



Backgrounder to Media Release 10 August 2009

1. In the first media release from Eureka Trust announcing the cessation of grants to the horse racing industry (still found on its website) the Trust states it "...will continue its substantial charitable support of sports....etc"

The Eureka lawyers themselves obviously did not believe there was any inconsistency between ceasing support of horse racing and continuing support for sports at that time.

2. While it is correct that on the leading case-law of the past gifts for sporting purposes are not prima facie charitable (unless there is a deeper purpose such as the promotion of fitness or education of youth), Joseph Williams J in the *Travis* case sent out signals that he would be sympathetic to the law evolving to recognise sport as a charitable purpose.

For instance he noted there is no direct NZ authority deciding that sport is not charitable, and that "...the concept of charitable purpose is evolving in response to changing social circumstances and the steady development of a more unique New Zealand culture" (para [45])

Joseph Williams J also pointed to a number of cases where sport has been held to be charitable eg the English case of *Re Gray* and the Ontario High Court case of *Laidlaw Foundation*

3. It is interesting that a number of Canterbury sports bodies have been registered with the Charities Commission as charitable organisations eg Burwood Park Tennis Club, Canterbury Rugby Football League, Christchurch Junior Cricket Association, and Christchurch Technical Soccer Foundation. The Charities Commission, at least, believes sport can be charitable.
4. The following paragraph is drawn from the authoritative text on NZ Law (Laws of NZ):
 - a. Gifts for sporting purposes are not prima facie charitable. Similarly, a gift for the encouragement of mere sport, though it might be beneficial to the public, is not necessarily charitable. However, if sporting purposes are directed to young people or schools, they take on an educational quality and are charitable thereafter. A gift for a rugby grandstand has been held charitable as being for public recreation. Similarly, a gift for use in connection with a sports centre or some similar purpose in connection with sport has been held charitable.