

**Submission  
by**

**THE  
NEW ZEALAND  
INITIATIVE**

**to the Primary Production Committee**

**on the**

**Racing Industry (Closure of Greyhound Racing Industry)  
Amendment Bill**

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## **1. INTRODUCTION AND SUMMARY**

- 1.1 This submission on the Racing Industry (Closure of Greyhound Racing Industry) Amendment Bill is made by The New Zealand Initiative (the **Initiative**), a Wellington-based think tank supported primarily by major New Zealand businesses. In combination, our members employ more than 150,000 people.
- 1.2 The Initiative undertakes research that contributes to developing sound public policies in New Zealand. We advocate for the creation of a competitive, open and dynamic economy and a free, prosperous, fair and cohesive society.
- 1.3 The Initiative's members span the breadth of the New Zealand economy. The views expressed in this submission are those of the author rather than the New Zealand Initiative's members.
- 1.4 The government wishes to ban greyhound racing. But the Bill does not just end greyhound racing. It also closes existing greyhound racing clubs, which could otherwise have continued as voluntary associations of enthusiasts who enjoy watching Australian races. It expropriates the assets of those clubs and of Greyhound Racing New Zealand, folding them into a new Greyhound Racing Transition Agency established in part to receive the assets of those clubs. The Transition Agency will also assist in rehoming racing dogs. Currently, the to-be-abolished clubs, as well as Greyhound Racing New Zealand and dedicated rehoming organisations, perform this rehoming function.
- 1.5 Racing is only to be banned in New Zealand. Some New Zealand punters are likely to bet on Australian or other races via offshore providers that are not legally authorised to take bets in New Zealand. If overseas races are subject to less stringent animal welfare guidelines than New Zealand races, overall welfare effects for animals are ambiguous.
- 1.6 The Cabinet Paper also notes that, at the conclusion of the Transition Agency's operations, any residual assets would transfer to the other racing codes (thoroughbred and harness).
- 1.7 If animal welfare considerations mean that greyhound racing should be banned, the government should buy out participants in the industry as part of the bargain. Residual assets of the clubs established to facilitate greyhound racing should be used to compensate industry participants harmed by the ban rather than being transferred to other codes.

## **2. REGULATORY STANDARDS EVALUATION**

- 2.1 The Regulatory Impact Statement here is inadequate. Because this Bill was introduced before the RSA's Part 2 reporting requirements commenced, a Consistency Accountability Statement is not required for it. We view the Bill as significantly inconsistent with one provision of the RSA, and arguably inconsistent with a second.
- 2.2 The Bill is strongly inconsistent with the property and takings principles enumerated in the RSA's section 9(c), "Taking of Property". The RSA says that legislation should not take or severely impair property without consent unless there is good justification, fair compensation is provided to the owner, and that compensation is funded, as far as practicable by those who benefit from the taking.

- 2.2.1 The Bill suggests that Greyhound Racing New Zealand and the Transition Agency must “consider whether any action (for example, a payment) is warranted to recognise community interests” in racing venues that end up vested in them. It is discretionary and limited to “community interests”, not to club members or industry participants as owners.
- 2.2.2 One objective and function of the Transition Agency is “to provide advice and support” to industry participants transitioning to other codes or leaving the industry. But what constitutes advice and support is unspecified and could be minimal, either in absolute terms or relative to the value of confiscated assets, or relative to the value of owner assets not taken but substantially impaired by the ban.
- 2.2.3 Competing thoroughbred and harness racing sectors are likely benefitted through increased patronage at their races when greyhound racing is abolished. They are also provided with any residual assets expropriated from the industry. Property is taken without consent. No general fair compensation is offered.
- 2.3 The Bill is arguably inconsistent with the liberties principle of the RSA. Proponents of the Bill could argue that the interference with economic liberty is justified and necessary to protect animal welfare. However, more targeted tools may be available than closing an entire industry and transferring its after-transition assets to another competing industry that has the obvious favour of the Minister despite also causing substantial harm to animal welfare.
- 2.4 Making the Bill less inconsistent with the RSA’s principles would require compensation to owners affected by the ban, rather than the transfer of assets seized from them to competing racing codes.

### **3. ADDITIONAL CONSIDERATIONS**

- 3.1 The Regulatory Impact Statement suggests that industry closure would not affect TAB betting on foreign greyhound races, and that proceeds from that wagering could help fund the Transition Agency’s work. It also notes that the preferred option would support industry participants and stakeholders through the closure process.
- 3.2 The Bill as drafted provides no express duty to pay compensation or provide financial assistance to owners or other participants. There is no defined minimum level of support. And there is no right or claim that a greyhound owner could make for assistance. At most, if the Agency did nothing whatsoever, judicial review could find the Agency failed in its statutory function to “provide advice and support”. But minimal advice could be considered consistent with the Bill’s requirements.
- 3.3 Contrary to the RIS’s suggestion that the TAB could continue taking wagers on overseas greyhound races, the Bill removes greyhound racing from the definition of ‘race’ and the betting definitions no longer include greyhound racing. Greyhound racing no longer seems to be a permitted form of racing for the purpose of betting under the Act. The TAB would then lose statutory authority to take bets on greyhound races entirely, regardless of their location. Those races could also not be covered under the TAB’s authority to take wagers on sport, since “sporting event” is defined as an event “involving human competitors.” The Select Committee may wish to test whether the TAB would be allowed to offer betting on Australian races.

- 3.4 If Parliament had wanted the TAB to continue taking bets on foreign greyhound races and to use the proceeds to assist greyhound owners whose businesses have been destroyed by legislation, it may wish to adjust the Bill to *allow* the TAB to continue taking such bets, and to specify the compensation due to greyhound owners.

#### **4. FINAL ASSESSMENT**

- 4.1 Let us put things plainly. The government is seizing the assets of the greyhound racing industry and its associated voluntary clubs. It is dissolving those clubs. After transitional costs are covered, it is transferring assets taken from the greyhound racing industry to the thoroughbred and harness racing codes. Remaining assets may be minimal or more than minimal; we have not seen the balance sheets of the affected clubs. Even where clubs lease facilities, the legislation captures their financial assets and improvements and reallocates residual value. It violates property rights and propriety. Should other industries worry about their property being taken and redistributed to competing sectors preferred by the Minister?
- 4.2 We suggest potential improvements to this legislation.
- 4.2.1 The government should ensure that clubs (as incorporated societies) and their members are compensated for the regulatory taking: clubs for the direct taking of their assets, and members for the impairment of value of their private assets. It should ensure that the TAB is allowed to continue taking wagers on foreign greyhound races – at least through the transitional period. It should specify explicitly the support that the Transition Agency is expected to provide to owners. And it should ensure that residual assets after transition are part of that compensation to owners expropriated by the legislation rather than transfers to competing racing codes. If it does not provide that compensation, it should note that the legislation is inconsistent with Section 9(c) of the Regulatory Standards Act and that Parliament wishes to proceed regardless.
- 4.2.2 In the alternative, the government should revise the legislation to also ban thoroughbred and harness racing – or withdraw this legislation entirely. Surely the welfare of horses matters as much as the welfare of greyhounds. It would be remarkable if pure animal welfare considerations warranted banning only the single racing code, rather than none of them or all of them.

**ENDS**