

Digital Broadcasting: Review of Regulation

QUESTION RESPONSE FORM

This form relates to the questions asked in the Discussion Paper. You may wish to use this form to respond to the questions.

Please return to the Ministry for Culture and Heritage by **Friday 4 April 2008**, either by email to **broadcastingregulation@mch.govt.nz** or by post to: Review of Regulation Paper, Broadcasting Unit, Ministry for Culture and Heritage, PO Box 5364, WELLINGTON.

Please see page 50 of the Discussion Paper for further information about submissions.

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QUESTION RESPONSE FORM: Digital Broadcasting: Review of Regulation

<i>Discussion Paper page reference</i>	<i>Question from Discussion Paper</i>	<i>Submitter's response (please enter)</i>
Page 5	Q1.1 Do you agree with the objectives and principles set out for the review? Please give reasons for any proposed additions or amendments to the principles and objectives.	Yes
Page 7	Q2.1 Do you agree that the diversity scenario summarised above is a desirable state for New Zealand to work towards achieving?	Yes in general
Page 7	Q2.2 Do you agree with the threats and issues identified in the above table? Please identify any threats or issues with which you do not agree, and provide reasons.	<p>The concentration of NZ media ownership in overseas hands warrants Media being considered a "Strategic Asset" although politically it may be too late to retain national sovereignty. I doubt that Media Literacy programmes outside the general education sector or internal industrial needs will have any measurable effect.</p> <p>Diverse local content across genres can only be achieved by contestable public funding - although NZ heavy investment in TV comedy has produced sparse results to date.</p> <p>There is blatant need for more contestability in funding as TVNZ misappropriates Charter funding for commercial purposes.</p> <p>Advertising rules are adequate if observed and enforced</p> <p>Spectrum allocation actively disadvantages public and non-commercial community services, with Spectrum ownership concentrated in major group ownership.</p>

Page 8	Q2.3 Are there any further threats and issues for consideration that you believe have not been identified?	
Page 8	Q2.4 Which of the threats and issues (identified in the table or in your response to Q2.3) do you consider to be the top three priorities for action?	Media Ownership Funding Contestability Spectrum Allocation
Page 12	Q3.1 Should New Zealand maintain the <i>status quo</i> in all respects? If so, why? If not, what are the priority areas for change?	Not possible
Page 12	Q3.2 If some change is necessary, should this generally be at the level of (a) updating existing arrangements, (b) restructuring the regime in line with market developments, or (c) reforming the regime? Please give reasons for your views.	Restructuring the regime in line with market developments - the reforms post 1989 have resulted in the predictable concentration of market dominance in overseas ownership and ineffective public interest protection. New Zealand's mental landscape has been restricted and lobotomised by such trite commercial concentration in a small economy. Rebalancing is desperately required if we wish to have a thinking Knowledge economy
Page 15	Q4.1 Should New Zealand consider one of the three options for revised institutional arrangements (reflecting different levels of change along the regulatory spectrum)? If so, which one, and why?	B is the only reform likely to be politically and technically achievable C totally confuses content and distribution roles and is like putting Kordia back into TVNZ
Page 16	Q4.2 Which of the above roles would fit appropriately within the responsibilities of <i>converged</i> regulators? Of a <i>single</i> regulator?	Cross platform content standards Public good benchmarks Monitoring methodology and auditing
Page 16	Q4.3 Would it be appropriate for a	No

	<i>single</i> regulator to have both economic (e.g. competition) and cultural (e.g. standards) responsibilities?	
Page 16	Q4.4 If Approach A were adopted in preference to a converged or single regulator, should an extended Broadcasting Standards Authority and Telecommunications Commissioner have any additional roles and responsibilities? Should the Commissioner, for example, include regular market reviews as input to competition determinations made by the Commerce Commission?	No
Page 17	Q4.5 How could the relationship between a single regulator and the Commerce Commission best be defined and managed? For example, should the regulator have primacy and then 'refer' issues to the Commerce Commission? Would the two be required to work together on all competition matters? Or, would they each be free to investigate potential issues / breaches as they saw fit?	Primacy then refer Each investiaget according to their specific responsibilities
Page 17	Q4.6 Some overlap of responsibilities does exist in other countries, such as the US and the UK. Should such overlap be contemplated if a single regulator were established? If so, how might it be made workable?	Some overlap is inevitable as demonstrated by international experience. It is a fact of life to be managed in both political and administrative forums.

