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| Consultation:  Proposals to amend  the Racing Act 2003    April 2016 |
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# Overview

Racing and sports betting in New Zealand is regulated under the Racing Act 2003 (the Act). The Act establishes the New Zealand Racing Board (NZRB) as the racing industry’s principal policy body and as the sole provider of racing and sports betting services under the ‘TAB’ brand. All other domestic bookmaking is illegal and offshore providers are prohibited from advertising in New Zealand. However there is no prohibition on New Zealanders betting with offshore gambling operators through the internet.

Racing in New Zealand is supported by the TAB’s betting profits. TAB profits are distributed through the three racing code bodies to their constituent racing clubs. Betting profits maintain racing clubs’ tracks and amenities, and fund stake monies.

The New Zealand racing industry is a major contributor to the economy. It generates $1.6 billion in gross domestic product and provides for 17,000 full-time jobs both directly and indirectly. The racing industry is also an exporter of thoroughbred and standardbred livestock valued at more than $167 million per year.

Race meetings across New Zealand attract around 830,000 attendances every year. Race meetings and carnivals, such as the NZ Cup and Show week held in Christchurch, are major sources of inter-regional and international tourism, generating around $23 million for the local economy for the Cup and Show week alone. Racing clubs contribute to the community even when racing events are not being held, by providing facilities for organisations and community events such as sports events, weddings, trade expos and community functions.

The NZRB makes a significant contribution to the development of sports in New Zealand through the commission paid to National Sporting Organisations (NSOs) for sports on which bets are taken.[[1]](#footnote-1) In 2014/15 NZRB paid a total of $6.1 million to NSOs across the country.

In its report released in October 2015[[2]](#footnote-2), the Offshore Racing and Sports Betting Working group (the working group) found that a growing number of New Zealanders are turning to offshore online gambling options.[[3]](#footnote-3) The working group estimated that around $58 million per year of gross betting profit is lost offshore.[[4]](#footnote-4) If no steps are taken, potential revenue will continue to be lost to offshore gambling operators with no contribution made to the racing industry, sports organisations or the funding available to provide problem gambling services.

Many offshore gambling operators are also using New Zealand racing and sporting event data for betting purposes, but are not contributing to the costs of producing the racing or sport activities from which they profit.

Possible responses to these problems range from a full prohibition on offshore online gambling operations through to a deregulated market where private sector operators are permitted through some form of licencing regime. The first option presents significant enforcement challenges, while the latter raises questions about gambling harm risks surrounding multiple private operators, and the costs and logistics of regulating this type of market. The latter option also extends beyond the scope of the Act, as it would need to be considered in the broader context of gambling policy in New Zealand.

The proposals described in this document are consistent with the recommendations of the working group in terms of adopting a midpoint between these options. The recommendations aim to enhance the competitive position of the NZRB and ensure that returns from betting continue to support New Zealand racing and sport and the funding available to provide problem gambling services.

Proposals to improve the competitive position of the NZRB involve:

1. removing the prohibition that prevents the NZRB from taking bets during a race (currently, bets must be placed before the start of the race)
2. removing the restriction that requires the NZRB to only offer bets on sports represented by NSOs
3. permitting the NZRB to expand its range of gambling products to include betting on novelty prediction events.

As a package, these proposals could help to reduce the trend towards the use of offshore gambling operators by New Zealanders, thereby indirectly protecting a revenue stream used for racing, sport and the funding available to provide problem gambling services.

Proposals for directly protecting this revenue stream involve the possible introduction of:

1. a consumption fee for offshore gambling operators accepting bets from New Zealand gamblers
2. a ‘use of data’ fee for offshore gambling operators using New Zealand race and sport data.

It is important to note that these proposals alone will not be sufficient to address the growing impact of offshore gambling operators. The NZRB and the wider racing industry will also need to respond to shifts in the global market place.

You are invited to comment on these proposals. **The deadline for submissions is** **27 May 2016.** Details of the submissions process are provided on page 15 of this document.

# Introduction

## The New Zealand Racing Board and racing and sports betting

When the NZRB was established under the Racing Act 2003, it replaced the Totalisator Agency Board and the Racing Industry Board, and assumed their functions and duties.

The NZRB is the sole New Zealand-based provider of racing and sports betting (the TAB is the NZRB’s betting arm). A key goal of the NZRB is to maximise its betting profits for the long-term benefit of New Zealand racing. All racing betting profits are paid to sustain racing (e.g. to maintain race tracks and amenities and to fund stake monies).

