



## **The New Zealand Kiwifruit Board**

**2007 / 2008**

**Annual Report**

**The New Zealand Kiwifruit Board** was established by Regulation 32 of the Kiwifruit Export Regulations 1999 and is known as **Kiwifruit New Zealand**

# Kiwifruit New Zealand's Annual Report

1 April 2007 to 31 March 2008

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References to "the Regulations" or "the Kiwifruit Export Regulations" in this report are references to the Kiwifruit Export Regulations 1999

References to "Zespri" in this report include Zespri Group Limited and Zespri International Limited

References to "Zespri's Export Authorisation" in this report are references to the Authorisation to Export Kiwifruit Granted to Zespri Group Limited by Kiwifruit New Zealand

References to "the Single Desk" or the "Single Point of Entry" are referring to Zespri having the right to export kiwifruit to all countries except Australia.

## **Kiwifruit New Zealand's Year**

During the year ended 31 March 2008 Kiwifruit New Zealand:

Kept in **contact with the Markets, Zespri Marketing Managers, Collaborative Marketers, Product Groups, Growers and Suppliers**

Monitored the **information flow** from Zespri

Monitored Zespri's **non core business assessments**, including for 12 month supply

Dealt with **complaints, enquiries and appeals**

Ensured **collaborative marketing returns** maintained at an acceptable level

Monitored Zespri's compliance with the **Kiwifruit Export Regulations**

### **Contact with Markets, Zespri Marketing Managers, Collaborative Marketers, Product Groups, Growers and Suppliers**

- Market visits were made into the Pacific Islands, Hong Kong, China and Japan
- Meetings were held with the Zespri Collaborative Marketing Manager and Zespri Marketing Managers
- Meetings were held with Collaborative Marketers
- Meetings were held with Growers and Suppliers during the year
- Meetings were held with the Zespri Board and NZKGI Executive
- Reports were made to NZKGI's and NZ Kiwiberry Growers Incorporated Forum

### **Information Disclosure**

- Zespri's disclosure of information was monitored to ensure compliance with the Kiwifruit Export Regulations
- Details of collaborative marketing for last season published by the Board to industry groups, including financial information as to the performance of the collaborative marketers

### **Non Diversification**

- Zespri's assessment of its activities and ownership / operation of assets was monitored and then reviewed by Kiwifruit New Zealand's Board. As a result, Zespri will be seeking shareholder approval for certain Aragorn activities at its Annual General Meeting.
- Zespri Global Supply activities were monitored regularly by Kiwifruit New Zealand, and additional information was requested and supplied

### **Complaints and Inquiries**

- One complaint from last year, and one complaint received this year did not proceed

- A number of informal enquiries were received

## Collaborative Marketing Results

- Increased selected country coordination by Zespri, and increased collaboration with Zespri in market and logistics by some collaborative marketers
- Increased collaborative marketing volumes in 2007-08 season
- Kiwifruit collaborative marketing volumes and returns since 2000 are as follows:

Season	Volume (millions of trays)	Market Return* (NZD millions)	Fruit Return ** (NZD millions)
2000	1.1	7.2	5.8
2001	1.8	12.2	9.9
2002	1.6	14.5	10.8
2003	1.6	16.8	12.2
2004	1.7	14.1	9.7
2005	1.7	10.8	7.9
2006	1.4	12.0	9.8
2007 (2007-08 season)	1.7	12.9	10.4

\* "Market Return" is what is returned to the Grower Pools after all in market costs, including freight, insurance, promotions, in market commissions, and before service costs, service level agreement and onshore costs, service charges and fruit incentives.

\*\* "Fruit Return" (also Pool Return) is the Market Return less all commissions, service level agreement and onshore costs, and before service charges and fruit incentives.

