



Thursday 3 April 2008

The Broadcasting Content Regulation Paper  
Broadcasting Unit  
Ministry for Culture and Heritage  
P O Box 5364  
WELLINGTON  
Ph (04) 499 4229

[broadcastingregulation@mch.govt.nz](mailto:broadcastingregulation@mch.govt.nz)

Dear Sir/Madam

Attached is the considered response of e-cast Limited to the issues addressed in the Digital Review Broadcasting Content Regulation Paper.

Yours

QuickTime™ and a  
TIFF (Uncompressed) decompressor  
are needed to see this picture.

Robert Boyd-Bell  
Chairman  
e-cast Limited

## Digital Broadcasting - Review of Content Regulation

### Question 1

What Concerns are appropriate to be Addressed through Content Regulation?

- **Content offensive to a significant proportion of the community**
- **Content demonstrably inaccurate**
- **Content deliberately inciting violence and/or hatred**
- **Content deliberately demeaning of citizens going about their lawful business in public places**

### Question 2

Should a single regulatory regime apply to all broadcasting-like content no matter how it is distributed?

- **Yes if you can define "broadcasting-like content" in a meaningful and enforceable fashion, comprehensible to the public at large.**

### Question 3

Should the same general rule apply, but with a less strict or detailed code for content received on the demand of individuals than for content broadcast conventionally

- **Yes**

Please give reasons for your answer

- **Multiple standards tend to deliver a regime in which no standard can be enforced because the content mutates to avoid any specific regime.**
- **Yet adult individuals have a right to determine what content they access in their own environment.**

### Question 4

Publicly owned broadcasters have special mandates to set standards of quality (such as the Charters of TVNZ and Radio New Zealand or the legislation of Maori Television)

Should their content be regulated differently from the content of private-sector broadcasters or the same?

- **The Same**

Please give reasons for your answer.

- **In a small society like ours, multiple standards tend to deliver a regime in which no specific standard can be enforced because the content mutates and the operating staff migrate to avoid any specific regime.**
- **It is a dynamic system and single elements cannot readily be isolated.**

### Question 5

Should broadcasting-like content provided from to audiences from overseas be subject to New Zealand's regime for content regulation?

- **Yes**

Please give reasons for your answer.

- **Otherwise there is no point in domestic regulation, especially as overseas sources dominate the budgets and volume of content available in all genres except Maori language broadcasting**

### Question 6

If you answered Yes, what form should regulation take and who should regulate such content?

- **One single state agency with both industry and public members**

### Question 7

a) Should there continue to be a state agency available in New Zealand to operate a system of content regulation?

- **Yes**

Or

b) Should broadcasters be bale to regulate themselves within the requirements of legislation?

- **No**

Please give reasons for your answer

- **Self regulation has failed the public interest wherever it has been attempted.**
- **There is no market in the world where media self-regulation is effective in doing other than maximising the private profits of media owners.**

### Question 8

a) Are the current arrangements for monitoring public broadcasting and the broadcasting environment adequate?

- **No**

b) Are there any gaps in the current arrangements?

- **Yes**

Please give reasons for your answer

- **TVNZ has proved immune to all attempts to render their use of public Charter funding accountable.**
- **The Ministry of Culture and Heritage and Te Mangai Paaho have both proved incapable of effective monitoring of TVNZ behaviour**
- **TVNZ currently refuses public access to material held in its archives, even when TVNZ demonstrably does not hold ownership of the content.**

### **Question 9**

If you believe that there are gaps in the current arrangements would such an agency play a useful role?

- **Yes**

Please give reasons for your answer

- **If it represented a cross-section of industry and public members and was not dominated by any one sector of the current broadcast industry.**

If you answered "No" what other ways of monitoring the broadcasting environment could be explored?

### **Question 10**

Do you favour a stronger role for a state agency in encouraging media literacy?

- **No - except for holding the "publishers" to account for operating effective measures to ensure staff know and apply the current regime.**
- **The roles of the agencies are already confused by BSA adoption of a Media Literacy website.**

Please give reasons for your answer

- **General media literacy is a function of the education sector and has much wider public responsibilities than the specific "industrial" needs of "broadcast-like content" distributors.**
- **I see no justification for the "Broadcasting Commission" holding a school essay writing competition as does NZ on Air.**
- **There could be some justification for NZ on Air funding a student broadcasting competition that resulted in a broadcast outcome.**

### **Question 11**

Would a greater emphasis on media literacy be useful to New Zealand audiences in order to identify and avoid undesired content sourced directly from overseas?

