



**Tuesday, December 10, 2019**

## **Horse Racing's Social License to Operate**

**Speaker: Jennifer Durenberger, Principal, Racing Matters**

**Ms. Jane Murray:** My name is Jane Murray. I'm an alumni of the program here, and I'm going to be helping Wendy out over the next few days because I can climb a couple steps and I'll be introducing some panels.

Next on our agenda, dealing with horse racing social license to operate. There is no question that society's view of animals and how we interact with them is changing exponentially. These changes are not unique to the US. They're seen on a worldwide level.

What does and what should the racing and the non-racing public expect from the sport? How do we move forward to present racing to the general population? Our next speaker, Jennifer Durenberger, the principal of racing matters, will address this subject. Jennifer?

**Dr. Jennifer Durenberger:** That's a tough act to follow.

Thank you, Jane, and thanks to Wendy and the many sponsors, students and faculty that make this event possible. This is a really big undertaking, and as you heard earlier it was made especially difficult this year with the passing of our beloved colleague, Liz.

I have just a couple of housekeeping notes before I begin. Usually, I find myself on one of the last panels of the conference.

Today I'm obviously not. Rather than end my time up here with my traditional remarks to the students, I'm gonna instead open with them.

Welcome to racing. Racing is one of the few industries that I can think of where the longer you've been involved, the more valuable you'll become. You are about to enter an extraordinarily fulfilling and often all-consuming industry where your

experience will bring its own rewards. The speakers you will hear from and hopefully interact with over the next two days are top of their game.

They're here because, like me, they're passionate about what they do and they're eager to share that with you. Many are alumni and want to give back.

Others, like me, are adopted alumni, and we want to welcome you to our profession. The more the merrier, especially now. Please don't be shy to reaching out to any of us this week or in the future as things come up.

It is 9:20, so I will probably nibble into the first coffee break. If you think that you will need coffee or that you need to take a restroom break, do so at your own peril.

I start out slow and all the cool talking points are at the end. Then finally, just a qualification about my role here, I do wear a lot of hats in the industry.

I'm here in my capacity with Racing Matters, which is a consulting business. It's based in Saratoga Springs, New York. I do design and review existing veterinary regulatory programs, and the opinions up here that I express are my own and not those of any employers, past or present.

I have today the privilege — if I can get the slides here.

There we go.

Okay. I have the privilege today to talk to you about equine welfare. In an era when we are a little bit divided as an industry, this is the great unifier.

The title of my talk is Racing's Social License to Operate: What you need to know and what you can do. It's targeted at students and participants in racing, but this is everybody's responsibility and everybody's business.

These are our goals for the day.

I am a recently retired regulatory veterinarian.

I'm now in the steward's stand, but this was the view from my office for many years and what an incredible view this was.

This was my office on the inner rail in front of the Belmont Park Grandstand, about eight minutes before Justify became a Triple Crown winner. If this doesn't make you excited to go to work every day, then there's something wrong with you.

Our goals today, I want to give you a brief history of our legal relationship with animals because context is very important.

I want to introduce you to this idea of social license to operate because not all of you have heard that term. I guarantee you that going forward you're going to hear that term, so it would be good to know what it means and how it's relevant to racing. Then I will give you a little bit of an action plan because I want you to leave feeling empowered and not distressed.

Very briefly, the law and animals. The law and our duty of care to animals has evolved over the years. Originally, we were an agricultural society and our relationship with animals was one of mutual dependence. They were able to provide food. We provided food and shelter for animals in exchange for their labor or their production value. I refer to this as you eat well if we eat well.

Then we started industrializing. We started becoming concerned about the physical treatment of workers, women and children in particular, and then this spilled over into concern of the treatment of working animals in the cities.

We see the first animal cruelty statutes going all the way back to the early 1800s. This criminalized intentional acts, acts of commission, things that you do to an animal. This language comes from New York, although you'll see it in a lot of state statutes. Overdriving, overloading, torturing, or unjustifiably injuring an animal.

From there we started keeping animals as pets and we started recognizing some of the intangible contributions that they brought to the family. We start being concerned about their living conditions, not just their physical treatment. We started passing laws prohibiting neglect or acts of omission, things that we don't do, such as providing adequate food, water and shelter.

Where we are today, the average American is four generations removed from that agricultural lifestyle of mutual dependence with animals, and the majority have never had physical contact with a non-companion animal. Almost everybody has pets and we are all familiar with the deeply personal connection. The animals have an incredible therapeutic value across the lifespan from children to seniors. Animals are now members of our family.

That's how most people relate to animals.

