

Hon Rick Barker
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1 December 2006

REPORT ON THE PROPOSED PROBLEM GAMBLING LEVY: 2007-2010

1. INTRODUCTION

- 1.1 This Report is submitted by the Gambling Commission (the "**Commission**") pursuant to section 318(5) of the Gambling Act 2003 (the "**Act**"). It makes recommendations to Ministers on the total amount of the proposed Problem Gambling Levy for a 3-year period, 1 July 2007 - 30 June 2010, and the proposed levy rate for each gambling sector.
- 1.2 Section 319(1) of the Act contemplates that, after considering this Report, Ministers (following Cabinet consideration) will recommend that the Governor-General make regulations by Order in Council, requiring gambling operators to pay a levy to the Crown.
- 1.3 The purpose of the levy is to recover the cost of implementing the Problem Gambling Strategy. Unusually, the levy amounts to a direct recovery of an area of public health expenditure, with gambling operators paying for what Ministers decide it is appropriate to spend (having taken advice from the Ministry of Health (the "**Ministry**") and considered the recommendations of the Commission).
- 1.4 The Commission thinks that there is weight in comments made to it that direct recovery of cost through a levy means that the usual contestability for health funding, whereby funding proposals are weighed within an overall constrained funding envelope, may be absent. This has led to scrutiny by gambling operators and treatment providers of the Ministry's funding requirements, the results of which are set out in the relevant commentary on consultation feedback.
- 1.5 This Report begins with an Executive Summary, followed by preliminary comments setting out the background to the Report and the Commission's approach to analysis of the proposed levy. The Report then addresses the component values of the levy formula. The Report concludes with comment on the proposal by Clubs New Zealand Incorporated ("**Clubs**") that regulations provide for non-commercial gaming machine venues to be levied as a separate gambling sector.

2. EXECUTIVE SUMMARY

- 2.1 The key recommendations of the Commission are as follows:
- (a) That the total amount of the levy for the 3-year period 1 July 2007 – 30 June 2010 be set at \$64,899,000. This reflects the total amount of the levy recommended by

the Ministry (being \$58,167,000) with the deduction of \$2,313,000 for the proposed contingency fund for intervention services and the addition of the net under-collect for 2004-2007 (being \$9,045,000).

- (b) That the 10:90 (expenditure:presentations) weightings applying in the initial levy period 2004-2007 be revised to provide for 20:80 weightings for the period 2007-2010. No convincing rationale was provided by the Ministry for 10:90 weightings, the Commission considering it to be appropriate to place greater emphasis on expenditure in order to spread costs not directly related to treatment more equitably across gambling sectors.
- (c) That the net under-collection for the 2004-07 period be included under Component C (the Ministry's funding requirements) with no adjustment to take into account the under or over-recovery for each sector on the basis of previously forecast presentations and expenditure. The Commission believes that this is the fairest approach that can be achieved within the constraints set out in the Act.
- (d) Taking into account the adjustments to the Ministry's funding requirement and weightings described above, the levy rates for collection over a 36 month period be set as follows:

Commission's proposed problem gambling levy rates (36 months) 20:80

	Non-casino gaming machines	Casinos	NZ Racing Board	Lotteries Commission
Sector levy rates(%)	1.63%	0.74%	0.59%	0.29%
Estimated contribution (\$ millions, excl contingency and GST)	44.42	12.65	4.86	2.97

The table above is GST exclusive to be consistent with the figures reported in the Ministry's service plan. Ultimately, however, the levy paid will be GST inclusive so will be higher than those figures shown above. The total levy to be paid including GST is \$73,011,000.

- (e) The Commission considers there is a prima facie case for non-commercial Non Casino Gaming Machine ("**NCGM**") operators to be recognised in the future as a separate sector subject to the levy, based on lower expenditure and presentations compared with commercial NCGM venues. It is noted that clubs are already recognised as a separate class of operator elsewhere in the Act. A decision should be made now, to enable relevant presentation data to be collected so that a levy rate for clubs can be struck for 2010-2013, if presentation and expenditure data confirm this to be appropriate.

2.2 Beyond its recommendation that no provision be made for a contingency fund, the Commission is unable to recommend specific funding changes because it does not have access to the data and analysis underlying the Ministry's funding projections. It has, however, identified a number of areas where it believes (on the basis of consultation undertaken and expert advice) that there may be scope for greater cost efficiency. This suggests to the Commission that there should be adequate scope for the Ministry to deliver services to meet any increases in volume of demand over the next three years, and that furthermore there may be scope to realise an under-spend if increased demand does not transpire. This is based on the following observations:

- (a) Over the initial levy period there have been significant changes in the gambling environment, notably declining expenditure (particularly for the NCGM sector) and declining presentations for treatment. While there is some debate about whether these trends are sustainable over the long term, the Commission's view is that for the intermediate term of the 2007-2010 levy period, appropriate adjustments to funding levels should be made. A number of changes have been proposed by the Ministry in its revised costings, following consultation. The question is whether revisions are adequate, or whether further downward revision is appropriate.
- (b) Current costs of treatment and providing treatment capacity are excessive. The Ministry's funding model could be modified to improve cost. Problem gambling service providers are currently funded on the basis of Full Time Equivalent employees for specified services. This rigidity has led to over capacity amongst some providers as interventions have declined. The Commission considers that rather than purchasing capacity, the Ministry should be purchasing outputs or outcomes to improve cost effectiveness.
- (c) To date problem gambling services have primarily been funded and provided on a stand-alone basis. The size of the sector and the quantum of expenditure is comparatively small when compared with other ring fenced funding allocations within health. As a consequence, administration and co-ordination costs associated with developing and implementing the Problem Gambling Strategy are higher than would be the case if the service was integrated more closely with other health services. This approach is driven in part by historical models and the desire of gambling sectors subject to the levy to "ring fence" spending on problem gambling. However, given the relatively small budget available, the utility of operating as a stand-alone service is questionable. This is true for the sector as a whole and for the delivery of some specific services, where the volume of treatments may be low outside the main centres.

