

Regulatory Impact Assessment: Protecting TAB NZ's from offshore online betting to ensure a sustainable racing industry

Coversheet

Purpose of Document	
Decision sought:	<i>Extend TAB NZ's monopoly over sports and racing betting in the online environment</i>
Advising agency	<i>Department of Internal Affairs</i>
Proposing Minister	<i>Minister for Racing</i>
Date finalised:	<i>4 September 2024</i>
Problem Definition	
<p>TAB NZ is under threat from the long-term loss of revenue to offshore operators, despite TAB NZ's monopoly on land-based sports and racing betting and the significant short term cash injection because of the recent TAB NZ Entain partnership. This threat puts the New Zealand racing industry at risk in the long term, because it is almost wholly reliant on TAB NZ for funding and these offshore operators have no overall financial obligations to the racing industry (besides paying Betting Information Use Charges and relatively modest Point of Consumption charge).</p> <p>In addition, Cabinet's recently agreed proposals to establish a new online casino gambling regulatory system presents indirect risks to TAB NZ as they are likely to strengthen the position of some of TAB's closest competitors in New Zealand.</p>	
Glossary of Terms	
Term	Explanation
Betting	For this RIS, betting refers to placing a bet on the outcome of a sports or racing event.
Betting Information Use Charges (BIUC)	Under the Racing Industry Act, BIUC are charges required to be paid by offshore operators for the use of New Zealand racing and sports information. These charges are negotiated between the offshore provider and the relevant code or National Sporting Organisation (NSO) or, where a NSO does not exist, Sport NZ.
Black market	Operators who are offering online gambling illegally to people in a particular country. Generally, this is because they do not have a licence and/or are offering a prohibited type of gambling.
Blocking / geo-blocking & filtering	Blocking: specific websites that have been identified as illegally offering online gambling are made inaccessible to New Zealand-based internet users through either a voluntary or mandatory list implemented by Internet Service Providers. Blocking payments to offshore operators is another option to enforce a

	<p>prohibition.</p> <p>Geo-blocking: Blocks put in place by a gambling provider to prevent access to their services by customers in a particular country/region.</p> <p>Filtering: filters detect certain characteristics in online content, like keywords, that then trigger the content to be blocked. They are less precise than blocking and can prevent access to legitimate content.</p>
Casino games	There are a range of types of online casino games, including slot games/pokies, poker, and roulette among others.
Entain NZ	Entain Group Pty Ltd is a global betting operator who entered into a 25 Year partnership arrangement, via a New Zealand based subsidiary, Entain NZ, with TAB NZ in 2023.
Grey market	Operators who offer online gambling lawfully in a country, but who are largely unregulated. New Zealand is an example of a grey market.
Gross gambling revenue / gross betting revenue	A measure of how much people have lost through gambling and of an operator's profit. It is generally defined as the total amount of money bet/gambled minus the total amount of prizes.
Offshore operator	Any organisation that provides online gambling services to New Zealanders and is based in another country/countries.
One-stop shop	An online gambling platform that offers multiple types of gambling – at a minimum both betting and casino games.
Point of Consumption Charges (POCC)	Point of Consumption Charges (POCC) is a charge established by the Racing Industry Act 2020 and set out in the Racing Industry (Offshore Betting - Consumption Charges) Regulations 2021. The POCC applies to bets taken by offshore betting providers on racing and sporting events from persons resident in New Zealand. POCC is currently set at 10% of gross betting revenue.
Racing Codes	New Zealand Thoroughbred Racing (NZTR), Harness Racing New Zealand (HRNZ) and Greyhound Racing New Zealand (GRNZ).
Sporting Codes	Sports with a national body or recognition by Sport NZ. To enable TAB NZ to take bets on a sport there needs to be a contractual relationship between TAB NZ and the sporting code. The contract also specifies the distributions of revenue to the code from bets placed on the sport.
Stakes	The prize money that can be won in a race by competitors. (Not to be confused with the amount a gambler can place as a bet.)
TAB New Zealand	The Racing Industry Act 2020 establishes TAB New Zealand (TAB NZ) as a statutory entity focused on racing and sports wagering. Historically the Totalisator Agency Board was established in 1950 as the sole betting provider for racing in New Zealand (sport was included in the 1990s).
Virtual Private Network (VPN)	Establishes a digital connection between a computer and a remote server owned by a VPN provider, creating a point-to-point connection that encrypts personal data, masks IP addresses, and sidesteps website blocks and firewalls on the internet. In this case, it means New Zealand-based gamblers can bypass any blocks and bet with providers prohibited from offering services in New Zealand.

Executive Summary.

TAB New Zealand (TAB NZ) is the main funder of the racing industry

The racing industry is a longstanding part of New Zealand communities, especially in rural areas, and contributes close to \$1.9 billion annually to the economy.¹ Legislative reforms, enacted through the Racing Industry Act 2020 (the Act), aimed to make the racing industry more sustainable.

However, in recent years, ongoing and increasing competition from offshore operators has reduced TAB NZ's market share, negatively affecting its revenue. TAB NZ, which is the sole betting provider for 'land based' racing in New Zealand is the main funder of the industry, providing on average 92.7% of income annually for the racing codes. Therefore, the financial viability of TAB NZ is critical to the sustainability of the industry.

The racing industry has been through a period of change since 2018

In response to concerns about the racing industry declining, in April 2018 the Minister for Racing, Rt Hon Winston Peters appointed senior Australian racing expert John Messara to review the New Zealand racing industry and provide recommendations on future directions for the industry. The Minister released the report on 30 August 2018 which made a package of sweeping recommendations for reform of the industry².

Following the release of the Messara report, a significant process of legislative reform was undertaken in 2018-2020 to respond to the report's findings. These culminated with the enactment of the new Racing Industry Act 2020 (Racing Act) which established a new industry structure³.

A major change was to establish TAB NZ as a statutory entity focused on wagering and responsibility for running the industry was devolved to the racing codes. The reforms also:

- o established offshore charges to provide additional sources of revenue to the racing industry - Point of Consumption Charges (POCC⁴) and Betting Information Use Charges (BIUC⁵); and
- o allowed TAB NZ to partner with offshore betting operators.

In May 2023, TAB NZ signed a 25-year partnership arrangement with global betting operator Entain Group Pty Ltd to leverage the expertise and economies of scale of a large international betting provider to increase TAB NZ's financial sustainability. The partnership

¹ Size and Scope of the New Zealand Racing Industry, prepared by IER for the Racing Codes, January 2024, provided to the Department.

² It should be noted that the Messara report; while making recommendation on TAB NZ outsourcing its functions to an overseas provider and introducing offshore changes did not make any specific recommendations around on online monopoly.

³ These reforms were all subject to RIS's at the time which can be found at <https://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index#zero>

⁴ POCC a charge established by the Racing Industry Act 2020 and set out in the Racing Industry (Offshore Betting - Consumption Charges) Regulations 2021. The POCC applies to bets taken by offshore betting providers on racing and sporting events from persons resident in New Zealand. POCC is currently set at 10% of gross betting revenue.

⁵ BIUC are charges required to be paid by offshore operators for the use of New Zealand racing and sports information. These charges are negotiated between the offshore provider and the relevant code or National Sporting Organisation (NSO) or, where a NSO does not exist, Sport NZ.

agreement saw Entain take over the day-to-day operations of TAB NZ in return for a 50/50 revenue split between Entain and TAB NZ⁶. This arrangement has put the racing industry in a strong financial position for the short term due to the following provisions:

- a minimum guarantee of \$150 million per year to TAB NZ for the first 5 years of the agreement (up to 2028); and
- a one-off upfront payment of \$150 million.

There is also a one-off upfront payment of \$100 million, payable within 10 working days of the legislation enabling the TAB NZ to become the only legal provider of online sports and racing betting in New Zealand being enacted; and an additional 9(2)(b)(ii) [REDACTED], if the monopoly legislation is enacted (meaning the total funding available from that 9(2)(b)(ii) [REDACTED] the legislation is not enacted)⁷.

At the time the Partnership was signed in May 2023, the previous Government announced it agreed in principle to TAB NZ having an online monopoly, subject to further work being undertaken. This was the subject of a RIA at the time, which can be found on DIA's website⁸. To a degree, this RIA builds on that earlier RIA.

There is long term uncertainty for the industry given TAB NZ's financial situation

Despite the overall success of the post Messara report reforms, the significant cash injection because of the recent TAB NZ Entain partnership and various recent TAB NZ initiatives such as the launch of new products and a second brand 'Betcha', TAB NZ's long-term distributions to the racing industry are still under threat from the loss of revenue to offshore online operators. TAB NZ relies heavily on its revenue from online betting and in 2022, 9(2)(b)(ii) [REDACTED]. The level of distributions to the industry after this 5-year period are uncertain, and although TAB NZ's modelling indicates greater revenue will be generated by Entain than without the partnership, revenue will continue to flow offshore via offshore online operators.

Many of these offshore operators are larger than TAB NZ (with greater product range and better odds) and crucially have no financial obligations to the racing industry, beyond paying the relatively modest POCC takings (the racing codes collected approximately \$2 million from POCC in the 2024 financial year) and BIUC (the racing codes collected \$22.8 million the 2022 financial year from BIUC agreements). In addition, Cabinet's recently agreed proposals to establish a new online casino gambling regulatory system presents indirect risks to TAB NZ as they are likely to strengthen the position of some of TAB NZ's closest competitors in New Zealand. This is due to the proposal for licensed operators to be able to advertise as part of licensing conditions. These risks heighten the need to ensure legislative settings protect the viability of TAB NZ in order to improve the long-term financial sustainability of the racing industry.

We have considered 3 options to address the loss of offshore revenue problem

The objective of this proposal is to protect the sustainability racing industry over the long

⁶ For the first five years this is subject to the minimum guarantee for TAB NZ – i.e. if 50% of revenue is less than \$150 million, Entain will ensure TAB NZ receives \$150 million, with the difference coming at its expense.

⁷ 9(2)(b)(ii) [REDACTED]
[REDACTED]

⁸ [CAB-23-MIN-0126, CAB-23-MIN-0184, CAB-23-MIN-0261 \(dia.govt.nz\)](#)

term, which is to be done by sustaining TAB NZ's revenue stream (refer constraints section). By long term sustainability we mean ensuring that the racing industry stays at least as big as it currently is in terms of economic contribution to the economy (adjusted for CPI) and numbers of industry employees; from the period 2028 (when minimum guaranteed payments in the Entain agreement cease) and onwards for the foreseeable future.

To achieve this objective, the following options were considered:

- **Option 1: Counterfactual** – TAB NZ remains the only authorised operator of betting products in New Zealand, the government's online casino regulation regime is put in place, but offshore online operators can continue to offer their sporting and racing products to New Zealanders, so long as they do not advertise.
- **Option 2: TAB NZ hold an online monopoly**– TAB NZ's land-based betting monopoly is extended to the online environment. Offshore operators would be prohibited from offering betting products to New Zealanders; alongside a package of measures to give the required oversight and monitoring of TAB NZ protections for customers in light of this monopoly to TAB NZ.
- **Option 3: 'Wait and see' while increasing POCC** – This option would delay immediate legislative change to gather more information on the partnership's performance and make an informed decision on a monopoly; potentially after an online casino regulation regime is established. However, in the interim, raise the POCC to address revenue concerns. This means offshore operators that take bets from New Zealanders, would be required to pay increased POCC charges.

