

**BRIEFING TO THE INCOMING
MINISTER OF BROADCASTING**

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INTRODUCTION

Congratulations on becoming Minister of Broadcasting. Yours is a role of considerable importance in the support and development of New Zealand's culture, and in the quality of information available to New Zealanders. The Ministry for Culture and Heritage – the government agency charged with the development of broadcasting policy – looks forward to working with you towards the achievement of your government's broadcasting and cultural objectives.

New Zealand's distinctive culture is maintained by arts and creative activities, by sports and recreation, by engagement with our history, heritage and environment, and by languages, film and broadcasting. Aspects of these operate effectively without public assistance, but important parts of our cultural life would simply not be present without intelligent intervention from the government.

In the absence of government involvement there would be – for example – no Te Papa, New Zealand Symphony Orchestra or, by definition, public broadcasting. The rationale for government assistance is not just the fact that individual citizens enjoy watching New Zealand programmes on television or going to exhibitions and concerts, and benefit from doing so. The broader implications of widespread access to and understanding of New Zealand culture also make this a crucial area of government engagement with communities, all New Zealanders and the rest of the world.

The policies, organisations and activities which represent government's involvement in the cultural sector have a strong bearing on New Zealand's standing in the world; on our development as a self-aware, confident, prosperous and cohesive society; and on New Zealanders' sense of identity. This is particularly true given globalising trends in technology, marketing and travel, which pose a threat to the special cultures of small nations at the same time as cultural distinctiveness is being more highly valued. The quality of our broadcasting services also has a major influence on the information and ideas available to people, and thus on their ability to participate as citizens in a democracy.

The specific projects and tasks for which the Ministry is responsible contribute in their various ways towards these outcomes. The Regional Museums Policy for Capital Construction Projects, the development of New Zealand Memorial Park and the production of works of history are examples of Ministry activities which are premised on the importance of New Zealanders knowing and valuing their culture and country.

The policy programme in broadcasting – and in particular the ongoing review of broadcasting regulation – recognises the very great influence of the broadcasting media on New Zealanders' understanding of their society and their involvement in its development. The Ministry's work on broadcasting is strongly interlinked with its work in other areas, particularly music, film and archiving, reflecting the close connections between the sectors themselves. Advances in digital and web technology make possible initiatives such as *Te Ara the*

Encyclopedia of New Zealand, NZLive and new kinds of television delivery – all of which mean that cultural information and experiences are or will be significantly more accessible.

Given the range of potential cultural projects, of course, any government's involvement in culture must of necessity be selective (and will result in certain opportunity costs). You, along with your ministerial colleagues, make decisions about what elements are most deserving of public resources; the Ministry takes very seriously its responsibility to inform, support and execute those decisions.

We will also continue to support your engagement with the range of organisations that supply cultural services to the Crown. Crown entities such as NZ On Air and the New Zealand Film Commission play an important role, as do non-government bodies such as the Royal New Zealand Ballet and the New Zealand Film Archive, from which the Crown purchases services but which it does not own. The Crown investment in the non-departmental organisations funded through the Ministry is considerable (some \$254 million in 2008/09, including \$158 million to broadcasting agencies); agency governance and funding issues require the ongoing attention of government if this investment is to be as effective as possible.

Our support of your work will also likely mean that we will continue to work closely with other central government organisations. The Ministry's responsibility for local content and public broadcasting, among other issues, complements the Ministry of Economic Development's responsibility for the radio spectrum, telecommunications and the development of broadband, so the two Ministries work closely together. The Ministry liaises regularly with Te Puni Kōkiri, which has responsibilities for Māori broadcasting – including the funding agency Te Māngō Pāho and Māori Television – which closely parallel the Ministry's own.

More widely, there is a cultural component – actual or potential – to the work of many other departments too. The fact that cultural initiatives can contribute to the achievement of other, non-cultural government objectives is increasingly recognised (though arguably it needs to be better understood throughout government, and embedded in the broader processes of policy development). The Ministry has developed working relationships with, for example, other divisions of the Ministry of Economic Development and the Ministry of Foreign Affairs and Trade, as cultural tools have been employed in support of higher employment and international diplomacy, and copyright issues have been addressed. The Ministry works also with local government organisations towards the strengthened cultural well-being of local communities.

The country's broader economic well-being is served by government's commitment to culture, expressed via broadcasting, as an integral part of New Zealand life – not a discretionary extra.

The Minister for Arts, Culture and Heritage is the Ministry's Responsible Minister with whom I agree the broader work programme that the Ministry is to undertake each year. It is to you as Minister of Broadcasting, however, that the

Ministry reports with respect to that significant proportion of the Ministry's resources that are directed towards broadcasting-related activities. I will be pleased to have the opportunity to meet with you to talk about your own priorities for the portfolio, along with the matters raised in this briefing.

Bronwyn Dalley
Acting Chief Executive

THE MINISTRY FOR CULTURE AND HERITAGE

Government's Involvement in Broadcasting

Government involvement in culture is, in broad terms, intended to:

- Contribute to economic prosperity;
- Enable experiences that offer enrichment of our thinking and insight into others' perspectives;
- Promote New Zealanders' sense of identity and place in the world; and
- Create strong, inclusive communities and social prosperity by helping people understand and respect the different cultural elements within our society;

Broadcast content is a key element of culture, and your appointment comes at a time when rapid technological change is presenting the broadcasting sector with new and significant opportunities and challenges. These changes are redefining what is meant by 'broadcasting', and are blurring the boundaries between broadcast content and the same and similar content made available via non-broadcast platforms (such as the internet and mobile phones). Governments, broadcasters, telecommunications companies, Internet Service Providers and consumers the world over are thinking differently about the way they engage in what has traditionally been the territory of the broadcasters.

The accelerating processes of technological development and convergence do not alter the fact that government's underlying broadcasting interest is in the quality and range of *content* available to New Zealanders, and its accessibility. In fact, as the new technologies make countless international audio-visual options instantly available, it is all the more important that New Zealanders have access to New Zealand content, to material that speaks to them in the voice of their own country, about their own concerns.

Virtually every New Zealand household receives some form of audio-visual content, whether it be on the television, telephone or PC. Radio, too, is listened to across a range of platforms. The sheer pervasiveness of the audio-visual as a form of communication and shared experience gives it an impact unmatched in power by any other media. While community-driven and user-generated content is growing, national broadcasters will remain important as a source of innovative, high-quality (and comparatively high-cost) content. Led by our public broadcasters, they are attempting to reach audiences through every platform available to them.

In response to the increasing range of platforms for audio-visual content, the legislative functions of both NZ On Air and its Māori equivalent Te Māngai Pāho have been updated to allow both agencies to support local content created specifically for platforms other than conventional radio and television. Other major developments in broadcasting have been the re-establishment of TVNZ as a Crown entity company with its own statute, and the separation of its transmission businesses into the State Owned Enterprise now known as Kordia; the establishment of Māori Television and of Niu FM, the national Pacific radio

network; and policies to support regional and local broadcasting, and to transfer broadcasting transmission to a digital-only system at an optimal time early in the next decade. Funding has been increased to NZ On Air to be made available on a contestable basis for local content on public and private television, and for popular music.

Looking forward, fast-changing developments in digital broadcasting technology pose fresh challenges - and opportunities – for New Zealand broadcasters. Local audiences are likely to keep fragmenting as a multiplicity of services comes on stream, although technology also enables broadcasters to complement their core channels with specialised services. This highlights the profound value to New Zealanders of visible and accessible public services and local content and the challenge for government as it engages with the future of public broadcasting in New Zealand.

The Work of the Ministry for Culture and Heritage

The Ministry's role is to help make culture visible and accessible, and we focus on three outcomes:

- **Outcome One – the diversity, visibility and accessibility of our culture, and participation in cultural experiences, are enhanced**

The Ministry achieves this by providing advice to the government about its involvement in culture, and through the production and delivery of cultural experiences and resources.

- **Outcome Two – the programmes, services and products of funded agencies are of high quality and widely accessible**

The Ministry achieves this by ensuring appropriate accountability, and by promoting sound governance and management of agencies funded through the department.

- **Outcome Three – the value and contribution of culture to New Zealand's social, environmental and economic well-being is recognised**

The Ministry achieves this by providing advice, and by coordinating activities and programmes that support other government agencies.

Detailed information on the strategic orientation of the Ministry is provided in the 2008 – 2013 Statement of Intent, a copy of which is supplied along with this briefing. In summary, the Ministry provides advice to the New Zealand government on cultural matters, including on its involvement in heritage, history, broadcasting and the arts. It implements certain cultural programmes on government's behalf, and assists government in its management of resources allocated to the support and development of culture. It undertakes activities and produces resources that foster understanding of and access to aspects of New

Zealand's history, heritage and identity. Its range of programmes and services includes:

- Advice on policy, funding, legislation, organisational arrangements and implementation of cultural initiatives;
- Administration of funding to cultural agencies and provision of advice on agencies' performance to Ministers;
- Input to other governmental work where a cultural perspective is desirable;
- Production of Te Ara – The Encyclopedia of New Zealand;
- Production of NZLive.com;
- Administration of laws protecting objects and symbols of national identity;
- Maintenance and development of existing and new heritage memorial sites;
- Research and production of online (NZHistory.net.nz) and published works on New Zealand history;
- Research and production of war veterans' oral histories;
- Provision of capability and governance support for funded agencies;
- Implementation of the Cultural Diplomacy International Programme; and
- Ministerial servicing, including the provision of draft speech notes and correspondence.