- (d) The Ministry has proposed a 17% reduction in funding for providing psychosocial intervention services in 2007/08 (compared with 2006/07). This reduction was not opposed by any treatment provider at the Commission's consultation meeting although a number cautioned against reducing the service base as it was considered that the decline in help seeking may not be a trend. In principle the Commission considers this reduction should be achievable. It notes that the Ministry will be required to undertake immediate detailed planning work to achieve these savings in full in the 2007-2010 period.
- (e) The Commission does not consider it appropriate to build in a contingency amount for intervention services as there was not strong evidence to support the assumption that demand for services will grow substantially during the levy period, nor that additional capacity would be required to deliver additional service volumes. The Ministry should be encouraged to manage within established budget limits, without drawing down more funds. Some growth should be able to be accommodated within proposed funding levels.
- (f) Administration and development expenditure remains high in relation to the total funding amount, and has increased since 2004-2007, to account now for 10% of all funding for the 3-year period. This does not include the administrative and overhead costs of individual service providers. A further 20% of costs relate to marketing, research and evaluation services, with only 70% of costs being allocated to direct service delivery activities. The Commission recommends that the Ministry should review the 30% allocation with a view to identifying where expenditure could be reduced.
- (g) The amount allocated to the social marketing campaign - being \$4.3 million or 7% of the Ministry's budget - seems high. The Ministry may wish to consider whether a staged approach with an initial high intensity campaign followed by a less intensive "reminder" campaigns would be as successful as a high intensity campaign for the entire three years.
- (h) Although a number of treatment providers called for additional resources including for research, Asian, Maori and Pacific services, community support, assistance to Territorial Local Authorities, and for marketing of treatment services, no compelling evidence was provided to the Commission establishing that funding proposed by the Ministry was inadequate.
- (i) Under section 322 of the Act the Ministry can initiate early reconsideration of the levy if there is a significant change in the gambling environment. In practice, it is unlikely that the Ministry would do so, given the process requirements set out in

section 318 of the Act. This adds emphasis to the need for the Ministry and the Department of Internal Affairs (the “**Department**”) regularly to update stakeholders during the levy period on progress in implementing the Strategy, and of how presentation and expenditure is tracking against forecast (explaining any significant variances). This will assist in ensuring the Ministry and Department are accountable, and with forward planning by stakeholders.

- (j) A number of submitters expressed difficulty understanding how the Ministry had arrived at proposed levy rates. Fuller explanation is required of the levy calculations undertaken, including provision of relevant data where possible and greater clarity around calculation methods.

3. BACKGROUND

- 3.1 As contemplated in the Act, there has been a two-step consultation process in relation to setting the levy and levy rates involving consultation by the Ministry and Commission in turn.
- 3.2 The Ministry developed a proposed three year service plan, needs assessment and levy rates for the period 2007-2010. Written submissions and oral submissions on the Ministry’s proposal were sought in the period 4 August - 29 September 2006. The Ministry received 979 written submissions, and convened five public meetings to discuss its proposal in Auckland, Hamilton, Wellington, Christchurch and Dunedin and two additional meetings with industry and Government Departments (respectively) in Wellington.
- 3.3 The Ministry retained an independent contractor, Litmus, to analyse the written submissions received. A number of these were identical, with multiple identical submissions being treated as one submission for the purpose of analysis. Litmus identified 55 distinct submissions which it analysed.
- 3.4 The Ministry revised its draft service plan and levy calculations in light of consultation feedback and new information, including updated service user data and gambling expenditure figures. On 26 October 2006 the Ministry submitted to Ministers and the Commission its revised proposal, a report summarising the changes made, and the Litmus report. These documents were, in turn, provided by the Commission to participants in its consultation meeting in Auckland on 17 November 2006.
- 3.5 As required under section 318(3) of the Act, the Commission requested the attendance at that meeting of the Ministry, the Department, representatives of gambling operators who will be subject to the levy, representatives of providers of gambling services, and representatives of other groups whom the Commission believed likely to be significantly

affected by the levy. A list is attached as Annex 1 of those attending the meeting and those organisations invited, but who did not attend. The issues raised at the consultation meeting are discussed and addressed in this Report, and in more detail in a meeting summary attached as Annex 2.

- 3.6 As contemplated in section 318(6) of the Act, the Commission engaged HP Business Consulting (“**HP**”) to advise it on the Ministry’s proposed service plan and levy calculations. The HP report is attached as Annex 3. The Commission’s solicitors, Wilson Harle, also provided advice on the construction of sections 318, 320 and 322 of the Act, as relevant to this Report.
- 3.7 The Commission is required to report to responsible Ministers, with recommendations on the levy, within 10 working days of its 17 November 2006 consultation meeting. This Report is submitted in accordance with this requirement.

4. APPROACH TO ANALYSIS

- 4.1 Section 318(5) of the Act directs the Commission to make recommendations on the total annual amount of the problem gambling levy for a three year period and the levy rate for each gambling sector. The consultation undertaken by the Commission, expert advice received by the Commission, and its own deliberations have focused principally on these two key matters.
- 4.2 In making its recommendations and observations, the Commission has focused on each of the component values of the formula used to estimate the proposed levy rates. This is set out in section 320 of the Act, as follows:

$$\text{levy rate} = \frac{((A \times W1) + (B \times W2)) \times C}{D}$$

- 4.3 Broadly, the top line of the formula establishes the total potential levy liability of each gambling sector. The bottom line of the formula, once calculated, establishes how much, per dollar of expenditure, a sector is required to pay by way of levy to the Inland Revenue Department (“**IRD**”).
- 4.4 The component values to which reference is made in the formula are described in section 320(2) as follows:

- A** estimated player expenditure in a sector divided by the total estimated player expenditure in all sectors subject to the levy;

- B** customer presentations to problem gambling services that can be attributed to gambling in a sector divided by total presentations from sectors subject to the levy;
- C** the Ministry's funding requirements for the period for which the levy is payable;
- D** the forecast player expenditure in a sector for the levy period; and

W1 and W2 – weights, the sum of which is 1.

- 4.5 While primary recourse must be had to the formula in setting levy rates, the Commission considers itself able to depart from it in making recommendations, provided there are compelling reasons to do so. That the Commission has this latitude is supported by the requirement for it to consult; the use of the indefinite article in section 320(1), describing the formula as "a mechanism"; and the language of section 320(2), stating that the formula is "to assist in estimating the proposed levy rates".
- 4.6 Section 318(5) of the Act states that the Commission "must submit a report to the responsible Ministers making recommendations on the total annual amount of the problem gambling levy for the relevant 3-year period" and the levy rate for each gambling sector or each gambling operator or class of gambling operator that is subject to the levy. As a result, the Commission may not recommend that the existing levy rate be retained for a further 12 months as proposed by the Charity Gaming Association ("**CGA**"), in anticipation of a new three year levy being struck, to apply from July 2008. Nor can it recommend updating the levy formula annually with the published presentation and expenditure data, or establishing adjustable ranges for levy rates, as proposed at the Commission's meeting.

