



# **NEW ZEALAND RACING BOARD SUBMISSION**

**to**

**Mr John Messara, AM**

**TAB**

This submission is made on behalf of the New Zealand Racing Board (NZRB), a body established under the Racing Act 2003 to “*promote the racing industry, promote racing betting and sports betting and maximise its profits for the long-term benefit of New Zealand Racing*”.<sup>1</sup>

We appreciate the opportunity to provide our views. This review is an important opportunity to consider the future of racing in New Zealand and position it for greatest success. We hope that the review and any subsequent policy decisions made by the Government will enjoy wide industry support and that all participants will feel their voices have been heard in the process.

## SUMMARY

- 1. We** want to ensure this review provides the foundation for the achievement of the highest value long-term outcome for the New Zealand racing industry. While progress is being made stakes must be further increased to give greater confidence to industry participants to invest and racing infrastructure must be brought into the 21<sup>st</sup> century. Achieving these key goals is at the heart of NZRB’s strategic work programme and is strongly aligned with industry priorities. The current model can, with initiatives such as Race Fields Legislation in place deliver an exciting and sustainable future for New Zealand racing.
- 2. The** Board is well governed, well led and performing.<sup>1a</sup> Operating costs are being actively managed and can be expected to reduce as a percentage of revenue over coming years as the delivery of projects lifts revenue and new technology lowers the cost to serve our customers. Profits will grow over the next few years to around \$220million and will be available to fund stakes increases and infrastructure investment.
- 3. We** are ambitious for the future and believe that with the NZRB’s strategy and approach the industry will grow strongly again. The Board is not satisfied with the status quo and has been working on five critical projects to deliver long-term growth and materially lift profits and distributions. These are described in more detail in the submission.
- 4. An** integrated industry model is appropriate for a small geographically distinct market like New Zealand as it minimises costs and maximises efficiencies by creating opportunities for collaboration and cohesive decision making. The Codes are not set up to operate successfully on their own. If they are required to operate more independently it will require them to build capability (with associated cost) and it will exacerbate difficulties created by lack of scale. Opportunities exist for further

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<sup>1</sup> Racing Act 2003 s 3

<sup>1a</sup> Kerry McDonald Report on Governance, November 2017

integration.

5. **The** work undertaken by NZRB to date raises real questions whether sale or outsourcing options will deliver a higher and sustainable long-term value for the industry when compared with the NZRB's current strategy. This reflects both the costs involved in realising synergies, the need for ongoing investment and the potential for current statutory benefits enjoyed by the NZRB will be changed. Further, there is no easy way back from a sale or licensing transaction. At that point the NZRB will have lost control of its customers.
6. **It** is unlikely that a purchaser or long-term licence holder will prioritise investment in the New Zealand industry or allow the New Zealand TAB to diversify into adjacent markets. Such investment and diversification could grow NZRB profits beyond the circa \$220million expected in 2021. Most of this growth will come from the New Zealand market. We are achieving strong growth in customer numbers and believe there is significant opportunity to increase our 15% share of the New Zealand gambling market.
7. **Changing** industry structure such as through the outsourcing or sale of the TAB is unlikely in itself to fix the fundamental issues holding the industry back. It has not succeeded in doing this in the past. It is unlikely to do so now.
8. **Race Fields** Legislation is critical and should be progressed as a matter of priority. If it is not in place by the beginning of next season it will have a material impact on our ability to deliver the \$185million profit target projected for the 18/19 year in the current Statement of Intent.

## INTRODUCTION

As you are aware the NZRB operates the TAB in New Zealand and has a monopoly on the provision of racing and sports betting in this country<sup>2</sup>. All profits from our betting activities are distributed to the three racing Codes under *section 16* of the Act<sup>3</sup>.

The primary focus of the NZRB is on increasing the amount of money which is available for distribution to the industry. This has seen customer numbers growing strongly; a new world-class fixed odds betting solution developed and about to be launched; a significant investment in outside broadcast assets well advanced; the successful move of our technology into the Cloud on time and on budget and Race Fields Legislation introduced. In parallel with this investment, we have lifted our operating profits and increased distributions to the Codes. We are actively engaging with the Codes to develop integrated national plans which benefit racing whether in developing a future venue plan or leading the negotiation of key industry contracts such as that with Tabcorp.

