

**Centre for Civil Society**  
Research Report 1

*“Smoke and Mirrors”*  
*The National Lottery and the Non-Profit Sector*  
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## INTRODUCTION

In a context of massive reductions in government consumption spending, the National Lottery is intended to provide a sustainable source of funding for non-profit organisations providing much needed sporting, arts, cultural, social and environmental services to the South African public. This funding, it is hoped, will help secure a better life for all citizens.

One of the criticisms frequently made of the post-1994 South African government is, however, that their commitment to the formulation of ambitious, often wide-sweeping, development plans are seldom matched with an accompanying attention to the critical institutional and social framework needed successfully to implement this policy.

As we see in this report, the manner in which the National Lottery has been run since its inception in 2000 lends much weight to this criticism. Most damning of all, perhaps, is the fact that, whilst the National Lottery was set up with relative ease, it took government a full year, and then only *after* widespread public criticism, to begin to set up three of the four key Distribution Agencies charged with disbursing the proceeds of ticket sales to good causes. Furthermore, barely half of the money available for distribution has actually been distributed. This represents a complete disregard for the necessary institutional and social factors needed to make legislation work, and is, sadly, indicative of the increasing inability of the South African government to match its social commitments with actual delivery.

## THE NATIONAL LOTTERY – OVERVIEW

The National Lottery Act (57 of 1997) makes provision for the operation of a countrywide lottery. The National Lottery was founded in 1999. The Lotto, its flagship, was launched on March 2 the following year. On October 23, 2000, scratch cards were launched. The purpose of this report is to overview some of the key issues relating to the operation of the Lottery, particularly the distribution of money to good causes, and to highlight areas of particular concern to the non-profit sector.

At the outset, it must be stated that the report is intended to highlight a broad array of issues, raised primarily by non-profit organizations themselves. Clearly, the sector includes a variety of different organisations with different organising styles, bureaucratic and administrative concerns, and fundraising capacities. Expectations of the National Lottery differ widely, particularly between the larger, non-governmental organisations, and smaller, often unregistered, community-based organisations. Many non-profit organisations were beneficiaries of earlier scratch card gaming operations, and the sudden loss of this source of revenue means that their perceptions of the National Lottery are motivated by quite different concerns to those expressed by organisations applying for lottery funding for the first time.

The report can do no more than highlight the variety of perceptions, without making judgements as to the most appropriate strategies for reform or mobilisation around the Lottery. That is the task of the non-profit sector.

Two time-periods should be born in mind. Uthingo Management Company Pty (Ltd) has been granted a licence to operate the Lottery for seven years, starting in 2000. During this period, incremental reforms rather than dramatic change are possible, *particularly with regards to the structure and operation of the Distribution Agencies*. After this period has ended, however, new regulations will have to be drafted, and a new tender process will be embarked upon. In anticipation of this, the non-profit sector should seek to make maximum input into the debate as to the most appropriate terms and conditions for the second licence period.

In Part One, some background to the National Lottery is offered. This includes the establishment of the Lottery, as well as the functions, responsibilities, and performance of the main players: Uthingo, the Lotteries Board, the Distribution Agencies, etc. A *very* brief overview of the Lotto and scratch card operations is also provided.

Whilst Part One is largely descriptive, Part Two considers some of the criticism that has been levelled against the National Lottery, as well as the *perceptions* of three categories of role-players: the loosely defined non-profit sector; parliament/government; and the Lotteries Board itself.

It must be emphasised that, to adopt the phrase used by one informant, some of the criticism offered is valid, some is based on misinformation, and some of it is simply sour grapes. It is hoped that this report might contribute in some small way towards sifting out the valid criticism and using this in a constructive way to contribute to the development of the National Lottery.

## **PART ONE: BACKGROUND TO THE NATIONAL LOTTERY**

With the curious exception of the lucrative horse racing industry, betting on sports events, or gambling in any form, was illegal in South Africa prior to the democratic reforms in 1994. Gambling was, however, allowed in the nominally independent “homeland” states, which gave rise to a flourishing casino business.

Despite these prohibitions, underground gaming operations began to appear in the 1990s. At the same time, a variety of scratch card gaming operations were launched, which were used to help fund worthy causes. The Community Chest, Ithuba, and Viva, were all involved in these latter operations, and raised millions of rands for beneficiary organisations.

After the elections in 1994, the new government was charged with the task of managing the burgeoning underground gambling industry. To this end, a variety of government inquiries, including the Howard Commission and the Lotteries and Gambling Board, under the chairpersonship of Professor Nic Wiehahn, were conducted to inform government policy. The Gambling Board proposed that government acknowledge gambling as a “social reality”, and seek to regulate the industry and ensure that some of the profits from gambling are used to benefit the poor.

The gambling industry was also identified as an area where black economic empowerment could actively be championed. This principle informed the licensing of legal casinos (now restricted to a total of 40), as well as the tender to run the National Lottery.

In order to promote a culture of “responsible gambling”, the South African Advisory Council on Responsible Gambling (SAACREG) was established, composed of representatives from civil society and the gambling industry.<sup>1</sup>

Two organisations have primary responsibility for the National Lottery: the licensed Operator, that runs the Lottery itself, and the National Lotteries Board, which is responsible for overseeing the Lottery and looking after the interests of all parties concerned. Added to this we need to pay particular attention to the Distribution Agencies, which are appointed by the Minister but are, in effect, run by the Lotteries Board. These latter are responsible for the distribution of the good cause money.

### **1.1 THE LICENSED OPERATOR: UTHINGO MANAGEMENT (PTY) LTD**

Three consortia bid for the licence to run the first South African National Lottery. The preferred bidder was Uthingo Management (Pty) Ltd, a consortium formed in 1996 composed of a variety of South African black economic empowerment partners, industry shareholders, and, controversially, state shareholders.<sup>2</sup>

The three “industry shareholders” bring considerable experience of the gaming industry to the consortium, and together own 30% of Uthingo. The shareholders are Camelot International, which operates the UK Lottery; Tattersalls, with a background in the Australian gaming industry; and GTECH, a gaming industry and online service provider.

The black economic empowerment partners own 50% of Uthingo, and control 80% of seats on the

board. The partners are: the Black Management Forum Investment Co (Pty) Ltd (10%); the Disability Employment Concerns Trust (5%); Motswedi Technology Group (Pty) Limited (10%); NAFCOC Investment Holding Co Ltd (10%); NUMSA Investment Co (Pty) Ltd (10%); WDB Investment Holdings (Pty) Ltd (5%)

The two State shareholders are the National Empowerment Fund (5%) and the South African Post Office (15%).

The Chief Executive Officer of Uthingo is Humphrey Khoza. The current Chairperson is Dr. Barney Pitso. Pityana.

As the Operator, Uthingo is responsible for the establishment and management of a national communications network, the selection, licensing and training of retailers, and all associated marketing activities. Although Uthingo *is not* responsible for the distribution of money to good causes, it has set up its own charity, the Uthingo Trust. The Trust invests in small-scale community projects, particularly programmes aimed at the youth, women, the disabled, and Aids orphans.<sup>3</sup> The Uthingo Trust functions like any major social investment programme, and does not warrant particular attention in this report.

### **1.2 GAMING OPERATIONS**

The flagship of the National Lottery, the Lotto, was launched by President Mbeki at Yeye Butchery in Langa on March 2, 2000. At the launch, Mbeki predicted that the National Lottery would raise R13 billion for good causes within five years.

A second gaming operation, the scratch cards, was launched on October 23, 2000. Currently nine variations of

this game are on the market, namely Pot of Gold (R3), Pocket Money (R2), Cash Explosion (R5), Money Spinner (R3), Going for Gold (R5), Treasure Chest (R3), Banco (R3), Money magic (R2), and Goal (R2).<sup>4</sup>

The draw for the winning numbers is held each Wednesday and Saturday on the television show Road2Riches, which has become the second most watched programme on national television. The programme is associated with the widely known catch phrase, *Tata Ma Chance, Tata 'Ma Millions*, which, depending on one's perspective, is either a stroke of marketing genius or a thinly veiled ploy to stimulate false hopes amongst the poor and despondent.

By the 1<sup>st</sup> July 2002, the gross sales of the Lotto were R8,884,390,136.<sup>5</sup> No accurate figures are available for gross sales of scratch cards, but this has been estimated as R542,225,724 for the same period. Together, this amounts to an (estimated) total sales of R9,426,615,860.

Over the duration of the seven year licence, an average of 30% of all ticket sales after VAT is designated for good causes. Although only a fraction of this has been disbursed so far, this money will become available in the immediate future, and is thus a significant source of finance for charities, arts, sporting and other non-profit organisations.

### **1.3 THE NATIONAL LOTTERIES BOARD**

The National Lotteries Board is a statutory body established in terms of the Lotteries Act (57 of 1997). The Board is

responsible for the regulation of all lotteries conducted in South Africa, including the National Lottery, as well as other private and society lotteries.

The Board is made up of public nominees, at least four of whom are outside government service, and is chaired by Joe Foster. Although the Board reports annually to parliament, it operates independently.

