

The Chair  
Cabinet Economic Development Committee

## **MINISTERIAL ADVISORY GROUP: ALLOCATION OF FUNDING AND ROLE OF A PUBLIC MEDIA FUNDING COMMISSION**

### **Proposal**

- 1 This paper seeks Cabinet's approval to convene a Ministerial advisory group to advise on establishing a Public Media Funding Commission (the Commission), and on the allocation of any public media funding agreed to in Budget 2018. A final Cabinet decision on the Commission will be sought in mid-2018.
- 2 The paper asks that the Minister of Broadcasting, Communications and Digital Media be delegated the authority to finalise terms of reference for the Ministerial advisory group and makes recommendations on its funding arrangements and membership.

### **Executive summary**

- 3 New Zealand's levels of funding for public media and levels of local content on television are low by the standards of developed countries, and there have been prolonged periods of static funding. A continuing loss of advertising revenue to international aggregating sites threatens the production of quality journalism in the private and other commercial media. At present, the contribution of both private and public media to supporting an informed democracy is not as strong as it ought to be, or could be.
- 4 In response to this situation, the Government has three main existing tools to support the creation of local content: i) ownership of public broadcasters, ii) making funding available and iii) regulation (e.g., licence conditions, targets).
- 5 I intend using the first two of these tools to strengthen New Zealand's public media system. I do not favour new regulation at this stage as it is unlikely to be effective in New Zealand's small market. I have submitted a Manifesto Initiative seeking an additional \$38 million annually for public media in Budget 2018. This new money would be allocated between Radio New Zealand (RNZ), expanded to become a full multi-media service ("RNZ+"), and the contestable funding agency NZ On Air.
- 6 A further measure, signalled before the Election, goes beyond existing options and aims to prevent the problems that have affected the media sector in recent years from recurring. I am investigating the establishment of a Public Media Funding Commission to advise Parliament, government and the public on the state of New Zealand's media "ecosystem", and of public media within it. It would provide an authoritative view on the levels and allocation of funding necessary for our public media to be resilient and sustainable.

- 7 The Public Media Funding Commission would be an independent and non-political voice for media organisations that are in the inevitable but difficult position of holding to account governments on which they may depend for funding. In advising on the state of the media environment, the Commission would play a role broadly analogous to that of the Parliamentary Commissioner of the Environment, although it need not be an Office of Parliament and can be convened periodically. I am recommending that a Ministerial advisory group be set up to advise me in detail on the role, scope and possible functions of a Commission, and on alternatives to it, and on the allocation of media funding in the 2018 Budget.
- 8 Depending on the advisory group's advice, I intend that the establishment and final role of a Commission will be the subject of a further proposal to Cabinet later in 2018.
- 9 Draft terms of reference for the advisory group are attached to this paper, and I recommend that I as the Minister of Broadcasting, Communications and Digital Media be delegated the power to finalise them. This paper also recommends funding for the group for up to 18 months of \$1.381 million across the 2017/18 and 2018/19 financial years. This will allow the advisory group to continue to advise and assist with the establishment of a Commission, if that is confirmed by Cabinet. I propose that this sum be met from the between-Budget operating contingency established as part of Budget 2017.

## **Problem Definition**

### *The present situation: market failure and pressure on public media*

- 10 In all democracies the media play a critical role in holding public and private institutions to account and in reporting on the government of the day. In New Zealand's small market, the government is a key source of funding for public media as a public good, and may be called on increasingly to support private media that have traditionally been self-supporting. This is because, in common with many other OECD countries, our media are facing a loss of advertising revenue to aggregating platforms such as Google and Facebook. (In their submission to the Commerce Commission in support of their intended merger, NZME and Fairfax showed that Google alone received approximately 37 per cent of all online advertising revenue in New Zealand, with Facebook making up another 18 per cent. Online advertising in 2016 reached 34.6 per cent of all advertising.)
- 11 This trend is straining the business models of private and other commercial media companies (such as the publicly owned TVNZ), threatening their ability to practice journalism in depth, and limiting media plurality in New Zealand, as evidenced by recent attempted mergers.
- 12 In contrast to most other countries in the OECD, New Zealand has a restricted range of public media. That is, it has a well-regarded public radio service, but lacks a public television service – and associated online services – aimed at a general audience. The Government has, for the time being, asked TVNZ to continue as a fully commercial broadcaster, but its sustainability under this model requires, and will receive, review.