As part of our work, the Ministry will supply you (along with the Minister and Associate Ministers for Arts, Culture and Heritage) with policy advice on a range of issues. Significant and urgent broadcasting policy issues are detailed elsewhere in this briefing.

The Ministry also undertakes a 'ministerial servicing' role, by drafting speeches and replies to correspondence on your behalf, and liaising closely with your office to ensure that these documents meet your needs.

The Ministry also acts on your behalf in supporting the performance of various agencies in the broadcasting sector. The range of services the Ministry supplies in this area is detailed elsewhere in this briefing. The full list of agencies to which the Ministry administers annual government funding is as follows:

- Antarctic Heritage Trust
- Arts Council of New Zealand Toi Aotearoa (Creative New Zealand)
- Broadcasting Commission (NZ On Air)
- Broadcasting Standards Authority
- Drug Free Sport New Zealand
- Freeview Ltd
- Museum of New Zealand Te Papa Tongarewa (Te Papa)
- National Pacific Radio Trust
- New Zealand Film Archive
- New Zealand Film Commission
- New Zealand Historic Places Trust
- New Zealand Music Commission
- New Zealand Symphony Orchestra

- Radio New Zealand International
- Royal New Zealand Ballet
- Sport and Recreation New Zealand (SPARC)
- Te Matatini Society Incorporated
- Television New Zealand Ltd

Some of the organisations on this list are distribution agencies providing funding to parts of the sector and include the New Zealand Film Commission and NZ On Air. Others are providers of cultural experiences directly to New Zealanders, according to statutory mandate. In this group are Te Papa, the New Zealand Symphony Orchestra, Television New Zealand, Radio New Zealand and the National Pacific Radio Trust. With the exception of Radio New Zealand, these organisations have a mixed income made up of public subsidy and commercial revenue.

There are strong links between several of these agencies, and this is reflected in the way that the Ministry maintains an overview of them, and its advice on them to government. For example, the film and television industries are closely interconnected and involve some of the same personnel; and the New Zealand Film Commission and NZ On Air – and on occasion Creative New Zealand - collaborate on some funding projects.

The government's interventions in support of music are also closely interrelated. NZ On Air's support of recordings for commercial radio play and of music videos is complemented by the New Zealand Music Commission's development of popular music as a viable local and export industry. In the classical music field, in addition to the Ministry's support of the New Zealand Symphony Orchestra, Creative New Zealand channels support to regional orchestras, the NBR New Zealand Opera and the New Zealand String Quartet. All these performing groups – and other performers – are showcased by Radio New Zealand, which thus plays a vital role in New Zealand's musical life. (It also features programming on various aspects of New Zealand's popular music.)

The Ministry's policy interest in heritage also extends to broadcasting, through its funding of the New Zealand Film Archive and the current review of audio-visual archiving arrangements.

Staff and Governance of the Ministry

The Ministry is currently headed by an acting Chief Executive, Dr Bronwyn Dalley. Formerly the Chief Historian and one of two Deputy Chief Executives at the Ministry, Bronwyn has led the organisation since 1 September this year.

The Ministry currently has 107 staff, including part-time workers. The organisation is structured into ten working units: the Office of the Chief Executive (3.75 'full time equivalent' staff, including the Chief Executive); Heritage Operations (6.5 'full time equivalent' staff); History Group (12.5); Broadcasting Unit (9); Policy Group (14); Agency Group (8.5); Reference Group, incorporating Te Ara, the Encyclopedia of New Zealand (20); NZLive (5);

Corporate Services (13.5) and Stakeholder Communications, including ministerial servicing (6).

The Ministry has a Strategic Leadership Group comprising the Chief Executive, the two Deputy Chief Executives, and the Corporate Group Manager. Currently its membership is Bronwyn Dalley (Acting Chief Executive), Jane Kominik (Policy Group Manager and Deputy Chief Executive), and Matt Archer (Corporate Group Manager). A second Deputy has not been appointed to replace Bronwyn during her time as Acting Chief Executive.

The Strategic Leadership Group assists the Chief Executive in providing effective, strategic leadership to the organisation. It identifies and considers issues of strategic, 'whole of Ministry' importance, and helps shape these issues prior to their being taken elsewhere in the organisation – for example, to the Group Managers' Meeting.

The Group Managers are all those who head a distinct unit within the Ministry and report to the Chief Executive. (At the moment, two people are taking responsibility for two units each.)

The membership is as follows:

Bronwyn Dalley	Acting Chief Executive
Jane Kominik.....	Policy Group Manager and Deputy Chief Executive
Matt Archer.....	Corporate Group Manager and Acting Stakeholder Communications Group Manager
Jo Tyndall.....	Broadcasting Unit Director
Dr Jock Phillips.....	Reference Group Manager and Acting NZLive Group Manager
Murray Costello	Agency Group Manager
Brodie Stubbs.....	Heritage Operations Manager
Neill Atkinson.....	Acting History Group Manager

The Group Managers' Meeting is the primary forum for the discussion and resolution of corporate or management issues, and for the sharing of corporate and other widely relevant information. It also considers matters of strategic importance, once they have been shaped by the Strategic Leadership Group.

An appendix providing information about senior staff is attached as Appendix Two. A diagram showing the organisational structure of the Ministry is attached as Appendix Three.

Cost of the Work of the Ministry

The work that the Ministry performs is primarily funded from Revenue Crown. The baseline Revenue Crown funding for 2008/09 is \$16.066 million, as outlined in the Estimates of Appropriations 2008/09.

The Ministry provides services under four departmental output classes, under two Votes, as follows:

Heritage Services - \$6.352 million

Management of new memorial projects, national monuments, war and historic graves; administration of legislation and grants; and research, writing and publication of New Zealand history and reference works including the online Encyclopedia of New Zealand.

International Cultural Diplomacy - \$2.089 million

Funding for this output class is sourced from the Growth and Innovation budget and provides for an international cultural diplomacy programme - a series of projects and activities primarily focused on Asia, and in particular North Asia. Nearly all the International Cultural Diplomacy funding is applied to programme initiatives that are outsourced.

Policy Advice and Grants Administration - \$7.527 million

This appropriation relates to the Ministry's provision of policy advice on cultural issues including broadcasting issues; the monitoring of the Crown's interests in sector agencies; and the provision of negotiated services (such as draft speeches and correspondence) to Ministers.

Vote Sport and Recreation - \$.098 million

This output class relates to the provision of purchase advice and monitoring services with respect to SPARC and Drug Free Sport New Zealand (the New Zealand Sports Drug Agency).

The Estimates documents supporting the funding made available to the Ministry each year detail the particular projects and activities to which this funding will be directed. We note from statements made by you and other members of your party/coalition partners prior to the election that there are a number of new issues that you may wish to pursue in the coming months. The Ministry will be pleased to assist you in that process. We will discuss with you any changes to the agreed outputs that may as a consequence be necessary.

Working Arrangements

The Ministry provides services to its Responsible Minister, the Minister for Arts, Culture and Heritage; to you as the Minister of Broadcasting; and to the Minister for Sport and Recreation.

This briefing is the first of many that you will receive from the Ministry. Over the next few days the Ministry will work with your Office to find an opportunity for the Acting Chief Executive and the Director of the Broadcasting Unit to meet with you to talk about your priorities for the portfolio, along with the matters raised in this briefing.

We will seek advice from you about your preferences with respect to briefings (both oral and written), and to draft speeches and correspondence; the timing

and presentation of material we supply to you; which meetings with other agencies you will want Ministry officials to attend; and other matters relating to our relationship with you as Minister.

As a general rule we will provide comprehensive written briefings to you at key points in the policy process, and certainly at any point that a decision is sought from you; when we are supplying you with information in relation to the performance of other organisations for which you are responsible; and at such times as we support your obligation to respond to government-wide processes (eg in relation to the Budget or the Legislative Programme).

Our productive relationship between the Ministry and your Office is obviously of crucial importance to the success of your broadcasting programme, and we will work hard to ensure that this is the case. An important element in this relationship is the Broadcasting Private Secretary – the person located in your Office who liaises on your behalf with the Ministry and other organisations. We would be pleased to discuss with you possible appointees to this position, should you wish.

SIGNIFICANT ISSUES AND MATTERS REQUIRING EARLY MINISTERIAL ATTENTION

This section informs you of those current issues that are of sufficient urgency or size to require your early attention. Detailed briefings will be provided in the near future if you require them.