- Each year a benchmarking exercise is also carried out between the kiwifruit collaborative marketing programmes and similar Zespri programmes, including for region, country, and market. The results of the benchmarking averaged across all programmes for fruit return before incentives are:

Season	Collaborative Marketing Return per TE	Zespri Return per TE
2000	5.26	5.13
2001	5.32	6.06
2002	6.48	6.07
2003	7.56	7.10
2004	5.57	5.56
2005	4.79	4.82
2006	6.85	6.71
2007 (2007-08 season)	6.27	5.90

- Kiwifruit New Zealand is working with Zespri both to lift collaborative marketing's performance and to ensure that collaborative marketing contributes to the global marketing of NZ kiwifruit
- Determination issued in respect of 1 collaborative marketing appeal

## Monitoring

- Regular meetings held with Zespri at Board and Senior Executive level and Zespri's activities were monitored as required by the Kiwifruit Export Regulations
- Market visits were undertaken to provide the context for consideration of collaborative marketing applications and to monitor Zespri's and collaborative marketers' activities

## Zespri Export Authorisation Re-issued

- Zespri's Export Authorisation was reviewed but not modified

## **Kiwifruit New Zealand's Role**

In 2000, the New Zealand kiwifruit industry was restructured through the Kiwifruit Industry Restructuring Act 1999 and Kiwifruit Export Regulations 1999.

The Act established Zespri, and provided for the making of Regulations providing for the establishment, funding, and other matters relating to Kiwifruit New Zealand. The Regulations established on 1 April 2000 a new regulatory board, Kiwifruit New Zealand and contain:

Export orientated provisions that:

- ban the export of NZ grown kiwifruit otherwise than for consumption in Australia, except as authorised or approved by KNZ.
- require KNZ to provide Zespri with an authorisation to export kiwifruit.
- allow KNZ to approve collaborative marketing arrangements, each of which is an arrangement by which a person may export NZ grown kiwifruit in collaboration with Zespri, and direct Zespri to make kiwifruit available for these arrangements.
- do not apply to the sale of kiwifruit in New Zealand, or its export for consumption in Australia (which from 2004 is regulated by the Horticultural Export Authority).

and provisions relating to monitoring and enforcement:

- the non-discrimination rule that limits Zespri from unjustifiably discriminating in the way it purchases kiwifruit and sets the point of purchase of NZ grown kiwifruit at not earlier than FOBS (free on board ship).
- the non-diversification rule that requires, unless the risks are minimal, that the providers of capital agree to the ways in which their capital is used outside that necessary for the purchase and export of NZ grown kiwifruit (other than for consumption in Australia and sale in New Zealand).
- the information disclosure requirements that require information disclosure by Zespri and KNZ.

The scope of the Regulations and the responsibility of KNZ is limited.

The Regulations deal with the export of NZ grown kiwifruit and mitigating the potential costs and risks of the export provisions. They do not provide for KNZ to have a general supervisory role in the industry or of Zespri. KNZ is prohibited from carrying out any commercial activity, including the purchase or sale of kiwifruit, or operating to make a profit.

## **Chairman's Report**

In reflecting on the 2007-08 season I am left with the impression that the Kiwifruit Regulations and the Zespri system together have helped lessen the impact of a high exchange rate and marketing pressures from increased production and competition.

Historically there are two important events to remember:

- The Kiwifruit Regulations put in place a supply regime directing fruit for export to other than Australia to Zespri, deterring fractionation of marketing to grower disadvantage; and
- The Zespri brand and marketing system was adopted to present a premium product able to earn a premium price.

Those two events have helped the industry in both good and difficult times, especially the year under review.

During the year KNZ Directors kept in touch with kiwifruit market conditions to ensure there is a good understanding of the circumstances against which collaborative marketing applications must be considered. 25 kiwifruit and 7 kiwiberry collaborative marketing arrangements were approved for the 2008-09 season. One collaborative marketing appeal was considered during the year. A brief summary of the findings of the Appeal Committee appears elsewhere in this annual report. No new complaints within jurisdiction were received. One complaint carried over from last year did not proceed.

Collaborative marketing is an important marketing tool for the New Zealand kiwifruit industry. Zespri has acknowledged that and has appointed designated staff to consider collaborative marketing proposals brought to it. Collaborative marketing is not just about getting authority to export New Zealand grown kiwifruit irrespective of the cost to kiwifruit suppliers. It is about collaboration with Zespri with the purpose of increasing the overall wealth of kiwifruit suppliers. This requires a broadly based consideration of Zespri's world-wide market strategies and the demands and profitability of alternative markets.

