

12 August 2016

Submission on the: Discussion Document: Review of Class 4 Gambling

Made to the: Department of Internal Affairs (DIA)

From the: Arts Council of New Zealand Toi Aotearoa (Creative New Zealand)

1. Creative New Zealand welcomes the opportunity to consider and make submissions on DIA's **Discussion Document: Review of Class 4 Gambling**.
2. The key contact person for matters relating to this submission is:

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Key Points

3. Creative New Zealand welcomes the opportunity to discuss DIA's review of class 4 gambling in New Zealand and wishes to thank DIA for consulting with us on this matter from early on in the process.
4. Much of the discussion document reviews the specifics of running class 4 gambling venues. This is outside our area of interest. Our submission is focussed on reviewing aspects of class 4 funding to communities and the impact of offshore gambling providers.
5. We believe the key issue surrounding the distribution of proceeds from class 4 gambling is the narrow range of organisations that currently benefit from the present system. We are calling on DIA to take steps that would require gaming societies and clubs to engage more widely in the communities they support.
6. The arts are severely underrepresented in the distribution of class 4 gambling proceeds having received only 4 percent of the total amount distributed in the past decade (under \$100 million). This is significant as class 4 gambling proceeds over the past decade totalled \$2.534 billion, more than the New Zealand Lottery Grants Board distributed over the same period. In comparison, sports received 52 percent of the class 4 gambling proceeds (over \$1.3 billion). This is an area that requires improvement.
7. Any changes to the legislation should be considered with the understanding that gambling regulation in New Zealand continues to take a harm-minimisation approach, doesn't increase gambling and that gambling benefits the community. These principles must be the first consideration for policy on the future regulation of new domestic or overseas online gambling services.

Class 4 funding to communities

Minimum rate of return

8. Creative New Zealand agrees that the goal of this review, and any consequential changes, should ensure a “cost effective regulatory model for the sector that *maximises community funding* into the future, *without increasing harm or driving a growth in gambling*” [emphasis added].
9. As such, our expectation is that the minimum rate of return should aim to maximise the amount of money returned to the community, without causing a rise in revenue that would signal a rise in gambling.
10. Our understanding from DIA during the consultation period is that increasing the minimum rate of return (currently 40 per cent) might actually decrease the amount of money returned to the community.¹ We therefore agree with the decision advised by DIA and made by Cabinet to not increase the minimum rate of return in the immediate future, to ensure the amount returned to communities is maximised.

Grants Process

11. Anecdotally, it would seem that there is a lack of awareness of funding opportunities through gaming societies and clubs among some smaller arts organisations.
12. We understand that section 114(1)(c) of the Gambling Act 2003 allows regulations to “prescrib[e] requirements for advertising the availability of net proceeds from class 4 gambling”. However, there seems to be no such requirements currently prescribed. We would be interested to hear from DIA whether they believe this could be an effective measure through which to engage a wider spectrum of the community.
13. Some gaming societies and clubs only offer grants to organisations that, in addition to being *authorised purposes*, are also incorporated. Some gaming societies and clubs also require applicants to have Charities Commission registration or an IRD income tax exemption. While this may be understandable from an accountability perspective, it does have the adverse effect of disqualifying many smaller community groups.
 - Creative New Zealand currently funds many smaller community groups through our Creative Communities Scheme (CCS), which devolves funding to each of New Zealand’s 67 territorial authorities. In 2015/16, Creative New Zealand provided councils with \$3.4 million to support over 1700 community based projects.
 - CCS does not require applicants to be incorporated. This allows individuals and unincorporated organisations to run community activities. Accountability is achieved by requiring those who receive grants to complete an ‘acquittal report’. Furthermore, the majority of grants paid by CCS are under \$2,000. In our experience, the vast majority of funded projects are satisfactorily acquitted (more than 95 percent).
 - We would like to discuss with DIA ways of encouraging gaming societies and clubs to offer more small grants to unincorporated groups. Gaming societies and clubs could be encouraged to reconsider their policies, for instance by allowing unincorporated societies and individuals to apply for funding under a set amount (e.g. \$3,000). As the requirement