Our analysis shows that option 1 (counterfactual) is not viable. Although TAB NZ's financial situation is stable in the short term, there is uncertainty about what might happen after the guaranteed payments expire. The partnership has strengthened the financial position of the industry in the short term. However, the benefits of the partnership long-term are untested at this early stage in the partnership. This means the risk of offshore competition eroding the revenue flow of the TAB NZ remains, thus a risk to future distributions.

Option 3 ('wait and see'), is preferable to doing nothing but still does not achieve objectives. This option means we can take the time to gather more information on how the partnership is working and can see what impact it is having on TAB NZ's market share and revenue. Depending on when an online gambling regulatory system is implemented it would mean the online monopoly could be enforced via this regulator from the outset without an interim regulator step. This option would give more time which might enable Ministers to have access to better information when making decisions on some of the settings/second order policy decisions relating to a monopoly (or perhaps develop an alternative solution). In the interim, the POCC could be raised to help boost revenue. This means offshore operators that take bets from New Zealanders, would be required to pay increased charges. The guaranteed payments to 2028 mean there is time to do the work and see what option is adopted in terms of regulating online gambling. However, it does mean if a monopoly was eventually implemented after 2028, TAB NZ would miss out on the additional payments from Entain if the monopoly is not realised. Thus, this known benefit would be forgone for uncertain future potential benefits.

Option 2 (online monopoly) is the preferred option as it is only option that could meet the objective of sustaining TAB NZ revenue, and in turn the racing industry, in the long term. In addition, this option, if implemented prior to June 2028, should realise the immediate capital injection from the \$100 million payment and TAB NZ would also receive an uplift in the minimum guaranteed funding each month **9(2)(b)(ii)** this guaranteed return period.

However, it should be noted while the monopoly and the guaranteed Entain payments would increase TAB NZ's profits and returns to the racing industry, it is unknown at this stage how much this would be offset by:

- the loss of POCC revenue (approximately \$4.5 million in the last year with (which after DIA administration and Sports/Racing integrity costs are taken out result in an approximately \$2 million each of the Sports and racing industries annually based on a 50/50 split) that would cease under a monopoly; and
- a larger than expected number of gamblers not choosing to return to betting with TAB NZ (and who may deliberately gamble outside the regulated domestic market) and
- the cost-recovery from TAB NZ for enforcement action.

The preferred option also comes with some risks and impacts, including that the proposed interim enforcement regime will not be sufficient for TAB NZ to receive the related payments from Entain. It will also see a fall in GST paid as offshore operators exit the market. Officials estimate the amount of GST collected in 2023/24 from offshore operators that related to income from sports and racing wagering to be approximately \$5.8 million. There will also be lost revenue for sports and racing codes from the POCC removal and reductions in BIUC payments. While the Department considers the risks of these costs outweighing the increased benefits of the monopoly very unlikely, it is not guaranteed. Even with a monopoly there will be people who choose to gamble outside of New Zealand via a VPN, or with less scrupulous offshore operators continue to offer black market sports and racing betting to New Zealanders.

Limitations and Constraints on Analysis

The following limitations and constraints were placed on the policy development process:

Ministerial decisions to date - the Minister for Racing has requested officials to prepare a Cabinet paper that proposes option 2 and that this paper be prepared quickly as any changes need to be implemented as soon as possible to address the problems identified. This request, combined with time constraints and scope constraints (both discussed later) means we have not looked at other regulatory or non-regulatory options to help sustain the long-term financial viability of the racing industry.

Time constraints on analysis – time constraints mean there has been limited research into options 2 and 3. For example, there has been insufficient time to analyse industry sector data, including the updated research commissioned by Racing New Zealand on the size and scope of the racing industry. We have not had time to investigate the impact of a potential decrease or increase in TAB NZ's returns to the racing industry over the long-term. For example, what impact this might have on employment within the industry. We also have not investigated the potential impacts on sports codes that receive fixed contributions based on the amount TAB NZ customers bet on their sport. Some codes receive significant funding from their agreement with TAB NZ while others only receive a small amount. At this time, we do not know who will be impacted, and how significantly, if distributions reduce. We also have not been able to investigate if there are there any overseas studies that could indicate people's behaviour in other jurisdictions which have established a betting monopoly.

This constraint has also meant we have not been able to explore other options that could impact on TAB NZ's financial viability such as people betting less due to the rising cost-of-living, TAB NZ's business model, or internal business decisions and the quality of products provided.

Work is limited to what can be done within the scope of the Act – Cabinet recently agreed to an in-principle decision to introduce a regulatory system for online casinos, which would

likely require changes to the Gambling Act 2003. However, due to the time constraints, the Minister for Racing does not intend to wait for that work to progress. This means any changes must be within the purview of the Racing Industry Act.

Limited consultation on options – the public and stakeholders were not consulted on the specific options in this RIA due to the time constraints discussed above. However, the issue of regulation of online gambling and sports and racing betting has been actively discussed for some years and the previous Government announced in May 2023 it agreed in-principle to TAB NZ having an online monopoly, subject to further work being undertaken. We anticipate there are likely to be a range of views on the options. For example, offshore operators are likely to be in favour of a regulated online gambling market they can legitimately enter and participate in and opposed to TAB NZ being given an online sports and racing betting monopoly and/or a raised POCC rate. Conversely, TAB NZ and the racing codes are highly supportive of TAB NZ having an online monopoly. While not having been directly consulted on the overall package in Option 2, some other elements of the package have been signalled with them and we believe they will be generally supportive of the option/package. In particular it should be noted that while we have consulted Sport NZ on extending TAB NZ's online wagering monopoly, we have not consulted individual NSOs, hence their views and the financial impact on specific NSOs is uncertain.

Quality of data and evidence – there is a lot we do not know about the true nature and extent of existing betting by New Zealanders with offshore operators. We cannot identify exactly how many people are betting offshore and how many would return to betting with TAB NZ if an online monopoly was introduced. Analysis relies on data and forecasting provided by TAB NZ as well as other industry and government figures.

Much of the data we have reviewed for this RIA pre-dates the TAB/Entain partnership that came into effect in June 2023. The estimates and forecasting provided by TAB NZ not been independently verified due to time constraints. We note that estimates provided by TAB NZ about the size of the offshore sports and racing betting market are not in line with our projections based on POCC. We have not been able to investigate the reasons for this difference, however a portion of this is likely to be TAB NZ's estimate considering operators who do not pay the POCC (but this is unlikely to account for the full difference).

The Entain deal is expected to result in a bigger market share and revenue for TAB NZ than what would have occurred without the partnership, through offering a better wagering product but, under current regulatory settings, revenue will continue to flow offshore and not contribute to racing and sporting industries (except through BIUC charges and relatively modest POCC takings).

Analysis of options has been particularly impacted by these constraints and is based on several overall assumptions (summarised below).

Assumptions

We have made several overall assumptions in our analysis. While they are based on the available evidence, there is still a lot of uncertainty around the online betting market, such as its true size. Our assumptions are detailed further in section 2. These are:

- TAB NZ's financial situation will be uncertain in the long-term once the guaranteed payments expire in 2028;
- securing TAB NZ's long term financial viability is the best way of protecting the long-term sustainability of the racing industry; due to time constraints and Ministerial direction there has been no opportunity to determine whether this premise is correct
- the single biggest current threat to TAB NZ's long-term financial viability is competition from offshore operators and not other reasons such as people betting

less due to the rising cost-of-living or TAB NZ's business model.

- non-regulatory measures will not address the core problem and/or meet the objective
- there will be no change of overall model industry funding and/or TAB product expansion (e.g. TAB in expanding into casinos) - as discussed in the scope section
- the changes need to be implemented as quickly as possible in order to address problems identified and meet Ministerial expectations.

Some other assumptions specific to individual options are outlined in those sections:

- Most consumers will willingly return to betting with TAB NZ if it has an online monopoly (option 2);
- most offshore operators will comply with a prohibition and leave the New Zealand market (option 2); and
- of those offshore operators currently paying the POCC, they will comply and pay an increased rate (option 3).

Out of scope.

As stated, options are limited to those workable within the constraints of the current overall TAB NZ funding the industry model; and wider changes to the system such as changing TAB NZ's distribution model or its status as a statutory entity or investigating other funding sources to sustain the racing industry (e.g. from general taxation) are out of scope. The option of giving TAB NZ an online monopoly on racing only – not sports is also similarly out of scope.

The Minister has also ruled out the possibility of TAB NZ expanding into online casinos as well as ruling out an expansion of TAB NZ's product range into other wagering products (e.g. novelty betting) to provide another source of income for TAB NZ.

While the appropriate linkages are identified in this RIS, the options listed in it are focused solely on racing and sports betting, and do not affect the wider regulatory reform of online casinos currently proposed and being refined by the Minister of Internal Affairs. Exploring a TAB NZ monopoly as part of expanded online casino reforms (as opposed to Option 2 which is a separate solution progress discretely and faster) is also out of scope.

A specific matter relating to option 2 - Reinstating the Gaming Duty on TAB NZ to account for the loss in GST was also considered, however, Inland Revenue (IRD) advised that the capital and administrative costs of doing so would likely be over \$1.5m and therefore it would not be practical or cost efficient to do so.

Responsible Manager(s) (completed by relevant manager)



Gina Smith

General Manager, Policy Group

Department of Internal Affairs

4 September 2024

Quality Assurance (completed by QA panel)

Reviewing Agency:	Department of Internal Affairs
Panel Assessment & Comment:	<p>The panel considers that the information and analysis summarised in the RIA partially meets the quality assurance criteria.</p> <p>The panel considers that the RIA does a good job of setting out the limitations and constraints on the analysis. In particular, uncertainty about the quantifiable benefits is clearly identified. As such, the panel considers that the analysis provides a suitable basis to support decision-makers' consideration of the policy proposal. The RIA partially meets the quality assurance criteria because there has been no opportunity to consult on the policy proposal. Information obtained from earlier consultations and the department's understanding of the sector more generally are included in the RIA, which helps to mitigate the lack of consultation on this proposal.</p>

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The racing industry is a longstanding contributor to New Zealand's economy

1. The racing industry's economic contribution to New Zealand was recently estimated at close to \$1.9 billion. It employs approximately 13,600 full-time equivalent positions, with 40,600 people participating in racing annually.⁹
2. The racing industry comprises of 3 racing codes: New Zealand Thoroughbred Racing, Harness Racing New Zealand, and Greyhound Racing New Zealand. Each code is responsible for its respective industry which includes race clubs, courses, trainers, jockeys, breeders, and owners. Racing New Zealand (Racing NZ) is the umbrella body that enables collaboration and collective decision making between the racing codes.

TAB NZ, as the only domestic provider of land-based racing and sports betting, is a key funding source to the sector...