Two years ago KNZ issued some collaborative marketing guidelines. It would be fair to say that these have so far enjoyed mixed success, but there are encouraging signs. This season has seen the emergence of more programmes where Zespri is operating in a market coordination role, and of two overseas based collaborative marketers, recognising the opportunities in the New Zealand kiwifruit framework.

KNZ is functioning as effectively as the Board had anticipated. The three year term of the Chief Executive is due to expire in September 2008. The Board have agreed with Richard Procter his reappointment for a further three year term, and welcome his continued association with KNZ.

Sir Brian Elwood  
Chairman

## **Kiwifruit New Zealand's Regulatory Performance 1 April 2007 to 31 March 2008**

<b>KNZ Function</b>	<b>Relevant Regulation</b>	<b>Performance</b>
To authorise the export of kiwifruit by Zespri (except to Australia).	Regulations 4, 5, 6, 7 and 33(1)(a)	Monitored during 2007/08, authorisation reviewed and continued unchanged.
To monitor and enforce the point of acquisition of title to kiwifruit which currently is at FOBS	Regulations 5(c) and 33(1)(b)	Compliance monitored during 2007/08.
To monitor and enforce the terms and conditions of Zespri's export authorisation.	Regulation 33(1)(b)	Monthly reports from and meetings with Zespri Group Limited plus the provision of relevant information.
To monitor and enforce the non-discrimination rule	Regulations 9 and 33(1)(b)	Compliance monitored during 2007/08. Two complaints were considered (refer below).
To monitor and enforce the non-diversification rule	Regulations 11 and 33(1)(b)	Chief Executive monitored Zespri making its assessments and Zespri presented its assessments to KNZ's Board prior to seeking its shareholders agreement to some activities at Zespri's AGM.
To monitor and enforce the information disclosure requirements	Regulations 12 to 14 and 33(1)(b)	Monitored Zespri's compliance.
To determine collaborative marketing applications	Regulations 24 to 31 and 33(1)(c)	For the year ended 31 March 2008, 23 kiwifruit collaborative marketing programmes (including 1 not active) operated into 22 countries, involving 15 collaborative marketers. 6 kiwiberry collaborative marketing programmes operated into more than 10 countries. One collaborative marketing appeal was determined.  For the year ended 31 March 2009 (2008/09 season), 25 kiwifruit collaborative marketing programmes were approved to operate into 15 countries, involving 14 collaborative marketers. In addition, 6 kiwiberry collaborative marketing programmes were approved.
KNZ will inquire into complaints about the application of the non-discrimination rule, the non-diversification rule, the information disclosure regime and collaborative marketing requirements	Regulation 33(1)(b)	A number of informal enquiries were received. One complaint was carried forward from last year, and a new one received, but neither proceeded. The former involved conflict of interest issues able to be resolved by the complainant, and the latter was considered to be not a matter over which KNZ had jurisdiction.

**Copies** of the Zespri Group Limited Export Authorisation and the Report on Collaborative Marketing Results for the 2007-08 season are available from Kiwifruit New Zealand on request.

## Financial Summary 1 April 2007 to 31 March 2008

	<b>2007-08</b>	<b>2006-07</b>	<b>2005-06</b>
	\$NZ	\$NZ	\$NZ
<b><u>Income</u></b>			
Regulation 39(a) from Zespri International Ltd	270,712	316,975	349,013
Regulation 39(b) from Collaborative Marketing	101,603	145,334	83,444
Interest and Miscellaneous Income	2,554 <sup>(1)</sup>	2,916 <sup>(1)</sup>	1,687 <sup>(1)</sup>
<b>Total Income</b>	<b>374,869</b>	<b>465,225</b>	<b>434,144</b>