Broadcasting Review of Regulation

The greater part of the Broadcasting Unit's work for the remainder of this financial year, aside from the routine monitoring of agencies, will be focused on carrying out the next stages of this review, as agreed by Cabinet in September 2008. The Minister of Broadcasting, the Minister for Communications and Information Technology and the Ministry of Māori Affairs have been asked to report back to Cabinet by 31 August 2009 with recommended actions for all proposals arising from the review. We understand that you are willing for this work to proceed, before reaching decisions on what changes should be made as a result of it.

Background

In deciding to facilitate the launch of free-to-air digital television in May 2006, Cabinet also directed officials to conduct a review of regulation to ensure it remained appropriate to the changing broadcasting market brought about by digital technology and the growing availability of audio-visual content across broadcasting, telecommunications and the internet ('convergence'). The previous Minister of Broadcasting and Minister for Communications and Information Technology approved the terms of reference for this review in May 2007. The review is being project-managed by the Ministry for Culture and Heritage, as a joint project with the Ministry of Economic Development. The Minister of Broadcasting, the Minister for Communications and Information Technology and the Minister of Māori Affairs have been asked to report back to Cabinet by 31 August 2009 with recommended actions arising from the next phase of the review.

The review began by considering regulatory issues within the broad headings of Competition, Standards and Copyright, as they occur at three main points in the value chain: content, distribution and networks. Its first phase was a research report (prepared in-house by this Ministry, with external editorial input), summarising the current market and policy environment in New Zealand, analysing international trends and the regulatory responses of different countries, and identifying a series of issues and challenges for New Zealand. Following Cabinet approval, the research report, accompanied by a discussion paper, was published in January 2008, seeking feedback on the issues identified, and asking a series of questions about the level and nature of regulatory change (if any) that might be required in response.

The discussion paper proposed a set of objectives for the review that had been agreed in principle by Cabinet, reflecting a combination of economic, social and cultural aims. In some cases, the root cause of a problem may be economic but

the preferred solution may seek to meet a cultural objective. In shortened form, these objectives are:

- i. Ensure diverse platforms for the delivery of broadcasting and broadcasting-like content;
- ii. Create world-class infrastructure for economic transformation;
- iii. Ensure the operation of effective markets;
- iv. Ensure accessibility and affordability of broadcasting and broadcasting-like content and services;
- v. Ensure the consistent application of standards as appropriate to delivery platforms;
- vi. Protect property rights, to encourage the creation of audio-visual content, and ensure content is able to be exploited on fair terms;
- vii. Ensure personal and national security, to deal with the rise in 'cyber crime';
- viii. Support diversity of content to foster and promote expressions of national and cultural identity; and
- ix. Secure public value by delivering benefits to audiences as citizens, and not simply as consumers.

Of these, i, ii, iii and vi are primarily economic; iv, v and vii social; and viii and ix cultural.

Cabinet also agreed to a number of principles, to be applied in considering any regulatory changes. In shortened form these are: minimum intervention necessary; sustainable and adaptable; open and transparent; technology neutral; and social equity and cultural value (EDC Min (07) 29/12).

These objectives and principles were broadly supported as appropriate for the review by respondents to the discussion paper.

Informed partly by international developments in response to convergence, the paper indicated that New Zealand's broadcasting arrangements – and in particular the achievement of a diversity of content – are likely to face some potential risks in the coming years. In summarised form these were:

- a lack of consistency and clarity of regulation;
- a lack of competition and of diversity in provision of content;
- a lack of investment, and thus of innovation, in digital services;
- deficiencies in local content: range, quantity, quality;
- inadequate protection of minors and other vulnerable groups;
- rise of cyber-crime;
- inequality of access to digital services for rural areas and disadvantaged sections of the population; and
- consumer confusion, low 'digital literacy'.

At the same time, a companion paper was released on the future of content regulation in broadcasting (as currently carried out by the Broadcasting Standards Authority), in the light of the same trends of convergence and the spread of similar content to various media platforms. The review of content

regulation began as a separate piece of work, but has now been integrated into the wider review of regulation.

The release of these documents yielded a wide range of submissions from interests within the broadcasting industry, including producers, broadcasters and guild and union representatives, but also from telecommunications companies, internet service providers and other interests. Although views diverged on specific issues, submissions tended to support the existence of the potential risks as set out in the discussion paper, and supported some degree of regulatory change. The responses were analysed to inform a report-back to Cabinet in September, at which a programme of further work was approved.

Most of the actions identified in the report-back can be allocated to one of the four following significant areas of work:

- i) competition study
- ii) content issues
- iii) the institutional form of regulator(s), and
- iv) spectrum policy for analogue switch-off.

In addition, there are a number of closely related issues to be investigated and advanced, in association with the four main work programmes. These are:

- access to archived, pre-1989 TVNZ works
- media literacy
- technical standards, and
- access for disadvantaged audiences

Competition Study

This component of the regulatory review is to be managed by the Ministry of Economic Development, in association with this Ministry. Conditions of access to premium content and access to platforms were identified as potential risks by a number of submitters to the review, although divergent views were expressed. The competition study is to examine any actual or potential barriers to competition in television, and in particular whether there is fair access to platforms and networks and to the commercially desirable 'premium content' – hit movies, major sporting events and the most popular international drama series. The purpose of the study is expressed in the terms of reference as:

to consider whether markets for premium broadcasting-like content and related services are workably competitive and whether existing regulation is appropriate to address existing or potential competition issues given foreseeable market developments, particularly in the context of convergence between broadcasting, telecommunications and the internet in the delivery of services.

The study will examine the conditions faced by new entrants to the market as well as existing participants, and encompass the whole 'value chain'. It will look at the merits of potential measures but not make explicit recommendations.

The study is to be carried out by independent consultants. The terms of reference were approved by the previous Minister of Broadcasting and Minister for Communications and Information Technology in October and the study has been put out to tender. It will inform the regulatory review, not only in the areas it is specifically to address, but in helping to determine the functions of any new form of regulator. (See item below on institutional form.)

While the competition study is being carried out, officials at this Ministry will separately examine the options for ensuring a higher availability of live and free-to-air sporting events on television. Cabinet determined that measures should only be considered that 'minimise the impact on the commercial revenue available to sporting bodies and enhance future participation in sport'. Pending the outcome of the competition study, Ministry officials will also look at the progress made by broadcasters and platform operators in agreeing access arrangements, and investigate possible regulatory functions should these prove necessary.

Content Issues

In relation to content, the government's interventions in broadcasting are largely concerned either with supporting forms of content that the market does not provide of itself, through contestable funding and the public broadcasters, or with regulating all broadcast content according to statutory standards. In the case of content standards regulation, the review is to look at the scope and application of content standards in a period when similar content is appearing on multiple platforms. It will examine the extent to which audiences should expect the same standards to apply, or have the same ability to make a complaint. The response to the separate discussion paper on content standards earlier this year indicated general support for the idea of having a common regime for similar content, but also for varying the application of standards according to the control that audiences can exercise in using different platforms.

At the same time as it examines regulatory issues per se, the review is to examine whether New Zealand's arrangements for funding content and public broadcasting are optimal in the new, converging environment. The Cabinet decisions on the review noted that the fragmentation of audiences among more channels and other platforms creates some opportunities to serve audiences in new ways. But it was also noted that the gradual decline of the mass audiences may make it more difficult to maintain a range of public service and local content that is visible and accessible. Furthermore, this trend puts some programme genres at risk of not being produced at all. This Ministry has therefore been directed to re-examine the functions and legislation of the funding agencies and look at fresh options for exploiting the potential of digital platforms to provide more outlets for subsidised content, for showcasing such content where broadcasters, for commercial reasons, are unwilling to show it, and to ensure that content funding is future-proofed, and continues to provide value for money.

In conjunction with this re-examination the Ministry has been directed to look at options for delivering public broadcasting services in order to achieve greater

co-ordination between the public broadcasters and greater visibility for them, greater points of difference from private broadcasters, and a less commercial approach to public television, focusing on the audience's interests as citizens.

The Ministry has been directed to conduct regular reviews of the role of public broadcasting, funding for local content and the effectiveness of outcomes, consistent with its normal policy advice role. The threats and opportunities for public broadcasting posed by technical convergence, and changing conceptions of what public broadcasting should be, will continue to need close attention.

Institutional Form of Converged Regulator

A further major topic of the regulatory review is the institutional form of regulation. At present, broadcasting regulation is focused on content issues, via the Broadcasting Standards Authority, while communications regulation is primarily concerned with economic and technical issues, via the Telecommunications Commissioner. The regulation of content and the regulation of networks thus also remain separate issues. In the era of convergence, however, with broadcasting content being delivered across different platforms and being received through different devices, some degree of convergence in regulation is needed. Some anomalies are already evident (e.g. in relation to content standards) and more are likely to emerge. Officials have therefore been directed to perform a thorough analysis of two options for regulation of the communications sector: a single stand-alone regulator for both network and content matters; or two converged regulators: one for network and one for content regulation.