5. ANALYSIS OF COMPONENT A, CURRENT EXPENDITURE

- 5.1 Component A represents the percentage share for each of four sectors of total expenditure. In calculating the formula, the Department has used expenditure data for the period 1 July 2005 – 30 June 2006.
- 5.2 The Department did not disclose to the Commission or gambling operators subject to the levy the data used to determine A (ie expenditure for each of the sectors and overall player expenditure) on the basis that this would result in the disclosure of tax details of individual taxpayers, prohibited under the Tax Administration Act. The Commission accepts that disclosure of expenditure in the casino sector may, inadvertently, lead to indirect disclosure of this nature. For the other three sectors, expenditure is a matter of public record, and the Commission sees no reason why this information cannot be disclosed by the Department, together with the total player expenditure. This greater

transparency may assist those subject to the levy in their analysis of levy calculations. The Commission invites the Department to discuss the matter further with the Inland Revenue Department, to seek resolution.

- 5.3 In the absence of relevant data underpinning A, the Commission is unable to comment further.

6. ANALYSIS OF COMPONENT B, CUSTOMER PRESENTATIONS

- 6.1 The information for Component B has been derived from presentation data extracted from the Ministry's CLIC database, administered by Paton-Simpson and Associates. The database identifies the number of individuals seeking problem gambling services and records the primary gambling mode to which help seekers attribute the harm caused, rather than presentations in the form of attendances to access services.

- 6.2 The Ministry has indicated that the presentation data includes:

- all clients who recorded a primary mode (ie they do not need to have recorded a territorial authority, date of birth etc);
- gamblers and significant others (ie friends, families, whanau);
- outpatient and inpatient clients;
- new clients and existing clients.

- 6.3 The data treats equally clients who received only brief and early interventions and clients who received full intervention treatment. The view was expressed that there may be some discrepancies in how providers are currently capturing data and that as a consequence some providers may not be entering all data into the CLIC database. This is a common issue amongst health providers, but on balance the Commission does not consider it to be a sufficiently major issue to prevent this data set being used in the calculation of the levy. Ongoing work should be undertaken to improve the consistency of data capture over time.

- 6.4 The presentation data used to calculate the levy does not include data for Gambling Helpline services or the Problem Gambling website. The Helpline data is not captured to the same level of detail and is regarded as a channel for face-to-face services. Even less detail is captured about the growing use of the Problem Gambling website. The HP Report recommends that the Ministry should work towards achieving greater consistency in the capture of data elements between these data sets which in turn would enable a more rigorous analysis of presentation and service usage data to underpin the estimation of the 2010-2013 levy.

- 6.5 The Act prescribes that presentation data obtained for a given time period will be used to calculate Component B which will determine the amount of future funding that each gambling sector will be required to contribute in the forthcoming 3-year levy period. The calculations used in the Ministry's service plan are based on presentation data for the period 1 July 2005 – 30 June 2006, the most up-to-date data available to the Ministry. Over the past three years the proportion of presentations linked to each gambling sector have changed a little with a general downward trend in the percentage of presentations attributed to the NCGM sector. Regardless of whether this trend stays constant or changes in the forthcoming period, the formula prescribed for calculating the levy does not allow for any forecasts of future presentation data to be included in the calculation of the formula.
- 6.6 At the Commission's consultation meeting, the Ministry said that a number of improvements had been made over the last two years, in particular, greater accuracy has been achieved in data collection relating to primary mode. The Ministry indicated that 96.7% of new gambler clients now identify a primary mode, with a lower figure of 40.8% for significant others. The Ministry opined that the level of reporting (and attribution) by significant others will improve as service providers become more adept at reporting the requisite information.
- 6.7 While there may have been improvements in the accuracy of data collection relating to who is presenting and why, there was some confusion about why Component B is used in the levy formula. At the Commission's consultation meeting, the Ministry, on one hand, described presentation data as a mechanism for apportioning the level of recovery from individual gambling sectors, but was insistent that it was not a proxy for harm. The Department, on the other, explained that the recommendation for the 10:90 weightings used in the initial levy was based on a belief that "the overwhelming emphasis should be on presentations because that's about help-seeking". Presentations were at that time considered to be "the closest thing we've got to a measure of harm".
- 6.8 The Commission's view is this. Component B is a measure of those who present for treatment in the areas where a primary gambling mode is recorded. The share of the levy payable by gambling sectors is not apportioned by Component B; it is determined by the number of presentations and level of expenditure attributable to a sector, and, most importantly, by the weightings given to each. In the current levy formula, presentations are used as a proxy for harm, as the Department has indicated, on the assumption that presentations are about help seeking, and help seeking is about harm. The 90% weighting given to presentations would appear to indicate a view that the current presentation data is a highly reliable proxy for harm. This view is not shared by the Commission and a number of stakeholders, treatment and gambling sector representatives alike.

- 6.9 A number of representatives at the consultation meeting said that only 10-12% of those estimated to experience harm present for treatment. If correct, Component B represents, then, a small sample. The Commission observes that it is a self-selected sample; it is not necessarily representative of harm attributable to particular sectors, but may be biased, for example, in terms of cultural propensity for help seeking from health services etc. The data set is also a simple head count without regard to the degree of harm experienced by each recorded person (whether in the form of a rating, losses, or length or frequency of treatment).
- 6.10 Concerns were also expressed at the Commission meeting that no weight is given in the presentation data or in the levy rate formula to so called “additional modes”, where people have gambling problems with forms of gambling apart from the primary cause cited. The CGA and Woodlands Trust Inc (“**Woodlands**”) supported inclusion of secondary mode information. The Lotteries Commission opposed on the basis that a long tail of clients would identify Lotteries products as a secondary mode, without any indication that this mode was causing harm (an argument suggesting there is little relationship between presentation and causation of harm).
- 6.11 Others raised the issue of problem gamblers who do not identify a primary mode, and how this should be taken into account in calculating what proportion of presentations are attributable to individual sectors. The Southern Trust proposed that presentations for problem gamblers who do not provide a primary mode should be apportioned equally across sectors subject to the levy.
- 6.12 In its 2004 Report, the Commission recommended that a review be undertaken by the Ministry of data requirements to best reflect harm in the future calculation of Component B. It was recommended that the review address, inter alia, whether and the extent to which additional modes should be taken into account, and further assessment of what should comprise a presentation. This review was to have been undertaken within a year, to allow early communication with service providers if data collection requirements were to be changed.
- 6.13 As far as the Commission is aware, this review has not been undertaken by the Ministry (if so, it does not appear to have been communicated to stakeholders). It seems there has been some internal consideration of whether additional modes should be considered, with the Ministry commenting at the Commission’s meeting that it was unclear how much weight should be placed on the additional modes in terms of harm caused, this varying in individual circumstances. It is possible that for one person the secondary mode may be highly significant when considering the harm they experience from gambling, while for another it may not be. The Ministry said that the primary mode was, by contrast, a clear and relatively stable indicator of the main problem for clients, with only a small number

(10-20%) of clients reporting change from primary to secondary mode across the period of treatment.

