

Discussion Document

Media Reform

Modernising regulation and content funding
arrangements for New Zealand



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How to have your say

We want to hear your views on how New Zealand's media legislation should be modernised to be fit for purpose in the current environment.

This document includes questions to guide submissions. You can choose to respond to any or all of these questions.

How to make your submission

All submissions are due by 11.59 pm, Sunday 23 March.

If you want to make a submission addressing the questions in this document, you can [complete the survey](https://research.net/r/MCH_Media_Reform_Survey). (research.net/r/MCH_Media_Reform_Survey)

Alternatively, you can provide a more detailed written submission by either:

Sending your submission to: mediaandscreen@mch.govt.nz

Mailing your submission to:

Media and Screen Policy
Manatū Taonga Ministry for Culture and Heritage
PO Box 5364
Wellington 6140

If you have any questions about the submissions process or would like to request a phone call, please contact mediaandscreen@mch.govt.nz.

Use and sharing of information

The Ministry will use the information you provide to inform advice to government about modernising the media and content production sector. We may contact you directly if we want to clarify any matters you raise.

Submissions are subject to requests under the Official Information Act 1982. Please clearly indicate in the cover letter or e-mail accompanying your submission if you have any objection to the release of any information in the submission, and which parts you consider should be withheld, together with the reasons for withholding the information. The Ministry will take such objections into account when responding to requests under the Official Information Act 1982.

The Privacy Act 2020 applies to submissions. Any personal information you supply to the Ministry while making a submission will only be used to assist in the development of policy advice. Please clearly indicate in the cover letter or e-mail accompanying your submission if you do not wish your name, or any other personal information, to be included in any summary of submissions that the Ministry may publish.

Message from the Minister

It is clear the media and content production sector is facing complex challenges. We now live in a time where audiences have unprecedented access to global media, making competition for viewers and advertising intense. However, much of the legislation underpinning our media landscape is outdated and stifling innovation.

As the Government, we look to ensure regulatory settings treat all players equally, and don't create unnecessary barriers. We have an interest in local production and a strong media, while realising it's up to individual businesses to determine how best to respond to a changing market. The Government cannot solve these issues entirely.

Building on the direction and actions set out in the draft of my Creative and Cultural Strategy, Amplify, the proposals in this document seek to create a fit for purpose regulatory and funding environment to enable the sector to function well, independently and sustainably, into the future.

I want to hear from the sector and the wider public about these proposals, and how we could improve or change them to support the best outcomes for both the sector and New Zealand audiences.

Thank you for taking the time to engage on these important issues. I look forward to hearing your ideas. Your feedback will help ensure a modern, thriving and sustainable media and content production sector in New Zealand.

Hon Paul Goldsmith

Minister for Media and Communications



Part One: Context

Purpose of this consultation

The purpose of this consultation is to seek your feedback on proposals to create modern media legislation for New Zealand’s media and content production sector and New Zealand audiences.

The proposals in this document are high-level, and the Government has not decided whether to progress them. The purpose of this consultation is to ensure that your feedback informs further work and final decisions.

Introduction

An independent, well-functioning and resilient media and content production sector is essential for an open, participative democracy. Our local content informs and entertains people, encourages debate, reflects and develops our cultural identity, promotes healthy civic discourse and connects communities and business. Media infrastructure provides critical lifeline information in times of emergency.

The sector employs more than 25,000 people and contributes \$4.7 billion per year to the economy.¹ The workforce includes directors, producers, writers, actors, camera operators, TV and radio presenters, editors, journalists, sound designers and visual effects artists. The sector contributes to a highly skilled and talented workforce that supports the broader economy, drives innovation, and positively impacts tourism.



TINA behind the scenes image courtesy of the New Zealand Film Commission

1 Infometrics Media and Broadcasting sector profile 2023, commissioned by the Ministry www.mch.govt.nz/sites/default/files/2024-03/media-broadcasting-profile-2023.PDF.

There is an important role for the government to ensure that all New Zealanders can access reliable, trusted information and quality local content, which includes content that protects and promotes Māori language and culture. Aspects of the sector operate effectively without public funding, but important parts would not be present without support from the government.

Current legislative framework

Over 35 years ago, the Broadcasting Act 1989 (the Broadcasting Act) established a framework to regulate content shown on linear TV or radio to ensure that it meets community standards. The Act also set up a system to publicly fund broadcast programmes, initially by establishing NZ On Air (formally, the Broadcasting Commission). NZ On Air has a primary function to reflect and develop New Zealand identity and culture, by promoting programmes about New Zealand and New Zealand interests and promoting Māori language and Māori culture. In 1994 the Broadcasting Act also established Te Māngai Pāho, with a primary function to promote te reo Māori and Māori culture through its broadcast funding. Since 2008, both entities can also fund programmes that are transmitted on demand.

The Film Commission Act 1978 established the New Zealand Film Commission (the Film Commission) to encourage and assist with films and support the New Zealand film industry.

Media landscape

The way we consume media has changed greatly in the last thirty years. Technological advancements and increasing globalisation have brought new options (predominantly global content platforms) into the market. Audiences now have significantly more choice around where and how they consume media content, and the types of content they consume.

Since 2020, online audiovisual content providers including New Zealand streaming services² and global streaming platforms³ have attracted bigger audiences than traditional mediums. In 2024, Netflix reached 38 percent of New Zealanders daily. The most popular linear channel was TVNZ1 (34 percent). TVNZ+ reached 27 percent of the population daily.⁴

In part due to these changes, the sector is facing fundamental challenges to its viability, including sharply declining revenues for local media companies. Significant redundancies, pay cuts, and the reduction or closure of services have long-term impacts on sector capability and reduce the range of media choice for New Zealanders.