There have been a number of government initiated investigations into and reports concerning the racing industry.

The most influential is probably the Royal Commission into racing conducted by former Court of Appeal Judge Sir Thaddeus McCarthy in 1970<sup>4</sup>. While the landscape has shifted markedly in the fifty years since that report many of the issues identified have a continuing resonance today. For example submissions to the Commission included observations that:

- The breeding industry was being placed in jeopardy “by the loss overseas of highly bred female stock”<sup>5</sup>.
- Although a number of a clubs and tracks were found to be uneconomic and inefficient there had been little effective regionalisation<sup>6</sup>.
- Costs had increased by 50% since 1952 and greatly exceeded the return from stakes which had increased by only 5%<sup>7</sup> and, perhaps most pertinently, that
- the system [for distribution of profits from the TAB] was “unfair, unreasonable, unjust and a violation of the principle of trusteeship”<sup>8</sup>.

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<sup>2</sup> Racing Act 2003 s 50, Gambling Act ss 9(b), s 16. This, as you know, does not prevent New Zealanders betting online with competitors

<sup>3</sup> Racing Act 2003 ss 53, 57, 16, 17

<sup>4</sup> Horse Racing, Trotting and Dog Racing in New Zealand, December 1970

<sup>5</sup> p8, para 8(a)

<sup>6</sup> p9, para 8(b)

<sup>7</sup> p10, para 8(l)

<sup>8</sup> p10, para 8(n)

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The reason for referring to these historical matters is to make the point that the issues you are being asked to address are not new and care needs to be taken in thinking that structural changes to the governance of the industry will resolve these matters. The structure of the industry has been changed on a number of occasions. The issues remain.

This was emphasised in the review by PWC completed in 2002. As the reviewers then found:

*“It is enlightening to read the 1970 McCarthy Royal Commission Report. There were a range of comments in the Report about the problems of the industry that were being repeated to us almost word for word, thirty-two years later. This suggests that some fundamental problems within the industry haven’t been fixed despite all the reports and consequential action.”<sup>9</sup>*

The prospect of the changes introduced in the 2003 Act making a material difference to the industry was specifically commented on by PWC. The reviewers said: *“It was not part of our Terms of Reference to review or comment on the Bill. Nevertheless...we have scrutinised what is proposed. We do not see any great salvation in the proposed changes...”<sup>9a</sup>* This may well be, as recognised by PWC because the issue is not primarily structural but rather in the capacity and willingness of participants to get behind the tough decisions necessary to create a strong and sustainable future.

## THE IMPORTANCE OF RACING

The New Zealand racing industry is responsible for a direct value-added impact of \$610.1million, adding flow on impacts the total impact grows to \$1.633billion. 58,166 people are directly involved in the industry as a participant, employee or volunteer. It employs 12,735 individuals and is responsible for supporting more than 14,000 FTE jobs both directly and in support industries<sup>10</sup>.

These figures are significant for this country. However there has been a contraction in the industry between the 2008/9 and the 2016/17 racing seasons. In particular foals/pup production is down 28.1%, animals in training are down 21.7% and the overall value contributed to the country has reduced, in real terms, by 18%.

The wagering landscape is also changing. Despite the TAB’s domestic monopoly, competition in the online space is strong, and growing, particularly for our larger punters. While the New Zealand TAB was the first in the world to offer totalisator betting the strongest growth today is in fixed odds betting. Sports betting delivers 26% of our turnover and is projected to grow rapidly. While there has been relatively strong growth in turnover over the last decade this has at times been offset by growth in costs so that the industry has

<sup>9</sup> Price Waterhouse Coopers: New Zealand Racing and Bloodstock Industry July 2002, p2, pp 10-13

<sup>9a</sup> PWC Review, p33

<sup>10</sup> IER New Zealand Racing Size and Scope Study 2016-17

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seen limited benefit<sup>11</sup>.