- 13 New Zealand does not have the economies of scale of larger English-speaking countries and, with ready access to large amounts of overseas content in English at relatively low cost compared to local production, has not felt obliged to produce local content at high levels. Because of this, and because of funding levels over the years, its proportion of local (i.e., not sourced from overseas) content on television is relatively low.<sup>1</sup> Low levels of funding for public media and the prospect of reduced competition in the wider media risk the erosion of high quality journalism and other content.
- 14 As a result of these trends and characteristics, the contribution of both private and public media to supporting an informed democracy is not as strong as it ought to be, or could be.

### **Policy responses**

- 15 In response to these conditions in the media sector, I have reviewed the options available to the Government. In relation to broadcasting and the media, governments, broadly, have a choice of three main policy tools to ensure that desired forms of content are produced: owning broadcasters, providing funding for content, and regulation. Of these, New Zealand mainly uses two: the direct ownership (with associated funding) of broadcasters such as Radio New Zealand and the Māori Television Service, and the provision of contestable funding for individual programmes and other content, through the funding agencies NZ On Air and Te Māngai Pāho. Forms of regulation not involving funding or standards, such as licence conditions relating to content, or quotas or targets, are used only to a limited extent. Such tools, as well as being relatively complex to administer, are ineffective in a market of New Zealand's size unless backed with funding. More direct interventions based on funding, rather than regulation, tend therefore to be most effective.
- 16 There is no scope for reprioritisation between existing forms of funding in a way that would enhance the levels or quality of local content overall. In order to achieve better results from our interventions the question of funding levels has had to be addressed.
- 17 Better use of existing policy tools could have an immediate impact on addressing the problems outlined in paragraphs 10-14, and better realising the benefits of public broadcasting in providing information and content that explores aspects of the nation's life and the international scene. I propose to expand RNZ into a full multi-platform public media service, and also to increase funding for NZ On Air. I am considering options for a public service television channel for a general audience.

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<sup>1</sup> The prime-time share of local content has declined the last decade, from 43.3 per cent to 31 per cent in 2016 (and that figure was boosted by Olympics coverage and the funding agency NZ On Air drawing on its reserves). In Australia, by contrast, mandatory quotas require a minimum of 55 per cent Australian programming between 6 am and midnight on main channels. A 2014 survey undertaken for the Canadian Broadcasting Corporation found for New Zealand an annual per capita funding figure of approximately \$C42, compared with \$C57 for Ireland and Australia, \$C114 for the U.K., the mid \$C120s for Finland, Denmark and Sweden, and \$C180 for Norway.

- 18 Additional funding of \$38 million is being sought in Budget 2018, primarily to support RNZ's expansion and to increase funding for NZ On Air, but also to contestably support journalism more widely. RNZ and NZ On Air are currently preparing business cases for the use of additional funding, to deadlines consistent with the Budget timetable.
- 19 To help prevent the recurrence of the problems outlined, a further proposal goes beyond existing tools: the proposed establishment of a Public Media Funding Commission. Its role would be to comment publicly on the state of New Zealand's media "ecosystem", and of public media within it, and provide an independently authoritative view on the levels and allocation of funding necessary for our public media to be resilient and sustainable. It would thus be a measure to address the longer-term, chronic and developing features of our media discussed above. It would be a public voice, reporting to Parliament, and in this way analogous to the Parliamentary Commissioner for the Environment and some other agencies (although it need not be an Office of Parliament to play this role – alternative forms are available – and it can be convened periodically).
- 20 Not all sectors or areas of New Zealand life require an independent voice to Parliament of this kind. But if there is another that could benefit from such a voice the media have a strong claim. There is, in a sense, a conflict of interest in having governments funding public broadcasters or programme-makers that, in their content, are holding those same governments to account. When funding levels remain static for extended periods – as they have at times in our history – the government of the day tends to be vulnerable to the suspicion that funding decisions are influenced by this conflict of interest. A Commission playing a watchdog role on government's interventions and policies would provide a public voice outside the arena of this conflict. Its independence would give it a status that the obvious alternatives - departments advising government privately, or existing Crown entities with their specialised roles - do not have.