2 Local providers of professional audiovisual media content online on-demand and live streaming like TVNZ+, Māori+, ThreeNow and Neon.

3 International providers of professional audiovisual media content online on-demand like Netflix, Prime Video, Apple TV and Disney+.

4 NZ On Air, *Where Are The Audiences? 2024*.

Case for change

The current legislation for the media and content production sector is no longer fit for purpose as it is out of step with how media content is now produced and consumed and does not make room for ongoing change in the media landscape.

Audiences struggle to access locally produced content

TV broadcasters (Free to Air and Pay to View providers of linear TV including TVNZ, Warner Bros. Discovery, Sky and Whakaata Māori) have traditionally been the main providers of local content. As audiences increasingly move towards global platforms, the advertising dollars have significantly reduced. This in turn means that broadcasters are commissioning less local content. Sector reports from early 2024 suggested that broadcasters may reduce investment into local content by \$60-80 million in the coming year.

One of the intentions of the Broadcasting Act was that it would enable audiences to access more local content on all channels available at the time. Now technological changes have led to new formats for viewing content and new types of devices. Local content is no longer reaching local audiences on all platforms.

Several factors are contributing to decreased engagement with local content. Some key aspects include:

- local channels and apps can be difficult to find on the newest smart TVs and devices
- global streaming platforms carry low amounts of New Zealand content and make limited investment into local content
- low levels of captioning and audio description (particularly for on-demand and streamed local content).

Without change, New Zealanders will increasingly struggle to discover local content, missing out on the important cultural and societal benefits that seeing and hearing our stories and voices brings. This will also negatively impact the capability and workforce of the local media and production sector, with flow-on impacts on the economy.

Many countries including Australia, Canada and the United Kingdom are modernising media legislation to introduce new mechanisms to protect and promote local stories, creators and content production sectors and local TV broadcasters in the current media landscape.

Unequal playing field for local media

The broadcasting standards regime (including the Broadcasting Standards Authority and the broadcasting levy) only covers linear TV and radio, and not other content providers like streaming platforms. This makes the challenges to remain sustainable and profitable harder when competing with less regulated competitors.

As well as creating a fairer and more consistent framework, modern media legislation could help ensure quality and trusted content for consumers and ensure efficient processes that leverage industry self-regulation.

Splintered and overlapping funding entities

As well as Te Māngai Pāho, which supports programming that protects and promotes te reo Māori and tikanga Māori, the current framework for delivering public funding for media content includes NZ On Air and the Film Commission. The split between these two entities in part reflects the traditional distinction between TV and film. This distinction is increasingly blurred by shifts in how content is produced and consumed, and there are now overlaps in the entities' functions and the sectors they support.

Change could support more coherent and impactful delivery of public funding for content and industry development, particularly in the screen sector. Change could also create back-office efficiency, and support streamlined administration processes for funding applicants.

Aims

The overarching aims are:

- to create a modern and fit for purpose regulatory and funding environment,
- to support a healthy and sustainable media and content production sector that delivers authentic local content for New Zealand audiences.

Parameters for change proposals

New Zealand's obligations under trade agreements

New Zealand has obligations under international trade law to treat international content providers and creators no less favourably than domestic content providers and creators, in respect of the production, distribution, marketing, sale and delivery of content. In recognition of these trade commitments, the proposals in this document seek to ensure all media are on an equal footing. As these proposals are developed, further analysis will be completed to ensure consistency with these international obligations.

Fiscal constraints

The proposals do not include options involving new or ongoing government spending. This recognises the Government's priority of reducing Crown debt. However, the Government recognises the value of investment in media – while efficiencies are a priority, the proposals in this document do not include consideration of changes to funding levels or specific initiatives.

Scope of options

Proposals to change existing legislation only consider the Film Commission Act and parts of the Broadcasting Act that are administered by the Ministry. This means that the following areas are **not** included in change proposals:

- *Part 4A of the Broadcasting Act and Te Māngai Pāho*: Te Puni Kōkiri is responsible for administering this part of the Act, which establishes and sets out the functions of Te Māngai Pāho. Te Puni Kōkiri is leading a separate review on Māori language entities including Te Māngai Pāho.
- *Part 6 of the Broadcasting Act*: The Ministry of Justice is responsible for administering the part of the Act, which applies to Electoral Broadcasting.
- *The Films, Videos, and Publications Classification Act 1993*: The Department of Internal Affairs is responsible for administering this Act, which sets up the Classification Office and contains labelling and classification requirements for certain types of media, including some Commercial Video on-Demand content.

Other media sector initiatives

In addition to the proposals in this package, the Ministry is progressing other initiatives that seek to assist with issues facing the sector and meet the aims of this work programme. These initiatives include:

- The **Fair Digital News Bargaining Bill**, which encourages online platforms (like Google and Facebook) to contribute to the sustainable production of local news. The Bill creates a framework to support commercial deals with New Zealand news media whose content they use. If voluntary negotiations are unsuccessful, the legislation would provide a backstop mandatory bargaining process to support commercial arrangements between news businesses and digital platforms.
- The **Broadcasting (Repeal of Advertising Restrictions) Amendment Bill**, which removes advertising restrictions that apply to broadcasters (but not any other kind of media) on Sunday mornings and certain public holidays. Removing these restrictions will help to level the playing field for broadcasters and provide a financial boost to support their continued contribution to the local media landscape.