- 6.14 The Commission recognises that primary modes may be easier to count, but the response of the Ministry does raise logical difficulties. If secondary modes are not reliably connected to harm, why are primary modes? Why not instead count presentations (attendance) or measure cost or try to rate harm or factor in losses? There are a number of issues and assumptions which remain unresolved, and which the Commission continues to believe could be usefully explored.

7. COMPONENT C – MINISTRY OF HEALTH FUNDING REQUIREMENTS

In this section of the Report, the Commission comments on expenditure in the current levy period (to assist consideration of projections going forward) and the Ministry's proposed funding requirement 2007-2010. There was much discussion of Component C at the Commission's meeting, summarised in Annex 2 to this Report, which has informed the Commission's findings. The Commission has, in this section of the Report, focused on the key areas which are the subject of recommendations and observations by the Commission.

Current levy period 2004-2007

- 7.1 In the current levy period, the Ministry estimates it will spend a total of \$47,045,286 against a forecast of \$50,984,000 (GST exclusive) as shown in the following Table.

Table 1: 2004-2007 – Forecast against actual expenditure ¹ (GST exclusive)

Budget				
Service Area	2004/05	2005/06	2006/07	Total
Public Health Services	\$3,142,222	\$4,482,667	\$5,715,556	\$13,340,444
Intervention Services	8,546,667	10,871,111	11,137,778	30,555,556
Research contracts	391,111	858,667	1,214,222	2,464,000
Public Health operating	357,333	357,333	357,333	1,072,000
Mental Health operating	340,444	240,444	340,444	1,021,333
Total	\$12,777,778	\$16,910,222	\$18,765,33	\$48,453,333
Recoup	430,222	430,222	430,222	1,290,667
Total Levy monies	\$13,208,000	\$17,340,444	\$19,195,556	\$49,744,000
PGC post 1 July 2004	1,040,000	0	0	1,040,000
PGC rollover "top-up"	200,000	0	0	200,000
Total spend (GST exclusive)	\$14,448,000	\$17,340,44	\$19,195,556	\$50,984,000

¹ Report from the Ministry of Health to the Commission, 4 October 2006

Actual/Forecast				
Service Area	2004/05	2005/06	2006/07	Total
Public Health Services	\$2,973,880	\$3,924,764	\$5,743,916	\$12,642,559
Intervention Services	7,775,133	10,797,047	11,251,699	29,823,879
Research contracts	22,222	626,238	1,793,222	2,441,682
Public Health operating	357,333	357,333	357,333	1,072,000
Mental Health operating	340,444	340,444	340,444	1,021,333
Total	\$11,469,013	\$16,045,826	\$19,486,614	\$47,001,453
Recoup				0
Total Levy monies	\$11,469,013	\$16,045,826	\$19,486,614	\$47,001,453
PGC post 1 July 2004	-104,167	148,000	0	43,833
PGC rollover "top-up"	0	0	0	0
Total spend (GST exclusive)	\$11,364,846	\$16,193,826	\$19,486,614	\$47,045,286

- 7.2 There have been a number of changes to the environment within which the Ministry has operated over the last two years. The numbers of gaming machine outside casinos have decreased (from a peak of 25,221 in June 2003, to 20,571 in September 2006) with further reductions possible. Gambling expenditure has decreased, by 0.6% from 1 July 2004 – 30 June 2005, and by 2.5% from 1 July 2005 – 30 June 2006 (including a 12% decrease in expenditure for NCGM). The numbers of service users have declined, as set out below, with an earlier decline in new Helpline clients beginning in 2004.

Table 2: Numbers of service users in 2004, 2005 and 2006:²

	2004	2005	2006 (First 6 months)
Service Users	4,761	4,010	2,076

- 7.3 Notwithstanding the decline in service utilisation, contract funding levels have been maintained by the Ministry and increased in some circumstances. The following Table records the number of interventions carried out by service providers in 2005-2006, and estimated cost per user. Information relating to the number of persons utilising services (as recorded through the CLIC database) and funding amounts received by organisations for intervention services was collated by the CGA, based on the Ministry's response to Parliamentary Question 9571 (2006), with the CGA calculating the interventions cost per user.
- 7.4 A number of organisations (PGF, Gambling Helpline and the Problem Gambling National Co-ordination Service) challenged the accuracy of numbers of service users as the data does not correlate with their own records. The Ministry has confirmed its accuracy, but cautions that the information excludes any additional public health services for which providers may be being funded, and early invention and screening which does not lead to a person accessing services. It needs to be interpreted with care as the providers are not providing identical services.

² Ibid

Table 3: Service provider data

	2005/2006 Services Users	Intervention Services Funding 2005/2006	Cost per user
Problem Gambling Foundation of NZ	3,590	3,399,268	947
The Salvation Army NZ Trust	1,869	1,473,700	788
Te Rangihaeata Oranga	239	584,040	2,444
Hauora Waikato Maori Mental Health	293	435,488	1,486
Te Kahui Hauora Trust	70	357,412	5,106
Woodlands Trust	212	163,352	771
He Oranga Pounamu Charitable Trust	93	185,200	1,991
Hapai Te Hauora Tapui	7	17,220	2,460
Odyssey House Trust	54	158,952	2,944
Te Whanau O Waipareira Trust	13	186,976	14,383
Pacific Peoples Addiction Service	8	143,160	17,895
Nga Manga Puriri Trust	30	142,156	4,739
Ngati Porou Hauora	70	160,500	2,293
Pacificare Trust	18	99,700	5,539
Te Runanga O Toa Rangatira	23	126,100	5,483
Best Care Whakapai Hauora	75	96,100	1,281
Tui Ora Trust	12	96,112	8,009
Waikato DHB	51	301,356	5,909
Raukura Hauora O Tainui Trust	179	215,265	1,203
Wairarapa Addiction Service Inc	27	172,224	6,379
Waitemata DHB (TUPU)	13	172,200	13,246
Te Rapuora Health Services	6	86,124	14,354
Te Kahui Hauora O Ngati Koata Trust	15	86,124	5,742
Total	6,967	8,858,729	1,271
Helpline Services			
Gambling Helpline	18,372 calls	1,357,120	74

7.5 On the basis of this data, NCGM representatives submitted that a number of providers are over-funded, with treatment providers responding that the figures did not capture the total work undertaken. The Problem Gambling Foundation (“**PGF**”) also commented that lack of advertising for services has meant that people have not presented for treatment. It also referred to disruption to services caused by short-term contracts; delays in settling contracts, causing uncertainty in service development and delivery; and lack of agreed protocols and training, resulting in unrealistic targets and data for service planning reporting and contract management.