### **Ministerial advisory group**

- 21 I am not, however, attempting to make a full case for the Commission in this paper or to treat it as a *fait accompli*. I am proposing that a Ministerial advisory group examine and advise me on the role, scope and detailed functions of a Commission, and on alternatives to it, and that I then report back to Cabinet in mid 2018. The advisory group would also advise on the allocation of any public media funding agreed in Budget 2018, an injection of external expertise that I would wish to continue with, whether the Commission is established or not. If it proceeds, the Public Media Funding Commission would need to be established by legislation, and my report back would provide further advice on its form and detailed functions. A legislative bid has been submitted as a place-holder for a Bill to be introduced in the second half of 2018, if the Commission is confirmed.
- 22 I have considered whether an advisory group is necessary to provide advice on the Commission proposal. I have concluded that, while officials can draw on independent expert advice in a more ad hoc way, to do so would incur some of the expense without the full benefits, including continuity of expert advice, of an advisory group. A standing group is also better placed to move on to a transitional and preparatory role, if the Commission is confirmed.

- 23 The proposed roles of the advisory group are thus to:
- i provide advice to the Minister of Broadcasting, Communications and Digital Media on the allocation of the \$38 million, or \$152 million over four years, that will be sought for public broadcasting as a manifesto initiative in Budget 2018, to the extent that funding is granted, and work with RNZ and NZ On Air to evaluate their business cases
  - ii advise on options to address the problems identified in paragraphs 10-14
  - iii. advise on the functions, role and scope of a potential Public Media Funding Commission, and on alternatives to it
  - iv. advise on the Commission's initial membership, should Ministers wish to proceed with that option
  - v. any further functions to be determined by the responsible Minister from time to time.
- 24 Draft terms of reference for the advisory group are attached. I propose that the group has a maximum of five members, having between them experience and expertise in governance, the media, business and the public service.
- 25 I propose that the Minister of Broadcasting, Communications and Digital Media be delegated authority to finalise the attached draft terms of reference. This will allow me to obtain feedback on the terms of reference from the members being appointed to the advisory group.
- 26 As a Ministerial advisory group it would report directly to me. The Ministry for Culture and Heritage, as the lead department advising on broadcasting and media issues, would provide secretariat services and consult with the advisory group on options for the Commission and the allocation of new public media funding. If the Commission is confirmed, I will propose that the advisory group continue as a transitional committee, for up to a further 12 months, in preparation for the Commission's establishment; otherwise, its role can be ended earlier.
- 27 I propose that the group consists of Michael Stiassny as Chair and Sandra (Sandi) Beatie, s9(2)(a) Josh Easby and Irene Gardiner as members. These proposed members have all indicated, in principle, a willingness to serve.
- 28 Michael Stiassny of Auckland is a fellow of Chartered Accountants Australia and New Zealand and is retiring as a partner of KordaMentha in Auckland. He is a director of a number of public and private companies and is Chairman of Vector, Ngāti Whātua Ōrākei Rawa Limited and Tower Limited. Michael is a fellow and former president of the Institute of Directors in New Zealand.
- 29 Sandi Beatie of Kapiti served as Deputy State Services Commissioner from 2013–2015. Prior to that she was Deputy Chief Executive at the Ministry of Justice and the Department of Corrections, where she established a strong reputation for organisational performance and change management. Ms Beatie is an independent Performance Improvement Framework reviewer and has an in-depth understanding of Crown connected organisations.