The NZRB has some statutory protection from competition – both from its monopoly position in respect to terrestrial betting in New Zealand and through a prohibition on advertising by offshore gambling operators.

The NZRB is permitted to take bets on domestic and overseas sporting events, but only if it has a written agreement with the appropriate NSO. For example, the NZRB requires an agreement with New Zealand Football to conduct betting on English Premier League Football. The NZRB currently has sports betting agreements with 32 NSOs and pays commissions to them according to the requirements of the Act.

The NZRB’s turnover has increased steadily from 2011. By 2014/15 total turnover through the TAB exceeded $2 billion. $1.668 billion of this was race betting, and $405 million was sports betting. Gross betting revenue was $325 million.

## Benefits to racing codes and sports, and support for responsible gambling

The NZRB is required by law to distribute profits from betting back into the racing and sports sectors. For the 2014 financial year, the three racing codes (harness, greyhounds and thoroughbred) received $134 million. Most of this funding was in turn distributed to racing clubs. NSOs received just over $5 million. The NZRB also returned about $13 million to racing and sports clubs through class 4 gaming profits (gambling on non-casino gaming machines).

During 2014/15 NZRB’s investment in responsible gambling measures was $2.4 million. Of this, approximately $2.3 million was paid to the Crown to recover the costs of the Ministry of Health’s problem gambling management services. In the same year approximately $118,500 was invested in the provision of training in harm minimisation and prevention procedures for staff in customer-contact roles within the NZRB and the wider racing industry.

## Issues identified by the working group

In April 2015, at the direction of the Minister for Racing, the working group was established to consider and recommend options for addressing the issues of:

* New Zealanders betting on racing and sports with offshore gambling operators; and
* offshore gambling operators taking bets on New Zealand racing and sports without contributing to the local industry.

Via the internet, offshore gambling operators offer New Zealanders a wide range of commercially attractive products, often at better odds, including bets on races and sporting events held in New Zealand. When taking bets on New Zealand events, many offshore providers use event information (e.g. jockeys’ names, track conditions, placements) produced by the NZRB without paying for it).

Both issues are symptomatic of more general trends in a global marketplace. For example, New Zealand retailers have been significantly affected by competition with offshore online retailers such as Amazon.

The working group commissioned Infometrics to estimate the scale of offshore racing and sports betting by analysing a number of gambling surveys. Infometrics estimated that approximately 40,000 people bet offshore and expenditure on offshore racing and sports betting is approximately $58 million per year.

The working group also estimated that between $300 million and $500 million is turned over on New Zealand racing and sport a year, for which New Zealand does not receive a contribution toward the cost of production.[[5]](#footnote-5)

The working group concluded these issues are significant for the racing industry and sports organisations because they represent a loss of funding and a loss of revenue to the   
New Zealand government.

The changes proposed by the working group are intended to help ensure the NZRB is not put at a competitive disadvantage relative to offshore gambling operators, and that offshore gambling activities involving New Zealand gamblers or New Zealand racing and sports data result in appropriate revenue streams. Collectively, these objectives are intended to address the undermining of New Zealand’s gambling policy framework by offshore gambling operators.

## Scope of the proposals

This consultation document does not consider all potential options for reforms of racing legislation, but focuses on the proposals developed by the working group, or variations to the general approach proposed by the working group. In particular, it does not consider significant policy alternatives such as:

* removing the TAB’s statutory monopoly on racing and sports betting by licensing offshore gambling operators to advertise and operate in New Zealand
* blocking offshore websites or use of credit cards on such websites
* reducing the range of betting products the TAB currently offers.

Issues relating to offshore gambling operators are symptoms of a broader issue of the NZRB’s competitiveness in an international market. While the proposals will help to provide a more competitively neutral environment for the NZRB, they are not intended to provide a comprehensive or guaranteed solution to issues faced by the NZRB or the broader racing industry. The NZRB will need to continue to adapt to competitive pressures in an increasingly globalised context, identify new markets and products and respond to the changing nature of racing activity in New Zealand.

## Objectives for the proposals

The high level objectives of the proposals discussed in this paper are to promote the statutory objectives of the Act:

* facilitating betting on galloping, harness and greyhound races and other sporting events; and
* promoting the long-term viability of New Zealand racing.

To meet these high-level objectives, the proposals have been considered in light of their possible impact on:

* improving the competitiveness of the NZRB versus offshore gambling operators;
* increasing gambling harm; and
* assisting New Zealand racing and sports bodies to receive payment for their products.