In addition to ensuring that the National Lottery and all other lotteries are conducted "with due propriety", the Lotteries Board has three other duties that are of particular concern here, namely:

- to protect the interests of *all* participants,
- to maximise the net proceeds of the National Lottery, and
- to ensure that a percentage of money from ticket sales is transferred to the National Lottery Distribution Trust Fund (NLDTF) and administered and invested in terms of the Lotteries Act.<sup>6</sup>

It is important to emphasise that the Lotteries Board understands the phrase "all participants" to imply that they are accountable only to ticket holders,<sup>7</sup> and not to non-profit organisations applying for funding from the national Lottery.

This is an area where further debate should occur. It is not unreasonably to assume that all three of these duties go beyond a narrow, bureaucratic mandate, and imply a *substantial* degree of accountability to both the general public and the intended beneficiaries of the good cause money. This is discussed in more detail in 2.1.2.

#### 1.4 THE NATIONAL LOTTERY DISTRIBUTION TRUST FUND (NLDTF)

The money raised through the sales of Lotto tickets and scratch card, after VAT, is distributed according to the following formula:<sup>8</sup>

- 50% – goes to prizes
- 20 % – goes to the licensee (Uthingo)
- 30% – distributed to good causes (National Lottery Distribution Trust Fund)

The 20% awarded to the licensee is divided further into two categories, namely:

- 15% – which goes to the licensee (Uthingo)
- 5% – which goes to the various distribution outlets and vendors

Whilst many commentators have been quick to criticise Uthingo for making huge profits out of the Lottery,<sup>9</sup> this formula was agreed upon by parliament, and is part of the contract entered into with the operator. Moreover, in-so-far as the Operator makes its profits by maximising overall ticket sales, they are also increasing the share transferred to good causes. There is little to be gained in criticising the Operator for making a profit!

30% of ticket sales, after VAT, are thus intended for good causes. This money constitutes the National Lottery Distribution Trust Fund, which is *established and monitored* – but, as we suggest below, need not necessarily be administered directly – by the National Lotteries Board. The money is transferred to the NLDTF on a weekly

basis,<sup>10</sup> whilst the distribution of these funds takes place on an annual basis.

No more than 10% of the money awarded to the National Lottery Distribution Trust Fund for distribution to good causes – i.e. no more than 3% of the total proceeds from ticket sales – is allowed to be used for administration. The Lottery Board is proud of its ability to administer the Fund within such tight financial parameters, and claims that their overhead costs are considerably lower than those levied by earlier lottery-funded grant-making organisations.

One question that might be considered when considering the terms and conditions for the second licensee (i.e. after 2007) is whether the amount stipulated for good causes should remain at 30%, and whether this amount should include the expenses of the Lotteries Board.

#### 1.5 THE DISTRIBUTION PROCESS

The Lotteries Act prescribes the purposes to which funds invested in the NLDTF can be used by distinguishing five categories within which good causes money is to be allocated. The categories are:

- The Reconstruction and Development Programme,
- Charities,
- Arts, Culture and National Heritage,
- Sport and Recreation, and
- Miscellaneous Purposes.

The Act stipulates that a *minimum* of 10% of the total funds are to be allocated to the first four of these categories, and a *maximum* of 5% to the Miscellaneous Purposes category. Should the demand for funds

administered by the four primary categories exceed this statutory floor, the Distribution Agency responsible can approach the Minister of Trade and Industry and motivate for an additional allocation.

The Lotteries Board has sometimes come under criticism for allocating money to sporting and cultural bodies at the expense of the poor.<sup>11</sup> Whatever the merits of this claim, it is important to emphasise that it is the Lotteries Act that determines these broad parameters. It is a decision taken by parliament, not by individual members of the Lotteries Board or by the Minister of Trade and Industry.

The decision to stipulate only *minimal* levels of support for each of the four primary categories was taken in order to give the Minister of Trade and Industry the discretion to respond to changing sectoral needs. Prior to the introduction of the Lottery, no one knew with any certainty what type of organisations would apply for funds, and it was felt that by stipulating only minimal levels it would be possible to satisfy the competing need for multi-sectoral funding (Arts, Culture, Sport, Development, etc.) and to respond more innovatively to demands from the ground up.<sup>12</sup> As we see below, the Charities category has received the greatest share of the overall allocation to date.

The Department of Trade and Industry has indicated that it will use the experience learnt through the first seven years of funding applications to further develop the principles informing allocation.<sup>13</sup> The non-profit sector must seek to influence this learning process.

## 1.6 THE DISTRIBUTION AGENCIES

The decision as to which organisations are to receive funding is the responsibility of the nominated Members of the Distribution Agencies.

Two-and-a-half years after the start of the National Lottery, only three of the four key Distribution Agencies have been established. Moreover, these Agencies were only established a year *after* the first Lotto tickets were sold, and then only in the face of severe criticism from the general public and parliament. The Agencies remain severely understaffed, and it is clear that the attention given to the profit-making side of the gaming industry has not been matched by an equal commitment to maximise the quite enormous benefits that this industry offers to the Arts, Sports, and Charities-Welfare sectors.

The Agencies established so far are the Charities; Arts, Culture and National Heritage; and Sport and Redistribution Agencies. Members of these Agencies were appointed by the Minister of Trade and Industry on February 1 2001.

The procedures for dispersing funds allocated to the RDP and Miscellaneous Purposes categories are still under review, and it is not clear when, if at all, a decision will be taken as to their future. At present, and in accordance with the provisions of the Act, these categories are administered by the Minister of Trade and Industry.

Unfortunately, no accurate, up-to-date distribution figures exist. The best available information is presented in some detail in Appendix A: Distributions to date.

As these figures show, there is a considerable amount of money that has yet to be distributed: approximately half of the total money available in 2001-2002. Unfortunately, it is not clear how much of this was carried over from the first round of distribution (up until 31 March 2001), and how much of this stems from the second round of distribution (up until 31 March 2002).

As such, it is impossible to speculate as to whether the distribution process has become more effective as the Agencies grow in experience, or whether the Agencies have become less effective in the face of rapidly increasing sums of money.

### **1.6.1 The miscellaneous category**

The Miscellaneous category is intended for “emergency funding”. The Minister of Trade and Industry, in consultation with the Minister of Finance, has discretion as to how these funds are to be used.<sup>14</sup>

Comparatively little money has been allocated from this category so far. Between December 2000 and January 2001, in response to a public outcry regarding the slow pace of allocation,<sup>15</sup> emergency funding of just over R4.1 million was allocated to 80 organisations which had benefited previously from the scratch card operations run by Ithuba and the Community Chest.

Between 1 April 2001 and 31 March 2002, R21.96 million was transferred to the Miscellaneous category of the NLDTF. None of this money was disbursed, and it (and the interest it accumulates) is available for distribution.

There is considerable debate within the Lottery Board as to the best way to use this money.<sup>16</sup> This is an area where potentially meaningful lobbying

might take place, especially given the size of undistributed funds.<sup>17</sup>

Many people have suggested that the idea of a general emergency and discretionary category, subject to a statutory funding ceiling (currently 5%), is a good one, and should be supported. Initial concerns that this would be used arbitrarily or for overtly political reasons – as was the case in the UK, for example, with money allocated for Millennium celebrations – do not appear to have been warranted, although whether this is due to the inability of the Ministry to spend money or a credit to responsibly manner in which the Minister administers the fund remains to be seen.

### **1.6.2 The Reconstruction and Development Programme (RDP) category**

Of all the categories, the RDP category poses the greatest dilemma for the National Lotteries Board. The category reflects the concerns of parliament in 1997 when the Act was passed. The abandonment of the Reconstruction and Development Programme means that there is no longer any clear basis upon which allocation decisions might be made, and the category appears to be superfluous.<sup>18</sup>

With the abandonment of the Reconstruction and Development Programme, the Minister of Finance is supposed to identify a fund into which money from the RDP category is paid.<sup>19</sup> Although the idea of transferring money to the NDA has been mooted, no decisions have yet been taken.<sup>20</sup>

To date, no funds have been allocated from the RDP category, and a total of R63.92 million is available for distribution.<sup>21</sup>

The Lotteries Board is working

with the Ministers of Finance and Trade and Industry to develop a policy for dispensing the RDP money. As with the Miscellaneous category, this is an area where potentially meaningful lobbying might take place.

### **1.6.3 The Charities Distribution Agency**

The Charities Distribution Agency is responsible for guiding the allocations made to the broadly defined charity and welfare sector, and is appointed by the Minister of Trade and Industry, in consultation with the Minister responsible for welfare and population development.<sup>22</sup> Ten members<sup>23</sup> were appointed on 1 February 2001, one of whom has since resigned, ostensibly because of his frustration with the way in which the Agency is operating.<sup>24</sup>

A request to speak directly with the Agency members was declined by the Lotteries Board.<sup>25</sup> As such, it has not been possible officially to canvass their views on operation of the Agency and the distribution to date.