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s9(2)(a)

- 31 Josh Easby of Cambridge was a director and then deputy chair of Radio New Zealand from 2010 to 2016. He has had an extensive business career, particularly in the media and broadcasting sectors. From 1999 to 2006 he was the business development director of GCap Media, the then largest commercial radio operator in the United Kingdom. He then served as the chief executive, change management division, of the APN Group, a significant Australasian media group. Mr Easby is currently the managing director of digital book publisher Hurricane Press Ltd, a company that is owned by his family interests.
- 32 Irene Gardiner of Auckland is an experienced television producer, director and consultant. After qualifying and working as a print journalist, she spent her early broadcasting career as a director and producer of contemporary music and children's programmes. From 1995 to 2000 she ran TVNZ's internal production unit with responsibility for 100 staff. She was promoted to the role of TV One commissioning editor and then assumed the role of head of commissioning. From 2003 to 2009 she was a freelance executive producer for a wide range of programmes. In 2009 she was appointed as content director of NZ On Screen, a position she held until 2016. She is currently a freelance television consultant. She has also held office as a board member of the Screen Production and Development Association.

#### **Remuneration of Chair and Members**

- 33 The fees for the advisory group are subject to the Cabinet fees framework. The Ministry for Culture and Heritage has classified the advisory group as a group 4, level 1 entity. The proposed fee for the Chair is \$820 per diem and for members \$520 per diem. These fees are within the appropriate fee ranges.

#### **Appointment Process and Consultation**

- 34 I can confirm that an appropriate process, in line with the State Services appointment guidelines, is being followed in selecting the proposed Chair and members. The process includes considering the suitability and skill sets of nominees, having regard to the terms of reference, consulting the Ministry for Culture and Heritage's database of potential candidates, discussing relevant matters with stakeholders, reviewing CVs, considering diversity and related matters and holding discussions with intended appointees.
- 35 This process is appropriate given the need for the advisory group to be in place as soon as possible and to ensure that it consists of persons appropriate to the role and importance of the group.

#### **Conflicts of Interest**

- 36 Appropriate inquiries concerning conflicts of interest have been carried out in accordance with the SSC appointment guidelines. No specific conflicts have been identified. Because three of the advisory group members have extensive sector backgrounds, it is possible that conflict of interest matters may arise from time to time. The Chair is a very experienced board member and chairperson and appropriate conflict of interest protocols will be in place. I am confident that any such matters can be appropriately managed.

### **Term of advisory group**

- 37 It is proposed that the expiry date for the advisory group be 30 June 2019. This date is also subject to the following:
- a. the Chair and/or a member may resign in writing to the Minister of Broadcasting, Communications and Digital Media
  - b. the Minister of Broadcasting, Communications and Digital Media may advise the Chair or a member, in writing, that their term is to expire on such earlier date as specified
  - c. if the establishment of the Public Media Funding Commission is confirmed but it is not established by 30 June 2019, advisory group members may continue in office beyond this date at the discretion of the Minister until the Commission is established and its members are appointed.

### **Risks**

- 38 The advisory group's advice on the Commission's role and functions will help to mitigate the risk that the Commission may be criticised as adding a "layer of bureaucracy" to existing state media arrangements. This risk can be also mitigated by emphasising the role of the Commission, once established, in providing independent advice to Parliament on funding levels. This will provide a transparent and non-political process by which a government's funding decisions may be judged.

### **Next steps**

- 39 Following the appointment of the advisory group members, I will arrange for the group to be convened as soon as practicable. I propose to bring advice to Cabinet on the form and detailed functions of a Public Media Funding Commission in mid 2018.

### **Consultation**

- 40 The Ministry for Culture and Heritage has consulted the following agencies on this Cabinet Paper: the Treasury, Te Puni Kōkiri, the State Services Commission, the Ministry of Business, Innovation and Employment, and the Department of the Prime Minister and Cabinet.