# Proposals

## Proposal 1: Removing the prohibition that prevents the NZRB from taking bets during a race

### Current situation

In-race betting is a form of live betting, and involves placing a bet on a horse or dog race while the race is being run. Live betting is predominantly an online activity, but it can also take place in retail outlets or over the phone.

The NZRB is able to offer live betting on sports events, e.g. during a cricket game, but is prevented by the Act from offering bets during a race. This was due to concerns over racing integrity (e.g. race fixing) at the time the Racing Act 1971 was drafted.

The current restriction on live betting during a race means that:

* the TAB is not able to offer bets during the race that reflect the progress of the event e.g. if a new favourite turns out in the race; and
* some TAB customers are not able to place a bet before the race starts due to high demand for operators either on course or in store.

We note that the NZRB’s fixed-odds betting platform does not currently allow it to offer updated odds during a race. The NZRB reports that it is looking to develop a fixed odds betting platform in the near future, which will enable the taking of in-race bets (if permitted).

### Policy issue

The key policy issue is whether there are compelling reasons to maintain the current restriction on in-race betting in the Act, especially when in-race betting is available to   
New Zealand punters on offshore gambling sites.

A question of consistency also arises due to the fact that the NZRB can offer live betting on sports, but not on racing.

### Proposal

The working group recommended that the Act be amended to remove the restriction on in-race betting. This option would allow the NZRB to:

* keep the book open on a race for longer and thus retain punters who would otherwise have to be turned away, and
* offer TAB customers updated betting odds on the end result during a racing event (when the new betting platform is available).

### Comment

Live betting in New Zealand is currently permitted for sporting events, and it could be argued that prohibiting it for racing is inconsistent and puts the NZRB at a competitive disadvantage against offshore gambling operators.

In-race betting can raise questions about racing integrity (e.g. race fixing). However, integrity risks are already covered by each racing code’s respective rules of racing. Breaches of the rules of racing are investigated and prosecuted by the independent Racing Integrity Unit (RIU). It is expected that any change to in-race betting would be subject to oversight and control by the RIU.

There is no evidence to suggest that live betting during a race creates a higher risk of problem gambling than live betting during a sports event. The potential for repetitive and harmful betting may also be higher over the course of a longer sporting event such as a cricket game, rather than a horse or dog race where the action is immediate and fast paced. Nevertheless, it is still the case that race gamblers will have the option of live betting (if permitted). This in itself creates a new risk, even if it is a risk that is deemed to be acceptable. There may need to be a trade-off between potential problem gambling risks versus the possible improved revenue flows to New Zealand racing.

The extent to which New Zealand punters will avail themselves of this opportunity (if permitted) is also uncertain.

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| Question symbol | 1. Do you support, oppose, or support the proposal with modifications? If the latter, what modifications would make the proposal acceptable to you? 2. Would allowing in-race betting increase the likelihood of integrity problems in the racing industry? If so, what could be done to mitigate this? 3. Would allowing in-race betting increase problem gambling? If so, what could be done to mitigate this? 4. Would allowing in-race betting incentivise New Zealanders to bet with the NZRB rather than with offshore gambling providers? |

## Proposal 2: Removing the restriction that requires the NZRB to only offer bets on sports represented by National Sporting Organisations

### Current situation

The Racing Act 1971 was amended in 1995 to allow the TAB to offer both totalisator and fixed-odds sports betting.[[6]](#footnote-6) Betting is permitted on domestic and overseas sporting events, but only if the NZRB has a written agreement with the appropriate NSO that meets Sport NZ’s investment criteria. Where agreement is reached, the NSO receives a commission payment from betting turnover and gross profit on that sport at rates prescribed in the Act.

The requirement for an NZRB agreement with the relevant NSO was a response to concerns about the possible negative impacts of legalised bookmaking on the integrity of domestic sport. Some sports codes were opposed to bookmaking on their sport, while others were not.

The policy intent was that the relevant NSO would have the opportunity to disagree with the taking of bets if they had such concerns. Where there was agreement, benefits for betting on that sport would flow back to the NSO in commission payments.

### Policy issue

Current policy settings have two consequences:

1. The NZRB is not able to offer bets on sports where there is no approved NSO in   
   New Zealand, even when the specific sporting event is international. For example, the NZRB is currently not able to offer bets on Mixed Martial Arts (MMA) because there is no NSO.[[7]](#footnote-7) This represents a loss of potential revenue.
2. If an approved NSO loses their status, either temporarily or permanently, the NZRB would be required to cease betting on that particular sport until the issue was resolved. This presents a business continuity risk.