3. Totalisator Agency Board (now known as TAB NZ) was established in 1950 as the sole betting provider for racing in New Zealand (sport was included in the 1990s). TAB NZ was intended to be the sole provider of sports and racing betting with a not-for-profit funding model. Its purpose is to maximise profits for the long-term benefit of the New Zealand racing industry and New Zealand sports, as well as minimising gambling harm.¹⁰
4. The racing industry relies heavily on TAB NZ for its income. The racing codes receive over 90% of their income from TAB NZ.¹¹ In 2022/23 TAB NZ returned approximately \$139 million to the racing codes from its betting revenue.¹²
5. The racing codes distribute the funds they receive from TAB NZ to the various racing clubs. The clubs in turn use these funds, to maintain their club and offer more prize money for example. Prize money plays a significant role as it supports owners, trainers, jockeys, stable hands, and the entire supply chain including breeders, vets, farriers, and feed merchants. A reduction in funding would reduce prizes, which in turn would limit the industry's ability to maintain (or grow) its size.
6. While participants in the racing industry may also have other income streams (e.g. owners who export horses), we expect a significant proportion of their income comes from participating in races.
7. The racing industry also receives a small amount (approximately \$2 million annually) from offshore operators who take bets from New Zealanders via the POCC (with a similar distribution going to sports).

⁹ Participants include employees, trainers, breeders, owners, and volunteers with varying levels of engagement. Around 639,000 people attend race meetings annually. Source: Size and Scope of the New Zealand Racing Industry, prepared by IER for the Racing Codes, January 2024, provided to the Department.

¹⁰ Section 57, Racing Industry Act 2020.

¹¹ Other sources of income for the Codes may include interest income, operating revenue, and sale of goods and services. Sources [Figure calculated from the racing codes' 2022 annual reports: GRNZ Annual Report 2022.pdf](#); [Annual-Report-2022.pdf \(hrnz.co.nz\)](#); and [NZTR AR 2021-22 FINAL2.pdf](#)

¹² This number distributions based only on betting revenue. It does not include Gaming duty savings and racing betting information use charges, or distributions generated from Class 4 gambling (pokies) revenue. Source: TAB NZ Annual Report 2023.

8. **Appendix A** outlines the flow of income to the racing industry (excluding the flow of income to sporting organisations). The diagram reflects the new operating environment under the TAB NZ – Entain partnership. However, the values are from 2022 financial year, prior to the commencement of the partnership.

The racing industry has been through a period of significant reforms since 2018

9. In response to concerns about the racing industry declining, in April 2018 the Minister for Racing, Rt Hon Winston Peters appointed senior Australian racing expert John Messara to review the New Zealand racing industry's governance structures and provide recommendations on future directions for the industry. The Minister released the report on 30 August 2018 which made a package of sweeping recommendations for reform of the industry.
10. Following the release Messara report, a significant process of legislative reform was undertaken in 2018-2020 to respond to the report's findings. These culminated with the enactment of the new Racing Industry Act 2020 (Racing Act) which established a new industry structure.¹³
11. A major change was to establish TAB NZ as a statutory entity focused on wagering and responsibility for running the industry was devolved to the racing codes.
12. The reforms also:
- progressively repealed the Gaming Duty on TAB NZ (redirecting funds to the racing industry);
 - established offshore charges to provide additional sources of revenue to the racing industry (Betting Information Use Charges (BIUC)¹⁴ and POCC); and
 - allowed TAB NZ to partner with offshore betting operators.
13. It should be noted that the Messara report; while making recommendations on TAB NZ outsourcing its functions to an overseas provider, and introducing offshore changes did not make any specific recommendations around an online monopoly.
14. In 2020 the Government also provided a support package of \$72.5m to the racing industry to support its recovery from COVID-19. Due to pandemic restrictions limiting sporting and racing events in New Zealand and internationally, the industry (and TAB NZ) lost revenue.

In early 2023, TAB NZ was facing a rapid and ongoing drop in its revenue, which affected their distributions to racing industry

15. By early 2023, TAB NZ was facing a rapid and ongoing decline in its revenue due to competition from offshore operators. From May to November 2022, TAB NZ missed its betting profits target by an average of \$2.04 million each month (the worst performance was a \$4.9 million shortfall in just one month), meaning profits were running on average 19.5% below target.¹⁵

¹³ These reforms were all subject to RIS's at the time which can be found at [https://www.dia.govt.nz/diawebsite.nsf/Files/Racing-Review/\\$file/Regulatory-Impact-Assessment-Racing-Industry-Reforms-May2019.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Racing-Review/$file/Regulatory-Impact-Assessment-Racing-Industry-Reforms-May2019.pdf)

¹⁴ BIUC are charges required to be paid by offshore operators for the use of New Zealand racing and sports information. These charges are negotiated between the offshore provider and the relevant code or National Sporting Organisation (NSO) or, where a NSO does not exist, Sport NZ.

¹⁵ TAB NZ latest news, <https://www.tabnz.org/news>.

16. In response to pressure from offshore operators, and to ensure financial impacts did not extend to the racing codes TAB NZ sought to increase their long-term financial sustainability by exploring a partnership arrangement with global betting operator Entain Group Pty Ltd to leverage the expertise and economies of scale of a large international betting provider.
17. TAB NZ advised that if the partnership deal was not approved, TAB NZ would need to reduce distributions by approximately \$30 million in the 2023/24 financial year to continue operating in a financially responsible way.¹⁶

TAB NZ partnership arrangement with Entain Group

18. On 1 June 2023, the partnership arrangement came into effect and allowed for TAB NZ's day-to-day operations to be run by a newly established New Zealand subsidiary, Entain New Zealand. This required Ministerial approval and the partnership took effect in June 2023.¹⁷ The previous Government also agreed in-principle to extend TAB NZ's monopoly online in April 2023 [DEV-23-MIN-0056 refers].
19. The partnership between TAB NZ and Entain is a 25-year contractual agreement, to operate TAB NZ's day-to-day functions (excluding governance, which includes deciding distributions to the racing codes). The partnership agreement provides no opportunity for government intervention in its details or operation. The agreement stipulates a 50:50 revenue share between Entain and TAB NZ, with a \$150 million upfront payment from Entain in 2023, and minimum guaranteed payments to TAB NZ of at least \$150 million per year for the first 5 years – totalling \$900 million in guaranteed funding.
20. This guaranteed funding has helped in the short-term. It has contributed to an increase in prize money and allowed for more certainty to make investments into events such as racing carnivals as well as infrastructure improvements. Some of the funding has also been earmarked for harm minimisation initiatives such as 9(2)(b)(ii) [REDACTED].
21. The cash injection has had a significant impact, and the agreement has been well received by much of the industry. However, the increased returns from the Entain partnership are only guaranteed until 2028. After this time TAB NZ will receive a 50% share of the revenue with no guaranteed minimum funding. It is difficult to assess whether Entain can grow TAB NZ's market share and revenue enough to maintain the current level of returns from 2028, particularly without increased protection from the substantial and currently legal operations of offshore competitors.
22. The partnership agreement also includes several conditional payments from Entain to TAB NZ if legislation is enacted making TAB NZ the only legal provider of online sports and racing betting in New Zealand. These payments are:
 - a. a one-off upfront payment of \$100 million, payment within 10 working days of the legislation being enacted; and

¹⁶ Total distributions to the racing codes fell from \$140.2 million in 2021/22 to \$125.2 million in 2022/23. A drop of \$15 million or 10.7%. Figures are from the TAB Annual Report 2023, p.44.

¹⁷ The partnership was established under section 54(4) of the Racing Industry Act with Ministerial approval.

b. an additional \$9(2)(a) added to the minimum guaranteed funding, 9(2)(b)(ii))¹⁸

23. At the time the Partnership was signed in May 2023 the previous Government announced it agreed in principle to TAB NZ having an online monopoly, subject to further work being undertaken. This decision was the subject of a RIA at the time, which can be found on DIA's website.¹⁹ To a degree this RIA builds on that earlier RIA.
24. While revenue from the partnership with Entain is expected to increase TAB NZ distributions to racing and sport much more than it would have without the partnership, it is too soon to see the full impact as the partnership is still just over a year old.

Despite the success of those measures TAB NZs returns the industry are increasingly under threat from offshore online betting operators

25. Despite the overall success of the post Messara report reforms, the significant cash injection because of the recent TAB NZ Entain partnership and various recent TAB NZ initiatives such as the launch of new products and a second brand 'Betcha', TAB NZ's distributions to sporting organisations and the racing codes, are under threat from the loss of revenue to offshore operators. TAB NZ estimates that around \$180 million a year is being lost to overseas operators by New Zealanders betting offshore and 9(2)(b)(ii)
26. The Gambling Act 2003 (Gambling Act) continued TAB NZ's domestic land-based monopoly on betting. However, advances in technology and people increasingly shifting their activities online have created growth in online gambling with an increasing number of offshore operators offering their products online to New Zealanders. TAB NZ's advantages as a monopoly provider do not apply in the online environment. It's not-for-profit funding model has made it difficult to compete with other for-profit gambling operators. The partnership with Entain aims to address this as Entain brings the capital and betting infrastructure for TAB NZ to compete on a global scale required in the online market.
27. New Zealand is one of the few OECD countries that does not regulate online gambling. While the Racing and Gambling Acts place strict parameters around how betting can be conducted by TAB NZ, there are no restrictions on offshore operators, apart from prohibiting them from advertising in New Zealand.²⁰
28. 9(2)(b)(ii)²¹ There has been a steady decline in retail in relation to digital over the years. However, TAB NZ has been facing stiff competition from offshore operators. Many of these operators offer more competitive odds and sign-up bonuses, as well providing platforms that offer different types of gambling. TAB NZ is restricted to offering betting products and cannot expand to become a "one-stop shop".

¹⁸ Or put another way the total possible available under this part of the contract, had the monopoly been in place when the partnership was signed was \$75 million, and this total available reduces by \$1.5 million for every month the monopoly legislation is not enacted up until 2028.

¹⁹ [CAB-23-MIN-0126](#), [CAB-23-MIN-0184](#), [CAB-23-MIN-0261 \(dia.govt.nz\)](#)

²⁰ Section 16 of the Gambling Act 2003.

²¹ Source: TAB NZ.

- f) not require operators to make funding returns to the community; and
 - g) require strong enforcement levers, including the ability for the regulator to take enforcement action against non-licensed operators to maximise compliance.
34. The Minister of Internal Affairs is to report back to Cabinet in October 2024 on further details on these proposals.
 35. These proposals however only cover online casino gambling (e.g. online casino table games and online pokies) and do not cover online sports and race wagering.
 36. For TAB NZ to enter into the online casino market would require amendment to the Racing Act. The Minister for Racing has ruled out making such a change and considers TAB NZ should only operate in its traditional wagering space.
 37. While there will not be a direct impact on the way TAB NZ operates under the online casino proposal as licenced operators will not be able to offer or advertise sports or racing betting, the changes are still likely to strengthen the position of some of TAB's closest competitors in New Zealand. This is due to the proposal for licensed operators to be able to advertise as part of licensing conditions. Most of the global operators, who currently are not permitted to advertise to New Zealanders, offer one-stop-shops (casino, sports and lottery products) so it is possible that sports and racing products offered by licensed casino operators may benefit from increased brand recognition, even if permitted advertising is limited to solely casino products (and licenced operators are not permitted to 'cross pollinate' and use casino products to promote sports and race wagering in offshore related companies).
 38. These risks heighten the need to ensure legislative settings protect the financial sustainability of TAB NZ in order to improve the long-term of the financial sustainability racing industry.