- 7.6 The Commission accepts that the data may not present a complete picture of services provided, but considers that it indicates strongly, nevertheless, over-capacity for a number of providers. The Ministry is reviewing a number of the contracts, which it has said may lead to some services being reduced or closed, and acknowledged at the Commission's meeting that there is a need for greater alignment with the wider health sector and consideration of different models of delivery of services.
- 7.7 The data suggests to the Commission that the Ministry needs, in future, to assess demand much more carefully when purchasing services. The large variations in costs between providers for providing intervention services also indicates that improvements in cost efficiency could be achieved, inter alia, by:
- (a) Linking contracts more directly to the volume of services provided so that the Ministry is not locked into funding regardless of the volume of service delivered.
 - (b) Exploring whether, for some service providers who are providing low volumes of service, it may be more cost effective to integrate the provision of problem gambling services more closely with other addiction or primary health services. For those paying the levy, it is anticipated that this approach would need to ensure this did not result in cross subsidisation of other services.

Next levy period 2007-2010

- 7.8 The Ministry has costed implementation of the Strategy at \$58.167 million (GST exclusive) for the three financial years commencing on 1 July 2007. In addition, the Ministry seeks to recover \$9.045 million under- in the current levy period. Accordingly the proposed levy amount is \$67.212 million.
- 7.9 Implementation of the Strategy is funded from the consolidated account, with the IRD recovering funding from the gambling sectors identified in regulations. It is proposed by the Ministry that any underspent amount of the proposed interventions contingency fund (discussed below) will be carried forward into the next levy period.
- 7.10 Table 4 (below) outlines the proposed Ministry spend for 2007-2010 and compares this to expenditure for the current period 2004-2007.

Table 4: Costs and trends for high level categories of funding³

	2006/07 (\$000)	2007/08 (\$000)	2008/09 (\$000)	2009/10 (\$000)	Change between 06/07 and 07/08	Increase 3 years 2004/05 – 2006/07 on 2007/08 – 2009/10	Increase between 2007/08 and 2009/10
Public health services	5,744	5,653	5,810	6,270	-0.67%	40.5%	10.9%
Intervention services	11,252	10,184	10,480	10,634	-9.5%	4.9%	4.4%
Research contracts	1,793	2,200	2,200	1,400	22.7%	137.5%	-36.4%
Public health operating	357	475	689	504	32.9%	55.6%	6.1%
Intervention services operating	340	475	689	504	39.5%	63.3%	6.1%
Sub total	19,486	18,987	19,868	19,312	-2.6%	23.8	1.7%

Note: In 2008/09, the Ministry is proposing to spend an additional \$200,000 for public health and intervention services on audit services.

- 7.11 This data shows significant overall funding increases from the current levy period to the new levy period 2007-2010. It is noted, however, that the costs for 2004/05–2006/07 and 2007/08–2009/10 are not directly comparable, as services have increased during 2004-2007 from a comparatively low base, with the development of new providers and the purchase of new services. It is probably most useful to compare forecast actual expenditure for 2006/07 with proposed expenditure for 2007/08, and to analyse changes throughout the new levy period 2007-2010.
- 7.12 The significant changes in cost have occurred within the research area where funding is being included for a gaming survey and clinical trial. In addition the base research fund is being maintained at the 2006-2007 level which was been built up in the previous two years. Significant increases in costs have also been forecast for the public health services which is driven by the continued expenditure on a social marketing campaign.
- 7.13 Concerns were expressed by some gambling service providers at the Commission's meeting that proposed funding is inadequate. In particular, requests for additional funding were made for research, Asian, Maori and Pacific services, for treatment providers to advertise access to services, and to support community initiatives and Territorial Local Authorities' planning processes and associated social impact analysis. The Gambling Helpline proposed that \$500,000 be provided to fund a contestable innovations fund for new ideas, not limited to services or research.
- 7.14 Representatives of NCGM operators expressed concern about the impact of the increased levy payable, and together with casinos, supported deeper cuts in the funding of interventions on the basis of declining presentations, existing over capacity and lack of

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Review of Problem Gambling Service Plan Costings and Formula for Levy Calculations, HP Business Consulting, November 2006, pg. 17

robust analysis supporting the Ministry's costings. NCGM representatives also proposed reductions in the public health budget.

Analysis

- 7.15 The Commission does not consider there is a case for any additional funding or need for a contingency fund for interventions. There is already capacity in the Ministry's funding projections to accommodate growth in demand for services, which if not realised, should result in savings which can be delivered back as an under-spend. The Commission's more detailed observations in relation to public health, interventions, research, administrative costs and recovery of the under-collect follow.

Public health

- 7.16 In total the Ministry is proposing to spend \$19.6 million (excluding GST) on public health, including operating expenses over the period 2007-2010 which is a 40.5% increase over the previous levy period. HP has questioned the amount of spending on the social marketing campaign (\$4.2 million over three years) given the comparatively small target population, and whether the Ministry has a clear view on the value that it is seeking. It suggests that an alternative approach that may be worth exploring, as part of the debate about reasonableness of spend, is how impact/value might change if, after the initial campaign is complete, only "top-up" campaigns occurred in the subsequent two years rather than full campaigns in each of the three years, thereby allowing for some cost saving.

Interventions

- 7.17 The Ministry is proposing to spend \$32.966 million on intervention services in the 2007-2010 period, which is a 4.9% increase over the current period. It proposes to decrease expenditure on psychosocial interventions and support and workforce development by 17% between 2006/07 and 2007/08, but to set aside a 10% contingency fund for the three year period in case there is growth in demand for services. Overall this represents a 9% decrease in services.
- 7.18 The Commission notes that the proposed 17% decrease between 2006/07 and 2007/08 is substantial and is a significant change from the previous draft of the consultation paper. The Commission considers that there should be scope to make this reduction by renegotiating current contracts, given the significant percentage drop in volume that has occurred over the last 12 months. Ministers may however wish to obtain a better understanding of how the Ministry proposes to secure this reduction without compromising substantially on service delivery access or quality.