The policy issue is whether requiring the NZRB to have an agreement with an NSO remains an appropriate prerequisite for the TAB to offer bets on sports events, particularly international events such as MMA with little or no connection to New Zealand. Maintaining this restriction arguably undermines the objective of improving the NZRB’s competitiveness, as New Zealanders can access a wider range of sports betting via offshore gambling operators.

### Proposal

The Act could be amended to allow the NZRB to offer bets on sporting events for sports where there is no approved NSO. Where there is no approved NSO, the NZRB would be required to enter into a betting agreement with Sport NZ and pay a commission to Sport NZ for betting on the relevant sport. This betting agreement would be consistent with the current regime in providing an opportunity to address any integrity concerns (e.g. the agreement could restrict NZRB to offering bets on international events only).

If an NSO was subsequently formed, then the commission payment would flow to that NSO rather than Sport NZ. There would be no change for NSOs currently receiving payments from the NZRB.

### Comment

Permitting the NZRB to offer a wider range of sports betting options may assist it to compete against offshore gambling operators without disadvantage to NSOs. However it would place Sport NZ in a position where it benefits financially by choosing not to recognise a sport. This potential conflict of interest arises because Sport NZ would receive the commission payment where an NSO does not exist.

Any increase in the range of gambling options risks a potential increase in gambling-related harm, particularly in the case of sports betting which is growing much faster than betting on races. There may need to be a trade-off between potential problem gambling risks versus possible increased revenue to New Zealand racing and sports.

The extent to which New Zealand punters will avail themselves of this opportunity (if permitted) is also uncertain.

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| Question symbol | 1. Do you support, oppose, or support the proposal with modifications? If the latter, what modifications would make the proposal acceptable to you? 2. Would expanding sports betting opportunities increase problem gambling? If so, what could be done to mitigate this? 3. Would expanding sports betting incentivise New Zealanders to bet with the NZRB rather than with offshore gambling providers? |

## Proposal 3: Permitting the NZRB to expand its range of gambling products to include betting on novelty events

### Current state

Offshore gambling operators are able to offer an open-ended range of non-sport related gambling products e.g. betting on the sex or name of the royal baby or the US presidential election. The Act, however, limits the NZRB’s betting activities to racing and NSO approved sports. A recent survey[[8]](#footnote-8) found that about a third of New Zealanders betting via offshore gambling operators did so because the NZRB did not offer the betting options they were seeking.

### Policy issue

The issue is whether the NZRB should be allowed to offer betting on events that are not racing or sports related, given that these betting options are available to New Zealand gamblers through offshore gambling operators.

### Proposal

The Racing Act could be amended to provide a regulatory mechanism to allow the NZRB to bring a broader range of betting products to the market. These products would include the ability to bet on prediction or novelty events, such as the outcomes of TV reality shows or the sex of the royal baby. Appropriate regulatory controls for managing risks and minimising harm and allocating benefits would need to accompany this facility.

Under this proposal NZRB could be required to return a percentage of the benefits from this type of betting to the broader community. The percentage return to the community could be set at the same rate as the commission payment to NSOs. NZRB could be required to either distribute the money to a third party for allocation to the community, or it could be given to a nominated charitable organisation.

### Comment

Novelty betting in New Zealand is currently offered by offshore gambling operators and it could be argued that restricting the NZRB from offering betting services other than those related to racing and sports places it at a competitive disadvantage. However it is difficult to see how the proposal fits with the objectives of the Act, except to the extent that most of any profits could be said to help promote the long-term viability of New Zealand racing.

Any increase in the range of gambling options risks a potential increase in gambling-related harm. There may need to be a trade-off between potential problem gambling risks versus possible increased revenue to New Zealand racing and other communities.

The extent to which New Zealand punters will avail themselves of this opportunity (if permitted) is also uncertain.