That will change. In the current season NZRB has increased distributions to the Codes by \$12million. This is the largest increase in a decade, it is a good start and has been well received by the industry, but it is not enough. Considerably more money is needed to attract new owners, and deliver a sustainable future to New Zealand racing. To improve our long-term performance we have invested in a number of strategic projects which are expected to lift profitability to \$200million in the 2020 season and beyond that in subsequent years.<sup>12</sup> The challenge, as with all businesses is that investment is required to deliver this growth. In the last few years the NZRB has delivered the largest technology project the TAB has undertaken for at least thirty years, which moved all of our technology into the Cloud (giving us increased disaster recovery capability), substantially completed an even larger technology project which will see us offering a world-class fixed odds betting service to customers, and significantly grown our account customer numbers so as to lay the platform for future growth.

It is a delicate art to balance investment and distributions. The NZRB has, for the first time, established a debt facility to smooth the impact of our investments for industry participants.

It is fair to say that some have been, and are still, critical of what we are doing. This seems, reading the previous reports, to be a characteristic of the industry. Few serious change projects are started and those that are encounter sustained opposition until such time as they are stopped. As a consequence the industry does not move forward. The NZRB has been determined to break this “start-stop” cycle to which we attribute many of the industry’s current problems. That has required us to take a rigorous and focused approach to the completion of the projects we have started. Inevitably with projects of this kind there are challenges. However, the initiatives we are now completing will ensure Kiwi punters receive product, service and user experience which is comparable with any international wagering offering. These Projects are expected to significantly enhance the profitability of the NZRB.

Given this background, you will understand why there is concern about the potential for this review to delay or stop initiatives which will create long-term value for the industry on the brink of their launching and just as they are about to deliver benefits. The industry simply cannot afford to wait.

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<sup>11</sup> See for example Annual Report 2017 summary of 5-years performance p28

<sup>12</sup> SOI New Zealand Racing Board 2018-2020

## NZRB: VISION FOR THE INDUSTRY, PROJECTS AND PROGRESS

### Vision

The TAB is a growth engine for the Kiwi racing industry. Initiatives such as fixed odds betting automation and our customer growth programme will lift our profit significantly over the next few years.

However the NZRB is not simply about operating a profitable TAB. As our vision states. Our role is to: *secure the future of the racing industry and position it as one of New Zealand's success stories.*

This requires us to work actively with the Codes on investment in racing infrastructure, the optimising of the racing calendar and the presentation and marketing of our domestic product. Initiatives such as the Joint Working Group (which NZRB is leading) to define a future venue plan for New Zealand racing is an example of this industry collaboration. Working together we are able to identify opportunities for joint or tri-code facilities take a national view of future requirements to support racing for all of New Zealand and all New Zealanders, prioritise investment, and identify sources of funding which might be applied to the task. The project (which has been discussed for more than 50 years) is progressing well with more than 88 submissions considered and we are on track to have developed a 10 to 15 year plan for consultation with the industry in August.

This is just one example of how an integrated approach benefits the industry. We are pleased that you have been able to meet with the Joint Working Group and discuss our emerging thinking about the future venue plan. Further we have discussed possible legislative changes that would make it easier to return value from race course assets (that are not seen as being required in the future) back to the industry. Challenges arising from the ownership structure of clubs (often incorporated societies) and the nature of the racing assets (often operating on reserve land) need to be addressed if the industry is to fund its future.

The integrated model we are operating is appropriate for a small geographically distinct market. The fact is the Codes are not set up to operate independently. Moving to a disaggregated model would be both less efficient (replicating costs across multiple bodies) and less effective (because it would be harder to take a national industry-wide view).

### Projects

The current management team has been in place for less than three years. The team's focus has been on stabilising the business, building trust and increasing distributions. At an early stage we identified five projects which we believed, would put NZRB in a strong position for future growth while growing profits and distributions. Those projects are:

- **Optimus** which moved us to a managed service arrangement with Spark for our technology and desktops and, at the same time, moved our computing into the

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Cloud. The increased Operating costs were more than offset by reduced Capital spend and have resulted in better protection for NZRB from cyber security threats and the risks posed by natural, and other disasters. This project which was completed last year, largely on time and on budget was the largest technology project that NZRB had undertaken in thirty years.