The initial focus of the Charities Distribution Agency was directed at “organisations serving the needs of children, the youth, socially vulnerable groups (e.g. elderly, women, and disabled) and people living with HIV/AIDS.” Controversially (see the discussion in Part Two of the Report), this was subject to the clause that “Organisations had to demonstrate that they faced the risk of scaling down or closure if not assisted.”<sup>26</sup> This later consideration meant that members of the Board were given little freedom to assess the merits of project-based proposals, and were instead directed by the Minister to take decisions simply on the basis of urgent financial need. This all

but excluded from consideration any applicant with reserve funding or investments of its own, regardless of the type of service they provided,<sup>27</sup> *and flew in the face of government’s general insistence that non-profit organisations put measures in place to help secure their sustainability.*

Based on the experiences gained, as well as discussions within the Agency itself, the criteria were changed somewhat for the 2002-2003 funding cycle. Here the focus was placed on:<sup>28</sup>

- capacity building for organisations and communities which will involve training; advocacy and lobbying; and skills development,
- poverty alleviation, and
- community and residential care for the vulnerable, i.e. children, families, older persons, persons with disabilities, women, people affected/infected by HIV/AIDS, the chronically ill, youth, and drug abusers and offenders.

One significant criticism of the earlier funding approach is that by expecting applicants to be registered non-profit organisations with audited financial statements, many innovative and effective community based organisations were excluded.

The latest funding criteria seek to broaden the pool of potential applicants by “requesting” non-profit organisations to enter into a “formal working relationship” with unregistered community-based organisations, and to assist these organisations to apply for and to help administer this money should the application be successful. Non-profit organisations are entitled to include in their funding applications the costs incurred in such partnerships, although the Lotteries Board has expressed concern about the “unrealistic” nature of

many of the budgeted claims.<sup>29</sup> No guidelines to govern this intended cooperation have been provided.

To date, the Charities Distribution Agency has been allocated the lion's share of the NLDTF money. In 2000-2001, a total of R44.2 million was distributed.

In the 2001-2002 funding cycle, this rose to R103.28 million, out of an available R154.7 million.

#### **1.6.4 The Sport and Recreation Distribution Agency**

The Sport and Recreation Distribution Agency is responsible for overseeing and guiding the allocations made to the sports and recreation sector, and is appointed by the Minister of Trade and Industry in consultation with the Minister responsible for sport and recreation.<sup>30</sup> Five members<sup>31</sup> were appointed on 1 Feb 2001.

Much criticism has been levelled against the Lottery for funding sports at the expense of charities, or, as one critic suggested, for "Robbing the Helpless to help footballers."<sup>32</sup> Clearly, this raises important "macro" issues relating to the purpose of the NLDTF and the types of causes it should support. Should the Lottery be used to fund a cross section of good causes, including the arts and sporting worlds? Or should funding be restricted to priority developmental welfare targets? Or should some sort of balance between the demands of these sectors be sought? This report can do no more than flag this "macro" question: it is the responsibility of all organisations and interested parties to develop their own answers to this.

At the same time, it is important to put the allocations to "non-welfare" organisations into the context of the laws governing the National Lottery. Thus it

must be remembered that the *minimum* allocations (10%) given to Arts and Sports are determined by law, not by the Minister, the Lotteries Board, or the Distribution Agencies. It is only when amounts in excess of this "statutory floor" are claimed that the Minister's discretion becomes important.

The criteria for priority funding in the Sports category have not changed since the initial round of funding applications. Emphasis is placed on the provision of equipment for and the renovation and upgrading of *existing infrastructure*, as well as capacity building in sport. Applications for new infrastructure are not considered.<sup>33</sup>

This stress on infrastructure and capacity development is understood as an empowerment exercise. Thus, in response to public criticism of the large sums of money allocated to sporting bodies like the Blue Bulls Rugby Union (R1.15 million in 2000-2001),<sup>34</sup> the Lotteries Board is quick to point out that this money was allocated specifically to the upgrading of stadiums in six under serviced areas, and that none of this goes to the Blue Bulls rugby team.<sup>35</sup> Ironically, the decision – which is perfectly legitimate and in keeping with the brief of the Arts Distribution Agency – to award R1 million to the Cape Town opera has not been widely criticised.<sup>36</sup>

In the 2000-2001 funding cycle, a total of just over R20.2 million was allocated.

In the 2001-2002 funding cycle, the total amount disbursed was R71.66 million, out of an available R99.3 million.

#### **1.6.5 The Arts, Culture and National Heritage Distribution Agency**

The Arts, Culture and National Heritage Distribution Agency is

responsible for overseeing and guiding the allocations made to this sector, and is appointed by the Minister of Trade and Industry in conjunction with the Ministers responsible for arts, culture, science and technology, and environmental affairs.<sup>37</sup> Twelve members were appointed on 1 Feb 2001.<sup>38</sup>

Within this category, three sub-sectors have been identified, namely, the Arts, Heritage (both Cultural and Natural), and Environment, each of which has its own qualifying criteria.

Although the focus of the report is the Charities Agency, this Agency should be born in mind as it overlaps with many of the concerns of the developmental and welfare sectors. Indeed, some organisations have found that their areas of interest overlap. In one case, a decision was made to apply to this Agency on the assumption that there would be less competition for funds.<sup>39</sup>

In the current (2002-2003) round of funding, the category is open to a wide range of funding applications. Preference is however given to proposals that promote job creation, skills transfer, equity and redress of historic imbalances, and Nation building.<sup>40</sup>

Within the Arts sub-category, both major project funding applications and creative development grants will be considered. In addition, applications from festival organisers, organisations involved in the production of films and documentaries, organisations involved in public art, and grants to projects in the rural areas.

Within the Heritage sub-category, three priority areas are identified:

- Architectural, archaeological and living heritage conservation

- Indigenous knowledge systems
- Historical and cultural research and surveys

Four preferential focus areas are identified for the Environment sub-sector, namely:

- Biodiversity in conservation and eco-development
- Anti-pollution and anti-degradation of the environment
- Temporary relief from disasters and the prevention of erosion of the environment
- Regeneration of effected environments

In the 2000-2001 funding year, a total of R9.8 million was dispersed under the Arts, Culture and national Heritage category.

In the 2001-2002 funding year, this had increased dramatically to R48 million, out of an available R99.3 million.

## 1.7 DETERMINING THE TOTAL ALLOCATION

Due to the significant roll out costs involved in establishing the National Lottery, the Operator is not expected to be able to pay out 30% on all ticket sales immediately. Instead, the percentage given to good causes is only expected to average out at 30% over a seven year period. Thus, contributions are expected to rise from 10.16% in year one of the contract to 40.58% in year seven.

There is, however, some uncertainty as to how this “averaging out” has been determined. Whilst the first and last years percentages have been announced publicly,<sup>41</sup> it is not clear whether fixed percentages for each of

the seven years have been determined *ex ante*, or whether the Operator (Uthingo) has the discretion to adjust these within the limits imposed by the 30% average disbursement clause. Moreover, it is not clear what, if any, sanctions can be imposed if the yearly targets are not met.

The significance of this is as follows: *if* the Operator has the discretion to make only minimal payments to the NLDTF until well into the contract, then, in effect, considerable amounts of interest free loan capital have been made available. Some have speculated that, given the current percentage payments made to the NLDTF, this amounts to R200-R300 million per year.<sup>42</sup>

This arrangement could well be permissible under the terms of the contract entered into with Uthingo, and there is no reason to suspect that anything untoward is occurring. However, in the interests of transparency, it is vital that this issue be clarified publicly.

Attempts to get hold of a copy of the contract from Uthingo, the National Lotteries Board, or the Department of Trade and Industry, all failed. Brian Bailey, who has produced the most comprehensive financial analysis of the Lottery to date, was similarly unsuccessful in his attempts to get hold of the contract. The reason stated for this failure to disclose information is that (a) Uthingo is a private company, and cannot therefore be compelled to reveal information, and (b) making details of the contract public would give Uthingo's competitors access to privileged information when competing for the license to operate the 2007 Lottery.<sup>43</sup>

### **1.7.1 Gross sales, prizes, and good cause determination**

Based on figures released by Uthingo, as well as extrapolations based on the published average weekly Lotto and scratch card sales, Brian Bailey of the Helderberg Society for the Aged has prepared the summary analysis on page 15.<sup>44</sup> The figures should be treated as provisional only. There is still no reliable information for the total good cause allocation. Of great concern are the huge amounts of money available to good causes that have yet to be disbursed.