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| Question symbol | 1. Do you support, oppose, or support the proposal with modifications? If the latter, what modifications would make the proposal acceptable to you? 2. What community activities should benefit from the profits on novelty betting, other than racing? 3. What novelty events should be permitted (or prohibited)? 4. What regulatory controls should be placed around novelty betting? 5. Would allowing novelty betting increase problem gambling? If so, what could be done to mitigate this? 6. Would allowing novelty betting incentivise gambling customers in New Zealand to bet with the NZRB rather than with offshore gambling providers? |

## Proposal 4: A consumption fee for offshore gambling operators accepting bets from New Zealand

### Current situation

The working group estimated the number of New Zealanders betting offshore to have grown from around 23,000 in 2010 to about 40,000 today. The working group estimated that within five years about 80,000 New Zealanders may be betting offshore, representing more than half of all current New Zealand TAB customers.

The working group estimated that the betting losses of New Zealanders to offshore gambling operators were about $32 million in 2010 (for turnover of $285 million) and about $58 million in 2015 (for turnover of $518 million), indicating increased offshore gambling expenditure of about 16 per cent per annum.

### Policy issue

Expenditure via offshore gambling operators represents a lost revenue stream for the NZRB, and therefore for the racing and sports sectors. The working group’s estimates suggest that, had the current (2015) amount spent offshore by New Zealanders been spent with the NZRB, the racing codes in New Zealand would have been better off by $39.5 million and NSOs better off by $5 million. If these bets were placed through the NZRB, GST would also be payable.

However, it is difficult to say for certain the true extent of this loss, as it is possible that some New Zealand punters would still avail themselves of offshore gambling opportunities despite the availability of equivalent or similar domestic offerings (e.g. where better odds were offered by offshore gambling operators).

### Proposal

The Act could be amended to allow for the setting of an offshore gambling consumption fee or levy. Revenue from the fee could be used to benefit racing and sport in New Zealand and contribute to the funding available to provide problem gambling services.

The working group suggested the fee could be based on turnover from bets of New Zealand origin. If charged at a rate of 2 per cent on turnover, they suggest that this would generate revenue of about $10 million for current estimated turnover of $518 million per annum.

Key factors for effective implementation of a fee could include:

* a clear and simple registration process and competitive fee structure to reduce compliance costs and incentivise compliance;
* suitable powers for the regulator to issue notices to offshore betting agencies and other regulators to notify of potential breaches of New Zealand law;
* civil penalties which require a lower enforcement threshold than criminal penalties; and
* cooperation between New Zealand and offshore regulatory authorities, who can place pressure on offshore bookmakers to pay the fee, and may have access to accurate data on the scale of betting with New Zealanders.

Appendix one provides an example of a gambling consumption fee.

### Comment

The introduction of an offshore consumption fee for bets of New Zealand origin could increase revenue streams for domestic racing and sports activities without resulting in additional harm from gambling. However, the financial benefits of such a scheme are highly dependent on the success of voluntary compliance and enforcement mechanisms. Effecting full compliance also poses significant challenges, and costs (none of which were factored in by the working group).

Implementation of the fee is more likely to be successful where voluntary reciprocal arrangements exist with other jurisdictions. The working group also considered that offshore bookmakers may choose to pay the fee in accordance with New Zealand laws as a voluntary gesture of corporate goodwill. There are also a number of incentives (such as listing rules, reputational risk and effect on licences in other markets) which could act on offshore bookmakers to encourage compliance.

Cooperation between New Zealand and offshore regulatory authorities will play a key role in determining effective implementation of a fee. Even then it is unlikely that all offshore gambling operators will end up paying a consumption fee; some revenue leakage is likely to continue even with contributions from the main offshore gambling markets.

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| Question symbol | 1. Do you support, oppose, or support the proposal with modifications? If the latter, what modifications would make the proposal acceptable to you? 2. How successful do you think a consumption fee will be in retaining gambling revenue that would otherwise go offshore? 3. What design details do you think would contribute to the successful implementation of the fee? 4. How should any profits from an offshore consumption fee be distributed? |

## Proposal 5: A ‘use of data’ fee for offshore gambling operators using New Zealand racing and sports information

### Current situation

The working group found that many offshore gambling operators are using New Zealand racing and sports information without paying for use of the intellectual property.

The working group noted that the turnover on racing bets placed through Australian TABs is about $600 million, with an estimated $300 million turned over by corporate bookmakers.

The NZRB has agreements with Australian TABs that provides 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”). This arrangement is broadly aligned with Australian race fields legislation which prohibits the use of racing information for races held in one state by another state unless the fee is paid. Fees are regulated and generally range from 1 per cent - 3.5 per cent of betting turnover.

The arrangement to pay a reciprocal use of data fee between the NZRB and Australian TABs is not enforceable under legislation.

