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25 November 2009

## REPORT ON THE PROPOSED PROBLEM GAMBLING LEVY: 2010-2013

### 1. INTRODUCTION

- 1.1 This Report is submitted by the Gambling Commission (the "**Commission**") to Ministers pursuant to section 318(5) of the Gambling Act 2003 (the "**Act**"). As required, it makes recommendations on the total amount of the proposed Problem Gambling Levy for the period 1 July 2010 – 30 June 2013, and the proposed levy rate for each gambling sector.
- 1.2 The purpose of the levy is to recover the cost of developing, managing, and delivering the integrated problem gambling strategy proposed by the Ministry of Health ("**Ministry**"). This report should be read alongside the Ministry's proposed strategy.
- 1.3 Section 319(1) of the Act contemplates that, after considering this Report, Ministers will recommend that the Governor-General make regulations by Order in Council, requiring gambling operators to pay a levy to the Crown.

### 2. EXECUTIVE SUMMARY

2.1 The Commission's recommendations are as follows:

- (a) That the total amount of the levy for the 3-year period 1 July 2010 – 30 June 2013 be set at \$54,900,447.
- (b) That the weightings attached to W1 (expenditure) and W2 (presentations) be set at 30:70.
- (c) Applying the proposed weightings to the quantum, the levy rates for collection be set as follows:

	Non-casino gaming machines ("NCGMs")	Casinos	NZ Racing Board	Lotteries Commission
Sector levy rates (%)	1.31	0.75	0.58	0.47
Expected levy (\$ millions, excl GST)	33 6187	10 7541	4 8942	5 4925

- (d) Should the Gambling Amendment (No 2) Bill ("**GAB**") pass into law before the levy is struck, the formula by which the levy is calculated will be amended, resulting in the following levy rates for collection:

	<b>NCGMs</b>	<b>Casinos</b>	<b>NZ Racing Board</b>	<b>Lotteries Commission</b>
GAB levy rates (%)	1.34	0.84	0.46	0.40
GAB levy (\$ millions, excl GST)	34 3886	12.0446	3 8816	4 6745

The above figures are GST exclusive to be consistent with those reported in the Ministry's Service Plan. The levy paid will be GST inclusive so the figures will be higher than those shown above.

### 3. BACKGROUND

- 3.1 As contemplated in the Act, there was a two-step consultation process to setting the levy and levy rates, involving consultation by the Ministry and then the Commission.
- 3.2 The Ministry developed an Integrated Strategy for Preventing and Minimising Gambling Harm for the period 2010-2016. This included a six-year Strategic Plan for 2010-2016, a three year Service Plan, needs assessment and levy calculations for the period 2010-2013.
- 3.3 The Ministry sought submissions on its proposal from 9 July to 21 August 2009. The Ministry convened 12 meetings in total, comprising five general meetings in Auckland, Hamilton, Wellington, Christchurch and Dunedin; three designed to obtain Māori, Pacific and Asian viewpoints (all in Auckland); and two separate meetings with Industry and Government Departments. The Ministry also convened a Māori Working Group which held two meetings in Wellington.
- 3.4 The Ministry received 65 written submissions in total.
- 3.5 Following the consultation, the Ministry revised its Strategic Plan, Service Plan and levy calculations, and updated other information, such as presentation, expenditure and forecast figures.
- 3.6 On 28 September 2009, the Ministry submitted to the Commission its revised documentation and a report outlining its changes. The Commission provided these to the invitees to its consultation meeting, which was held in Auckland on 12 November 2009.
- 3.7 As required under section 318(4) of the Act, the Commission requested the attendance at that meeting of the Ministry, the Department of Internal Affairs ("**Department**"), representatives of gambling operators who will be subject to the levy, representatives of providers of gambling services, and representatives of other groups which the Commission believed were likely to be significantly affected by the levy. **Attached as**

Annex 1 is a list of those who attended the meeting, and those invited but who did not attend

- 3.8 The issues raised at the consultation meeting are addressed in this Report, with a summary of submissions made at the meeting **attached** as Annex 2.
- 3.9 As contemplated in section 318(6) of the Act, the Commission engaged an expert, PricewaterhouseCoopers New Zealand ("**PwC**"), to advise it on the Ministry's proposed Service Plan and levy calculations. The PwC report is **attached** as Annex 3. The Commission's solicitors, Wilson Harle, also provided advice on the construction and interpretation of sections 318-320 of the Act. Sections 318 and 320 of the Act are **attached** at Annex 4.
- 3.10 The Commission is required to report to responsible Ministers within 10 working days of its 12 November 2009 consultation meeting, with recommendations on the total amount of the problem gambling levy and the proposed levy rate for each sector. This Report is submitted in accordance with that 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 the 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, the Commission has focused on each of the component values of the formula used to calculate 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 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** is the estimated current player expenditure in a sector divided by the total estimated player expenditure in all sectors subject to the levy;
- B** is the 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** is the Ministry's funding requirements, taking into account the cost of the integrated problem gambling strategy in the period for which the levy is payable and any under-recovery or over-recovery of levy in the prior period;
- D** is the forecast player expenditure in a sector for the levy period; and

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

4.5 The GAB is presently before Parliament at Committee stage. The purpose of the GAB is to make "... several small policy amendments and many technical amendments to allow the Act to operate as originally intended." One of the proposed amendments is to the abovementioned formula with the addition of "±R", where R is the estimated under-recovery or over-recovery of levy from a sector in the previous levy periods, together with a consequential amendment to the definition of C. The GAB formula will be as follows:

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

4.6 Should the GAB pass into law before the levy regulations are made by the Governor-General, the amended formula will apply. This will impact on the levy rate payable by each of the four sectors, depending on the under or over-collects for those sectors from previous levy periods.