### **Financial Implications**

- 41 As noted, the Ministry for Culture and Heritage will provide administrative and secretariat support for the Ministerial advisory group. In addition to sitting fees, there will be costs associated with travel and accommodation, and an operating budget to enable the group to carry out its functions. This will include a budget for expert evaluation of the business cases referred to in paragraph 18 that are being prepared by RNZ and NZ On Air. I estimate budget requirements for the balance of 2017/18 will be \$0.516 million and that the budget for 2018/19, if an intention to proceed to establish a Public Media Funding Commission is confirmed, will be up to \$0.865 million.
- 42 I propose that these costs be met from the between-Budget operating contingency established as part of Budget 2017.

### **Human Rights**

- 43 This paper does not raise any human rights implications.

### **Legislative Implications**

- 44 This paper does not have any immediate legislative implications. However, the advisory group's advice will inform the development of advice to Cabinet on the proposed Public Media Funding Commission and on draft legislation if the establishment of a Commission is confirmed.

### **Regulatory Impact Analysis**

- 45 A Regulatory Impact Statement is not required for this paper as it does not introduce or modify regulations. As noted, establishing a Commission will require legislation. A Regulatory Impact Statement will be prepared as part of the policy process for the development of that legislation, if the Commission's establishment is confirmed.



## Recommendations

46 The Minister of Broadcasting, Communications and Digital Media recommends that the Committee:

1. **Note** that, as a result of adverse trends in the media sector, and past funding decisions, the contribution of both private and public media to supporting an informed democracy needs to be strengthened;
2. **Note** that the Minister of Broadcasting, Communications and Digital Media (the Minister) has investigated options for addressing the problem stated in recommendation 1;
3. **Note** that the establishment of a Public Media Funding Commission was a key component of the policies announced before the Election;
4. **Agree** that a Ministerial advisory group be convened and that its key roles will be to:
  - 4.1 provide advice to the Minister of Broadcasting, Communications and Digital Media on the allocation of the \$38 million, or \$152 million over four years, that will be sought for public broadcasting as a manifesto initiative in Budget 2018, to the extent that funding is granted, and work with RNZ and NZ On Air to evaluate their business cases
  - 4.2 advise on options to address the problem identified in recommendation 1
  - 4.3. advise on the functions, role and scope of a potential Public Media Funding Commission, and on alternatives to it
  - 4.4. advise on the Commission's initial membership, should Ministers wish to proceed with that option
  - 4.5 any further functions to be determined by the responsible Minister from time to time;
5. **Approve** the following changes to appropriations to give effect to the policy decision in recommendation 4 above, with a corresponding impact on the operating balance:

Vote Arts, Culture and Heritage Minister of Broadcasting, Communications and Digital Media	\$m – increase/(decrease)				
	2017/18	2018/19	2019/20	2020/21	2021/22 & Outyears
Multi Category Expenses and Capital Expenditure: Policy Advice, Monitoring of Funded Agencies and Ministerial Services Departmental Output Expenses: Policy Advice (funded by revenue Crown)	0.516	0.865	-	-	-

6. **Agree** that the expenses incurred in recommendation 5 above be a charge against the between-Budget operating contingency, established as part of Budget 2017;

7. **Agree** that the proposed changes to appropriations for 2017/18 be included in the 2017/18 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;
8. **Note** the attached draft terms of reference for the advisory group;
9. **Note** my intention to appoint Michael Stiasny of Auckland as the Chair, and Sandra (Sandi) Beatie of Kapiti, s9(2)(a) Josh Easby of Cambridge and Irene Gardiner of Auckland, as members to the Ministerial advisory group for terms commencing on the date of appointment and expiring on 30 June 2019 subject to standard appointment provisions;
10. **Agree** to delegate to the Minister of Broadcasting, Communications and Digital Media the authority to finalise the advisory group's terms of reference; and
11. **Invite** the Minister to report back to Cabinet in mid 2018 on the proposal to establish a Public Media Funding Commission, informed by the advisory group's advice.

Authorised for lodgement  
Hon Clare Curran  
**Minister of Broadcasting, Communications and Digital Media**