Part Two: Draft Proposals

The draft proposals that we seek your feedback on, to inform further analysis, detailed design, and Government decisions about what change to progress, are:

- 1 Ensuring accessibility of local media platforms:**
Require TV manufacturers to ensure local media services are prominent and visible on devices such as smart TVs so they can be easily found by audiences (Page 11).
- 2 Increasing investment into and discoverability of local content:**
Require streaming platforms and TV broadcasters to invest in local content and implement measures to ensure it is more 'discoverable' on their platforms, supporting the production of and engagement with New Zealand stories (Page 15).
- 3 Increasing captioning and audio description:**
Require more captioning and audio description on content that is broadcast or streamed to ensure access for disabled New Zealanders (Page 19).
- 4 Modernising professional media regulation:**
Revise the broadcasting standards regime (including the Broadcasting Standards Authority) with platform-neutral and system-level regulation of professional media (Page 22).
- 5 Streamlining Crown content funders:**
Consolidate NZ On Air and the Film Commission into a single entity, supporting efficient administration of government funding for local content and industry development (Page 27).

Draft proposal 1: Ensuring accessibility of local media platforms

What is the current situation?

Finding local content on TV is becoming more difficult for audiences as they migrate to viewing content via internet connected TV devices.

In an online viewing environment, the ‘home’ or landing screens of connected TV devices act as the gateways for audiences to access an array of content and services, including both local and international services. Manufacturers have a degree of control over the position and availability of services, applications and content, which is often referred to as ‘prominence’. Prominence affects viewership, and in turn, advertising revenue.

Prominence of local apps and channels currently varies by manufacturer and can depend on the operating system used. Some manufacturers such as Samsung and LG have their own operating systems, while others use Google or Amazon.

Local TV broadcasters have raised concerns about the current prominence levels of their services on the main smart TV home screens in New Zealand. Unlike for global content platforms, local apps are often found to not be preinstalled, or were indicated as difficult to find. For example, no local apps were found to be preinstalled on the newest LG and Samsung TVs. One model did not provide compatibility for Māori+ (the online platform for Whakaata Māori), which was found to have the lowest prominence levels of local apps.



Why is this a problem?

Research by the Royal Melbourne Institute of Technology found that about a third of surveyed people with a smart TV in their home say they don't know how to download an app onto them, and over half don't know how to customise the order and appearance.⁵ If a local app isn't on the default home screen, audiences are unlikely to go out of their way to find them.

Even where audiences are equipped to install and/or find local apps (which are increasingly likely to be 'buried' amongst international apps and content), local research suggests that the comparative inconvenience is likely to decrease engagement.⁶ These impacts are likely to be most acute in older audiences and non-digital natives.

Given that local platforms host the vast majority of local content, decreased engagement means that audiences are missing out on important societal and cultural benefits. In turn, decreased audience engagement affects TV broadcaster revenue and brand value, reducing their ability to make local content and remain financially viable. If there were fewer local broadcasters/platforms in New Zealand, this would create specific consequences for plurality and therefore accountability in terms of the vital role local news and current affairs coverage (from a variety of sources) plays in a well-functioning democracy.

What are other countries doing?

Some jurisdictions are exploring or implementing (or already have in place) measures to ensure local services are easy to find and engage with on TV devices:

- In July 2024, the Australian government passed legislation with 'must carry' provisions to ensure local Australian services are available and accessible on TV devices.
- The United Kingdom's Media Act 2024 extends existing prominence provisions for public service TV broadcasters beyond linear TV to include online viewing on TV devices. The regime will be principles-based and will include a negotiation framework with an arbitration backstop.
- The European Union's 2018 Audiovisual Media Services Directive provides that Member States may take measures to ensure the prominence of local audiovisual media services of general interest. To date France, Germany and Italy have proposed specific rules.

What is the aim?

To support New Zealanders to easily find and engage with local services and local content.

5 Smart TVs and local content prominence, February 2023,
<https://apo.org.au/sites/default/files/resource-files/2023-02/apo-nid321605.pdf>

6 Freeview market tracker, July 2024

What is the proposal?

The proposal is to introduce ‘must carry’ requirements to ensure ‘local TV services’ are pre-installed and receive a basic level of prominence in terms of positioning on the home screen on ‘regulated TV devices’ at no cost to the local service. Regulated TV devices would also be required to ensure ease of access to local free-to-air linear channels.

Broad definitions used for the key parties captured by this proposal are:

‘Local TV services’ provide free access to local content through an online streaming service or ‘app’ and have a reasonable viewership (likely to require a threshold definition). This would currently include TVNZ+, Freeview’s streaming app,⁷ ThreeNow and Māori+.

‘Regulated TV devices’ are internet-connected devices for which the primary purpose is the viewing of audiovisual content, such as smart TVs and smart TV accessories like streaming sticks. Devices with a primary purpose other than watching TV would be excluded (e.g. smartphones, computers, tablets).

‘Regulated TV manufacturers’ make regulated TV devices sold in New Zealand.

This proposed option would not regulate the prominence of individual locally produced programmes in the search function or in recommendation systems. Local TV services would also only receive prominence on the basis their apps were up to date and compatible with regulated device platforms.

Other options considered

- Reporting requirements for regulated TV manufacturers on the systems and processes they have in place to ensure appropriate prominence of local TV services.
- ‘Must promote’ requirements for regulated TV manufacturers to both carry and promote both local TV services and individual locally produced programmes at various points of interaction with users (such as recommendations) at no cost.

In addition to intervention related to TV prominence, some international jurisdictions are exploring or implementing requirements related to the prominence of local radio services on connected devices such as smart speakers and in-car entertainment systems.