Page 19	Q4.7 Which of the options for dealing with market definitions should be considered in New Zealand? Please give reasons for your views.	Restructure is the most politically attainable
Page 19	Q4.8 Should changes to media ownership (including cross-platform or foreign investment) rules be considered to ensure plurality of news/key genre provision?	Yes
Page 21	Q4.9 Should New Zealand establish a national, coordinated media literacy programme? If so, what form should it take, and who should be responsible for its implementation?	No - that is the role of the Education sector Focus Media sector organisation on industry development, training and enforcement.
Page 21	Q4.10 To what extent would it be appropriate for a media literacy programme to address issues of internet safety?	Education sector
Page 22	Q5.1 To what extent would it be appropriate for administration of the separate content standards functions of the Broadcasting Standards Authority, the Advertising Standards Authority, the Office of Film and Literature Classification and the Press Council, as they relate to broadcasting-like content, to be amalgamated within a single body?	Amalgamation makes sense but the Press Council has never been credible.
Page 25	Q5.2 Which of the above options for change do you consider would best	B is most likely to achieve public good objectives

	ensure diversity and visibility of local content in a digital age? Please give reasons for your views.	
Page 25	Q5.3 Do funding bodies require any mechanisms (e.g. incentive-based or obligation-based) not currently available to them to promote diversity, maximum visibility and accessibility of funded programmes?	Yes
Page 25	Q5.4 To what extent would the blurring of boundaries between different segments of the audio-visual sector justify changes to the current structure of funding bodies (e.g. to avoid the risk of gaps or duplication)? If a converged funding body were established, what might its role be?	Amalgamate all screen funding bodies, from net to broadcast to film. Manage public investment is screen outputs
Page 25	Q5.5 What would be the implications of the changes you support for the amount of funding required? How could a significant commitment to private investment in local and other content of public value also be encouraged?	Significant private investment in purely domestic targeted material remains unlikely. Domestic produced content that has an international market potential may continue to attract limited private investment
Page 28	Q5.6 Which of the options for supporting and promoting public service broadcasting in a digital age do you support, and why?	B - there is no evidence of political or social will to effect C
Page 28	Q5.7 Would a greater focus on the role of public broadcasters be a more	No - the concept is no longer indigenous to the NZ mindset. It has been so diminished that neither the audience nor the

	effective means of ensuring the continued accessibility of public service content than spreading resources and content across numerous providers? If so, how might this be achieved?	industry have any genuine belief or faith in it.
Page 29	Q5.8 If an independent body were commissioned, what mechanisms might be needed to measure and monitor the quality and diversity of public service broadcasting in the digital age?	Digital audience measurement can be much more detailed, effective and reliable than survey-based ratings. Quantitative audience measurement can be much more accurate. Qualitative audience measurement can be more informed
Page 29	Q5.9 As viewing patterns change with the proliferation of platforms, and access is often conditional (pay per view or subscription), what expectations should there be for the delivery of publicly-funded content through pay platforms?	Pay platforms operating within New Zealand should be subject to "must-carry" obligations for publicly funded content.
Page 30	Q5.10 Which of the above options for dealing with advertising issues in a digital age do you support? Please give reasons for your views.	C is the most effective, but difficult to sustain in the absence of significant public funding.
Page 33	Q6.1 Which of the above options for ensuring the accessibility of content for disadvantaged audiences do you support? Please give reasons for your views.	C is the most effective, as the whole issue has never been systematically addressed in the NZ context
Page 33	Q6.2 If funded captioning of programmes was extended, should this	To be determined - currently inadequate information on audience demand

	cover all delivery platforms, or are some considered priorities?	
Page 33	Q6.3 Should the option of introducing requirements on broadcasters and platform operators to provide some captioning be considered as an alternative, or in addition, to funding?	To be determined - currently inadequate information on audience demand
Page 33	Q6.4 Should funding and/or requirements be introduced to provide audio-described programmes for the blind or sight-impaired? If so, what would be the implications, in terms of technology and cost?	To be determined - currently inadequate information on audience demand
Page 36	Q6.5 Which of the options for ensuring the availability of certain types of content and services across platforms do you support? Please give reasons for your views.	B - there is no evidence of will or means to address more The options have gone and overseas owners will not tolerate retrospective change
Page 36	Q6.6 If brokered terms of trade were developed, what should be their scope? What criteria might be relevant?	To be determined
Page 36	Q6.7 If broadcasters or platform providers were required to carry a minimum percentage/amount of certain service types or genres, what services or genres should be prioritised? How would such a requirement be workable in a multi-channel environment?	Quotas have never been effective in NZ, have marginal effect in Australia, are probably not sustainable within current international trade agreements

