

Hon Paul Goldsmith

Minister for Media and Communications

Proactive Release of Media Reform Cabinet Paper

Wednesday 19 February 2025

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Title: Consultation on proposals to modernise media regulation and content funding arrangement

Author: Ministry for Culture and Heritage

This document has been proactively released by the Minister. This package includes the Cabinet paper.

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the OIA). Where this is the case, the relevant sections of the OIA that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

OIA section 9(2)(f)(iv) To protect the confidentiality of advice tendered by Ministers of the Crown and officials.

OIA section 9(2)(h) To maintain legal professional privilege

## In Confidence

Office of the Minister for Media and Communications and Arts, Culture and Heritage  
Cabinet Economic Development Committee

## Consultation on proposals to modernise media regulation and content funding arrangements

### Proposal

- 1 This paper seeks agreement to release a consultation document on proposals to modernise the regulation of professional media, consolidate two Crown entities that administer funding for media content, and increase the volume and accessibility of local content on media platforms New Zealanders use.

### Relation to government priorities

- 2 This paper relates to Government priorities of cutting red tape and delivering better public services, driving efficiency and value for taxpayer money.

### Executive Summary

- 3 New Zealand's media and content production sectors, which provide a range of economic, social, and cultural benefits, are facing an uphill battle to remain viable in an increasingly globalised and continually evolving landscape. Government needs to ensure regulatory settings are not exacerbating these challenges or creating barriers for strategic success and innovation.
- 4 Building on the targeted actions Cabinet has previously agreed to support local media [CAB-24-MIN-0236 refers], my officials have developed initial proposals to address broader regulatory challenges and opportunities. Overarching aims are to create durable, fit for purpose regulation; enable thriving, independent media and content production sectors; and ensure positive outcomes for New Zealanders.
- 5 I propose to release a discussion document seeking feedback on the following high-level proposals, to inform further analysis (including on the quantified costs and benefits) and detailed design of any proposals to be progressed:
  - 5.1 Modernising professional media regulation (including the Broadcasting Standards Authority). An updated regime would leverage industry self-regulation, while ensuring minimum standards and system-level guidance for professional media on a technology-neutral basis.
  - 5.2 Streamlining Crown content funders, by consolidating NZ On Air and the New Zealand Film Commission (the Film Commission). This would aim to support more coherent and strategic funding, as well as supporting back-office and governance efficiencies.
  - 5.3 Creating mechanisms to support engagement with local content and its economic, societal, and cultural benefits, with requirements to ensure:
    - a local TV services are accessible on smart TVs.
    - b all TV services invest in local content and support its visibility.

- c increased captioning and audio description, with phased targets to support engagement for those with accessibility needs.
- 6 I propose to publish the attached consultation document in early 2025 and return to Cabinet later in 2025 with final policy proposals. Decisions with fiscal implications would be subject to Budget processes.

## Background

- 7 The media and content production sectors in New Zealand employ over 25,000 people and provide around \$4.67 billion per year to the economy.<sup>1</sup> Engagement with local media provides significant societal benefits, including:
- 7.1 the democratic value of an informed citizenry, with quality local reporting fostering critical thought, countering misinformation and disinformation, and promoting healthy and many-sided discourse; and
  - 7.2 opportunities for our stories and voices to be heard here and globally, preserving and promoting our collective identity, creativity, and culture including te reo and tikanga Māori.
- 8 Ongoing economic headwinds, reduced advertising revenue, and competition from global platforms that are comparatively less regulated, mean New Zealand media are facing tough choices about how to remain viable.
- 9 I expect local media, particularly publicly owned media, to maintain their commitment to showing quality local content. However, commissioning local content is more expensive than acquiring overseas content. In the current economic climate cuts across TVNZ and Three continue; estimates earlier in the year suggested \$60 to \$80 million dollars less would be spent on local production as broadcasters seek to rationalise their spending.
- 10 New Zealand's media and content production sectors are, rightly, working to innovate and remain sustainable into the future. The Government needs to ensure regulation is enabling rather than hindering these efforts.
- 11 I have been progressing a range of actions to help address the well-traversed challenges facing our media and content production sectors [CAB-24-MIN-0236, CAB-24-MIN-0419 refer].<sup>2</sup> Broader work has been underway to set up modern, fit for purpose regulation and content funding arrangements.
- 12 I propose to release a discussion document (in appendix 1) on high-level proposals for change to address:
- 12.1 outdated broadcasting regulation, which sets an uneven playing field for professional media and is increasingly ineffective in the digital age;
  - 12.2 splintered content funding entities, which are misaligned with media convergence and may be limiting efficiency and strategic potential; and