- 7.19 In relation to the contingency fund, the Commission notes that at present the Ministry is purchasing intervention services on an input basis, not a cost per item basis. Accordingly, a very significant increase in volume (ie well above a 10% growth in volume) would need to occur before costs would be required to increase by 10%. If this was the case, the Commission considers it would be prudent for the Ministry to consider ways of funding these additional services from within the overall budget that it has for problem gambling services. The Ministry needs to be encouraged to operate within budgeted funding levels, managing any changes in demand within budget, rather than drawing down more funds. The statutory scheme requires the use of values which may change over time without provision for contingency increases or reductions.

Research

- 7.20 While there is a decrease in the ongoing research programme from 2006/07 to 2007/08, additional research expenditure items have been introduced so the total research expenditure has increased. The total proposed funding for research projects increases both between 2006/07 and 2007/08 period (by 23%) and over the three year levy period 2007-2010 (by 137.5%). The amounts included within the research category include the ongoing general research programme and two specific research projects, replicating the 1999 New Zealand Gaming Survey and a clinical trial of the effectiveness of clinical interventions for problem gambling.
- 7.21 Although the Commission is advised by its expert consultant that the amount allocated to research is high (given the number of people estimated to have a current pathological gambling problem and given comparable expenditure levels on research elsewhere in the health sector), the Commission considers the funding level to be appropriate, given that problem gambling is a relatively new field of inquiry.

Administrative costs

- 7.22 The Commission considers that there is scope for reducing the proportion of costs allocated by the Ministry to co-ordination, administration and operating costs, including by modifying the Ministry's purchasing model.
- 7.23 In order to better understand the level of costs going into service delivery and overheads, HP has categorised the Ministry's costs into five cost categories: direct delivery costs; marketing costs; research costs; programme evaluation costs; and co-ordination, administration and operating costs.
- 7.24 Table 5 below shows first, the level of administration and development expenditure is, at 10%, very high in relation to the total funding amount and the budget constraints described above, and an increase on costs of 9% for the period 2004-2007. Second, it shows that the Ministry is proposing to allocate only 70% of its costs in the future to direct

delivery costs as compared to 80% in the previous period (this is due mainly to increases in marketing and research costs).

Table 5: Funding proportions⁴

	2004-2007		2007-2010	
	Total costs	Proportion of costs	Total costs	Proportion of costs
Direct delivery costs	37,443	79.7%	41,023	70.5%
Marketing costs	2,490	5.3%	4,779	8.2%
Research costs	2,493	5.3%	5,884	10.1%
Programme evaluation	178	0.4%	1,050	1.8%
Co-ordination, Administration and Operating Costs	4,398	9.4%	5,431	9.3%
Total	47,002	100%	58,167	100%

Note: Total may not add due to rounding

- 7.25 The proportion of costs being allocated to direct service delivery costs is, at 70%, well below the health sector average. It is also noted that this analysis only reflects the Ministry's costs. For each service provider, there will be some additional costs of this nature. While this is to be expected, there is currently no way of identifying what proportion of costs in total are in effect overheads.
- 7.26 The Commission observes that the comparatively high level of administrative and operational costs is driven in part by the Ministry's purchasing model, and the decision to operate a comparatively small service on a stand-alone basis.
- 7.27 The Commission recommends that rather than funding FTEs, the Ministry should investigate moving to a more output or outcome approach. It observes, furthermore, that the provision of services on a stand-alone basis may add significantly more administration and co-ordination costs than if a combined approach was undertaken. A joint approach across addictions would also assist in allowing the move to an output or outcome costing approach whilst ensuring sustainability and coverage.
- 7.28 The Commission notes that there is an inherent difficulty in ring fencing problem gambling funding due to the co-morbidities from which many problem gamblers suffer. On balance, as the Commission indicated in its 2004 Report, it is considered that this is likely to favour the problem gambling funding position as these people are accessing other services such as mental health and drug and alcohol in resolving their problems. Industry may need to reconcile its views about the importance of ring fencing problem gambling funding with the fact that a joint approach across addictions may be more cost effective, and may assist in allowing the move to an output or outcome costing approach whilst ensuring sustainability and coverage.

⁴ Ibid, pg. 16

Under-collection

7.29 For the current levy period, the Department has estimated that there will be a significant net under-recovery from the problem gambling levy of approximately \$9.045 million (GST exclusive) for the 2004-2007 period. This under-recovery is due to forecast expenditure levels for casinos and NCGMs not being achieved (partially offset by cost savings achieved by the Ministry). The Ministry proposes to receive this amount over the 2007-2010 levy period, in addition to proposed expenditure of \$58.167 million.

7.30 The Ministry has included the under-recovery in Component C in accordance with section 320(3)(c)(iii) of the Act, which reads:

- (c) the proposed amount of C must taken into account - ...
 - (iii) any under-recovery or over-recovery of levy in the previous period.

7.31 In a written report to the Commission dated July 2006, the Department has invited the Commission to recommend that Ministers depart from the formula, and levy each sector for the amount that was over or under-collected during the 2004-2007 levy period. This proposal was made because the Department considered it unfair that other gambling sectors subsidise the under-collect from NCGM. This approach was supported at the Commission's meeting by SKYCITY Entertainment Group and the Racing Board.

7.32 As noted above, the Commission is not free to make recommendations without using the formula, but may depart from it where there are good reasons to do so. The Commission does not consider this however to be such a circumstance. The Department's amended formula would not result in a fairer outcome as, on one approach, it would mean that a sector which did not achieve the level of player expenditure predicted would be penalised in the subsequent levy period, while conversely, a sector which over-performed on expenditure expectations would benefit in the subsequent levy period.

