

9 September 2019

Ministry of Business Employment Innovation
PVRActReview
PO Box 1473
WELLINGTON 6140

Via email to PVRActReview@mbie.govt.nz

Dear Sir/Madam

Re: PVR Act Review

Please find attached a submission on the Ministry Business Innovation Employment (MBIE) proposed PVR Act Review.

Please do not hesitate to contact me if you require any further information on this submission.

Yours sincerely



Nikki Johnson
Chief Executive

TO: MBIE
SUBMISSION ON: PVR Act Review
NAME: New Zealand Kiwifruit Growers Incorporated (NZKGI)
ADDRESS: PO Box 4246, Mount Maunganui South 3149

1. Background to NZKGI

NZKGI was formed in 1993 to give kiwifruit growers their own organisation to develop a secure and stable kiwifruit industry. NZKGI represents 2,600 kiwifruit growers and gives growers their own voice in industry and government decision making. NZKGI works to advocate, protect and enhance the commercial & political interests of New Zealand kiwifruit growers.

2. The kiwifruit industry in New Zealand

The kiwifruit industry is a major contributor to regional New Zealand returning \$1.8b directly to rural communities in 2018/19. There are 2800 growers with 14,000ha of orchards with 7700ha green and 6300ha gold. The industry has 10,000 permanent employees and up to 25,000 jobs during the peak season. Approximately 80% of New Zealand's kiwifruit crop is grown in the Bay of Plenty.

3. Zespri and HorticultureNZ submissions

NZKGI has reviewed the HortNZ and Zespri submissions and is supportive of both with the following exceptions:

1. **Term of the right** - NZKGI agrees with Zespri's position on supporting option 2 on the basis of growers having the opportunity to make investment decisions that in general extend for 30 years
We support the extension of the term of PVRs for woody plants/rootstock (which includes kiwifruit varieties) to align with UPOV 91. However, we support Option 2, under which the minimum, term for kiwifruit varieties would be 30 years. This would align with the position in Japan, where the PVR term is 30 years for perennial plants (i.e. those that live for more than two years).
2. **Essentially derived varieties** – NZKGI agrees with Zespri's position on supporting option 3
Zespri supports Option 3 provided that the definition on page 69 is used (as opposed to the definition on page 67). We note that the definitions of "Option 3" differ between pages 67 and 69. The page 67 definition considers that an EDV must possess "all of the essential features of the initial variety". On page 69 however, the bold italicised words refer to Option 3 as the EDV retaining "one or more of the commercially valuable characteristics of the initial variety". The second definition is preferable as it would provide better protection over more derived varieties. For clarity, we do not support Options 1, 2 and 4.
3. **Rights over harvested material** – NZKGI agrees with Zespri's position on supporting option 3
Zespri submits that, given the importance of section 17(1)(b) varieties to the wider industry, it is critical that PVR owners of section 17(1)(b) varieties have more direct rights over harvested material. Option 3 is therefore the best option for section 17(1)(b) varieties. We do not support Options 1 and 2.

4. Further discussion

NZKGI welcomes further discussion with MBIE on the proposed changes to the Plant Variety Act.