<sup>1</sup> Infometrics Media and Broadcasting sector profile 2023, commissioned by the Ministry for Culture and Heritage; [www.mch.govt.nz/sites/default/files/2024-03/media-broadcasting-profile-2023.PDF](http://www.mch.govt.nz/sites/default/files/2024-03/media-broadcasting-profile-2023.PDF).

<sup>2</sup> Actions to enable key local shows to continue delivering workforce and cultural benefits by tweaking criteria for the domestic screen production rebate to support workforce and cultural benefits, and to support quality local reporting through NZ On Air, have been progressed. s9(2)(f)(iv) and I am seeking Cabinet approval to introduce a Bill removing broadcast advertising restrictions.

- 12.3 risks to the continued production of, and New Zealanders' engagement with, local content (and its economic and societal benefits).
- 13 While initial analysis supports the options proposed in the document (see interim Regulatory Impact Statements in appendices 2-4), more evidence and insights from feedback will support detailed design and cost-benefit analysis.

## Analysis

- 14 The following sections of this paper summarise the proposals for consultation. Proposals have been formulated in light of the Government's fiscal context. Options involving significant new or ongoing Crown spending have been ruled out. Efficiencies are targeted, though substantive changes to funding levels (which remain subject to Budget processes) are not part of the consultation.

### ***Modernising professional media regulation***

- 15 Parts 1 to 3 of the Broadcasting Act 1989 set up minimum standards for broadcasting (that is, linear TV and radio), a procedure for dealing with audience complaints about broadcast content, and the Broadcasting Standards Authority (BSA) to administer the standards and complaints regime. The Act also requires broadcasters to pay a levy to support the BSA's operations and offset government funding.<sup>3</sup>
- 16 The regime's coverage excludes online and on-demand content, which New Zealanders are increasingly choosing over broadcasting. Broadcasters have long called for reform to modernise and level the regulatory playing field.
- 17 While previous work to bring all content regulation into one system has stopped,<sup>4</sup> there are still opportunities to modernise and streamline the regime relating to professional media. This could provide a helpful stepping stone to more comprehensive consolidation of content regulation in future.

### *Proposal for consultation: modernised, lighter touch regulatory framework*

- 18 The proposal involves technology-neutral regulation of all professional media<sup>5</sup> operating in New Zealand. This would more consistently uphold industry and community standards, and reduce the disadvantage for media organisations that provide broadcast services (still relied on by many people).
- 19 The regulator would maintain functions around education and research related to media standards, and work with industry to develop and oversee codes of practice. However, the regulator would have only a residual complaints resolution function, where industry self-regulatory processes like those operated by the New Zealand Media Council are not available (for instance, where a media organisation is not a member). To provide quality assurance and ensure trust and confidence, the regulator could hear appeals from complaints decisions in limited circumstances.

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<sup>3</sup> The levy applies to broadcasters with annual revenue of over \$500,000, equivalent to 0.00051 percent of that revenue. In 2023/24 it provided around \$0.75m.

<sup>4</sup> Previous work led by the Department of Internal Affairs took a harm minimisation approach to designing a more coherent content regulation regime. It proposed one overarching body to regulate media content, including social media. This work was closed in May 2024 without changes being implemented.

<sup>5</sup> 'Professional media' would need further work to define, but the intent is to capture organisations that commission, produce, and/or directly pay for media content and distribute it as their primary business. At this stage it would not capture social media, search engines, or hosts of primarily user-generated media.

