

ANNEX 2
SUMMARY OF MEETING CONVENED BY GAMBLING COMMISSION
ON THE PROBLEM GAMBLING LEVY
27 November 2015

Introduction

1. This report sets out a summary of submissions made by attendees at the meeting convened by the Gambling Commission on 27 November 2015. It does not include presentations by the Ministry of Health (“**Ministry**”) or Department of Internal Affairs (“**Department**”), except for comment by the Ministry which went into further detail than the information in the Ministry’s proposals document.

Jarrold True on behalf of Dragon Community Trust Ltd, BlueSky Community Trust and First Sovereign Trust Ltd

2. Historical presentations should be included in the new variable R. To date, the weighting has been 10:90. It is inappropriate to focus only on expenditure in relation to R, when expenditure makes up only 10% of the weighting. Historical rates for both expenditure and presentations are known and should be used. The Ministry seems to say that R does not allow for presentations to be taken into account, but there is no strict interpretation of R under the Act. Both the Ministry’s interpretation, and an interpretation that allows for presentations to be taken into account, are open.
3. There should be a greater focus in the strategy on technology and innovative strategies in treatment, as opposed to academic reports. It is disappointing that the only reference to technology is the use of an app. An example of the use of technology could be the use of a smart phone app that monitors length of time in a gaming room. It would be easy to use; it simply requires some funding.
4. A 30:70 weighting is appropriate. A lower presentation weighting recognises the broad definition of harm under the Act. Presentations arise from the 0.7% of people at the acute end. A lower weighting on presentations would address the greater harm which comes from low and moderate risk gambling. It also recognises the 9% of “other” sectors for presentations.
5. A higher weighting on presentations punishes sectors which encourage help-seeking. Societies are encouraging greater efforts to address harm at venues in order to get the three year licences that will soon be available. But greater efforts in relation to harm minimisation are likely to result in higher presentations, which in turn will mean a higher levy for class 4. A lower weighting on presentations also acknowledges that presentations are not a real proxy for harm. Presentations can also change due to things like economic climate and the amount of television and radio advertising.

6. Class 4 societies operate under tight margins. Even a small change in levy can make a return to authorised purposes of 40, 41 or 42% difficult to achieve.
7. Of the 20 submitters who addressed the weighting, 11 preferred a 30:70 weighting.
8. It was important not to try to draw trends from presentation data from 2004 to the present, because the changes to the CLIC database in 2011, and consequent effect on 2012/13 presentation numbers, meant that earlier and later presentation data was not comparable.

The Ministry responded that it was not suggesting that the table of presentation data from 2004/2005 to 2014/15 demonstrated trends. It was simply the provision of the most up-to-date data, as required by the formula.

9. The intention of the levy was fair cost recovery, which was consistent with taking presentation data into account in relation to R. Another way of looking at it, was simply to do what was fair and appropriate. It was appropriate that, if the other sectors had had a larger proportion of presentations than forecast, then they pay a larger proportion. It was not an answer, for the Ministry to say that if the NCGM approach was adopted, other sectors would say it was unfair. For that reason, it did not follow to say [as the Ministry had suggested] that if the NCGM approach were adopted, the other sectors would argue that it was unfair.

Pub Charity

10. The Ministry's estimated current player expenditure for the NCGM sector seemed too high. It was unlikely that expenditure would stay stable for the next here years. Other parts of the Department had forecast a decline in machine numbers. It was not the case that if machine numbers dropped, expenditure stayed the same (with gamblers simply gambling elsewhere). Since 2004 there had been a clear correlation between a drop in machine numbers and a drop in revenue in the sector. If NCGM revenue was over-forecast now, this would have to be made up under the new variable R in the subsequent levy period.
11. It was disappointing that Lotto and casinos were not represented at the meeting.
12. As funders of the problem gambling strategy, NCGM operators were in doubt of its efficacy. It was disappointing that pathological rates of problem gambling were unchanged. Pathological problem gambling was an inelastic feature across all societies. A public health approach was well-intentioned, but not necessarily working. The strategy was not helping those most affected by problem gambling. Changes in

technology and new forms of communication were completely absent from the strategy, which was significant given that the strategy was for nine years.

