

## **BACKGROUND INFORMATION:**

### **Gambling (Gambling Harm Reduction) Amendment Bill**

#### Purpose

The purpose of this paper is to provide some helpful background on the genesis of the Gambling (Gambling Harm Reduction) Amendment Bill (the Bill) and the legislative progress of the Bill, along with some general context.

#### A brief history of the Bill

The Bill is a Private Members Bill in the name of Te Ururoa Flavell MP, Maori Party Member of Parliament for Waiariki. The Bill was drawn from the Members ballot on 9 September 2010 and introduced to Parliament on the same day. The Bill was specifically referenced in the Relationship Accord and Confidence and Supply Agreement (CSA) between the National Party and the Maori Party negotiated following the 2011 general election, wherein National agreed to support the Bill through to select committee.

The Bill commenced its first reading debate on 4 April 2012 and resumed its interrupted first reading debate on 9 May 2012. The Bill was the subject of a personal vote or conscience vote and was referred to the Commerce Committee for consideration by 83 votes to 7. The 'noes' were seven New Zealand First members, and the 'ayes' included National Party members, thus essentially discharging that party's responsibilities to the Maori Party under the CSA, in this regard.

The Commerce Committee called for public submissions on the Bill on 10 May 2012, allowing a period of six weeks for submissions which are due by 21 June 2012. No dates have been made public for committee consideration of the Bill or for the hearing of evidence by oral submission, however the Bill is required to be reported back to the House by 9 November 2012.

Te Ururoa Flavell said in first reading speech:

"I am clear that it is not likely that we will get rid of pokie machines altogether. People do, however, recognise that something needs to be done about pokies to address the harm caused by those machines. But it seems to be counterbalanced by those who run the "Who is going to pay for the sports club uniforms?" argument or, perhaps, the "Who will sponsor the kapahaka competition?" argument. People are concerned that they may not get the money stream, and I understand that. But we are trying to focus on the harm, and that is why we have termed the bill the Gambling (Gambling Harm Reduction) Amendment Bill."

#### What the Bill does

The Bill focuses on five areas of concern for the Maori Party; the funding of race meetings with money derived from gaming machines, the percentage of money derived from gaming machines returned to the community, the number and location of gaming machines, local authorities' ability to regulate gaming machines, and the mechanism for the distribution to the community of money derived from gaming machines.

Clause 1 states the Title of the Bill, clause 2 states when the Bill and its provisions come into force, clause 3 states the Act the Bill amends, and clause 4 states the purpose of the Bill, which is to provide additional measures to:

- Prevent and minimise harm caused by gambling, including problem gambling;
- Ensure that money from gambling benefits the community;
- Facilitate community involvement in decisions about the provision of gambling.

Clause 5 excludes promoting, controlling and conducting race meetings, including the payment of stakes, from the definition of authorised purposes to which money derived from gaming machines may be applied.

Clause 6 requires holders of class 4 operator's licences to distribute that at least 80 per cent of money derived from gaming machines in such a way as to benefit charitable purposes in the same local authority district as the gaming venue. The clause also enables specific conditions requiring player tracking devices, pre-commit cards and or similar devices designed to give gamblers more control over their gambling.

Clause 7 requires all class 4 venue licences subject to a local authority gambling venue policy to expire one year after that policy enters into force, and requires that all replacement licences have a maximum life of 3 years.

Clause 8 adds evidence of harm from gambling and public sentiment about the extent of opportunities for gambling to the matters a territorial authority is obliged to have regard to in setting or reviewing its gambling venue policy. The clause also gives territorial authorities the power to prohibit or reduce the number of existing venues, including those existing when the Gambling Act 2003 came into force.

Clause 9 requires gaming machine trusts and corporate societies to distribute at least 80 per cent of their distributable funds for societies or purposes located in the same territorial authority district. The clause also applies appropriate penalties for failure to comply.

Clause 10 phases out existing gaming machine trusts and corporate societies from having a role in gaming machine gambling or in distributing net gambling proceeds, by a date certain to be specified, and requires them to hand over their role to committees of the territorial authority where the venue is located. The clause also obliges the territorial authority to consult with its community and community organisations about the membership of this committee and applies some rules about the makeup of the committee which require a minority of elected members of councils or local or community boards.

