

4 April 2008

Review of Regulation Discussion Paper
Broadcasting Unit
Ministry for Culture and Heritage
P O Box 5364
WELLINGTON

Kia ora koutou

Thank you for providing us with the opportunity to provide a submission on the Digital Broadcasting Review of Regulation.

We would like to congratulate you on the comprehensive research report that accompanies the review Discussion paper. It provides a well-structured and thorough background to the current international and New Zealand environment.

However both the research and the Discussion paper in our view are very much limited by their failure to address and integrate the government's digital frameworks under the Digital Strategy and the Digital Content Strategy into the issues and analysis. We strongly encourage you to address this shortcoming.

A greater appreciation of the bigger picture around connectivity (including a future involving fibre to the home and the highly strategic wireless spectrum) and content (in particular the importance of greater public access to public broadcast content through multiple platforms), needs to be present before deciding to proceed with regulatory reforms.

Regulatory framework

The appropriateness of a super-regulator in the New Zealand environment needs to be seriously thought through. If television remains as it is at the present, and simply transfers its content to new platforms, then the present system is adequate. However, if the potential of digital is realised with multiple complementary sources of content on multiple platforms, then regulation would need to cover every platform. We are not convinced that one agency should be tasked with content, distribution and network regulation.

Content issues

Television broadcasters, funders and producers are not challenged by this review to become part of the wider digital world and actively take into account that, driven by technology, broadcasting content is changing dramatically. A change of culture is needed based on the principles outlined in both the Digital Strategy and the Digital

Content Strategy. Both documents are based on a broad consensus of change in the digital world, but they are missing from the analysis. The disconnect is clearly reflected in the disparity between funding for Digital Content Strategy outcomes and that for digital broadcasting.

The review unfortunately stops short of identifying whether or not New Zealand should have a public television broadcaster, rather than the current 'hybrid' model of TVNZ. The value and role of public access to digital public broadcast content is central to addressing the issues of content diversity, accessibility and information democracy. At present the funding model for New Zealand content is driven by mass audience concerns rather than by quality concerns. The contrast between the Charter-driven programming of TVNZ6 and TVNZ7 and that of TVOne and TV2 serves to highlight the difference possible when public broadcasting is brought to the fore. We would encourage the public funding of TVNZ6 and TVNZ7 to become true public broadcasting providers.

The investment in the move to digital terrestrial television and the continued New Zealand On Air mandate to favour traditional broadcasters in both on air and online content creates a disparity in terms of access to, and non-commercial use by the public, of non-traditionally delivered forms of broadcast and archival content (e.g. user-generated content and re-screening on demand).

In the absence of a public broadcaster, publicly funded television programming is almost entirely treated as a commercial asset rather than a public asset. This has significant consequences for the access and availability of archival and heritage television content to New Zealanders. In contrast to public broadcast environments internationally, this is greatly limiting the linking, re-screening and re-use of television content on the internet where its worth can be greatly enhanced by supplementary content coming from libraries, museums, galleries and from interaction with users themselves. Clearance of archival rights and requiring public good re-use rights as part of the commissioning of new content is vital to creating an online public space for New Zealanders. The stronger public broadcaster role of Radio New Zealand highlights some of the potential benefits able to be realised on the internet (e.g. streaming content, podcasts, complementary programme and archival materials and links).

Distribution issues

If there was a clearer public policy focus on the role of public broadcasting in supporting New Zealand culture and society, in our view the issues of ownership rights and copyright would be much clearer and more easily amenable to address accessibility issues. The complexity of the funding, commissioning and broadcasting roles results in a complex rights environment. The ideal environment should be one where publicly funded content is available to the public after first screening as part of a creative-commons licensed public domain. The parallels can be drawn with the move to make publicly funded research outputs available for use by the public.

Network issues

Although the focus of the review has aimed to take a five to ten year outlook on the technology change, it has taken a conservative approach to broadcasting technology change. Broadband speeds are predicted to be well over 20Mbps within the next decade in New Zealand. The future of digital broadcast content will be via fibre to the home, not terrestrial and satellite technology, which unlike fibre is heavily constrained by radio spectrum availability. Scarce spectrum for wireless-related communications will

become very valuable, while broadcast content will be competing in an internet-based wired environment of abundant digital content. This has significant implications for the post-switch off environment that need to be more clearly identified and addressed.

Who we are

The Library and Information Advisory Commission Ngā Kaiwhakamārama i ngā Kohikohinga Kōrero is an unincorporated body whose statutory function is to advise and report to the Minister Responsible for the National Library on:

- library and information issues in New Zealand, including mātauranga Māori, and access to library and information services;
- the role of library and information services, including mātauranga Māori, in the cultural and economic life of New Zealand; and
- any other matters requested by the Minister.

In providing advice, the Commission has regard to recent national and international developments, and the appropriate means for promoting collaboration among persons and institutions in relation to protecting and promoting access to information, including documentary heritage and mātauranga Māori. The Commission reports to the Minister each year on the performance of their functions during the preceding year.

We are happy to be consulted on any follow-up issues or queries you may have from this submission. Our contact details are:

Kris Jochimsen
LIAC Executive Officer,
C/- National Library
P O Box 1467
Wellington
kris.jochimsen@natlib.govt.nz
Ph 04 474 3021

Brian Pauling
Chairperson