These devices are now commonly used in New Zealand for audio listening⁸, and like in a

7 Several channels that carry local content but do not have their own streaming services for connected TV devices would benefit from prominence of the Freeview Streaming TV app, which streams free-to-air TV live without the need for an aerial. This includes channels such as Sky Open, Radio New Zealand’s (RNZ) TV channels and Parliament TV.

8 22% of New Zealanders own a smart speaker, increasing to 29% for those aged 16-34. The Infinite Dial, 2023 <https://www.nzme.co.nz/media/3smdzwta/infinite-dial-new-zealand-2023-presentation-final-1-nov.pdf>

TV context, act as a ‘gatekeeper’ when responding to listener voice requests, or in terms of selecting a listening app on the display screen of an in-car entertainment system. While there are parallels between radio and TV in relation to prominence, radio prominence issues appear less developed and there are some key differences in relation to the technology used and consumer needs and expectations.

Currently, we are not proposing government intervention in relation to radio prominence, and instead propose to monitor developments. Submitters are invited to provide views in relation to radio prominence issues in New Zealand, noting that relevant requirements could be introduced in future if appropriate.

For further information see the [Interim Regulatory Impact Statement: Supporting local audiovisual content production and accessibility](#).

What are the risks?

Through the Ministry’s engagement with stakeholders and analysis of submissions to international consultations on prominence, concerns have been noted about the impact that prominence requirements could have on regulated TV manufacturers in relation to:

- costs (associated with compliance)
- existing commercial arrangements
- innovation
- consumer choice.

Analysis of international approaches suggests that compliance costs in relation to changes to software would be modest, however limited cost data was provided due to commercial sensitivities.

For the other concerns, a mitigating factor is that the preferred approach would require ‘basic prominence’ rather than for local TV services to be promoted ahead of international competitor services. The approach should therefore not unduly interfere with existing commercial relationships, future innovation, and consumer choice. Users would also retain the ability to reorder the device’s home screen to suit their viewing preferences.

Feedback on ensuring accessibility of local media platforms

Question 1) Do you agree with the proposal? Why/why not?

Question 2) Do you prefer another option to address this issue?

Question 3) Do you agree with the broad definitions used for the proposal? Why/why not?

Question 4) What are your views on the issue of radio prominence and potential future impacts?

Draft proposal 2: Increasing investment into and discoverability of local content

What is the current situation?

In the last decade, technological advancements and increasing globalisation has brought new media businesses into the market, primarily in the form of global streaming platforms. Audiences now have significantly more choice around where and how they consume media content, and the types of content they consume.

TV broadcasters have been the main providers of local content to audiences. The popularity of global streaming platforms has contributed to revenue drops for broadcasters and subsequently less investment in local content.

Global streaming platforms (like Netflix, Prime Video, Apple TV and Disney+) are creating international productions in New Zealand, often using their own production companies. As of October 2024, Netflix had filmed 16 international productions in New Zealand and carried out post-production here on 12. Disney had filmed one international production in New Zealand and carried out post-production here on eight.



TINA behind the scenes image courtesy of the New Zealand Film Commission

Public TV broadcasters (TVNZ and Whakaata Māori) must show local content.⁹ But, unlike overseas, there are no obligations on other TV broadcasters such as Warner Bros. Discovery (Three) and Sky or on global streaming platforms to create or show local content or display it so that viewers can find it.

A manual scan in September 2024 indicated Amazon Prime had just over 10 New Zealand titles in their catalogues; Netflix held fewer than 10; Disney and Apple+ had none. NEON (Sky's New Zealand streaming platform) had over 50 home-grown titles including local productions commissioned by Sky.

Why is this a problem?

Competition from streaming platforms is reducing the capacity of local TV broadcasters to produce local content. It also means investment in big-budget, competitive New Zealand productions is harder to come by.

Global streaming platforms are popular with New Zealand audiences but show very little local content. As viewership on these platforms increases, New Zealanders are less exposed to, and engaging less with, local content. This trend is particularly evident for certain population groups, including young people.¹⁰ The limited New Zealand content available on global streaming platforms is often poorly identified and 'buried' amidst international content. The global streaming platforms invest in international productions made in New Zealand but largely do not commission local content.

This creates risks for the current workforce of New Zealand's content production sector and means audiences have fewer opportunities to watch local content, missing out on cultural and societal benefits.

What are other countries doing?

Other jurisdictions have had minimum local content requirements for TV broadcasters for some time and many have introduced or are proposing obligations on streaming platforms including:

- **Reporting requirements:** require content providers to report on expenditure and availability of local content on platforms (Australia has voluntary requirements).
- **Minimum content obligations:** providers must carry a certain proportion of local content (the European Union requires 30% European content in streaming platform's catalogues).

9 TVNZ must provide high-quality content that encompasses both New Zealand and international content and reflects Māori perspectives. Whakaata Māori must ensure that during prime time it broadcasts mainly in te reo Māori; and ensure that at other times it broadcasts a substantial proportion of its programmes in te reo Māori.

10 NZ On Air, *Where Are The Audiences? 2024*: Linear TV reached 47% of New Zealanders daily, with Broadcaster Video On Demand (BVOD) reaching 35%. For Asian New Zealanders, these figures were 28 percent and 23 percent respectively. For people aged 15-24, they were 24% for both linear TV and BVOD. Global video sharing platforms reached 84 percent of Asian New Zealanders and 90 percent of youth audiences on a daily basis.

- **Investment obligations:** providers must invest a proportion of revenue on local content (Netherlands has an investment obligation of 5% annual revenue, and Italy has an investment obligation of 16%).
- **Levies:** providers pay a proportion of revenue to be redistributed for the production of local content (Canada has implemented an interim 5% contribution from streaming platforms that will be paid into funds for Canadian content).
- **Discoverability and prominence requirements:** providers must promote and display local content, e.g. by inclusion on home screens, in recommendations and promotions.