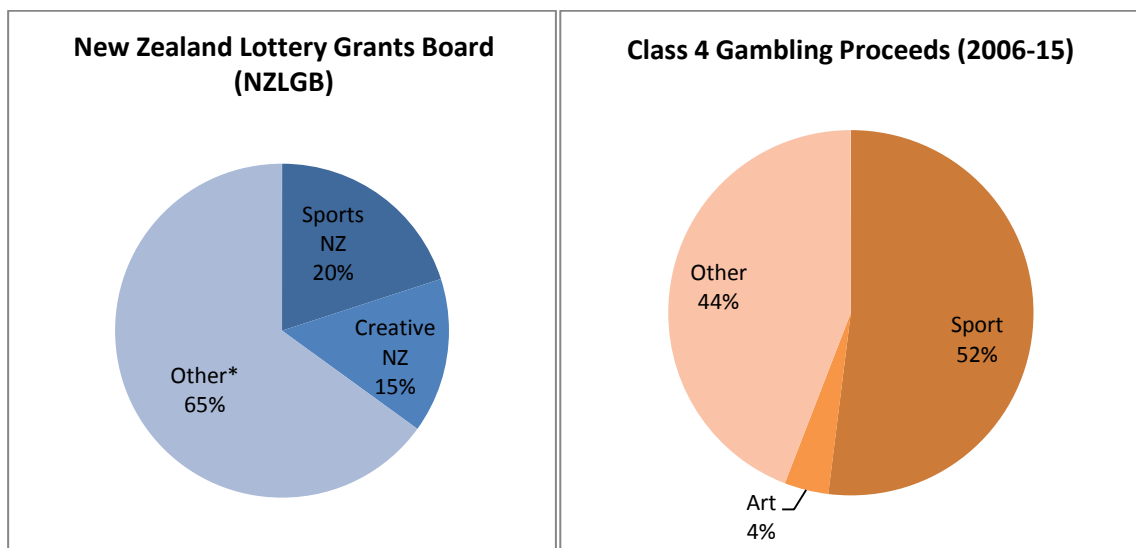
¹ In line with the economic principles of the Laffer curve.

for applicants to be incorporated isn't mandated by statute, leadership by DIA on this issue could encourage gaming societies and clubs to revise their policies and engage with smaller community organisations.

14. Although key parts of the grants process are prescribed by the Act, there remains a noticeable variability between the processes gaming societies and clubs use to distribute grants. We accept that a balance needs to be found between regulating gaming societies and clubs, while acknowledging that they are private bodies who are able to set their own rules. However, this variability produces much greater transaction costs for community organisations trying to navigate the multiple sets of funding policies.
15. As noted above, we don't wish to comment on the way class 4 gambling is run. However, any reform or consolidation of the sector should look to ensure a lowering of the operational costs of the industry. Lower operating costs would result in more money being returned to the community without an increase in gambling. We would therefore strongly support any reform or consolidation that would lower the operating and transaction costs of the sector as a whole.
16. If this is not possible, we suggest that DIA as the regulatory authority might be able to collect information from each gaming society and club about the specifics of their funding activities and then make this information available on its *Community Matters* website. Future applicants could then find funding sources by selecting their geographical location, type of organisation and type of requested funding. This would greatly reduce the work required by applicants to find suitable funding sources.

Distribution of grants funding

17. Arts and culture continues to be severely underrepresented relative to sports through the distribution of class 4 gambling proceeds. While the New Zealand Lottery Grants Board returns 20 percent of its revenue to Sports New Zealand and 15 percent to Creative New Zealand, the proportions over the past 10 years in the class 4 gambling proceeds are dramatically different.



* Includes art and culture funding through Significant Projects Fund and Community Committees.

18. In the 10 years from 2006-15, all of arts and culture (\$99.7 million) received less funding than soccer alone (\$106.7 million), just one of many well-funded sports.

