

# **Offshore Racing & Sports Betting**

**Working Group**

**Final Report**

October 2015

## Membership of the Working Group

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Hon Chris Tremain (Independent Chair)

Mr John Allen (New Zealand Racing Board)

Mr Greg McCarthy (New Zealand Racing Board)

Sir Paul Collins (Sport NZ)

Mr Raj Krishnan (DIA)

Mr Stephen Reilly (DIA)

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# Statement from the Chair

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The Minister for Racing, Hon Nathan Guy, announced on 16 April 2015 the establishment of a Working Group to shed light on the increase in the number of New Zealanders engaging in offshore online racing and sports betting and to address the use of race and sport information by offshore gambling operators.

It has been my pleasure to lead this working group. I have been ably assisted by the New Zealand Racing Board Chief Executive, John Allen; the Chair of Sport New Zealand, Sir Paul Collins; the New Zealand Racing Board's Thoroughbred nominee, Greg McCarthy, who is also a breeder and racehorse owner; and Raj Krishnan and Stephen Reilly, two experienced managers from the Department of Internal Affairs.

Most industries across the globe have faced the disruptive influence of the internet. Some have rapidly adapted their business models to take advantage of the opportunities while others have not and now face the consequences - declining customer numbers and falling revenue.

The early move by offshore gambling operators to invest in the opportunities provided by the internet has had a significant impact on the New Zealand racing and sports sectors. Many thousands of New Zealanders now bet online using offshore websites, rather than through the channels provided on-course, off-course, or online by the New Zealand TAB.

When a Kiwi places a bet, originating from New Zealand, through an offshore gambling operator, they are disrupting our gambling policy framework. Offshore bets reduce the proceeds to our racing and sports communities, increase the risk of problem gambling and reduce the ability to pay for the social cost of problem gambling services, and increase the risk of integrity issues.

In addition, many offshore gambling operators have uplifted New Zealand racing and sports information for commercial use, without contributing to the costs incurred by either sector. They are therefore able to make higher than normal profits from bets placed on these races and sports events than the New Zealand TAB.

The New Zealand Racing Board was initially slow to react to this onslaught, resulting in significant leakage of revenue from the New Zealand racing and sports sectors. There are now strong signs of an increasingly proactive approach by the Board to protect its dominant domestic market position and to attract customers back to the New Zealand TAB. However, the Board faces the ongoing challenges of offshore gambling operators whose current approach is one of customer acquisition and growing market share.

The Working Group has proposed a range of solutions that will limit the erosion of the gambling policy framework and which will help to stem revenue leakage, retain clients, and grow turnover. In addition to this, the New Zealand TAB must continue to invest in its own people, its products, its service to clients, and its brand, to ensure the enhanced loyalty of Kiwi gamblers. The NZRB and its stakeholders will need to provide the investment capacity to achieve this.

Feedback from the corporate bookmaker sector indicates that the industry reluctantly accepts the need to pay for race and sports products used. There is also an acceptance that, in order to support local industry, to support product integrity, and to support harm minimisation, a fee needs to be paid for the right to offer online gambling services to the citizens of offshore countries. There is by no means a 100 per cent acceptance of this, and illegal gambling operators will continue to offer online services.

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Importantly, corporate bookmakers now consider gambling product to be a global commodity, so care needs to be taken in striking the right balance between fees charged and the value of the product provided.

There are wider issues in the racing sector that were raised by submitters, but which could not be addressed under the Working Group's terms of reference. These issues require further work.

A large number of New Zealanders enjoy a bet on racing or sports and that should not change. However, the New Zealand community benefits by having a strong gambling framework providing integrity and harm minimisation. Our economy benefits from a racing industry that generates \$1.6 billion in GDP and employs 17,000 people. Similarly, our sports sector benefits from betting on nationally recognised sports codes.

Betting with offshore gambling operators has a very real and adverse effect on the New Zealand community. It is therefore important that New Zealand continues to evolve its law and policy to ensure our community continues to benefit, whether bets are placed with the New Zealand TAB, or through offshore gambling operators.

A handwritten signature in black ink, appearing to read 'Chris Tremain', with a long, sweeping horizontal stroke extending to the right.

Hon Chris Tremain  
**Chairperson**

# Executive Summary

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Offshore gambling operators are adversely impacting on funding distributions to New Zealand's racing and sports sectors. They are undermining New Zealand's gambling policy framework by not making contributions to racing and sports codes, not covering the costs of problem gambling, potentially accepting bets that undermine the integrity of the codes, and weakening New Zealand's trusted operator in the TAB.

This is a rapidly growing problem. In 2010 there were around 23,000 New Zealanders betting offshore.<sup>1</sup> Today, an estimated 40,000 people bet offshore. The problem will continue to grow. New Zealanders betting offshore resulted in turnover totalling \$285 million a year in 2010. Today, betting turnover by New Zealanders with offshore gambling operators is estimated to be \$518 million a year. Growth in offshore betting has almost doubled in just five years, and this will continue to grow in the future. In addition, at least \$1 billion of bets are being placed internationally on racing and sports taking place on New Zealand soil.<sup>2</sup> Many offshore gambling operators are using the intellectual property created by the racing and sports sectors without paying for it.

The New Zealand racing sector relies on income from the New Zealand Racing Board. With more people betting offshore, returns to the racing community have been relatively static, and are declining in real terms, making it difficult to maintain the sector. Sports codes also receive less income as a consequence of offshore betting. The New Zealand TAB has been losing customers to offshore operators, but is now responding with new products and services designed to stem the flow and attract customers back.

New Zealand is not alone in meeting the challenges of increased competition from offshore gambling operators. Many other countries have already taken action to protect their domestic policy objectives and frameworks. Some countries have put up barriers; some have sought to license offshore operators, whereas others have looked to tax offshore operators or charge fees. The Working Group supports economic incentives as an appropriate response for New Zealand and is not confident that stopping access would work as a first line of approach.

The Working Group believes the competitiveness of the New Zealand TAB must be addressed. The New Zealand Racing Board is already working to improve its technology, products and services, but the Working Group recommends further investment by the Board, and amendments to the Racing Act 2003 to increase the range of betting products that can be offered by the New Zealand TAB.

The Working Group also proposes the introduction of an Offshore Bookmaker Fee through legislation. This would require an extraterritorial focus and a credible enforcement regime. Offshore gambling operators would be required to pay a fee whenever they accept bets on racing and sporting events taking place on New Zealand soil. The fee would also apply when they accept bets from New Zealanders. The introduction of fees is initially expected to raise up to \$16 million a year in revenue, increasing to \$26 million by 2020.<sup>3</sup> Fees revenue would support New Zealand's racing and sports sectors, and contribute to the costs incurred in New Zealand in supporting problem gamblers and maintaining the integrity of our racing and sports codes.

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<sup>1</sup> All figures sourced from Infometrics 2015 (see Annex D)

<sup>2</sup> New Zealand Racing Board, 2015

<sup>3</sup> Infometrics 2015 and Working Group

# Recommendations

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The Working Group:

- a. **supports** the current gambling policy framework in New Zealand that provides for consumer protections (including a ban on advertising by offshore gambling operators), trustworthy operators, and a return to the community;
- b. **notes** that the internet has had a significant and disruptive effect on racing and sports betting markets;
- c. **recommends** enhancing the competitiveness of the New Zealand TAB, including:
  - i. improving the products and services available through the New Zealand TAB; and
  - ii. amendments to the Racing Act 2003 to permit the New Zealand Racing Board to offer a more competitive range of betting products, including coverage of additional sports not covered by a national sports organisation, with distributions to Sport New Zealand;
- d. **recommends** the introduction of legislation with explicit extraterritorial intent to require all offshore gambling operators to register with New Zealand authorities and to pay an Offshore Bookmaker Fee whenever they:
  - i. accept bets on New Zealand racing and sports events that take place on New Zealand soil; and/or
  - ii. accept bets originating from New Zealand;
- e. **supports** strong enforcement provisions. Options could include giving regulators the power to issue non-compliance notices to offshore gambling licensing bodies/regulators, collecting debts for unpaid fees and laying criminal charges on directors and management representatives of non-compliant offshore operators;
- f. **recommends** the Offshore Bookmaker Fee be based on betting turnover and be set by Order in Council with periodic scheduled reviews;
- g. **recommends** that revenue from the Offshore Bookmaker Fee be used to allow development of racing, increase the competitive position of the New Zealand TAB, and benefit sport including a distribution to Sport New Zealand; and
- h. **supports** Government proposals to charge Goods and Services Tax (GST) on offshore services, including gambling services, and recommends information sharing between Inland Revenue and Internal Affairs to support the proposed Offshore Bookmaker Fee.

# Background to the Racing and Sports Sectors

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## The Racing Sector

- 1 There are over 100 racing clubs in New Zealand. These are recognised within one of the three racing codes - thoroughbred racing (gallops), harness racing (trotting), and greyhound racing. New Zealand racing clubs are not-for-profit organisations, governed mostly by volunteers that hold 10,000 races each year. A significant industry revolves around this activity, including around 5,000 breeders, 2,000 trainers, 27,000 owners, and a considerable number of staff employed by the clubs. A 2010 report<sup>4</sup> suggested that the racing sector, at that stage, contributed over \$1.6 billion a year to New Zealand's economy (not including betting turnover).

## The Sports Sector

- 2 The sports sector is an incredibly diverse sector. National Sports Organisations (NSOs) now engage with more than a million New Zealanders each year. Sport receives funding from a range of sources, including funding from the gambling sector.
- 3 Sport New Zealand funding comes primarily from Government and The Lotteries Grant Board. It provides leadership in the sports sector and sets goals, monitors progress against those goals, and provides funding to NSOs (including for High Performance Sport) and Regional Sports Trusts.
- 4 Like the racing sector, sports clubs are frequently not-for-profit entities governed by volunteers. A wide range of businesses support sports activities and these contribute significantly to the New Zealand economy. A 2015 study<sup>5</sup> shows that sport contributes over \$3 billion a year to the New Zealand economy.

## The New Zealand Racing Board

- 5 The New Zealand Racing Board is recognised in statute (the Racing Act 2003). It has three key functions as outlined in the Act:
  - To promote the racing industry;
  - To facilitate and promote racing betting and sports events; and
  - To maximise profits for the long-term benefit of New Zealand racing.
- 6 The New Zealand Racing Board is the sole provider of betting services in New Zealand and is the only operator able to advertise that it takes bets. The New Zealand TAB is the brand used by the New Zealand Racing Board for its betting service. The TAB offers a range of betting products including totalisator and fixed odds betting.
- 7 Betting on the three racing codes revolves around the racing calendar, overseen by the New Zealand Racing Board. Bets are also accepted on a wide range of sports events. Sports betting is currently limited to sports with a recognised NSO in New Zealand.
- 8 The New Zealand Racing Board through an agreement with Sky Television also operates two TV channels broadcasting racing and sports information, and live coverage of racing.

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<sup>4</sup> All racing-related figures have been sourced from *Size and Scope of the New Zealand Racing Industry*, New Zealand Racing Board, October 2010

<sup>5</sup> All sports-related figures have been sourced from *The Economic Value of Sport and Outdoor Recreation to New Zealand*, Paul Dalziel, AERU, Lincoln University, 9 June 2015

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- 9 New Zealanders can place bets with the TAB through a number of sales channels including at a race meeting (on-course betting) or at any TAB retail-betting outlet (off-course betting). New Zealanders can also access the TAB phone betting service, or place bets online using a computer, or via a mobile application, or through the TAB's website on their tablet or smartphone. Increasingly, New Zealanders prefer to place a bet online rather than using more traditional face-to-face channels or the phone betting service, which are in decline.
  - 10 In the 2014 financial year, total turnover through the New Zealand TAB was in excess of NZ\$1.8 billion. \$1.517 billion of this was race betting, and \$316 million was sports betting<sup>6</sup>. Betting on sports is growing at a faster rate than betting on racing. Betting overall was up 6.8 per cent. Gross betting revenue totalled \$310 million resulting in a total net profit of \$137 million before distributions.
  - 11 The Racing Board is required by law to distribute profits from betting back into the racing and sports sectors. The racing sector is highly reliant on profits from betting. In 2014, the three racing codes received \$134.1 million. Most of this funding is, in turn, distributed to racing clubs.
  - 12 NSOs also receive a percentage of sports betting turnover and gross betting revenue. In the 2014 financial year, NSOs received just over \$5 million. As sports betting is growing at a faster pace than race betting, the proportion of turnover being bet on sports will rise, and so too will returns to sport.

## **Harm Minimisation and Maintaining Integrity**

- 13 All forms of gambling, including racing and sports betting, can result in harm. The New Zealand gambling policy framework has built-in protections to prevent and minimise harm, and to support problem gamblers.
- 14 Given the potential for someone to seek to influence the outcomes of racing and sports events in order to make money from betting, sports and racing codes place considerable emphasis on maintaining integrity. For example, the Racing Integrity Unit continually monitors all races to identify potential integrity breaches and to investigate issues.
- 15 Sports codes have their own systems for maintaining discipline within their respective codes, and integrity is central to these systems.

## **Offshore Gambling Operators**

### ***Australian TABs***

- 16 Around 50 per cent of all race bets in New Zealand are taken on Australian races. The New Zealand Racing Board has agreements with Australian TABs that provide reciprocal access to each other's race information. A fee of 3 per cent of turnover applies in both directions. These arrangements also provide for the betting pools in both countries to be merged together (in what is known as "commingling").
- 17 These Australian TAB operators are paying for access to the New Zealand product, and the agreements provide a return to the New Zealand racing sector. The current agreements made between the New

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<sup>6</sup> All figures in this section were sourced from the New Zealand Racing Board Annual Report 2014

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Zealand Racing Board and Australian TABs do not cover sporting events. In addition, these operators have been willing to provide information to maintain the integrity of New Zealand racing events. Betfair Pty Ltd has also been willing to supply information to support racing integrity operations in New Zealand.

### **Other Offshore Gambling Operators**

- 18** Offshore gambling operators, outside of the Australian TABs, do not have agreements with the New Zealand Racing Board to access race information. There are many internet-based operators globally, but a smaller number of Australian licensees attract most of the offshore bets placed by New Zealanders. These operators are very focussed on building and maintaining a strong customer base. With globalisation of the industry, many are finding it difficult to make a profit. Mergers and takeovers are commonplace with the industry focussed on aggregating the customer base.
- 19** Offshore gambling operators typically provide a range of products to customers that may include lotteries, card games such as poker, simulated poker machines and table games, and fantasy sports games in addition to betting on sport and racing events.
- 20** Generally the industry, at least in Australia, appears to have accepted that they do have to buy the product used for betting purposes, since there is a cost to production of the intellectual property. This acknowledges that the racing and sports industries face costs, including tax and salaries, and recognises that there are costs in maintaining the integrity of sport and race codes. There is also recognition that there are costs associated with the potential for problem gambling, money laundering and organised crime.

### **Terminology**

- 21** Note that there are two commonly used measures of the level of betting activity:
- *Betting turnover* – which is the sum of every bet placed; and
  - *Gross betting revenue* – which represents the gross profit taken by a gambling operator after wins have been paid out on bets placed.
- 22** While the relationship between gross betting revenue and betting turnover (the margin) varies significantly between the events being bet on, various bet types, fixed odds pools and totalisator betting pools, betting turnover tends to be approximately 10 to 12 times greater than gross betting revenue.

# **The Underlying Drivers of Racing and Sports Betting in New Zealand**

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## **Gambling Legislation**

**23** Racing and sports betting in New Zealand is conducted under the Gambling Act 2003 and the Racing Act 2003.

### ***The Gambling Act***

**24** The purpose of the Gambling Act 2003 is to control the growth of gambling; prevent and minimise harm from gambling (including problem gambling); authorise some forms of gambling and prohibit the rest; facilitate responsible gambling; ensure the integrity and fairness of games; limit opportunities for crime or dishonesty associated with gambling and the conduct of gambling; ensure that money from gambling benefits the community; and facilitate community involvement in decisions about the provision of gambling.

**25** Unless authorised by the Gambling Act or the Racing Act, gambling is illegal. Only the New Zealand Racing Board and the Lotteries Commission are permitted to operate online gambling.

### ***The Racing Act***

**26** The Racing Act 2003 sets out the regulatory framework for the racing and sports betting sector and clarifies the racing codes. The purposes of the Racing Act are to provide effective governance arrangements for the racing industry, facilitate betting on racing and sporting events and to promote the long-term viability of New Zealand racing.

**27** The Act establishes the functions and powers of the New Zealand Racing Board and provides for the distribution of funds to the racing codes and National Sports Organisations. The Act sets expectations for racing codes and clubs. It provides for racing rules, their amendment, and for compliance, including penalties for breaches. The Act also provides for a racing judicial system, a racing calendar, and for the conduct of betting. The Act includes provisions relating to harm prevention and minimisation.

## **Gambling Policy Framework**

**28** The New Zealand gambling sector is managed within a well-settled, coherent and widely supported policy framework based around:

- a)** A benefits orientation;
- b)** Strong consumer protection measures; and
- c)** Trusted and reputable operators.

**29** The regulatory arrangements vary across gambling sectors, with the racing and sports betting sector consistent with the framework in that:

- a)** A benefits orientation underpins the operations of the New Zealand Racing Board, with surplus funds shared by the racing and sports sectors;
- b)** Strong consumer protections ensure problem gambling is minimised and racing and sports events are not subject to influence by betting activity; and
- c)** The New Zealand Racing Board as an independent statutory board, appointed by the Minister for Racing, is accountable to Parliament, and can be trusted by New Zealand consumers.