## Summary Analysis

All amounts in rand	LOTTERY	SCRATCH CARDS ESTIMATE	TOTALS LOTTERY & SCRATCH CARDS
<b>2-Jul-02</b>			
Gross sales	8,884,390,136	542,225,724	9,426,615,860
VAT paid to State	1,091,065,455	66,589,124	1,157,654,579
Net sales	7,793,324,681	475,636,600	8,268,961,281
Prizes paid or allocated	4,002,318,274	237,818,300	4,240,136,574
Licensee's fees and profit – 20%	1,558,664,936	95,127,320	1,653,792,256
Amount for good causes 30%	2,337,997,404	142,690,980	2,480,688,384
Interest “earned” on “G C” money	395,589,031	13,720,184	409,309,215
Total to be accounted for	<b>2,733,586,435</b>	<b>156,411,164</b>	<b>2,889,997,599</b>
Paid or allocated to date to Good Causes	301,419,575		301,419,575
The missing amount	<b>2,432,166,860</b>	<b>156,411,164</b>	<b>2,588,578,024</b>
<b>Theoretical allocation</b>			
Charities	820,075,931	46,923,349	866,999,280
Less allocated	(301,419,575)	-	(301,419,575)
	518,656,356	46,923,349	565,579,705
Arts and culture	820,075,931	46,923,349	866,999,280
Sport	820,075,931	46,923,349	866,999,280
Miscellaneous and costs	273,358,644	15,641,116	288,999,760
<b>Net amount which should be available</b>	<b>2,432,166,862</b>	<b>156,411,163</b>	<b>2,588,578,025</b>

## PART TWO: ATTITUDES, PERCEPTIONS, HOPES

In the second part of the report we focus on the perspectives of the various role players involved in or affected by the National Lottery. As stated above, the purpose is primarily to highlight issues of concern. In some cases, these issues are based on misunderstandings that can easily be corrected. In other cases, the concerns are more serious, and must urgently be addressed if the non-profit sector wishes to obtain maximum benefits from the Lottery.

## 2.1 PERCEPTIONS OF THE LOTTO: CIVIL SOCIETY, THE LOTTERIES BOARD, GOVERNMENT

Social perceptions, whilst subjective and often difficult to quantify, are an important determinant of the success or failure of all government initiatives. Perceptions are especially important to the success of the National Lottery, especially in light of the huge public interest in both the gaming operations and the distribution of monies to good causes.

In order to unpack the views of stakeholders, a number of small, medium and large non-profit organisations in the charities, sporting and cultural sectors were consulted.<sup>45</sup> This was supplemented with interviews with representatives of parliament, the Department of Trade and Industry, and the National Lotteries Board.

### **2.1.1 Those pesky applicants: The Lotteries Board and the non-profit sector**

At the outset, it must be noted that the report is unable to offer any substantial insight into the day-to-day operations of the Lotteries Board. For a variety of reasons, the Board operates in a relatively non-transparent manner. Very little information is provided to the public regarding the amount of money available for distribution, or the procedures involved in the distribution process. Although two annual reports have been published, these do not satisfy the public demand for accountability, and this reluctance to communicate openly and proactively is largely responsible for the considerable feelings of mistrust encountered in the non-profit sector. Although the Board has promised [May 2002] to set up a website which releases such information on an ongoing basis has been made,<sup>46</sup> this has yet to be honoured.

Much of this ill-feeling is attributed to the attitude of the staff at the Lotteries Board. One informant described this as a “siege mentality,” whereby the Board has responded to public criticism by closing ranks and treating all queries and correspondence as an attempt to undermine their powers. Although much of this ill feeling can be traced back to the public outcry over the Agencies initial hesitance to disburse

funds, it is hardly constructive to the proper administration and utilisation of money raised through the Lottery.

The Lotteries Board has also been criticised for treating the money raised for good causes as a state resource, to be dispensed as a privilege, as opposed to something that can rightfully be claimed by non-profit organisations providing services to the poor, or addressing social, cultural and sporting needs that the state is unable to fund. In opposition to this, many organisations consulted felt that the non-profit sector has a right to feel entitled to this money. That is why the National Lottery was established, and why the Lotteries Board is given responsibility for maximising the amount of money available to the NLDTF.

The Lotteries Board is aware of such criticism, and has chosen to restrict all contact with the general public to the occasional press release and interviews with its Player Services Media Liaison Officer. On one level, this is understandable, and there are good reasons why certain Board and Distribution Agency members are “shielded” from the public. The success of the allocation process depends on the ability of the Board to make independent, objective decisions. Were the public and hopeful applicants allowed to communicate directly with Agency members, this process would be seriously jeopardised. As such, some of the criticism regarding the Board’s reluctance to discuss specific applications needs to be contextualised. Certainly, Distribution Agency members appear to be grateful for the fact that they are able to operate in a confidential, private manner, and believe that the increased protection offered by the

Player Services Media Liaison Office is a good thing.<sup>47</sup>

Whilst accepting the need to limit certain forms of communication, the public and potential applicants have a right to expect greater transparency from a Board that is established by Act of parliament. If for this reason alone, it is important that the Lotteries Board improve its relationship with the sectors and interest groups it is supposed to serve. Ideally, the Board should seek actively to encourage a healthy, ongoing relationship with the non-profit sector, and develop a common vision as to how the proceeds of the Lottery should be distributed. If this were to occur, the non-profit sector and the state would, in partnership, be able to leverage potentially enormous amounts of money and utilise this in a focussed and constructive manner.

For as long as an “us” and “them” attitude prevails, there can be little hope of this occurring.

### **2.1.2 Accountable: to whom?**

The Board believes that its job is to ensure that the commercial aspects of the Lottery are conducted within the parameters of the legislation and that the Operator is held to public account. As Sershan Naidoo, the Player Services Media Liaison Manager points out, no one buys a ticket because a portion of this money goes to “good causes.”<sup>48</sup> People buy tickets because they hope to win prizes and it is the Lotteries Board’s job to ensure that the interests of such “players” are protected. This, it must be said, is in keeping with the definition of a “participant” in the Lotteries Act, i.e., “a person ... in possession of a valid ticket in the lottery”.<sup>49</sup> Players must be protected, and this is a statutory responsibility of the Board.

Whilst it is correct to highlight this *responsibility* to ticket holders, this seems an unduly restrictive manner in which to define the *accountability* of the Board. The intention in establishing the National Lottery was more than simply to regulate the booming underground gaming industry. Instead, the Lottery was understood as a means to raise and direct money to good causes that might not otherwise receive sufficient support from the state or the private sector. Accordingly, as noted in 1.3 above, it is instructive that the Lotteries Act defines one of the tasks of the Board as ensuring that “the net proceeds of the National Lottery are as large as possible.”<sup>50</sup> Clearly, this suggests that the Board’s accountability goes beyond a simple legal accountability to ticket holders, as the purpose of maximising net proceeds is to ensure that greater amounts of money are available to good causes via the National Lottery Distribution Trust Fund (NLDTF). Maximising this is as important as ensuring that the Lottery is conducted in a way that is fair to all “participants”.

Other responsibilities identified by the Act reinforce this broader conception of accountability. These include the establishment and regulation of the NLDTF, as well as widely construed *advisory* functions. In particular, the Board is directed to advise the Minister on matters such as the percentage of money (over and above the statutory minimum) allocated to each distribution category,<sup>51</sup> the “efficiency” of legislation “pertaining to lotteries and ancillary matters”<sup>52</sup>, and the establishment and implementation of “a social responsibility programme in respect of lotteries”<sup>53</sup>.

If it is true that the Board’s responsibilities implies that it is

accountable to both players *and* the broader public, then this widens the parameters within which lobby groups can pressurise the Minister and the Lotteries Board. Higher percentages may be awarded to some categories, as long as these remain above the statutory minimum. (In practice, this is already occurring).

On the positive side, the Board acknowledges a need to improve its communication strategies, and has promised [20 May, 2002] to place posters at all 8,000 Lotto stations listing the 1,240 recipients of Lottery funding. The poster is to be sponsored (R35,000) by ABSA bank, and will not be paid for out of money demarcated for good cause allocation. In addition, the Board has promised to start a web site providing up-to-date information on the allocation process.

Although there is, as yet, not evidence of either promise having been kept, such moves are to be welcomed, and are, hopefully, suggestive of an attitudinal shift of attitude within the Board.

### **2.1.3 The Lotteries Board – Professionalism and consistency**

Another very widely shared view is that applications for funding are not dealt with in a professional and consistent way. To a significant extent, this attitude is born out of the circumstances in which the Distribution Agencies were constituted. As noted above, the Agencies were only established a year *after* the inception of the National Lottery. Prior to this, little or no thought seems to have gone into how the money would be distributed, and what principles would govern distribution. The call for public

nominations to the Distribution Agencies was cursory, at best, and there has not been an open public debate as to how the money raised through the Lottery should be distributed.

Applications submitted to the Distribution Agency are not always acknowledged, and frequently get lost. When organisations attempt to find what has happened to their applications, they complain of being passed from one person to another. Perhaps most significantly, decisions by the Distribution Agencies are never explained. Unsuccessful applicants receive cursory, one-line letters, in which they are informed of the Agency's decision and invited to re-apply next year. Some applications are partially funded, but no explanations are offered as to why this is the case, or even as to what part of the proposal the money is intended.

The Lotteries Board acknowledges that its decision not to provide reasons for the success or failure of funding applications was an error, and have promised [20 May, 2002] to do so with the current (2002-2003) round of applications.<sup>54</sup> As with other related promises, there is no evidence to suggest that the Board is able to honour this commitment, and recent rejection letters continue simply to inform applicants that they "did not meet the criteria."