*Funding for the regulator will need to be examined closely*

- 20 Given the BSA's cost pressures from decreasing levy revenue, its annual funding increased to \$1.009 million in 2024/25 (set in Budget 2022).
- 21 Input from consultation and detailed design is needed to quantify costs (and benefits) and ensure funding arrangements are appropriate, efficient, and effective. The discussion document therefore leaves open the question of funding for the regulator, including the future of the existing broadcasting levy.
- 22 However, I am conscious that funding arrangements will affect both the feasibility of, and sector support for, reform. Any policy proposals I bring back to Cabinet will be informed by the Government's ongoing priority of reducing Crown debt and rationalising taxpayer spending, s9(2)(f)(iv)

***Streamlining Crown content funders***

- 23 Alongside Te Māngai Pāho (which promotes te reo Māori and tikanga Māori through funding for Māori language programming) public funding for television and film content has traditionally been administered by NZ On Air and the Film Commission respectively. Each entity retains specific functions and mandates, but there is increasing crossover in their screen-related work.
- 24 NZ On Air and the Film Commission (with Te Māngai Pāho) have pursued more collaboration and alignment, including co-funding. Options for regulatory change could provide more formal and enduring coherence, and a modern, efficient and effective system for administering funding for media content.
- 25 The Minister for Māori Development and I have agreed that, given the specific mandate of Te Māngai Pāho and his current focus on opportunities to improve functions and outcomes across Māori language entities, the scope of my work should exclude Te Māngai Pāho. I am committed to working with the Minister, and my officials with Te Puni Kōkiri, throughout the detailed design phase to ensure appropriate consideration of and outcomes for Māori content funding and the Crown's Treaty obligations across all three entities.

*Proposal for consultation: consolidate NZ On Air and the Film Commission*

- 26 I am proposing to consult on the option of combining NZ On Air and the Film Commission into a single entity, with modernised governing legislation. This would create opportunities for more strategic funding, that can look across the breadth of the screen sector and build on each entity's existing strengths (which cover both local and international impact). Initial analysis suggests this will result in a more efficient, effective, and durable model than modernising and streamlining each entity individually.
- 27 Alongside the transitional costs, which would require further work and detailed design to quantify, I am conscious that structural change has the potential to cause significant disruption to our media and content production sectors. If this proposal progresses, careful planning and well-managed implementation will be needed to minimise direct and indirect transition costs.

*There are options around the functions to be consolidated*

- 28 The document seeks feedback on whether and how to incorporate NZ On Air functions beyond screen content funding. These functions currently include funding for non-audiovisual content (including music, podcasts, and some news and current affairs), as well as for public media platforms.
- 29 Factors that would guide further work on the breadth of a consolidated entity's mandate include the likelihood of continued media 'convergence' over time, the prospect of other 'homes' for some or all of the other funding currently administered through NZ On Air,<sup>6</sup> and the administrative implications of dividing up functions currently performed by one entity.

***Increasing investment into and engagement with local content***

*A range of factors are limiting investment into and engagement with local content*

- 30 Global platforms commission more local content in other jurisdictions (including Australia) than in New Zealand, and the little local content that is available on global platforms can be difficult to find. Harnessing opportunities in this area will help to bolster the local content production sector and could ensure greater audience and market exposure – both here and internationally.
- 31 Compared to global platforms, local apps and channels are less prominent on smart TVs, and these prominence issues are likely to grow.<sup>7</sup> Given these local services carry the majority of local content (particularly news and current affairs), this will continue to have an impact on New Zealanders' engagement. Previous attempts to encourage voluntary solutions have not been fruitful.
- 32 There are also specific barriers to engagement with local content for those with accessibility needs. While Government provides some funding for captioning and audio description (CAD), no legislative obligations apply and local platforms provide comparatively low levels of CAD. These factors also present risk for New Zealand in respect of our obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

*Overseas, regulation is supporting local content production and engagement*

- 33 Overseas moves highlight an opportunity to ensure that global streaming platforms contribute more to the New Zealand content production sector, and to better enable New Zealand viewers to engage with local content:
- 33.1 Jurisdictions such as Canada and the European Union have implemented requirements for global streaming platforms to support local content, via requirements for direct investment, contribution to funding streams, and/or mechanisms to facilitate discoverability. Australia has been considering similar mechanisms.<sup>8</sup>

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<sup>6</sup> A key example is Radio New Zealand funding; while NZ On Air's delivery of this funding may support a sense of independence from Government, the quantum is determined through the Budget process. It may therefore be more efficient and transparent for this funding to be allocated directly.