What is the policy problem or opportunity?

39. TAB NZ is increasingly under threat from the loss of revenue to offshore operators, which puts the long-term financial sustainability the New Zealand racing industry at risk from the period 2028 (when minimum guaranteed payments in the Entain agreement cease).
40. The New Zealand racing industry is almost wholly reliant on TAB NZ for funding. Despite TAB NZ's monopoly on land-based sports and racing betting in New Zealand and the significant cash injection because of the recent TAB NZ Entain partnership, TAB NZ's distributions to the racing industry (and sporting organisations) are increasingly under threat from offshore operators which threatens the racing industry's ongoing financial sustainability.
41. Many of these offshore operators are larger than TAB NZ, with greater product range, better odds, and crucially, have no overall financial obligations to the racing industry (besides paying the Point of Consumption and Betting Information Use Charges). There also will be other offshore operators offering sports and racing betting to New Zealanders, who are not paying GST or the POCC.

42. In addition, Cabinet’s recently agreed proposals to establish a new online casino gambling regulatory system presents indirect risks to TAB NZ as they are likely to strengthen the position of some of TAB NZ’s closest competitors in New Zealand. This is due to the proposal for licensed operators to be able to advertise as part of licensing conditions. These risks heighten the need to ensure legislative settings protect the viability of TAB NZ in order to improve the long-term financial sustainability of the racing industry. The RIA for the online casino regulatory system noted one risk as being:
- ‘If regulated operators are considered more trustworthy than currently, and can promote themselves more effectively, this may result in an increase in participation and an increase in overall harm from online gambling. Furthermore, if a shift to online gambling on offshore operators results in a move away from other forms of gambling like TAB NZ or Lotto NZ, there could be a negative impact on current community funding streams’.*²⁶
43. Given the New Zealand racing industry is almost wholly reliant on TAB NZ for funding; this loss of revenue to offshore providers threatens TAB NZ’s and the racing industry’s ongoing financial sustainability. The New Zealand racing industry was responsible for generating close to \$1.9 billion in value-added contribution to the New Zealand economy in the 2022/23 racing year and for sustaining 13,632 full-time equivalent jobs across the country.
44. The Entain partnership addresses some elements of TAB NZ’s competitiveness through leveraging off Entain’s betting infrastructure and expertise, and the additional revenue it has generated (a \$150 million one-off upfront payment & 150 million per year for the first 5 years of the agreement) has provided help in the short-term.
45. The arrangement has mitigated the short-term risk through lost revenue while the guaranteed minimum payment of \$150 million per year is available. Yet the financial sustainability risk to the industry remains in the long-term, as the industry will be ultimately dependent on the competitive performance of Entain after 2028 if the counterfactual continues (of a strongly competitive online market).
46. However, uncertainty remains with respect to long-term distributions to the racing industry, especially after the guaranteed return period concludes in 2028 in the face of increasing competition from offshore operators, especially given they can offer a more attractive product because they make no or minimal contribution to the racing sector. Although TAB NZ modelling has indicated greater revenue will be generated by Entain, than if no partnership had been signed, some level of risk remains without further protection.
47. A potential opportunity cost is that there is a provision in the agreement for another upfront payment of \$100 million if there is legislative change to extend TAB NZ’s land-based monopoly to online settings, as well as §9(2)(b)(ii)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

²⁶ Note: this RIA is not public yet and will eventually be accessible at [Proactive Releases - dia.govt.nz](https://www.dia.govt.nz/proactive-releases)

Sporting codes are also likely being negatively affected by declining TAB NZ revenue

48. The exact impacts of a declining TAB commercial position on sporting codes is unknown. Payments to sports from betting revenue are mostly based on fixed contractual rates, but actual amounts received by a sporting code change depending on the amount and value of the bets taken by TAB NZ on their sport. While all sporting codes benefit from TAB NZ's payments, a small number of major sports receive returns that are financially significant, and some sports would also receive a major proportion of their revenue through TAB payments. These sports would be significantly impacted if TAB NZ payment were to decline.²⁷
49. We understand overall Sport NZ is less reliant on funding from TAB NZ compared to racing but is described by Sport NZ as highly reliant on the proceeds from gambling more generally (especially the Lottery Grants Board and Class 4 'pokies' returns). Sport NZ notes that sports betting is a still critical revenue source for many NSOs and that that with overall sport funding down 14% since 2018. This revenue stream is more important than ever.
50. Sport NZ supports extending TAB NZ's online wagering monopoly to protect community interests and minimise gambling harm. Sport NZ notes that sports betting is a rapidly growing segment of TAB's business which relies on continued cooperation from the sports sector.

Assumptions, risks, and uncertainties

Assumptions

51. We have made several overall assumptions in our analysis. While they are based on the available evidence, there is still a lot of uncertainty around the online betting market, such as its true size. Our assumptions are:
 - **protecting TAB NZ is the best way to protect the long-term viability of the racing industry** – due to time constraints and Ministerial direction there has been no opportunity to determine whether this premise is correct;
 - **there will be no change of overall model industry funding and/or TAB product expansion (e.g. TAB in expanding into casinos)** - as discussed in the scope section;
 - **the impact to TAB NZ's revenue is predominantly due to competition from offshore operators** and no other reasons (or a combination of them), such as people betting less due to the rising cost-of-living, TAB NZ's business model, or internal business decisions and the quality of products provided;
 - **the changes need to be implemented as quickly as possible** in order to address problems identified and meet Ministerial expectations;
 - Some other assumptions specific to specific options are outlined in those sections.

²⁷ All sports with a national body or recognition from Sport NZ receive funding if bets are taken on their code if they have a funding agreement with TAB NZ. Some sports are bet on more than others, so some codes receive significant amount of funding. For example, New Zealand Rugby, New Zealand Football, Basketball New Zealand, New Zealand Rugby League.

Risks

52. All the options present risks, for the financial sustainability of the racing industry, the Government, or New Zealanders who gamble with either TAB NZ or offshore operators. These are outlined under the analysis of each option in section 2.

What objectives are sought in relation to the policy problem?

53. The objective we are seeking is **securing the financial sustainability of the racing industry in the long-term**. By this we mean ensuring that the racing industry stays at least as big as it currently is in terms of economic contribution to the economy (adjusted for CPI) and numbers of industry employees; from the period 2028 (when minimum guaranteed payments in the Entain agreement cease) and onwards for the foreseeable future.
54. Achieving this is a prerequisite for the Minister's stated overarching goal for the racing industry, the ideal objective, which is to double its value to the New Zealand economy within the term, mirroring the success of Ireland's racing industry.
55. Given that TAB NZ is the primary funding source for the industry (and keeping in mind the limitations and constraints outlined earlier in the document) securing the financial sustainability of racing industry in the long-term needs to be done via the means protecting financial returns to industry through TAB NZ.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

56. The assessment criteria are listed in the table below. The higher weighting for sustainable returns for the racing industry is because this criterion is directly related to the overarching purpose outlined in the previous section.

#	Criteria	Explanation
1	Sustainable returns for racing industry from the proceeds of betting in the long term <i>(Weighting: 2x)</i>	TAB NZ can sustain its long-term returns to the racing codes and sporting organisations.
2	Ease of Implementation	Implementation is feasible and can be completed within reasonable timeframes. There are low implementation risks.
3	People wagering on racing and sports have appropriate protections	The risk of gambling harm to people who chose to gamble with TAB NZ or offshore is not unduly increased. People wagering on racing and sports have appropriate consumer protections.

What scope will options be considered within?

Focus on racing and sports betting only

57. This RIA focuses on racing and sports betting and will not consider other types of online gambling such as casino games. This work is being considered by the Minister of Internal Affairs. In March this year, Cabinet made an in-principle decision to regulate online casinos [CAB-42-MIN--0072 refers], and the Minister is reporting back on options in October 2024. Any changes to legislation regarding TAB NZ do not adversely impact the work to regulate online gambling, as Sports and racing betting is excluded from these proposals.

58. No non-regulatory measures have been identified at this time that could meet the objective.

Some options are out of scope

59. Options are limited to those that can be achieved within the constraints of the Racing Act, mainly due to time constraints and Ministerial direction. This means the following is out of scope:

- changing TAB NZ's distribution model or its status as a statutory entity will not be considered;
- investigating other funding sources to sustain the racing industry (e.g. from general taxation and/or product expansion such as TAB entering the casino market);

- exploring a TAB NZ monopoly as part of expanded online casino reforms (as opposed to a separate solution progress discretely and faster).
- We have not investigated the option of giving TAB NZ an online monopoly on racing only – not sports.
- As a specific matter relating to option 2 - Reinstating the Gaming Duty to account for the loss in GST was also considered, however IRD advised that the capital and administrative costs of doing so would likely be over \$1.5m and therefore it would not be practical or cost efficient to do so. Additionally, it is expected that the drop in GST would be minimal as gamblers shift their betting activity from offshore operators to the TAB NZ once the monopoly is in place and offshore operators withdraw from the New Zealand market.

What options are being considered?

60. Three options have been considered:

- **Option 1: Counterfactual** – TAB NZ remains the only authorised operator of betting products in New Zealand, the Governments online casino regulation regime is put in place, but offshore online operators can continue to offer their sporting and racing products to New Zealanders, so long as they do not advertise.
- **Option 2: TAB NZ hold an online monopoly**– TAB NZ's land-based betting monopoly is extended to the online environment. Offshore operators would be prohibited from offering betting products to New Zealanders; alongside a package of measures to give the required oversight and monitoring of TAB NZ protections for customers in light of this monopoly to TAB NZ.
- **Option 3: 'Wait and see' while increasing POCC** – This option would immediately delay legislation change in order to gather more information on the partnership's performance and make an informed decision on a monopoly; potentially after an online casino regulation regime is established. However, in the interim, raise the POCC to address revenue concerns. This means offshore operators that take bets from New Zealanders, would be required to pay increased charges.

61. Options 2 and 3 are not fully mutually exclusive. If Cabinet decides to extend TAB NZ's monopoly online, a higher POCC could be introduced in the interim as a way of either collecting more money from offshore operators or encouraging them to leave the market in advance of the monopoly taking effect. However, this may not be practical depending on how fast the monopoly is implemented. Similarly, under option 3, if after a wait period a decision was made not to progress with a monopoly, the governance and oversight improvements, and expanded regulation making powers of option 2 could still be looked at for implementation.

Stakeholder Views/Public consultation

62. The public and stakeholders were not consulted on the options. However, the issue of regulation of online gambling and sports and racing wagering has been actively discussed for some years and the previous Government announced in May 2023 in agreed in principle to TAB NZ having an online monopoly, subject to further work being undertaken.
63. We anticipate from conversations with stakeholders, there are likely to be a range of views on the options. For example, offshore operators are likely in favour of a regulated

online gambling market they can legitimately enter and participate in. They would likely express disappointment TAB NZ is given an online sports and racing betting monopoly. Previous consultation also indicated they would not be in favour of a raised POCC rate.