Most people do not derive income from family members, so it's a little bit — puts us a little bit on the outside because our industry derives income from animals.

Society often sees them as having this special emotional purity that needs to be protected, and so our duty of care now not only includes in the law prohibition of

cruelty and neglect, but we see this increasing use of things, legal constructs, that mirror what we see in human relationships.

You can devise a pet trust. There are pet guardianships you can get, pet protective orders. There are pet custody battles. This is where we are right now and context is important. How society thinks, how society at large thinks we should treat animals is reflected in our laws.

This is a review of what I just said, and here's where we're going. Failure to ensure welfare is going to be the next legislative target.

What is animal welfare, Dr. Durenberger?

This is a brochure put out by the American Veterinary Medical Association. I'm a veterinarian. I like to think I'm an expert in welfare.

When I first engaged to speak about this topic, three years ago now, I was scared to death because welfare is a scary concept. I didn't have words to describe it. I kind of thought I knew what it was when I'd see it, that kinda thing, but I didn't have a vocabulary to use.

That bothered me, as someone with a scientific background.

Here's what the Veterinary Medical Association says. There is three things in this brochure. It says, "Animal welfare means how an animal is coping with the conditions in which it lives. An animal is in a good state of welfare if it is healthy, comfortable, well-nourished, safe, able to express innate behavior and not suffering from unpleasant states. It refers to the state of the animal. Protecting an animal's welfare means providing for its physical and mental needs."

What you'll see here is that all three of these statements include a component of emotional well-being, and they recognize that animals are sentient beings. In an international law, that recognition is leading the way. There is a standard vocabulary. Don't worry about reading this, but this is from Horse South Australia. The website's down in the lower right.

This is the Five Domains model of animal welfare. That's another lecture for another time, but I assure you that there is a ton of peer reviewed research on this. There are studies assessing welfare in race horses in other countries, not the United States. You're gonna be hearing about this a lot, and I'll explain why shortly.

As I said, the duty of care we owe to animals includes their physical and emotional needs. This is tremendously important to the majority of Americans. No matter

what survey you pull up, you're gonna see something like this. This was top three causes Americans care about last year.

Number one was animal welfare. We've got some representatives from the Thoroughbred Safety Coalition speaking later. They did some market research, as I understand, before putting out their statement recently, and I think they got some similar results. Maybe we'll hear about that later today.

It's also related to ethical consumerism. Ethical consumerism is when a consumer consciously chooses or avoids a product, or an experience based on the perceived ethics of the processes that are used to produce them.

The graph that's here shows that this is not just a Millennial or a Gen-X phenomenon. You'll see on this that this is consumers who actively consider company values when making a purchase and remember these are purchases of inanimate objects.

This has nothing to do with animals. This is just buying a product in the store. Even the Golden Generation, between 2015 and 2017, in a two-year period went from 20 percent who were concerned when they made a product choice to 32 percent. That's pretty impressive to me.

The business of animal welfare — we're in a business. This is an industry conference.

This is Bernie Rollin. He's an animal ethicist at the Colorado State University. He says, "Businesses and professions must stay in accord with social ethics or risk losing their autonomy."

Because of the intense emotional component of animal welfare, concerns are generally accompanied by a strongly felt need to do something. "We're now in this era where the public has a new skill set." I didn't make that up. A superstar in the field named Julie Fiedler, that's a quote from her. "The public has this new skill set which is characterized by interaction and reciprocity."

No longer is it simply, "I'm not going to go to a rodeo." Now it's, "I'm going to post about a petition to shut down the rodeo." You'll notice that everybody behind Mr. McElroy here has a cell phone.

I don't know how many of you golf, but probably most of you who golf don't have hundreds of people standing behind you videoing your swing. The public no longer just consumes news, and in sports they actually become part of the news. This can work positively too though. When you remember the picture that I showed you of

my perspective of the Belmont Grandstand before the 2018 Belmont Stakes, all those people had cell phones as well, and so it was news before it happened.

Racing's participants and fans have tremendous collective reach and influence. They have human interest stories and people follow them and people are engaged with them, and their personal interest stories resonate.

All right, why is this important for racing? I think it's obvious. Context is critical if we're gonna have meaningful public and internal debate, and we're having both.

We need to understand the basis for differing viewpoints where people come from, and we need to utilize a shared vocabulary so that we're all speaking the same language.

What happens to the industry going forward is gonna be very much a function of how society at large, not the racing industry, but how society at large views our relationship with animals. That is increasingly grounded in ensuring animals' welfare. You're gonna see this on the top of all of my talking point slides at the end, but racing must come to appreciate and zealously guard — this is gonna be my charge to you today — guard its social license to operate.