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- 30** This framework underpins the Gambling Act 2003 and the Racing Act 2003, which in turn prescribe the framework in which the racing and sports betting sectors operate in New Zealand.
- 31** New Zealand is recognised as having strong provisions to prevent and minimise gambling harm. New Zealand also has well developed health services to address gambling harm, which stretch across the prevention through intervention spectrum. These services, purchased by the Ministry of Health, are paid for by gambling operators via a sector levy. Compared to other gambling sectors, racing has a relatively low presentation rate of problem gamblers in health services. Advertising of betting opportunities is prohibited, except by the New Zealand Racing Board.
- 32** The integrity of the gambling system is regarded as very important. The Racing Integrity Unit, owned by each of the racing codes and the New Zealand Racing Board, is vigilant in investigating any signs of integrity lapses in the racing sector. All NSOs must also be able to demonstrate that they are maintaining the integrity of their code.
- 33** All gambling activities need to align with the policy framework. Unregulated activities, such as those provided by offshore gambling operators, generate risks to individuals, organisations, and the system as a whole. Offshore online gambling will continue to weaken the overall New Zealand policy framework, since offshore operators cannot satisfy all of the above principles.
- 34** The Working Group strongly supports the gambling policy framework that New Zealand has adopted. The Working Group has used the framework as one of the criteria for evaluating the effectiveness of options that it has considered, in order to address the presenting issues.

## **Regulation of Gambling**

- 35** Gambling is not a typical consumer commodity or service as there are externalities that impact on other New Zealanders, including harm to individuals and their families that can result from problem gambling, potential for loss of integrity in racing or sports events, and potential for money laundering. The management of these externalities is reflected in New Zealand's gambling policy framework. There is explicit regulation of the system to manage the associated risks and to provide for a return to the community.

## **New Zealand Accountability Framework**

- 36** The New Zealand Racing Board is a statutory body, with its members appointed by the Minister for Racing, however, it is not a Crown Entity.
- 37** The New Zealand Racing Board outlines its future intentions through a Statement of Intent and reports on its achievements in its Annual Report. The Annual Report includes a description of achievements in terms of the performance measures outlined in its Statement of Intent. It also includes information on financial performance.

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### ***The Business Model***

- 38** The accountability framework operating in New Zealand means that costs incurred by the codes and clubs in generating race information, are incorporated within net proceeds for distribution to the racing and sports sectors.
- 39** This structure makes it difficult to estimate the costs of producing the racing and sports information (intellectual property) required to operate a betting service, and to assess the commercial value of this information. This is not a criticism of the model but an observation on its limitations.

### **New Zealand Taxes, Duties and Levies in the Racing Sector**

- 40** The New Zealand Racing Board is liable to account for GST on betting revenues. It also pays Totalisator Duty (4 per cent of gross betting profits); Gaming Machine Duty (20 per cent of gross gaming profits) and problem gambling levies (0.6 per cent of gross betting profits and 1.31 per cent of gross gaming profits) but it is not subject to income tax. It also pays fringe benefit tax, KiwiSaver employer contributions, ACC employer premiums and various amounts paid on behalf of employees (PAYE, ACC earners premiums, KiwiSaver employee contributions).

### **The Rise of the Internet**

- 41** The internet has impacted on businesses everywhere. It has greatly expanded opportunities for businesses and significantly changed the way business is done. New Zealand's racing and sports betting services have been impacted by the internet as a result of:
- a)** An increased focus on consumer preferences and choice;
  - b)** Increased convenience, with a proliferation of internet-connected devices, rising levels of access to the internet and improved connection speeds; and
  - c)** Lower cost of access to the internet.
- 42** Consumers increasingly prefer internet access over traditional sales channels. The New Zealand Racing Board has seen digital turnover grow at approximately 25 per cent per annum since 2010 and digital services now represent 43 per cent of all betting turnover<sup>7</sup>.
- 43** Growth in online services reflects consumer preferences to make purchases wherever and whenever it is convenient to them and to access information online to inform their decision making. The proliferation of internet-connected devices has emphasised the convenience factor. Greater diversity in the range of devices connecting to the internet has led to increased demand for a variety of online forms of entertainment.
- 44** Four in five New Zealand homes are now connected to the internet and the number of households using more than one device to connect to the internet doubled, from 21 per cent to 40 per cent, in just three years<sup>8</sup>. New Zealand's average internet access speeds are some of the fastest in the world and almost double those in Australia<sup>9</sup>.

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<sup>7</sup> New Zealand Racing Board

<sup>8</sup> Statistics New Zealand report on Use of the Internet, 2013

<sup>9</sup> <http://www.stuff.co.nz/technology/digital-living/68698993/nzs-internet-speeds-arent-that-bad>

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- 45** Costs of broadband access have decreased and the Government's investment in broadband infrastructure now exceeds \$2 billion, with much of this being spent on infrastructure in rural areas and in small towns.
- 46** The internet has changed the way many New Zealanders make purchases of goods and services, and has removed most historical barriers to importation of foreign services. This includes access to betting opportunities provided through the internet. These services are provided by the onshore operator (New Zealand TAB) and a variety of offshore gambling operators.

# The Presenting Issues and their Causes

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47 The Working Group has focussed on refining the nature, size and causes of the problem, which has two dimensions:

- a) Offshore gambling operators who accept bets originating in New Zealand are reducing the New Zealand Racing Board's revenues and distributions back to the community; increasing problem gambling risk; increasing the risk of undermining the integrity of the New Zealand racing and sports sectors; and not paying taxes, duties and levies that would otherwise be recovered from the New Zealand TAB; and
- b) A number of offshore gambling operators use New Zealand racing and sports information (New Zealand's intellectual property) for commercial gain and do not contribute back to the New Zealand racing and sports sectors that have developed the information.

48 In order to inform the Working Group's understanding of the issues, the likely scale of the problem, and to collect ideas for solving the issues, the Working Group actively engaged with stakeholders. Details on stakeholder engagement undertaken by the Working Group can be found in Annex B, and a summary of the views of stakeholders can be found in Annex C.

## Why are New Zealanders Betting with Offshore Agencies?

49 Feedback from stakeholders and research commissioned by the Working Group gave a very clear picture as to why New Zealanders are betting with offshore gambling operators. Choice of offshore gambling operators for New Zealand consumers means they have been able to access a better product range, service mix, and pricing of products than from the New Zealand TAB.

### *Product Range*

50 Offshore gambling operators are providing a much wider range of betting products and these products are more compelling. Nielsen<sup>10</sup> research found that almost a third of New Zealanders betting offshore were doing so because the New Zealand TAB did not offer the betting options they were seeking.

51 The New Zealand TAB typically offers significantly fewer markets or options on any one event than other offshore operators. For example, a comparison of betting options for Game 1 of the State of Origin competition in May 2015 revealed 45 betting options available on the New Zealand TAB compared with 152 with Sportsbet, 203 with Centrebet, and 112 with Ladbrokes (Australia). The Working Group has been advised that this disparity is primarily due to the dated technology platform used by the New Zealand TAB, i.e. manual processes and systems are used to manage fixed odds betting, which constrains its ability to offer a competitive product range.

52 The Racing Act 2003 also restricts the New Zealand TAB to betting on sports represented by an NSO, and prohibits in-race betting and 'novelty' betting on events that are not racing or sports related. All of these products are readily available online with offshore gambling operators. In fact, offshore gambling operators integrate racing and sports betting services into a wide variety of other, often unrelated, online gambling services. These may include virtual gaming machines, card games (e.g. poker), and online table games (e.g. blackjack) and lotteries.

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<sup>10</sup> Nielsen, August 2015, Online Gambling Survey, Report prepared for NZ Racing Board

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### **Customer Service**

- 53** Activating, attracting and retaining customers were raised by stakeholders as key challenges for the New Zealand TAB. This represented a strong reason for some New Zealanders to consider betting offshore. This was, in part, driven by brand distinctiveness, with the New Zealand TAB sharply contrasted with the aggressive customer acquisition stance of competitors using large “free bet” incentives to attract new customers, along with online credit betting facilities.
- 54** The New Zealand Racing Board has begun to address these issues, including the TAB brand. The Board is aware of the need to retain their existing customer base and attract back bettors who are now betting offshore. The development of Elite Customer Services is an example of an initiative that has contributed to customer growth and retention.

### **Price - Better Odds**

- 55** The difference between the odds available through offshore gambling operators and those on offer through the New Zealand TAB was raised by stakeholders as a key reason why New Zealanders were betting offshore. For example, many offshore gambling operators provide a “Tote-plus” product that pays out 5% per cent more than totalisator dividends offered by the New Zealand TAB.
- 56** Nielsen<sup>11</sup> research indicates, however, that just 13 per cent of offshore bettors identified better odds as the main reason for betting offshore. Differences in pricing result from a combination of factors including scale of operation and structural differences in the cost base (such as taxation rates and non-payment of product fees).

### **Supply Side Challenge**

- 57** The New Zealand Racing Board, in responding to the pressure on products, services and pricing of their product, has been faced by some key supply constraints, including:
- a) the regulatory framework places limits on the betting products that the New Zealand Racing Board can offer (such as in-race betting, limits on the range of sports, and the inability to offer services outside of sports and race betting);
  - b) The smaller scale of the New Zealand Racing Board compared to some of its offshore competitors;
  - c) A playing field that favours offshore gambling operators, since they are not subject to New Zealand GST, duties and levies, and do not contribute towards the New Zealand racing and sports sector costs; and
  - d) Significant capital requirements have presented a challenge to updating the technology infrastructure, with almost all net profit being distributed to racing and sports sectors.

### **Why are Offshore Gambling Operators using New Zealand’s Racing and Sports Information?**

- 58** Offshore gambling operators are using New Zealand race and sports information for betting purposes because of the attractiveness of New Zealand racing and sports events and time zone, the availability of free product, and the ability to make higher than normal profits than on similar products.

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<sup>11</sup> Nielsen August 2015, Online Gambling Survey, Report prepared for NZ Racing Board

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- 59** Australia is the primary offshore market for New Zealand’s racing and sports products, with interest and growth also occurring in Asian markets. Racing and sports product can be readily substituted by betting operators, so relevance and price represent key constraints on the uptake of New Zealand’s racing and sports information. As many New Zealand fixtures take place two to five hours earlier in the day than Australian events, this enables Australian and Asian based gambling operators to extend the availability of betting opportunities. Australian-based operators use a high proportion of New Zealand racing as indicated in the example of uptake in Annex F.
- 60** Without a strong legal imperative to do otherwise, offshore gambling operators are likely to continue to use New Zealand products without paying for them.

***Lack of a Regulatory Framework in New Zealand in Response to Offshore Competition***

- 61** The New Zealand Racing Board has not openly asserted copyright on the information it compiles on New Zealand races and sports events. Neither has it challenged use of the information by offshore gambling operators in the courts.
- 62** While advice suggests the New Zealand Racing Board would probably be able to assert copyright on racing and sports betting information, enforcement of copyright offshore through litigation tends to be very expensive and would not necessarily create precedents that could be relied upon. The costs of litigation are therefore likely to exceed the benefits being sought. The ability to reformat information also means that it may be relatively easy for offshore gambling operators to avoid infringement of copyright.
- 63** The need to receive a return on the investment in racing and sports intellectual property is an area in which stakeholders have firm views. In other jurisdictions, legislated responses to compensate for intellectual property have been successful. Legislation to recover the value of the intellectual property is likely to be much more effective than litigation.

# Scale of the Issues

## Challenges in Identifying the Scale of the Issues

**64** Identifying the scale and impact of the issues associated with offshore gambling operators has been challenging, as research studies were not in full agreement with each other. Participation in online betting and the level of offshore betting are changing quickly, causing studies to become dated quickly.

**65** Information on the value of offshore bets taken by offshore gambling operators on New Zealand sports and racing product has also proved challenging to find. No current surveys exist to answer this question but a methodology was developed to estimate the size of this activity base.  
Number of New Zealanders placing bets offshore and the value of those bets

## Number of New Zealanders placing bets offshore and the value of those bets

**66** A range of research has been undertaken to gauge the number of New Zealanders betting offshore and the value of bets placed by them. Survey results are not consistent and disagree with each other in respect to:

- a) The number of people placing bets with offshore gambling operators;
- b) The level of turnover/expenditure on bets placed offshore; and
- c) The rate of growth of betting over time.

**67** Three additional studies were procured by the Working Group:

- a) An update of the 2010 Nielsen survey to give the most up-to-date data from June/July 2015;
- b) Information from H2 Gambling Capital, a widely referenced and respected offshore consultancy company, that is known to survey all identifiable gambling operators globally;
- c) A survey undertaken by a New Zealand bank of credit card expenditure with offshore gambling operators.

**68** In addition, more recent data from the National Gambling Study (AUT) relating to 2013 and 2014 was made available by the Ministry of Health.

**69** The following table indicates the surveys drawn on by the Working Group:

Survey Instrument	Research Organisation	Nature of Survey
Nielsen 2010 and 2015	Nielsen (commissioned by New Zealand Racing Board and the Working Group)	Large sample internet survey comprising blended sampling and including over-sampling of New Zealand TAB high turnover bettors. Estimated numbers of bettors betting offshore and annual value of those bets. Low participation rate.
National Gambling Study 2012, 2013, 2014	AUT/NRB (commissioned by Ministry of Health)	Large sample using stratified random sampling with face-to-face interviews. High participation rate (64%).
Colmar Brunton Online Gambling 2010	Colmar Brunton 2010 (commissioned by Lotteries Commission)	Small sample, three-month period. High error margin.
Health and Lifestyle Survey 2012	Commissioned by Ministry of Health	Reasonably large random sample.
H2 Gambling Capital	Commissioned by Working Group	Surveys of offshore gambling operators collated by consultancy company (around 50% response rate) and then scaled for market.
Marketview	Commissioned by Working Group	Actual expenditure on betting with offshore gambling operators using BNZ card data only.

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### **Triangulation of Available Research**

- 70** The Working Group commissioned Infometrics to undertake an independent triangulation of available data on the number of people betting with offshore gambling operators and the value of their spend.
- 71** While research studies showed some variability in estimates for participation levels, there was far greater variability in estimates of expenditure on offshore betting by New Zealanders. Infometrics acknowledged the range of expenditure estimates, but noted that the wide range of results did not invalidate any of the studies. Each survey provided a different lens on the extent to which New Zealanders were betting offshore. All had strengths and weaknesses in their survey design. Infometrics weighted the results and derived a best estimate of the scale of the issue.
- 72** This assessment was based on the judgement of an experienced assessor of quantitative research.
- 73** The following table summarises the scale of the issue as triangulated by Infometrics (using a subjective weighting system):

<b>Factor</b>	<b>Period</b>	<b>Triangulated Estimate</b>
Participation in offshore betting	2010 - 2012	20,000 – 26,000 New Zealanders making a bet in the previous 12 months
	2015	40,000 New Zealanders making a bet in the previous 12 months
Growth in participation	2010 - 2015	15% p.a.
Expenditure/ betting losses	2010 - 2012	\$32 million expenditure (\$285 million turnover)
	2015	\$58 million expenditure (\$518 million turnover)
Growth in spending	2010 - 2015	16.2% p.a. expenditure growth slowing.

- 74** The full assessment from Infometrics can be found in Annex D.

### **Value of Bets Taken by Offshore Gambling Operators on New Zealand Racing and Sports Events**

- 75** Information on the value of bets taken by offshore gambling operators on New Zealand racing and sports events has been difficult to quantify. Currently 99 per cent of the New Zealand Racing Board's exports are to Australia. Therefore, the Working Group had based its estimate on an extrapolation of published Australian market share data and known turnover by Australian TABs. The Australian TABs have between 50 and 60 per cent of the Australian betting market. This allowed the Working Group to estimate turnover by corporate bookmakers on New Zealand racing product, assuming Australians are placing around the same proportion of their bets on New Zealand races through corporate bookmakers as they do through their TABs.
- 76** It is estimated that around \$1 billion per annum is being bet offshore on New Zealand racing and sport. This comprises:
- Around \$600 million of racing bets through the Australian TABs;
  - An estimated \$300 million of racing bets being placed with other offshore gambling operators; and
  - Between \$60 million and \$225 million in sports bets.

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- 77** Around \$600 million in turnover is received by Australian TAB operators, who already pay for access to racing information from the New Zealand Racing Board. Corporate bookmakers licensed in Australia are estimated to be taking an additional \$300 million worth of bets on New Zealand racing product each year, for which New Zealand does not receive a contribution towards the cost of production. The extent of use of New Zealand racing intellectual property beyond Australia is not known, but is thought to be relatively small.
- 78** The value of bets taken by offshore gambling operators on sports events played on New Zealand soil is not known and it is difficult to make a point estimate. A low scenario assumes the international market is equivalent to the New Zealand market for domestic sports events, i.e. \$60 million per year in betting turnover. An alternative scenario assumes the international market for New Zealand sports events is 20 per cent of the total market for New Zealand product. This equates to an estimate for turnover of \$225 million per annum of betting turnover.
- 79** It has not been possible to cost effectively narrow this relatively wide range. These calculations are described in Annex G. For the purposes of quantifying revenue, the lower estimate of \$60 million has been used.