<sup>7</sup> Freeview noted in August 2023 that no local apps come pre-installed on the newest LG and Samsung TVs. Only TVNZ+ is pre-installed on TVs using Google's operating system, and Māori+ has the lowest prominence levels of the local services. TV manufacturers are increasingly partnering with global operating systems like those provided by Google and Amazon, which leave less autonomy in relation to prominence.

<sup>8</sup> In November, media reports suggested plans to introduce local content investment requirements on global streamers had been paused in part due to Australia's trade arrangements with the United States.

33.2 In mid-2024, Australia and the United Kingdom both enacted legislation to ensure local TV services are available and accessible on smart TV devices. Since 2018 the European Union has allowed Member States to take measures to ensure the prominence of local media services (to date France, Germany and Italy have proposed specific rules).

33.3 In Australia most broadcast TV providers must carry captions from 6am to midnight, subscription TV services have annual captioning targets, and requirements for audio description are currently before the Senate. The UK, Canada, and the United States have similar requirements.

*Proposal for consultation: local content investment and discoverability obligations*

34 The consultation document proposes a requirement on audiovisual media platforms (including broadcasters) to directly invest a portion of revenue into local content production. This would provide ongoing independent support for industry and ensure new local content was available to keep New Zealanders (and overseas audiences) engaged. It also proposes obligations to ensure local content is easier to find on those platforms.

35 If progressed, further work will be required to determine how the investment requirements would be calculated, and whether (potentially over time) sub-requirements could target certain categories of local content.

*Proposal for consultation: require a basic level of prominence for local TV services*

36 The consultation proposal would require smart TVs to ensure local TV services are pre-installed with a basic level of prominence – provided their apps were up to date and compatible with regulated devices. Smart TVs would also need to ensure ease of access to local free-to-air linear channels.

37 This proposal mirrors the Australian approach of ‘must carry’ obligations. Users could still reorganise home pages to suit viewing preferences. The ability to enter commercial deals for prominence over and above the minimum requirements should be unaffected.

*Proposal for consultation: legislative accessibility obligations and progressive targets*

38 The proposal would require broadcasters and streaming services to provide equitable access to their content. Detailed requirements, in secondary legislation or developed by the media regulator proposed above, would provide progressive targets for levels of CAD to be implemented over time.


39 This approach would aim to mirror approaches taken in other jurisdictions, and address New Zealand’s obligations under the UNCRPD as well as long-standing calls for reform from disability stakeholders and human rights watchdogs.<sup>9</sup> Progressive targets should help to ensure feasibility and manage compliance costs, which further work will be required to quantify. CAD targets could potentially follow a capability-building period, given the varying levels of existing technological capability across platforms.<sup>10</sup>

<sup>9</sup> The UN’s 2022 report on New Zealand’s implementation of UNCRPD noted concerns about our CAD settings, including a recommendation to “adopt legislation to ensure captioning and audio description is provided on television channels”. An April 2024 select committee report, on a petition to legislatively require captioning, noted that my media modernisation work provides an opportunity to update regulatory systems around CAD.

<sup>10</sup> Only around half of local platforms have capability for live captioning, and only TVNZ’s broadcast channels currently allow audio description. Global platforms provide significantly more CAD than local platforms.

- 40 Current funding for CAD is primarily focused on free-to-air broadcast content.<sup>11</sup> UN recommendations suggest funding security should be provided alongside legislative requirements for CAD. Without pre-empting Budget decisions, I note government funding will also be integral (at least in the short term) to mitigate the compliance burden and associated sustainability concerns for local platforms around new proposed legislative obligations.

s9(2)(h)



#### **Next steps and implementation**

- 44 Subject to Cabinet agreement, I expect consultation on the discussion document would commence in the first quarter of 2025. Further, targeted engagement through mid-2025 on any proposals to be progressed will ensure workable and appropriate design, taking into account Budget 2025 decisions.
- 45 I recommend Cabinet invites me to report back with final policy proposals later in 2025. Subject to approvals and the 2025 Legislation Programme, draft legislation could be presented to Cabinet in early 2026. I expect Cabinet decisions on any proposed legislation with fiscal implications would be subject to Vote reprioritisation and/or Budget processes.
- 46 I would expect any structural changes to Crown entities (NZ On Air, the Film Commission, and the BSA) to involve carefully planned implementation.