### **Expenditure**

Kiwifruit New Zealand Board	155,024	190,420	158,586
Kiwifruit New Zealand Executive	124,904	101,967	102,919
Collaborative Marketing (exclg overheads)	77,441	115,957	62,733
Operations	6,914	6,522	33,590
Administration and Overheads	28,296	35,734	40,750
<b>Total Expenses</b>	<b>392,579</b>	<b>450,600</b>	<b>398,578</b>

<b>Net Surplus (deficit) to Accumulated Funds</b>	<b>(17,709)</b>	<b>14,625</b>	<b>35,566</b>
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### **Accumulated Funds**

Opening Funds	54,931	40,306	4,740
Net Surplus for Year	(17,709)	14,625	35,566
<b>Total Funds as at Year End</b>	<b>37,222</b>	<b>54,931</b>	<b>40,306</b>

### **Reconciliation of Zespri Funding with Zespri accounts and actual KNZ expenses:**

	<b>2007-08</b>	<b>2006-07</b>	<b>2005-06</b>
	<b>NZ\$000</b>	<b>NZ\$000</b>	<b>NZ\$000</b>
Funding as reported in Zespri Accounts	<b>270</b>	<b>315</b>	<b>380</b>
2006 Surplus carried forward from 2005-06		23	
Refunded to Zespri after year end	-	(28)	(31)
Regulation 39(a) funding from Zespri as per KNZ accounts	<b>270</b>	<b>310</b>	<b>349</b>
Funding transferred from one year to another by KNZ (net (surplus)/deficit)	18	7	(23)
Actual funding by Zespri used each year	<b>288</b>	<b>317</b>	<b>326</b>
Collaborative marketing fees and interest	104 <sup>(1)</sup>	134 <sup>(1)</sup>	73 <sup>(1)(2)</sup>
KNZ actual costs (including collaborative marketing)	<b>392</b>	<b>451</b>	<b>399</b>

**Notes:** (1) Net of income tax (\$766 in 2007-08).

(2) Includes \$55,000 carried over from the 2003-04 (previous) financial year.

A copy of Kiwifruit New Zealand's audited accounts is available on request.



## **Chief Executive's Report**

Increased volumes of kiwifruit, exchange rates and costs all contributed to making the 2007-08 season a tough one for growers. Along with the industry, KNZ was asked to make its contribution. This it did. Zespri funding of KNZ was reduced by \$84,000 from the levels originally anticipated. KNZ can claim some, but not all the credit for this.

Kiwifruit New Zealand needs to incur the costs necessary to meet its Regulatory obligations, and seeks to do so in a manner that is as cost effective as possible. This current financial year, Kiwifruit New Zealand managed its costs to 81% of their expected levels. While this has been achieved partly through effective use of available resources and careful cost management, it is mostly a reflection of some Regulatory activities not being required, and the temporary deferral of expenditure.

In the year ended 31 March 2008, KNZ considered 32 kiwifruit and eight kiwiberry collaborative marketing applications for the 2008-09 season, one collaborative marketing appeal, two formal complaints (both of which did not proceed), undertook market visits, the development and monitoring of information disclosure, a review of Zespri's export authorisation, considered the Zespri Supply Agreement, and monitored the activities in which Zespri are involved.

### **Collaborative Marketing**

Closer collaboration between collaborative marketers and Zespri is being encouraged wherever possible. This financial year saw the development of existing, and the emergence of new collaborative marketing programmes in developing markets operating under Zespri in market co-ordination. For the industry this is expected to increase presence in some markets earlier.

Fruit returns from collaborative marketing were up at NZ\$10.4m in the 2007-08 year. Compared to Zespri, the result per tray sold also improved. In this, Zespri and its collaborative marketing manager have been instrumental, collaborating in the development and operation of programmes, and variously contributing to their success through direct management, in market coordination of programmes, marketing expertise, promotional support, and the sharing of logistics arrangements.

Kiwifruit New Zealand constantly monitors collaborative marketing to ensure that it is making a positive contribution to the kiwifruit Industry. We will continue to focus on encouraging performance in all programmes.