# Effects

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80 The result of these issues and their scale is that there is:

- a) Loss of funding to the racing and sports sectors;
- b) Loss of revenue to the New Zealand government;
- c) Increased risk of the loss of integrity in New Zealand's racing and sports sectors; and
- d) Potential for increased risk to gamblers in accessing offshore gambling operators<sup>12</sup>.
- e) Loss of funding to the racing and sports sectors

## Loss of Funding to the Racing and Sports Sectors

81 The global betting market is still growing and so is the level of betting in New Zealand. One of the factors hurting the New Zealand racing sector is the loss of revenue from betting offshore. The New Zealand Racing Board and Australian TABs, contribute to the costs of race meetings and the intellectual property used to enable race betting. Other offshore gambling operators do not. If the \$518 million estimated turnover currently bet offshore was spent with the New Zealand TAB, the racing codes would receive an additional \$39.5 million in distributions<sup>13</sup>.

82 Sports are also losing funding that would otherwise have come to them from the New Zealand Racing Board for betting on sports events (both on and offshore) if the bets were not currently placed with offshore gambling operators. NSOs would receive an additional \$5 million per annum<sup>14</sup> if those bets were placed with the New Zealand TAB.

### *New Zealanders Betting Offshore*

83 As indicated in the previous chapter, the number of New Zealanders betting offshore has grown significantly in the last five years, increasing from between 20,000 to 26,000 in 2010 to around 40,000<sup>15</sup> today. While the rate of growth is likely to slow eventually, further growth can be expected for some time. Without a change in current policy settings, there could be as many as 80,000 New Zealanders betting offshore by 2020. This would represent around half of the entire New Zealand TAB account customer base.

84 The total amount of betting losses by New Zealanders to offshore gambling operators has also been growing over the last five years, although the average bet size per customer is slowly decreasing<sup>16</sup>. As indicated in the previous chapter, in 2010, total betting losses with offshore gambling operators were estimated to have been in the order of \$32 million per annum. Today these losses are estimated to be in the order of \$58 million per annum (or around \$518 million in turnover). This corresponds to an average growth rate over the last five years of 16.2 per cent per annum<sup>17</sup>. Assuming a slightly lower annual growth rate of 11.5 per cent in future, as suggested by Infometrics, and no change in government policy, then betting losses to offshore gambling operators could rise to around \$100 million per annum (or almost a billion dollars in turnover) within five years<sup>18</sup>.

### *Offshore Gambling Operators using NZ Racing and Sports Event Information Without Payment*

85 The previous chapter indicated that the turnover on New Zealand racing product in Australia (excluding turnover through Australian TABs) was estimated to be \$300 million per annum. This turnover with Australian gambling operators is forecast to grow from 35 to 45 per cent of the market share by 2023<sup>19</sup>. Market analysts also expect continued growth in the Australian betting market.

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<sup>12</sup> The National Gambling Study (AUT, 2012) found that online gambling has significantly increased risk of harm (OR=17.7)

<sup>13</sup> New Zealand Racing Board Estimate

<sup>14</sup> New Zealand Racing Board Estimate

<sup>15</sup> Infometrics 2015 (see Annex D)

<sup>16</sup> Nielsen 2015 (commissioned by Working Group)

<sup>17</sup> Infometrics 2015 (commissioned by Working Group)

<sup>18</sup> Analysis by Working Group

<sup>19</sup> GBGC and Morgan Stanley 2015

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- 86** The amount being bet on New Zealand sports events is more difficult to assess, but is estimated to be in a range from \$60 million and \$225 million per annum (which equates to between \$5 and \$20 million dollars in gross betting revenue). The sports betting market is growing rapidly, both in New Zealand and offshore, so these figures will continue to grow quickly over time.
- 87** With an estimated growth rate of around 6 per cent per annum in sports betting, by 2020 it is thought that offshore gambling operators (not including the Australian TABs) could conservatively be generating \$480 to \$700 million in turnover from racing and sports events on New Zealand soil.

### **Loss of Government Revenue**

- 88** The New Zealand government is also losing revenue, meaning that taxpayers are shouldering some of the externalities associated with offshore betting. If a bet is placed through the New Zealand TAB, instead of through an offshore gambling operator, the government would receive Goods and Services Tax and duty payments on expenditure. The loss in GST from New Zealanders betting offshore is already \$7.7 million per year, and this could grow to \$16 million per year over the next five years unless policy changes occur.<sup>20</sup>

### **Increased Risk of Loss of Integrity**

- 89** Placing a bet offshore is not immediately visible to the Racing Integrity Unit in New Zealand. While it is possible to follow up on unusual patterns with TABs operating in Australia, and with Betfair (by arrangement) it is not possible to follow up bets placed with other offshore gambling operators as there are no regulatory controls on offshore gambling operators.
- 90** Without the ability to investigate betting information, there is a significant risk of bets being used to manipulate odds, through race or match fixing behaviour. The risks associated with match fixing in sport have been growing, and addressing betting offshore on New Zealand sports matches will become more important over the next few years.
- 91** Co-operation with offshore agencies already exists, and offshore gambling operators may be subject to scrutiny of bets placed by offshore regulators. While mutual regulatory controls would be one way of ensuring access to information, scrutiny can currently only be exercised where there is a contractual arrangement that provides for this. Legislative powers would be desirable to require offshore gambling operators to disclose betting suspected to be linked to any weakening in the integrity of New Zealand racing and sports events.

### **Potential for Greater Harm, Paid for by New Zealand TAB Users**

- 92** It is possible that bettors based in New Zealand will face elevated risk of harm from gambling with offshore gambling operators. This is because the regulatory protections available offshore to bettors are not as stringent as they are in New Zealand. For example, credit betting facilities are not permitted in New Zealand, and sign-up inducements are relatively insignificant. Research<sup>21</sup> shows that the prevalence of problem gambling is higher in Australia (at 0.5 per cent of the population) than in New Zealand (at 0.3 per cent of the population). Other countries in Europe and North America also have higher prevalence rates for problem gambling. Problem gambling presentation rates for services in New Zealand are also lower than in other countries.

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<sup>20</sup> Based on growth rates from Infometrics 2015

<sup>21</sup> See New Zealand Health Survey. Ministry of Health, 2012 for information on prevalence and presentation rates

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- 93** The costs associated with any increase in problem gambling are, however, already being captured inside the New Zealand health sector, and the New Zealand Racing Board is paying for these costs. It is not possible to separate out these costs as the methodology used to record presentations does not currently assess whether gambling was within or outside of New Zealand.
- 94** Offshore gambling operators currently make no contribution to the New Zealand government towards the cost of harm generated in New Zealand.

# International Approaches

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## Trends in Jurisdictional Responses

- 95** The Working Group looked to a wide range of international jurisdictions to assess the effectiveness of different approaches and to examine the effectiveness of compliance and enforcement mechanisms. This included recent changes in Australia and the United Kingdom. The Working Group also looked at changes within OECD countries and wider global trends.
- 96** Global responses to the challenge of online betting range from the banning of websites and blocking of credit card settlements (e.g. in China and the United States) through to liberalisation and deregulation of markets (e.g. UK). The middle ground of regulated markets appears to offer the most promise to New Zealand in terms of a way forward.
- 97** It is clear that offshore gambling operators are no longer considered to be excluded from domestic gambling regulatory regimes simply because they are physically located outside the country. Operators providing services to a country's residents, wherever they are based, are now subject to scrutiny or regulation in many comparable OECD countries.
- 98** There appears to be a clear trend towards regulating online gambling in OECD countries, either through licensing operators in-country (as many European countries have chosen to do) or by developing regulatory responses which are intended to have extraterritorial effect (e.g. Ireland, UK and France). Almost half of the OECD group of countries licence corporate gambling operators. The costs of licensing have to be considered alongside the benefits. The Working Group concluded that licensing operators was unlikely to generate additional benefits that would warrant the additional costs associated with a licensing regime. A licensing regime would also require amendment of the Gambling Act 2003.
- 99** Regulation of online gambling operators is not uniform across different gambling sectors. For example, Ireland has an extraterritorial 1 per cent betting duty and currently no taxes or duties on other forms of online gambling. Some countries have uniform taxes or fees across all forms of gambling and others have differing taxation or fee levels depending on the nature of the gambling activity.
- 100** Enforcement mechanisms should not be the primary driver for the success of a regulatory regime. Blanket bans on access to websites seem to be effective in planned economies (e.g. China) but less effective in other countries (e.g. the United States). Countries that set high tax rates or high fees appear not to have had as much success in continuing to grow the percentage of the market that is regulated.
- 101** Modest taxes or charges, that operate in an environment where compliance is mostly voluntary, and where administrative collection mechanisms are simple to understand and easy to comply with, are likely to be most effective.
- 102** Many countries have addressed either the issue of losses arising out of use of intellectual property, or the implications arising out of online betting by their citizens. However, France is the only country that has put in place a mechanism to address both dimensions (through a taxation system). A number of countries have recently put in place extraterritorial measures or are in the process of doing so.
- 103** Annex F provides a summary of the approaches taken in a selection of OECD jurisdictions.

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## Australia

### ***Domestic Race Fields Legislation***

- 104** New Zealand and international stakeholders frequently referred the Working Group to Australia's domestic response to the use of race information without payment. Betting with licensed corporate bookmakers is legal in Australian states and territories. In Australia, betting offshore is not always legal,<sup>22</sup> whereas New Zealanders are legally permitted to place bets with any offshore bookmaker.
- 105** Each Australian state has now enacted Race Fields legislation that prevents use of racing information by corporate bookmakers (except licensed TABs in Australia) for races held within that state unless they pay a fee to the State Racing Board. These arrangements apply out of state (so they are extraterritorial in effect).
- 106** Fees can be changed by way of regulation, and different fees apply in each state, generally ranging between 1.5 and 3 per cent of betting turnover or equivalent. Many states are currently reviewing their fees and there is evidence to suggest that fees may increase in most states.
- 107** Compliance with the Race Fields legislation has been high, although bookmakers initially challenged the legislation in Western Australia and New South Wales. Race Fields legislation is now well embedded in Australian bookmaker practice.
- 108** The approach to Race Fields legislation varies considerably by state. However, the Working Group favours a more enabling framework, such as that used in Western Australia, which allows for adjustment of requirements and fees over time.

### ***Regulation of Offshore Bookmakers***

- 109** In September 2015, the Australian Federal Government announced the establishment of a *Review of Illegal Offshore Wagering*<sup>23</sup>. This Review will inquire into the practice of providing offshore betting services to customers in Australia under the Interactive Gambling Act 2001. A final report is due to the Minister for Social Services and the Minister for Communications by 18 December 2015. The focus of the review is on technological and legislative options that may be available to mitigate the costs of illegal offshore betting.

## **New Zealand Already Impacted by Overseas Charges and Taxes**

- 110** The New Zealand Racing Board is also subject to extraterritorial regulation, and taxes or charges imposed by a number of other countries. When foreign nationals place bets with the New Zealand TAB and a point of consumption tax or a fee applies, New Zealand TAB management must choose to either make a payment under that country's requirements or withdraw from the market. The New Zealand TAB is already making payments to South Africa and the United Kingdom, but has chosen to no longer accept bets originating in France.

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<sup>22</sup> Federal Australian Interactive Gambling Act 2001

<sup>23</sup> For Terms of Reference see: <https://www.dss.gov.au/communities-and-vulnerable-people/programmes-services/gambling/review-impact-of-illegal-offshore-wagering-terms-of-reference>

# Analysis of Options

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## Criteria for Analysing Options

**111** In evaluating policy options the Working Group adopted a common set of criteria for assessment of options as follows:

- Supports the New Zealand gambling policy framework;
- Addresses either the use of intellectual property without payment or the undermining of the gambling policy framework by offshore gambling operators (or both);
- Economic efficiency;
- Feasibility of implementation (cost/political/legal/other);
- Enforceability (degree to which regulators/implementers can make it work).

## Options that Address New Zealanders Betting Offshore

**112** The Working Group looked at a broad range of options to address New Zealanders betting with offshore gambling operators.

**113** Options investigated and assessed included:

- a) Preventing access to offshore gambling operators (IP blocking of websites and preventing payments to operators);
- b) Point of consumption taxes and charges (economic options) to address price advantage and pay for New Zealand service costs (e.g. problem gambling levies);
- c) Fees imposed on offshore gambling operators under legislation; and
- d) Improving the competitiveness of the New Zealand TAB.

### **Option a): Preventing Online Access to Offshore Gambling Operators**

**114** Stakeholders, including politicians, internet advocacy groups, and racing and sport sector representatives largely agreed that blocking access to online gambling operator websites and/or preventing payments to offshore gambling operators would not be workable as a primary means of protecting the gambling policy framework. The Working Group also believes that such initial approaches would not be appropriate in the New Zealand context, but may be appropriate as a means of enforcement for non-compliant operators.

**115** Most Internet Service Providers (ISPs) have worked closely with government on a voluntary basis to limit access to only the most objectionable and illegal websites. However, without a legislative mandate to block access to offshore websites in New Zealand, it could be difficult to convince ISPs of the desirability of blocking offshore gambling operator websites as a primary means of reducing offshore betting. There are also many work-arounds for those intent on accessing a particular website (e.g. using Virtual Private Networks).

**116** Similarly, New Zealand banks and international credit card agencies are likely to be reluctant to block payments to non-compliant offshore gambling operators. There is currently no enabling legislation to require them to do so. Restricting the use of credit card payments and bank transfers would also not necessarily prevent payments to offshore gambling operators which offer several alternative payment options (e.g. Paypal accounts).

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### ***Option b): Introducing Point of Consumption Taxes***

- 117** Some European and other countries have introduced point of consumption taxes, either more generally, or specific gambling-related taxes. Taxes adjust pricing and impact positively on domestic business competitiveness. They can also generate revenue for governments.
- 118** Inland Revenue has released a consultation document that proposes charging Goods and Services Tax on a wide range of services provided by offshore companies and purchased by New Zealanders over the internet. GST is the primary tax on racing and sports betting in New Zealand.
- 119** The Working Group is supportive of such a move, and believes that this would strengthen New Zealand's gambling policy framework. In New Zealand, GST is charged on gross betting revenue. We anticipate a similar approach would apply to offshore gambling operators should GST apply to the purchase of offshore services by New Zealanders.

### ***Option c): Fees Imposed on Offshore Gambling Operators under Legislation***

- 120** A legislated fee, linked to racing and sports betting turnover, is a mechanism for charging an intellectual property fee for information produced by the New Zealand racing and sports sectors and used by offshore gambling operators to provide betting opportunities.
- 121** Race Fields legislation has been adopted in all Australian states and territories and therefore will be understood by offshore gambling operators licensed in Australia if also applied by New Zealand. This type of legislation is also about to be adopted in the United Kingdom and has been adopted in France.
- 122** The fee rate would need to be set competitively in an international context. It is estimated that the initial fee could be in the range of 2 to 3 per cent of turnover. Fee rates should strike a balance between ensuring a high degree of voluntary compliance and ensuring a reasonable return to New Zealand racing and sports. Fees requirements would need to be clearly articulated, simple to administer, and provide certainty for offshore gambling operators to encourage voluntary compliance.

### ***Option d): Improving the Competitiveness of the New Zealand TAB***

- 123** The attractiveness of the New Zealand Racing Board to bettors, both in New Zealand and overseas, is a function of both:
- a)** Legislative and structural limitations on the New Zealand Racing Board; and
  - b)** The competitive position of the Board's products and services.
- 124** The New Zealand Racing Board is subject to legislative and structural limitations that constrain the Board's ability to compete with offshore gambling operators. The Working Group believes there is scope to improve the competitive position of the New Zealand TAB in an international context. Any changes should not be at significant expense of racing or sports integrity, or present significantly greater harm to gamblers, albeit trade-offs will be inevitable when expanding gambling opportunities.
- 125** Example of areas where the New Zealand TAB is at a disadvantage to competitors include the inability to take bets during the course of a race, and limitations on the range of sports that bets can be taken on.

**126** The New Zealand TAB will also need to continue to develop competitive products and services that retain customers and attract back customers who are betting offshore. Adjusting the racing calendar to optimise profitability is also required.

***Assessment of Options for Protecting the New Zealand TAB's Gambling Policy Framework***

**127** The following table provides an assessment of each option against the criteria identified above:

Option	Description	Supports Gambling Policy Framework	Likely to Reduce Number of New Zealanders Betting	Economic Efficiency	Feasibility of Implementation	Stakeholder Acceptability	Enforceability
a	Preventing online access	Yes	Yes	Maybe	No	No	No
b	Point of consumption taxes and charges	Yes	Yes	Yes	Yes	Yes	Yes
c	Fees imposed on operators	Yes	Yes	Yes	Yes	Yes	Likely
d	Improving the competitiveness of the NZ TAB	Yes	Yes	Yes	Yes	Yes	Yes

**Options that Address Use of Racing and Sports Intellectual Property**

**128** The Working Group similarly looked at a broad range of options to address the issue of offshore gambling operators taking bets on New Zealand sports or racing events on New Zealand soil without paying for use of the intellectual property.

**129** Options investigated and assessed included:

- a) Restricting online access to the racing and sports information being used;
- b) Taking copyright action through the courts;
- c) Pursuing multilateral and bilateral trade agreements;
- d) Negotiating agreements with offshore gambling operators; and
- e) Imposing fees on offshore operators under legislation.