The general policy statement in the explanatory note to the Bill, normally an overtly political statement of intent, claims that electronic gaming machines tend to be overly represented in lower income communities and town centres and that Maori and Pasifika communities and families are disproportionately targeted and often severely harmed by them. The statement goes on to claim that distributing money derived from gaming machines through special territorial authority committees for the purpose will be a more informed and democratically accountable method that will end the inefficiencies, lack of transparency, risks of unethical behaviour, and failure to appreciate and respond to the greatest needs of particular geographical and ethnic communities.

### Clauses of concern to sports organisations

The Bill as a whole is well intentioned in its aim to reduce the harm experienced by problem-gamblers, their families and whanau, and their communities. However, the Bill is fundamentally flawed in that it creates a moral hazard by erroneously linking problem gambling and the centralised funding of sporting organisations.

**Sections 6, 9 and 10** of the Bill pose a serious danger to sporting organisations in New Zealand that if realised will significantly damage the continued provision of opportunities for participation in amateur sporting activity by individuals and communities, diminishing the vast and overwhelming value sport provides to the nation. This danger cannot be overstated and must not be underestimated.

Never-the-less, sporting organisations are mindful that by engaging the legislative process and thereby being drawn into the public and political discourse around the Bill, the risk arises of being portrayed as 'pro-gambling' or less than sympathetic to the genuine plight of those members of the community afflicted with problems resulting from their gambling on non-casino gaming machines.

Such a perception will likely be encouraged by those in support of the Bill so as to negate or reduce the effectiveness of the advocacy adopted by sports organisations and by supporting clubs and individuals.

Consequently, the focus of the response to the Bill will be on the impact that its passage in its current form will have on sport in the community, an impact that will be inversely disproportionate to the good that may be done by the Bill to help problem-gamblers. In short, the Bill will do more harm to the community that it will do good for the community.

Sections of the Bill that are problematic to the national sports organisations are:

- Clause 6 and clause 9 which require net proceeds from non-casino gambling to be distributed for charitable purposes in the same territorial authority district in which the class 4 venue from which the proceeds originated is located;
- Clause 10 which replaces corporate societies with committees of territorial authorities with the purpose of distributing net proceeds.

This would mean an end to the current Trusts and Societies which distribute net proceeds, and hands their role over to special committees to be set up for every territorial authority – there are over 60 of them, plus Auckland with 21 Local Boards.

This will bring to an end the ability to seek sports funding on a national basis, turn the current model for funding for sports organisations on its head and severely limit their ability to operate.

The damage to sports administration and to sport in general will be profound and cannot be overstated.

## Response to the Bill

The National Sports Organisations Leadership Group (NSO), representing most sporting codes in New Zealand, will make a submission to the Commerce Committee which has asked for submissions on the Bill by **21 June 2012**.

The NSO also encourages constituent sporting organisations to make their own submission on the Bill, and to consider motivating their constituent clubs at local level to make a submission on the Bill to the Commerce Committee.

## Main points in response

The NSO has condensed the main points in response to the Bill to help guide the preparation of its own submission on the Bill, and to assist sporting organisations with the preparation of their submission on the Bill, should they choose to make one.

The overarching point is:

The proposed funding mechanism in the Bill, if it becomes law, will:

- bring New Zealand sport to a near standstill and have a profoundly negative impact on sport from community to national to international level, and
- impact harshly on thousands of athletes and sportspeople, volunteers, sports clubs, sports activities and sports events.

Supporting points are:

- Sport is a major force for social and economic good and community wellbeing;
- Sport binds our communities and enriches our national pride;
- Modern sports administration needs access to national funding sources and certainty of funding year on year;
- Removing access to gaming funding at a national level will have a material impact on sports programmes delivered at a local level;
- Changing the funding mechanism will unleash an upheaval in sport funding that will undermine long-term planning;
- Numerous sporting events will cease or be put in jeopardy;
- Continued development of organised amateur sport will be harmed;
- Participants in sport could face higher costs and barriers to access at all levels resulting in lower participation;
- Current economic climate makes securing sport funding from alternative sources difficult;
- Support meaningful and verifiable measures to reduce harm from gambling.

These main points are merely to help guide submitters and may be selected and adapted according to the circumstances of the sports organisation and the special needs of their submission, and the circumstances of the submitter.

Appendix One: Flow chart of the progress of the Bill