- **Yes - within the education system, otherwise it's a solution looking for a question.**

Please give reasons for your answer

- **That's where the public responsibility lies and the only place where it can be carried out effectively, peer reviewed and monitored.**

Are there any other measures that should be considered?

- **Demonstrable staff training should be required of content distributors**

### **Question 12 - Media Education and Violence**

Should these roles be part of the mandate of New Zealand's broadcast content regulator?

- **Yes - but only insofar as they feature in the education and training of content producers and distributors.**

Please give reasons for your answer

**As explained above in answer to Questions 10 and 11**

### **Question 13**

Should it have a similar educative and collaborative role in relation to other matters such as, for example, the interests of children and young people?

- **No**

Please give reasons for your answer

- **As explained above in answer to Questions 10, 11 and 12**

### **Question 14**

Are a single set of broad concepts as a basis for content regulation more or less important in an era of increased choice in content and in the ways of receiving it?

- **More important**

Please give reasons for your answer

- **There is significant evidence that the range of content sources is increasingly concentrated in a diminishing number of international entities, most of the privately-owned global empires.**



### Question 15

a) Should the concepts guiding the standards applying to broadcasting continue to apply to broadcasting?

- **Yes**

b) If "Yes" should they apply more widely across the scope of content regulation - that is, beyond conventional broadcasting?

- **Yes**

Please give reasons for your answers

- **Because it is already almost impossible to define "conventional broadcasting"?**
  - **Does it include Freeview, TVNZ 6 and 7, Te Reo on MTS. Podcasts on RNZ?**
- c) Are there different concepts that should be added or substituted for those in the Act, and applied either to broadcasting or to a wider range of content?
- **See the response to Question 1**
  - **I also consider more complaints should be considered in public.**
  - **The current system of adjudication on paper only unreasonably favours the interests of the industry over those of the public.**

### Question 16 - Particular Concepts - "Good Taste & Decency" or "Public Good"

Question 16

Do you have a preference between these two possible approaches?

- **Yes**

Please give reasons for your answer

- **"Good Taste & Decency" is a concept that was imported into the NZ legislation in the 60's and 70's consequent on the manner in which it applied to British Broadcasting at that time. It assumed a more homogeneous view of society than either country adheres to today. The concept effectiveness within regulation also assumed a broadcast industry where public interest rather than commercial profit was the dominant motive. That assumption is no longer true of any New Zealand broadcaster.**
- **"Public Good" is a concept much discussed by the Committee on Television Violence, of which I was a member. It does probably require more exhaustive social and cultural research but may provide a more valid and consistent standard than the very subjective "Good Taste and Decency".**

### **Question 17 - Balance**

Does this principle as currently expressed in the Act remain important in an era of an increasing variety of outlets for information?

- **Yes**

Please give reasons for your answer

- **As for Question 14 above, there is significant evidence that the range of content sources is increasingly concentrated in a diminishing number of international entities, most of the privately-owned global empires.**
- **It is significant for the Public Good that differing opinions and outlooks be available for open debate and consideration.**
- **There is no evidence that Public Good is served by providing untested information and opinion from any single source.**

### **Question 18**

If the principle of balance remains important in conventional broadcasting should it apply more widely if the scope of regulation is widened beyond conventional broadcasting?

- **Yes**

Please give reasons for your answer

- **As for Question 17 above**

### **Question 19**

To what extent is the achievement of accuracy dependent on the availability of a balance of views

a) Within a broadcast programme or other audio-visual content?

- **Contestability, Cultural Relevance and Peer Review of different opinions or presentations are critical to the very concept of "accuracy".**
- **Accuracy does not exist alone.**

Across broadcast programmes or other content by the same provider of content?

- **As above**

Across the media as a whole?

- **As above - the universal reduction in the variety of original sources currently being experienced in media worldwide is a significant concern and threat.**

**Question 20**

**Do you have comments on aspects of content regulation that are not covered by the questions above? If so please include them here.**