***Option a): Restricting Online Access to Racing and Sports Information***

**130** Racing and sports event information, including race date and time, track conditions, the field, scratchings, race form, match participants, etc. is generally made widely available by the racing and sports sectors and the New Zealand TAB to support betting in New Zealand.

**131** The opportunity to remove some or all of this information from open access via the internet was investigated. The Working Group was advised that it was not practicable to move this information behind a paywall or to make this available only to New Zealand TAB customers.

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### ***Option b): Taking Copyright Action in the Courts***

- 132** It has been suggested to the Working Group that pursuit of copyright breaches through the courts could be a way of addressing the problem of offshore gambling operators not paying for the use of New Zealand racing and sports intellectual property.
- 133** New Zealand has strong copyright protections in domestic law and it would be possible to assert copyright over race and sports information. While this includes protections for compilations of source material, information could potentially be recompiled to avoid copyright constraints.
- 134** To date, copyright provisions have not been tested by the New Zealand Racing Board due to the likely costs of litigation. Litigation is more complex in an offshore environment, where differences in copyright law may apply. In addition, resolving a specific instance of copyright abuse would not necessarily set a precedent that would ensure compliance by others.
- 135** The Working Group notes that other countries have not pursued copyright as a mechanism for protecting racing and sports intellectual property, but rather, have legislated to introduce product fees or taxes instead.

### ***Option c): Pursuing Bilateral and Multilateral Treaties and Trade Agreements***

- 136** The Working Group considered the suggestion made by several stakeholders that New Zealand work co-operatively on the international stage to ensure that payment is received for the use of New Zealand and other countries' racing intellectual property.
- 137** The Closer Economic Relationship (CER) Agreement is not an avenue for advancing New Zealand's position on intellectual property as this Agreement lists all forms of gambling as a reservation under Annex 2 of the Agreement. CER, therefore, does not apply to the racing and sports betting sector, or to the New Zealand Racing Board.
- 138** It is also too late to influence discussions on the Trans-Pacific Partnership Agreement. The Working Group is unsure whether this agreement will impact on online betting.
- 139** International treaties and trade agreements are the product of many years of persistent engagement. The backing of the racing and sports sectors would be essential in pursuing any development in the international sphere. The direction of all of New Zealand's international agreements has been to dismantle trade barriers and to deregulate trade in both goods and services. The Working Group believes it would be difficult to pursue remedies through trade channels without being willing to introduce competition and disestablish the monopoly betting operator. There are no current international negotiations involving betting and none are planned.

### ***Option d): Negotiating Agreements with Offshore Gambling Operators***

- 140** It has also been suggested to the Working Group that the New Zealand Racing Board could simply negotiate contractual arrangements with offshore gambling operators that would ensure payment for use of New Zealand's intellectual property.

**141** The Racing Board does have commercial arrangements with the Australian TABs. These arrangements ensure that the New Zealand Racing Board pays a fee for the use of Australian racing product, and vice-versa.

**142** These agreements do not apply to offshore gambling operators who have no ability to “on sell” racing information. It would be difficult to imagine any commercial advantage for offshore gambling operators in negotiating a contract with the New Zealand Racing Board.

***Option e): Fees Imposed on Offshore Operators under Legislation***

**143** A legislated fee would be a means of charging for the use of the intellectual property developed by the New Zealand racing sector and used by offshore gambling operators in providing betting opportunities.

**144** Race Fields legislation has been adopted in all Australian states and territories and therefore will be understood by offshore gambling operators licensed in Australia if also applied by New Zealand. This type of legislation is also about to be adopted in the United Kingdom and has been adopted in France.

***Assessment of Options for Addressing the Lack of Payment for Racing and Sports Information***

**145** The following table provides an assessment of each option against the criteria identified at the beginning of this chapter:

Option	Description	Supports Gambling Policy Framework	Likely to Reduce Number of New Zealanders Betting	Economic Efficiency	Feasibility of Implementation	Stakeholder Acceptability	Enforceability
a	Restricting access to information	Yes	Maybe	Maybe	No	No	No
b	Taking copyright action	Yes	Yes	No	No	No	Limited
c	Pursuing trade agreements	Yes	Yes	Yes	No	No	Yes
d	Negotiating offshore operator agreements	Yes	Yes	No	No	No	No
e	Imposing a fee on offshore operators	Yes	Yes	Yes	Yes	Yes	Likely

# Preferred Solutions

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## Preamble

**146** The Working Group recognises there will be no single solution that addresses revenue losses generated by internet competitors for racing and sports betting. The Working Group has examined both regulatory and non-regulatory options, and believes that legislative change is essential.

**147** The Working Group supports the continuation of restrictions on advertising, the maintenance of a strong and trusted operator (in the New Zealand Racing Board), a continuation of strong consumer protections to minimise harm, and active management to ensure the integrity of New Zealand racing and sports. These are all essential features of the New Zealand gambling policy framework, which has been strongly supported by successive governments and continues to be supported by the New Zealand public.

**148** The key policy objectives are to:

- a) Ensure that the intellectual property created by the racing and sports sectors is protected and its use by offshore gambling operators is appropriately priced to deliver returns to the racing and sports sectors; and
- b) Influence consumers to prefer the New Zealand Racing Board, relative to offshore gambling operators, and to ensure the ongoing competitiveness of the New Zealand Racing Board in the international betting market, within the limits of practicality.

**149** Taken together, these objectives address the undermining of the gambling policy framework by offshore gambling operators.

**150** In influencing consumer preferences, the Working Group recognises New Zealanders have a choice of betting operator as a result of the internet, but seeks to influence consumer preferences through adjusted prices (betting odds) and increasing the competitiveness of the New Zealand TAB.

**151** The Working Group believes that economic and financial incentives are more cost effective and are more readily implementable than preventing competitor access. The Working Group draws a distinction between registration and licensing and believes that in relation to betting, the licensing and regulation of offshore gambling operators would be expensive to implement and not a cost effective means of addressing the issues face by the racing and sports sectors. In addition, any licensing regime for offshore gambling operators would need to be considered in the broader context of gambling policy in New Zealand.

**152** The Working Group believes a high level of compliance is achievable. While there are some illegal operators present in some markets that will simply not comply with New Zealand law, based on overseas experience, there is evidence that offshore providers are complying with similar obligations in a number of jurisdictions, as does the New Zealand TAB. The Working Group believes that most law-abiding operators will comply with proposed solutions.

**153** Benefits include greater support for the racing and sports sectors, increased tax revenue, operators contributing towards the costs of problem gambling, and improvements in the integrity of New Zealand based sports and racing events.

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**154** The shift towards digital betting will continue to present a challenge to the New Zealand TAB. Changes in the online environment require reinvestment in the TAB's technology, products and services. Maintaining and enhancing New Zealand's digital offerings will continue to be necessary in order to retain and attract back New Zealanders to the New Zealand TAB.

**155** The solutions proposed by the Working Group will not in themselves address all of the issues faced by the racing sector. Working Group proposals will assist the sector in becoming more price competitive, returning some customers to the New Zealand TAB, and collecting additional revenue.

**156** The Working Group's proposals, therefore promote two mechanisms:

- a) Improving the competitiveness of the New Zealand Racing Board; and
- b) Introducing an Offshore Bookmaker Fee.

## **Improving the Competitiveness of the New Zealand Racing Board**

### ***Competitive Positioning***

**157** The New Zealand Racing Board understands the shifting needs of customers and has made changes over recent years to address its competitiveness.

**158** It now has an active Customer Relationship Management programme focussed on activating and retaining customers. While this initially focussed on high value customers, it is being expanded through the adoption and focus on a set of customer services standards aimed at improving the service levels and engagement with customers throughout the organisation.

**159** In line with better supporting customers, the TAB now offers an increased range of betting options with around 50 per cent more options than five years ago. It has simplified account registration processes to make signing up a more attractive and straight forward process. The Board has also introduced a range of new services such as Watch and Bet online streaming of racing and sport. It also provides online in-play betting on sport, which is not available in Australia.

**160** The Board has modernised its online tools including introducing mobile applications for the two major mobile phone operating systems. This now represents the fastest growing betting channel. The TAB is also working hard on its brand image, broadening its customer base, and having an active presence in social media.

**161** The New Zealand Racing Board acknowledges that further changes are required. There is a need to improve their technology base, and to enhance products and services. In the New Zealand Racing Board's latest Statement of Intent, the Board also indicated its intention to slim down the organisation so as to be more nimble and efficient.

**162** Changes are being made to core technology, with options being explored that don't involve significant up-front investment. As a result the fixed-odds betting platform should provide a much greater range of options and improved speed of service. Finally, the Board is also working with the three racing codes to optimise the racing calendar.

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**163** The Working Group believes that the positioning of the New Zealand TAB and its competitiveness should be a continued area of focus for the Board and the racing and sports sectors. The industry needs continuous improvement when it faces external competitors, and this will require ongoing investment. However, even if competitive positioning is improved, the Board will still be at a disadvantage to its competitors due to legislative restrictions on what products it can provide.

***Legislative and Structural Limitations***

**164** Three proposed changes are recommended to allow the New Zealand TAB to bring new products to market:

- a) Removing the prohibition on in-race betting (section 52(3)). This would make in-race betting consistent with in-play betting on sports matches;
- b) Removing the current restriction that limits sports betting to codes where there is a NSO. Distributions could be made to Sport New Zealand where there is no NSO;
- c) Providing an ability to future proof the operations of the New Zealand TAB by permitting the New Zealand Racing Board to bring new products to market. Appropriate regulatory controls to manage risk, similar to those applying to the Lotteries Commission, would accompany this facility. Betting on "prediction events" (i.e. other than on sport or racing), would be an example of a new product range.

**165** The current prohibition on credit betting is a measure designed to limit harm and one that the Working Group continues to support.

***Challenges and Risks Associated with Improving the Competitiveness of the New Zealand TAB***

**166** There are two key risks associated with repositioning the New Zealand TAB:

- a) Notwithstanding the proposed changes, the New Zealand TAB fails to attract back bettors betting offshore; and
- b) Problem gambling increases as a result of changes to product mix.

**167** The Working Group believes that in order to mitigate the very real risk of falling behind the competition offshore, the racing and sports sectors also need to understand the importance of continuing investment in the New Zealand TAB and racing infrastructure. Improving the volume and quality of earnings is critically important. The New Zealand Racing Board will need to carefully consider how it deploys any additional revenues raised through a fee on offshore gambling operators so as to improve the competitiveness of the New Zealand TAB offerings, and the positioning of the racing and sports sectors.

**168** Increases in the rate of problem gambling are possible as a result of a broadened range of gambling products. However, these new products, together with others that are more risky from a gambling harm perspective, are currently offered to New Zealanders by offshore gambling operators. The wider constraints on the New Zealand Racing Board to minimise harm would offer greater protection and transparency and would lower the risk, compared to betting offshore. Importantly, these outcomes would be monitored within the existing gambling policy framework through standard accountability mechanisms.

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## Introducing Offshore Bookmaker Fees in Legislation

**169** The Working Group recommends the introduction of legislation to require that all offshore gambling operators be registered and pay a fee ("Offshore Bookmaker Fee") to the New Zealand Racing Board, on all bets:

- a) placed on a New Zealand race or sports event;
- b) originating from within New Zealand.

**170** The Working Group's proposal does not seek to address all of the detailed policy design elements of the proposed Offshore Bookmaker Fee. Considerable detail would be required; including clarifying which agency or combination of agencies would set fee rates, manage operator registration, collect fees, and manage enforcement functions and appeals (if permitted). It is likely that these functions would be allocated between the Department of Internal Affairs, the Gambling Commission, and the New Zealand Racing Board. The Working Group believes these decisions would be more appropriately made following a detailed look at the issues by officials. Some of these details would also leverage off the work of Inland Revenue in implementing the proposed GST regime for offshore entities.

### **Registration**

**171** A simple registration process would apply to all offshore gambling organisations offering bets on New Zealand racing and sports events or accepting bets from New Zealanders. Assuming GST is extended to offshore services; those operators already registered for GST should automatically be registered for an Offshore Bookmaker Fee.

### **Legislative Scope**

**172** The Offshore Bookmaker Fees legislation would:

- a) Clarify extra-territorial intent;
- b) Prohibit an offshore gambling operator from using information in relation to any racing or sports event held on New Zealand soil without payment of a fee;
- c) Require a straight forward registration process to be completed;
- d) Provide for a fee to be paid for any use of information developed by racing clubs, codes, NSOs and/or the New Zealand Racing Board and used outside of New Zealand for the purposes of taking bets, and a fee that recognises the externalities associated with a New Zealander placing a bet offshore;
- e) Allow for development of fees regulations linked to turnover, gross, or net profit of the operator and specifying the agency that will receive fees paid;
- f) Stipulate that unpaid fees form a debt that can be recovered;
- g) Require offshore gambling operators to co-operate with investigators where bets are placed on New Zealand racing or sports events that may be linked to integrity matters;
- h) Share information with regulators upon request; and
- i) Require offshore gambling operators to be auditable with respect to betting fees calculation methods and evidence to support the calculations.

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**173** The Working Group suggests that enabling legislation that allows fees and other requirements to be amended periodically by way of regulation or Gazette notice would allow for a proactive approach to a rapidly changing environment in the online betting market. Fees would need to dovetail with GST requirements and information should be shared between the relevant collection agencies.

### ***Enforcement***

**174** There is a trade-off between achieving voluntary compliance without recourse to enforcement, versus the desirability of ensuring enforcement is effective when operators are non-compliant.

**175** A range of stakeholders have suggested to the Working Group that it is highly likely that major offshore gambling operators would voluntarily comply with Offshore Bookmaker Fees. Offshore gambling operators are predominantly listed companies that have shareholders based in a number of countries. Corporate governance expectations and risk management expectations would require companies to adhere to the law in all countries in which they are providing goods and services to customers.

**176** Incentives to comply should be supported by appropriate enforcement mechanisms. The Working Group recommends enforceability provisions be included in legislation. Options that could be considered include:

- a) Issuing of notices to regulators in other countries where an offshore gambling operator is licensed, informing them of the operator's non-compliance in New Zealand;
- b) Penalties, fines and enforceability mechanisms that would apply to non-payment of fees and non-payment of debt, or failure to provide information to integrity monitoring or auditing organisations; and
- c) Criminal offences (extraditable) aimed at directors and senior management of organisations who use New Zealand race or sports betting information without payment of the required fee, or who take bets from New Zealanders and fail to pay the required fee, or who fail to provide information to integrity or audit organisations; and
- d) Mechanisms to prevent access by New Zealanders to operators that do not comply, including blocking of website (IP) addresses and preventing payments through banks and credit card companies.

### ***Should the Fee Apply to Sports Betting?***

**177** The Working Group believes that Offshore Bookmaker Fees should apply to both racing and sports betting, particularly given the growth in sports betting globally. Around 85 per cent of sports betting in New Zealand is on imported product (i.e. sports matches played overseas). While extending the Offshore Bookmaker Fee to sports events may not generate much revenue at present, it is highly likely that revenue will expand over time, particularly as more sporting organisations focus on monetising their sector. It should be noted that if other countries eventually adopt similar charging or taxation regimes, New Zealand may end up paying more in fees than it earns on sports betting. The Working Group believes that any fees required to be paid offshore should be offset against revenue from the Offshore Bookmaker Fee before calculating distributions to sports organisations.

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### ***New Zealanders Betting on New Zealand Events with Offshore Gambling Operators***

**178** The Working Group is of the view that both fees should be charged when a New Zealander places a bet with an offshore gambling operator on a New Zealand racing and sports event. This is because there is a need for the New Zealand racing and sports sectors to be reimbursed for the costs of the Intellectual Property associated with the event, and support for the gambling policy framework is also required. If a New Zealander places a bet with an Australian operator, for example on an Australian race, that operator would be required to pay a fee to New Zealand, and a Race Fields fee to the state in which the race took place in Australia. There are currently no costs incurred by an offshore gambling operator when a New Zealander places a bet on a New Zealand race. The overall fee would need to be set at a competitive level to ensure voluntary compliance.

### ***Regulator Responsibilities and Cost Recovery***

**179** A division of responsibilities is likely to be required between the fees collection agent and regulatory enforcement. The balance in allocation of functions should be determined as part of a regulatory design process. The design process will need to take into account the existing structures, and aim to minimise costs and maximise benefits.

**180** In the gambling sector, the costs of the regulator are recovered from gambling operators through fees. Currently, the New Zealand Racing Board does not pay a fee (with the exception of its gaming machine operation) because it manages its own regulatory system. It is possible that a fee would need to be introduced to cover regulatory costs associated with enforcement of the proposed Offshore Bookmaker Fee. This would partially offset offshore revenue. Regulatory costs would need to be covered by the Crown during the start-up phase, but could be recovered later.

### ***A Wider Review of Online Gambling***

**181** Research<sup>24</sup> suggests that New Zealanders who bet offshore are also likely to be gambling online in other gambling sectors (such as lotteries, online poker, simulated table games, or gaming machines). Many offshore gambling operators integrate multiple gambling opportunities on the one site, which makes it easy for gamblers to access those opportunities. This places the New Zealand TAB at a disadvantage relative to many offshore gambling operators.