- **Automating Fixed Odds Betting.** This project has seen us partner with OpenBet and Paddy Power Betfair to give New Zealand punters access to a product which is equal to anything in the World. The project is expected to deliver a 10 year NPV of \$147million with a payback of 3 years (IRR 60%). The project will contribute a significant lift in profitability and distributions to the industry over the next ten years through increased betting activity, particularly on sports product and improved margins. The solution replicates the approach taken by Sportsbet in Australia which is the standout performer in that market and attributes much of its success to its decision to move to an OpenBet platform after its acquisition by Paddy Power Betfair. We expect this project to be a game-changer for Kiwi punters. It will be launched later this year.
- **Growing the number of active account customers.** We are making good progress with this. To 30 April 2018, our account customer base (people who have bet in the last 12 months) sat at 220,000, representing 15% growth on the number of customers who bet during the 2017 season. Over the same period, we have seen 19.7% growth in the number of active account customers per month, averaging 113,400 compared to 94,700 for the same period a year prior.<sup>13</sup> We have been particularly successful in attracting first time bettors to the organisation with successful acquisition campaigns associated with major sporting events such as the Lions rugby tour, the 2017 Australian Spring Carnival, and the Parker v Joshua boxing match.<sup>14</sup> Our costs for customer acquisition are significantly lower than those of our competitors in Australia<sup>15</sup> and our success rate in getting bettors who start with us as sports punters to move to bet on racing as well is encouraging<sup>16</sup>. This project, which is also reducing the costs of customer channels will contribute significantly to our profit this year and is expected to perform strongly in the FY19 year.
- **Vision Capture.** This project will see the replacement of our current end of life outside broadcast fleet with new state of the art high definition capable vehicles built for us by Sony. The first of these vehicles arrives in September. The project is on time and on budget. The new capability has been carefully optimised for the New Zealand market in particular servicing the challenging geography of New Zealand. Our original assumption was that outsourcing vision capture to others would be best but after careful evaluation it was clear that costs to the industry would actually

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<sup>13</sup> Management Reports April 2018

<sup>14</sup> We acquired 16,745 FTB in the Lions Campaign, 23,737 in the Spring Carnival Campaign and 4,814 in the Joshua v Parker fight

<sup>15</sup> Average costs to acquire are \$70/FTB in the FY 17/18 year

<sup>16</sup> 53% of FTB who joined us in the Lions Campaign have now had a bet on racing

increase under an outsourced model for no improvement in performance. This is because there are no economies of scale for other providers in either delivery of the service or in superior purchasing power. Unsurprisingly an outsourced provider would offer reduced flexibility to manage late changes in time or venue.

- **Race Fields.** We have been working hard with Government to get an amendment to the Racing Act introduced. This will support the charging of race field fees by the New Zealand industry to international bookmakers who take betting on our product and introduce a point of consumption charge on bookmakers accepting the bets of Kiwis who choose to bet offshore. Race Fields Legislation is in place across Australia and in other jurisdictions around the world. As you will know, it has been a significant driver of the Australian industry's vitality over recent years. We need it in New Zealand as a matter of priority. As you are aware we budgeted for race fields to be in place in the second half of this year and the delay to enact that legislation is costing the industry about \$1million per month. If it is not in place for next year it will have a real impact on the ability of the NZRB to achieve its targeted \$185million profit figure. It would be helpful if your report can clearly identify the importance of this initiative.

## Costs and Financial Performance

The NZRB's costs have been a common focus for industry criticism. The current NZRB Board and Management have been very focused on costs. While we are continuing to invest in the business (and therefore we can expect total reported costs to increase over time) the key ratio, costs as a percentage of revenue, is expected to reduce as the investments we are making drive top line growth. Operating cost growth (that is cost growth excluding those investments) is being successfully controlled with our operating expenses decreasing by \$5.1 million (3.7%) in the 2017 year compared to the prior year. Within that, people costs have decreased by \$4.4 million (6.6%) on the prior year. Total reported expenses over the same period reduced by \$0.5 million (0.2%) with underlying expenses decreasing by \$5.1 million (2.5%) reflecting the deliberate action by NZRB Board and Management. Like any business our input costs continue to be under pressure. We will continue to meet the challenge of being disciplined around costs (particularly people costs) while looking for new lower cost models to meet the needs of our punting customers. This will see us focus on retail, media and content and on-course as the primary areas in which we believe new approaches can be taken to lower costs and improve service.