Examples of each approach can be found in relevant jurisdictions. (For example, Australia and Britain have opted for a single regulator, Ireland for the double model.) The potential functions for a regulator or regulators to be considered include: promoting competition, conducting market reviews, facilitating agreement on terms of trade between broadcasters and producers and on technical standards, administering content standards, consumer education, management of the spectrum (although it is proposed that spectrum *policy* will remain at departmental level) and settling disputes on access to networks and platforms. The relationship of the proposed regulator to existing institutions, including the Commerce Commission, will be addressed in the review. In assessing the two potential approaches, officials have been directed to aim to satisfy two conditions: the current role of the Telecommunications Commissioner should be maintained; and cultural and economic considerations should each be given sufficient weight. The outcome of the competition study will inform this work on institutional form, helping to ensure that form follows function.

Spectrum Policy for Analogue Switch-off

Current policy is for a date for the switch-off of analogue transmission to be set in 2012, or when take-up of digital transmission by households reaches 75 per cent, whichever is sooner. A cost-benefit study commissioned by the Ministry has estimated that a switch-off date of no later than 2015 would be optimal for

achieving the economic and social benefits – the ‘digital dividend’ – of switch-off. In the interim, the specific spectrum to be released and allocation policy need to be determined. The Ministry of Economic Development, in consultation with this Ministry and Te Puni Kōkiri, has been directed to develop a draft policy and timetable for spectrum allocation, to allow a report-back to Cabinet with recommendations by December 2009. A related issue is to ensure that regional television broadcasters are able to achieve the transition to digital. (Information on the steering group for analogue switch-off is provided as a separate item later in this briefing.)

Other Issues for the Regulatory Review

Several other issues are being examined under the regulatory review. More briefly, these are:

Access to Archived (pre-1989) TVNZ Works

The Ministry is working with TVNZ and the Ministry of Economic Development to develop a legislative proposal (probably an amendment to the Television New Zealand Act 2003) that would allow ‘orphan works’ – television programmes of historical or cultural interest produced by or for TVNZ before 1989 whose right-holders are difficult to identify or locate – to be re-screened for the benefit of the public. The growth in channels and platforms made possible through digital distribution opens up new opportunities to show this material. More detailed briefings will be provided on this issue as work progresses. The wider issues relating to orphan works in various media are to be addressed by the Ministry of Economic Development as part of its 2008/09 copyright work programme; this Ministry has been working closely with MED to ensure that the proposal relating to early television programmes is compatible with this wider work programme.

A related area of investigation for the Ministry, noted above in relation to the possible functions of a regulator, is the terms of trade between producers and broadcasters (and others), to determine whether they are reasonably balanced and maximise export and commercial opportunity.

Media literacy

In the more complex media world created by digital convergence, the level of media literacy – broadly, knowledge of how media work and of their social effects – possessed by the public becomes more important. Users of media, parents and children in particular, need to be able to navigate among a much greater range of material. A more sophisticated knowledge of and respect for copyright issues on the public’s part promotes innovation and the creation of new content; a critical and informed understanding of the media tends to strengthen democracy. It has been agreed that, as part of the review, the regulator, in whatever form, will have a leading statutory role in fostering media literacy in New Zealand. This is intended to have the effect of supporting, rather than replacing, existing initiatives (within and beyond the education system) in media literacy.

Technical Standards

The regulatory issue relating to technical standards is to ensure that incompatible proprietary systems do not limit the ability of consumers to access their preferred combination of services. A converged regulator is expected to have a function of encouraging industry to agree technical standards, and of making recommendations to government where such agreement cannot be reached.

Access for Disadvantaged Audiences

The expansion of broadcasting-like services made possible by digital distribution requires that some action be taken to ensure that audience members with sensory disabilities can also enjoy a growing share of content. At the same time, digital technology offers new means of providing improved services for this segment of the population, including audio description for the blind and sight-impaired. In its decisions on the regulatory review Cabinet decided that a proposal for additional funding for captioning services for the hearing-impaired, and for the development of an audio description service, will be considered for Budget 2009. Officials of this Ministry have also been directed to examine options for regulating minimum levels of captioned content (as is done in other countries), as a function of a regulator.

Next Steps and Timeframe

For the regulatory review as a whole, the Minister of Broadcasting, the Minister for Communications and Information Technology and the Minister of Māori Affairs have been asked to report back to Cabinet by 31 August 2009 with 'recommended actions, including broad costings, for all proposals arising from [the] review'. The Ministers have been asked to 'present final proposed actions, including any legislative proposals, following public feedback and in time to allow for the development and submission of fully-costed policy initiatives for consideration by Ministers in the 2010 Budget' (EDC (08) 144). Further details of the proposed approach will be discussed with you.

Issues Outside the Regulatory Review

There are several current issues that stand outside the regulatory review. Some of these are remaining tasks from the Programme of Action agreed by Cabinet in December 2004. The five-year Programme was published in February 2005, and sets out a series of policy proposals to be investigated under six priority headings:

- achieving adequacy and certainty of public funding for broadcasting;
- strengthening public broadcasting;
- facilitating the successful development of digital broadcasting services;
- enhancing regional and community broadcasting;
- enhancing independence and responsibility in broadcasting; and
- enhancing the incentives for producing higher-quality content and schedules.

The broad themes that have guided work under the Programme can be summarised as:

- strengthening the role of public broadcasters – TVNZ, Radio New Zealand, and NiuFM - as cultural institutions;
- the importance of a successful transition to digital broadcasting in free-to-air television and the development of digital services in radio – the current regulatory review has largely developed out of this part of the Programme of Action;
- ensuring that the publicly owned components of the broadcasting sector (the public broadcasters, NZ On Air, and the Broadcasting Standards Authority) are able to adapt to the changes in the broadcasting environment (also addressed by aspects of the regulatory review); and
- strengthening the role of regional and local broadcasting, both commercial and non-commercial.

The Programme of Action is due to conclude at the end of the 2009 calendar year. The Ministry proposes to discuss with you whether you wish a new, published strategic document to be developed to encompass issues both within and outside the regulatory review. This would help to organise government's support of broadcast content for cultural objectives, beyond strictly regulatory issues, into a coherent programme, comparable to the other cultural outputs of the Ministry.

Radio New Zealand Charter and Institutional Form

Under Section 7 (4) of the Radio New Zealand Act 1995, Radio New Zealand's Charter must be reviewed by the House of Representatives every five years. The second review was conducted in 2005/06. The Commerce Select Committee unanimously recommended the adoption of a new text of the Charter that Radio New Zealand (RNZ) had drafted, in consultation with this Ministry, and then amended in response to public feedback. This proposed revision of the Charter had been submitted to the select committee for its consideration.

The Charter is in effect a statement of the RNZ's statutory functions, the purposes for which the government owns and funds it. The revised text makes a stronger statement about RNZ's role as a public broadcaster and is drafted and organised to make it more accessible to the general public.

During the same period work began on a review of RNZ's institutional form, in fulfilment of a task in the Programme of Action to investigate whether the company form is the most appropriate structure for Radio New Zealand. The outcome of this review was a Cabinet decision to reconstitute RNZ as an autonomous Crown entity, in place of its present form of a Crown entity company. The rationale for this change is that the ACE form is more suitable for a fully public broadcaster of RNZ's type without significant commercial revenue.

A Bill has been drafted both to update the Charter, as agreed by select committee, and to effect the change in institutional form. The Ministry recommends that its passing be treated as a priority.

Next Steps and Timeframe

- Introduction of Radio New Zealand Bill

TVNZ Charter

Like the Radio New Zealand Charter, TVNZ's Charter must undergo a statutory review by the House of Representatives every five years. The first review was required to commence by 28 February 2008. In preparation for this review TVNZ consulted the public on a redraft of the Charter, using its channels and website. The idea of the broadcaster engaging its public on proposed changes to its Charter had been earlier successfully tried by Radio New Zealand. (See the section above in this briefing on the Radio New Zealand Charter.)

TVNZ prepared its redraft in consultation with this Ministry, and it was presented to Cabinet in June 2007 before the public consultation began. The revision sought to make the Charter a more concise and readable document, while retaining all its key elements, and to arrange it under thematic headings to match the evaluation framework agreed with the Ministry (also covered in this briefing). In the Ministry's view, TVNZ's draft revision succeeded in meeting these objectives.

TVNZ then released the draft for public consultation. Around 280 submissions were received, from sector organisations, interest groups and individuals. These were analysed jointly by TVNZ, the Ministry, and an independent academic (Peter Thompson of Unitec), and a further draft was approved, with some additional amendments proposed by the Board itself. With Cabinet's approval it was then commended by your predecessor for the select committee's consideration when it commenced its formal statutory review.

The redraft of the Charter produced by this process is in the Ministry's view a considerable improvement over the current statutory text and on TVNZ's initial draft, in conciseness, structure and public readability. Its alignment with the evaluation framework enhances monitoring and accountability. The revised text was considered by the select committee in February this year and the committee's report presented to the House in May. It received multi-party support (with one dissenting vote) as suitable to replace the current statutory text of the Charter.