**182** The solutions proposed by the Working Group apply to online betting only, and not to other forms of gambling, consistent with the Working Group's terms of reference. We are aware that the Minister of Internal Affairs has commenced a strategic review which includes consideration of online gambling. It is feasible that when the issue of online gambling is considered in a broader gambling context, solutions may be broadened or additional solutions considered. However, consideration of the broader implications for online gambling reform should not delay the Working Group's recommendations in relation to improving the competitiveness of the New Zealand Racing Board and putting in place an Offshore Bookmaker Fee.

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<sup>24</sup> National Gambling Survey, 2012, AUT

**A Worked Example**

183 The following diagrams show a hypothetical example of 2 per cent Offshore Bookmaker Fees being applied to a gambling operator based in Australia.

**Current Status**

**1** Non-NZ customer betting on NZ racing and sports with an offshore corporate bookmaker  
*An Australian based customer places a bet on NZ racing or sports product (e.g. ITM Cup Rugby or Ellerslie Races) with an offshore corporate bookmaker*

CUSTOMER    

Return to New Zealand	
NZ Racing and Sport Fee (2%)	\$0
NZ GST*	\$0
	\$0

**2** NZ customer betting on any product with an offshore corporate bookmaker  
*A NZ based customer places a bet on either NZ or Australian product with an offshore corporate bookmaker*

CUSTOMER    

Return to New Zealand	
NZ Racing and Sport Fee (2%)	\$0
NZ GST*	\$0
	\$0

**“No returns back to New Zealand based on either scenario”**

**Offshore Bookmaker Fee Examples**

**3** Protecting the IP of NZ racing and sport  
*Offshore corporate bookmaker pays a NZ Racing and Sport fee (2% on Turnover) for selling a bet to an Australian based customer on NZ racing or sports product (e.g. ITM Cup rugby or Ellerslie races). GST does not apply.*

CUSTOMER    

Return to New Zealand	
NZ Racing and Sport Fee (2%)	\$20
NZ GST*	\$0
	\$20

**4** Protecting the integrity of the NZ system  
*Offshore corporate bookmaker pays a NZ Racing and Sport fee (2% on Turnover) for selling a bet to a NZ based customer on any non-NZ product. They are also liable for NZ GST.*

CUSTOMER    

Return to New Zealand	
NZ Racing and Sport Fee (2%)	\$20
NZ GST*	\$13
	\$33

**3** + **4** Protecting the integrity of the NZ system and the IP of NZ racing and sport  
*Offshore corporate bookmaker pays a NZ Racing and Sport fee (2%+2% on Turnover) for selling a bet to a NZ based customer on NZ racing or sports product (e.g. ITM Cup rugby or Ellerslie races). They are also liable for NZ GST.*

CUSTOMER    

Return to New Zealand	
NZ Racing and Sport Fee (2+2%)	\$40
NZ GST*	\$13
	\$53

\*Assumes draft proposed changes to GST occur and NZ GST payable (currently not payable on transactions) and applied to Gross Betting Revenue. Also assumes a Gross Betting Revenue of 10%.

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### ***Challenges and Risks Associated with the Offshore Bookmaker Fee***

**184** The proposed Offshore Bookmaker Fee involves a number of challenges and risks including:

- a) Potential to set a precedent in New Zealand law;
- b) A reliance on voluntary compliance by offshore gambling operators to be cost effective;
- c) Potential for collusion amongst operators to challenge or not comply with the New Zealand legislation;
- d) Potential for operators to test legislation in court; and
- e) Potential for costly enforcement measures if voluntary compliance fails.

**185** Firstly, the proposals to collect fees from offshore gambling operators, enforced by New Zealand law, will be viewed as new and potentially precedent-setting by some. In the highly regulated gambling sector, regulatory or legislative solutions are not uncommon.

**186** Gambling laws with extraterritorial effect now exist in around half of the OECD. There is also a parallel in our region in that Australian state legislatures have followed a similar path with Race Fields legislation. Taxes or fees in other jurisdictions have achieved their purpose and brought in much needed revenue to offset risks associated with online gambling. There is growing acceptance in Europe that extraterritorial reach is necessary to protect domestic gambling frameworks.

**187** In New Zealand, proposals for an extension to the Goods and Services Tax offshore would, if enacted, be precedent setting in a very similar manner. Both GST legislation and the Offshore Bookmaker Fee legislation require enforcement measures that operate offshore. In the new global economy, where the internet bypasses existing borders and opens access to services, extraterritorial point-of-consumption taxes or charges make sense. Taxation law enforcement would be supported by existing bilateral and multilateral relationships. Tax agreements reinforce mutual obligations across jurisdictions for individuals and organisations. It should be noted that the multi-national tax environment is, however, a more mature environment than online gambling.

**188** Secondly, the Working Group envisages a high level of compliance. Compliance is challenging, but if requirements are clearly communicated, simple to implement, and a range of enforcement mechanisms are available, a high level of compliance should be achieved. It should be possible to rely primarily on voluntary compliance, reinforced by effective networking with offshore regulatory bodies (such as state level authorities in Australia). Voluntary compliance is the primary enforcement means proposed for GST on offshore services.

**189** Robust enforcement tools will, of course, be required for those that don't comply. Both Inland Revenue proposals and those of the Working Group, propose harsher enforcement measures for non-compliers. Offshore gambling operators are generally licensed in other countries, and must meet compliance requirements. Liaison with regulators in a range of countries provides a first line of support for ensuring compliance by offshore operators, as these regulators have the power to remove a licence to operate. Other mechanisms such as debt collection remedies, criminal offences, and preventing payments could also assist.

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- 190** Thirdly, there is a risk that collusion amongst offshore operators could result in open flouting of the law. This risk could be mitigated or at least managed, by setting modest fees, and by ensuring that the purposes of the regime are clear, that compliance is straight forward, and that good operators are championed. It is nevertheless possible, that highly non-compliant or illegal operators will simply ignore the law.
- 191** Fourthly, there is potential for one or more of the larger gambling operators to test New Zealand legislation. Even if the law was tested, once it was clear that the law did apply, and needed to be taken seriously, it is likely that multinational companies would co-operate.
- 192** Finally, there is the potential for enforcement to be expensive. The Working Group has proposed a focus on voluntary compliance, a collection system that is straight forward with low compliance costs, but with a graduated set of enforcement measures available for non-compliers. Enforcement measures that involve high costs, including criminal charges and extradition proceedings, would be used sparingly and hopefully not at all. A key mechanism for ensuring compliance will be drawing non-compliance to the attention of regulators in other countries where operators are licensed.

# Financial Implications of the Offshore Bookmaker Fee

**193** The proposal to introduce an Offshore Bookmaker Fee in legislation will generate funding benefits over time. The rate of growth in the level of offshore betting and use of New Zealand intellectual property would be likely to slow with the introduction of such a fee.

## Current Situation

**194** Annex G provides a table of the financial implications of different proposals. The following table summarises maximum annual revenue likely to be raised through the Offshore Bookmaker Fee if introduced in 2015, based on a hypothetical fee of 2 per cent of turnover:

Offshore Gambling Operator Activity	Estimated Turnover	Competitive Fee (Example Only)	Estimated Maximum Fee Revenue	After Withholding Tax (5%)	GST Revenue (Based on Gross Profits)
Bets placed on New Zealand racing events	\$300m pa	2% of Turnover	\$6m pa	\$5.7m pa	-
Bets placed on New Zealand sports events (assumes international market same as NZ)	\$60m pa		\$1.2m pa	\$1.1m pa	-
Bets placed by New Zealanders on racing and sports events outside NZ	\$518m pa		\$10.4m pa	\$9.8m pa	\$7.77m pa (assuming no GST expenses claimed)
<b>Total</b>			<b>\$17.6m pa</b>	<b>\$16.6m pa</b>	<b>\$7.77m pa</b>

**195** Up to \$16.6 million could be raised through the Offshore Bookmaker Fee. This increase in revenue would provide flow-through benefits to New Zealand racing and sports sectors, based on distribution agreements. Up to a further \$7.77 million of GST could be raised (if Inland Revenue's GST proposals proceed).

**196** Some customers may return to the New Zealand TAB following the introduction of the Offshore Bookmaker Fee, as odds offered by offshore gambling operators move closer to those offered by the New Zealand TAB. While this may reduce the nominal fee collected, a greater offsetting financial benefit will flow to the New Zealand Racing Board.

## Forecasting Revenue into the Future

**197** Growth in fee revenue is a function of growth in turnover. Offshore online betting turnover by New Zealanders has been growing in the period from 2010 to 2015 by around 16.2 per cent per annum. This growth in turnover in online betting offshore can be used to estimate revenue growth over the next five years. Greater growth is expected in sports betting compared to race betting, with consequent growth in distributions to the sports sector.

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- 198** If one assumed a growth rate of 11.5 per cent per annum in offshore betting turnover, which is lower than that in the previous five years, and no change in behaviour of the offshore gambling operators, the estimated economic benefit of the Offshore Bookmaker Fee that relates to New Zealanders betting offshore would increase from an estimated \$9.8 million per annum in 2015 to around \$16.9 million per annum in 2020.
- 199** The growth in offshore betting on New Zealand race and sports events would grow at a lower rate. It is estimated, however, that this revenue stream if implemented could grow by around 6 per cent per annum from an estimated \$6.8 million in 2015 to \$9.1 million in 2020.
- 200** The Working Group believes there would almost certainly be a change in behaviour by offshore gambling operators following the introduction of an Offshore Bookmaker Fee. It is, therefore, likely that fee revenue would stabilise well short of these projections. Changes in bettor behaviour would return some betting revenue to the New Zealand Racing Board, significantly increasing benefits to the racing and sports sectors, and the wider New Zealand economy.

# Conclusion

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- 201** Two key issues needed to be addressed by the Working Group:
- a) New Zealanders place bets with offshore gambling operators and as a result are undermining the New Zealand gambling policy framework; and
  - b) Offshore gambling operators use New Zealand racing and sports event information without contributing towards the costs of production.
- 202** The New Zealand Racing Board has found it difficult to compete against offshore gambling operators in the online market because its competitors offer better odds, a bigger product range and better services. As a result, a growing number of New Zealanders are placing bets with offshore betting agencies.
- 203** The number of New Zealanders betting offshore has grown from around 23,000 in 2010 to around 40,000 today. It is estimated that within five years around 80,000 New Zealanders may bet offshore, representing more than half of all current New Zealand TAB customers. New Zealanders are also losing money to offshore gambling operators, with around \$32 million of betting losses in 2010 and around \$58 million today. The total value of associated turnover is around ten times higher and exceeds half a billion dollars each year. Additionally, offshore gambling operators are taking offshore bets of at least \$360 million each year on New Zealand racing and sports events without making a contribution towards the intellectual property costs. This is likely to grow over the next five years.
- 204** The impacts are felt by all New Zealanders, with lower revenue to the racing and sports sectors, and a lower tax take. The risks of problem gambling and loss of integrity have been growing in New Zealand without the offshore operators contributing financially or contributing information to underpin integrity management systems. The impacts are currently felt most acutely by the racing sector, but will increasingly be felt by NSOs.
- 205** The Working Group supports the introduction of legislation to charge an Offshore Bookmaker Fee on all bets placed on New Zealand racing and sports events, and all bets originating from New Zealand. This would work in a similar way to the recent GST proposals that require payment by overseas businesses when New Zealanders purchase a service online. The Working Group believes that charging a modest fee is likely to encourage compliance by the larger offshore operators.
- 206** An assumption of voluntary compliance is consistent with proposed GST collection arrangements. If most offshore operators pay fees, then the legislation could be regarded as successful. A range of enforcement mechanisms would be included in legislation. The Government should consider notifying licensing bodies in other jurisdictions when there is non-compliance, conversion of unpaid fees to debt, and laying criminal charges for persistent non-compliers.
- 207** The proposals in this report are not “the complete answer” to all of the issues facing the racing and sports sectors. However, increased revenue would drive development of the racing sector, reinvestment in the products and services of the New Zealand TAB, and an increased distribution to sport in New Zealand.

# Annex A: Terms of Reference

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## Purpose

The offshore racing and sports betting working group (the working group) is appointed to consider and recommend practical options for addressing the issues of:

- New Zealanders betting on racing and sports with offshore providers; and
- Offshore providers taking bets on New Zealand racing and sports without contributing to the local industry.

## Context

The New Zealand Racing Board (the NZRB) is the sole New Zealand-based provider of racing and sports betting in New Zealand. The NZRB is charged with distributing profits back to the racing industry in accordance with an agreed funding model. The NZRB also pays a commission to national sporting bodies for sports on which bets are taken. This ensures that any betting dollar contributes to racing and sports in New Zealand. The NZRB is also required to pay a problem gambling levy, provide problem gambling training and invest in responsible gambling measures. This helps ensure a regulatory safety net to mitigate gambling harm.

The NZRB and the racing industry are concerned that New Zealanders are increasingly turning to overseas betting agencies through the internet, particularly agencies based out of Australia, instead of betting through the TAB (the NZRB's betting brand).

While legislation allows New Zealanders to bet on overseas-based websites, it takes place outside the domestic regulatory framework. This creates a number of issues. The industry is particularly concerned with the issue of 'leakage,' i.e. investment and employment in the racing industry is potentially undermined as offshore bookmakers take bets from New Zealanders, and on New Zealand sport and racing, without contributing to local industries. The TAB considers that it is operating on an uneven playing field because it is in competition with much larger corporations, specifically established in jurisdictions with lower tax and regulatory obligations. There is also an increased risk of problem gambling and underage gambling from New Zealanders betting with unregulated providers. Finally, it deprives the government of potential revenue through taxation.

The specific extent of New Zealanders participating in betting on racing or sports with overseas betting agencies is not clear, with different surveys indicating different results. Accordingly, the amount of profits not returned to the local racing industry, and the amount of New Zealanders potentially engaged in harmful betting practices with overseas betting agencies is also unclear.

## Role and Establishment

The Minister of Racing has directed the Department of Internal Affairs (the Department) to work with the NZRB to establish a working group to consider and recommend practical options for addressing the issues mentioned in the 'purpose'. The working group is jointly appointed by the Department and the NZRB to fulfil this role.

The working group will report to the Chief Executive of the Department through his representative, the General Manager Policy, and to the Chair of the NZRB through her representative, the NZRB's Head of Government Relations. The working group will also be expected to report to the Minister's office directly, if required.

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## Scope of Work

The working group will look at:

- the size and causes of the issues;
- approaches in international jurisdictions and their applicability in the New Zealand context;
- practical options for addressing the issues; and
- the costs, benefits and risks of the options.

If the working group considers that industry and/or government action is required to address the issues, the working group is asked to recommend a preferred option or combination of options.

Options for addressing the problem will need to be consistent with the key purpose of the Racing Act 2003, which is to promote the long-term viability of New Zealand racing, and the purposes of the Gambling Act 2003 which are to:

- control the growth of gambling;
- prevent and minimise the harm caused by gambling, including problem gambling;
- authorise some gambling and prohibit the rest;
- facilitate responsible gambling;
- ensure the integrity and fairness of games;
- limit opportunities for crime or dishonesty associated with gambling;
- ensure that money from gambling benefits the community; and
- facilitate community involvement in decisions about the provision of gambling.

## Out of Scope

Other forms of gambling such as casino gambling, gaming machine gambling, instant games, purchasing lottery tickets, submitting entries into prize competitions or any other form of "gambling", as defined in the Gambling Act 2003, is not within the scope of the working group. In addition, any consideration of the application of revenue from sports betting, as outlined in the Racing Act 2003, is not within the scope of the working group.

## Deliverables

The working group will meet from March to September 2015. The working group will have four main deliverables:

- The Chair of the working group will provide a progress report to the Department and to the NZRB no later than 30 June 2015;
- The Chair of the working group will provide a progress report to a meeting of the Combined Racing Industry Group (CRIG)<sup>25</sup> prior to drafting the report;
- The working group will provide a draft report to the Department and the NZRB by 1 September 2015;
- The working group will provide its final report to the Department and the NZRB by 30 September 2015.

The written report will contain:

- A clear identification of the causes and extent of the problem, supported by evidence;
- the range of options identified and considered;
- an assessment of the main options; and
- recommendations for industry and government action (if such action is indicated).

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<sup>25</sup> The CRIG comprises the chief executives and chairpersons of the Boards of the New Zealand Racing Board, NZ Thoroughbred Racing, Harness Racing NZ and Greyhound Racing NZ.

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The working group shall consider the impacts of any recommendations on the broader gambling policy framework, other gambling sectors and on trade policy and relationships with key overseas jurisdictions.

The chair and/or working group members are to be available to provide oral advice to the Minister following the delivery of the final report (if required).

### **Process**

The Department and the NZRB shall appoint the members of the working group, including the Chair.

The working group shall determine its own proceedings and meet approximately 8-10 times over the course of six months until it reports back with its final report.

The working group is expected to work collaboratively and cooperatively to produce its final report and endeavour to come to agreement on all recommendations.

The Department and the NZRB will:

- be available to answer questions and provide advice to the working group, as the working group works through the processes agreed in these terms of reference;
- manage access to officials from other departments, and to other governmental and external expertise as required; and
- provide feedback to the working group on the draft written report.

In undertaking its work, the working group is expected to support its identification and assessment of issues and options with evidence, and to consult with organisations and individuals as it sees fit. The working group is expected to work to a “no surprises” policy and inform the Department and the NZRB as fully and as early as possible of any issues that may be contentious.

