



## **The New Zealand Kiwifruit Board**

**2001**

### **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 2001 to 31 March 2002

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## Chairman's Report

Kiwifruit New Zealand has in its new form now been in existence for 2 years from the date of Zespri Group Limited's corporatisation on 1 April 2000.

Kiwifruit New Zealand was established to monitor and enforce the Regulatory Regime established by the Kiwifruit Export Regulations 1999 to authorise and mitigate Zespri's single point of entry to all overseas markets with the exception of Australia.

Kiwifruit New Zealand over the last two years has been doing ground breaking work and putting in place process.

Kiwifruit New Zealand has focused on collaborative marketing, authorising Zespri to export kiwifruit, putting in place a process for investigating complaints, establishing the basis for information disclosure and getting its support staffing right in terms of required skills.

Earlier this calendar year the General Manager, Kevin O'Grady, was replaced by Mike Chapman. The position of General Manager was at this time upgraded to Chief Executive with a corresponding increase in responsibilities.

In Kiwifruit New Zealand's complaint jurisdiction, for example it was necessary to expand by legal argument the definition of supplier used in the Kiwifruit Export Regulations 1999 to include growers. Growers are not mentioned in the Kiwifruit Export Regulations 1999 and, but for Kiwifruit New Zealand's legal argument, Kiwifruit New Zealand's complaint investigation regime would have been restricted to suppliers only.

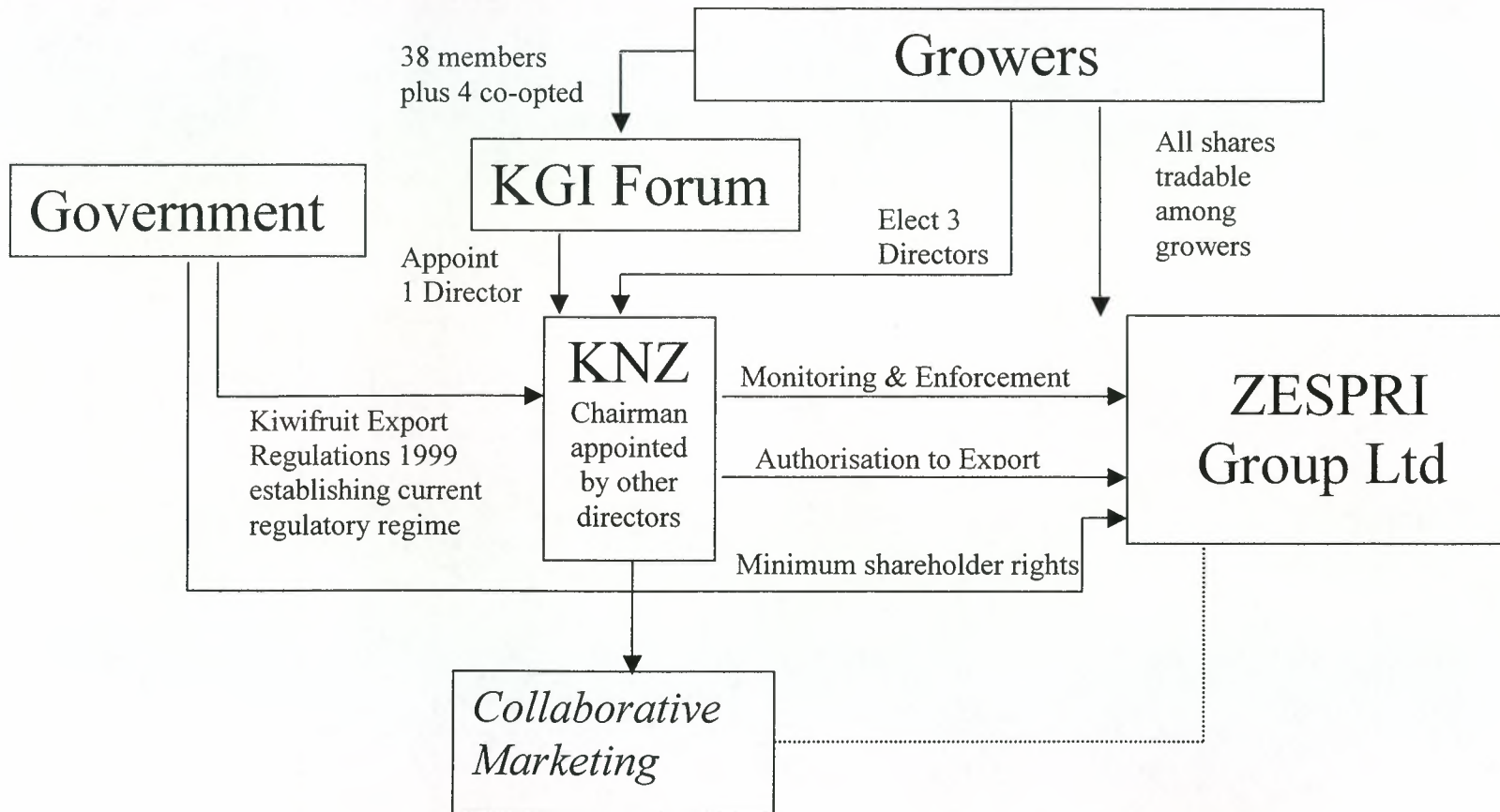
Specific achievements include:

- Making collaborative marketing work.
- Concluding the Collaborative Marketing agreement with Zespri Group Limited to enhance the collaborative marketing regime, seek new collaborative marketing opportunities and to encourage innovation and value added products.
- Granting Zespri Group Limited's first Export Authorisation so that Zespri can lawfully export NZ-grown kiwifruit.
- Ensured that the non-diversification rule (Regulation 11 of the Kiwifruit Export Regulations 1999) was properly applied by Zespri Group Limited.

Kiwifruit New Zealand has now matured to the point where it can build on its experience with collaborative marketing, investigate complaints in a more timely manner and produce a strategic plan to enhance its operations under the Kiwifruit Export Regulations 1999.

Peter Trapski  
28 June 2002

## Regulatory Structure





## Kiwifruit New Zealand's Role

Kiwifruit New Zealand was established in April 2000 to administer the Kiwifruit Export Regulations 1999.

The Board's functions prescribed in the Regulations are:

- To authorise the export of kiwifruit by Zespri (except to Australia).
- To monitor and enforce the terms and conditions of Zespri's export authorisation.
- To monitor and enforce: the non-discrimination rule, the non-diversification rule and the information disclosure requirements – all rules designed to mitigate the impact of Zespri's monopsony.
- To determine applications to export kiwifruit in collaboration with Zespri – collaborative marketing.
- To inquire into complaints about the application of the non-discrimination rule, the non-diversification rule, the information disclosure requirements and collaborative marketing.
- To encourage, *within the scope of KNZ's powers*: innovation, efficient price signals to growers, appropriate protections for growers and Zespri's shareholders and, to promote sustained downward pressure on Zespri's costs.

**Monopsony** is defined as *a market situation in which there is only one buyer* and is typically referred to in Zespri's context as *a single point of entry to overseas markets other than Australia*.

The **non-discrimination rule** says that Zespri cannot discriminate among growers/suppliers except on commercial grounds. Commercial grounds include matters relating to product features, quality, quantity, timing, location, risk, or potential returns. The majority of the complaints made to Kiwifruit New Zealand have been made under this rule. The non-discrimination rule is not designed to resolve industry disputes; it is designed to protect growers/suppliers against Zespri mis-using its monopsony power. [Regulations 9 and 10 of the Kiwifruit Export Regulations 1999.]

The **non-diversification rule** states that Zespri must not carry out activities, and must not own or operate assets, that are not necessary for the core business unless:

- The providers of capital used or to be used for those activities have been asked and have agreed to the use of their capital for those activities; and
- The shareholders and suppliers who have not agreed are not exposed to more than a minimal risk from those activities.

This rule does not apply to sales of New Zealand-grown kiwifruit up to the limit of 300,000 trays. [Regulations 11 of the Kiwifruit Export Regulations 1999.]

The non-diversification rule has the following purposes:

- To protect shareholder capital when Zespri invests in activities that are not necessary for the purchase of NZ grown kiwifruit for export.
- To mitigate the impact of Zespri's monopsony by preventing it becoming involved in NZ supply activities so that there is commercial contestability among Suppliers. (Zespri may only purchase kiwifruit at dockside.)
- To keep Zespri focused on marketing NZ kiwifruit and not diversifying into non-related activities.