### Policy issue

While the NZRB is recovering the costs of New Zealand racing data usage from Australian TABs, other gambling operators who use New Zealand racing and sports data are contributing nothing. The working group suggests that revenue of about $7 million per year is being forgone for offshore use of racing and sports data.

### Proposal

The Act could be amended to allow for the setting and application of a use of data fee for offshore gambling operators using New Zealand racing or sports data. This fee could be set by Order in Council. Revenue from the fee could be used to benefit racing and sport in   
New Zealand and to contribute to the funding available to provide problem gambling services.

Key factors for effective implementation of a use of data fee could include:

* a clear and simple registration process and competitive fee structure to reduce compliance costs and incentivise compliance;
* suitable powers for the regulator to issue notices to offshore betting agencies and other regulators to notify of potential breaches of New Zealand law;
* civil penalties which require a lower enforcement threshold than criminal penalties; and
* cooperation between New Zealand and offshore regulatory authorities, who can place pressure on offshore bookmakers to pay the levy, and may have access to accurate data on the scale of betting with New Zealanders.

Appendix two provides examples of use of data fees.

### Comment

The introduction of a use of data fee for offshore gambling operators using New Zealand racing and sports information could increase revenue streams for domestic racing and sports activities without resulting in additional harm from gambling. A working model for this already exists in the form of race fields legislation operating between Australian states and territories. However, compliance challenges mean that any financial benefits could be less than those suggested by the working group.

As with the proposal for collection of a consumption fee, the voluntary cooperation of offshore regulatory authorities in supporting any enforcement of the fee would be a key factor for success. There are also a number of incentives (such as listing rules, reputational risk and effect on licences in other markets) which could act on offshore bookmakers to encourage voluntary compliance.

Even then it is unlikely that all offshore gambling operators will end up paying a use of data fee; some revenue leakage is likely to continue even with contributions from our main offshore gambling markets. Another possibility is that requests from New Zealand for a use of data fee could result in reciprocal requests from overseas sporting bodies such as the National Basketball Association (NBA), resulting in a net loss for the NZRB. This is because the fastest growing source of revenue for the NZRB is fixed odds betting on sports, and most of that revenue comes from sports events that take place offshore e.g. NBA basketball.

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| Question symbol | 1. Do you support, oppose, or support the proposal with modifications? If the latter, what modifications would make the proposal acceptable to you? 2. What design details do you think would contribute to the successful implementation of the fee? 3. How should any profits from the use of data fee be distributed? |

# How to have your say

## The submissions process

Your submission can be sent in the following ways:

Email: [offshorebetting@dia.govt.nz](mailto:offshorebetting@dia.govt.nz)

Post: Safer Communities Policy Team

Policy Group

Department of Internal Affairs

PO Box 805

Wellington 6140

**The closing date for submissions is 27 May 2016**

## Questions in this document

To help you organise your submission, here is a list of all the questions in this document. You do not have to answer all the questions.

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| Question symbol | 1. Do you support, oppose, or support **proposal 1** with modifications? If the latter, what modifications would make the proposal acceptable to you? 2. Would allowing in-race betting increase the likelihood of integrity problems in the racing industry? If so, what could be done to mitigate this? 3. Would allowing in-race betting increase problem gambling? If so, what could be done to mitigate this? 4. Would allowing in-race betting incentivise New Zealanders to bet with the NZRB rather than with offshore gambling providers? |
| Question symbol | 1. Do you support, oppose, or support **proposal 2** with modifications? If the latter, what modifications would make the proposal acceptable to you? 2. Would expanding sports betting opportunities increase problem gambling? If so, what could be done to mitigate this? 3. Would expanding sports betting incentivise New Zealanders to bet with the NZRB rather than with offshore gambling providers? |
| Question symbol | 1. Do you support, oppose, or support **proposal 3** with modifications? If the latter, what modifications would make the proposal acceptable to you? 2. What community activities should benefit from the profits on novelty betting, other than racing? 3. What novelty events should be permitted (or prohibited)? 4. What regulatory controls should be placed around novelty betting? 5. Would allowing novelty betting increase problem gambling? If so, what could be done to mitigate this? 6. Would allowing novelty betting incentivise New Zealanders to bet with the NZRB rather than with offshore gambling providers? |
| Question symbol | 1. Do you support, oppose, or support **proposal 4** with modifications? If the latter, what modifications would make the proposal acceptable to you? 2. How successful do you think a consumption fee will be in retaining gambling revenue that would otherwise go offshore? 3. What design details do you think would contribute to the successful implementation of the fee? 4. How should any profits from an offshore consumption fee be distributed? |
| Question symbol | 1. Do you support, oppose, or support **proposal 5** with modifications? If the latter, what modifications would make the proposal acceptable to you? 2. What design details do you think would contribute to the successful implementation of the fee? 3. How should any profits from the use of data fee be distributed? |

## Decisions on policy proposals

The proposals in this paper are not government policy. All feedback received by the closing date will be taken into consideration before the Government makes decisions about whether to proceed with the required legislative and policy changes later in 2016.