8. COMPONENT D – FORECAST EXPENDITURE

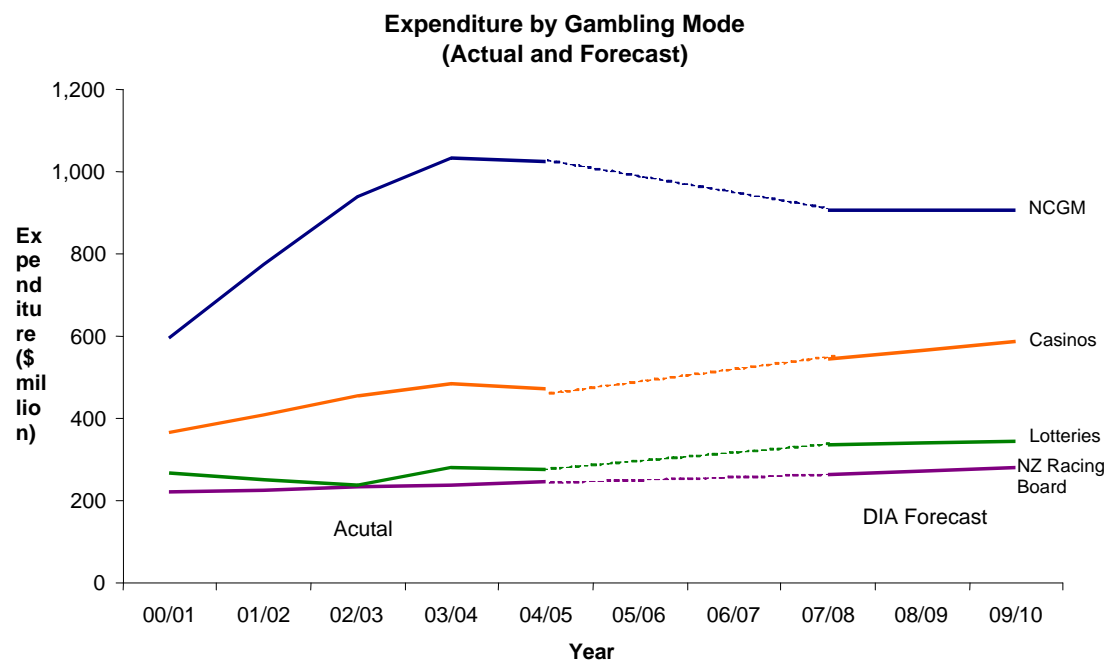
8.1 In commenting on the expenditure forecasts made by the Department for 2007-2010, the Commission wishes to clarify that it has no information independent of that provided to it by the Department or ability independently to test the Department's projections. It can simply reflect to Ministers the views of the relevant sectors on the Department's proposals.

8.2 The Commission acknowledges the large degree of uncertainty in forecasting, given the changed and changing regulatory environment for gambling activities and the implications of other legislation, notably the Smoke Free Environments Amendment Act. Conservative forecasting by the Department enhances the levy collection rate and, if expenditure

forecast is set too low, over-collection will result. Conversely, if the forecasts are too high, as it has been for NCGM, recovery is inadequate.

- 8.3 The graph below (Figure 1) shows the actual expenditure (2004-2007) and forecast expenditure for 2007-2010. The basis for the projections and stakeholder responses are summarised below.

Figure 1⁵



NCGM

- 8.4 Over the period 2004-2006, the total spending on NCGMs declined by 13%, attributed in part by the Department to the impact of the changes in smoke-free legislation and other legislative change. The Department predicts a zero growth rate for the 2007-2010 levy period. At the Commission's consultation meeting, the CGA predicted further decline and negative growth. The Department responded that there was no evidence to support this. It commented that the smoke-free legislation had seen an immediate drop of 12%, that expenditure had stayed down, but based on the Victorian experience, expenditure recovery occurred over a period of around five years. Two service providers questioned whether the Victorian experience was applicable to New Zealand.

Casinos

- 8.5 As with NCGMs, casino spending declined over the 2004-2006 period, due in part to the impact of the changes in smoke-free legislation. The Department considers that casinos have recovered more quickly, as a consequence of which the sector is experiencing some growth, attributable in part to the renewed popularity of table games. The Department

⁵ Ibid, pg. 23

predicts a 6% growth rate in 2006-2007, levelling to 4% over the 2007-2010 levy period. Casinos did not comment on this forecast at the Commission's meeting.

Racing Board

- 8.6 Historically Racing Board player expenditure has shown an annual growth of approximately 2.5%. The Department does not expect this to increase. The Racing Board did not comment on this forecast at the Commission's meeting.

Lotteries Commission

- 8.7 After a small decline in 2004-2005, there was substantial growth for Lotteries in 2005-2006 due to large Powerball jackpots, and the introduction of Big Wednesday. The Department expects an increase of 4% in 2006-2007, levelling to 1% growth in expenditure for the 2007-2010 levy period. The Lotteries Commission confirmed that the projections correlated with its own forecasts.
- 8.8 Some submitters questioned whether Lotteries growth was under-estimated, with Gambling Helpline querying whether the introduction of internet products by the Lotteries Commission had been taken into account. The Department commented that, although the growth looks low, Lotteries Commission is coming off a high growth base, with some delay before internet products made any marked contribution to revenue.
- 8.9 The Commission has no basis for disagreeing with the Department's forecasts for the reasons outlined above.

9. WEIGHTINGS

- 9.1 The weighting variables are fundamental to the statutory formula and have a strong impact on the levy rate for individual sectors. The only legislative guide to ascertaining what they should be is the general requirement in section 319(2), that the levy is "to recover the cost of developing, managing, and delivering the integrated problem gambling strategy", and the fact that W1 and W2 are weightings, the sum of which is 1. The balance to be struck is between sectors paying according to their gambling revenue or according to the number of people presenting for treatment attributable to a sector.
- 9.2 The Department has previously expressed the view that it is the Government's intent that gambling sectors giving rise to problem gambling behaviour should bear the appropriate proportion of costs associated with treating that gambling harm. As discussed in section 6 above, in setting the weightings for the initial levy period, presentations were treated as a proxy for harm, and weightings set accordingly. The Ministry recommends carrying forward the weightings from the initial levy period.

- 9.3 Woodlands, supported by the CGA, argued that, rather than being a measure of harm, presentations should be considered as a measure of cost of treatment. To determine the weightings to be given to Components A and B, Woodlands separates costs which should be fully attributed to a sector, and costs which it considers should be borne generally by gambling providers (these include public health and other costs of delivering the Problem Gambling Strategy). Although the Woodlands' method involves apportioning variable C (funding requirement), this is done to calculate W1 and W2 rather than altering the statutory formula. This analysis results in a weightings skewed to expenditure rather than presentations.
- 9.4 At the Commission's meeting, NCGM representatives supported the Woodlands model, with most treatment providers preferring 20:80 weightings compared to 10:90 weightings (the PGF resiling from its earlier support of 10:90 at the Commission's meeting). Casinos, the Racing Board, and the Lotteries Commission supported 10:90 weightings.
- 9.5 The Commission draws from the discussion of Component B and weightings first, that apportionment of liability is not a science, as the Ministry and Department freely acknowledge. Second, it observes that there are alternative approaches to deriving the values of W1 and W2, including that proposed by Woodlands, which yield different results. The varying approaches depend essentially on whether Component B is considered a measure of harm or cost of treatment.
- 9.6 On balance, the Commission considers that the weightings should be applied in a way which recognises that the levy should be apportioned to recognise the relative harm caused by individual sectors. Having said this, it has concerns about the extent to which Component B fairly reflects harm, as previously discussed. Certainly it does not have the high level of confidence in presentations as a measure of harm which would justify Component B being given a 90% weighting, as is proposed.
- 9.7 The Commission recommends a 20:80 weighting. In further support of this approach the Commission notes that:
- (a) The methodological difficulties associated with Component B, as discussed in section 6.
 - (b) A shift in weighting away from Component B recognises that (in the next levy period in particular) the Strategy is funding an important public health strategy for which all gambling sectors should bear responsibility.
 - (c) Weighting heavily towards Component B impacts most heavily on the NCGM sector, impacting on its ability to deliver funds for charitable purposes.