## 5. ANALYSIS OF COMPONENT A – CURRENT PLAYER EXPENDITURE

5.1 Component A represents the percentage of total expenditure for each of the four sectors. Although the Act does not indicate the relevant time period for the comparative calculation, section 320(3)(b) of the Act provides that Component A amount must take into account the "latest, most reliable", and most appropriate sources of information. The Department used expenditure data for the period July 2008 to June 2009, provided to it by the IRD.

- 5.2 The Department did not disclose the Component A data on the basis that it would result in the disclosure of tax details of individual taxpayers, which is prohibited under the Tax Administration Act, but did provide the Commission with the Component A share for each sector, as follows:

	<b>NCGMs</b>	<b>Casinos</b>	<b>NZ Racing Board</b>	<b>Lotteries Commission</b>
Sector share of Component A	0.4432	0.2249	0.1323	0.1995

## 6. ANALYSIS OF COMPONENT B – CUSTOMER PRESENTATIONS TO PROBLEM GAMBLING SERVICES

- 6.1 Component B represents the percentage of customer presentations to problem gambling services attributed to gambling in a sector. As with Component A, the Act does not indicate the time period for comparison but the amount must take into account the latest, most reliable, and most appropriate sources of information.
- 6.2 The data for Component B is generated by the Ministry from data collected by problem gambler service providers and recorded in the Client Information Collection database (“CLIC”). The data presented to the Commission and relied upon is also for the period 1 July 2008 to 30 June 2009.
- 6.3 Presentation data is collected from problem gambling treatment providers, who record all customers who sought assistance with problem gambling, showing all modes of gambling reported by each person as a problem. Each person who received assistance during the period counts as a presentation whether he or she is a gambler, an affected family member, or an affected other. Presentation numbers are unaffected by the nature of the treatment (whether inpatient or outpatient, and irrespective of the number of sessions) or the degree of reported harm suffered.
- 6.4 A brief intervention is not included, but from November 2008, full interventions by telephone are.
- 6.5 Up to five primary gambling modes can be recorded for each client. If a client records more than one primary gambling mode, the client is split for calculation purposes equally between all modes recorded.
- 6.6 The total presentation data for the July 2008 – June 2009 period is in Table 1 below, with Table 2 containing the data relied upon for Component B.

**Table 1 – Total primary gambling modes recorded 1 July 2008 – 30 June 2009**

Gambling mode	Jul - Sep 2008	Oct - Dec 2008	Jan - Mar 2009	Apr - Jun 2009
NCGMs	1494	1556	1567	1777
NCGMs (%)	63.5%	63.9%	61.9%	61.5%
Casino Gaming Machines	258	239	258	251
Casino Gaming Machines (%)	11.0%	9.8%	10.2%	8.7%
Casino Tables	156	133	161	203
Casino Tables (%)	6.6%	5.5%	6.3%	7.0%
Track betting	73	79	81	112
Track betting (%)	3.1%	3.3%	3.2%	3.9%
Sports Betting	75	99	92	95
Sports Betting (%)	3.2%	4.1%	3.6%	3.3%
Lotto	60	69	102	156
Lotto (%)	2.6%	2.8%	4.0%	5.4%
Keno	7	7	6	17
Keno (%)	0.3%	0.3%	0.2%	0.6%
Housie	11	27	16	15
Housie (%)	0.5%	1.1%	0.6%	0.5%
Cards	30	63	55	56
Cards (%)	1.3%	2.6%	2.2%	1.9%
Other Gambling	187	161	196	209
Other Gambling (%)	8.0%	6.6%	7.7%	7.2%
<b>Total Individuals per quarter</b>	<b>2352</b>	<b>2434</b>	<b>2532</b>	<b>2891</b>
<b>Total %</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**Table 2 – Component B data**

Total unique clients 2008/09
3777
62.2%
573
9.4%
425
7.0%
191
3.1%
203
3.3%
296
4.9%
25
0.4%
52
0.9%
131
2.2%
404
6.6%
6077
100%

## Harm

- 6.7 In the Ministry's previous two Service Plans, presentations were seen to be a fair proxy for harm on the assumption that presentations are about help-seeking, and help-seeking is about harm. The 90% weighting previously given to presentations was indicative of the view that presentation data is a highly reliable indicative proxy for the causation of harm. The Commission did not share the Ministry's view.