#### **Cost-of-living Implications**

- 47 Initial analysis has identified the risk of some compliance costs being passed onto media consumers. Consultation will help to quantify this potential. Should proposals progress into detailed design, I will be focused on ensuring both industry compliance costs and costs to consumers are minimised.

#### **Financial Implications**

- 48 Releasing the discussion document has no direct financial implications. The costs and benefits of proposals, for Government and media businesses and

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<sup>11</sup> NZ On Air currently provides \$4.9m annually to Able, a New Zealand not-for-profit that provides captioning, subtitling, and audio description services.

both one-off and ongoing, require consultation and further detail to quantify (including to reflect any Budget 2025 decisions).

- 49 My report-back to Cabinet on any proposals I recommend to progress will include a detailed plan for minimising and managing costs, and on whether and how proposals could create ongoing savings to offset one-off costs. As noted above, any legislation with fiscal implications would be subject to Vote reprioritisation and/or Budget decisions.

### Legislative Implications

- 50 Legislation would be required to progress the proposals. The 2024 Legislation Programme includes the Media and Content Modernisation Bill as category 7: policy development to continue in or beyond 2024 [CAB-24-MIN-0127 refers].

### Impact Analysis

- 51 Interim regulatory impact statements (RIS), attached, cover each of the proposals developed for consultation; one each for modernising professional media regulation and arrangements for Crown content funding, and one for the three initiatives to support local content production and accessibility.
- 52 A Quality Assurance Panel with representatives from MCH and DIA has reviewed each, and consider they **meet** the quality assurance criteria for interim RISs. The panel's comments are **set out** in the table below.

Interim RIS	QA Panel Comment
Modernising professional media regulation	The analysis is thorough but of an appropriate length and level of detail, with some of the more technical aspects clearly explained. Limitations and constraints, and their potential impacts, are clearly communicated. Most of the criteria used to compare options to the status quo are logical and well-founded. Further sector consultation and cost/benefit analyses are required to fully inform options for Ministerial decision making. The Panel considers the RIS provides sufficient information to inform decisions to consult on the proposals.
Streamlining Crown content funders	The analysis is robust and balanced and options are set out clearly and concisely. Limitations and constraints, and their potential impacts, are clearly articulated and understood. Further sector consultation and cost/benefit analyses are required to fully inform options for Ministerial decision making. The Panel considers the RIS provides sufficient information to inform decisions to consult on the proposals.
Supporting local audiovisual content production and accessibility	The analysis is robust and balanced and supported by a good analytical framework. The options are set out clearly and concisely and the context for the policy intervention is well canvassed. Limitations and constraints, and their potential impacts, are clearly articulated and understood. Further sector consultation and cost/benefit analyses are required to fully inform options for Ministerial decision making. There is also a need for further detailed work on the impact of New Zealand's existing trade agreement commitments. The Panel considers the RIS provides sufficient information to inform decisions to consult on the proposals.

- 53 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal, as the threshold for significance is not met.

### Population Implications

- 54 The proposals included in the consultation document will have implications for a range of population groups. Key impacts are summarised in the table below.