**Core business** is defined in the Kiwifruit Export Regulations 1999 as:

*the purchase of NZ grown kiwifruit for export where the point of acquisition of title to fruit is at FOBS. It excludes kiwifruit at FOBS exported to Australia and it excludes the sale of kiwifruit in NZ.*

The **information disclosure regime** is designed to ensure that Zespri shareholders and growers/suppliers get the information they need to evaluate Zespri's performance and, if necessary, they can then put pressure on Zespri to perform and to not abuse its dominant position. [Regulations 12 to 14 of the Kiwifruit Export Regulations 1999.]

## Performance 1 April 2001 to 31 March 2002

Activity	Kiwifruit Export Regulation	Performance
To authorise the export of kiwifruit by Zespri (except to Australia).	Regulations 4 and 33(1)(a)	Current Authorisation issued on 23 May 2000
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)	Monthly meetings with Zespri Group Limited and complaint investigations
To monitor and enforce the non-diversification rule	Regulations 11 and 33(1)(b)	Inquired into Zespri Group Limited's activities and was assisted by consultant report – Parker Report
To monitor and enforce the information disclosure requirements	Regulations 12 to 14 and 33(1)(b)	Monitored Zespri's compliance and reported on that in September 2001
To determine collaborative marketing applications	Regulations 24 to 31 and 33(1)(c)	Approved 19 programmes marketing 1.8M trays of kiwifruit that earned a market return of NZ\$12,275,622
To inquire into complaints about the application of the non-discrimination rule, the non-diversification rule, the information disclosure requirements and collaborative marketing	Regulation 33(1)(b)	Complaints: Made / resolved within year: 3 Resolved / made previous year: 4 Made but not resolved: 2 Made previous year / not resolved in this financial year: 2

### Copies of:

- Zespri Group Limited Export Authorisation
- Kiwifruit New Zealand's Information Disclosure Compliance Report
- Report on Collaborative Marketing Results for 2001

**are available from Kiwifruit New Zealand on request.**



## Chief Executive's Report

Kiwifruit New Zealand has three distinct functions:

- Granting Zespri Group Limited ("Zespri") its export authorisation.
- Mitigating the impact of Zespri's monopsony (while Zespri has exclusive export rights).
- Considering and monitoring collaborative marketing applications.

In the report period 1 April 2001 to 31 March 2002 Kiwifruit New Zealand spent time and resource on both functions, but four activities dominated its work:

- Processing the collaborative marketing applications for the 2002 season.
- Working with Zespri to produce an agreement that established Aragorn, Zespri Fresh Produce NV and enhancements for the collaborative marketing regime.
- In the complaints' jurisdiction establishing precedent and procedure so that in the future there is a starting point for complaint investigation.
- Working with Zespri on the non-discrimination rule to ensure Zespri's compliance with it. The Board's work here is encapsulated in the Parker report.

A record 32 collaborative marketing applications for the 2002 season were received of which the Board approved 16 and declined 10. The other 6 were withdrawn. The Board worked to promote innovative and wealth creating programmes and in the coming year is to build on what was achieved last year.

The agreement reached with Zespri on collaborative marketing is a major component in the Board's programme to lift the performance of collaborative marketing. In reaching that agreement Kiwifruit NZ and Zespri decided that the best interests of the New Zealand kiwifruit industry would be served by strategic co-ordination and integration of the industry's commercial regimes within the parameters of the Kiwifruit Export Regulations 1999 that:

- Enables Zespri to maximise the opportunities provided by its single desk status;
- Mitigates the potential disadvantages of Zespri's single desk operation;
- Ensures that Kiwifruit NZ is able to satisfy its obligations to appropriately regulate and monitor the New Zealand industry and Zespri's performance;
- Creates a more commercial and entrepreneurial focus within Zespri's core business;
- Causes the development of new products, technologies, businesses and markets;

with a view to ensuring that the New Zealand kiwifruit industry moves up the value chain in pursuit of higher long-term profit margins, increased international competitiveness, increased shareholder value and greater wealth for New Zealand suppliers and growers.

The Agreement provides for the:

- Establishment of a trading company, Zespri Fresh Produce NV, to take advantage of international opportunities for the sale of kiwifruit and complementary horticultural products.
- Establishment of a new technology and business commercialisation company, Aragorn Ltd, to expand the focus, use and sale of NZ kiwifruit into products, processes, markets, brands and collaborative marketing arrangements.



- Enhancement of the collaborative marketing regime that co-operates with Aragorn and local industry participants to build an alternative marketing regime that complements and collaborates with the Zespri system.
- Evidences Zespri's commitment to supporting and nurturing collaborative marketing.