- 6.8 In its latest report to the Commission on its proposal for the 2010-2013 period, the Ministry noted the Commission's earlier reservations about presentations being a fair proxy for harm. It maintained that presentations *are* a reasonable indicator of the proportion of responsibility that each gambling sector should carry for the individual problem gambling harm, and supported that view by reference to national studies and international research, but ultimately recognised the Commission's prior reservations in its recommendation regarding the weightings
- 6.9 The use of presentation data is currently mandated by Act in the definition of B but its limitations, and the consequential concerns about the fairness and wisdom of treating such data as a proxy for the causation of harm, is provided for in the weightings. The Commission accepts that levy allocation should primarily reflect fair attribution of harm causing, rather than revenue, but it continues to have serious concerns about whether the number of persons presenting to problem gambling treatment providers is a fair or accurate proxy for harm:
- (a) Gathering data by simple head count means that the result reflects neither the cost and intensity of treatment, nor the severity of the harm suffered, including the number of other persons harmed. Problem Gambling Foundation Asian Services and Te Rangihaeata Oranga Trust pointed out that a distinction must be drawn between the treatment of a problem and the harm caused by that problem. The length of treatment depends upon the severity of the condition. The degree of harm caused by problem gambling and the time and cost to treat it is not captured by numbers of presentations.
  - (b) Both research and experience suggested to treatment providers that the prevalence of problem gambling was much wider than appeared from presentation data. The Salvation Army stated, for example, that the prevalence data it gathered through its brief intervention project at the Salvation Army Community Ministry in Manukau consistently identified 40% of people accessing its social services as affected by problem gambling, however this information was not included in the presentation data used to calculate the levy. Similarly Dr Sullivan (Abacus Counselling) submitted that research showed that other treatment providers, for example for drugs and alcohol, and other services such as WINZ and Corrections, regularly identified significant numbers of their clients as having gambling problems; however, these numbers were not always captured in presentation figures. Treatment providers were also concerned that presentation data did not capture those who sought treatment, broke that treatment off early and returned later, rather than receiving full treatment from the beginning.

- (c) Research indicates that those presenting for treatment are a very small proportion of those who suffer harm. The Commission was told by Dr Sean Sullivan that it is estimated that only 3% of people with a serious or severe problem present for help, a view which was generally supported by other treatment providers and not challenged. Presentation data accordingly uses the self-allocation of the 3% who seek help to predict the source of harm to the remaining 97% of those with a serious or severe gambling problem.
  - (d) The concept of harm under the Act is even broader than the definition of serious or severe gambling problems.
  - (e) The extent to which presentation data fairly and accurately reflected the harm caused by problem gambling was discussed before the Commission. The problem gambling treatment providers who addressed the Commission all indicated that it was a poor and overly-simplistic reflection of either the cause or effect of a complex problem.
- 6.10 The Commission is also concerned at the perverse incentives created by levying the industry based on sector-ascribed presentations. Diligent host responsibility in detecting problem gambling and encouraging the seeking of assistance is punished, not rewarded.
- 6.11 Based on the submissions made by problem gambling treatment providers and PwC's recommendations, the Commission recommends that consideration be given to using prevalence data from surveys rather than presentation data. The Commission recognises that prevalence studies have tended to produce a similar picture of the attributed modes of problem gambling so the outcomes may not diverge very substantially, but the use of that data is capable of providing a fairer indication of responsibility for harm and, in addition, removes any perverse incentives.

#### **Presentation trends**

- 6.12 Presentation data (see Table 3 below) shows that there has been a significant increase in presentations to treatment services in the two years since June 2007. Presentation numbers have increased by 1,300 in that time.

**Table 3 – Sector share presentations 2007-2009**

	NCGMs	Casinos	New Zealand Racing Board	Lotteries Commission	Total
Presentations June 2009	3777	998	394	321	5491
Sector Share %	69	18	7	6	100
Presentations June 2008	3059	848	324	95	4326
Sector Share %	71	20	7	2	100
Presentations June 2007	2989	814	311	76	4190
Sector Share %	71	19	7	2	100
Increase since June 2007	788	184	83	245	1300
Percentage	26	23	27	324	31

6.13 The Ministry notes on its website that a direct comparison between 2008 and earlier years has limitations as new service specifications for problem gambling service providers were implemented from January 2008, and intervention services provided by the Gambling Helpline have been included in the data since November 2008. Even accepting these amendments, the trend since 2007 has been for an increase in presentations. This has clear implications for the quantum budgeted for intervention services in the proposed Service Plan. This is discussed later in this Report.

6.14 The Commission also notes that Table 3 shows that the percentage sector share for casinos and the Racing Board has remained relatively stable from 2007 to 2009, with presentations for NCGM reducing by 2%, and a three-fold increase for Lotteries (from 2% to 6%).

#### **“Other gambling”**

6.15 A number of representatives at the Commission’s meeting raised concerns about the increase in “other gambling” as a primary mode. “Other gambling” represents 6.6% (see Table 2 above) of primary modes for the relevant period, which some gambling operators submitted was a significant share.

6.16 There were two related concerns expressed about “other gambling”. First, of the 6,077 unique clients recorded during the period 1 July 2008 to 30 June 2009, only 5,491 are attributable on the basis of declared primary gambling mode to the four sectors subject to the levy. Some gambling operators submitted that this meant that 586 of the clients who presented for treatment did so as a result of gambling outside the levied sectors with the consequence that NCGM, Casinos, Racing and Lotteries were effectively having to pay for treatment of 586 people, while those who actually caused their gambling problems contributed nothing.

6.17 The extent to which this submission is correct is unknown because the composition of “other” is unknown and may include numerous non-responses or refusals to reveal a

primary mode. The Commission also observes that it is highly unlikely that all 586 “other” gamblers recorded only primary modes other than those subject to the levy. It is more probable that some clients who recorded “other” gambling also recorded another primary mode that *is* subject to the levy, meaning that the subsidisation of treatment services is less than it first might appear.