Despite the challenges that the lack of race fields poses to our profit forecast we are on track to deliver our operating profit target for 2018 of \$153.9 million, \$5.9 million (4.0%) ahead of last year, and we are confident of, subject to racefields, delivering the \$200 million profit figure in 2020 that underpins increased funding for the Industry. Beyond that we believe that there is significant potential for further growth. The NZRB represents only 15% of the gambling market in New Zealand.<sup>17</sup> Growth through both product diversification and

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<sup>17</sup> See New Zealand Lotteries Commission briefing to incoming Minister 2017

by moving into adjacent markets is available. The approach that we are taking to partnering with best in class operators to access technology, skills, and customers will see us continuing to lift our profits beyond 2020.

It will not surprise you that the Board and Management remain firmly committed to the approach that we are currently taking and believe that it can deliver a long-term sustainable option for the future for the industry. This is not about defending our patch. It is a clearly held view that enabling this Board and team to complete current projects and to continue our drive to secure the growth that we know is available to us from the New Zealand (and international) markets will deliver the best outcomes for the industry, those whose livelihoods are involved in it, and the many owners and investors who underwrite racing in New Zealand.

## GOVERNANCE

The Racing Act establishes a Board of seven to govern the industry. Three of these are appointed by the Minister on the recommendation of each of the Codes. The others, including the Chair, are independent. The independence requirement of the Chair has been the subject of a Court challenge (on the basis that the Chair at the relevant time was not truly independent) .

There are some who feel that the requirement that the Chair be independent should be changed. We do not share that view. The requirement for independence is important in the context of an integrated industry. As the then Secretary of Internal Affairs said in his submission to the McCarthy review:

*“I think that there is a clear need for some disinterested element in the composition of the Board to ensure that important decisions are made, and are seen to be made, with due regard to the wider interests involved and not merely to sectional advantage.” (p204)*

The Commission itself concluded:

*“It is self-evident that an organisation such as this must have a Chairman completely independent of ties with either Code - a [person] of standing and integrity ... but above all independent.” (p207)*

It seems to us these sentiments still pertain.

## CURRENT BOARD

The current Board is performing well. This is confirmed by an independent report you have seen from Mr Kerry McDonald<sup>1a</sup>, one of New Zealand's most experienced directors.

Almost all the Directors terms expire in July this year. This is not good practice. Directors terms should be staggered so as ensure continuity - particularly if the organisation is going through a period of change.

It is in our view critically important that some continuity of Board leadership is provided. The NZRB is on the cusp of delivering the biggest advance in betting product and presentation in many decades. We are also working to deliver a challenging lift in operating profit in the FY19 year without the benefit of race fields.

There will need to be change - at least three Directors are not seeking reappointment but good practice and commonsense suggests extending the terms of other board members (perhaps for staggered terms) would be appropriate.

## IMPROVING OUR RACING PRODUCT

We need to strengthen our domestic racing. While it is possible for the TAB to import racing to support betting activity (and we do so extensively) our statutory purpose is focused on the long-term sustainability of racing in this country. To succeed the industry needs to be able to attract investment. In particular we need owners to invest, race, and breed from horses in this country. At the moment that is economically very challenging for those in the equine codes. Our stakes are not competitive with the Australian market and while New Zealand has a great climate and environment for horse breeding, raising and racing animals (together with excellent horsemen and women) much of our infrastructure is antiquated and no longer fit for purpose.

Addressing this requires action from the NZRB, the Codes and Clubs. Lifting NZRB profitability on its own while helpful, will not deliver sufficient funds to enable us to bring all of our stakes and racing facilities to a world-class standard.