Some countries have sub-requirements to specify kinds of content to increase the quality of productions (for example that a proportion of the investment must be spent on certain genres, independent productions, productions of national expression or in certain languages).

What are the aims?

- To support increases in the volume of and engagement with local content on global streaming platforms
- To support the local production sector's sustainability via increased investment.

What is the proposal?

The proposal is that all professional audio-visual media providers including New Zealand TV broadcasters, New Zealand streaming platforms and global streaming platforms would have:

- Local content investment obligations: to invest a proportion of annual revenue in the creation or acquisition of local content.
- Discoverability requirements for local content: to put in place measures to promote and clearly display local content and enable users to find new local content.

While further work will be required to determine an exact definition, the definition of 'local content' is intended to capture content that reflects New Zealand stories, places, voices, and faces. Relevant factors could include if the subject of the content is New Zealand or New Zealanders, if New Zealanders hold key roles in production and if it is filmed in New Zealand.

The proposed mechanisms would complement each other to increase the local content that New Zealanders have access to and can easily find.

The investment obligations would provide ongoing support for local content production sector sustainability and ensure new local content was available to keep New Zealanders (and overseas audiences) engaged. It would also require the streaming platforms to invest annually in New Zealand's local production sector which would help with the sustainability of the sector. Depending on the calculation used, TV broadcasters and New Zealand streaming platforms may already meet the obligations on existing levels of investment.

Sub-requirements could specify that a proportion of the investment must be spent on particular kinds of local content to address areas of public benefit such as children’s content, content by independent producers, content in te reo Māori or reflecting Māori perspectives.

The discoverability requirements would assist New Zealanders to find local content.

Other options considered

- A levy, which would lead to greater sector investment in local content production but would not necessarily increase access to it, as the content supported by a levy may not appear on streaming platforms.
- Minimum content requirements, which would increase the access to local content in the short term but may not have an ongoing impact once requirements were reached. It is also likely to be fulfilled through acquisitions in low quality ‘filler’ content rather than investment in new local productions.

For further information see the [Interim Regulatory Impact Statement: Supporting local audiovisual content production and accessibility.](#)

What are the risks?

Through the Ministry’s engagement with stakeholders and analysis of submissions to international consultations on obligations on global streaming platforms, concerns have been noted that these requirements could:

- trigger unintended consequences, to the detriment of the local screen industry ecosystem and consumers, such as inflating production costs for all participants.
- result in content providers electing to leave the market (or new providers choosing not to enter the market).

Work on the detailed design of this proposal would seek to address these risks.

Feedback on increasing investment into and discoverability of local content

Question 5) Do you agree with the proposal? Why/why not?

Question 6) Do you prefer another option to address this issue?

Question 7) Some overseas countries have a combination of options – for example, both an investment obligation and a levy. Do you think this would be a good option in New Zealand?

Question 8) What should the definition of ‘local content’ include?

Question 9) Should aired sport events featuring New Zealanders/New Zealand teams qualify as local content? Why/why not?

Question 10) Should sub-requirements be used to specify certain sorts of local content that a proportion of the investment must be spent on? If so, what sort of local content? Why?

Draft proposal 3: Increasing captioning and audio description (CAD)

What is the current situation?

Captioning supports access to media content by providing text on the narration, dialogue, and other meaningful sounds. These are used by people who are d/Deaf and hard of hearing, not fluent in the language of the content, or in a position where they cannot or would prefer not to engage with sound content. 2024 research indicates that 48 percent of New Zealanders watch TV with captions¹¹ and use has been increasing over time.

Audio description verbalises visual content and images. Audio description can provide access for people who are blind or have low vision, or cannot keep their eyes on the screen, for example, because they're doing something else at the same time, or want help keeping track of details in the story.

While government provides some funding for CAD of local content, New Zealand has no legislative obligations relating to CAD. Beyond TVNZ's broadcast channels, TV broadcasters and New Zealand streaming platforms have relatively low levels of accessibility when compared to our international counterparts.

The level of CAD across media platforms varies and some lack the functionality in their digital platforms to show these formats. Around half of TV broadcasters have the functionality for live broadcast captioning, and only broadcast channels can host audio description. None of the TV broadcasters have the functionality for live streamed captioning or audio description on their



Image courtesy of Able and NZ On Air

¹¹ NZ On Air, *Where Are The Audiences? 2024*.

digital platforms, but most provide some level of captioning for on-demand content. Global streaming platforms provide high levels of CAD due to international requirements.

Disabled peoples' organisations have been calling for regulation for the provision of CAD for media content. Without access to media content, New Zealanders can feel isolated, marginalised, and unable to participate in everyday conversations.

Under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), New Zealand has obligations to take appropriate measures to ensure disabled people have access to information on an equal basis with others.

Why is this a problem?

The current level of CAD in New Zealand is not sufficient to provide New Zealanders who are d/Deaf, hard of hearing, blind, or vision impaired with equitable access to media (and particularly local media) as other New Zealanders. This also creates legal and reputational risks for New Zealand in terms of compliance with the UNCRPD.

What are other countries doing?