This failure to explain why or how decisions are reached helps reinforce a more general concern with the consistency of decisions taken. For example, there is considerable unhappiness amongst the welfare sector about the fact that some organisations had their applications for funding turned down on the basis that they had financial reserves or Trust funds, and were thus not in danger of immediate closure,

whilst other organisations with financial reserves were granted funding.

This perception may well be incorrect, and there could be a good reason why the decision not to fund organisations with financial reserves was not applied consistently. Once again, if there was greater transparency in the way the Agencies operated, and if the reason for funding decisions was explained to all applicants, then this concern may well be addressed.

In order to function in a consistent and transparent fashion, it is vital that the Board change its attitude to the non-profit sector it serves. To do this, it is clear that the administrative capacity of the Distribution Agencies will have to be enhanced considerably. In theory, staff members at the Central Distribution Agency are expected to perform most of the legwork, sifting through and pre-screening applications, and presenting these to the nominated representatives for each category.

In practice, staff shortages at the Lotteries Board, as well as a lack of sector-specific skills, mean that the members of the public nominated to each of the Agencies have had to take on board a huge administrative role. In the first round of emergency applications, for example, Agency members in the charities sector went through all of the 3,000 applications themselves. *This is a complete waste of their time, and makes nonsense of the Lotteries Board's claim to have established a viable and professional distribution system.*

#### **2.1.4 The loss of funding from alternative (scratch card) gaming operations**

The nationalisation of the lottery meant that a variety of earlier gaming

operations, for example, those run by the Community Chest, Viva and Ithuba Trusts, were forced either to close down or to compete under very different circumstances. Many beneficiaries of these operations were affected badly, and have been forced to scale back their operations until alternative sources of funding can be located. According to Joe Foster, chairperson of the Lotteries Board, these regulations are intended to protect the public from dishonest fundraisers and scratch card operations, rather than unduly to restrict the capacity of organisations to raise their own funds.<sup>55</sup> One of the functions of the Lotteries Board is to monitor and ensure that organisations register with the Board, and comply with its regulations.

Some non-profit organisations have dismissed this as nothing more than an attempt to protect the monopoly enjoyed by the National Lottery. Others have suggested that the requirements governing the operation of these lotteries are too onerous, especially regarding prize money, making it very difficult for non-profit organisations to raise funds via their own lotteries.

Recent amendments to the provisions governing society lotteries make it possible for organisations to continue to raise up to R12 million annually. Several non-profit organisations, notably the Nelson Mandela Children's Fund, the South African Blind Workers' Organisation, the Cotlands Baby Sanctuary, the National Thoroughbred Trust, and the Variety Trust, have registered with the National Lotteries Board to legally conduct society lotteries.<sup>56</sup> Although this is an encouraging start, the viability of society lotteries has yet to be demonstrated, and it remains to be seen

whether the domestic gaming market is large enough to allow any small lottery to compete with the National Lottery.

For their part, the Lotteries Board and the Department of Trade and Industry are adamant that there is sufficient space for society lotteries to compete, and to raise additional funds for the non-profit sector. Moreover, they claim that the former beneficiaries of scratch card operations have exaggerated greatly the extent of their dependence on these funding sources, and that they are already receiving Lottery grants vastly in excess of any funding they received from the old scratch card operations. There is some substance to this point: In one case known to the author of this report, an organisation that is particularly critical of the National Lottery has just received a grant exactly ten times that which it used to receive from the Community Chest.<sup>57</sup>

In summary: it is important to note that there is a very strong sense within the welfare and development sector that the former scratch card and gaming operators who lost out as a result of the National Lottery should be compensated for the reduction in their revenues.

#### **2.1.5 Relationship between the Distribution Agencies and the Lotteries Board (1): Excluding civil society and existing grant makers?**

The decision to make the National Lotteries Board responsible for the distribution of funding has come under criticism in some quarters. The South African National NGO Coalition, for example, cites this as “another example of the contempt with which Government, and in particular the Ministry of Trade and Industry, views

the non-governmental sector.”<sup>58</sup> In response, SANCOCO, in conjunction with the Non-profit Partnership, have developed an alternative proposal for an independent Charities Distribution Agency.<sup>59</sup> This was submitted to the Lotteries Board as well as the Minister of Trade and Industry, but was never acknowledged officially.

The Board is not sympathetic to such criticism. When asked about the SANGOCO/NPP proposal, they pointed out that these organisations “basically wanted to become the Distribution Agency” and that “The Act does not allow this. People, not organisations, make up the Agency.”<sup>60</sup>

From a legal perspective, this attitude is understandable. The Act is clearly concerned to ensure the independence of the distribution process and, for this reason, places considerable emphasis on the need to ensure that neither parliament nor any particular organisation or lobby group is able to exert undue influence on the Distribution Agencies.<sup>61</sup> Clearly, this precludes the possibility of any organisation becoming a Distribution Agency. *At the same time, it raises the question as to whether the Lotteries Board – which, quite clearly, is an organ of state<sup>62</sup> – should be able to influence the day-to-day operation of the Distribution Agencies. This is explored in more detail in the section that follows.*

The Lotteries Board is no less sympathetic to calls that they utilise the experience of existing grant-makers. Their mandate, the Board insists, is to fund organisations and projects, not funders. In particular, the Board points out that the total amount of money allocated by Viva and the Community Chest combined was only R30 million a year, and that these organisations are simply not equipped to handle the R430

million which is currently available to the Distribution Agencies.<sup>63</sup>

This response is not entirely convincing. The question is not whether the Community Chest and other grant makers take responsibility for distributing all available funds, but, rather, whether the task of distributing the NLDTF to good causes could be performed more efficiently if the extensive regional networks and grant making expertise of existing funding conduits could be employed.

One of the criticisms often levelled against the Distribution Agencies is that they lack an “on the ground” presence in any of the three key sectors or categories in which they operate. Although Agency staff do sometimes visit applicants, this is done infrequently and on an inconsistent basis.<sup>64</sup> This shortcoming is exacerbated by the fact that the Board sits in Pretoria, which removes it further from the disparate communities seeking support.

One way to avoid this shortcoming may be to decentralise the Distribution process. Provincial or perhaps Regional Distribution Agencies would be far more efficient, in that they would be responsible for considering fewer claims, and would have a far greater understanding of local dynamics. Applications could still be pre-screened by the Central Distribution Agency in Pretoria to ensure general compliance with the funding criteria, whilst more conceptual decisions as to the appropriateness of funding applications would be taken at a Provincial level. In regions or Provinces where existing grant makers and funding conduits exist, these could play an active role in assisting the Provincial Distribution Agencies.

When approached about this, the spokesperson for the Minister of Trade and Industry, Mr Edwin Smith, confirmed that the DTI was willing to consider proposals to decentralise some of the decisions pertaining to allocation. As long as the decision making-powers remain with the Board, there does not appear to be any reasons why this should not involve some form of consultation with existing grant-making organisations.<sup>65</sup>

### **2.1.6 Relationship between the Distribution Agencies and the Lotteries Board (2): A conflict of interest?**

From a legal perspective, it is not certain whether the Board is entitled to play a direct role in the process of allocation, whilst having at the same time responsibility for regulating this same process. A referee cannot ordinarily be a player in the same game that she is overseeing!

Legal opinion on this relationship is being sought, and will be integrated into the report as soon as it is available. At face value it is fair to suggest that the close operational relationship between the Board and the Distribution Agencies makes it difficult for these latter to function as an arms-length policing mechanism. In the UK, by contrast, considerable effort has been made to distinguish the bodies responsible for policy formation and regulation from the bodies responsible for overseeing the allocation process.

The Lotteries Board does not believe this relationship is cause for concern. As they put it:

The National Lotteries Board has been charged by the Minister of Trade and Industry to set up and manage the

Central Applications Office. This is the office that offers administrative support to the Distributing Agencies. The Agencies have been appointed by the Minister DTI. In term of the Lotteries Act, the Agencies, together with the NLB and the Minister are responsible for policy formulation. It is the function of the Agencies to then adjudicate the applications. The Board, as trustee of the NLDTF, oversees the distribution of funds and reports on this to Parliament in the Annual Report of the NLDTF. The Agencies report to the Board at a frequency determined by the Board.<sup>66</sup>

### **2.1.7 What sort of applications should be funded?**

Three issues need to be raised here. *Firstly*, the question of whether funding should be short-term and project based, or whether funding should be available for longer-term projects and core organisational expenses as well. At present, funding is geared exclusively towards the former. However, given the stated intention of the National Lottery to introduce a degree of financial stability and predictability into the non-profit sector,<sup>67</sup> a call for longer-term funding would appear appropriate.

One way to structure this would be to introduce a dual distribution system, whereby applications could be made for annual expenditure, typically focussed on a specific project, or for a longer-term combination of project and core organisational funding. As the licence to run the National Lottery is granted for a seven year period, such applications could be for a period of three to four years, i.e., half the life of the Lottery. The Department of Trade and Industry has indicated that it is willing to entertain such a request.<sup>68</sup>

*Secondly*, and related to the objective of introducing a degree of financial security into the non-profit sector, it has been suggested that the

Lotteries Board identifies a list of nominated beneficiaries, who can be assured of regular funding. This category would include organisations that take on long-term funding commitments, for example, child welfare organisations who are responsible for looking after a child for many years.