What is social license to operate? How many of you have heard this term? I have a couple of hands. When I started talking about this about a year ago, I would get no hands in the audience, so this is great.

What is social license to operate? It's basically consent. It's societal consent to an activity that is generally considered to be outside the norm. As I mentioned earlier, we derive income from animals and that is not the societal norm right now.

Remember, our industry is built on legislative exception and regulatory licensing schemes. If you wanna learn about social license, I suggest you Google Dr. Roly Owers. He's a delightful man from the U.K. His accent is way better than mine.

He is the Executive Director of World Horse Welfare, and they have a lot of videos on the internet. How it relates to equine sport is that social license is about bringing trust and accountability for welfare to the public. It is built on three things.

It's our three legged stool: legitimacy, credibility and trust. Because those are things that people perceive, it's really difficult to maintain. It can be withdrawn, and some of you have worked in the greyhound industry, if these are lost. Sustainability of our industry is 100 percent intertwined with our social license.

All right, this is a global conversation. As you can tell by the way license is spelled in many of these headlines, the rest of the world is talking about this more than we are.

The International Federation of Horseracing Authorities, an October conference, were talking about this.

The British Horseracing Authority is talking about this.

Australia, the Australian states are talking about this.

New Zealand is talking about this. Everybody's talking about this.

We're not talking about it in these terms yet in the United States.

If there are students here that are looking for capstone projects, I think this is a really interesting area to look at. I'd just like to offer that.

This is the superstar I mentioned earlier. If you're interested in the actual research, she's just completed, I believe, a Master's degree in Communication. She did a story — and this was about sport horses.

This was not specific to racing. This was just other equestrian disciplines. She wanted to find out how to enhance sports organizations' discourse in social license to operate. It was a very interesting study.

These are some of her results. The sports participants and the fans are the primary interface with the public on matters of equine welfare. But people perceive the sport authorities as the ones charged with making the welfare decisions.

These bodies, these governing bodies and trade associations are increasingly gonna be making welfare policies, what she calls "in the company of the public" because of the transparency requirements. She found that equine sports participants and organizations alike have a limited horse welfare vocabulary in universally explained welfare in nonspecific terms.

Here's what you can do as a participant in racing at any level. We're gonna need to focus on the legitimacy of our industry, the legitimacy of our social license. We have to become fluent in welfare and we can all do this together. We're all starting at square one as far as I can tell, so this can be an evolving process that everyone can be engaged in. You can be an ambassador.

I'm gonna spend quite a bit of time talking about minding the credibility gap because of the importance of that credibility and trust to our social license.

Focusing on legitimacy in horseracing — is Lonny Powell in the audience? I think this might've — okay. Is this your graphic? I think we talked about this at one point. Yeah. It's a hybrid, okay.

There are a lot of animal use industries, not just racing. Our friends in livestock production generate a tremendous amount of economic impact, but this is a big deal. To the extent that this message is out there about the economic impact of racing on an economy, it's very, very important.

Live racing is the tip of the economic iceberg. Let me try saying that again without stuttering. Live racing is the tip of the economic iceberg. The agribusiness and the economy of scales underlying the live racing business are huge and they're significant in the states where the breeding industries are large. I would argue that this is probably why we are where we are right now, and some of the other animal use and entertainment industries are where they are right now.

In my home state of New York, the equine industry, not racing but the equine industry in general, is the second largest agribusiness. Over 5 billion — with a B — dollars in economic impact.

That is huge, and it's very meaningful to the people in the New York assembly and senate. Legitimacy comes from economic impact. We can't ever forget that when we're around legislators, regulators, public forums, interacting with the people in your daily lives. There are excellent examples of this.

A lot of them are the work of the horseman's organizations at the local level because, again, horseracing is regulated state-by-state. What happens in your local state legislature is gonna have an impact on your local industry.

Legitimacy also comes from listening and responding to societal concerns rather than dismissing them. Reexamining some existing husbandry and training methods in light of new information about animal behavior and not being afraid to make change where needed. Because if you just dismiss the majority view, it guarantees you will remain in the minority, and we can't go there.

Becoming fluent in welfare. Racing organizations, racing participants alike, everybody in this room, this is my charge to you. Make a commitment to me, please, because we all wanna be here next year, and the year after that, and 10 years from now, and 50 years from now. We have to learn how to speak welfare. We can do this because there is a standard vocabulary. There are standard metrics. There are professionals who work in this field. That's another lecture for

another time but know that it's there and familiarize yourself with it. The public in general knows about things like the Five Domains model. They really do. We need to know about it. No matter what you — well, this was my charge to you, right?