13. The Ministry's proposed application of R in the formula was unlawful as it was retrospective. Section 7 Interpretation Act and the Legislative Advisory Committee Guidelines are clear that legislation should have a prospective, not retrospective, effect.
14. The amendment to R was never intended to cover multiple levy periods. It was drafted in 2007, and should have been enacted in 2008, when it would have covered only one prior levy period. This should be taken into account when considering its application.
15. Section 320 was a difficult provision, containing different temporal settings for different values. Revenue is estimated, but presentations are actual. This language was contrary to the Ministry's approach to R, which restricted R to expenditure only and not presentations.
16. The issue went to a fair and accurate allocation of cost. Ignoring a key variable (presentations), when assessing R, was contrary to that purpose.
17. NCGM sector presentations had declined over every year in every levy period. But the Ministry's approach to R punished that progress and rewarded sectors in relation to which presentations had increased or stayed the same
18. In the most recent period, presentations for the NCGM sector were forecast at 64%. Actual presentations to date averaged 56.7%. That meant an increase in presentations in the other three sectors by 7.4% over the same period. But because revenue had also declined, the Ministry interpreted R in a way that required the NCGM sector must pay an extra \$1.7 million for the immediate prior period and \$2.14 million since 2004.
19. Pub Charity was concerned about the contribution of the "other" [non-levy paying] category, which at 10% was substantial. The class 4 sector carried the burden of that category, because the costs of the "other" category were redistributed in proportion, with a heavy weighting on presentations, unevenly across the sectors.
20. A heavy weighting on presentations did not take account of co-morbidity. It would be rare for people at the pathological end of the problem gambling continuum to be engaged in just one form of gambling. It was not possible to isolate one form and say that this was causing more harm than others.
21. Problem gambling had to be paid for, and it was fair that it be paid for by those who could afford it. Those generating the most revenue were in a better position to pay.

22. The table of presentations, year by year was comparative, by sector, by year. There should be a note accompanying the table reading variations in the way data was gathered.
23. The intention of R must have been to fairly allocate the costs for the prior period. Why have a remedial figure that addresses only one variable. It was a lost opportunity to adopt the Ministry's view, NCGM was being penalised for downward trends, while other sectors had dramatic increases in presentations.

New Zealand Racing Board

24. Two aspects were not adequately covered in revenue calculation:
 - (a) New Zealand residents gambling through overseas providers.
 - (b) Non-New Zealand residents betting with New Zealand based providers.

These only affected Racing and Lotto. It was easy to track betting by non-New Zealand residents. These should be taken into account, as they were very likely to use problem gambling services, and their share of expenditure should therefore be excluded from the sectors' estimated expenditure.
25. There should be rewards for best practice. Each entity involved in the gambling sector should be weighted based on its alignment with best practice in the harm minimisation area.
26. NZRB supported a 10:90 split between expenditure and presentations on the basis that presentations were the most effective measure of harm caused.
27. NZRB invited the Ministry and others to undertake more practical research, rather than academic reports that did not go beyond what was already known. NZRB would be willing to participant in practical research, for example in relation to customer behaviour and activity, including lifetime betting in relation to customer accounts, and looking for causal indicators.

Salvation Army

28. There had been no change to the amount sought by the Ministry. This did not take into account any cost pressures in delivering services, for example quality improvement processes, increases in salaries, training and qualifications and competencies that the Ministry had suggested would be in the next nine year strategy.
29. The Salvation Army agreed that there was a need to look at innovative technology, primarily to remove barriers to access to problem gambling services.

30. The Salvation Army supported the Ministry's suggestion of a 20:80 weighting, for the reasons that the Ministry had put forward. The Salvation Army did not consider that family groups and affected others were not adequately represented by presentations.

Health Promotion Agency

31. HPA sought to highlight the importance of the \$1.68 million it received to lead the education and awareness campaign. It was important to keep the amount stable, if not increase it.
32. HPA did work on promoting information directly to key audiences, enabling other agencies to get information out, and informing. It used mainstream media, such as TV and radio, but also other kinds of media, such as cash machines, bus shelters and the internet. TV campaigns ran three times a year, and led to a direct increase to phone help services of 30%-50%.
33. Costs of media advertising were increasing.
34. The number of people seeking help online had seen a significant increase. Technology, and funding for the use of technology, was very important.
35. HPA also wanted to highlight the importance of work being done around host responsibility. HPA had started work with class 4 venues, and was interested in working with other gambling sectors.
36. The work HPA did, and effect it had, was contingent on budget and how far HPA could stretch it.

Abacus Counselling, Training and Supervision Ltd (by way of a written submission read by the Chief Gambling Commissioner)

37. Evidence suggested that for every person affected by their own gambling, seven or more family or others were significantly adversely affected. This was recognised in the Gambling Act under the gambling harm sections. However, the presentation rate for family members remained low, at one affected family member for every three problem gamblers.
38. In many cases, those affected would be children. The obligation to initiate opportunities to assist young family members where violence may occur was required by the Vulnerable Children Act 2014.
39. Television advertising and the provision of specialist opportunities for families to receive treatment were examples of immediate actions that could be taken.
40. A further \$2 million for the first year was suggested.