A revised Charter is therefore ready for introduction via a Bill, but it could efficiently be combined with any provision relating to pre-1989 programmes (discussed above with reference to the regulatory review). If negotiations on a regime for these programmes fail to produce an agreed approach in the near future, the Ministry will discuss with you your views on whether a Bill for a revised Charter should be introduced separately.

Next Steps and Timeframe:

- Cabinet paper on introduction of a Bill
- Drafting instructions early 2009
- Introduction of Bill

Analogue Switch-off (ASO) Steering Group

In making the decision to facilitate the launch of free-to-air digital television in May 2006, Cabinet agreed that switching off analogue signals after a period of transition was an objective of digital TV strategy, and in the national interest (POL Min (06) 8/8).

The cost–benefit study noted above under ‘Spectrum Policy for Analogue Switch-Off’ estimated that there would be a net national economic benefit of around \$230 million to New Zealand (mainly from the value of the spectrum released for re-allocation) provided the transition was complete and analogue signals were switched off by around 2015. Without switch-off, there would be a net cost to New Zealand.

An in-principle approach to managing the transition to ASO was agreed by the previous Minister of Broadcasting and Minister for Communications and Information Technology in April 2007, following consultation with industry and consumer interests on the basis of a discussion paper. The approach was confirmed by Cabinet, which also set out a series of objectives for ASO:

- to free up spectrum to be allocated for new broadcasting and/or other uses (such as mobile applications);
- to enable re-planning of the UHF spectrum band for better efficiency and to facilitate new broadcasting entrants;
- to enable cost and energy savings to be realised by ending the requirement for simulcast transmission in both analogue and digital formats; and,
- to enable consumers to determine their long-term reception equipment needs, by minimising confusion about the extent of analogue switch-off (CBC Min (07) 22/5).

Cabinet also agreed to establish a government-industry steering group to manage aspects of the transition to ASO, and to agree on timing and implementation (for example, whether region-by-region or nationally) by consensus. The group will monitor viewer take-up of digital TV, be responsible for a public education programme, co-ordinate technical issues, liaise with relevant government departments and local bodies, and identify social equity issues (for example, sections of the population that may need assistance to achieve the transition). Cabinet also decided that the group is to be a joint venture, with costs equally shared between industry and government, and that it will report to the Minister of Broadcasting and the Minister for Communications and Information Technology. In the May 2008 Budget funding of up to \$250,000 (GST-excl.) per annum was announced to support the establishment and operation of the steering group.

ASO will apply to all free-to-air broadcasters, and, as noted, a firm date will be set, on the group's recommendation, once total take-up of all forms of digital TV reaches 75 per cent of households, or in 2012, whichever occurs first. (A target date will be indicated when take-up reaches 60 per cent.) (CBC Min (07) 22/5.) Take-up is estimated now to be over 50 per cent. The television industry itself is keen to progress ASO with the goal of achieving it possibly as early as 2012. This drive from the industry provides another rationale for establishing the steering group.

Cabinet also decided that the steering group would include representatives from government, industry and consumer interests, with the final composition to be decided by the Minister of Broadcasting and Minister for Communications and Information Technology. More recently, your predecessor indicated a wish to re-examine the most appropriate composition of the steering group. The Ministry will seek your views on the make up of the group and, following confirmation of its membership, convene the group as soon as possible.

Spectrum issues relating to ASO are noted above in the section on the regulatory review.

Next Steps and Timeframe:

- Final decisions on steering group membership (December 2008)
- First meeting of steering group (early 2009)

Archiving issues

A review of audio-visual archiving institutional arrangements is being carried out under the Arts, Culture and Heritage portfolio, seeking, if possible, to clarify what is currently a complicated situation involving multiple agencies and funding streams. As this review holds some implications for broadcasting, the Ministry will advise you as it progresses.

Media Use Research

The Ministry, in collaboration with Te Puni Kōkiri, has commissioned Research New Zealand Ltd to carry out a telephone survey of New Zealanders' media use. This inquiry aims to indicate the extent to which new media are being adopted as sources of entertainment and information, and whether they are complementing or replacing television and radio. The survey will add to information about media use in households with children which was gathered by the Broadcasting Standards Authority earlier this year. Its findings will be a valuable input into the regulatory review and policy advice in general.

Next steps and timeline

A final report by the researchers is expected by the end of November. It is proposed that it then be published on the Ministry's website.

National Pacific Radio Trust (Niu FM)

The National Pacific Radio Trust (NPRT) operates the NiuFM national network and Radio 531pi service in the Auckland region. Deteriorating financial performance was noted prior to Christmas 2007 and immediate remedial action was instituted, including the commissioning by the Ministry of independent advice to the Trust Board on re-examining its strategic direction and restructuring the organisation to substantially reduce costs. The Trust is implementing a number of changes, including a restructuring of its senior management team, necessary to secure its financial turn-around.

The Ministry continues to maintain close oversight of these developments, and will provide regular Ministerial briefings and advice on NPRT's situation.

Kiwi FM

Frequencies have been reserved in the upper FM band for a youth radio network and a Māori radio network, but no policy decision has yet been taken on either.

On 27 March 2006, Cabinet agreed to allow CanWest (now MediaWorks) temporary access to three of these 'Crown reserve' FM frequencies in Auckland, Wellington and Christchurch for the New Zealand music service termed Kiwi FM, as a short-term exception to the current non-commercial broadcasting regime, pending the allocation of additional local commercial and non-commercial FM frequencies.

In March 2007, Ministers agreed to the option of Kiwi FM continuing to use the reserved frequencies until the service had an opportunity to apply for alternative licences under the upcoming allocation process. The licences have accordingly been extended (twice) by the Ministry of Economic Development until 31 December 2008.

The allocation of non-commercial frequencies by the Ministry for Culture and Heritage and the auctioning of local commercial frequencies by the Ministry of Economic Development were completed in August 2008.

Kiwi FM currently broadcasts in Auckland, Wellington and Christchurch. It did not apply for any licences in the allocation due to the unavailability of a non-commercial frequency in Auckland and its inability clearly to meet the criteria.

Your decision is required on whether to extend the licence agreement with Kiwi FM to enable it to continue using the reserved frequencies for a limited period pending further policy work on the use of Crown reserve frequencies, or to terminate the agreement on the expiry date of its current licences on 31 December 2008.

Next Steps and Timeframe:

- A separate briefing will be provided as soon as possible.

- *A decision will be required by early December 2008.*

Prosecution of TVWorks Limited (TV3) under section 81 of the Broadcasting Act 1989

Section 81 of the Broadcasting Act 1989 restricts television advertising on Sunday mornings. Three charges have been laid relating to each of the three Sunday mornings on which TV3 broadcast advertisements during the 2007 Rugby World Cup. The maximum penalty for each charge is \$100,000.

The proceedings are set down for hearing in the Auckland District Court commencing on Monday 24 November. The hearing has been allocated five days but is expected to take two. TVWorks is defending the charges. Mark Woolford of Meredith Connell is acting for the Crown. The Ministry will keep you fully advised of proceedings.

Next Steps and Timeline

Court hearing commencing Monday 24 November

2009 Budget

There is increasing concern about the impact of deteriorating economic conditions, although it is too early to determine what the impact will be on different parts of the sector. The Ministry will seek to have an early discussion with you about the approach to be taken to next year's Budget round, given that priorities will need to be identified by mid-December if the usual timeline is followed.

Next Steps and Timeframe:

- Consideration of Budget priorities later this year
- Bids submitted to the Minister of Finance, December 2008

2008 Legislation Programme

The 2008 Legislation Programme has the following broadcasting items; each is in category 4, 'to proceed to a select committee in 2008':

Radio New Zealand Bill – to update the Charter, following the second statutory review, and change RNZ's institutional form to that of an autonomous Crown entity; see 'Radio New Zealand Charter and Institutional Form' above;

Television New Zealand Bill - to update the Charter, following the first statutory review; as noted above, under 'TVNZ Charter', there may be advantages in including in this Bill any provision relating to TVNZ-archived pre-1989 works, if work on the latter proceeds satisfactorily; and

Broadcasting Amendment Bill (No. 2) – to make any changes to the content standards regime for broadcasting arising from the regulatory review; however, the review's timetable will not produce any decisions for legislative change until 2009.

You will need to consider the range of bills and the level of priority for which you wish to bid for next year's legislative programme. Normally, Ministers will be briefed on possible legislative bids in November, to seek direction in relation to priorities. Bids are normally finalised before Christmas, in anticipation of a requirement to lodge them in late January. A briefing will be provided on proposed legislative bids for 2009.

Next Steps and Timeframe:

- Briefing on proposed legislative bids for inclusion in 2009 legislation programme – November.
- Finalisation of Bids – December
- Submission of bids – January 2009

ORGANISATIONS IN THE PORTFOLIO

As Minister of Broadcasting, you have formal relationships with a number of broadcasting organisations, most of which have a statutory basis and receive funding through Vote Arts, Culture and Heritage. The Ministry will assist you in the execution of your role in relation to the organisations for which you have responsibility.

Information about each of the organisations in your portfolio is provided in Appendix I. More detailed briefings about their purpose and operations will be supplied over the next few weeks if required. You may also receive separate briefings from several of the organisations themselves.