64. TAB NZ and the racing codes are highly supportive of TAB NZ having an online monopoly. While not having been directly consulted on the overall package in Option 2, some other elements of the package have been signalled with them and we believe they will be generally supportive of the option/package. TAB NZ has also expressed its desire to have the POCC rate raised.
65. Sport NZ supports extending TAB NZ's online wagering monopoly to protect community interests and minimise gambling harm. However, while the racing codes support the monopoly, the views of individual NSOs are not known. The financial impact on specific NSOs is uncertain and likely to depend on the individual sports.

Option One – Counterfactual

66. Option 1 would keep New Zealand's gambling market model the same as it is now. Although TAB NZ would be the only authorised operator of betting products in New Zealand, there would be no legal barriers for offshore online operators to offer their sports and race betting products to New Zealanders, or for New Zealanders to play on offshore sites, provided they do not advertise here.
67. As noted, under the counterfactual option, the Government's online casino regulation regime would be put in place coming into force at this stage in 2026. While there will not be a direct impact on the way TAB NZ operates under the online casino proposal, the changes are likely to strengthen the position of some of TAB NZ's closest competitors in New Zealand who are able to advertise as part of licensing conditions.
68. Given these factors, we consider under the counterfactual, it is highly likely offshore competition will further erode the revenue of TAB NZ – although the rate and severity of this decline are unknown.
69. The other risks of the counterfactual are:
 - *there continues to a large "grey" market* – a "grey" market means that offshore operators are neither regulated nor operating illegally. Spending on offshore online gambling (i.e. the grey market) is expected to continue to increase over time. The advertising ban is only partially effective, and it will remain almost impossible to enforce for e.g. through advertising at overseas sports events broadcast in New Zealand;
 - *TAB NZ's long-term revenue sustainability remains at risk* - in turn, this risks the racing industry's long-term viability, and could impact jobs, especially in rural communities; and in the short-term the additional payments provided for in the Entain partnership agreement for an online monopoly of \$100 million and 9(2)(b)(ii) [REDACTED];
 - 9(2)(h) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Stakeholder Views/Public consultation

70. Public consultation on regulating online gambling in 2019 asked submitters about the counterfactual, of which some were in favour. However, the consultation was in the context of regulating the entire online gambling market and reducing harm from online gambling. It did not consider the viability of TAB NZ or supporting the racing industry. Further consultation is required to determine public and stakeholder opinion.

Assessment against objective

71. This option does not meet the objective. As discussed earlier in section 1, the racing industry is reliant on TAB NZ funding, and competition from offshore operators has reduced its market share and threatened distributions to the industry in recent years. The partnership has strengthened the financial position of the industry in the short term. However, the benefits of the partnership long-term are untested at this early stage in the partnership. This means the risk of offshore competition eroding the revenue flow of the TAB NZ remains, thus a risk to future distributions.

Option Two – TAB NZ online monopoly

72. This option would extend TAB NZ's land-based monopoly to the online environment. TAB NZ would be the only operator that could legally offer racing and sport betting to people residing in New Zealand.
73. Specifically, this option would:
- make it illegal for any entity other than TAB NZ to offer betting on sporting or racing events to a New Zealand-based customer;
 - repeal the POCC sections within the Racing Act as it will no longer be collectable under a monopoly model;
 - establish the Department of Internal Affairs as an interim regulator, in anticipation of this function being transferred permanently to the online casino regulator when it is established in 2026 [CAB-24-MIN-0277.01 refers];
 - strengthen the governance and government oversight provisions for TAB NZ; and
 - strengthening harm minimisation and consumer protection regulation-making powers in the Racing Act.
74. Expanding TAB NZ's monopoly to online settings by prohibiting all other forms of online sports and racing betting is a significant consolidation of the revenue gathering channels for the sporting and racing industries. There are some risks to providing a monopoly to TAB NZ without sufficient oversight and monitoring by Government, and protections for customers. Therefore, these components are to be treated as a single package for this option. The intent to have this overall framework in place with the passing of the legislation, however as with POCC regime, some detailed aspects may require regulations.

Overall Approach to the Monopoly

75. This option will mean that the POCC regime in the Racing Act (which prohibits offshore operators from taking bets from New Zealander unless they pay the POCC charges) is no longer be required. However, the key features of the POCC regime remain appropriate to underpin the monopoly (which would prohibit offshore operators from taking bets from New Zealander altogether), these being:
- The Department of Internal Affairs being the default regulator with a power to delegate this in the future if needed.

- The costs of administering and enforcing the regime being cost recovered – in this case from TAB NZ.

76. As with POCC regime, some detailed aspects of this overall package may require regulations. However, we do not consider any uncertainty in this regard will impact the overall analysis in this RIS. For example, the key issue for this analysis around paying for enforcement is that these costs will be cost recovered from TAB NZ, and the exact mechanism for this and whether is placed in primary or secondary legislation does not influence this analysis

A two phased approach to enforcement regulation

77. As noted, the Minister of Internal Affairs is reporting back to Cabinet in October seeking decisions on the detailed design of the regulatory system for online casino gambling. This new system will address similar issues to the online sports and racing monopoly, such as the oversight of online operators and enforcement. However, at this stage this system will not be in place until 2026 which is not soon enough to enable TAB NZ to grow and embed its market share before guaranteed returns from Entain cease in 2028.
78. The Minister for Racing has directed that the monopoly be implemented quickly and ahead of the broader regulation of online gambling generally. However, this will require a two phased approach to enforcement regulation.

Long-term the monopoly should be enforced by the new online casino gambling regulator

79. Once established in 2026, the new online casino gambling regulator will be the most appropriate long-term body to oversee and enforce the TAB NZ's online sports and race wagering monopoly. With Ministerial approval, the Department will continue to work on online casino regulation; with the intent that the dedicated online casino regulator (currently also proposed to be established within the Department of Internal Affairs) will eventually take on these responsibilities.

Prior to this, the Department of Internal Affairs will enforce the monopoly as an interim step

80. Until full enforcement and oversight of the online monopoly is able be transferred to the dedicated online regulator, the Department of Internal Affairs would undertake an 'interim regulator' role. This is intended to assure Entain that the monopoly is being regulated and therefore release the payment to TAB NZ as per the partnership agreement.²⁸ As noted, any costs the Department incurs for this function would be recovered from TAB NZ.
81. While the interim framework will be place with the passing of the legislation and any associated regulations; the degree to which any powers are utilised and the resources dedicated to this function during the interim period will be an operational matter for the Department, given this arrangement would likely only be required for 12-18 months. It is expected that the Department will take a pragmatic approach to establishing and implementing this interim role, while still ensuring adequate enforcement. This could involve the Department intervening with operators breaching the monopoly issuing initial warning when breaches are brought to its attention and raise issues with regulators in other jurisdictions.
82. The Department would also monitor TAB's compliance with ministerial expectations of performance reporting alongside its monopoly regulation role (refer later discussion).

²⁸ Under the partnership agreement the one-off upfront payment of \$100 million and an additional \$15 million to the minimum guaranteed funding, pro-rated is conditional on the monopoly being enforceable.

83. Once the online casino regulator takes on responsibility for overseeing the sports and race wagering monopoly it is expected relevant regulations for online casinos (for example advertising restrictions) to be considered for application to TAB and its products.

Enforcement of the monopoly

84. In the long-term enforcement powers for the Department of Internal Affairs that reflect the extra-jurisdictional nature of the legislation will be needed and legislated. While policy decisions on this are yet to be made if the current POCC was used as a basis regime 9(2)(g)(i) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
85. Until that time, in the interim period it is intended a light touch enforcement approach is used. A likely bigger deterrent to reputable providers than 9(2)(g)(i) [REDACTED] is the risk of losing their licences in larger more profitable jurisdictions by breaching New Zealand's prohibition. This is because in some cases, licences in other jurisdictions, which are likely to have more profitable markets, are at risk if licence holders intentionally breach laws in other jurisdictions.
86. In addition, it is proposed that the criteria for an operator to gain a licence for an online casino will involve the operators track record of legislative compliance. Breaching the sporting and racing online monopoly would therefore jeopardise an operator's chance of gaining an online casino licence and the significant financial benefits that would bring.
87. The enforcement powers are not expected to include internet blocking of offshore providers. This is an expensive and inefficient tool for enforcement. Internet filters are easily circumnavigated by consumers and less reputable providers, and are considered an intrusion on the principles of a free and open internet. Most reputable providers prohibited from operating in New Zealand will institute geoblocking on their platforms.
88. Enforcement action would be targeted at offshore operators. We do not propose banning or criminalising New Zealanders who gamble with offshore operators, as this could discourage people from seeking help if they are at risk of or experiencing gambling harm.

The online monopoly, combined with the Entain partnership, will require greater oversight of TAB NZ and protections for customers

89. Expanding TAB NZ's monopoly to online settings by prohibiting all other forms of online sports and racing betting is a significant consolidation of the revenue gathering channels for the sporting and racing industries.
90. There are some risks to providing a monopoly to TAB NZ without sufficient oversight and monitoring by Government, including the possibility that the mechanisms in place to support the racing industry continue to fail, following the guaranteed return period in the partnership with Entain.

Governance and oversight improvements

91. The Entain partnership (which introduces a 'for profit' business into the equation alongside a return-to-industry model) marks a significant change in the New Zealand gambling landscape and requires the Act to still ensure TAB NZ has appropriate strong governance to enable it to deliver on its statutory objectives, functions and purposes.
92. Therefore, this option includes as part of the package of improved requirements, updating the skills required on the TAB NZ Board under s55(5) of the Racing Act to also include: contract monitoring, legal and financial monitoring, in light of Entain partnership to ensure it can better provide governance and oversight of Entain.
93. New Ministerial powers would also be introduced to require additional reporting and information-gathering from TAB NZ to better ensure that Government has sufficient oversight to respond to any future risk, including to racing industry distributions. While some Ministerial reporting is currently undertaken on a voluntary basis by TAB NZ; there are no powers to compel this, nor specify the information to be reported or the level and/or standard to which this is to be reported. The Department of Internal Affairs would monitor TAB NZ's compliance with these reporting requirements as part of its role as interim regulator.

Expanded harm minimisation regulation-making powers

94. This proposal means TAB NZ would be the only legal provider of online sports and racing betting in New Zealand. Given this restriction of choice, it is important to ensure there are adequate harm minimisation protections for domestic TAB NZ consumers. The existing harm minimisation regulation making powers only relate to land-based TAB venues. Therefore, this option includes expanding the harm minimisation regulation-making power to also cover TAB NZ's online operations.
95. The intent of a new regulation making power would be to ensure international best-practice harm minimisation standards for online products can be included as part of the monopoly. This work will happen after the legislation is passed and the monopoly is established. It would also allow any online harm minimisation requirements imposed on TAB NZ to be aligned as required with those placed on online casino operators.
96. TAB NZ was aware at the time the Entain partnership was signed that further harm minimisation regulations were likely, and the agreement anticipates this. The partnership agreement also requires Entain to provide industry best practice harm minimisation, which includes compliance with all laws and refers to standards of service equal to or better than what is provided by the best global wagering organisations.