41. Evidence supported the very rapid growth of participation in gambling through internet access. Lack of, or reduced enforcement of, safety measures and responsibility to minimise harm through offshore sites provided an imperative to act proactively to address harm. Immediate actions might include television advertising, targeting online gamblers at risk, school awareness with the support of the Ministry of Education, and smart phone gambling site blockers. A further \$1 million in the first year was suggested.

Woodlands Trust

42. It was important that the Ministry maintained the flexibility to fund providers and services as it saw fit.
43. Presentation data had not always been as good as it could be. It had changed significantly, however, and become more accurate, through concerted efforts from service providers, the Ministry and others. Reasons for inaccuracies in the past included lack of clarity over what was a presentation, the ability of providers to get presentation data, and the willingness of some providers to collect
44. Certain sectors were not levied as equitably as they could be under the formulas, and some sectors were not levied at all. For example, Housie, was considered a small area, but the Department did not have figures for what kind of money was involved.
45. Woodlands believed the four levy-paying sectors should get credit for what they were doing, as they were paying for the work undertaken by the Ministry. Moreover, a lot of that work would be done irrespective of presentations, and there needed to be credit for that.
46. Woodlands suggested a 60:40 rating, but also submitted that presentation data had improved and for this reason, (and as 40:60 was not a proposed option), Woodlands would also be happy with 20:80.
47. It was appropriate, in applying $\pm R$, to take into account presentation data, otherwise levying was skewed, with a 90% weighting on presentations, when presentation data not corrected to show actual data for the period. The levy could not accurately forecast everything that happens. R was an adjustment. That adjustment had to be done on data that are available now, which was not available before. And that included presentation rates.

The Ministry's comments in relation to R

48. In discussion in relation to $\pm R$, the Ministry offered the following comments:

- (a) The share that each sector paid, using the formula in the Act, was set on the basis of the best data available for the second year of the previous levy period.
- (b) The Ministry understood Pub Charity's point that because NCGM presentations and expenditure kept coming down, the formula would look different if the Ministry went back and put actuals in. But the Act did not say to go back and put in actuals when assessing under-recovery and over-recovery.
- (c) The Ministry and the Department had adopted the interpretation that under-recovery and over-recovery meant looking at how much each sector was expected to pay in levy, and how much each sector actually paid in levy. The only thing that they recalculated was the amount that the Ministry actually spent, in order to give sectors the benefit of the Ministry under-expenditure. The Ministry was not going back and recalculating A, B or D. It was simply saying that if there was 100 million required in levy, and the NCGM sector was supposed to pay 65% of that, then if the amount it paid (as demonstrated by IRD figures) was less than that, there was an under-recovery.
- (d) The Ministry appreciated that the NCGM sector had a different interpretation. The implication of that interpretation would be that the other three sectors would be hit with a significant increase, and would be arguing against it.
- (e) Section 318 provided for a sequence in setting the levy. Section 318(e), which provided for estimating R, did not refer to the formula. The formula was not referred to until a couple of steps further on. Had Parliament intended the kind of partial recalculation suggested by the NCGM sector, section 318(e) would have specified this.
- (f) The approach proposed by the NCGM sector left out W1 and W2. If the Ministry went back and put in actual for expenditure and actual for presentation, it could not go back to each of the sets of Ministers over the last four levy periods and ask if the weighting would have been the same if they'd been presented with the actual numbers (that were now available).
- (g) In going back over the four previous periods, the Ministry had effectively ignored the under-recovery or over-recovery calculated in the past as part of C in the previous formula. The only thing the Ministry did was calculate for each levy period the share each sector was supposed to pay, compared it with the

amount each sector did pay, and worked out whether that was an under-recovery or over-recovery, then added it up. This effectively took into account all the elements that were taken into account before, but the Ministry did not go back and look at what happened before, because the current approach was sector-by-sector, rather than across all four sectors.

- (h) When considering under-recovery or over recovery in relation to the first levy period, the Ministry included transitional costs. The Ministry did not see the ability to do so as having been affected by the amendment to the section 320(3)(c) provision for what C could take into account. The transitional spending was in the initial levy period and was part of the levy requirement for that. The Ministry was not recalculating anything, other than going back and giving the industry the benefit of the Ministry underspending over the 12 year period (the four previous levy periods).