- 6.18 The second concern was that internet gambling may be creating problem gamblers. It was suspected that internet problem gamblers constitute most, if not all, of the “other gambling” mode. Submitters suggested that this is problematic because internet gambling (other than that provided by the Racing Board and Lotteries) is based off-shore, is not subject to the same level of regulatory oversight as gambling in New Zealand, and results in the loss of significant taxation and revenue from the country.
- 6.19 The Ministry responded, however, that submitters are wrong to assume that the majority of the 6.6% is internet gambling as its analysis suggests that this comprises only a very small component of “other” gambling.
- 6.20 The Commission understands the concerns raised by submitters regarding internet gambling and, the concerns would appear to be logical with the population becoming ever more computer literate, and access to broadband increasing steadily. To date, however, there is no hard evidence that internet gambling is causing significant problems, but the Commission recommends that both the Ministry and the Department should actively monitor statistics from the CLIC database to observe the effect of internet gambling. The Commission also understands that the Ministry is working with service providers to reduce the level of unnecessary data entered into the “other” category. The Commission certainly sees this as an area which should be subject to close future scrutiny.

#### **Definition of Presentation**

- 6.21 As noted above at paragraph 6.3, the definition of presentation presently comprises a head count of all clients who receive a full, facilitation or follow-up service during the data period, including clients who receive those services over the telephone, but does not include brief intervention data. Some providers expressed dissatisfaction with this approach, suggesting that the current data collection does not present a full picture.
- 6.22 The Ministry’s view is that brief intervention data should be excluded because there are service provider consistency issues around what is recorded as a brief intervention. PwC advises that the Ministry’s approach is the best way to source Component B data, but notes that as the Problem Gambling Strategy moves towards a more proactive approach, the Component B data should include other forms of customer presentation data.

## 7. COMPONENT C – MINISTRY OF HEALTH FUNDING REQUIREMENTS

7.1 Component C comprises the Ministry's funding requirements for the 2010-2013 period. The Ministry seeks \$54,900,447, which is slightly less than the \$55,854,000 that it sought for the prior levy.

7.2 The quantum polarised submitters, with gambling operators viewing it as excessive, especially when compared to the funding available for other health services, while problem gambling service providers saw it as allowing no room for movement should presentations continue to rise.

7.3 The Commission's view is that the sum sought is appropriate and strikes the correct balance; it would be untenable for the Ministry to seek an increase in funding during a time of recession and overall belt-tightening across government, but at the same time the Ministry is required to fund effective services, and fulfill the intent of the Act. The sum sought does this.

7.4 In reaching this decision, the Commission noted PwC's advice that the Ministry's method to determine Component C was reasonable as the Ministry determined its costings based on:

- A strong public health focus aimed at decreasing the risk of problem gambling occurring and increasing presentation numbers amongst those who have problems with gambling;
- An FTE allocation model that it had developed based on identifying what resources are required, and where to bridge the gap between prevalence and presentations to treatment services;
- A 'bottom up' rather than 'top down' approach to developing the budget lines within the Service Plan;
- The Needs Assessment undertaken by the Francis Group in April 2009;
- Its experience in funding and co-ordinating problem gambling services under the Act since 1 July 2004;
- Information collected via the CLIC database during the 2008 calendar year; and
- Recommendations made within the HP Business Consulting Report to the Commission in 2006

- 7.5 The Commission observes that the sum sought is high compared to funding for other health sectors (a fact acknowledged by the Ministry), but as submitted by Te Rangihaeata Oranga Trust, those other sectors are likely to be under-funded, with their effectiveness reduced as a result.
- 7.6 The quantum sought by the Ministry is calculated as follows:

**Table 4 – Ministry’s funding reconciliation**

<b>Problem gambling funding requirement</b>	<b>\$(GST exclusive)</b>
2010/11	\$18,627,092
2011/12	\$18,842,584
2012/13	\$17,952,931
<b>Subtotal</b>	<b>\$55,422,607</b>
Plus forecast under-recovery from 2007-2010 levy period	\$2,322,200
Less forecast Ministry under-spend from 2007-2010 levy period	(\$1,604,300)
Less over-strike due to additional under-spend from forecast (\$893,000), and additional levy collect from forecast (\$347,060), for the 2004-2007 levy period	(\$1,240,060)
<b>Total funding requirement for 2010-2013</b>	<b>\$54,900,447</b>

- 7.7 The Ministry’s reconciliation took into account any under-recover or over-recovery of the levy in the previous period, as it is required to do under section 320(3)(c)(iii) of the Act. However the Commission’s consideration of the Ministry’s reconciliation raised a broader issue about the extent to which the other components of the section 320 formula should be amended to take into account any variances between what was forecast, and the actual figures. The Commission addresses this in more detail later in this Report.
- 7.8 Table 5 outlines the Ministry’s budget for 2010-2013 in each of its four categories of spend, together with the equivalent figures budgeted for the 2007-2010 period.