Your Relationship with Broadcasting Organisations

Organisations in the cultural sector have traditionally operated at 'arm's length' from government, even when receiving public funding. This reflects a long-standing view in New Zealand (and many other Western countries) that culture should be supported but not determined by central government. The responsibility for many activities that support and enhance New Zealand's culture therefore lies with relatively independent organisations. In broadcasting, the need for editorial independence is a further, though related, aspect of agencies' independence.

Locating such activities outside central government places an onus on both parties. Government's successful management of its relationships with agencies depends upon its making good appointments to the boards (where the power to appoint resides with Ministers); on its provision of appropriate funding to support the role the agency is required to undertake, or the services it is to provide; and on the establishment and maintenance of open, timely and effective two-way dialogue with each organisation about its strategic direction and priorities.

As Minister, you are responsible for conveying the government's expectations to the relevant agencies. Despite their 'arm's length' status, these agencies need to bear in mind the interests of the government from which they obtain their funding and sometimes their mandate, and to which they are accountable.

Crown Entities

Your roles in relation to all the funded agencies are referred to in the enabling legislation of individual Crown entities, and in various Cabinet directives; you have a collection of responsibilities which together define the way government and the agencies relate to each other. Where an agency is a Crown entity, however, the nature of its relationship with government is formally stipulated in the Crown Entities Act 2004. Under this Act, Ministerial responsibilities such as appointing and removing Board members; determining the remuneration of Board members; reviewing each entity's operations and performance; and participating in a process for setting the strategic direction for each entity are specifically identified.

The Act further addresses the power of Responsible Ministers to give directions to Crown entities. This power varies with the type of Crown entity an organisation is defined as being – whether it is a Crown entity company; Crown agent (which must give effect to government policy when directed by the Responsible Minister); autonomous Crown entity (which must have regard to government policy when directed by the Responsible Minister); or independent Crown entity (which are generally independent of government policy with respect to their statutory functions).

There are several different types of Crown entities in the broadcasting sector. NZ On Air, for example, is an autonomous Crown entity. This means that it must bear government policy in mind when instructed by you to do so. Under the Broadcasting Act 1989, however, there is a specific limitation on your powers to direct it with respect to the particular decisions it makes in fulfilment of its legislative responsibilities, and you may not give it a direction in relation to ‘cultural matters’. (The Minister for Arts, Culture and Heritage is similarly prevented from giving direction on ‘cultural matters’ to organisations such as Creative New Zealand and Te Papa.) On the other hand, you are specifically empowered to provide NZ On Air with direction on the funding of Radio New Zealand.

The Broadcasting Standards Authority is an independent Crown entity, which means that it cannot be directed by you as Minister.

TVNZ and Radio New Zealand are Crown entity companies (but see the ‘significant issues’ section), for which the Minister of Broadcasting and the Minister of Finance are the shareholding Ministers. The editorial independence of these organisations is protected by their individual statutes, which contain provisions preventing ministers from giving direction or dismissing board members with respect to programming, news presentation or standards.

Non-government Broadcasting Organisations

As Minister, you are responsible for the Crown’s interest in one non-government broadcasting organisation – the National Pacific Radio Trust, which runs Niu FM. The Trust Deed for this organisation makes you, along with the Minister of Pacific Island Affairs, responsible for appointing the Board of the Trust. The Trust has recently been added to the Fourth Schedule of the Public Finance Act 1989, which means it is required, like a Crown entity, to prepare a statement of intent and annual report for tabling in the House.

The Crown also funds Freeview Limited, although the funding agreement is between the Chief Executive of the Ministry and Freeview. The company is an incorporated joint venture with shareholding broadcasters TVNZ, TVWorks (TV3 and C4), Māori Television and Radio New Zealand. Freeview is a platform that enables the broadcast of free-to-air digital television and radio by means of direct to home (DTH, or satellite to dish) or terrestrial (DTT) transmission. The Freeview DTH service was launched in May 2007, while DTT transmission commenced in April 2008.

A relationship also exists with the Advertising Standards Authority. The ASA is an industry body, but maintains regular communication with you through the Ministry.

Funding

As Minister, you have a key role in determining the appropriate level of government funding for the organisations in the portfolio, and in bidding for any additional funding in the annual Budget round. Each year a contractual agreement between you and each of the agencies is developed; this stipulates the funding to be made available from the Crown, and the services to be provided by the agency.

Accountability

Organisations are required to meet planning and reporting requirements, and can expect their operation and performance to be monitored and, if necessary, reviewed. This process ensures that the government, in the first instance, and subsequently Parliament and the public, can be provided with the assurance that each entity is effectively and efficiently undertaking the role for which it has been created and/or funded.

How the Ministry Assists You

The Ministry has in place a range of programmes that are designed to support your engagement with agencies, and to enhance their governance.

Board Appointments and Governance Support

The Ministry maintains and regularly updates a board nominations database which provides the basis for advice with respect to the 105 board positions that Ministers appoint to in the cultural and broadcasting sectors.

The Ministry, where appropriate, works closely with Chairs and ensures that the relevant competencies and skills needed with respect to a specific board are updated, and that any gaps in the composition of a board are identified for Ministers. Candidate short listing and due diligence interviews are also undertaken if requested.

The Ministry develops all the necessary supporting documentation required for filling vacancies on those boards; and we ensure that all appointments are made in compliance with the Crown Entities Act and other relevant enactments.

A comprehensive governance up-skilling and development programme is also provided for board members, including board members of those agencies for which you are responsible in the Broadcasting portfolio. The programme has a particular emphasis on Crown governance. The Ministry has developed a regularly updated governance eManual and this is supported by a regular governance e-newsletter, customised web pages, and governance memoranda.

In addition, workshops are held for new members shortly after their appointment and the Ministry also provides other workshops and fora for board members.

Participating in a Process for Setting the Strategic Direction of Each Crown Entity

The Crown Entities Act has introduced the requirement for each Crown entity to produce an annual Statement of Intent that outlines its activities for the next three years. This enables the Crown to participate in the process of setting the entity's medium term intentions. The Act specifies some elements of this participation, and the process tends to flow more smoothly when there are clear communications between the Minister, the Chair of each entity, and the Ministry, in the months leading up to the point where the Minister and the Chair sign the Statement of Intent. A Ministerial 'letter of expectations' to the Chair is often helpful and draft letters will be prepared for you in December, if you wish.

Supporting the Budget Round Process

The Ministry reviews Budget proposals from the agencies and provides advice to you on these by December each year. Once you have made decisions on the final set of Budget proposals, the Ministry prepares templates for submission to the Minister of Finance, usually by the end of each January.

Managing Relationships with Crown Entities and Other Cultural Agencies

The formal mechanism for managing the relationship between the Responsible Minister and each organisation is an annual Memorandum of Understanding. The Ministry prepares these documents, which record the government's expectations of the entity and enable both parties to record their understanding of the basis for the monitoring of, and accountability for, the organisation's performance. Memoranda follow a standard pattern but usually include some matters specific to each organisation. An MOU needs to be signed prior to payments being made to an organisation. Where this may be delayed, the Ministry will negotiate an interim Funding Agreement, usually providing for the first month of payment.

Reviewing the Operations and Performance of Crown Entities and Other Agencies

The Ministry helps you review the operations and performance of agencies in the following ways:

- The Ministry analyses the quarterly or six-monthly reports from each agency, as specified in the reporting requirements in the MOUs, and briefs you on these;
- The Ministry briefs you on the content of Crown entities' Annual Reports before they become public. Individual Crown entities are responsible for helping you to meet the statutory requirements associated with the tabling of their Annual Reports in Parliament;

- The Ministry collates a fortnightly report covering issues in the Arts, Culture and Heritage portfolio, including activities undertaken by the agencies, but this was discontinued with respect of those entities in the Broadcasting portfolio as it was no longer required by the then-Minister; it can be reinstated if it is your wish;
- From time to time, the Ministry may also prepare one-off briefings about specific agency issues, or propose that some aspect of an organisation's operations or performance is reviewed in more detail.

Improving Agency Connections and Performance

The Ministry facilitates occasional meetings with the board Chairs, and monthly meetings with the Chief Executives of Crown entities and the other cultural agencies, to enhance communication between the organisations and across the sectors. The meetings also provide opportunities to alert organisations to new government initiatives. From time to time, these meetings stimulate opportunities for multi-agency co-operation and collaborative activity. You may wish to attend these meetings, which occur at 4pm on the third Monday of each month.

The Ministry has a small amount of annual funding to support capacity-related agency projects.

The Ministry's Policy Advice Role

The Ministry monitors these agencies as part of its role as a Crown agent, directly responsible to you. The agencies themselves have been assigned various categories of organisation, under the Crown Entities Act: NZ On Air is an autonomous Crown entity, for example, while the Broadcasting Standards Authority, with its quasi-judicial function, is at a further remove from government, as an independent Crown entity; TVNZ and RNZ are Crown entity companies. What they have in common is some degree of distance from government, consistent with the 'arm's length' principle, which gives them the freedom from political direction they need to carry out their functions, whether in determining grants, assessing complaints about broadcasts, or making editorial decisions.