19. We are concerned that this lack of funding to arts and culture is arising through both systemic barriers, unconscious biases and particularly due to a lack of outreach from gaming societies to the wider community.
20. We accept that gaming societies and clubs can only fund organisations that apply. We recognise that there may simply be not that many arts organisations applying. We think it is important that distributors of proceeds from class 4 gambling reach out to a wider range of community organisations and to involve groups who have not historically applied for funding. Equally, we intend to encourage more community organisations to apply for a wider range of funding, including from class 4 gambling proceeds.
21. A lack of funding to arts and culture organisations is not a result of the Act. The Act is neutral on where proceeds should be distributed when it defines *authorised purposes* (excluding racing) as (i) a charitable purpose or; (ii) a non-commercial purpose that is beneficial to the whole or a section of the community. In spite of this legal neutrality, sport continues to receive over half of every dollar coming from class 4 gambling proceeds.
22. Systemic barriers exist that prevent arts and culture community activities from receiving more funding as well. Several gaming societies and clubs only make their funding available to sports groups. While it is their right as a private body to set their own rules in accordance with the Act, this does distort the distribution of funds from class 4 gaming activities.
23. We believe there are simple actions that can be taken at multiple levels that will greatly improve the fairness of the distribution of grants.
 - Gaming societies and clubs need to be encouraged to reach out more widely in their communities. This should be led by DIA as the regulatory agency and could include communicating the benefits of wider community support and capability building programmes to aid gaming societies and clubs.
 - DIA should investigate introducing regulations allowing for the advertising the availability of net proceeds from class 4 gambling as prescribed by the Act. This would ensure all community groups are aware of the availability of funding.
 - Any amendment or rewriting of the Act should include a provision requiring gaming societies to distribute funds to communities in a manner that reflects the diversity of the peoples and activities undertaken in the community. DIA should then require additional reporting from gaming societies on how they have met this requirement in the Act. Language or language to this effect in the Act would meet a balance of requiring gaming proceeds to be distributed more widely in the community without being overly prescriptive.
 - We would be happy to meet with DIA to discuss further policy ideas they have on how to distribute funds more widely in the community.
24. Proceeds from gaming societies and clubs is important to arts organisations as funding for capital investment and salaries is generally eligible. Creative New Zealand and the Creative Community Scheme funding do not cover these types of expenses. Most territorial authorities who provide separate arts grants do not either. Proceeds from class 4 gambling are therefore often the only source of income for organisations needing to fundraise for capital expenses or salaries. Making distribution fairer and covering capital expenses and salaries would help the longer term viability of a greater range of groups in our communities.

Diverse community needs

25. The discussion document notes, “[n]ational organisations have raised issues with non-club societies providing funding solely to local organisations, as they think that there are other ways to distribute funding to make sure it reaches communities.”
26. One example of a possible solution to this comes from the Lion Foundation, who currently designates 10 percent of its grants to “support leadership at national body level”. We believe this is a simple and pragmatic solution that could be encouraged of larger gaming societies.
27. We believe that a push from the gaming societies and clubs to engage with more diverse groups in the community, as noted above, will address some of the issues raised around money originating from low income areas benefiting middle-to-high income communities instead.

Offshore Gambling Providers

28. As the discussion document points out, there are currently only two providers of online gambling in New Zealand.
 - The New Zealand Racing Board (through the TAB) offers live sports betting and splits its proceeds between racing authorised purposes and amateur sports. Arts and culture organisations in New Zealand receive no funding from NZRB’s activities.
 - The New Zealand Lotteries Commission (Lotto NZ) sells some of its products online and these proceeds are distributed via the New Zealand Lottery Grants Board (NZLGB). Creative New Zealand receives a majority of its funding via the NZLGB.
29. Competition from international racing and sports betting websites is unlikely to affect funding for arts and culture organisations as these organisations are not currently funded by New Zealand racing and sports gambling anyway.
30. Assuming harm minimisation principles were considered first, the introduction of other forms of online betting (whether domestic or international) that competed with class 4 gambling or NZ Lotto products would need to be considered carefully, to ensure these new forms of gambling returned proceeds to the community. This might be difficult, if not impossible, to enforce for overseas websites. Creative New Zealand is sceptical about any form of deregulation that might weaken the community benefit aspects of gambling in New Zealand.

Background on Creative New Zealand

31. Creative New Zealand is New Zealand’s arts development agency, responsible for delivering government support for the arts. We are an autonomous Crown entity continued under the Arts Council of New Zealand Toi Aotearoa Act 2014. We receive our funding through Vote: Arts, Culture and Heritage, and the New Zealand Lottery Grants Board. In 2015/16, we invested over \$42.2 million in the arts sector nationally.
32. Creative New Zealand’s Strategic Plan 2013–16, Te Mahere Rautaki 2013–16, identifies the four outcomes we are seeking to achieve on behalf of all New Zealanders:
 - New Zealanders participate in the arts
 - high-quality New Zealand art is developed
 - New Zealanders experience high-quality arts

- New Zealand arts gain international success.
33. Creative New Zealand contributes to achieving these outcomes by delivering programmes in the following areas:
- funding for artists, practitioners and organisations
 - capacity-building for artists, practitioners and organisations
 - advocacy for the arts.

Thank you again for the opportunity to comment, and please don't hesitate to contact me if you wish to discuss this submission further.

Ngā mihi nui

A handwritten signature in black ink, appearing to read 'D Pannett', with a stylized flourish extending from the end.

David Pannett
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