**Table 5 – Costs for categories of funding**

	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>	<b>Change \$</b>	<b>Change %</b>
Public health services	5,653,000	6,010,000	6,270,000	6,757,795	7 090 551	6 965 362	2,880,708	16.06
Intervention services	9 436 000	9 909 000	9 840 000	8,413,180	8,549,343	8,563,700	-3 658,747	-12.54
Research contracts	2 200,000	2 200 000	1 400 000	2 499 073	2,224,073	1,423,000	346 146	5.97
Ministry’s operating costs	950,000	978,000	1,008,000	957,044	978 617	1 000,839	500	0.02
<b>Total</b>	<b>18,239,000</b>	<b>19,097,000</b>	<b>18,518,000</b>	<b>18,627,092</b>	<b>18,842,584</b>	<b>17,952,931</b>		
<b>Total 2007-2010</b>	<b>\$55,854,000</b>			<b>Total 2010-2013</b>	<b>\$55,422,607</b>		<b>-431,393</b>	<b>-0.77</b>

7.9 Each of the four categories of spend is considered below.

### **Public health**

7.10 The Ministry proposes an increase of \$2.9 million, or 16%, compared to the previous period. This generated considerable opposition in submissions, with CGA submitting that the level of monitoring, auditing and control of the public health initiatives is significantly lacking, particularly compared with the rigorous requirements now present in the intervention area. CGA was of the view that the same accountabilities and outcomes should be delivered in the public health sector, and that until they are, funding for public health should be held at current levels, or reduced.

7.11 The Commission is of the view that the increase in public health funding is appropriate and considers it consistent with a primary prevention approach that seeks to prevent and raise awareness of gambling harm.

7.12 In reaching its view the Commission noted:

- (a) Section 317 of the Act provides that the integrated problem gambling strategy must include “measures to promote public health by preventing and minimising the harm from gambling.” The section heading “Integrated problem gambling strategy focused on public health” confirms that public health is a primary focus.
- (b) The Act’s definition of gambling harm is very broad, and provides a basis for a focus on a public health approach which is targeted at the wider population, rather than the problem gambling subset of the population.
- (c) The Ministry’s approach to public health was internationally sourced in terms of best practice and supported by the World Health Organisation and the Ottawa Charter.
- (d) The Ministry devised a model to calculate the required number of FTEs. PwC advise that this model appears to be rigorous and has appropriate objectives, including bridging the gap between known prevalence and presentations to treatment services, and increasing responses from indigenous and ethnic groups.

7.13 At the Commission’s meeting, the Ministry acknowledged that its efforts to improve accountability have focused more on intervention services than public health in the last three years (consistent with the nature of the concerns expressed during the last levy consultation), but it intends to remedy this in the forthcoming period, including undertaking an evaluation of public health services. The Commission welcomes this and recommends that the Ministry reports the outcomes within the next Service Plan.

### **Awareness and Education Programme**

- 7.14 There was also opposition to the proposed Awareness and Education Programme. \$4.44 million will be spent on the programme, an increase on the \$4.25 million from the previous levy. The Commission considers both the increase and the quantum to be appropriate, and reflective of an increased focus on raising awareness of gambling harm. The Commission noted that the Ministry considers this to be a key part of its proposed future work programme to build understanding of gambling harm and supporting measures that prevent gambling harm.
- 7.15 PwC recommends that the Ministry undertake a rigorous evaluation of the media campaign undertaken as part of the Awareness and Education Programme to ensure that it is effective and has reached its target audience, particularly those at risk (Māori, Pacific Island and Asian communities). The Commission endorses this recommendation.

### **Interventions**

- 7.16 The Ministry is proposing to decrease spending on intervention services by 12.5%. Within this decrease, spending on psychosocial interventions will decrease by 13%. The Ministry's rationale for the reduction was that:
- (a) It undertook a detailed review of service utilisation at a provider level. This identified under-utilised service capacity justifying a reduction of 14 FTEs (from 81 to 67); and
  - (b) The service delivery/funding model it used is based on clinical hours per client. While client numbers have increased, the average time each client spends in a service has reduced significantly so the clinical hours have remained under-utilised.
- 7.17 The Commission notes this sound rationale, but is concerned to ensure that the reduction in funding does not reduce services to those that need them, particularly in an environment where presentations are increasing.
- 7.18 Unsurprisingly, problem gambling treatment providers were also concerned, with PGF submitting that "targeting new groups, maintaining access and capping costs at the same time is not a formula that actually works." Abacus submitted that there is no contingency fund available should, for example, internet gambling problems explode.
- 7.19 The Ministry is confident that funding is adequate and intends to monitor the situation closely. The Commission agrees that it should do so

- 7.20 The Commission also notes that funding for Gambling Helpline is increasing by 1.38%. This is appropriate in the context of the decrease in psychosocial interventions (as Gambling Helpline now provides full and facilitation services), particularly for those people who live in remote areas.

### **Research**

- 7.21 The research budget is increased by almost 6%, but there is a decrease of \$1.9 million (or 33%) in the research project component of the overall allocation. This reduction is because the 2010-2013 Service Plan includes funding to complete research from the previous period, and the Ministry has included outcome reporting and service evaluation into the research category, when these were previously budgeted for elsewhere.
- 7.22 No researchers were present at the Commission's consultation meeting, but the Commission noted AUT's submission to the Ministry in which it called for the restoration of \$1.9 million for new research contracts.
- 7.23 PwC advised the Commission that the research allocation is appropriate, especially considering that the Ministry is embarking on outcome reporting and service evaluation during the 2010-2013 period. PwC recommends that the Ministry reports the outcomes and benefits of this additional spend in the next Service Plan, and consider undertaking research on youth gambling.