Additional consumer protection regulation-making powers

97. As with harm minimisation, the restriction of choice for New Zealand with the online monopoly means it is important that there are appropriate consumer protections for domestic TAB NZ consumers. In particular, it is important to ensure that New Zealanders are not excluded from accessing TAB NZ services without an appropriate reason, such as having an identified gambling problem, as opposed to restrictions being placed on someone simply because they are too successful at wagering. We understand this practice occurs with many betting operators.
98. Therefore, this option includes the creation of a new regulation making power to ensure TAB NZ cannot restrict otherwise lawful customers from accessing its online products without an appropriate reason. The intent of this would be to act as a backup reserve power if usual consumer protections were insufficient.

This proposal comes with risks

99. There are specific risks to this option, namely:

- 9(2)(h) [REDACTED]
- *there is likely to be a reduction in revenue for sports and racing codes from the POCC removal and reductions in BIUC payments* – (the racing codes collected approximately \$2 million from POCC in the 2024 financial year and \$22.8 million the 2022 financial year from BIUC agreements). The Department considers the risks of these costs outweighing the increased benefits of the monopoly are unlikely, it is not guaranteed. We also note that the racing codes support the monopoly despite these losses;
- *there is likely to be a reduction in GST* - as noted, the proposals will see a fall in GST paid as offshore operators exit the market. Officials estimate the amount of GST collected in 2023/24 from offshore operators that related to income from sports and racing wagering to be approximately \$5.8 million. However much of the GST loss will be offset by increased TAB NZ GST revenue through the monopoly or gamblers shifting their spending to other GST registered gambling operators (e.g. casinos or pokies) or spending a similar amount of funds on other goods and services such as entertainment which are subject to GST. In addition, the payments from Entain NZ to TAB NZ that are conditional on an online monopoly (\$100m upfront 9(2)(b)(ii) [REDACTED]) should lead to additional spending in the New Zealand economy which would contribute to tax revenues. This positive impact of additional spending in the New Zealand economy could outweigh any GST losses from some NZ gamblers shifting to non-compliant offshore operators. It is therefore assumed the impact will be minimal, but this will depend on the amount of customers returning to TAB which is difficult to estimate;
- *customers may not automatically return to TAB NZ if the monopoly is established* - while Entain taking over the day-to-day operations has resulted in improved odds and betting options, TAB NZ still offers less variety than most other online sports and racing wagering and there is a risk that a lack of competition could lower likelihood of TAB providing competitive odds and new/innovative products in future.
- *a black market will likely remain* - while reputable operators are likely to prevent customers from New Zealand from accessing their sites, this is easy to circumvent using a VPN. Customers may also choose to bet with less reputable operators to access different products or more range, increasing the risk of gambling harm if they are using sites without adequate consumer protections and harm minimisation practices;
- *there is a risk that the proposed interim enforcement regime will not be sufficient for TAB NZ to receive the payments from Entain provided*. TAB NZ have advised us that they consider this risk to be minimal but as the payment is to be released at the discretion of Entain, we cannot be certain;
- *there is risk that the online reforms will stall, leaving the interim regulator arrangement in place for a longer time than intended*;
- *the monopoly favours Entain as TAB NZ partner which some may consider inappropriate*.

[REDACTED]

Impact on sports funding

- 102. The impact on funding for sports should also be acknowledged. The loss of the Point of Consumption Charge (approximately \$2.1m per annum to sports organisations) will see a fall in revenue for National Sporting Organisations (NSOs). It is anticipated that the monopoly will, however, see an uplift for sports but this is not guaranteed.
- 103. In addition, the monopoly will also likely cause a decrease in the revenue received by NSOs and racing codes from BIUC charges for the use of their racing and sports information from offshore providers. If New Zealanders are unable to bet with offshore providers, it can be expected the value of BIUC agreements with NSOs and racing codes will drop. We are unaware of what this decrease in value may be, however the degree of this decrease for any NSO will likely depend on the proportion of New Zealanders who bet with that offshore provider, as opposed to overseas bettors on any given sport or racing type.
- 104. Despite this impact, the racing codes (who collected \$22.8 million the 2022 financial year from BIUC agreements via TAB NZ acting as an agent for them) support the monopoly proposal. However, the financial impact on NSOs is uncertain and likely to depend on the individual sports.

Stakeholder Views/Public Consultation/Public consultation

- 105. This specific option has never been consulted with the public and stakeholders. Ideally, consultation would be undertaken. However, due to the constraints and limitations listed earlier, there is no opportunity for this to occur.
- 106. However, the issue of regulation of online gambling and sports and racing betting has been actively discussed for some years and the previous Government announced in May 2023 in agreed in principle to TAB NZ having an online monopoly, subject to further work being undertaken. From this, we anticipate there are likely to be a range of views on the options. For example, offshore operators are likely to favour a regulated online gambling market they can legitimately enter and participate in, and oppose TAB NZ being given an online sports and racing betting monopoly, and/or a raised POCC rate.

107. Also, TAB NZ and the racing codes are highly supportive of TAB NZ having an online monopoly. While not having been directly consulted on the overall package in Option 2, some other elements of the package have been signalled with them and we believe they will be generally supportive of the option/package. For example, as noted TAB NZ was aware at the time the Entain partnership was signed that further harm minimisation regulations were likely, and the agreement anticipates this; and the proposal updating the skills required on the TAB NZ Board has already been sounded out informally with racing codes who appeared supportive of this move.
108. As previously noted, Sport NZ supports extending TAB NZ's online wagering monopoly to protect community interests and minimise gambling harm. However, the views of individual NSOs are not known. The financial impact on specific NSOs is uncertain and likely to depend on the individual sports.

Assumptions specific to this option

109. **Most offshore operators will adhere to a prohibition and leave the New Zealand market** – it is likely the more reputable, large operators, which we assume are responsible for most of TAB NZ's competition by revenue, will leave the New Zealand market. Operators do not want to risk their licence(s) to operate in larger markets by disregarding the law in other jurisdictions. Regulators look at an operators' conduct in other jurisdictions when they apply for a licence or a licence renewal. Despite that, a black market will remain with operators who are either unlicensed or licensed only in jurisdictions with less stringent licence requirements.
110. **Reduced consumer choice will lead to people returning to bet with TAB NZ** – if offshore operators are prohibited from offering their products to New Zealanders, some New Zealanders will bet with TAB NZ. However, those determined to bet offshore will circumvent any prohibition. If offshore operators continue to offer more attractive odds, for example, some consumers will likely be more motivated to circumvent any restrictions. Consumer behaviour is difficult to predict, and we have no evidence that could suggest how many people would choose to bet with TAB NZ.

Assessment against objective

111. This option bests meets the objective – as is outlined in the next section. This option should also realise the immediate capital injection from the \$100 million payment within 10 working days of the legislation being enacted. Depending on the enactment, TAB NZ would also receive an uplift in the minimum guaranteed funding of an **s9(2)(b)(ii)** .

Option 3 - 'Wait and See'

112. This option would defer a decision on the monopoly until the impact of the partnership on the racing industry's long-term financial viability is better understood. The partnership with Entain New Zealand is in its early stages and insufficient information is currently available on the performance of the partnership agreement. This option would give more time which might enable Ministers to have access to better information when making decisions on some of the settings/second order policy decisions relating to a monopoly (or perhaps develop an alternative solution). A deferred decision would give time for the partnership to embed and any improvements on TAB NZ's market share and revenue to realise.
113. To protect the revenue for the racing industry in the interim, raising the POCC rate on offshore operators would provide another means of income for the industry. The Racing Act established the POCC. The POCC applies to bets taken by offshore betting providers on racing and sporting events from people residing in New Zealand and is returned to the sports and racing industry. The charge is currently set at 10% of Gross Betting Revenue. Twelve operators paid POCC in 2022/23. The Minister for Racing can adjust the rates as needed.²⁹ A review of the POCC rate is statutorily required every five years (by 2026).
114. Raising the POCC would go a small way in improving the financial viability of the industry while the other work was under way, particularly if POCC payers exited the market. However, it would not generate an equivalent level of income as the additional payments provided for in the Entain partnership agreement for monopoly and does not solve TAB NZ's struggles with offshore competition or provide a longer-term solution. In the 2023 financial year, the total POCC revenue was \$3.79 million, collected from 12 offshore betting operators, which is a relatively small amount³⁰.
115. The advantages of this option are:
- The online monopoly could still be implemented later, and TAB NZ would likely still receive the one-off payment of \$100 million if created within the required 5 year timeframe, and some of the minimum guaranteed uplift may be received;
 - depending on when an online gambling regulatory system would be implemented it would mean the online monopoly could be enforced via this regulator from the outset without an interim regulator step;
 - it would enable more time to assess what other measures could mitigate the risks that may arise from extending TAB NZ's monopoly to online settings;
 - it would be quicker to implement than option 2, as no legislative change is needed. Regulatory changes to increase the POCC rate could be in place in months if needed. POCC payments are made quarterly, so racing and sporting codes could receive increased funding quite soon after implementation.

²⁹ Section 114 Racing Industry Act 2020.

³⁰ Only operators with Gross Betting Revenue over \$60,000 from sports and racing betting from New Zealanders are required to pay the POCC (this is consistent with GST rules). This calculation is based on actual revenue received and distribution payments in the Department's 2023 financial year. This differs from the 2022 figures which were calculated based on the first year of operation. Source: Department of Internal Affairs data.

116. There are risks associated with this option. These are:

- *offshore operators may not pay the POCC (if increased)* - higher POCC rates will result in less revenue if operators choose to exit the market or no longer pay it. It is unlikely that offshore operators will suddenly start paying POCC if they are not already. If a POCC rate increase were to result in most or all of TAB NZ's major competitors exiting the New Zealand market; while this would be more favourable to TAB NZ's position; it would still not maximise the value of the Entain partnership agreement as again the additional payments would not be realised;
- *gamblers will continue to gamble with offshore operators* – while there is no prohibition for gamblers to circumvent, gamblers will continue to have extensive choice for sports and racing betting. If gamblers do not return to betting with TAB NZ, its financial situation would not improve, and the racing industry would face continued uncertainty; and
- *lack of consistency with New Zealand's international obligations* – see below.

9(2)(h)

Stakeholder/Public consultation

118. Targeted consultation was conducted in April 2021 to operationalise the POCC. Consultation highlighted the need for a reasonable rate of POCC that would not unfairly inflate offshore betting providers' tax burdens compared to domestic providers. Consultation on a 10% rate (the current rate) highlighted support for a lower rate amongst offshore operators, whereas TAB NZ [REDACTED] TAB NZ reiterated its view that the current rate is too low in a letter to the former Minister for Racing in October 2022.

Additional assumption specific to this option

119. **Some operators will continue to pay an increased POCC** – If the POCC is increased, some operators will continue to pay and returns to the racing industry will increase. However, depending on the rate of increase, some operators may decide to stop paying but continue to operate in the market offering better odds than TAB NZ, or leave the market entirely. Both outcomes would impact returns to the racing industry.

³¹ The POCC charged in Australian states is 15-25%.

9(2)

Assessment against objective

120. This option only partially meets the objective (sustainable revenue streams for the racing industry). While preferable to the counterfactual, this option offer less certainty of outcome and lower returns in the short term compared to Option 2. For example, while raising the POCC rate will generate more income for the racing codes if offshore operators comply; it would still likely not generate the equivalent revenue as a monopoly; especially given the additional payments provided for in the Entain partnership agreement. Alternatively, if a POCC rate increase were to result in most or all of TAB NZs major competitors exiting the New Zealand market; while this would be more favourable to TAB NZs position; it would still not maximise the value of the Entain partnership agreement as again the additional payments would not be realised.