### **Monitoring and Enforcement**

During the year, Kiwifruit New Zealand monitored Zespri's compliance with the non discrimination, the non diversification and information disclosure rules. All potential diversification activities were evaluated and reviewed by the Kiwifruit New Zealand Board. Monitoring of Zespri's twelve month supply activities was increased. As a result of the review, Zespri will be seeking Shareholder Approval for certain of its Aragorn activities at its Annual General Meeting in July 2008.

### **Complaints**

During the year, KNZ were approached on an informal basis on a number of issues. One formal complaint was received during the year from a grower, but it appeared to be not a matter for KNZ to consider under the Regulations. At this stage, a complaint carried over from last year looks unlikely to proceed.

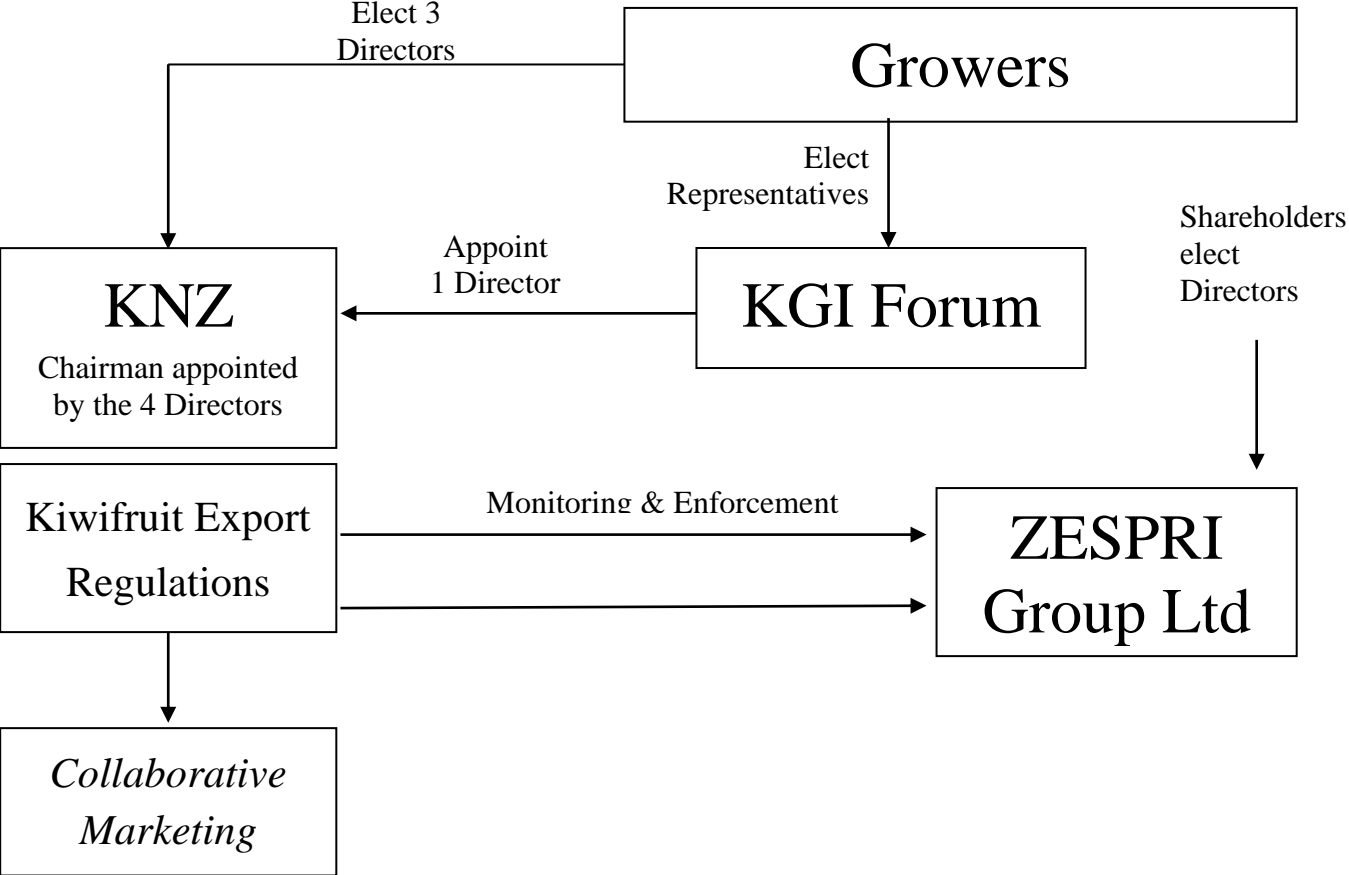
### **Finance**

In the year ended 31 March 2008, Kiwifruit New Zealand's expenses declined by \$58,000. As required by the Regulations, the cost of collaborative marketing was met by the fees to collaborative marketers.

I would like to thank the Board, and industry for the help and cooperation that I have received over the last year.

Richard Procter  
**Chief Executive**

**Regulatory Structure**



## **Collaborative Marketing Appeal Determinations Issued by Kiwifruit New Zealand**

Regulation 28 (2) (b) provides that the Board may impose any reasonable and necessary conditions in approving collaborative marketing applications.

For the 2008 season, Kiwifruit New Zealand considered an application from NZ Orchard, a Korean based organisation, for extended and exclusive market access for kiwiberry to Korea. The proposed arrangement was not without its challenges, in that the NZ kiwiberry industry had previously attempted, unsuccessfully, to export kiwiberry to Korea, but had not been able to gain access. The NZ Orchard application was approved, with some conditions and amendments.

Freshmax is an experienced kiwiberry exporter. Their application for the 2008 season identified a number of countries, not including Korea, for which it sought collaborative marketing approval. In its appeal of its approval to export kiwiberry, Freshmax submitted that it had had Korea under investigation for some time, and had invested time and effort in it as a potential export destination, that it was not aware of any consultation by the Board of the possibility that it intended to provide exclusive and extended market access to an individual exporter, and that it was unreasonable to do so. Freshmax also acknowledged that, in their view, there were significant issues preventing access to the Korean market that would take some 3 to 6 years to resolve.