### **Ministry's operating costs**

- 7.24 In its previous Report, the Commission and its expert criticised the Ministry for the high level of its costs as a percentage of budget (10%).
- 7.25 The Commission is pleased to see that the Ministry's costs for the next period now total only around 5% of budget, a proportion which PwC advises is reasonable (although the Commission notes that the Ministry's costs no longer include audit figures, so the costs for the two periods are not directly comparable).

## **8. COMPONENT D – FORECAST PLAYER EXPENDITURE**

- 8.1 Component D provides the forecast player expenditure in a sector for the period during which the levy is payable. The Department undertakes the forecast and reports its findings through to the Ministry
- 8.2 The Department has forecast the following expenditure for each of the four sectors in Table 6 below.

**Table 6 – Forecast player expenditure by sector**

Forecast expenditure	NCGMs	Casinos	NZ Racing Board	Lotteries Commission
2010/2011 (\$M)	861.1778	468.5276	275.7243	383.1311
2011/2012 (\$M)	852.5660	477.8981	281.2387	390.7937
2012/2013 (\$M)	852.5660	487.4561	286.8635	394.7016

8.3 Broadly, these figures represent a decline in expenditure for NCGM but growth for the three other sectors. The rationale for these forecasts is below.

#### **NCGMs**

8.4 Spending in this sector continues to decline, dropping from \$950 million in 2007 to \$889 million at the end of the 2009 financial year. Data for the first quarter of the 2010 financial year indicates that the drop is continuing.

8.5 The number of NCGMs is also continuing to decline, down from approximately 20,571 at the date of the last levy round to the present figure of approximately 19,296. In addition, territorial authority venue policies are generally not conducive to growth.

8.6 Pub Charity submitted that the Department has underestimated the extent of the decline in NCGM expenditure, and that another under-collect will result.

#### **Casinos**

8.7 Casino spending increased from \$469 million in 2007 to \$477 million in 2008, but the Department suggests that this increase may have been limited by refurbishment of the Auckland casino gaming floor. The effect of the current recession may also impact this sector, but overall, modest growth is expected.

#### **Racing Board**

8.8 Historically, gambling on Racing Board products has shown annual growth of approximately 2.5%. Although the current recession may impact negatively on gambling expenditure, the Department does not expect a substantial change to the amount that people gamble at the TAB.

#### **Lotteries Commission**

8.9 The Department notes that spending on New Zealand Lotteries products has shown volatility and appears to be most influenced by the number of large jackpots in any given period. In 2008/2009, a larger than expected number of jackpots resulted in a very high level of player expenditure. As these circumstances are unlikely to be repeated, the Department expects player expenditure in 2009/2010 to decline with more modest growth thereafter.

### **Commission observations**

- 8.10 As was noted at the Commission's meeting, forecasting is difficult and variances are to be expected. This is especially true in a dynamic area such as gambling, and with the forecasting taking place in the midst of a severe worldwide economic recession. Further, the Department is required to forecast gambling expenditure up to four years in advance as its forecasting takes place well before the conclusion of the current levy period.
- 8.11 The Commission acknowledges all of this, but when a forecast varies significantly from actual figures, the implications are significant. If expenditure forecast is set too low, over-collection will result. If the forecasts are too high, the recovery will be inadequate. This was shown starkly in the Ministry's 2006 reconciliation, where it was required to account for an under-collect of over \$9 million for the 2004-2007 levy period.
- 8.12 The Department's forecast for the 2007-2010 period was a significant improvement, but the \$2.3 million under-recovery still represents, in the Commission's view, a material variation. The Commission, therefore, reiterates a point that it made in its 2006 Report – that the Department's forecasts should be peer reviewed. Additional input and evaluation can only enhance this difficult process.
- 8.13 The Commission also concurs with PwC's recommendation that the Department should have a systematic forecast process and methodology in place, to the extent that it does not have so already. Again, this can only enhance the quality of the end results.

## **9. WEIGHTINGS**

- 9.1 The weighting variables, and their application to Components A and B, are central to determining the share of levy payable by each of the four sectors. The only legislative guide is in the statement of purpose in section 319(2) – that the levy is "to recover the cost of developing, managing, and delivering the integrated problem gambling strategy." Section 320(2), provides that W1 and W2 must total 1, but gives no guidance on the allocation of value to each, a matter which determines the extent to which the balance should be struck between sectors paying according to their gambling revenue, or according to the number of people presenting for treatment attributable to each sector.
- 9.2 At the Commission's meeting, submissions on weightings varied significantly, and generally reflected how the outcome affected the submitter. Broadly speaking, gambling operators supported the weighting most favourable to them with casinos, the Racing Board and the Lotteries Commission supporting 10:90, and most NCGM representatives supporting 30:70. The CGA proposed a 50:50 split. Most of the problem gambling treatment providers were less concerned with the weightings, and more concerned with

the overall quantum of the Service Plan, although, generally, they supported the proposed 30:70 split for the reasons given by the Ministry, with Te Herenga Waka o te Ora Whanau and Hapai Te Hauora Tapui submitting that a 40:60 split was the best option for Māori.