The decision-making process is as follows:

* the Minister will consider feedback received and then make recommendations to Cabinet on whether to change the legislation, and the details of such changes;
* if the government agrees to make changes, legislation would be drafted and considered by Cabinet for introduction to Parliament; and
* if legislation comes before Parliament, it would follow the standard process for legislation, including a further opportunity for public submissions through the Select Committee process.

## What will happen to your submission?

Please note that all submissions may be made publicly available. The Department may publish the submissions it receives and/or provide a summary of them on its website [www.dia.govt.nz](http://www.dia.govt.nz). This would include your name or the name of your organisation but not your contact details. Submissions may be subject to a request to the Department under the Official Information Act 1982. Personal details can be withheld under this Act, including names and addresses.

If you or your group do not want any information contained in your submission to be released, you need to make this clear in the submission and explain why. For example, you might want some information to remain confidential because it is commercially sensitive or personal. The Department will take your request into account.[[9]](#footnote-9)

The Privacy Act 1993 governs how the Department collects, holds, uses and discloses personal information about submitters and their applications. Submitters have the right to access and correct personal information.

## Disclaimer

Although all reasonable steps have been taken to ensure the accuracy of the information contained in this document, the Department of Internal Affairs disclaims responsibility for any inaccuracy in relation to the information; and fully excludes liability of any kind to any person or entity that chooses to rely upon the information.

# **Appendix** 1: Example of an offshore gambling operators’ consumption fee

Betting duty in the UK is collected online by the UK Revenue & Customs service (HMRC) through the Gambling Tax Service. Gambling operators are required to register, submit returns and pay any duty due in sterling. Returns are made every 3 months.

Two duties apply to betting:

* **General Betting Duty:** This applies to general or pool bets on horse or dog racing made by a UK-based bettor irrespective of the jurisdiction in which the gambling operator is located.
* **Pool Betting Duty:** This applies to bets that are not fixed odds and do not relate to horse or dog racing placed by UK-based gamblers, irrespective of the jurisdiction in which the gambling operator is located.
* The following rates apply to total betting turnover by UK-based gamblers:
* 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.

Operators based outside the EU are usually required to appoint a representative in the UK. However, New Zealand is among a small group of countries exempted from this requirement. HMRC also has the power to ask for a security where a business has a history of poor compliance with gambling tax obligations. The amount of the security is 6 months of estimated duty liability.

Operators are required to inform the HMRC about any changes or mistakes in the registration application within 1 month of the date of registration, or within 1 month of the change happening, whichever is the later. Changes include:

* a change to business type
* a change of name or address
* opening or closing a business
* ceasing to trade
* adding an agent
* registering for another tax

Penalties are applicable for any failure to meet these obligations. Users are required to keep records for four years to allow HMRC to review them on request.

# **Appendix** 2: Examples of a use of data fee

The NZRB currently takes betting on approximately 60,000 Australian races. This wagering activity is covered by a series of broad agreements between the NZRB and Tabcorp. The agreements also include rights related to broadcasting and international marketing. Australian race field payments similarly form part of the agreements. Under the agreements, the NZRB pays a product fee on a turnover basis on all bets by New Zealanders on Australian races. The fee can vary from 1 – 3% according to the significance of the race.

Use of data or ‘product fees’ for racing are a well-established feature of the Australian betting market and are regulated by state governments. The following briefly outlines the main features of race field legislation in New South Wales (NSW) and Queensland by way of example.

*New South Wales Racing Administration Act 1998*

The NSW Racing Administration Act 1998 stipulates that wagering operators must seek the approval of the relevant racing control body to use race fields information. Maximum penalties for a corporation are 500 penalty units, or in any other case, 50 penalty units or 12 month imprisonment for a first offence, or 100 penalty units or 2 years imprisonment for a second or subsequent offence.[[10]](#footnote-10)

For NSW, the relevant racing control bodies are Racing NSW (for thoroughbred racing), Harness Racing NSW and Greyhound Racing NSW.