Page 36	Q6.8 If some form of anti-siphoning were introduced, how might this be limited in the New Zealand environment? How might the effect on sports bodies be mitigated?	No longer possible
Page 38	Q6.9 Which of the options for dealing with consumer understanding of the copyright framework do you support? Please give reasons for your views.	B - nothing more is realistic
Page 38	Q6.10 In addition to criminal penalties, do you favour a stronger role for the state in promoting media literacy as a means of promoting internet safety? What other interventions would be practical, given the overseas origin of much of the material in question?	No
Page 40	Q6.11 Which of the options for dealing with “orphan works” do you support? Please give reasons for your views.	C is the greatest public good
Page 40	Q6.12 Would the establishment of a collection agency as an aspect of the regime be workable in New Zealand?	Existing agencies are probably adequate if specific funding is identified
Page 43	Q7.1 Which of the options for ensuring fair access for service providers to digital platforms do you support? Please give reasons for your views.	C is the greatest public good
Page 43	Q7.2 If an open access regime was	There is no such tradition in NZ

	introduced to ensure fair access for service providers to digital platforms, what would be its scope? What sort of criteria should apply?	
Page 43	Q7.3 If “must-carry” provisions were introduced, to which platforms would the obligations to carry services apply (e.g. all pay, cable, satellite, IPTV)? What services should qualify for must-carry status (e.g. public service broadcasters, regional channels)?	There is no such tradition in NZ
Page 43	Q7.4 Should “must pay” obligations be introduced, either in addition to, or instead of, “must-carry”? If so, how might this work? Which services would it apply to? Would the Canadian version of “must pay” be appropriate to New Zealand?	There is no such tradition in NZ
Page 43	Q7.5 If a “must list” requirement for electronic programme guides were introduced, should this be in addition to or as an alternative to “must-carry”? How would such a requirement work in a multi-platform and multi-channel environment?	There is no such tradition in NZ
Page 44	Q7.6 Which of the options for ensuring minimum agreed technical standards do you support? Please give reasons for your views.	N/a
Page 45	Q7.7 Would the interests of audiences	Yes

	and industry be best served by industry-wide adoption of agreed technical standards?	
Page 45	Q7.8 Is government encouragement sufficient to ensure industry-wide agreement is reached in New Zealand? If not, what other measures might be warranted?	N/a
Page 47	Q7.9 What principles and priorities do you consider should guide the development of a post-analogue switch-off spectrum allocation framework?	n/a
Page 47	Q7.10 If any new regulatory measures (such as an open access regime) were introduced, would the option of licensing broadcasters, multiplex and/or other platform operators be an appropriate means of monitoring compliance?	Back to the past!!!
Page 49	Q7.11 Which of the options to encourage investment in digital content and infrastructure, and to ensure the digital broadcasting industries are yielding an optimal economic return to New Zealand, do you support? Please give reasons for your views.	n/a
Page 49	Q7.12 If government intervenes to encourage investment in infrastructure, how can it ensure that it	n/a

	does not make <i>de facto</i> technology choices that preclude innovation in other areas?	
Page 49	Q7.13 If a “build” obligation were placed on media platforms to ensure a minimum roll-out, how could such a requirement best be designed (e.g. the provision of incentives to encourage cooperation)? To which networks should it apply?	n/a
Page 49	Q7.14 If a media-funded pool were established to ensure broad geographic service availability of networks, who should be levied, and how should such a fund be administered?	n/a
Page 49	Q8.1 Are there any alternatives, beyond the illustrative measures identified in this discussion paper, that you would recommend policy-makers consider as mechanisms to deal with issues across the value chain, or under the headings of “content”, “distribution” and “networks”?	
Page 49	Q8.2 Are there any other general comments you would like to make about the digital broadcasting review of regulation?	<p>This is a fairly pointless exercise until there is some evidence that any political party is willing to act in this area.</p> <p>There has been little evidence in the past decade that either the administration or the bureaucracy are willing to do anything more than talk about the issues.</p> <p>The sovereign identity of New Zealand media has probably passed beyond recovery by now, with little option left except to punch local identity windows in international services delivered</p>

	by multi-nationals.
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