The Board found it was not able to consider an alternative collaborative marketing application for Korea from Freshmax because it had none before it other than that from NZ Orchard, and while the Board meets with representatives of the kiwiberry industry from time to time, there is no obligation for it to consult potential collaborative marketing applicants or develop the market. The Board's obligation is to consider collaborative marketing applications as soon as practicable after receiving them, and "may in approving an application, impose any reasonable and necessary condition". In the circumstances, it was reasonable to impose a condition on the Freshmax application excluding Korea from the countries to which Freshmax could export kiwiberry, so that NZ Orchard could seek to gain access to that market and develop it.

## **List of Members and Staff**

Kiwifruit New Zealand is comprised of the Chairman and four members who serve for three year terms. Growers elect three of the members, and the fourth member is appointed by the New Zealand Kiwifruit Growers Incorporated. The four members appoint the Chairman. The Kiwifruit Export Regulations 1999 require the Chairman to be fully independent of the kiwifruit industry. During the year, Ian Greaves was appointed for a further three year term.

### **Kiwifruit New Zealand:**

Chairperson	Sir Brian Elwood	(Term expires in July 2010)
Deputy Chairperson	Hendrik Pieters	(Term as member expires in September 2009)
Members	Mark Bayly	(Term expires in September 2008)
	Ian Greaves	(Term expires in September 2010)
NZKGI Appointed Member	Ruth Lee	(Term expires in June 2008)

### **Kiwifruit New Zealand Executive:**

Chief Executive	Richard Procter
Administration Assistant	Jo Cunningham

### **Kiwifruit New Zealand offices are at:**

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### **Postal Address:**

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Mount Maunganui South, 3149

## **Procedures Manual**

A procedures manual is available on request. The procedures manual is designed to provide general advice and guidance on the role and function of Kiwifruit New Zealand Board and its application of the Kiwifruit Export Regulations 1999. It will be updated and revised from time to time. The procedures manual includes KNZ's Code of Conduct for the Conflicts of Interest, and Code of Conduct for trades in Kiwifruit Company Securities.