- (d) The current weighting on Component B (and the formula as a whole) is a disincentive for operators to refer problem gamblers to intervention services, as to do so will increase presentations attributable to a sector, and over time, the levy payable.

9.8 The Tables set out below demonstrate the impact of adopting 20:80 weightings, compared to 10:90 weightings. The calculations are made on the basis of the total levy being set at \$64,899,000.

Levy rate \$64,899,000 (20:80)

	Non-casino gaming machines	Casinos	New Zealand Racing Board	Lotteries Commission
Sector levy rates %	1.63%	0.74%	0.59%	0.29%
Levies (\$million excl contingency and GST)	44.42	12.65	4.86	2.97

Levy rate \$64,899,000 (10:90)

	Non-casino gaming machines	Casinos	New Zealand Racing Board	Lotteries Commission
Sector levy rates %	1.70%	0.72%	0.55%	0.20%
Levies (\$million excl contingency and GST)	46.18	12.16	4.55	2.00

10. ACCOUNTABILITY AND EARLY RECONSIDERATION OF THE LEVY

- 10.1 At the consultation meeting both industry and service providers emphasised the need for transparency and accountability and for the Ministry more clearly to demonstrate the effectiveness of measures adopted.
- 10.2 The Ministry explained that accountability mechanisms included requirements to report annually to Parliament under section 324 of the Act on the Ministry's expenditure of funds and on a quarterly basis to its Minister. It is also understood by the Commission that the Ministry audits contract performance by service providers, which involves assessment against a variety of performance indicators. A number of submitters were of the view that these mechanisms did not provide an adequate check and balance on the effectiveness of the levy spend.
- 10.3 Industry representatives also complained about the accuracy of the Department's forecasting in 2004, which resulted in a major under-collect during the initial levy period. Representatives questioned why an early review of the levy had not been initiated under section 322 of the Act.

- 10.4 Section 322 of the Act makes it clear that the full statutory process must be carried out before the levy or levy rates can be changed. This involves developing costings, consultation by the Ministry, a meeting convened by the Commission, a Commission report to Ministers, and the promulgation of regulations. This process inherently requires a significant amount of time, meaning that section 322 is unlikely to be used in circumstances other than where a major unforeseen event occurs relatively early in the three year period which significantly affects the Strategy, levy, or levy rates. If an unforeseen event were to occur near the end of the three year period, there would be little advantage in commencing the process, which may already be underway, early.
- 10.5 While there may be process constraints on the ability of the Ministry to initiate a review, it is suggested that the Department should be reporting regularly to gambling sectors on the extent to which funds generated by the levy are tracking against projected forecasts for each sector.

11. PROPOSAL TO LEVY CLUBS AS A SEPARATE SECTOR

- 11.1 Clubs has proposed that a separate levy rate should be set for non-commercial NCGM operators, as expenditure and presentations from the clubs sector are less than for commercial gaming operators. In particular it relies on an October 2006 report prepared by the PGF for Clubs, which concludes first, that although clubs own 20.7% of NCGMs, club patrons account for only 13% of NCGM gambling expenditure, and secondly, that presentations identified from clubs are significantly less than from commercial NCGM venues. The data collected relates to a limited sample, but nevertheless supports the arguments made by Clubs.
- 11.2 The Commission has examined first, whether it can recommend such a change, and second, whether it should. The Commission and Ministers are not limited to the four existing sectors liable to pay the levy, but may recommend the identification of additional sectors or the elimination of existing sectors. This follows from section 319(3) which provides that:

... regulations may impose the levy on a gambling operator, or classes of gambling operator, in a specified sector of gambling or specified sectors of gambling and may prescribe the following:

- (a) the sectors whose gambling operators must pay the levy:
- (b) the gambling operator or class of gambling operator that must pay the levy:
- (c) the levy rate for each gambling operator or each class of gambling operator or each gambling sector:

- 11.3 “Sector” is not defined in the Act and clubs could be considered to be a separate sector to corporate societies that operate gaming machines at commercial venues. Even if not, section 319(3)(b) provides that regulations can specify “the gambling operator or class of gambling operator that must pay the levy”. Gambling operator is defined in section 4 to mean “a person or class of person who conducts gambling”. In the Commission’s view, clubs could be considered to be a different class of person to corporate societies that operate gaming machines at commercial venues.
- 11.4 In this regard, it is noted that the Act already draws a clear distinction between clubs and corporate societies that operate gaming machines at commercial venues, an example being that clubs do not need a class 4 venue agreement, whereas other corporate societies do (section 65(3)). This distinction apparently extends to the problem gambling levy context, as the Ministry and the Commission must consult with at least one club representative (section 318(1)(h)(ii)) as well as at least one representative from corporate societies licensed to operate gaming machines in commercial venues (section 318(1)(h)(i)).
- 11.5 It is understood that presentation data for 2005–2006 does not distinguish between presentations arising from gambling at commercial and non-commercial venues, although Clubs have indicated (based on discussions with the administrator of the Ministry’s database) that this information can be collected relatively easily going forward.
- 11.6 The Commission considers there is a prima facie case for non-commercial NCGM venues to be recognised in future as a separate sector subject to the levy, based on lower expenditure and presentations compared with commercial NCGM venues. It is noted that clubs are already recognised as a separate class of operator with whom the Ministry and Commission is required to consult in relation to the levy, and in other contexts in the Act. A decision should be made now by Ministers whether to recognise clubs as a separate sector, to enable relevant presentation data to be collected so that a levy rate for clubs can be struck for 2010-2013, if presentation and expenditure data confirm this to be appropriate.

12. CONCLUSION

- 12.1 The Commission thanks Ministers for this opportunity to review and comment on the proposed levy and rates, and is available to answer any questions Ministers may have in relation to this Report. It is suggested that the Chief Gambling Commissioner be contacted in the first instance, through the Commission Secretariat.

SIGNED 
GAMBLING
COMMISSION

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