- 9.3 As discussed above, the Ministry's previous two Service Plans had proposed that the weightings be set at 10:90 on the basis that the sectors giving rise to problem gambling behaviour should bear the largest proportion of costs associated with treating that gambling harm.
- 9.4 The Ministry has reconsidered its previous stance for the 2010-2013 Service Plan, and now proposes a 30% weighting for expenditure and a 70% weighting for presentations. The Ministry is of the view that this split strikes the appropriate balance and recognises that:
- (a) presentations do not encompass all the harms that can result from gambling;
  - (b) funding is not only for problem gambling treatment services, but for a broader public health approach for which all gambling sectors should be responsible; and
  - (c) it has responsibility for the prevention *and* treatment of problem gambling.
- 9.5 The Commission concurs with the Ministry's recommendation for a 30:70 split. In light of the Commission's view that presentations are not a fair or accurate proxy for harm, or the causes of harm, reducing the weighting from 90% to 70% alleviates unfairness that may arise from putting too much weight on presentations. Further, the resulting increase in the weighting from 10% to 30% for expenditure recognises the public health component of the strategy for which all sectors should bear responsibility.
- 9.6 Changing the weightings does not affect the overall quantum but, in comparison with past weightings, does redistribute the burden away from NCGM, with Lotteries carrying the greatest relative increase. One Commissioner was concerned that the 30:70 weighting would result in a decreased share of costs being borne by the NCGM sector (compared to past allocation of cost), but this did not alter the Commission's overall view that a 30:70 split is appropriate, noting that the NCGM share is still significantly greater than that of the other three sectors.
- 9.7 The effects of the different weightings on each sector are shown in tables below. The percentage and quantum payable for each sector is shown for the current formula, and proposed GAB formula.

**Levy rate 30:70**

	<b>NCGMs</b>	<b>Casinos</b>	<b>New Zealand Racing Board</b>	<b>Lotteries Commission</b>
Sector levy rates %	1.31	0.75	0.58	0.47
Expected levy \$(millions)	33.6187	10.7541	4.8942	5.4925
GAB levy rates %	1.34	0.84	0.46	0.40
GAB levy \$(millions)	34.3886	12.0446	3.8816	4.6745

**Levy rate 20:80**

	<b>NCGMs</b>	<b>Casinos</b>	<b>New Zealand Racing Board</b>	<b>Lotteries Commission</b>
Sector levy rates %	1.37	0.73	0.55	0.41
Expected levy \$(millions)	35.1584	10.4673	4.6410	4.7914
GAB levy rates %	1.39	0.82	0.42	0.34
GAB levy \$(millions)	35.6717	11.7578	3.5441	3.9733

**Levy rate 10:90**

	<b>NCGMs</b>	<b>Casinos</b>	<b>New Zealand Racing Board</b>	<b>Lotteries Commission</b>
Sector levy rates %	1.42	0.71	0.51	0.34
Expected levy \$(millions)	36.4416	10.1806	4.3035	3.9733
GAB levy rates %	1.45	0.80	0.38	0.27
GAB levy \$(millions)	37.2115	11.4711	3.2065	3.1553

**10. OTHER ISSUES****Pubs/Clubs split**

- 10.1 In its 2006 Report, the Commission stated that there is a *prima facie* case for non-commercial NCGM venues to be recognised as a separate sector subject to the levy, based on lower expenditure and presentation compared with commercial NCGM venues.
- 10.2 On the Commission's recommendation, the Ministry collected relevant data which indicated that there are differences in the rates of presentations between commercial and non-commercial venues. In its draft consultation document, the Ministry stated that despite these differences, there are significant difficulties with implementing the proposed split, and considered it to be an unviable option for the immediate future.
- 10.3 Following its consultation, the Ministry amended its position and now proposes that the NCGM sector be split into two separate gambling sectors for the purpose of calculating and collecting the 2013-2016 problem gambling levy, subject to a continued trend in the

relevant data indicating that this split is justified. The Commission concurs with the Ministry's amended approach.

#### **Readjustment for past over-recoveries or under-recoveries (new value R)**

- 10.4 The Ministry report that was the subject of consultation, included levy calculations based not only on different values for W1 and W2, but also the potential application of an anticipated amendment of the provisions of section 320 to amend the statutory levy formula by the addition of a new value, R, with a related change to the value of C (to eliminate from that value the references to under-recovery or over-recovery in the prior period).
- 10.5 Under the current provisions, the levy calculation is essentially a prospective exercise with all of the major components involving projections or forecasts for the forthcoming three year levy period. Element D (player expenditure) in a sector for the period during which the levy is payable) is expressly a forecast, and element C (future funding requirements) is necessarily a forecast. Element B (customer presentations that can be attributed to gambling in a sector) is not expressly a forecast; in fact, no time period is specified in relation to the element. However, the present calculations, consistent with practice in the past, use the data from the last available year, effectively involving an assumption that the proportion of sector-derived presentations in the last available whole year of the current period is a reliable guide to relative sector presentations for the next three years.
- 10.6 The new value R is defined as "the estimated under-recovery or over-recovery of levy from a sector in previous levy periods". The degree to which a particular sector under or over-recovered the amount it was forecast to recover in the preceding period would be built in to the calculation of that sector's levy for the next period. In other words the sector's levy for the next period would take into account the difference between forecast and actual revenue for each sector in the preceding period. Sectors that earned less than they were forecast to in one period would be required, by virtue of R, to make up the difference in the following levy period. Similarly, sectors that earned more than they were forecast to in the previous period would, by virtue of R, have a reduction to the levy that would otherwise be payable in the following period.
- 10.7 Some submitters argued that if it were now proposed to take into account the extent to which player expenditure had not been accurately forecast in the previous period, and adjust accordingly for each sector in the next levy period, the other projections should similarly be recalculated after the event. This would include any difference in relative sector presentations over the three year levy period compared to the relative sector

presentations in the last year of the prior period, which would have provided the basis for the forecast presentations

