 Aug. 3-Aug. 19	\$9,023,805	24	\$375,992	2.72%
Increase 1989	252,190		10,508	
1989 Aug. 2-Aug 28	\$9,275,995	24	\$386,500	

See separate page for simulcasts to Aqueduct.

DISTRIBUTION OF SIMULCAST CREDITS BY TRACK AND OFF TRACK BETTING REGION 1989

TRACK	SIMULCAST	NEW YORK CITY OTB	MASSACHUSETTS OTB	SUFFOLK OTB	CATSKILL OTB	CAPITAL OTB	WESTERN OTB	TOTAL ALL OTB REGIONS
YONKERS - WINTER	HANDLE CREDIT	\$18,449,512	\$8,217,677	\$9,891,704	\$9,244,155	\$5,426,003	\$2,713,905	\$53,882,956
		\$276,745	\$123,265	\$147,476	\$138,662	\$81,390	\$40,709	\$808,245
	HANDLE CREDIT	\$17,401,602	\$8,338,663	\$9,650,841	\$8,593,622	\$1,907,056	\$457,752	\$46,349,538
		\$261,024	\$125,080	\$144,762	\$128,904	\$28,606	\$6,866	\$695,242
YONKERS - SPRING	HANDLE CREDIT	\$18,058,256	\$8,679,772	\$9,717,453	\$8,661,642	\$1,638,032		\$46,755,155
		\$270,874	\$130,196	\$145,762	\$129,925	\$24,570		\$701,327
YONKERS - SUMMER	HANDLE CREDIT	\$15,802,466	\$7,687,497	\$9,240,009	\$7,608,335	\$3,365,841		\$43,704,148
		\$237,037	\$115,312	\$198,600	\$114,125	\$50,486		\$655,562
TOTAL YONKERS RACEWAY	HANDLE CREDIT	\$69,711,836	\$32,923,609	\$38,440,007	\$34,107,754	\$12,336,934	\$3,171,657	\$190,691,797
		\$1,045,676	\$493,853	\$576,600	\$511,616	\$185,054	\$47,575	\$2,860,376
FINGER LAKES	HANDLE CREDIT	\$9,776,236		\$6,034,727	\$10,229,786	\$20,803,344	\$44,298,371	\$91,142,466
		\$49,003		\$30,249	\$51,276	\$104,276	\$222,044	\$456,848
SARATOGA RACEWAY	HANDLE CREDIT					\$6,617,096		\$6,617,096
						\$66,171		\$66,171
BATAVIA DOWNS	HANDLE CREDIT					\$890,200	\$19,136,473	\$20,026,673
						\$7,778	\$167,213	\$174,991
BUFFALO RACEWAY	HANDLE CREDIT						\$21,582,484	\$21,582,484
							\$208,739	\$208,739
MONTICELLO RACEWAY	HANDLE CREDIT	\$1,038,867	\$688,363		\$1,008,638	\$373,503		\$3,109,371
		\$6,585	\$4,363		\$6,333	\$2,368		\$19,709
TOTAL HANDLES		\$80,526,941	\$33,611,972	\$44,474,734	\$45,346,178	\$41,021,077	\$88,168,985	\$333,169,887
	TOTAL CREDITS	\$1,101,266	\$498,216	\$606,849	\$569,285	\$365,647	\$645,571	\$3,786,834

SOURCE: New York State Department of Taxation and Finance
Annual Statistical Review of Pari-Mutuel Tax Operations
for Calendar Year 1989

1989 SIMULCAST REPORT STAFF

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