The *third issue* concerns the degree of organisational, administrative and financial capacity that can legitimately be expected of applicants. Presently, applicants are expected to be registered organisations, and be in a position to furnish (usually three years) audited financial statements. Opinions on the merits of this vary enormously within the sector. For some, this is unduly restrictive, as it effectively prevents many unregistered community based organisations (CBOs) from receiving funding, despite the fact that many of these organisations are very effective at delivering services at community level.<sup>69</sup> Others are quick to point to the poor track record of grants administered by CBOs, and are generally supportive of the need to ensure stringent financial accountability.

The Lotteries Board, largely in response to criticism from parliament,<sup>70</sup> is attempting to make it easier for CBOs to apply for funding. This is seen as an adaptation to the changing nature of South Africa, and of the developmental sector in particular. Thus, according to Mr Alister Ruiters, the Director-General of Trade and Industry, the principle of offering smaller grants to help smaller organisations to get started had been accepted by the “adjudicating panels” [Distribution Agencies], whilst the strict requirement that only juristic persons [i.e. registered organisations] can apply for funding had been relaxed, and is now only enforced with larger organisations.

Thus, according to Ruiters, a woman hoping to start a community crèche can now apply on the strength of “a letter from a person of standing in the community.”<sup>71</sup>

It is not clear whether and to what extent this claimed relaxation of the rules has actually occurred. Moreover, as the stipulation that only juristic persons may apply for grants is a statutory one,<sup>72</sup> it is highly that either the Distribution Agencies or the DTI has the power to take such a decision.

The main way in which the Board is able to facilitate broader access is by encouraging larger non-profit organisations to form partnerships with un-registered CBOs. The larger organisations will, it is hoped, assist the CBOs to improve their financial and administrative capacity, and help ensure that the funds are administered as intended. The CBOs, in turn, will bring their close contact with “communities” to the partnership. This will improve the capacity of both partners to deliver services efficiently. Such partnerships are meant to foster empowerment relationships, and not indefinite partnerships.<sup>73</sup>

Whilst supportive of the need to broaden funding channels, many larger organisations are, understandably, concerned about the impact of this shift on their operations. Firstly, they are concerned about a general tendency for Board members (and parliament) to make sweeping generalisations about what the Chair of the Portfolio Committee on Welfare describes cursorily as the “eighty percent” of organisations that existed “before transformation” and which “served certain populations.”<sup>74</sup>

Such generalisations about civil society organisations point to the paucity

of information informing decisions taken by the Lotteries Board, and by parliament. As noted above, the Board lacks the capacity to make systematic and regular visits to applicants, and to audit properly their operations. The Board has only five field officers (although it hopes to increase this to nine<sup>75</sup>), and operates solely at a national level. As such, it is difficult to see how it is able to make informed decisions regarding the extent to which organisations are, or are not, “transformed” (whatever that is taken to imply); or even to gather meaningful information about what the organisation applying for funding *actually* does and which interest groups it *actually* serves.

In one case, a senior member of the Central Distribution Agency openly challenged an applicant about the racial composition of its senior management, without having any direct contact with the organisation.<sup>76</sup> Surely it is a legitimate expectation that the Board requests information about how an applicant operates, how efficiently they deliver services, what percentage of funds go to administration and what percentage goes to services, etc., *before* making sweeping statements about degrees of “transformation” and political acceptability.

Whilst the concerns of larger more professional organisations are valid, it is clearly important to broaden the net of potential funding, and the decision to allow CBOs to apply for funding in partnership with non-profit organisations has been received positively. It will be interesting to see how this evolves over time: what types of partnerships are formed, how the CBOs benefit from this funding, and whether the CBOs are able to use this

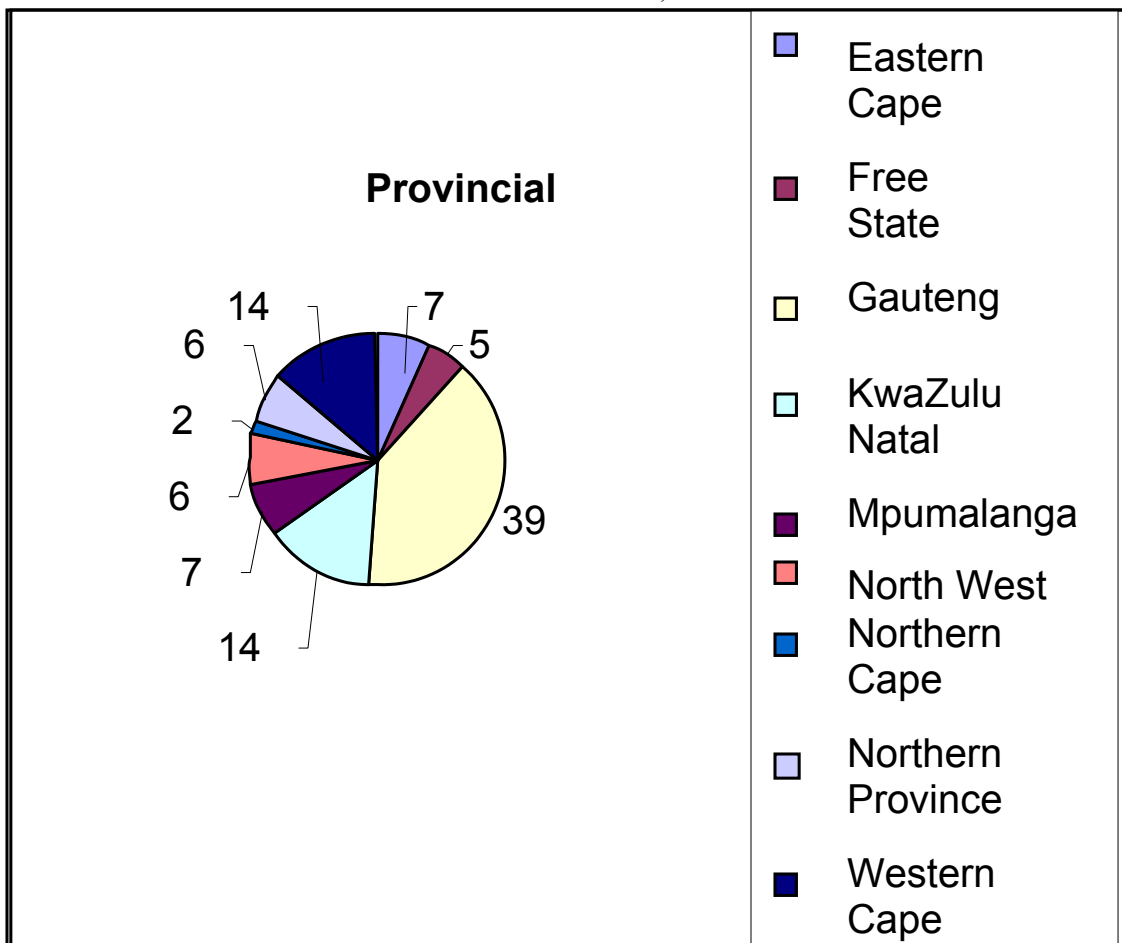
money to develop into sustainable organisations or not.

At the same time, it is not clear how the larger non-profit organisations are to be compensated for entering into partnerships with CBOs. The application forms makes provision for “reasonable” reimbursement for organisational time spent in mentoring the CBO, but this is an ill-defined term. The Board complains that many of the applications received to date make vastly inflated claims, whilst others have not claimed for money at all.<sup>77</sup> Again, one will have to wait until the next round of funding decisions are made before passing judgement on the way in which this principle is being applied.

### 2.1.8 Provincial – Regional bias of allocations

The fact that one of the criteria for the allocation of funds is the provincial distribution of ticket sales is often criticised, in that it reinforces existing inequalities between the wealthy and poor provinces. When this was discussed in the Social Development Portfolio Committee in October 2001, Ms Mamphi went so far as to suggest that she “could not believe that Parliament had passed legislation which perpetuates poverty.”<sup>78</sup>

As the figures below demonstrate, this is a valid concern. In the financial year ending March 31, the distribution was as follows (for full details, see Appendix A: Distributions to date).



No comparable figures exist for the period thereafter, although the Lotteries Board claim to have corrected some of these distortions in the allocations made during the 1 April 2001 to 31 March 2002 period.<sup>79</sup>

### **3. CONCLUSION – CRITICAL ISSUES**

This report has done no more than flag some of the key issues concerning the impact of the National Lottery on the non profit sector. It is not intended to be prescriptive, but, rather, to provoke debate amongst various role players. With that in mind, the following four points might help focus discussion.