We do not believe that it is necessary for New Zealand to replicate the levels of Australian stakes. As is true with all New Zealand industries, Australia will always continue to attract some of our best. What we are aiming to do is ensure that people in the industry have a serious and sustainable option to stay, race and breed in this country. That will require significant investment and wider collaboration between the NZRB (improving the profitability of the TAB), the Codes and Clubs (working to enhance the quality of racing product, prioritise racing infrastructure investment and to realise assets that might help us fund that future), local authorities (who we will need to work with on the zoning and development of facilities), and central government who we would hope might provide some financial assistance to support this investment in regional infrastructure. This might include

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both support from the Government's regional infrastructure fund and a moratorium (for perhaps 5-10 years) on the collection of gambling duty so that money could be applied immediately to stakes and infrastructure.

## STRUCTURAL OPTIONS: GREATER INTEGRATION, SALE AND LICENSING

The New Zealand racing industry enjoys a range of benefits under the current legislative structure. These include access to the the profits of the NZRB (which are protected to some extent by a monopoly), the ability to have the profits of our Gaming business applied to racing (including stakes), and relief from income tax (although we do pay GST, Gambling and Problem Gambling levies). There is a clear risk to the value of our business should the embedded protections be removed. So too is the prospect that change to the current legislation will catalyse a review of these protections.

It is fair to say that there is currently a light-handed approach to enforcing the legislation. The relevant department, the DIA, is simply not resourced adequately for this. In an increasingly competitive environment effective enforcement is required. It would be helpful if you can draw attention to this issue in your review.

### Greater integration

The opportunity to further integrate the industry was widely promoted under the slogan "One Racing" in 2009<sup>18</sup>. The model proposed taking out the code layer of management and governance to operate in a manner similar to RWWA in Australia. The benefits of that approach were identified as reduced industry costs and better alignment around decision making and implementation. This approach was advocated by NZ Thoroughbred Racing (NZTR) and the NZRB.

Guy Sargent, the then Chairman of NZTR said in his foreword to the One Racing Report:

*"we need to address our weaknesses:*

- *competing leadership;*
- *complex and fragmented decision making processes;*
- *duplication of costs."*

These are still issues confronting the industry and we believe there are significant opportunities to strengthen the performance of Kiwi racing with greater integration.

### Sale

The potential sale of the TAB is at the other end of the spectrum. It has, of course, been the approach followed in many states in Australia. If implemented it would see the primary

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<sup>18</sup> One Racing Industry Taskforce Report, November 2009

focus of the business shift from the long-term interests of the New Zealand racing industry to creating value for the purchasers' shareholders. The question of sale has been raised on a number of occasions in the past. Progressing such a transaction would require Parliament to corporatise the business so that there is something to sell, determine issues of ownership (the Crown, the Codes, the customers of our business) and, of course how sale proceeds would be distributed to Codes - assuming they were found to be the owners<sup>19</sup>.

## Licensing

A hybrid, which is being explored by the NZRB currently is to outsource or licence the commercial activities of the TAB to an international operator. This model involves outsourcing the betting, retail, customer management, marketing and potentially broadcasting functions of the organisation to a third party operator on a long-term contract. The NZRB would however continue to exist and would potentially continue to operate its Gaming business and provide policy related advice.

From our perspective the most important thing to recognise is that a long-term outsourcing arrangement or a sale of the NZRB could once implemented not easily be reversed. The industry would lose control of its customers and, the current and future profits of the business, to an organisation whose primary obligation is to its shareholders and who may or may not prioritise Kiwi racing in the long-term.

This is not to say that a transaction of this kind is impossible. It is simply to recognise that unless you are getting a significant premium above the value that can be created under the current model the New Zealand industry is likely to lose out. Whether it would in fact deliver such a premium is unclear. There is in our view greater value to be driven from the current structure. We are however working to better understand the enhanced value that licensing could generate to better inform the strategic decisions of the Board.

## DISTRIBUTION TO THE CODES

The Racing Act determines that all betting profit of the TAB, whether on sport or racing, is distributed to the three Codes. The method from allocating the profit between them is defined by s 16 of the Act. Not surprisingly this section is contentious<sup>20</sup>. It creates a default formula reflecting the domestic market share of each code while allowing for alternative approaches, providing the alternative has the written support of at least two of the codes.