The two key achievements of the Agreement from Kiwifruit NZ's perspective were:

- Focusing on the Industry as a whole and returning increased wealth to growers.
- Zespri embracing collaborative marketing and setting up the collaborative marketing unit.

What do growers get out of it: ultimately increased wealth from Zespri Fresh Produce, Aragorn and an effective and proactive collaborative marketing regime that:

- Finds new marketing opportunities for collaborative marketing.
- Keeps the pressure on Zespri and collaborative marketers to perform, because the collaborative marketers' performance is benchmarked against Zespri performance and, keeps pressure on Zespri to seek out new markets before a collaborative marketer does.

What do collaborative marketers get out of it:

- Collaborative marketing can only work when Zespri is 100% committed to make it work and this is one of the key results of this agreement.
- Agreement also designed to lift collaborative marketers performance with direct interaction from Kiwifruit New Zealand.

The agreement is a public document. Copies of it can be obtained on request from Kiwifruit New Zealand.

Kiwifruit New Zealand towards the end of the financial year commenced work on a strategic plan for 2002 / 2003. Next year's annual report will report on the implementation of that strategic plan. What the plan aims to achieve is:

- Kiwifruit New Zealand is to simplify the complaint investigation procedures, publish a pamphlet explaining the procedures and publish a definition for unjustified discrimination to assist with the application of the *non-discrimination rule*.
- Kiwifruit New Zealand is to work with Zespri to identify which parts of Zespri's activities are core business to assist with the application of the *non-diversification rule*.
- Kiwifruit New Zealand is ensuring that timely and accurate *information* about Zespri's activities is available to growers as this is an important way in which to mitigate the impact of Zespri's monopoly.
- Kiwifruit New Zealand is working to enhance *collaborative marketing* by putting in place ways in which to encourage collaborative marketers to take financial responsibility for their marketing programmes. Kiwifruit New Zealand is also looking at ways to increase the return that collaborative marketing makes for growers.

Mike Chapman  
28 June 2002

## Financial Summary 1 April 2001 to 31 March 2002

	2002	2001
	\$	\$
<b><u>Income</u></b>		
Regulation 39(a) from Zespri International Ltd	743,182	620,350
Regulation 39(b) from Collaborative Marketing	105,000	94,991
Interest and Miscellaneous Income	1,054	2,937
<b>Total Income</b>	<b>849,236</b>	<b>718,278</b>
<b><u>Expenditure</u></b>		
Kiwifruit New Zealand Board	208,945	138,739
Kiwifruit New Zealand Executive	280,404	239,283
Collaborative Marketing	87,721	119,618
<b>New Zealand Kiwifruit Growers Incorporated *</b>	<b>190,516</b>	<b>128,214</b>
Administration and Overheads	95,901	61,128
<b>Total Expenses</b>	<b>863,487</b>	<b>686,982</b>
<b>Net Surplus to Accumulated Funds</b> (After tax, prior period adjustment and non-deductible expenses deducted)	<b>(14,545)</b>	<b>16,733</b>
<b><u>Accumulated Funds</u></b>		
Opening Funds	16,773	-
Net Surplus for Year	(14,545)	
<b>Total Funds as at 31 March 2002</b>	<b>2,228</b>	<b>16,773</b>

\* *The New Zealand Kiwifruit Growers Incorporated is funded by Kiwifruit New Zealand but operates independently of Kiwifruit New Zealand. Kiwifruit New Zealand shares its office with The New Zealand Kiwifruit Growers Incorporated and therefore the administration and overhead expenses are shared.*

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

## List of Directors and Staff

Kiwifruit New Zealand's Board is made up of five members. Growers elect three members, one member is appointed by the New Zealand Kiwifruit Growers Incorporated and the Board appoints the Chairman. The Chairman has to be fully independent of the kiwifruit industry.

### **Kiwifruit New Zealand's Board:**

Chairman	Peter Trapski
Deputy Chairman	Hendrik Pieters
Members	Grant Eynon Malcolm Cartwright
KGI Appointed Director	Terry Richards (Retired on 31 March 2002) Ruth Lee (From 1 April 2002)

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

Chief Executive	Mike Chapman (From 4 February 2002)
General Manager	Kevin O'Grady (Until 4 February 2002)
Executive Assistant	Valda Middlemiss

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

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