#### **3.1 Empower the Distribution Agencies**

Above all, and regardless of any other changes that need to occur, the funds available for Distribution need to be distributed efficiently and timeously. In the 2001-2002 funding cycle, barely half (R223 million) of the money available for distribution (R439 million) was disbursed. *This is a national disgrace, and cannot be allowed to continue.*

As discussed in 2.1.7 above, the Distribution Agencies have only five field officers, and are hoping to expand this to nine. This is completely inadequate. Until sufficient staff and resources are allocated to the running of the Agencies, this situation is likely to get worse, whilst continued increases in the total amount of money available in the National Lottery Distribution Trust Fund are likely further to strain the administrative capacity of the Agencies.

Finally, the distribution of funds from the RDP and Miscellaneous categories has, effectively, ground to a halt. Urgent decisions have to be made

as to the future of these categories, and as to how the monies accumulated in these might be distributed. As an emergency measure, the Minister should consider using existing grant-makers to help disburse funds.

#### **3.2 Decentralise the process of allocation**

There is no reason why all decisions pertaining to allocation should be taken at a head office level. In the UK, the allocation process has been decentralised. Decisions regarding smaller applications are taken by regional staff, and it is only once applications cross a certain threshold that the central office has to play a role. Appropriate accounting procedures ensure that the regional offices act within the parameters of the law and respect budgetary limitations, whilst modern computer technology ensures that the decentralisation process does not entail an unnecessary duplication of administrative personnel and resources.

In order to do this effectively, it is necessary to make a greater distinction between the roles of the Lotteries Board and the Distributions Agencies. If the former acts as a regulator, and oversees the operations of a number of independent Distribution Agencies – as the Act appears to imply, and as is the case in the UK – then it will be far easier to disburse funds in an efficient and informed manner. This will allow the various Distribution Agencies to utilise the experience of local and provincial organisations, including established grant makers, without surrendering their own autonomy.

By contrast, in South Africa the Central Distribution Agency is, to all effects and purposes, part of the Lotteries Board. In addition to the fact

that this may well be in violation of the Lotteries Act (57 of 1997), it is also an obstacle to the efficient operation of the Agencies. Until the Agencies are able to operate at arms length from the Lotteries Board, and from parliament, it is unlikely that they will ever develop the hands on expertise and the capacity to take independent decisions needed for the Lottery to succeed in its objective of providing reliable, sustainable, funding for the non profit sector.

### **3.3 A need for transparency**

The complaint most frequently encountered about the Lotteries Board remains their perceived lack of operational transparency. This stems largely from their somewhat controversial role in the distribution process. Decisions made are seldom, if ever, explained, introducing further uncertainty into the application process. Despite a promise to rectify this in the current round of funding applications, organisations are still being told that their application was turned down because they “did not meet the criteria”, without even being told why this is the case. *The fact that neither the Lotteries Board (as the regulator) or the Distribution Agencies (as the bodies responsible for distribution), are able to account for their decisions is a serious indictment of their commitment to the principles of transparent and accountable governance.*

### **3.4 Link funding guidelines to a medium-term developmental agenda**

At present, there does not appear to be any clear developmental agenda informing the allocation of funding in any of the three core sectors: charities, sports, and arts. Instead, funding

priorities change, making it difficult for organisations to anticipate a reliable source of medium-term funding. Funding is largely short-term (1 year) and project-specific. The DTI claims that a core objective of the Lottery is to ensure that non-profit organisations are able to obtain a degree of long-term funding security, tied to the seven year cycle of each Lottery contract.<sup>80</sup> Yet the entire nature of the funding process seems to preclude this, in that applications have to be made annually. Moreover, in-so-far as each Distribution Agency is free to alter its criteria for priority funding annually, organisations can (and, in the case of Charities, have already) find themselves in a situation where they have to “reinvent” themselves annually in order to apply for funding.

Surely some combination of longer-term funding, linked to both project and organisational funding, and shorter-term, project-based funding, would offer greater security and enhanced opportunities for the non-profit sector?

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*The Mail and Guardian* (South Africa)

*The Sowetan* (Johannesburg)

*The Star* (Johannesburg)

*The Sunday Times* (South Africa)

### **Interviews**

Brian Bailey – Heldeberg Society for the Aged

Rob Davies – MP, Chair, Standing Committee on Finance

Graham Falken – Community Arts Project

Leon Isaacson – ex Nicro.

Amelia Jones – Community Chest of the Western Cape

André Kallis – National Council for Child and Family Welfare

Brian King – Johannesburg Child Welfare

Polani Makadeni – Emonti FM.

Hettie Marais – National

Council for Persons with Physical Disability

Moshe More – SANGOCO

Beauty More – Thusong Youth Club

Sershan Naidoo – Media spokesperson, National Lotteries Board

Lynne Perry – Johannesburg Child Welfare

Sophie Perryer – ArtThrob

Edwin Smith – Ministerial

Spokesperson, Department of Trade and Industry

Mike Thlala – Pan South African Language Board

Louis Vale – Grassroots

Adult Education and Training Trust

Brenda Taylor – Johannesburg Child Welfare

Anonymous interview – Charities Distribution Agency

## APPENDIX A: DISTRIBUTIONS TO DATE

As noted in the body of the report, the figures presented here are based on those provided in the annual reports submitted by the Lotteries Board. These offer little detail, and do not make it clear how much money was carried over from the first round of distribution (up until 31 March 2001) and how much money stems from the second round of distribution (up until 31 March 2002).

### 1. 2000-2001 Allocations<sup>81</sup>

The distribution for the period up to 31 March 2001 is as follows:

Province	Percentage ticket sales	Miscellaneous Purposes *	Charities	Sport & Recreation	Arts, Culture & National Heritage
Percentage allocated to category		100 % of emergency funding round	<b>59.6%</b>	<b>27.3%</b>	<b>13.2%</b>
<b>Eastern Cape</b>	7%	R 317 000	R 6 001 178	R 2 509 800	R 1 495 000
<b>Free State</b>	5%	R 107 000	R 2 037 000	R 1 580 000	R 440 000
<b>Gauteng *</b>	39%	R 2 425 000	R16 783 000	R 7 074 078	R 600 000
<b>KwaZulu Natal</b>	14%	R 121 000	R 6 718 408	R 1 351 000	R 2 819 000
<b>Mpumalanga</b>	7%	R 65 000	R 906 930	R 2 330 400	R 700 000
<b>North West</b>	6%	-	R 915 678	R 18 149	R 1 050 000
<b>Northern Cape</b>	2%	R 42 000	R 1 311 800	-	R 95 000
<b>Northern Province</b>	6%	R 90 000	R 683 000	R 2 848 190	R 871 000
<b>Western Cape</b>	14%	R 935 000	R 8 859 377	R 2 533 360	R 1 747 000
<b>TOTAL</b>		<b>R 4,102,000</b>	<b>R 44,216,371</b>	<b>R 20,244,977</b>	<b>R 9,817,000</b>
			<b>R74,278,348</b>		

\* These figures include National Bodies based in Gauteng

## 2. 2001-2002 Allocations<sup>82</sup>

In the period 1 April 2001 to 31 March 2002, the breakdown was as follows:

Province	Percentage ticket sales	RDP	Miscellaneous Purposes	Charities	Sport & Recreation	Arts, Culture & National Heritage
Percentage (relative to total money actually allocated)		Nil	Nil	46.3%	32.1%	21.6%
Percentage (relative to total money available for allocation)				23.5%	16.3%	11%
No of applications		Nil	Nil	2 254	535	742
No of beneficiaries		Nil	Nil	851	251	139
Money available for Distribution		R 63,921,436	R 21,960,708	R 154,705,387	R 99,313,412	R 99,313,412
<b>R439,214,364</b>						
<b>Eastern Cape</b>	n. available	Nil	Nil	R10,287,991	R12,177,635	R3,445,504
<b>Free State</b>	n. available	Nil	Nil	R4,404,672	R2,896,583	R987,460
<b>Gauteng**</b>	n. available	Nil	Nil	R36,858,077	R18,274,807	R17,012,680
<b>KwaZulu Natal</b>	n. available	Nil	Nil	R15,177,155	R10,862,528	R5,603,360
<b>Mpumalanga</b>	n. available	Nil	Nil	R2,400,544	R3,495,400	R400,000
<b>North West</b>	n. available	Nil	Nil	R2,143,960	R3,185,276	R2,642,500
<b>Northern Cape</b>	n. available	Nil	Nil	R3,044,865	R3,430,321	R498,247
<b>Limpopo</b>	n. available	Nil	Nil	R2,530,900	R5,191,217	R2,971,000
<b>Western Cape</b>	n. available	Nil	Nil	R26,433,111	R12,147,771	R14,535,663
<b>TOTAL</b>	n. available	Nil	Nil	<b>R103,281,275</b>	<b>R 71,661,538</b>	<b>R 48,096,414</b>
<b>R223,039,227</b>						

- These figures include National Bodies based in Gauteng

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## ENDNOTES

<sup>1</sup> Details from the *National Gambling Board of South Africa* <http://www.ngb.org.za/about.htm>

<sup>2</sup> Details from <http://www.lotteryinsider.com/lottery/uthingo.htm>;  
<http://www.nationallottery.co.za/IE/Profile/WhoAreWe.htm>

<sup>3</sup> *The Sowetan*, September 17, 2001.