Commit to learning this language and doing it together because it's gonna make us a better industry.

Be an ambassador. Seriously, have an elevator speech. I live in Manhattan. I actually have an elevator speech. Our doorman is a frequent donator to the New York racing tracks, but other than that I guarantee you that nobody in my building knows anything about racing.

They have no idea that we race at Aqueduct, which is in the city of New York, six months out of the year, much less that there's a \$5 billion industry upstate. I literally — this is corny — but when I'm in the elevator, if the conversation comes up, I literally have an elevator speech.

Because we're not going to find a zone of potential agreement with people who wanna eliminate racing, but there are far more people out there who don't know a thing about racing or breeding and the farms that sustain it.

If they hear about it from you first, rather than somebody else, a headline, a negative headline, it's impactful. I like to hope that the folks that I interact with in the elevator with my corny elevator speech, if they woke up the next morning and saw something on CBS morning news, they'd be like, "Huh, that's weird because I was just talking to somebody in the elevator about it, and she didn't seem like she was that wacky. She didn't seem like she was somebody who was into cruelty to animals."

It just helps having that out there.

Step four, minding the credibility gap. As I mentioned, this is not normal. It doesn't make it wrong. It just makes our basis and where we come from a little bit different from where other people who are talking about welfare are coming from.

We have skin in the game. Because we have skin in the game, what we say is viewed with skepticism. There may be a call for independent third-party assessment of welfare, of husbandry practices, of training methods that may be coming, and it may be necessary.

If we have our welfare vocabulary ducks in a row and we've done some scientific assessment, we will have answers.

This is Snitch. Snitch was a two-year-old Quarter Horse at the time that I took this picture. Snitch was cool. If I was looking at other horses in the shedrow, he would supervise. He'd watch them jog. He was into everything that was going on around him. He was engaged in his environment.

Racing is an all-consuming, year-round, 24/7 permanent gig. It's really difficult not to take questions about how we care for our horses personally, but you can't. You can't let that happen. You can't equate concerns about the welfare of our athletes with accusations that we don't care. Understand that the people who care about animal welfare care about animals.

They just don't understand what we do, but their motivation is really the same as ours. They care about animals. They express it very differently than we do, but that's where it's coming from.

Are welfare and racing compatible? I say unequivocally yes. This is very exciting. This is breaking news.

This is New Zealand racing. New Zealand racing, as far as I know, is the first jurisdiction to actually formally adopt a welfare program that incorporates the Five Domains model. It just went into effect this month.

This is a cartoon — if you go to their website you can find this. This is based on the excellent work of Dr. David Mellor, and they've incorporated this into their racing regulatory scheme. This did come from the governing body but everybody's involved. As Julie says, "Having a structured approach to address horse welfare will provide the organization with a framework to build capacity among all participants when contributing to the public conversation on welfare."

That's the goal here. This is very exciting to me. This is happening in the rest of the world, and it's happening in the rest of the world because of pressure. The same pressure that we're facing here.

Summary time, and then hopefully we'll be able to get you a five-minute coffee break. This is my take home message, and these are my talking points.

Racing must come to appreciate and zealously guard its social license to operate. You know what it is now. It isn't that difficult, you just hadn't heard it framed in that way, so I think you probably all understand what social license is now.

Now we have to guard it. This approach is meant to complement regulation. This is not a stand in for regulation. This works in tandem, but it's something that everybody does on the racetrack.

Everybody involved in racing must learn to speak welfare. We need to up our welfare game. We can do this together. This is probably the most important slide in my whole presentation. We can't forget that the social license is built on trust.

That trust is renegotiated between the industry, its stake holders and participants, and the public every single day with every new headline. Credibility and trust come from ensuring that what we say is being done is what is actually being done. My biggest fear is that we lose that leg of the stool, and that would be a catastrophic injury for racing so don't let that happen.

All right, and so finally we have the recognition that owners, trainers, jockeys, stable employees are the primary interface with the public about the welfare of our equine athletes. But we have a disconnect because the racing organizations are seen as being in charge, and we need to do this all together. This is a collective responsibility.

Live racing is a fragile ecosystem, okay. We have to hold each other accountable. This is the slide I always end with.

If we put the horse first, everything else follows in terms of safety for participants, in terms of integrity for the pari-mutuel customer, and in terms of return on investment for owners and breeders and all of the small businesses that racing employs.

I think that's it. We're gonna do no Q and A because we've got a little bit of a time crunch. That was very fast.

I'm happy to share my slide deck with anybody, and I hope to give this a few more times in the upcoming year at a few other events.