Other countries have regulatory requirements for CAD on media platforms, including:

- Australia, where legislation has required commercial broadcast TV and the Australian Broadcasting Corporation (ABC) to provide captions from 6am to midnight unless an exception applies. Subscription TV services have legislated annual targets for captioning. Legislative requirements for audio description are currently before the Senate.
- The United Kingdom, where legislation requires broadcasters to progressively implement CAD so that 80 percent of content is captioned, and 10 percent audio described, by their tenth year of service. CAD regulation-making powers exist for on-demand programming, however no specific requirements currently apply to non-broadcast services beyond the Office of Communication's best-practice guidance.
- Canada, where the Canadian Radio-television and Telecommunications Commission (CRTC) requires most broadcasters to caption 100 per cent of their programming from 6am to midnight. Certain programming services must provide audio description for programming aired during 7pm to 11pm.

What is the objective?

To increase the accessibility of content through CAD to provide more equitable access to media for all New Zealanders, in compliance with New Zealand's obligations under the UNCRPD.

What is the proposal?

The proposal is to create legislative obligations on TV broadcasters and streaming platforms operating in New Zealand to provide equitable access to their content.

Detailed requirements (either in secondary legislation or set by a regulator), would provide progressive targets for levels of CAD to be implemented over time, which could take into account media providers' varying existing technological capacity. These would likely involve percentage-based requirements that increase each year, potentially preceded by a capability-building period. It could also be possible to specify types of content that should be prioritised for CAD; for example, emergency messaging, children's content, and content in te reo Māori.

This approach would increase access of New Zealanders who are d/Deaf, hard of hearing, blind, or vision impaired to media content and address long-standing concerns with New Zealand's compliance with the UNCRPD. Phased implementation would ensure that the levels of CAD required are manageable for the sector.

Other options considered

- Requirements for content providers to report on the levels of CAD for content hosted on their platforms. This is unlikely to have significant impacts on its own but could be progressed to complement legislative obligations. Requirements to report levels of CAD would also provide a clearer picture of where the current gaps are with CAD for certain TV broadcasters or types of content that should be prioritised.

For further information see the [Interim Regulatory Impact Statement: Supporting local audiovisual content production and accessibility](#).

What are the risks?

There is a risk that the costs of increasing CAD (including the need to upgrade technological capability) could impose a significant compliance burden for local media organisations. As well as exacerbating the existing financial pressure on these organisations, this may undermine other priorities for investment – for instance the commissioning of local content. Phased, progressive targets that consider media providers' existing technological capability would aim to ensure that the requirements are manageable for the sector.

There is a risk that requirements incentivise media organisations to seek out lower-cost CAD providers based overseas, which may be less accurate and/or not equipped to reflect New Zealand's unique language and cultural identity. These issues have led to other countries introducing quality standards alongside substantive CAD requirements. These sorts of standards could also be incorporated here.

Feedback on increasing captioning and audio description

Question 11) Do you agree with the proposal? Why/why not?

Question 12) Do you prefer another option to address this issue?

Question 13) Should certain types of content be prioritised for captioning and audio description? If so, how?

Draft proposal 4: Modernising professional media regulation

What is the current situation?

The Broadcasting Act established the broadcasting standards regime. This includes programme standards (including classifications) and codes of practice, processes for making and dealing with audience complaints about broadcast content, and the Broadcasting Standards Authority (the BSA) to oversee the regime independently from government. The regime also requires radio and TV broadcasters with more than \$500,000 annual revenue to pay a levy to support the BSA's operations.

In the late 1980s, the broadcasting standards regime was designed to help ensure media content met accepted industry principles and reflected community values. However, as the regime is framed around broadcasting, it only covers linear TV and radio content – which New Zealanders are engaging with less and less as online and streaming platforms become increasingly the source of choice for media content.

The New Zealand Media Council is a non-government body that provides complaints resolution in respect of its members' content. Members include print and online text-based media, broadcasters, and video on-demand providers (though its focus for on-demand content is on classification rather than substance).



Several other Acts and entities also play a role in regulating media content, including the classification of material on global streaming platforms. These components of content regulation are beyond the scope of this consultation document.

The range of different frameworks and mechanisms regulating media each have specific coverage that overlaps in some places and leaves gaps in others. This means that media content (and even the same media content) is treated differently depending on where audiences engage with it.

Why is this a problem?

As online and streaming media sources become more popular, the broadcasting standards regime is providing inconsistent and increasingly limited coverage of the media New Zealanders engage with. This:

- undermines the intent of regulation (to uphold industry and community standards).
- creates an uneven playing field for broadcasters, which are subject to more regulation than other media organisations (including paying the broadcasting levy).
- contributes to the broader issues of fragmentation, duplication, and gaps across the whole system of content regulation, which make it difficult for both audiences and media organisations to navigate different rules, standards, and complaints processes.

Within the scope of this consultation document, there is an opportunity to support more modern, efficient, and coherent regulation of professional media (this term is discussed below). Change could also support the implementation of proposals discussed above, supporting local content investment and accessibility.

What are other countries doing?

Approaches overseas to regulating media content vary. Some, like Canada, have a co-regulatory approach (similar to, but more formalised than, in New Zealand). Many jurisdictions, including the United Kingdom and Australia, are working on options to better and more consistently regulate on-demand and streaming services.

What is the objective?

To increase the consistency and durability of regulation across the range of professional media New Zealanders engage with.

What is the proposal?

The proposal is to modernise the broadcasting standards regime to cover all professional media operating in New Zealand, not just broadcasters. The role of the regulator (currently performed by the BSA) would be revised, with more of a focus on ensuring positive system-level outcomes and less of a role in resolving audience complaints about media content.

Further work will be required to determine an exact definition of ‘**Professional Media**’, particularly as media forms and services continue to emerge and converge. Our intention is to capture organisations that commission, produce, or directly pay for media content and distribute it as their primary business:

- **including** New Zealand broadcasters and streaming platforms, global streaming platforms, online text-based media, newspapers, and magazines.
- **not including** online platforms that primarily host user-generated content or provide access to others’ content, such as social media (like Facebook and TikTok) and search engines (like Google).