<sup>4</sup> Information from the Uthingo website.

<sup>5</sup> All figures provided by Brian Bailey, interview 12/06/2002, and correspondence, 01/07/2002.

<sup>6</sup> National Lotteries Board (2001).

<sup>7</sup> Interview with Sershan Naidoo, 20/05/2002.

<sup>8</sup> I have not been able to get access to the contract entered into by Uthingo. The information in this section is drawn largely from my interview with Brian Bailey 12/06/2002.

<sup>9</sup> Nigel Bruce, for example, has claimed that Uthingo is “growing obscenely rich on the proceeds alone of the cash flows it handles” (correspondence from the DA). As with most of Bruce’s claims about the National Lottery, this is part phantasy, part simply ignorance.

<sup>10</sup> This appears to be the case, although I have not been able to obtain a copy of the contract to verify it.

<sup>11</sup> This sentiment is widely held in the non profit sector, and has been expressed within the Portfolio Committee for Welfare and Development. Interview with Rob Davies, 11/06/2002.

<sup>12</sup> Interview with Edwin Smith, spokesperson for Alec Erwin, 28/06/2002.

<sup>13</sup> Interview with Edwin Smith, spokesperson for Alec Erwin, 28/06/2002.

<sup>14</sup> National Lotteries Act 57 of 1997, s.31(1).

<sup>15</sup> Business Day 04/10/2001.

<sup>16</sup> Interview with Sershan Naidoo, 20/05/2002.

<sup>17</sup> Information provided by National Lotteries Board (2001); and National Lottery Distribution Trust Fund (2002a)

<sup>18</sup> Interview with Rob Davies, 11/06/2002.

<sup>19</sup> National Lotteries Act 57 of 1997, s.27(1).

<sup>20</sup> Interview with Sershan Naidoo, 20/05/2002; Interview with Edwin Smith, 28/06/2002.

<sup>21</sup> National Lottery Distribution Trust Fund (2002a).

<sup>22</sup> National Lotteries Act 57 of 1997, s.28(1).

<sup>23</sup> Dr Teboho Maitse (chair), Mr Lionel Louw, Mr Henry Shaw, Mrs Margaret Grobelaar, Mr Arthur Magerman, Ms Gail Smith, Mrs Joyce Matube, Mr Musa Madonsela, Mr Vincent Daniel, and Ms Boitumelo Setalentoa (*Government Gazette* No 22040, 1 February 2001; Social Development Portfolio Committee (2001).

<sup>24</sup> Confidential interview with Agency member.

<sup>25</sup> Correspondence with Sershan Naidoo, April-May 2002.

<sup>26</sup> National Lotteries Board (2001).

<sup>27</sup> Confidential interview with Agency member.

<sup>28</sup> Information on Charities taken from the 2002 application forms (National Lottery Distribution Trust Fund (2002b)).

<sup>29</sup> Interview with Sershan Naidoo, 20/05/2002

<sup>30</sup> National Lotteries Act 57 of 1997, s.29(1).

<sup>31</sup> Dr Mathume Phaahla; Ms Kedidimetse Tshoma (chair); Mr Daniel Jordaan; Mr Gideon Sam; and Mr Denver Hendricks (*Government Gazette* No 22040, 1 February 2001; Social Development Portfolio Committee (2001).

<sup>32</sup> Nigel Brice: “Robbing the Helpless to help footballers”, Sunday, September 30, 2001 (correspondence with DA).

<sup>33</sup> Information on Sports taken from the 2002 application forms (National Lottery Distribution Trust Fund (2002b)).

<sup>34</sup> See, for example, the exceptionally ill-informed article by Barry Ronge, “Lotto’s bad sports,” *Sunday Times* 1 Aug, 2001.

<sup>35</sup> Interview with Sershan Naidoo, 20/05/2002

<sup>36</sup> Although one organization was quick to point to the irony that long-standing community arts organizations did not receive funding, whereas former recipients of large state grants, like the Opera, did. Interview with Graham Falken, Community Arts Project (CAP), 12/06/2002.

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- <sup>37</sup> National Lotteries Act 57 of 1997, s.30(1).
- <sup>38</sup> Dr Tanya Abrahamse; Dr Razeena Wagiet; Mr Eugene Moll; Dr Nombasa Tsengwa; Ms N Danby; Mr EPM Radebe; Dr Prince Nevhutalu (chair); Mrs DNA Ntela; Mr Vusithemba Ndima; Mrs P Madiba; and Ms GM Masemola (*Government Gazette* No 22040, 1 February 2001; Social Development Portfolio Committee (2001)).
- <sup>39</sup> Interview with Louis Vale, Grassroots Adult Education and Training Trust, June 2002.
- <sup>40</sup> Information on Arts, Culture and National heritage taken from the 2002 application forms (National Lottery Distribution Trust Fund (2002b)).
- <sup>41</sup> National Lotteries Board (2001).
- <sup>42</sup> Interview with Leon Isaacson, 23/05/2002.
- <sup>43</sup> Interview with Brian Bailey, 12/06/2002.
- <sup>44</sup> I have altered the entry for “paid or allocated to date to Good causes” as Bailey’s figure of R80 million does not reflect the published figures for the 2001-2002 funding cycle.
- <sup>45</sup> In order not to prejudice any organization, reference to specific organizations is not made in this section.
- <sup>46</sup> Interview with Sershan Naidoo, 20/05/2002. Naidoo assured me the website would be running by early June.
- <sup>47</sup> Confidential interview with Agency member.
- <sup>48</sup> Interview with Sershan Naidoo, 20/05/2002.
- <sup>49</sup> National Lotteries Act 57 of 1997, s.1(xvii).
- <sup>50</sup> National Lotteries Act 57 of 1997, s.1(10)(b)(iii).
- <sup>51</sup> National Lotteries Act 57 of 1997, s.1(10)(e)
- <sup>52</sup> National Lotteries Act 57 of 1997, s.1(10)(f)
- <sup>53</sup> National Lotteries Act 57 of 1997, s.1(10)(g)
- <sup>54</sup> Interview with Sershan Naidoo, 20/05/2002
- <sup>55</sup> Cited in Christiane Duval (2001).
- <sup>56</sup> Sershan Naidoo, cited in Anon (2000).
- <sup>57</sup> The Helderberg Society for the Aged, which was awarded R600,000 in the 2002-2003 funding cycle.
- <sup>58</sup> SANGOCO proposal.
- <sup>59</sup> Mimeo.
- <sup>60</sup> Interview with Sershan Naidoo, 20/05/2002.
- <sup>61</sup> Interview with Rob Davies, 11/06/2002.
- <sup>62</sup> The fact that the Lotteries Board is an organ of state has been confirmed by Appeal Court Judge Mervyn King SC (Sunday Times, 18 November 2001 (Business news section).)
- <sup>63</sup> Interview with Sershan Naidoo, 20/05/2002
- <sup>64</sup> The Charities Distribution Agency has recently decided to do this in all cases where the grant awarded exceeds R50,000. This is a welcome development, although it remains to be seen whether this will actually happen, and what impact such visits will have on the allocation process.
- <sup>65</sup> Interview with Edwin Smith, spokesperson for Alec Erwin, 28/06/2002
- <sup>66</sup> Sershan Naidoo, e-mail response to questions posed by the author, 05/08/2002.
- <sup>67</sup> Interview with Edwin Smith, 28/06/2002.
- <sup>68</sup> Interview with Edwin Smith, 28/06/2002.
- <sup>69</sup> Sentiment relayed by Rob Davies, interview 11/06/2002; Interview with Lionel Louw, 27/06/2002; Social Development Portfolio Committee (2001).
- <sup>70</sup> Simphiwe Xako, “ANC wants to change lotto bill,” *Business Day*, 4/10/2001.
- <sup>71</sup> National Lotteries Board (2001: 4).
- <sup>72</sup> National Lotteries Act 57 of 1997, s.28(5), s29(5), s30(5), s31(5). In the RDP category, money is to be paid into a designated fund.
- <sup>73</sup> Interview with Sershan Naidoo, 20/05/2002.
- <sup>74</sup> Cas Salojee, as reported in Social Development Portfolio Committee (2001: 4).
- <sup>75</sup> Social Development Portfolio Committee (2001: 4).
- <sup>76</sup> It is preferable not to reveal the names here. The senior CDA member has since left, however she/he has challenged at least three organisations known to the author on this basis. Of these, one was Johannesburg based, one was a National organisation, and one was a Provincial community arts organisation. To a lesser extent, this sentiment was expressed by one of the two Agency members spoken to, and by a senior

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Member of Parliament.

<sup>77</sup> Interview with Sershan Naidoo, 20/05/2002.

<sup>78</sup> Social Development Portfolio Committee (2001: 1).

<sup>79</sup> Interview with Sershan Naidoo, 20/05/2002.

<sup>80</sup> Interview with Edwin Smith, spokesperson for Alec Erwin, 28/06/2002.

<sup>81</sup> Information adapted from National Lotteries Board (2001).

<sup>82</sup> Information adapted from National Lottery Distribution Trust Fund (2002a).