### **Secretariat**

Secretariat functions will be provided by the NZRB. The Chair should provide the NZRB with as much notice of proposed meetings as possible to ensure that the necessary resources are provided.

### **Confidentiality**

The proceedings of the working group and any material that it produces shall remain confidential at all times. Until the publication of its final report, and subject to the requirements of the Official Information Act 1982, the proceedings of the working group and any material that it produces shall not be released publicly.

Members are expected to keep the work of the working group confidential until its report has been made public.

### **Communications and media contact**

All public communications, interactions with the media, and the release of information related to the working group will be handled by the Department in consultation with the Chair and the NZRB.

# Annex B: Stakeholder Engagement

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The Working Group worked with three groups of stakeholders:

1. **Core stakeholders** including the Minister, the Department of Internal Affairs, New Zealand Racing Board, Gambling Commission, Problem Gambling Foundation, Lotteries Commission, Sport New Zealand and the three Racing Codes;
2. **Sector representatives** including sector groups, racing clubs, key sector commentators and participants, selected Members of Parliament and customers of the New Zealand Racing Board; and
3. **Members of the general public.**

All core stakeholders and a wide range of sector representatives were consulted during May and June 2015. Working Group members travelled to Auckland, Waikato, Wanganui, Hastings, Wellington and Christchurch to attend meetings with stakeholders. The Working Group also met with a group of the New Zealand Racing Board's elite bettors in July. Engagement with the Minister for Racing, and selected Members of Parliament took place in July.

The Working Group had telephone conversations with an Australian expert to examine the impact of Race Fields legislation in Australia, and with an expert in Hong Kong for an overview of international responses to internet betting.

The Chair of the Working Group had a telephone discussion with the Chief Executive of the Australian Wagering Council. The Chair and Secretariat also had a teleconference with the Chair and Secretariat of the Australian Review of Illegal Offshore Wagering Committee.

Stakeholders have been reasonably consistent in their responses, with a high degree of consensus around the problem and its impact on the racing sector. Understanding of the impacts on the sports sector is less clear, because revenue from betting is a minor part of the income of most sports codes.

As the issues under discussion are primarily those of relevance to the racing and sports betting sectors, the Working Group hasn't actively sought to engage with members of the general public. Some members of the general public have, however, approached the Working Group through the Secretariat, and their views have been taken into account. The Working Group was also informed of relevant correspondence to the Minister, received after the announcement of the terms of reference.

# Annex C: Summary of Stakeholder Feedback

## Introduction

In meetings with stakeholders it was clear that there were many concerns about the sustainability of the racing sector. These issues covered a range of interest areas that all fall outside of the scope of the Working Group's Terms of Reference. The issues are summarised in this section because they were clearly troubling the sector. Addressing these issues is a matter for the New Zealand racing sector.

## Sustainability of the Equine Sector

Concerns about the sustainability of the equine racing sector were heard from a wide range of sector representatives. These concerns are relevant to the working party's deliberations from a contextual point of view, but solutions mostly lie outside the prescribed scope. Expressed concerns and likely causes include:

Concern	Likely Cause
<b>Leadership in the sector.</b>	Legislation limits the power of the NZRB to direct racing clubs. However, the sector is significantly challenged. The structure may not be optimal since NZRB is tasked with being both leader of the racing sector and being a commercial entity.
<b>Too many race days, too many races at a meeting and too few attendees.</b>	The racing calendar has not reduced quickly enough in response to falling attendance at race meetings.
<b>Decreasing participation</b> (e.g. 25% fewer horses than 5 years ago in harness racing sector; similar in thoroughbred racing).	Returns to owners, trainers and breeders are below what is necessary to cover costs and provide profit (e.g. negative returns in the order of -75% for thoroughbred horse owners).
<b>Poor incentives on some codes.</b> There are poor pricing signals in the Thoroughbred code and likely oversupply of product in the Greyhound code. There are also mixed incentives between on-course and off-course/online betting activity.	Incentives are not structured correctly. Rationalisation is being avoided in order to protect players.
<b>Low stakes monies</b> providing insufficient returns to owners, jockeys, trainers and breeders. However, contra-indications from leading clubs show that increasing stake money does not show an increase in the no. of race entries.	Stake funding is primarily reliant on distributions from NZRB to codes and then to clubs. Increases in stakes can drive participation if increases are locked in.
<b>Deferred maintenance on racetracks</b> is at a very concerning level.	Capital is in extremely short supply at the level of racing clubs (as it is with NZRB).
<b>Costs are not transparent.</b> Broadcasting rights revenue for clubs and costs of information passed to NZRB.	The sector structure has buried costs of acquisition of information and broadcasting coverage, and included these in distributions from NZRB. These costs are transparent in other jurisdictions.

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Some stakeholders in larger clubs indicated that costs should be made more transparent, and the system turned on its head with the New Zealand Racing Board contracting with racing clubs for IP/events in order to maximise betting revenue. A very limited number of larger city tracks are now reaching the point where most of their revenue is from other uses of their land. For example, the Auckland Racing Club earns most of its revenue from their conference centre, parking and non-racing events. Alexandra Park Raceway and Addington Raceway also have significant income streams outside of racing.

The Harness Racing sector is possibly the most severely effected in terms of participation decline. Stakeholders talked about a collapse in participation. The centre of interest is in the South Island, with clubs in the North Island finding it hard to attract entries.

### ***Greyhound Racing***

The same issues do not present in Greyhound Racing. Concerns in this sector are primarily about public perceptions of animal welfare matters. The sector outlined the steps it was taking to ensure the humane treatment of greyhounds throughout all phases of the dog's life cycle.

The Greyhound Racing sector was the subject of criticism with some stakeholders, for growing on the back of the equine sector, and for a range of scheduling issues.

### ***Sports Sector***

The sports sector is less reliant on income from sports betting. In some sports, where betting income can be significant, participation in the New Zealand sports code may be low (e.g. American Football). However, in more significant New Zealand sports codes like Rugby or Cricket with many events that New Zealand punters can bet on, the income from sports betting is a very small contributor to their income base.

### ***Integrity and Risk Management***

Stakeholders indicate that integrity in the racing sector has a robust structure and is sound. A focus on integrity issues in New Zealand sports codes is a more recent development (as sports betting has grown). This is a developing area and while perceptions are critical, there is no evidence of systematic match fixing in New Zealand. Overseas match fixing has, however, brought this issue to the fore. It is likely that integrity risks could grow as offshore racing and sports betting grows, since information on bets placed offshore is limited or non-existent.

Problem gambling issues are well contained and managed in the racing and sports betting sectors according to stakeholders, including the Problem Gambling Foundation. A significant risk could open up if the advertising ban applying to all overseas gambling operators was to be removed from the Gambling Act 2003. Advertising by corporate bookmakers has expanded dramatically in Australia and is considered to be a key driver of problem gambling.



# **Review of Estimates of Online Offshore Betting Activity for New Zealand Racing Board**

September 2015

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## 1 - Summary

Infometrics has been requested by the New Zealand Racing Board to assess whether it is possible to reach any conclusions about the number of New Zealanders who engage in online offshore betting on racing or sports events, and how much they spend, given a collection of estimates by various market research organisations.

Some of the estimates span a wide range of values, and some have had to be imputed, adding further error margins.

Key findings are as follows:

- The number of people participating in online offshore betting in 2010-12 was probably about 22,900, almost certainly between 20,000 and 26,000.
- Total spending (net loss) in 2010-12 is estimated to have been about \$32m, rising to \$58m in 2015. The error margin on these is likely to be around  $\pm 20\%$ .
- Over the four years 2011 to 2015 the implied point to point annual growth rate in spending was about 16.2% pa.
- Underlying growth in spending as estimated by fitting a trend line is about 11.5% per annum so this is probably a reasonable projection of growth over the next few years. The balance of risk, however, appears to be on the downside as we could be witnessing rapid adoption off a low initial base.
- It seems likely that the growth in spending is slower than the growth in participation as newer participants are less likely to be high spenders, providing some support to Nielsen's estimate of 23%p.a. growth in participation between 2010 and 2015. However, apart from a possible effect of the rugby World Cup later in 2015, it is risky to project this rate of growth too far into the future; 15% p.a. seems more plausible.

The various estimates above have been based on a subjective assessment of the quality (methodology, sample size, information provided) of the various estimates. A better method would be a meta-analysis which uses econometric techniques to evaluate results against various characteristics of each study. However, there are insufficient (independent) observations for this method to produce robust results.

The biggest puzzle in the data is the wide discrepancy between the estimates of expenditure produced by H2 Gambling Capital and Marketview. Marketview provide fairly good information on what they do; H2 provide very little. Thus the priority for any future research would be to secure a much better understanding of the reliability of H2's results.

Secondly, there is a need to better understand the difference between estimates from surveys based on (stratified) random sampling from those based on self-selection. The latter can typically achieve much larger samples and could, conceivably, lead to more efficient estimates than a smaller but truly random sample, but the degree of bias in self-selection could be significant.

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## **2 - Participation**

### **Nielsen**

The two Nielsen surveys correspond well in terms of the number of people who are online gamblers, estimated at 5.2% to 5.3% of the population ages 18 or over, in 2015.

For online offshore betting Nielsen estimate 22,000 people in 2010 and 63,000 in 2015. These numbers are based on a self-selection survey with a sample size of about 17,000. The response rate was 32.8%.

The participation numbers imply an annual growth of 23.4% p.a. which seems ambitious.

### **AUT/NRB**

The AUT/NRB survey has a good sample size (6251) but importantly, a 64% participation rate based on stratified random sampling. Thus some credence should be attached to the implied estimate of participation, namely about 19,900 people in 2012. This is 0.8% of the population over 18 who participated in online offshore sports betting or race betting, less 25% overlap – estimated from Nielsen's data.

### **Colmar Brunton**

While the total sample is large it included only 480 respondents who participated in online overseas betting 'in the last three months'.

For 2010 Colmar Brunton estimate that the numbers of people engaged in offshore sports betting and race betting "in the last three months" were 7100 and 4300 respectively, so the total is presumably somewhat less than 11,400. Again, Nielsen's data suggests an overlap of about 25%, implying 8600.

Extrapolating this number to cover a 12 month period is not straightforward, but based on the frequency of offshore betting estimated by Nielsen the quarterly number would convert to 20,500 on an annual basis. This accords well with the AUT/NRB estimate, but it comes with quite a high error margin.

### **Health & Lifestyle Survey**

This is also a random sample with a sample size of 2672. The available reports of the HLS study do not itemise offshore online betting, but do estimate for 2012 that 22.6% of the population aged 18 or more participate in either race betting or sports betting (so implying some double counting) irrespective of where it occurs. This is higher than the corresponding 17.2% estimated in the AUT/NRB study, suggesting that the implied number of offshore online bettors in 2012 was more like 26,100.

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### Ministry of Health: National Gambling Survey (Preliminary Findings)

Data from a 2015 National Gambling Survey (NGS) undertaken for the Ministry of Health estimates participation of 26,170 in 2012, with an error margin of about  $\pm 10,000$ .

#### Summary of Participation

The evidence suggests that in 2010-12 about 20,000-26,000 people aged 18 or over participated in online offshore betting over a 12 month period. The average of the various studies is 22,900. There is no obvious reason to assume different weights.

**Table 1: Summary of Participation Estimates**

Source	Estimated Participation	Weight
Nielsen	22,000 in 2010, rising to 63,000 in 2015	20%
AUT/NRB	19,900 in 2012	20%
Colmar Brunton	20,500 in 2010	20%
Health & Lifestyle Survey	26,100 in 2012	20%
Min Health NGS	26,170 in 2012, falling to 19,865 in 2014	20%

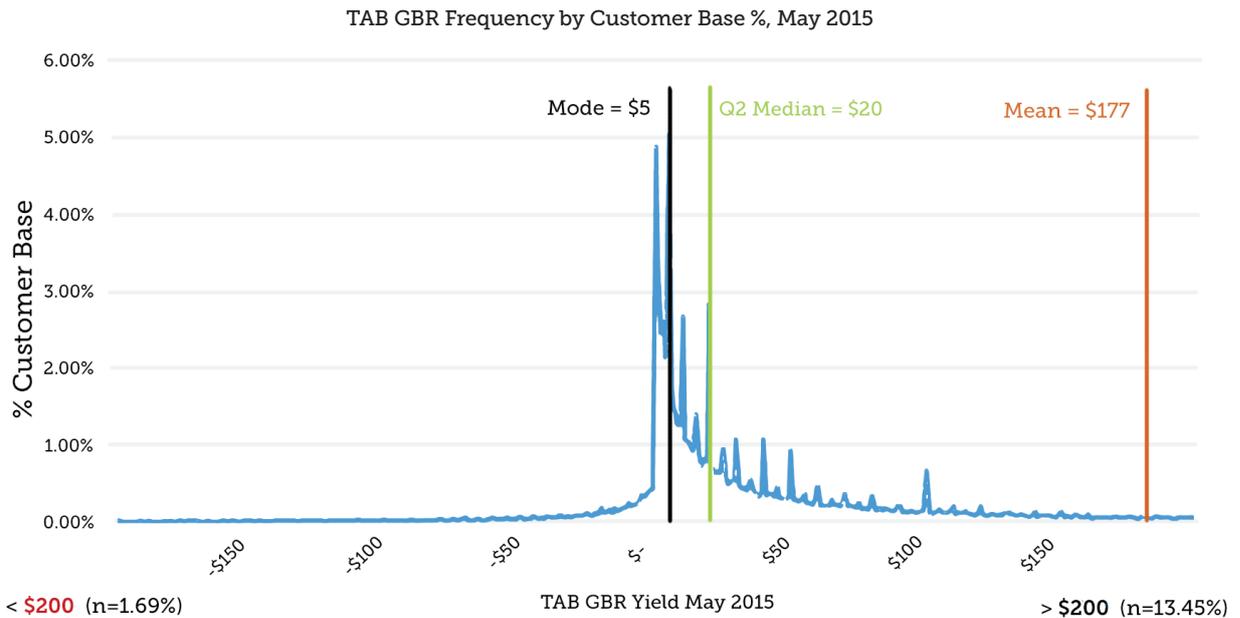
The only estimate of participation in 2015 is by Nielsen, who estimate 63,000, but as noted above this would imply growth of 186% relative to 2010, or more than 23% p.a. In contrast the NGS studies show a decline of 13% p.a. As discussed in Section 4 below, a growth rate of about 11.5% p.a. in spending is plausible, so assuming that higher spenders 'discovered' offshore online betting sooner, the rate of growth of participation would be higher; say 15% p.a. Hence participation in 2015 would be about 40,000.

### 3 - Expenditure

#### Skewness

The value of expenditure on offshore online gambling is much more difficult to estimate than participation. This is because gaming expenditure follows a highly skewed distribution – many small bets and a few very large bets, as shown in Figure 1 below. The mean is far to the right of both the mode and the median.

**Figure 1: Distribution of TAB Gross Win in a Typical Month**



The skewness means that small sample surveys are unlikely to pick up a sufficient number of high value gross wins (equivalently, net losses to bettors). However, if high value gross wins are captured, it is not necessarily valid to extrapolate the implied mean spending in the usual way to arrive at population-wide estimates. In theory both H2 and Marketview sidestep this issue.

#### Bias and Efficiency

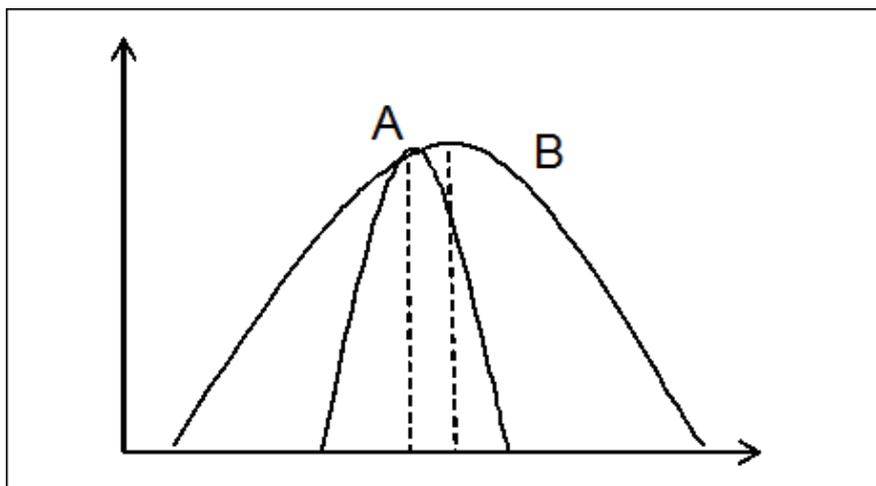
Estimates from surveys based on (stratified) random sampling should be more reliable than self-selection surveys. However the latter, because they tend to be online surveys, usually achieve much larger sample sizes. This can lead to statistically more 'efficient' estimates as long as the bias is not too large.

In Figure 2 below, the large sample self-selection survey is shown by curve A. It is biased (not centred on the true mean) but relatively tightly bunched. Curve B corresponds to a truly random sample. It is unbiased, but has a wider error. The biased sample could produce a better estimate than the unbiased sample.

Of course we cannot draw such a conclusion for the studies looked at above, but it is an issue that merits further investigation.