The regulator’s functions would include:

- Guiding and developing media standards in collaboration with industry:
 - Standards would apply to content across all professional media in New Zealand (no matter what the delivery platform). Protecting and promoting media independence and the freedom of expression would remain a core focus
 - These standards are not expected to differ substantially from the existing broadcast standards, except to the extent required by the different forms of media content covered.
- Educating, researching, and providing advisory opinions in relation to the media standards to support the sector and audiences.
- Monitoring the regime’s effectiveness (including the complaints processes outlined below).
- Administering electoral broadcasting rules (contained in Part 6 of the Broadcasting Act).
- Providing a ‘backstop’ for complaints resolution.
 - The current requirement would remain, for audiences to take complaints about media content to the relevant media organisation in the first instance.
 - Where a complainant is not satisfied with the response, complaints could be referred to industry self-regulatory bodies (such as the Media Council, which already operates a complaints resolution process) if the relevant media organisation were a member. The regulator would be able to consider unresolved complaints relating to media organisations that were not members of an industry body, or if the industry body’s complaints process stopped functioning appropriately.
 - To support quality assurance and natural justice, there would be a right to appeal industry bodies’ complaints decisions to the regulator (subject to criteria to minimise unnecessary costs). The existing right to appeal from the BSA to the High Court for a final determination would be carried over to the new regime.

The regulator would not have a role in relation to advertising, which is covered by wider technology-neutral self-regulation and several other Acts and regulatory regimes.

This approach would minimise duplication and leverage existing industry self-regulation, overtly supporting media independence while ensuring industry and community standards are upheld across all professional media. It would aim to support audiences to feel confident in the standards of content they engage with and provide mechanisms to raise and address any concerns they have.

If this proposal proceeds, further work will be required on:

- The future of the broadcasting levy. This work would account for the increased role, and therefore membership fees, of industry self-regulatory bodies, as well as the current economic pressure on both the Government and the industry.
- Arrangements to support coherent and efficient labelling and classification requirements, particularly for Commercial Video On-Demand providers that are already subject to a specific regime under the Films, Videos, and Publications Classification Act 1993.

Other options considered

Alternatives considered for the regulator's role and focus:

- Proactive regulator: The regulator would develop codes of practice with input from industry. It would be available as a 'first port of call' for complainants and could initiate inquiries into compliance issues rather than only responding to complaints. This option is not preferred as it would involve further duplication of complaints resolution functions which may exacerbate confusion. Also, its ability to proactively investigate issues may be seen to undermine media independence from government.
- Authorising regulator: The regulator would encourage and endorse codes of practice developed by industry. It would not have any complaints resolution functions, instead focusing on ensuring industry self-regulatory bodies follow appropriate procedures. This option is not preferred as it would not provide quality assurance or external avenues to raise complaints about content on media platforms not subject to industry self-regulation.

For further information see the [Interim Regulatory Impact Statement: Modernising professional media regulation](#).

What are the risks?

This option may be resource heavy for industry bodies which may be amplified by an increase in membership. There could also be risks to this approach if an industry body disbanded. In this event the 'backstop' regulator would step in to deal with complaints and could support the development of a replacement industry body.

Not bringing other types of media (like social media) into the regulatory regime and leaving the broader content classification regime (including Classification Office) separate, may mean the proposal is less durable and future proofed. However, the proposal leaves open the prospect of incorporating other functions and media types in future. A ‘stepped’ approach to aligning and streamlining wider content regulation could help to support manageable and effective implementation.

Feedback on a modernised media authority

Question 14) Do you agree with the proposal? Why/why not?

Question 15) Do you prefer another option to address this issue?

Question 16) Do you agree with the intended parameters of ‘professional media’ used in this proposal? Why/why not, and what would you recommend as well or instead?

Question 17) Do you agree with the functions identified in the proposal for the regulator? Why/why not, and what would you recommend as well or instead?

Draft proposal 5: Streamlining Crown content funders

What is the current situation?

Currently public funding for television and film content is primarily administered by NZ On Air, the Film Commission, and Te Māngai Pāho.

Options for change discussed in this proposal focus on NZ On Air and the Film Commission, for two related reasons:

- Te Māngai Pāho is specifically mandated to promote te reo Māori and tikanga Māori through funding for Māori language programming, and
- other work led by Te Puni Kōkiri is considering ways to improve collaboration and outcomes across Māori language entities (including Te Māngai Pāho).

NZ On Air and the Film Commission were originally set up with a mandate to provide funding for TV and radio, and film, respectively. The empowering legislation for these Crown entities is more than 30 years old. Shifts in technology, audience preferences, and market context have increasingly blurred the distinction between television and film production and consumption.

Overlap between the entities centres on audiovisual (screen) content. Both provide contestable funding for the production of screen content, support industry development, and administer rebates on production expenditure to related parts of the screen sector (the New Zealand Screen Production Rebate and the Game Sector Development Rebate).



Josh (Julian Dennison) in Uproar © 2023. Photo: Marc Weakley.

Beyond these areas of overlap, the two entities have a range of other functions and focuses:

- As well as its cultural remit, the Film Commission has an economic focus. It has an explicit mandate to support employment and productivity in the film industry. It also works internationally to market New Zealand as a screen production (and post-production) location and promote our local content.
- NZ On Air has a remit framed around New Zealand identity and culture, with a specific function to deliver for diverse New Zealand audiences. Beyond screen content, it also funds audio-only content such as music and podcasts, and digital content (including in written form) such as reporting/journalism. With legislative responsibility to support audience access to broadcasting, as well as programmes to be broadcast, NZ On Air also provides ‘platform’ funding to specially targeted public media platforms and services¹² so they can create and deliver public media content of cultural and social value.