This same separation from government, however, means that the agencies do not, as the Ministry does, provide formal policy advice to you. They have regular opportunities to present their views on government policy to you, in writing or in meetings, but advice on policy in relation to them, as on their financial performance, is a departmental responsibility of the Ministry. In addition, it is a responsibility of the Ministry to carry out evaluations of their performance and effectiveness from time to time, as required.

BROADCASTING ORGANISATIONS

- Television New Zealand Ltd - Crown Entity Company
- Radio New Zealand International - Division of Crown Entity Company
- Broadcasting Commission (NZ On Air) - Autonomous Crown Entity
- Broadcasting Standards Authority - Independent Crown Entity
- National Pacific Radio Trust - Non-Government Trust included in the 4th Schedule to the Public Finance Act
- Freeview Limited - Incorporated Joint Venture
- Advertising Standards Authority - Industry Organisation

TELEVISION NEW ZEALAND LIMITED

Television New Zealand Limited is a Crown entity company established under the Television New Zealand Act 2003. The Ministers of Broadcasting and Finance are its shareholding Ministers.

Its principal statutory function is to provide the television and other services that may be specified from time to time in its current Statement of Intent. In carrying out its functions, TVNZ's principal objective is to give effect to its Charter (set out in the Act) while maintaining its commercial performance.

TVNZ is funded to:

- undertake initiatives and to develop, commission and purchase programmes that support the implementation of the TVNZ Charter;
- maintain television coverage in non-commercial areas;
- transmit news, current affairs and special interest programmes to the Pacific; and
- provide two new television services on the Freeview digital platform.

Governance

The Board of TVNZ is:

- Sir John Anderson, Chair
- Robert Fenwick, Deputy Chair
- Anne Blackburn
- Brian Gould
- John Goulter
- June McCabe
- Phillip Melchior

Board appointments to TVNZ are made by shareholding Ministers; the supporting administrative work is undertaken by the Crown Company Monitoring Advisory Unit. This Ministry provides advice on potential candidates, and participates in briefings and the due diligence process. Sir John Anderson's term expires in December 2008 and CCMAU will be briefing shareholding Ministers separately on this matter.

Chief Executive: Rick Ellis

Funding

TVNZ's 2008/09 funding comprises a baseline appropriation of \$15.111 million for Charter implementation (now paid through NZ On Air), \$12 million for new television services on TVNZ 6 and TVNZ 7 digital TV channels, \$1.15 million to maintain television transmission to remote localities, and \$607,000 to maintain transmission of news and current affairs programming to the Pacific.

TVNZ All revenue sources (\$000 excl GST)					
Year	Vote	Commercial	Sponsorship	Other	TOTAL
2006/07	22,051	312,824	-	40,328	375,203
2007/08	37,668	314,100	-	37,532	389,300
2008/09	28,868	327,900		57,732	414,500

During 2006/07, the Ministry and CCMAU provided input to TVNZ's development of an enhanced Charter Performance Measurement Framework. The Framework, published in TVNZ's Statement of Intent for the Year ending 30 June 2009, is aligned with the strategic priorities of TVNZ's Five Year Strategy Plan 2007-2011, and includes a new appreciation index in the form of an annual survey to capture qualitative data. TVNZ first reported against the Framework in its 2007/08 interim and annual reports.

The Ministry and TVNZ have commenced discussions on possible enhancements for reporting against the Framework in the 2008/09 Annual Report and on setting targets in the 2009/10 Statement of Intent.

RADIO NEW ZEALAND

Radio New Zealand (RNZ) is a Crown entity company established under the Radio New Zealand Act 1995. The Ministers of Broadcasting and Finance are RNZ's shareholding Ministers.

Its statutory functions are to provide innovative, comprehensive, and independent broadcasting services of a high standard, as more specifically detailed in the Charter provisions of the Radio New Zealand Act.

It also provides the Radio New Zealand International (RNZI) service to the South Pacific which is required to:

- Promote links between South Pacific communities in New Zealand and their counterparts in the region;
- Broadcast programming which encourages an awareness and understanding of New Zealand policies on regional issues of concern, foreign relations, development assistance, immigration, human rights, economic developments, the environment and trade opportunities;
- Broadcast innovative, comprehensive and independent news and programming of interest to the Pacific region; and
- Work with Pacific broadcasters and organisations that develop Pacific media by offering regional support and training.

Governance

Board appointments to RNZ are made by shareholding Ministers; the supporting administrative work is undertaken by the Crown Company Monitoring Advisory Unit. This Ministry provides advice on potential candidates, and participates in briefings and the due diligence process.

The Board of RNZ is outlined below:

- Christine Grice, Chair
- Rt Hon Paul East
- Judy Finn
- Steve Murray
- Yvonne Sharp
- Sifa Taumoepeau
- Alison Timms

Chief Executive of RNZ: Peter Cavanagh

General Manager of RNZI: Linden Clark

Funding

Public funding for RNZ's domestic networks is routed through NZ On Air but direct funding for RNZI operations is provided through the Ministry.

RNZI All revenue sources (\$000 excl GST)					
Year	Vote	Commercial	Sponsorship	Other	TOTAL
2006/07	1,900	-	-	221	2,111
2007/08	1,900	-	-	275	2,175
2008/09	1,900	-	-	258	2,157

The separate briefing provided by the Crown Company Monitoring Advisory Unit also provides information on RNZ.

BROADCASTING COMMISSION (NZ ON AIR)

NZ On Air is an autonomous Crown entity established under the Broadcasting Act 1989. NZ On Air plays a major role in ensuring that New Zealanders are able to enjoy broadcasting services that would not otherwise be provided on a commercial basis, as outlined in its functions below:

- 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;
- To ensure that a range of broadcasts is available to provide for the interests of women, youth, children, persons with disabilities and minorities in the community, including ethnic minorities; and to encourage a range of broadcasts that reflects the diverse religious and ethical beliefs of New Zealanders;
- To maintain, and, where appropriate, extend the coverage of television and radio broadcasting to New Zealand communities that would not otherwise receive a commercially viable signal; and
- To encourage and establish the operation of archives or programmes likely to be of historical interest in New Zealand by making funds available for broadcasting and the production of programmes to be broadcast; and the archiving of programmes.

Governance

Members of the NZ On Air Board are appointed by the Minister of Broadcasting.

	Position	Date Appointed	Term Ends
Neil Walter	Chair	1 December 2006	30 November 2009
Edie Moke	Deputy Chair	1 May 2002	30 April 2010
Michael Glading	Member	1 January 2008	31 December 2010
Nicole Hoey	Member	9 October 2006	30 September 2009
Murray Shaw	Member	8 August 2008	31 July 2011
Paul Smith	Member	21 September 2004	31 August 2009

Chief Executive: Jane Wrightson

Funding

NZ On Air All revenue sources (\$000 excl GST)					
Year	Vote	Commercial	Sponsorship	Other	TOTAL
2006/07	106,671	-	-	5,096	111,767
2007/08	109,813	-	-	5,443	115,256
2008/09	127,557*			4,500	133,733

* Includes \$15.1 million for TVNZ Charter implementation

BROADCASTING STANDARDS AUTHORITY (BSA)

The BSA is an independent Crown entity established under the Broadcasting Act 1989. The functions of the BSA are as follows:

- To receive and determine complaints about alleged breaches of a standard in a specific programme, from persons who are dissatisfied with the outcome of complaints made to broadcasters, and to impose appropriate penalties and costs;
- To publicise its procedure in relation to complaints;
- To issue to any or all broadcasters, advisory opinions relating to broadcasting standards and ethical conduct in broadcasting;
- To encourage the development and observance by broadcasters of codes of broadcasting practice appropriate to the type of broadcasting undertaken by such broadcasters;
- To develop and issue codes of broadcasting practice; and
- To conduct research and publish findings on matters relating to standards in broadcasting.

Governance

Because the BSA is an independent Crown entity, appointments to its Board are made by the Governor-General (on the recommendation of the Minister of Broadcasting). You will note from the table below that an early decision on an appointment is required because of the expiry of the term of one of the current members. A separate briefing on this appointment will be sent to you shortly.

	Position	Date Appointed	Term Ends
Joanne Morris	Chair	2 October 2003	30 June 2009
Paul France	Member	19 December 2003	30 September 2009
Tapu Misa	Member	17 February 2003	30 April 2010
Diane Musgrave	Member	1 August 2003	30 September 2008 Roll over pending Ministerial decision on future appointment

Chief Executive: Dominic Sheehan

Funding

Year	Vote	Commercial	Levy on Broadcasters	Other	TOTAL
2006/07	609	-	688	74	1,371
2007/08	609	-	707	65	1,381
2008/09	609	-	723	361	1,368

NATIONAL PACIFIC RADIO TRUST (NIU FM)

The National Pacific Radio Trust (NPRT) is a private trust responsible for providing a national radio service (broadcasting as Niu FM) that will:

- Provide an authoritative, accurate, current and reliable information source to Pacific people, reinforcing their languages, values, beliefs and culture in New Zealand;
- Facilitate, contribute to and promote community development that is conducive to the education, employment, housing, health, immigration as well as the social and economic development of Pacific people in New Zealand;
- Harness and grow the best available Pacific broadcasting and management talent throughout New Zealand so that the network as a community-owned platform is sustainable and delivers a quality service;
- Promote effective avenues for training Pacific people in broadcasting and advocating for and on behalf of Pacific people in the media; and
- Provide a window through which the rest of New Zealand can be better informed about the lives of Pacific communities throughout New Zealand.