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**Figure 2: Efficiency and Bias**



### **H2 Gambling Capital**

As noted above H2 should have very reliable data, especially as it would capture high spending individuals who are relatively scarce and so are unlikely to be picked up in a sample survey – especially perhaps, a self-election survey. It seems, however, that their empirical data covers about 50% of operators, with various estimation and imputation techniques being used to derive expenditure estimates by country. Thus their estimates may not be as untainted by complications due to skewness as initially appears. Their estimate of spending (net loss) is \$83.8m in 2015 and \$52.1m in 2011.

### **Marketview**

Marketview estimate \$18.7m in spending (net loss or gross win to operators) in 2015 via credit cards. The Nielsen data on payment mechanisms suggests that this estimate should be scaled up by a factor of 1.79 (\$93m/\$52m) to account for payment mechanisms other than credit cards, so \$33.4m. This is still well under the H2 estimate, which is puzzling.

For 2011 Marketview estimate \$9.6m, which scales to \$17.2m assuming the previous mix of payment mechanisms applies.

### **Nielsen**

Nielsen appear to estimate expenditure (net loss) by how much is deposited in offshore accounts. For 2015 they estimate \$95m with an error margin of  $\pm$ \$29.5m. The error margin easily spans the H2 estimate, but not the Marketview estimate. Nielsen's estimate for 2010 is \$70m  $\pm$ \$20m. The survey has a large sample which means that it is more likely to pick up unusually high spending. However, it may not be valid to extrapolate such spending to the total participating population.

The Nielsen questionnaire asks separately about total spending including 'reinvestment' and about net spending, but it is unclear how answers to these questions correspond to those about the value of deposits.

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Nielsen's estimates are actually derived from two surveys; a survey of only TAB customers and an online survey of the wider population. The latter probably has a bias towards overstating online gambling activity simply because the survey itself is online. Responses were sought over a short time frame (3.5 weeks), implying a bias in favour of more frequent gamblers, and survey participation rates were low, thus further raising the possibility of bias – the theoretical large sample efficiency gain discussed above does not apply. It is not evident how the two sets of results were combined to give population-wide estimates.

On balance the expenditure estimates by Nielsen are probably upwardly biased.

### **AUT/NRB**

No estimate of expenditure is given, but assuming the same average betting offshore online as onshore, suggests about \$16.0m in 2012. However, this value would have a wide error margin.

The survey asked "How much do/would you bet..." so it is not clear whether respondents interpreted this as a gross spend or as a net spend/loss, but the low value would suggest the latter.

The implied total spend on betting – domestic and international – according to AUT/NRB is \$344m for 2012. Interestingly, Marketview report a figure of \$310m for betting in New Zealand in 2015. This makes both the H2 estimate and Nielsen estimate for only online offshore seem high.

### **Colmar Brunton**

Annual spending on online offshore betting is estimated at \$33.9m for 2010, but this seems to be gross spending. Colmar Brunton estimate the net loss to consumers at \$9.9m, comprising a net loss on sports betting of \$11.5m and a net win on race betting of \$1.5m. While not impossible, the latter seems unlikely, implying that the total net loss was probably more like the \$16m estimated from the AUT/NRB survey.

### **Ministry of Health: National Gambling Survey (Preliminary Findings)**

The NGS estimates spending on offshore online betting in 2014 at \$6.9m, compared to \$5.9m in 2013 and \$19.4m in 2012. The study usefully provides 95% confidence intervals showing that the two later figures are not statistically significantly different. The upper bound for the 2014 figure only just overlaps with the lower bound for 2012 figure, so there is reasonably clear indication of a fall in spending over time, in particularly sharp contradiction to the findings by Nielsen, but also conflicting with other results.

### **Summary of Spending**

The spending figures are much further apart than the participation figures. This is not altogether surprising given the likelihood of reporting error for this type of activity in self-reported recall surveys, different ways of asking about spending, and the low probability of capturing high spenders in small sample surveys.<sup>26</sup>

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<sup>26</sup> See Wood, R.T. and R.J. Williams (2007): "How much money do you spend on gambling? The comparative validity of question wordings used to assess gambling expenditure." *International Journal of Social Research Methodology: Theory & Practice*, Volume 10 (1), 63-77.

This means that estimates derived from administrative data sources are likely to be more reliable, although this does not explain the wide discrepancy between the H2 and Marketview estimates. Interestingly, the Nielsen estimate, which is based on survey data, is comparable with the H2 estimate, but as argued above is probably biased upwards – perhaps substantially.

Considering the wide variety of strengths and weaknesses of the various estimates, it seems sensible to calculate a weighted 'best estimate' for expenditure, albeit that any set of weights will be subjective. From Table 2 the resultant estimates are:

2010-12: \$32m (centred on 2011)

2015: \$58m

**Table 2: Summary of Expenditure Estimates**

Source	Expenditure / Loss	Weight 2010-12	Weight 2015
H2	\$52.1m in 2011, \$83.8m in 2015	20%	30%
Marketview	\$17.2m in 2011, \$33.4m in 2015	25%	40%
Nielsen	\$70m±\$20m in 2010, \$95m±\$30m in 2015	15%	20%
AUT/NRB	\$16m in 2012 (wide error)	10%	
Colmar Brunton	\$14m-\$16m in 2010	10%	
Min Health NGS	\$19m in 2012, \$6m in 2014	20%	10%
		\$m	\$m
Implied Weighted Mean		31.9	58.1

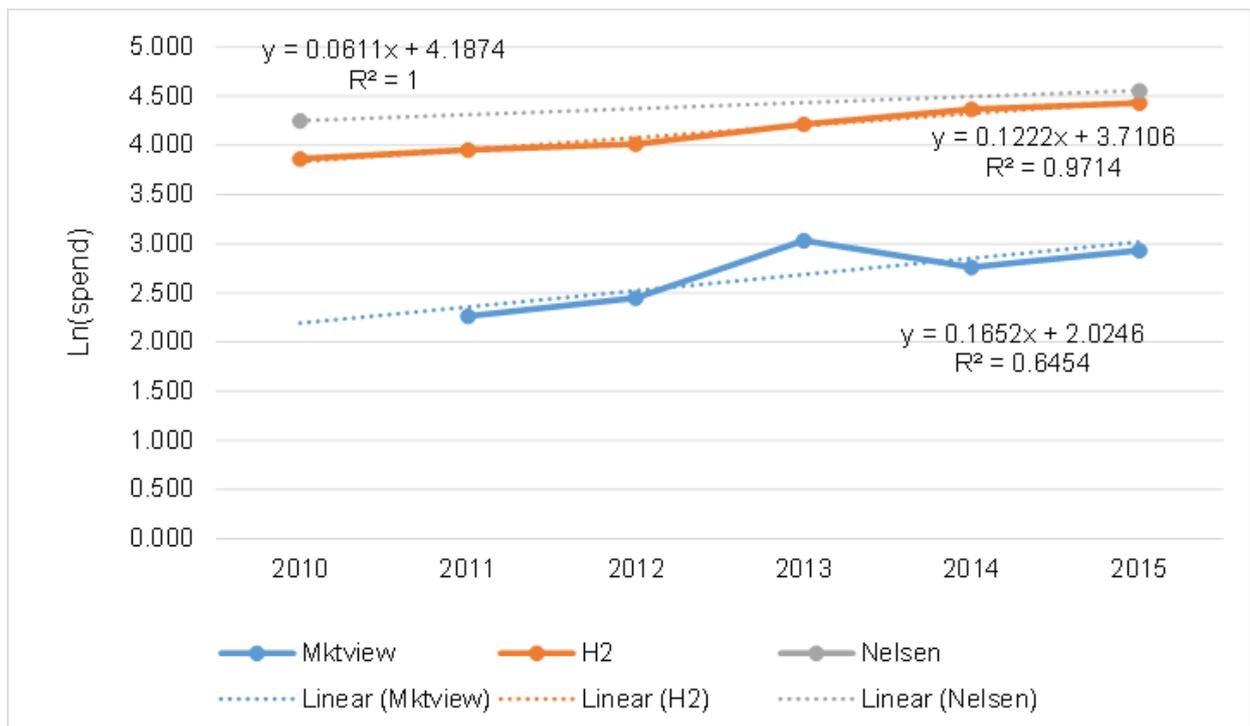
## 4 - Growth in Expenditure

Based on the expenditure estimates derived in Table 2, the annual (nominal) point to point growth rate in spending, assuming a four year span, is 16.2% per annum.

Figure 3 plots the natural log of spending against time. The slopes of the curves are the per annum rates of growth; namely 6.1%, 12.2% and 16.5 for Nielsen, H2 and Marketview respectively. The weighted average based on the 2015 weights in Table 2 is 11.5% p.a. This ignores the NGS estimates as the implied decline of 44% p.a. is implausible and is measured over only two years.

The lower number arises because of the lack of expenditure estimates for 2015 from studies that yielded 'low' estimates for 2010-2012. Hence the lower rate of growth, 11.5% p.a. is probably a safer figure to use for projecting offshore online gambling expenditure, especially if the NGS-estimated decline has at least a degree of plausibility. Note, however, that changes in technology, changes in (the perception of) relative betting odds and shifting consumer preferences could quickly alter the growth rates.

**Figure 3: Trend Growth**



## Annex E: New Zealand Racing Information Used by Australian Bookmakers

The table below features all New Zealand racing for a week during September 2015. The table indicates all races are utilised by some of the leading Australian bookmakers.

All NZ Racing Events	Does the Australian Bookmaker Have a Book on this Event?			
	Tabcorp	Sportsbet	William Hill	Ladbrokes
<b>Tuesday (22 September 2015)</b>				
Addington - Greyhounds	Yes	Yes	Yes	Yes
<b>Wednesday (23 September 2015)</b>				
Matamata/Tauranga – Thoroughbred	Yes	Yes	Yes	Yes
Hatrick - Greyhound	Yes	Yes	Yes	Yes
<b>Thursday (24 September 2015)</b>				
Otaki – Thoroughbred	Yes	Yes	Yes	Yes
Cambridge – Greyhound	Yes	Yes	Yes	Yes
Addington – Greyhound	Yes	Yes	Yes	Yes
Forbury Park - Harness	Yes	Yes	Yes	Yes
<b>Friday (25 September 2015)</b>				
Te Aroha - Thoroughbred	Yes	Yes	Yes	Yes
Addington - Greyhound	Yes	Yes	Yes	Yes
Hatrick - Greyhound	Yes	Yes	Yes	Yes
Addington - Harness	Yes	Yes	Yes	Yes
Cambridge - Harness	Yes	Yes	Yes	Yes
<b>Saturday (26 September 2015)</b>				
Ellerslie – Thoroughbred	Yes	Yes	Yes	Yes
Pukekura – Thoroughbred	Yes	Yes	Yes	Yes
Dunedin - Thoroughbred	Yes	Yes	Yes	Yes
<b>Sunday (27 September 2015)</b>				
Motukarara – Harness	Yes	Yes	Yes	Yes
Manukau - Greyhound	Yes	Yes	Yes	Yes
<b>Monday (28 September 2015)</b>				
Manawatu – Greyhounds	Yes	Yes	Yes	Yes
Ascot Park – Greyhounds	Yes	Yes	Yes	Yes

## Annex F: Responses to the Issues in Other Jurisdictions

The following table provides a detailed overview of approaches to gambling and betting regulation in a selection of OECD jurisdictions.

<b>Country: Denmark</b>	
<b>Extra Territorial Measures/Scheme</b>	<p>Danish Gambling Authority (DGA) is the relevant regulator</p> <p>Two types of online gambling licences available: a betting licence and online casino licence.</p> <p>The betting licence also covers the provision of land-based betting.</p> <p>Any company wishing to provide online gambling to the Danish market must be established within the EU/EEA or have an appointed representative in Denmark. Note: the Danish Gambling Authority must approve the representative.</p> <p>Applicants must also meet a range of minimum requirements and prove they are able to provide online gambling in a sound financial and professional manner. For example, not subject to insolvency proceedings, or have any criminal convictions.</p> <p>Online licences can be granted for up to 5 years. Decisions made by the DGA can be appealed to the National Tax Tribunal.</p> <p>Applicant must reside in the EU to obtain a licence. If not, they must appoint a representative who lives or has a place of business in Denmark. No limits on the number of licences to provide online gambling.</p> <p>Licence holders are required to publish an annual account on their provision of gambling activities in the Danish market. The account is required to include the company's key figures and an account of how the individual licence holder has complied with the requirements of the Danish Act of Gambling.</p> <p>Players must be 18 or older and registered with the online provider and the process for registration involves providing the provider with extensive information.</p> <p>Providers are also required to monitor players' consumption of gambling, provide the possibility of 'cooling off periods' and provide access to a state-controlled Register of Voluntary Excluded Players, as well as ensuring their system is configured in a way that automatically checks the register before a player logs on.</p>
	<b>Betting-specific Notes</b>
	<p>State entity Danske Spil A/S holds the licence for betting on horse, dog racing and carrier pigeons.</p> <p>Provision of online betting is regulated. Licence available for betting (5 years).</p>
	<b>Taxes, Duties, Fares</b>
<b>Enforcement Measures</b>	<p>Application fee: €34,000 for each licence.</p> <p>Online operators must pay an annual fee for holding the licence. The fee is based on their gross gambling revenue.</p> <p>Weekly gambling duties based on gross gambling revenue are also payable.</p> <p>Betting 20% betting duty of gross gambling revenue (or the amount charged for commission for exchanges).</p>
	<p>DGA first step is to contact the provider to request the provider to cease the action.</p> <p>The DGA will then request an injunction from the Court ordering Danish Internet providers to block the websites.</p> <p>The DGA can also then ask the Court to order payment service providers to stop financial transactions.</p> <p>In June 2015 the Danish Gambling Authority and Chairman of ARJEL (France) signed a co-operation and information exchange agreement in May 2015.</p>
<b>Country: Belgium</b>	
<b>Extra Territorial Measures/Scheme</b>	<p>All gambling and betting activities are regulated by the Gambling Commission</p> <p>Online gambling is available but a licence is required.</p> <p>A licence can only be acquired if it is linked to a land-based establishment that has the appropriate licence.</p> <p>Licensed activities include all casino games, arcade games and betting.</p>

## Country: Belgium

Betting-specific Notes

Betting licences are issued for up to 9 years.

There are currently 17 online betting licences issued.

This included for example, Gibraltar based and London stock exchange listed, Bwin, which partnered with a local company to provide online services to Belgium.

Online betting licences cost (F1+): €10,180 per annum.

Taxes, Duties, Fares

A 15% tax applies to all horse and dog races based on gross margin.

If bets are online, 11% is levies on the gross margin. The taxable persons are those placing the bets.

Corporate tax rates also apply (34%).

Enforcement Measures

Both operators and customers can face regulatory action.

Natural persons (Chairmen, managers and representatives) bear civil liability.

The Gambling Commission maintains a blacklist of providers. There are currently 101 gambling websites on the list. This list is passed on to ISP providers.

Players may face fines ranging from 26 euros up to 25,000 euros. For organisers, these amounts are set at 100 euros to 100,000 euros.

## Country: UK

Extra Territorial Measures/Scheme

In May 2014 the UK Parliament passed a bill which extends the category of remote gambling operators who will need a licence.

It requires an operator to have a licence if their gambling facilities are used in Great Britain, even if no equipment is located in the country. This requirement applies whether the operator knows, or should know, that facilities are being used or are likely to be used in Great Britain.

In assessing licence application, the Gambling Commission considers a range of factors including:

- Finances – financial and other circumstances of the applicants
- Integrity – the honesty and trustworthiness of the applicant
- Criminality – criminal record of the applicant.

Betting-specific Notes

The Gambling (Licensing and Advertising) Act 2014 also provides the Secretary of State to make regulations requiring remote bookmakers to pay the horserace betting levy.

In March 2015 the UK government announced its intention to replace the current horse racing levy system with a "racing right". The government recently affirmed its commitment to "replace the current levy system to create a level playing field for British based and offshore gambling operators". More work on the detailed design is underway. No target date for the introduction of the Bill has been set.

Revenue & Customs has released guidance to business on the payment of general betting duty (GBD) and pool betting duty (PBD).

Taxes, Duties, Fares

Remote bookmakers must register where they offer betting from outside the UK to gamblers in the UK. Providers are required to register, submit returns and pay any tax due in sterling.

The rates are as follows:

- GBD – 15% for fixed odds and totalisator bets
- 3% for financial spread bets
- 10% for all other spread bets
- 15% of the commission charges by betting exchanges to users who are UK people.
- PBD – 15%

Registration is done online through the Gambling Tax Service. Returns are made every 3 months.

Generally if you are a business based outside the EU liable for duty, you are required to appoint a representative in the UK.

New Zealand is among a small group of countries excluded from this requirement. HMRC approves representatives.

HMRC also has the power to ask for a security if you need to appoint a representative or your business has a history of poor compliance with gambling tax obligations. The amount of the security will be 6 months of estimated duty liability.