How do the options compare to the Counterfactual?

	Option One – Counterfactual	Option Two – TAB NZ online monopoly	Option 3 – Wait and see
Sustainable returns for racing industry from proceeds of betting longer term (2x)	<p>0</p> <p>Competition for the TAB means continued uncertainty for the racing industry who rely heavily on TAB NZ funding.</p> <p>The Government's online casino regulation regime would be put in place, coming into force at this stage in 2026. These changes are likely to strengthen the position of some of TAB's closest competitors in New Zealand who are able to advertise as part of licensing conditions.</p> <p>If funding reduces, the racing industry will likely shrink in size. There will also be undetermined impacts on the National Sporting Organisations.</p> <p>Current skill mix on the TAB NZ board would remain and any Ministerial reporting would still be undertaken on a voluntary basis by TAB NZ.</p>	<p>++</p> <p>A monopoly would mean less competition from offshore operators as we expect the reputable operators will leave market, and only the higher risk ones to remain creating a black market. This would mean TAB NZ could potentially direct more funding to the racing industry, as most online sports and racing wager would be through TAB NZ.</p> <p>It is difficult to determine the total value of offshore online sports and racing betting but by New Zealand residents, TAB NZ estimates \$180 million p/a but based on POCC figures, in 2023 the reputable online market was worth a minimum of \$45 million/pa. Whatever the amount this would be the potential new revenue to TAB NZ with the monopoly if all this business were to shift to it.</p> <p>This option should also realise the immediate capital injection from the \$100 million payment within 10 working days of the legislation being enacted.</p> <p>Depending on the enactment, TAB NZ would also receive an uplift in the minimum guaranteed funding of an <u>9(2)(b)(ii)</u>. While short-term this would put the industry in a much stronger position at the end of the minimum guaranteed period</p> <p>Updating the skills required on the TAB NZ Board will</p>	<p>+</p> <p>Deferring a decision on the monopoly would allow time for the impact of the partnership on the racing industry's long-term financial viability is better understood. The partnership with Entain New Zealand is in its early stages and insufficient information is currently available on the performance of the partnership agreement. This would give more time which might enable Ministers to have access to better information when making decisions on some of the settings/second order policy decisions relating to a monopoly (or perhaps develop an alternative solution). A deferred decision would give time for the partnership to embed and any improvements on TAB NZ's market share and revenue to realise.</p> <p>Assuming the existing paying operators decide to pay the higher rate, there would be additional funding for the industry, however, this would still not generate the equivalent revenue as a monopoly; especially given the additional payments provided for in the Entain partnership agreement.</p> <p>Alternatively, if a POCC rate increase were to result in most or all of TAB NZs major competitors exiting the market; while this would create a monopoly like situation; it would still not maximise the value of the Entain partnership agreement as again the additional payments would not be realised</p> <p>Counterfactual position in relation to skill mix on TAB</p>

		<p>help ensure it can better provide governance and oversight of Entain. New Ministerial powers require additional reporting and information-gathering from TAB NZ will better ensure that Government has sufficient oversight to respond to any future risk, including to racing industry distributions.</p>	<p>NZ board and Ministerial reporting would remain</p>
<p>Ease of implementation</p>	<p>0 Would require no specific implementation</p>	<p>- This option will be require legislation and a two phase approach to establishing a regulator and enforcement. In the short-term, the interim regulator will have to take a pragmatic approach. There would be no cost implications for government as these would be recovered from TAB NZ. Longer term the function would be performed online gambling regulator</p>	<p>0/- Deferring a decision on the monopoly would allow more time than option 2 to make sure all legislative settings (should this be required) are correct in light of the impact of the TAB NZ Entain partnership. In the meantime, systems to charge and collect a POCC are already in place, so implementation is relatively straightforward would require standard regulatory processes. While more involved than the counterfactual this is simpler and quicker than option 2.</p>
<p>People wagering on racing and sports have appropriate protections</p>	<p>0 Status quo harm minimisation rules and standard consumer protections apply.</p>	<p>+ For those betting with TAB NZ this option includes expanding harm minimisation regulations in the Racing Act only apply to TAB NZs online operations to ensure international best-practice harm minimisation standards. This can be included as part of the monopoly. It would also allow any online harm minimisation requirements imposed on TAB NZ to be aligned as required with those placed on online casino operators. However, it is likely at least some online gamblers may be driven to the riskier black market if they want more competitive odds. Allows for a new regulation making power to ensure TAB NZ cannot restrict customers from accessing its</p>	<p>0/- Assuming no or only a small number of operators paying the POCC leave the market, it won't have any significant impact on the risk of harm (i.e does not create any more or less harm than the counterfactual). However, if a large number of big POCC operators leave the market the effect will be the same as for option 2, but without the expanded harm minimisation or consumer protection regulations backup.</p>

		online products without an appropriate reason as a backup reserve power if usual consumer protections were insufficient	
Overall assessment	<p>0</p> <p>The racing industry will continue to face uncertainty of funding which will impact their viability going forward. It is highly likely offshore competition will further erode the revenue of the TAB NZ– although the rate and severity of this decline are unknown</p>	<p>++</p> <p>This option bests meets the objective of sustaining TAB NZ revenue in the long term, and in turn provide sustainable returns to the racing industry.</p>	<p>+</p> <p>This option only partially meets the objective (sustainable revenue streams for the racing industry). While preferable to the counterfactual, this option offers less certainty of outcome and lower returns in the long term compared to Option 2.</p>
<p>Key: ++ much better than doing nothing/the status quo/counterfactual + better than doing nothing/the status quo/counterfactual 0 about the same as doing nothing/the status quo/counterfactual - worse than doing nothing/the status quo/counterfactual -- much worse than doing nothing/the status quo/ counterfactual</p>			

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

121. Our analysis shows that: Option 1 (counterfactual) is not a viable response to the problem; and Option 3 (wait and see) is a better option than the Option of doing nothing, but it is not preferred and unlikely to meet the objective as it cannot provide a sustainable revenue stream for the racing industry long-term.
122. Option 2 (online monopoly) is the preferred option as it bests meets the objective and is the only option that could meet the objective of sustaining TAB NZ's revenue, and in turn provide sustainable returns to the racing industry. While less competition would likely increase TAB NZ's profits, it is unknown at this stage how much profit would remain when you consider the following:
- the loss of POCC revenue (approximately \$4 million annually) that would cease under a monopoly; and
 - a larger than expected number of gamblers may choose not to return to betting with TAB NZ.
123. This option should realise the immediate capital injection from the \$100 million payment within 10 working days of the legislation being enacted. Depending on the enactment, TAB NZ would also receive an **9(2)(b)(ii)** [REDACTED] [REDACTED] While short-term this would put the industry in a much stronger position at the end of the minimum guaranteed period.

What are the marginal costs and benefits of the preferred option?

124. Due to tight timeframes, we have not been able to undertake a full costing of Option 2. The following table below represents our best estimates at this time:

Preferred Option - TAB NZ online monopoly (option 2)

Affected groups	Comment	Impact	Evidence Certainty
Additional <u>costs</u> of the preferred option compared to taking no action			
TAB NZ	<p>The costs of enforcing are to be recovered from the TAB NZ.</p> <p>9(2)(f)(iv) [REDACTED]</p>	Low	Medium to High
Offshore operators	<p>Large offshore operators who care about their reputation and ability to operate in other, more significant jurisdictions will leave the market. But this will not apply to all offshore operators currently in the market.</p> <p>It is difficult to determine the total value of offshore online sports and racing betting by New Zealand residents, but based on POCC figures, in 2023 the reputable online market was worth a minimum of \$45 million – this would be the lost income to the reputable providers with the monopoly.</p>	Medium to High	Medium
Government	<p>Lost GST Revenue. Officials estimate the amount of GST collected in 2023/24 from offshore operators that related to income from sports and racing wagering to be approximately \$5.8 million. However much of this loss will be offset by increased TAB NZ GST revenue through the monopoly or gamblers shifting their spending to other GST registered gambling operators or on other goods and services such as entertainment which are subject to GST. It is therefore assumed the impact will be minimal, but this will depend on the amount of customers returning to TAB which is difficult to estimate.</p> <p>9(2)(f)(iv) [REDACTED]</p> <p>Reputational and perception risk of giving Entain, an overseas based company (albeit operating as a New Zealand based subsidiary), a monopoly alongside TAB NZ</p>	Low	Medium
Gamblers	<p>Those who currently bet with offshore operators may be upset at only having 1 authorised choice of operator. Especially if TAB NZ's product range is smaller compared to its competitors. There is a risk that a lack of competition could lower likelihood of TAB providing competitive odds and new/innovative products in future.</p> <p>Difficult to calculate what the monetised (financial loss) and non-monetised costs (harm, loss of social connection etc) for this group might be due to variation between those New Zealanders:</p> <ul style="list-style-type: none"> • who gamble offshore and bet with operators who have minimal harm minimisation requirements; • gamble with TAB NZ; and • who choose to gamble with the large, more reputable offshore operators, who have harm minimisation requirements. 	Medium	Low to Medium

Racing industry (and sporting codes)	<p>Reduced POCC distributions to the industry and National Sporting Organisations. Approximately \$4.5 million last year.</p> <p>In addition, the monopoly will also likely cause a decrease in the revenue received by NSOs and racing codes from BIUC charges and degree of this decrease for any NSO will likely depend on the proportion of New Zealanders who bet with that offshore provider, as opposed to overseas bettors on any given sport or racing type. Despite this impact, the racing codes (who collected \$22.8 million the 2022 financial year from BIUC agreements, support the monopoly proposal. However, the financial impact on NSOs is uncertain and likely to depend on the individual sports</p>	Low to Medium	High for POCC Low BIUC
Total monetised costs	<p>Total costs fall in a number of areas and outlined above each has differing level of confidence:</p> <ul style="list-style-type: none"> • Reduced POCC distributions to the industry and National Sporting Organisations. (approximately \$4.5 million last year). • Reduced revenue from BIUC charges (NSOs unknown, racing codes \$22.8 million the 2022 financial year) • Lost GST Revenue - Likely minimal as much of the approximately \$5.8 million p/a lost from offshore operators will be offset by increased TAB NZ GST revenue or other similar GST eligible spending. • 9(2)(f)(iv) [REDACTED] • Lost income to the reputable providers of offshore online sports and racing betting based on POCC figures worth a minimum of \$45 million p/a) 	N/A	N/A
Non-monetised costs	People who gamble legitimately will lose choice of betting provider and those who don't will have a higher harm risk and other non-monetised costs depending on who they gamble with.	Medium	Medium
Additional <u>benefits</u> of the preferred option compared to taking no action			
TAB NZ	<p>If offshore operators comply, there would be less competition and more profits. It is difficult to determine the total value of offshore online sports and racing betting but by New Zealand residents, TAB NZ estimates \$180 million p/a but based on POCC figures, in 2023 the reputable online market was worth a minimum of \$45 million/pa. Whatever the amount this would be the potential new revenue to TAB NZ with the monopoly if all this business were to shift to it.</p> <p>This option should also realise the immediate capital injections from the Monopoly conditional Entain payments both the \$100 million payment and 9(2)(b)(ii) [REDACTED] of the guaranteed return period (to June 2028).</p>	High	Medium to High
Offshore operators	No benefits for reputable operators who would exit the market. Less reputable operators could continue to offer gambling services in New Zealand.	None/Low	High
Government	Government's objective of sustaining TAB NZ revenue, and in turn provide sustainable returns to the racing industry would be meet.	High	High