The way in which NZRB betting profits are generated has changed significantly over the last fifteen years. The growth in sports betting and the use of imported product to "fill the clock" with betting options for Kiwi punters has meant that much of the betting activity bears no relationship to domestic racing and much of our profit is delivered from product

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<sup>19</sup> See for example discussion in [Grant](#): Two over three on Goodtime Sugar. The New Zealand TAB turns 50 pp 364-373

<sup>20</sup> GRNZ v NZRB [2017] NZHC 1771 Williams J

which New Zealand racing codes have no direct connection to. Deciding how to allocate these profit streams is challenging. It is possible to argue that each code should receive a distribution based on its share of total racing turnover (domestic, import, export) but the code has no control over what product is imported (this is a decision made by the NZRB Betting and Media Content teams in conjunction with Sky TV in Australia). This lack of connection is even more pronounced with sports product, our fastest growing product set and the driver of our customer acquisition.

There is some advocacy for racing to get a greater share of sports profits. This ignores the fact that all sports profits go to racing and that the major sporting codes are themselves looking for more money from the TAB than is delivered by the current statutory formula (1% Turnover and 5% GBR).

A decision to change the current section 16 model should be approached with some caution. The status quo provides the racing industry with access to all betting profits (and most of the gaming profits) of the TAB and provides considerable flexibility for the Codes to alter arrangements as appropriate. Any change is likely to create winners and losers amongst the Codes and could threaten their viability in some circumstances. Balancing the competing requirements between racing and sport was a key challenge in the framing of the Racing Amendment Bill currently before Parliament. There are some racing purists who would like to see the TAB exit sports betting. That would be a huge mistake. We need a world-class sports offering to meet the needs of our current punters and attract new ones and we need sports betting to lift our profits for the benefit of all racing codes.

## **INTELLECTUAL PROPERTY (IP)**

The NZRB operates the largest Outside Broadcast (OB) business in New Zealand. This supports our Trackside channels - which are carried by Sky NZ and enables distribution of our product throughout the world through Sky in Australia. The investment required to sustain this part of our business is significant. We are currently building new high definition capable OB units to replace our current fleet which is at the end of its life. We are also looking to negotiate new agreements in both New Zealand and Australia over the next 12 to 18 months. To enable the NZRB to make the required investment and negotiate appropriate future contracts it is necessary for us to hold the IP rights to New Zealand racing product. At present we do this through the betting licence we issue to clubs to enable them to run TAB meetings. This gives us exclusive rights in both domestic and international markets. We are in active discussion with the Codes at present around the future model.

We do not know what sort of arrangements we will be able to negotiate with either Sky business at the moment and the market is moving so quickly that any statutory attempt to determine IP rights is likely to be outflanked by changes in the market or in technology before the legislation is passed. For this reason it is important that this issue is able to be settled contractually between the parties and is not a matter of statute.

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## CONCLUSION AND RECOMMENDATION

We believe that New Zealand racing has a strong future and that the initiatives that we are currently implementing will lay the foundations for that ongoing success. In our view significant structural change at the moment risks repeating the cycles already seen in the industry on many occasions in the past where necessary change is proposed, contested, stopped and, as a consequence promised progress is not delivered. The industry stands on the brink of making some real progress. Race Fields, FOB and the Future Venue Plan are all components of a vibrant growing industry. However to ensure it is delivered we need stability and continuity in our leadership, the preservation of industry control over the TAB, wider support from Government at both local and national levels to enable us to create the infrastructure we need and encourage the investment which we require and the prompt implementation of Race Fields Legislation.

We are not closed to thinking about alternative structural options. Any change will however need to clearly deliver a significant increase in longer-term earnings for the industry. This is necessary to offset the impact of likely loss of statutory protections and of control of betting customers under such options.

There are changes required. In particular the passing of legislation to introduce race field's fees and a point of consumption tax on Kiwis betting offshore. There are also changes which might be explored these include giving the industry stronger control over racing infrastructure to enable non-performing assets to be realised to the benefit of the racing industry and implementing a moratorium on the collection of gambling levies which would provide immediate funds for stakes and infrastructure.

It is however important to recognise the current model is not fundamentally broken and can, if optimised, deliver a sustainable and exciting future for racing in this country.

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