<b>Country: UK</b>	
<b>Enforcement Measures</b>	<p>The compliance process concentrates on the effectiveness of licence holders' self-regulation. The type of compliance activity the Commission undertakes includes:</p> <ul style="list-style-type: none"> <li>• carrying out reviews and visits</li> <li>• giving specific advice or guidance to licence holders</li> <li>• taking remedial or preventive action</li> <li>• varying or imposing additional licence conditions</li> <li>• reviewing financial information.</li> </ul> <p>The Commission undertakes assessments of the management arrangements (known as corporate evaluations) at least every three years.</p> <p>The Gambling Commission also has the power to review a licence and a range of powers which can be exercised following a review including:</p> <ul style="list-style-type: none"> <li>• issuing a warning to a licence holder</li> <li>• attaching an additional condition to a licence</li> <li>• removing or amending a condition to a licence</li> <li>• suspending a licence at the outset, or following a review</li> <li>• revoking a licence</li> <li>• imposing a financial penalty following breach of a licence condition.</li> </ul> <p>The Act also provides the Gambling Commission the power to investigate whether an offence has been committed under the Act and may institute criminal proceedings.</p> <p>Under the Act a person found guilty of an offence can be liable on summary conviction to imprisonment for a term not exceeding 51 weeks, a fine up to £5,000 or both.</p>
<b>Country: Canada</b>	
<b>Extra Territorial Measures/Scheme</b>	<p>No person other than a provincial government is legally permitted to supply gambling facilities or services in Canada.</p> <p>It is generally accepted that private online gambling operated from within Canada for Canadian players will be caught by legislative prohibitions.</p> <p>There is less certainty around the issue of online gaming provided by persons whose operations are located entirely outside of Canada. To date, there have been no charges laid against any offshore operator and so the law remains untested.</p> <p>However, all provincial governments have taken the position that such operations are illegal and should be closed down.</p> <p>To date only one province has addressed the advertisement of online gaming. In 2006, Ontario amended its Consumer Protection Act to prohibit the advertisement of an "internet gaming site" in the province if it is operated contrary to the Code.</p>
<b>Betting-specific Notes</b>	<p>Provincial governments are permitted to provide any online gambling activity they desire subject to s207(4) which provides that permitted lottery schemes do not include activities of "bookmaking, pool selling, or the making or recording of bets ... on any race or fight, or on a single sport event or athletic contest". Most provinces have read this as prohibiting any type of sports betting other than parlay betting. Legal online betting therefore does not permit betting on single games or other types of sporting events.</p>
<b>Taxes, Duties, Fares</b>	<p>As the majority of private corporations operating in the gambling sector in Canada are, of necessity, merely registered suppliers of gambling products or services to provincial governments, there are no industry-specific taxes or levies.</p>
<b>Enforcement Measures</b>	<p>There are no statutory or regulatory restrictions on payment processing by such operators, or that constitute ISP blocking, blacklisting or currency restrictions.</p> <p>Neither the provincial nor the federal governments have taken steps to limit access to offshore betting sites.</p>
<b>Country: France</b>	
<b>Extra Territorial Measures/Scheme</b>	<p>In June 2010 France passed legislation allowing for a controlled expansion of online gambling in France. The law also created the French Gambling Authority (ARJEL) to regulate the industry. The country offers three types of licences: online sports betting, horse race betting and online poker. Casino games as well as spread betting and betting exchange are not licenced.</p> <p>In applying for a license an applicant must meet certain criteria. Major requirements include:</p> <ul style="list-style-type: none"> <li>• proof of identity, solvency and clean criminal record</li> <li>• head office in one of the EU or EEA countries</li> <li>• bank account in one of the EU or EEA countries</li> <li>• website with the .fr TLD</li> <li>• separate accounting for operations on the French territory</li> <li>• permanent tax correspondent in France.</li> </ul>

<b>Country: France</b>	
<b>Betting-specific Notes</b>	Note: France may have extended the betting right to include a general betting right which includes sport. The current state of this is not clear.
<b>Taxes, Duties, Fares</b>	<p>Sports betting: 8.5%  Horse betting: 14.4%  An additional 1% across all sectors of gambling to cover additional social costs of problem gambling.</p> <p>From 1 Jan 2014 France has imposed a 5.6% levy on online horseracing bets. France is required to provide the EU with an implementation report two years after June 2014.</p>
<b>Enforcement Measures</b>	<p>France uses ISP blocking and advertising bans.  Penalties on unlawful operators include a maximum prison term of 7 years and a fine of up to €200,000.</p> <p>Advertising by an unlicensed operator can be subject to a €100,000 fine.</p>
<b>Country: Israel</b>	
<b>Extra Territorial Measures/Scheme</b>	<p>Legislation does not authorise the issuance of any gambling licences to private providers.</p> <p>The only two authorised gambling operators are the national lottery (not permitted to offer online services or products) and the Israeli Sports Betting Board (which is allowed to offer both terrestrial and online sports betting and horse race betting).</p> <p>The main governing legislation, the Penal Act 1977, prohibits unlicensed gambling in general.</p> <p>Enforcement authorities (including the Ministry of Justice, the Central Bank, the Police, the Tax Authority and the Anti-Money Laundering Authority) argue this prohibition extends to online gambling products and services offered from abroad.</p> <p>This position was confirmed by a 2007 decision of the Central District Court in the bail hearings of the CEO of Victor Chandler, Mr Michael Carlton. The Court applied the Penal Act to online gambling arguing the Act should be interpreted as prohibiting online gambling.</p> <p>The Court also rejected the argument that the State of Israel lacks jurisdiction over online gambling activities that are sourced in Gibraltar, given that part of the online gambling activity takes place in Israel.</p>
<b>Betting-specific Notes</b>	NA
<b>Taxes, Duties, Fares</b>	NA
<b>Enforcement Measures</b>	<p>An attempt by the Police to order ISPs to block online gambling websites on the basis of the Penal Act was struck down by the Supreme Court. The Court held that absent specific statutory authorisation, and the Police lack such power.</p> <p>The Ministry of Justice is working on draft legislation that will explicitly authorise Police to issue orders to ISPs to block access to online gambling websites.</p> <p>The Anti-Money Laundering Authority has issued a blacklist of bank accounts connected to online gambling activities. As at October 2014, it includes 40 bank accounts.</p> <p>The Central Bank has issued several circulars seeking to limit the availability of performing financial transactions in connection with online gambling. The circulars provide for:</p> <ul style="list-style-type: none"> <li>• require banks to set a policy in respect of the risks related to transactions to or from bank accounts connected to online gambling or on anti-money laundering blacklist.</li> <li>• Prohibit credit card transactions on prohibited games, bets or draws and the service for which the credit card is being used is illegal in the jurisdiction in which the service is being provided or the credit card is owned by an Israeli resident.</li> <li>• Prohibit credit card companies from contracting for the payment processing of various remote transactions.</li> </ul>

## Country: Italy

Italy regulated online gambling in 2006. The driver of reform was provision of a safe and controlled environment for customers, allowing the regulator to avoid fraud and manage players' complaints.

Online betting, bingo, and tournament poker games became legal on 1 January 2007. The changes opened the online and local gambling markets to other European gambling operators and gave the State the ultimate control through granting licences.

The Agency of Customs and Monopoly (AAMS) is the regulator responsible for licensing of gambling operators, revenue collection, consumer protection policy, and monitoring of both online and land-based gambling operators. Since regulation was first implemented, the AAMS has auctioned 200 licences to operators to legally provide online gambling services to Italian consumers.

The AAMS license application is open to any gaming operator based in an European Economic Area jurisdiction (plus Iceland, Norway and Liechtenstein).

The license may be issued directly to a foreign applicant on condition that it holds an EEA passport, hence it is no longer required for the applicant to incorporate an Italian company. Remote gaming services can only be offered to Italian residents through a dedicated and ring-fenced platform identified by the '.it' suffix which must be fully linked up the centralized control system run by AAMS via its technological partner SOGEL, so that each bet/wager/stake placed by an Italian customer can be duly recorded, monitored, tracked, validated and taxed.

NA

Betting is subject to turnover tax:

- sports betting (3.5% on average),
- horserace betting (nearly 10%).

Betting exchanges and bets on virtual events are taxed at a flat rate of 20% of gross revenue.

Application fees are also payable.

A bank guarantee of €1.5 million may also be required depending on the location and status of the applicant.

Provision of remote gaming services from a foreign-based '.com' platform to Italian residents is prohibited and subject to the blacklist restrictions.

Italy uses both ISP and payments blocking.

Whoever offers online gaming services in Italy without holding an AAMS-granted licence is subject to imprisonment from 6 months up to three years.

Whoever organizes, offers and takes remote bets in Italy on any games regulated by AAMS but in ways other than those required by the AAMS rules, is subject to arrest from three months up to one year and to a fine ranging from €500 to €5000 even if the violator does hold an AAMS licence.

## Country: Spain

Remote gambling operators are required to obtain a licence from the Spanish national authorities through a tender process.

The first call tender was in 2011. During that period companies (both Spanish and EU-based) had the opportunity to apply for General or Singular licences. A second call for tender was launched in 2014.

Companies are required to be Spanish or domiciled in an EEA country. Also, there is no current limit on the number of remote gambling licences.

Licensees are only able to offer those types of games that have been approved and regulated by Spanish authorities. These include fixed odds sports betting, mutual sports betting, other fixed odds betting, fixed odds horse race betting, mutual horse race betting and exchange betting.

Operators are also required to:

- File a €2 million guarantee to cover risks from improper development of gambling activities;
- Use a specified technology platform that allows access for the regulator to monitor activities;
- Use a secure database for recording transactions connected to Spanish players
- Open a Spanish bank account for the management of the participant's funds.

General licences are granted for a period of 10 years. Singular licences for mutual horse race betting, mutual sports betting, fixed odds sports betting and other fixed odds betting are granted for 5 years. Single Licences for fixed odds horse betting are granted for a period of 3 years.

## Country: Spain

Betting-specific Notes	NA
	<p>The applicable tax rates range from between 15% and 25%:</p> <ul style="list-style-type: none"><li>• Pool betting on sport: 22% on turnover</li><li>• Fixed odds betting on sport: 25% on gross revenue</li><li>• Betting exchanges on sport: 25% on gross revenue</li><li>• Pool betting on horse racing: 15% on turnover</li><li>• Fixed odds betting on horse racing: 25% on gross revenue</li><li>• Other forms of pool betting: 15% of turnover</li><li>• Other forms of fixed odds betting: 15% on gross revenue</li><li>• Other forms of betting exchanges: 25% on gross revenue.</li></ul> <p>Offering the service at a national level is also subject to the payment of a yearly administrative fee. This fee aims at meeting the costs of the regulator's activities. It is currently set at 0.075%.</p> <p>The application for licences is also subject to payment of administration fees.</p>
Taxes, Duties, Fares	
Enforcement Measures	<p>Offering Spanish residents online gambling activities by unlicensed operators is considered a severe breach of the Gambling Act. Sanctions include fines up to €50million, blocking IP addresses as well as payments connected to the illegal sites.</p> <p>Players are not liable for breaches of Spanish gambling provisions.</p> <p>Access to non-licensed providers is not illegal for the customer. However it is illegal for the unlicensed company providing gambling, including offshore gambling providers. [Note: this is a similar legislative position to Australia].</p>

## Country: Ireland

Extra Territorial Measures/Scheme	<p>The Betting (Amendment) Act 2015 introduced a licensing requirement in Ireland for remote bookmakers and remote betting intermediaries who are providing betting services to persons in the State.</p> <p>Ireland is currently considering wider reforms of the gambling sector.</p>
Betting-specific Notes	<p>Under the provisions of the 2015 Act, remote bookmakers and betting intermediaries selling to Irish customers will be brought within the Irish licensing and taxation regimes, regardless of their location.</p> <p>In order to get a licence, bookmakers must complete a number of steps:</p> <ul style="list-style-type: none"><li>• Advertise their intent to apply for a certificate of personal fitness</li><li>• Apply for a certificate of personal fitness</li><li>• Apply for a tax reference number</li><li>• Register for Revenue Online Services</li><li>• Apply for tax clearance;</li><li>• Apply for a remote bookmaker's licence or remote betting intermediary's licence</li><li>• Payment of the licence duty.</li></ul> <p>All traders not licensed by 1 August 2015 must cease providing betting services to persons in the State.</p> <p>In applying for a certificate of personal fitness the application must provide information in relation to any relevant offences the applicant stands convicted of, either in the State or elsewhere</p>
Taxes, Duties, Fares	<p>The Act establishes a licencing regime coupled with an extension of the existing 1% betting duty (for bookmakers and 15% for betting exchanges) to remote bookmakers.</p> <p>According to figures provided by the Irish Minister for Finance, Michael Noonan TD, it is estimated that the extension of betting duty could net an additional €25m for the State.</p> <p>In Ireland, the betting duty is ring-fenced for the purposes of funding racing. Horse Racing Ireland, which is responsible for the overall administration of Irish horse racing is financed by a direct grant from the Government (sourced from the betting duty), profits from the Tote and funding from the on-course and off-course bookmakers.</p>

## Country: Ireland

Under the 2015 Act, it is now an offence to operate as a bookmaker, a remote bookmaker or as a remote betting intermediary without a licence.

Those convicted for operating without a licence can be penalised by a €5,000 fine. Fines of up to €150,000 and/or imprisonment may be imposed if the case is heard on indictment. Fines of up to €300,000 can be imposed in respect of repeat offenders.

The Act empowers the Revenue Commissioner to serve cease and desist notices.

Failure to comply with such a notice is an offence where the person is liable:

- On summary conviction, to a class AS fine (€5,000); or
- On conviction on indictment, to a fine not exceeding €150,000 or imprisonment for a term not exceeding 5 years or both.

A subsequent offence attracts a €300,000 fine.

The Act also makes it an offence to make a false representation as a licenced remote bookmaker.

The Act allows the continuation of proceedings in the absence of the person charged.

The Act also makes it an offence to provide false or misleading statements or information during the application of a certificate of personal fitness:

- On summary conviction to a class A fine or imprisonment for a term not exceeding 6 months or both, or
- On conviction on indictment to a fine not exceeding €50,000 or imprisonment for a term not exceeding 2 years or both.

The Act provides for the revocation of the certificate of personal fitness.

The Act also gives Irish revenue authorities the power to issue compliance notices to third parties which provide certain facilitation services such as facilitating payments or advertising or providing internet services that would assist the unlicensed operator to carry on its business. A failure to comply with the compliance notice is an offence.

# Annex G: Financial Implications

Description <sup>27</sup> (Sm)	Introduce fees on NZ racing (similar to Race Fields Fee)		Introduce sport field fee		Introduce betting point of consumption tax	Total Working Group Initiatives	Opportunity Cost Model: \$518m bet through NZ TAB
	Applies to offshore bookmaker total turnover on NZ racing (irrespective of customer location)	Applies to offshore bookmaker total turnover on NZ-based sport (irrespective of customer location)	Scenario A: Assumes international market is equivalent to NZ market	Scenario B: Assumes international NZ sports market is 20% of total market for NZ product	Applies to offshore bookmaker turnover from NZ-based customers (irrespective of bet type)		The benefit to NZ racing sport and Government if 100% of current estimate of NZers offshore betting was channelled through TAB
<b>Total Turnover</b>	<b>300.0</b> <sup>28</sup>	<b>60.0</b>	<b>225.0</b>		<b>518.0</b>	<b>878.0 - 1,043.0</b>	<b>518.0</b>
Gross Betting Revenue							58.0 <sup>29</sup>
Duty							(2.3)
GST							(7.7)
Problem Gambling Levy							(0.3)
Net Betting Revenue	0.0	0.0	0.0		0.0	0.0	4.7
Offshore Bookmaker Fee (2%)	6.0	1.2	4.5		10.4	17.6 - 20.9	
Less Withholding Tax <sup>30</sup>	(0.3)	(0.1)	(0.2)		(0.5)	(0.9) - (1.0)	
Net Offshore Bookmaker Fee	5.7	1.1	4.3		9.8	16.6 - 19.8	
<b>Total Income</b>	<b>5.7</b>	<b>1.1</b>	<b>4.3</b>		<b>9.8</b>	<b>16.6 - 19.8</b> <sup>31</sup>	<b>47.7</b>
Commission to NZ Sport Overseas Racing Rights							5.1
Comingling Fee to Tabcorp							2.6
							0.4
Turnover related expenses	0.0	0.0	0.0		0.0	0.0	8.1 <sup>32</sup>
<b>Net Profit</b>	<b>5.7</b>	<b>1.1</b>	<b>4.3</b>		<b>9.8</b>	<b>16.6 - 19.8</b>	<b>39.5</b>

<sup>27</sup> All options assume a 2% fee applied to turnover. Alternative models can be developed for different level of fees and also applied to GBR.

<sup>28</sup> Assumes Australia represents 99% of total international market and that total international market for NZ racing is approx. \$900m. Agreements with Australian TABs currently cover approx. \$600m of this. It is not expected the fee structure would be in addition to current fees. The remaining share is the outstanding amount.

<sup>29</sup> Assumes turnover split 67% to sport and 33% to racing based on Nielsen research. Racing split 50/50 between international and domestic based on current actual activity. Also contribution to racing turnover from high value customers of 40%.

<sup>30</sup> Assumes 5% Australian withholding tax applied. Given the high percentage of the international market occurring in Australia, this model applies current tax treatment under existing agreements. This will change for each jurisdiction. The sport field fee would be most affected by this, given the broader international base.

<sup>31</sup> Assumes all fees would apply. Therefore, this would include a NZer betting with an offshore bookmaker on a NZ sport or race.

<sup>32</sup> Assumes turnover is 100% digital and therefore no retail fees. Also assumes no additional operational expenditure required to upgrade digital capacity.