Gamblers	Gambler's betting with TAB NZ can expect improved products. TAB NZ will also need to comply with strengthened requirements to minimise harm.	Low	Low
Racing industry (and sporting codes)	<p>More certainty of revenue in the short term because of the additional payments.</p> <p>TAB NZ would financially benefit from this option both in terms of the short-term Monopoly conditional Entain payments and the long-term increase in revenue outlined above. These gains will largely pass onto racing and sporting industries - although the exact amounts to each racing code and NSO are not known.</p>	High	Medium to High
Total monetised benefits	<p>Total benefits fall in a number of areas and outlined above each has differing level of confidence:</p> <ul style="list-style-type: none"> Ongoing increase of TAB profits (based on TAB NZ estimates \$180 million p/a but based on POCC figures \$45 million/pa). immediate capital injections from the Monopoly conditional Entain payments - the \$100 million payment and uplift in the minimum guaranteed funding of an 9(2)(b)(ii) [REDACTED] <p>These gains will largely pass onto racing and sporting industries - although the exact amounts to each racing code and NSO are not known.</p>	N/A	N/A
Non-monetised benefits	<p>Government's objective of sustaining TAB NZ revenue, and in turn provide sustainable returns to the racing industry would be meet.</p> <p>Gambler's betting with TAB NZ can expect improved products with strengthened requirements to harm minimisation measures</p>	Low or High depending on affected group	Medium to High

Section 3: Delivering an option

How will the new arrangements be implemented?

125. If Option 2 is agreed, there would be changes to the primary legislation. The Department would be responsible for implementing this. The Minister has signalled his intention to seek to implement this monopoly as soon as possible to address TAB NZ's current and potential future loss of revenue and to maximise value from the Entain partnership.

Prior to full regulation the Department will enforce the monopoly as an interim step

126. The Minister for Racing has directed that the monopoly be implemented quickly and ahead of the broader regulation of online gambling generally. However, this will require a two phased approach to enforcement regulation.

127. Until full enforcement and oversight of the online monopoly is able to be transferred to the dedicated online regulator in 2026, the Department would undertake an 'interim regulator' role. This is intended to assure Entain that the monopoly is being regulated and therefore release the payment to TAB NZ as per the partnership agreement.³³

128. While the interim framework will be in place with the passing of the legislation and any associated regulations; the degree to which any powers are utilised and the resources dedicated to this function during the interim period will be an operational matter for the Department, given this arrangement would likely only be required for 12-18 months.

129. It is expected that the Department will take a pragmatic approach to establishing and implementing this interim role, while still ensuring adequate enforcement. This could involve the Department intervening with operators breaching the monopoly issuing initial warning when breaches are brought to its attention and raising issues with regulators in other jurisdictions.

130. We acknowledge that in the short-term, until a fully empowered online gambling regulator is established under the Gambling Act enforcement in the sports and race betting space may be problematic.

131. As noted, we anticipate the more reputable operators would want to avoid breaching New Zealand law, if for no other reason than to protect their ability to operate in other markets that are regulated (where the regulator in that jurisdiction would look closely at any breaches in other jurisdictions), and not jeopardise a possible future New Zealand online casino licence. We anticipate that group of offshore operators would leave the New Zealand market, including those who are most popular with New Zealanders but it will be challenging to enforce rules for other operators who may not be licensed anywhere, or only licensed in jurisdictions with minimal oversight.

³³ Under the partnership agreement the one-off upfront payment of \$100 million and an additional \$15 million to the minimum guaranteed funding, pro-rated is conditional on the monopoly being enforceable

132. If TAB NZ becomes the only authorised online betting operator, reputable gambling operators may choose to geo-block to prevent New Zealand gamblers from accessing their sites. However, gamblers may be motivated to use VPNs to get around these restrictions. We do not propose banning or criminalising New Zealanders who gamble with non-authorised operators, as this could discourage people from seeking help if they are at risk of or experiencing gambling harm.
133. However, we do note that even extensive enforcement activity could not eliminate a black market completely. Most other jurisdictions we have researched have some type of “black market”.³⁴

Cost Recovered Funding

134. As noted, any costs the Department incurs for this interim regulation function and onwards, would be recovered solely by TAB NZ. 9(2)(f)(iv) This is based on estimates derived from its current regulatory function, and staff levels reflecting the interim nature of this role.
135. TAB NZ has been consulted on and agreed to this cost recovery approach in principle and Treasury is comfortable with the proposal. The detailed mechanics of how costs are to be recorded and recovered are still to be determined, however, it appears invoicing TAB NZ will be an appropriate method if the necessary amendments to legislation and the appropriation have been established. The Department will work with Treasury and TAB NZ on these matters as required.
136. In setting its costs and the processes for recovering them, the Department will adhere to Crown cost recovery principles and ensure that what is recovered reflects the work undertaken.

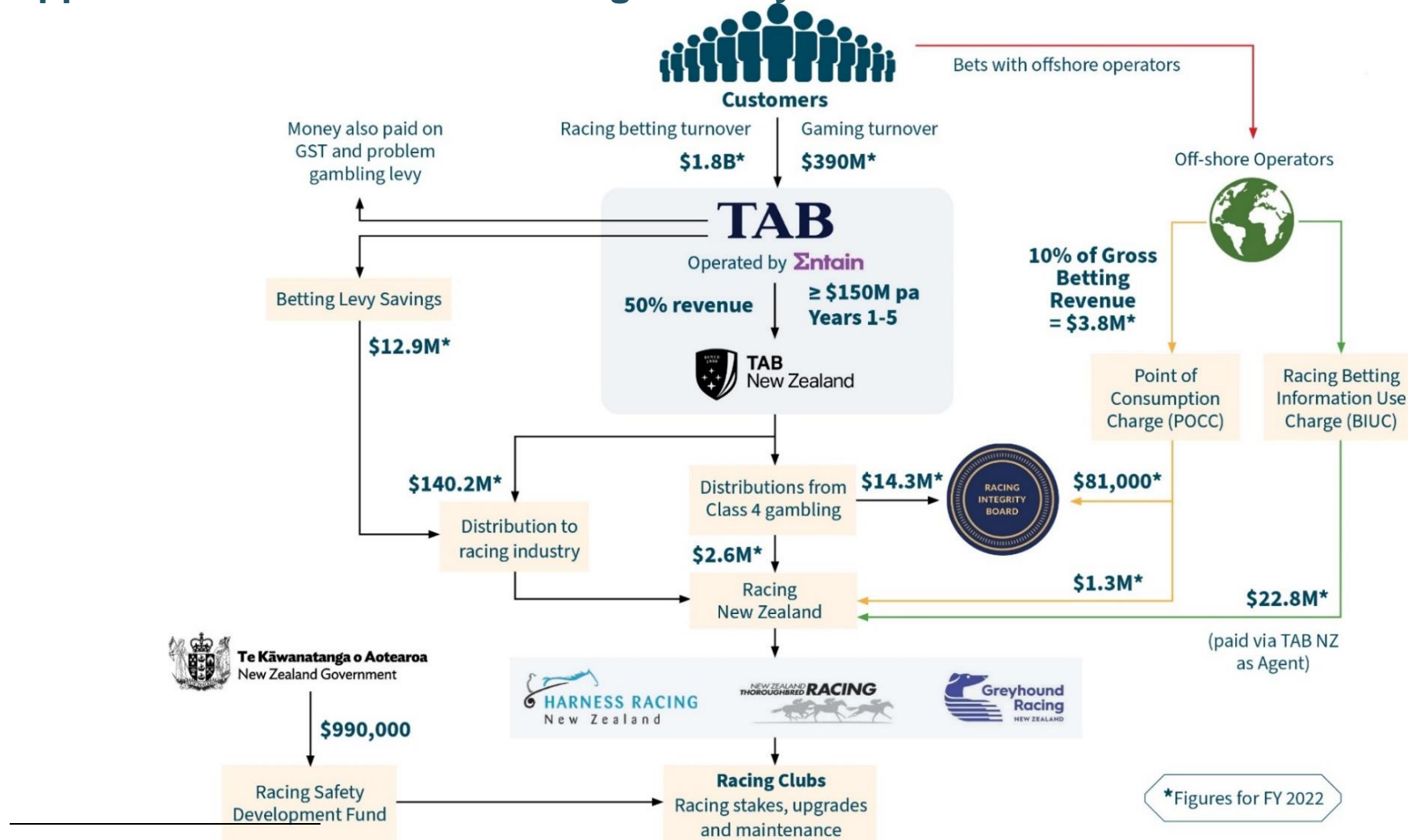
How will the new arrangements be monitored, evaluated, and reviewed?

137. As the agency responsible for gambling and racing policy, the Department would, to the extent possible, monitor what happens in the market because of the monopoly change, as well as TAB NZ's/Entain's actions in the market.
138. There will be new Ministerial powers to require additional reporting and information-gathering from TAB NZ to better ensure that Government has sufficient oversight to respond to any future risk, including to racing industry distributions. The Department would monitor TAB NZ's compliance with these reporting requirements as part of its role as interim regulator.
139. This monitoring will also inform if and when the use of the new regulation making powers for harm minimisation and consumer protection should be used, and if so and how to best to do so. As noted, the intent of the consumer protection regulation-making powers is to act as a backup reserve power if usual consumer protections were insufficient. The new harm minimisation regulation making power would allow any online harm minimisation requirements imposed on TAB NZ to be aligned as required with those placed on online casino operators, once this system is in place.

³⁴ Other jurisdictions include Australia, the UK and Finland.

140. Under the Racing Act, TAB NZ have no advertising restrictions. However, there are some limitations placed on advertising of harmful products by the Advertising Standards Authority and TAB NZ must comply with the advertising restrictions in relation to electronic gaming machine (pokies) operations. Given the linkage to wider gambling concern, the Department also intends to work to see that that advertising provisions for TAB NZ are considered as part of the government's broader programme of work to regulate online casino gambling.
141. The Department is also responsible for working with the Minister of Internal Affairs on the work to implement a regulatory system for online gambling. As noted with Ministerial approval, we will continue to work on online casino regulation; with the intent that the dedicated online casino regulator (currently also proposed to be established within the Department) will eventually take on these responsibilities after 2026 and enforce the monopoly in the long-term.
142. In addition, given the detailed design of the regulatory system for online casino gambling will address similar issues to the online sports and racing monopoly; the policy and legislative process for this gives the opportunity to make further adjustments to the monopoly oversight of and enforcement settings if required before guaranteed returns from Entain cease in 2028.

Appendix A – New Zealand racing industry structure³⁵(from 2023 Briefing to the Incoming Minister - Racing)



³⁵ RIB funding for 2023/24 season is now taken out of TAB NZ revenue and reserves and no longer out of Class 4 Gaming.