- 10.8 In the Commission's view, this submission is one of a number of reasons for concern about the equity and potential effects of the proposed levy formula amendments. The present arrangements involve a consistently forward-looking application of good faith forecasting. The levy is struck on the basis of projections, express or implied, of all of the significant values which make up the calculations. They are not recalculated in hindsight but the results are used to guide future forecasting.
- 10.9 Adopting a prospective forecast basis for all values is consistent and principled. Revisiting only some of the results after the event on a selective and restricted basis seems less principled and consistent, and leads to the submissions such as that referred to above. If a new variable is added to the formula to adjust for errors in the previous period's forecast, such a variable should not be limited to errors in forecasting just one of the elements of the previous levy calculation.
- 10.10 The projected recovery, based as it is on projected revenue, is largely dependent upon performance of each sector against forecast. Any sector whose business went better than projected (ie any sector whose customers lost more than expected) would be credited with having paid more than intended (an over-recovery), and any sector whose business declined (whose customers lost less than projected) would be debited as having failed to pay the intended contribution (an under-recovery). As the result is other than intended, it might be thought fair or equitable to refund or recover the resulting notional over or under-payment in the next period; that is presumably the assumption underpinning the proposed amendment.
- 10.11 However if one takes a broader view of fairness and equity, what if the other assumptions or projections were not achieved in the levy period? What if the Ministry had under-spent or overspent its projected funding requirements? Would it still be fair to collect the expected levy if the expected funds had not in fact been required? As far as the Commission can see, from the calculations presented, the answer appears to be "No" as the value of R in the Ministry's Report seems to have been adjusted to take account of the fact that the Ministry did not spend all of value C from the last levy round during the levy period. The proposed amendment does not seem to require (or even permit) this quite understandable adjustment. But, if that is adopted as a matter of principle, what would the effect of the Ministry spending in excess of projected expenditure be in the future? Would that be adjusted to create or increase "under-recoveries"? A better course might be to allow the flexibility permitted in the present calculation of value C – that it take

into account the estimated under-recovery allowing matters such as the Ministry's actual spending against budget to be factored in without rigidity

- 10.12 The reservations increase if one considers the possibility of a shift in presentations over the levy period or, as is recommended this year, a shift in the values of W1 and W2 compared to the prior period. The newly recommended allocation of values to W1 and W2 are an adjustment intended to reflect a fairer allocation of the public health cost to each sector. The reason for the proposed change to the prior values is the view that the prior underlying assumptions (that presentations are a fair proxy for the extent and causes of harm) was flawed and that achieving fairness required readjustment in the future. In such a case, projecting the prior under-recovery into the next period would arguably maintain a prior iniquity (when the contrary argument would be that fairness would require recalculation of the prior period levy with the benefit of that hindsight as well).
- 10.13 The Commission's view, reflecting the recommendations by HP Business Consulting at the time of the last consultation, is that, if the current prospective assessment is not maintained, the value of R should not be limited to variances from projected revenue but rather all factors should be adjusted with the benefit of hindsight to reflect actual results during the levy period. Estimating the value of R should involve a comparison between the levy amounts actually received from each sector in the prior period and the newly-calculated contributions for the prior period using hindsight data (not the contributions that were calculated three years earlier).
- 10.14 The final concern is based on the additional incentives created by the change. The Commission has long had a concern that setting levies largely on the basis of presentations creates an incentive to be less vigilant in detecting suspected problem gambling and less proactive in sending customers to seek the assistance of problem gambling services. The effect of the proposed amendment is to add to that another perverse incentive – a sector whose business declines does not just suffer the loss of business as the effect of R is to punish that loss of business again in the future. The proposed amendment increases substantially the incentive of each sector to perform at least as well as projected. Perversely, when the weighting favours presentations over revenue, the incentive to maintain projected market share is greatest for the sector seen to do the most harm.

#### **Cost of levy setting process**

- 10.15 As discussed above, there was considerable discussion surrounding the overall quantum of the Ministry's Service Plan. Submitters, quite rightly, sought appropriate accountability on the way in which a significant sum of money is spent. However, the Commission

observes that the cost involved in setting the levy must itself be significant, and suggests that there must be a more efficient way of doing so. By the time the Ministry, the Department and the Commission fulfill the tasks required of them by the Act, considerable resources have been expended, both direct and indirect. For its own part, the Commission devotes considerable resources to this process involving a thorough analysis of the Ministry's proposals; a consultation meeting; the appointment of an expert and external legal advisors; and producing this Report to Ministers within 10 working days. All of this consumes considerable time and public resources, and would represent a fraction of the time and budget that the Ministry devotes.

- 10.16 The Commission realises that any amendment to make the procedure more efficient would require legislative change, but leaves this with Ministers for consideration.

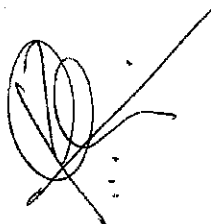
#### **Ministry of Health – National Problem Gambling Team**

- 10.17 It was evident to the Commission from its consultation process, and from the advice it received from PwC, that the Ministry's team and processes have improved significantly compared to past years. The Commission wishes to congratulate the Ministry for these improvements, and to thank it for its co-operation.

### **11. CONCLUSION**

- 11.1 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**



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