A review of the national Pacific radio network in 2005 led to decisions to amend the objectives of the network in a minor way and to strengthen accountability by maintaining the Trust structure but adding it to the Fourth Schedule of the Public Finance Act 1989.

Governance

Board members are appointed jointly by the Minister of Broadcasting and the Minister of Pacific Island Affairs.

	Position	Date Appointed	Term Ends
Tino Pereira	Chair	30 April 2002	31 December 2009
Brian Chamberlin	Member	1 January 2007	31 December 2009
Marilyn Kohlhase	Member	1 January 2008	31 December 2010
Janet Mason	Member	1 May 2004	31 December 2009
Maureen Passmore	Member	1 May 2004	30 April 2010
Jeannie Pera	Member	1 May 2007	30 April 2010
James Prescott*	Member	1 January 2007	31 December 2009
Ken Williams	Member	1 July 2004	30 April 2010

* Mr Prescott is Deputy Chair Elect of NPRT subject to your confirmation and that of the Minister of Pacific Island Affairs (or Cabinet should you wish)

Acting Chief Executive: Tom Etuata

Funding

NPRT All revenue sources (\$000 excl GST)					
Year	Vote	Commercial	Sponsorship	Other	TOTAL
2006/07	3,390	1,304	-	102	4,796
2007/08	3,300	1,736	-	207	5,243
2008/09	2,700	1,760		200	4,660

FREEVIEW

Freeview Limited is an incorporated joint venture with shareholding broadcasters TVNZ, TVWorks (TV3 and C4), Māori Television and Radio New Zealand. Freeview is a platform that enables the broadcast of free-to-air digital television and radio by means of direct to home (DTH, or satellite to dish) or terrestrial (DTT) transmission. The Freeview DTH service was launched in May 2007, while DTT transmission commenced in April 2008.

Government announced its decision to support Freeview to the amount of \$25 million over five years in November 2006. Government's primary aim in supporting Freeview is to encourage New Zealand to make the transition from analogue to digital free-to-air television transmission. A cost benefit analysis has estimated the net national benefit of analogue switch-off to New Zealand at \$230 million, assuming switch-off occurs by 2015.

Television channels broadcast on Freeview include: TVOne, TV2, TVNZ6, TVNZ7, TVNZ Sport Extra, TV3, C4, Māori Television, Te Reo, Parliament TV, CUE, Stratos, TV Central, CTV8.

Radio stations broadcast include: Radio New Zealand Concert, Radio New Zealand National and George FM.

Governance

The Board of Freeview is:

- John Allen, Chair
- Richard Friesen
- Kenneth Law
- James Mather
- Rick Ellis
- Rodney Parker

Board appointments are made by the shareholders.

Chief Executive: Steve Browning

Funding

Year	Vote	Commercial	Sponsorship	Other	TOTAL
2006/07	1,743	-	-	423	2,166
2007/08	3,629	-	-	120	3,749
2008/09	5,000	-	-	not available	5,000

ADVERTISING STANDARDS AUTHORITY

The Advertising Standards Authority (ASA) is an Incorporated Society which acts as a self-regulatory body for the advertising industry. The ASA receives no government funding but falls under the Broadcasting portfolio with respect to its consumer-rights function and its relationship with other public broadcasting agencies. About 50 pieces of legislation include advertising standards.

The three main objectives of the ASA are:

- To seek to maintain at all times and in all media a proper and generally acceptable standard of advertising and to ensure that advertising is not misleading or deceptive, either by statement or by implication;
- To establish and promote an effective system of voluntary self regulation in respect to advertising standards (primarily through advertising codes of practice); and
- To establish and fund an Advertising Standards Complaints Board (ASCB).

Governance

The Advertising Standards Complaints Board (ASCB) is an independent board which adjudicates on complaints about advertisements which complainants believe breach the advertising codes of practice. The Board has eight members, four from the industry and four public representatives with no connection to the media or advertising industries.

The ASA confers with, and invites nominations from the Minister and the Ministry on the appointment of the public representatives of the board.

The ASCB's current membership is:

- Rob Thompson (public representative, Chair)
- Jenny Courtney (public representative, Deputy Chair)
- Phil Broughton (public representative)
- Dr Jean Drage (public representative)
- Dr Greg Simmons (public representative)
- Margaret McKee (alternate public representative)
- Jane Anderson (or Janine Chamley, alternate) – representing advertisers
- Sharon Daly (or Sandy Smith, alternate) – representing television and radio
- Paul Elenio – representing newspapers and magazines
- Nigel Keats (or Cameron Harland, alternate) – representing advertising agencies

The ASA keeps the Minister informed of any important issues, particularly in relation to the review of existing codes or the introduction of new codes.

Executive Director: Hilary Souter

SENIOR STAFF OF THE MINISTRY

Bronwyn Dalley – Acting Chief Executive

Bronwyn Dalley took up the Acting Chief Executive position in September 2008. Before then she was Deputy Chief Executive, Group Manager for the NZLive website, and Chief Historian (Group Manager) of the Ministry's History Group, responsible for overseeing the production of digital and print histories. She originally joined the Ministry in 2000, having worked as a historian at the Department of Internal Affairs since 1993 after she graduated from the University of Otago. She has published widely on New Zealand history and has played an active role in the public history sector. In 2008 Bronwyn was accepted into the Advanced Leadership Programme run through the Leadership Development Centre, and in 2006 received a Leadership Development Centre Fellowship.

Matt Archer – Corporate Group Manager, and Acting Group Manager for Stakeholder Communications

Matt has a background in public sector finance, and has worked previously at the Ministry of Transport and the Departments of Māori Affairs and Internal Affairs. He joined the Ministry in 1992 as Finance & Administration Manager. As the Ministry has grown in size, his role has broadened to that of Corporate Services Manager. Currently, his work encompasses responsibility for HR, Finance & Planning, IT and Information Management, Legal Services, and Accommodation & Facilities. He is also currently Acting Manager for the Stakeholder Communications Group, comprising Ministerial Servicing and Communications.

Jo Tyndall – Director, Broadcasting Unit

Jo came to the Ministry in 2005 initially on secondment to manage the digital broadcasting project (a priority of the Public Broadcasting Programme of Action), and has headed up the Broadcasting Unit since its establishment in December 2007. She was Chief Executive of NZ On Air from 1999 to 2006, and prior to that, was Executive Director of the Screen Production and Development Association (SPADA). She was one of New Zealand's team of negotiators in the WTO Uruguay Round.

Neill Atkinson – Acting Chief Historian

Neill has been Acting Chief Historian/Manager of the History Group since 1 September 2008. He has worked as a public historian in various roles for 18 years, and joined the permanent staff of the History Group in December 2002. He is the author of six books, has published widely on the Internet, and has also served as President of the Professional Historians' Association of New Zealand/Aotearoa (PHANZA).

Murray Costello – Agency Group Manager

Murray joined the Ministry in 1993 from the Ministries of Commerce and Tourism. He is a specialist on providing performance advice and governance support with respect to funded agencies, and has led public sector-wide initiatives in these areas.

Jane Kominik – Policy Group Manager

Jane transferred from the Department of Internal Affairs to the Ministry when it was first established, in 1991, and has spent most of her career in the area of cultural policy and administration. In addition to Internal Affairs, she has also worked for the Ministry of Foreign Affairs (including at the New Zealand High Commission in London) and the State Services Commission. She has maintained a particular interest in New Zealand cultural policy within the international context.

Jock Phillips – Reference Group Manager, and Acting Group Manager for NZLive

Jock is General Editor of Te Ara, the Online Encyclopedia of New Zealand. He was previously the Chief Historian following 16 years teaching American and New Zealand History at Victoria University of Wellington. He was also the founding Director of the Stout Research Centre for New Zealand Studies. He has published eleven books on New Zealand history, of which the best known is *A Man's Country? - the Image of the Pakeha Male: a History*.

Brodie Stubbs – Heritage Operations Group Manager

Brodie came to the Ministry in 2000 when the heritage functions were transferred from the Department of Internal Affairs. He has a background in managing projects which promote New Zealand identity starting, with the 1995 50th anniversary of the end of the Second World War. His work also includes managing the design, construction and dedication of the Tomb of the Unknown Warrior in Wellington, and new memorials in Canberra, Gallipoli, Busan and London.

ORGANISATIONAL STRUCTURE OF THE MINISTRY

APPENDIX III