NSW race field information is considered to be any information that identifies, or is capable of identifying, the names or numbers of horses that have been nominated for, or will take part in, a race to be held at a race meeting, or that has been scratched or withdrawn from a race meeting. Use of the information includes amongst other things, any oral, visual, written, electronic or other display or communication.

The Act also gives racing control bodies the power to impose conditions on approval holders who use race field information. Standard conditions include:

* integrity and quality control processes regarding recording of betting information and key employee accreditation; and
* payment of a fee based on full year net accessible turnover.

The fee for using NSW race fields information ranges from 1% - 3% on betting turnover associated with NSW races. The rate depends on turnover thresholds, the type of race and whether the operator is based in an overseas jurisdiction (the higher rate of 3% applies in this instance).

*Queensland, Racing Act 2002*

The Queensland Racing Act 2002 prohibits the use of Queensland race information for the conduct of an operator’s wagering business, unless the operator is authorised to do so under a race information authority. The maximum penalty for a first offence is 600 penalty units or 12 months imprisonment, and for a second or subsequent offence, 4000 penalty units or 5 years imprisonment.

The Act defines Queensland race information as information that identifies, or is capable of identifying any of the following:

* the name, number or time of an intended race to be held at a race meeting at a licensed venue in Queensland
* the name or number of a licensed animal that has been nominated for, or that will otherwise take part in, an intended race to be held at a race meeting at a licensed venue in Queensland
* the name or number of a licensed animal that has been scratched or withdrawn from an intended race to be held at a race meeting at a licensed venue in Queensland
* the name or number of a rider, or trainer, of a licensed animal that has been nominated for, or that will otherwise take part in, an intended race to be held at a race meeting at a licensed venue in Queensland
* the outcome of a race held at a race meeting at a licensed venue in Queensland.

The Queensland Racing Act 2002 establishes the Queensland All Codes Racing Industry Board as the control body for all three racing codes. As controlling body it is responsible for the administration of the scheme.

The Act also provides for standard conditions that every approved betting provider must adhere to. These include taking part in a wagering monitoring system and complying with all requests for information or documents about bets placed with the betting provider.

The fee for using Queensland race fields information ranges from 1.5% - 3.5% on betting turnover associated with Queensland races. The rate depends on turnover thresholds, the type of race, and the type of betting (fixed versus non-fixed odds).

1. National Sporting Organisation means the organisation that meets the criteria for receiving financial support from Sport NZ. [↑](#footnote-ref-1)
2. <https://www.beehive.govt.nz/sites/all/files/Working%20Group%20-%20Final%20Report%20October%202015.pdf> [↑](#footnote-ref-2)
3. There are divergent research results on this issue. Current Ministry of Health research notes that a small proportion of gamblers participate in online offshore racing and sports betting and that this has remained static over the years from 2012 to 2014 - *New Zealand 2012 National Gambling Study: Overview and Gambling Participation; Report Number 1, Abbott, Bellringer, Garett, Mundy-MacPherson; Gambling and Addictions Research Centre AUT, May 2014.*  [↑](#footnote-ref-3)
4. Gross betting profit is the profit taken by a gambling operator after wins have been paid out on bets placed. [↑](#footnote-ref-4)
5. Turnover is the total amount wagered by gamblers before prizes are paid and includes a re-investment factor where the same dollar is counted more than once. [↑](#footnote-ref-5)
6. Totalisator betting is where the winners share the pool of bets placed. Fixed-odds betting is where a price is guaranteed for a winning bet at the point of sale. [↑](#footnote-ref-6)
7. MMA NZ is currently in the process of being approved as an NSO. [↑](#footnote-ref-7)
8. Nielsen, August 2015, Online Gambling Survey, Report prepared for the NZRB [↑](#footnote-ref-8)
9. While you may indicate the information you would like withheld, it can only be withheld if it meets the relevant criteria under the Official Information Act 1982. [↑](#footnote-ref-9)
10. Penalty units are used in Australian law to describe the amount payable for fines under legislation. The fines are calculated by multiplying the value of one penalty unit by the number of penalty units prescribed for the offence. Each state has its own penalty unit. Under federal law a penalty unit if $170. In NSW a penalty unit is set at $110. In Queensland, penalty units are set at $113.85. [↑](#footnote-ref-10)