

PVR review is all about your perspective

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After almost 20 years of delay, progress is finally being made on the review of the Plant Variety Rights (PVR) system. But it is not going to be a simple task.

Over the past 6 months NZPPI has been involved in the PVR review by meeting with MBIE to represent the interests & views of our members, making submissions and responding to numerous surveys and enquiries from policy makers.

The main driver for the PVR review is the new CPTPP (formerly the TPPA) trade deal, which requires NZ to strengthen its rules in areas like copyrights and patents, including PVR's.

Another driver is the Wai 262 Claim, which is part of a Treaty of Waitangi claim, known as the 'flora and fauna claim' that considers the rights of Maori and their kaitiakitanga (guardianship) of NZ indigenous flora. There are several native plant species with cultivars that are covered by PVR's.

Over the past month MBIE have been holding meetings, hui and many conversations about the PVR system. In addition to NZPPI, they have spoken with nurserymen, farmers, growers, research CRI's, PVR owners and users, Iwi and consumer advocates.

What they have found is that, compared to 20 years ago, PVR's now operate in a complex and rapidly changing world. The future PVR system will therefore need to address a number of complex issues across a diverse range of stakeholders & interests.

The Government has also discovered that the PVR system is no longer just about plant genetics. This time around it needs to consider a number of social factors. For example, consumer advocates are seeking to align the PVR system with the Commerce Act to ensure that PVR's are not used to manipulate or restrict the supply of food in NZ. A good point.

It also needs to consider other parts of legislation that control and restrict plant production, such as the HSNO Act, which is a barrier to importing new plant species, and the Biosecurity Act which currently acts as a barrier to new varieties and plant imports. There is no point having a PVR system in place if you can't access new varieties of plant material!!

The Governments next challenge is about advances in plant genetics. In the 1990's, when PVR's were new, plant breeders had to demonstrate a clear physical difference in order to obtain PVR protection. Contrast this to today where scientists have mapped the genomes of most crop species and the ability to own and protect genetic sequences has become important globally. Even without considering genetic engineering, this area presents a challenge to regulators due to its complexity and the pace of change.

The review has highlighted changes in the way that farmers and growers have changed how they use plant genetics to drive value over the past 20 years. For example, the dairy industry has grown its productivity on the back of a few dozen ryegrass varieties that are heavily protected by PVR's. That sector is looking for a much stronger PVR system with an NZ focus.

PVR owners and users in the kiwifruit, summerfruit and pipfruit sectors are increasingly using the system to manage the production of fruit in NZ and its sale in overseas markets. This approach has been successful in driving quality and value resulting in an increase in investment in these sectors.

They are looking a system with strong protection and a long reach that helps them protect their rights overseas.

On the other hand, the forestry sector doesn't use the PVR system to any great extent, preferring its own contract based 'GF Plus' system which it operates cooperatively at an industry level. Perhaps a better PVR system could encourage this sector to use it more.

The review has uncovered some interesting statistics, including that with over 700 PVR's in place, the largest users of the PVR system by headcount is the ornamental nursery sector. This sector is looking for a simple system that is accessible on a smaller scale, but with better protection for the PVR owner.

Balancing these interests and perspectives will be a challenge, but the biggest challenge for the government will be to design a system that will help to kickstart innovation and enable our plant industries to be profitable and to remain competitive. But changing the PVR system won't make a lot of difference on its own. Change is needed across a range of laws, including the HSNO Act and the Biosecurity Act, which are massive barriers to accessing new plant varieties.

NZPPI will continue to be involved in the PVR review as it progresses this year. We will report progress as it happens, and we encourage you to follow the review as it progresses and to get involved.