Population group	How the proposals may affect this group
Māori	<p>Requiring investment into local content from media platforms is likely to support more exposure for Māori stories and storytellers on screen (noting local screen productions that have historically had the most commercial and international success, which is where investment is likely to be directed, are often Māori stories). Care will need to be taken to ensure appropriate safeguards are in place to preserve narrative sovereignty and authenticity.</p> <p>Supporting access to local channels and platforms on TV through basic 'prominence' requirements for local media will have specific impacts for Whakaata Māori (and its digital platform Māori+), which are currently less accessible than other local platforms. This will support Māori audiences (and all New Zealanders) to more easily find Māori language and cultural content.</p> <p>Māori are overrepresented in New Zealand's disabled community – while official disability statistics do not currently disaggregate hearing and sight difficulties based on demographic, more CAD is likely to provide specific benefits for Māori.</p>
Children and young people	<p>Children and young people primarily engage with media content online and on demand, and are watching less local content than in the past. Modernising media regulation to encompass digital professional media platforms will help ensure young audiences are engaging with quality-assured content. Supporting local content on digital platforms will encourage young people's engagement with that content, keeping them connected with their culture and stories.</p>
Seniors	<p>Basic 'prominence' requirements for local channels and platforms will have specific benefits for non-digital natives and older audiences. Older New Zealanders, who experience more hearing and sight difficulties, will also benefit from greater captioning and audio description.</p>
Disabled people	<p>CAD supports access to media content for those with hearing and sight difficulties. Captioning enhances engagement for people with learning and intellectual disabilities. More CAD will support disabled people's access to local content (particularly as media and audiences are increasingly online and on-demand, where local platforms currently provide fewer accessibility options).</p>
Pacific peoples Ethnic communities	<p>Pacific and Asian communities are more engaged with online and on-demand content, and less engaged with traditional broadcast content, than the general population. Modernised regulation of professional media platforms will support engagement with standards-compliant content for these communities.</p> <p>Initiatives around 'local' content should include representation of these growing segments of the population, promoting preservation of culture, identity and belonging (for both audiences and storytellers within the screen workforce).</p> <p>Captioning also supports engagement for those with less English proficiency, so will have particular benefits for non-native speakers.</p>

## Human Rights

55 No inconsistencies with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993 have been identified.

## Use of external resources

56 No external resources such as contractors or consultants have been engaged or remunerated in the preparation of policy advice behind this paper.

## Consultation

57 The Treasury, the Ministry for Regulation, the Public Service Commission, the Department of Internal Affairs, the Ministry of Foreign Affairs and Trade, the Ministry for Business, Innovation and Employment, Te Puni Kōkiri, the Ministry for Pacific Peoples, Whaikaha – the Ministry of Disabled People, the

Office for Seniors, the Ministry for Ethnic Communities, the Parliamentary Counsel Office, and the Department of the Prime Minister and Cabinet were consulted on this paper.

- 58 The BSA, NZ On Air and the Film Commission (Crown entities) were consulted on proposals related to their organisations, including on the relevant interim regulatory impact statements and the draft consultation document.

### Communications and Proactive Release

- 59 Subject to Cabinet decisions, I propose to release the public consultation document early in 2025. Given ongoing media interest in Government action to support the media sector, I will work with the Prime Minister's office and other offices as necessary to confirm appropriate arrangements.
- 60 I intend to proactively release this paper, subject to redactions as appropriate, at the time the consultation document is released.

### Recommendations

- 61 The Minister for Media and Communications, and for Arts, Culture and Heritage, recommends that the Committee:
- 1 **note** that the 2024 Legislation Programme includes a Media and Content Modernisation Bill as category 7 (policy development to continue in or beyond 2024) [CAB-24-MIN-0127 refers];
  - 2 **note** that work on the Media and Content Modernisation Bill aims to create fit for purpose regulation, support thriving, independent media and content production, and ensure positive outcomes for New Zealanders;
  - 3 **note** that initial proposals have been developed for consultation that, subject to detailed design, final policy approvals, and any Budget decisions required, could be included in the Bill;
  - 4 **approve** the release of a consultation document (along with associated interim regulatory impact statements), containing high level proposals to modernise media regulation and funding arrangements and introduce requirements to support local content production and engagement;
  - 5 **authorise** the Minister for Media and Communications and the Minister for Arts, Culture and Heritage to make any minor and technical changes (including to align with Budget direction) to the draft consultation document prior to release that are consistent with Cabinet's approvals;
  - 6 **invite** the Minister for Media and Communications and the Minister for Arts, Culture and Heritage to report back to Cabinet in late 2025 with final policy proposals; and
  - 7 **note** funding for any final policy proposals would be subject to Vote reprioritisation s9(2)(f)(iv) and to Budget decisions.

Authorised for lodgement

Hon Paul Goldsmith

Minister for Media and Communications and Minister for Arts, Culture and Heritage