Why is this a problem?

Having two different Crown entities that fund screen content:

- may be limiting the cohesion of funding, and the ability to achieve strategic outcomes for both the whole screen industry in New Zealand (including around growth and development) and audiences (in terms of high-quality content that can compete with international offerings), and
- indicates there is potential for efficiency gains, for instance around governance, back-office functions and potentially in the resourcing required for collaboration and co-funding.

Limits on strategic funding outcomes and efficiency are likely to become more of a challenge in the future as media content (and the sectors creating it) continues to converge.

What are other countries doing?

Most countries New Zealand compares itself to have a lead entity to administer public funding for screen content (though game development funding, which is a more emerging area, is sometimes administered separately). Lead entities often work with regional entities and government departments, which administer complementary or additional funding. Lead entities do not tend to fund journalism or media platforms, noting most countries generally have public broadcasters that receive funding directly. Music funding also tends to be administered separately.

For example:

- Screen Australia supports the development, production, promotion, and distribution of Australian screen content, investing directly in Australian film, television, online titles, and games. It administers the federal tax incentive for Australian screen production (equivalent

12 These platforms include RNZ; the Pacific Media Network; Samoa Capital Radio; community and student radio; the Digital Media Trust (which delivers NZ On Screen and AudioCulture); and Able for the captioning and audio description of local content.

to the domestic component of the New Zealand Screen Production Rebate), but not tax incentives for international screen production. Music Australia supports and invests in the Australian contemporary music industry.

- In Ireland (which has a similar population size and focus on preserving and enhancing unique cultural identity), Fís Eireann/Screen Ireland delivers Government funding for the development, production and distribution of film and television productions. Prior to 2018 this organisation was known as the Irish Film Board.

What are the objectives?

To improve the efficiency, cohesion, and strategic potential of funding arrangements, and to reflect the realities of audiovisual content production and consumption.

What is the proposal?

The proposal is to establish a content funding entity that consolidates the Film Commission and NZ On Air. Consolidation could improve efficiencies and support strategic funding outcomes, including by pooling resources and focusing industry development efforts.

Note: This proposal is about the structural arrangements for delivering Crown funding. It is designed to withstand any future changes to current specific funding streams or incentives, or to the amount of funding flowing into the sector.

The entity would bring together functions and powers of both entities, with modernised and streamlined governing legislation. Its functions would be:

- to distribute funding for the production of content across all forms currently supported by the two entities – screen/audiovisual (including games), audio, and digital text-based content – as well as emerging and future forms,
- to support industry development (including through funding),
- to support funded content to reach audiences and markets, in New Zealand and internationally, and
- to administer the New Zealand Screen Production Rebate and the Game Development Sector Rebate.

There are options for whether and how a consolidated entity should fund media platforms, as NZ On Air currently does under its legislative mandate to support broadcasting. If the entity did not have formal legislative responsibility to support media platforms, some or all of NZ On Air's current funding for platforms could instead be delivered by other entities or Ministries with complementary mandates.

Initial analysis has identified a range of pros and cons of transferring or retaining platform funding. We are interested to understand industry and public views on the benefits, risks, and other impacts of this option.

Detailed design of a consolidated entity would consider how best to frame its cultural mandate. However, it is expected this would include a continued and/or strengthened focus on reflecting and promoting te reo Māori and tikanga Māori.

Other options considered

To retain both entities, but modernise and clarify their statutory mandates, and encourage more aligned operations and coordinated oversight (for example at Board and Ministerial level). This was not preferred as duplication would continue, including due to ongoing media and content production convergence.

A consolidated entity focused exclusively on supporting screen content and the screen sector, which would involve moving music funding to another entity. This option was not preferred as it wouldn't accommodate funding for other media, like podcasts and non-audiovisual news and current affairs. It also wouldn't recognise wider links and trends in convergence between different forms of media (i.e. beyond screen content).

For further information see the [Interim Regulatory Impact Statement: Streamlining Crown content funders](#).

What are the risks?

Consolidating NZ On Air and the Film Commission could create disruption and uncertainty for the industry. If the proposed approach progresses, careful implementation planning would be required to manage those impacts. This would include work to minimise the risk of affecting the commissioning and/or production of content, recognising the already challenging context facing the sector.

Aside from consolidating functions, the proposal would also involve creating a coherent overall purpose. NZ On Air and the Film Commission have distinct aims and focus areas, so there is a risk that multiple priorities compete with rather than complement each other. The core purpose of a consolidated entity will need to carefully balance public media objectives (including delivery for diverse local audiences) and economic interests (including international exports, inbound productions, and industry exposure).

Feedback on streamlining Crown content funders

Question 18) Do you agree with the proposal? Why/Why not?

Question 19) Do you prefer another option to address this issue?

Question 20) Do you think the proposed consolidated entity should retain all of the functions currently performed by both the Film Commission and NZ On Air? Why/why not?

Question 21) What do you think should happen to any current functions that are not retained by the entity?

Media Reform proposals – General questions

Question 22) Do you agree the proposals in this consultation document should be progressed? Why/why not?

Question 23) Are there other measures that would be more effective? If so, what are these measures?

Question 24) Which proposals should be prioritised? Why?

Question 25) To what extent will the proposals help the government meet its obligations under Te Tiriti o Waitangi – for instance, to protect and promote te reo Māori and tikanga Māori?

