

[In Confidence]

Office of the Minister for Broadcasting and Media
Cabinet Economic Development Committee

Establishment of a new public media entity

Proposal

1. This paper seeks agreement to strengthen delivery of public media services to New Zealanders by establishing a new public media entity, which would subsume Radio New Zealand (RNZ) and Television New Zealand (TVNZ).
2. It also seeks decisions on:
 - 2.1. the form, focus and characteristics of the new public media entity
 - 2.2. the transition to the new entity, and process for disestablishment of TVNZ and RNZ
 - 2.3. issuing drafting instructions for a Bill to establish the new entity and make necessary changes to existing legislation
 - 2.4. funding for 2021/22 establishment costs, s9(2)(f)(iv) [REDACTED]
 - 2.5. setting up a Strong Public Media Establishment Board to advise on operational features of the new entity and the transition process.

Relation to government priorities

3. This proposal progresses a key element of the Labour Party Manifesto 2020 commitment to strengthen the role of public media and Māori media in Aotearoa New Zealand, and ensure public media assets are fit for the future and able to thrive amid the changing media landscape.
4. It also supports the wellbeing objectives for Budget 2022, given the contribution made to social connectedness, civic engagement and cultural identity by public media - particularly in its delivery of services and content that reflect the experiences and meet the needs of Māori, Pacific people, and children and young people [CAB-21-MIN-0349 refers].

Executive summary

5. In January 2020, Cabinet invited me to report back on the establishment of a new public media entity after the completion of a detailed business case. The Strong Public Media Business Case Governance Group (BCG) has completed a final business case that assesses the viability of establishing a new public media entity and recommends a preferred approach. The BCG has also

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completed a programme of targeted engagement to inform the development of a charter for a new entity.

6. The business case forecasts ongoing reductions in linear television advertising revenue driven by increasing competition from international content providers, a continued audience shift to online platforms and increasing production costs. At the same time, TVNZ, RNZ and other public media entities require investment in digital platforms to continue to reach audiences.
7. Current institutional arrangements are inflexible, inefficient, and disjointed, and the regulatory framework for TVNZ and RNZ is outdated and doesn't meet modern expectations. If structural changes are not made, New Zealand's public media entities will struggle to maintain current levels of public media provision, even with significant increases in public funding.
8. Having strong public media that provides a range of trusted news and local content to a broad range of audiences across the platforms New Zealanders choose to use is vital to the health and vibrancy of New Zealand society, particularly if services provided by private media reduce over time.
9. This Government has already shown its commitment to media plurality and independent journalism, and strengthening public media will further support this. In 2020 we saw a very fragile domestic media market. We must ensure there is solid capacity in our media and fourth estate to ensure the public always have access to independent, quality news and current affairs coverage via public media.
10. Given the speed with which changes to how New Zealanders access and consume media have taken place, and the likely pace of further changes, it is critical that decisions are made now to safeguard the future of New Zealand's public media to ensure it is structured to succeed, and nimble enough to respond to future changes to audience and market trends.
11. I therefore propose establishing a single new Crown entity, in line with the recommended approach in the business case, that would:
 - 11.1. subsume RNZ and TVNZ (with the expectation that trusted brands and services are retained)
 - 11.2. be a single public media entity, which would be editorially-independent, governed by a charter, and supported by commercial revenue to help ensure its financial sustainability
 - 11.3. receive core baseline funding directly through an appropriation administered by Manatū Taonga.
12. This proposal aims to:
 - 12.1. strengthen our national identity and culture through accessible local content

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- 12.2. enhance our democracy through people being able to find trusted news and information and being well informed
- 12.3. ensure our public media is sustainable and able to adapt to change, with services being delivered effectively and efficiently.
13. I strongly recommend that the Bill establish the new public media entity to be editorially independent – this is a foundational principle for public media entities internationally and in New Zealand.
14. I also recommend the Bill support the Māori-Crown relationship and deliver public media outcomes that would be set out in a charter.
15. The entity would be required to maximise access to the public media content it delivers and ensure this content is made freely available to New Zealanders, at least at first publication. It would be expected to seek commercial revenue to re-invest in public media outcomes, and to work collaboratively across New Zealand’s media sector wherever possible to support a diverse, capable, and resilient media ecosystem.
16. Its organisational form as an autonomous Crown entity (ACE), and its planning, reporting and monitoring requirements would support this focus.
17. It will be important to ensure a smooth transition period while the new entity is stood up and allow for uninterrupted delivery of public media services to the New Zealand public, provide greater certainty for staff, and protect many of RNZ’s and TVNZ’s existing contractual arrangements. I therefore recommend that the Bill convert RNZ and TVNZ to Crown entity subsidiaries of the new entity, with these subsidiary entities eventually being disestablished once the new entity is fully operational.
18. Consistent with the advice in the business case, I recommend that a Strong Public Media (SPM) Establishment Board is set up to provide advice to me on the establishment of the new entity.

Background

19. In January 2020, Cabinet invited me to report back on the viability of, and a preferred approach to, establishing a new public media entity after the completion of a detailed business case [CAB-20-MIN-0004 refers].
20. The business case was intended to test the feasibility of a new public media entity with the following core features:
 - 20.1. It is a single legislative entity.
 - 20.2. It has a clearly defined public media mandate and purpose, with the core functions of a globally recognised public media entity.
 - 20.3. It provides public media services across a variety of platforms, some of which will be advertising-free.

- 20.4. It has a mixed funding model, with revenue derived from Crown and non-Crown sources.
- 20.5. It operates as a not-for-profit entity.
- 20.6. It has statutory provisions for editorial and operational independence.
21. In February 2021, the Cabinet Economic Development Committee endorsed the establishment of a Strong Public Media Business Case Governance Group (BCG), made up of media and public sector experts, to oversee the completion of a business case and undertake public consultation to inform the development of a draft charter [DEV-21-MIN-0004 refers].
22. The BCG has provided me with a final business case, attached as **Annex 1**, which assesses the viability of establishing a new public media entity and recommends a preferred approach. I am confident that:
 - 22.1. the business case scope and outcome is consistent with the overall direction set by Cabinet
 - 22.2. the methodology and process undertaken by Deloitte to develop the business case for the BCG is robust
 - 22.3. the content of the business case has been robustly developed and tested throughout the Detailed Better Business Case process, and the Treasury's own assurance processes (Mid-point Clinic, End-point clinic and Gateway Review).
23. The BCG has also completed a programme of targeted engagement to inform the development of a charter for a new entity, and the views and perspectives gained from this engagement are summarised in **Annex 2**.
24. The business case recommendations and findings of the targeted engagement inform the recommendations in this paper.

The case for change

New Zealand media are facing a challenging environment

25. As Cabinet has previously noted, New Zealand media are under pressure due to increased competition from international content providers, declining audiences and revenue shares and changes in how New Zealanders access and consume media. The COVID-19 pandemic has provided some short-term audience uplift, resulting in increased profits for many media companies. But it has also exacerbated the underlying trends, increasing numbers of New Zealanders moving away from traditional media to online delivery, meaning that these gains are not sustainable and media organisations are likely to face significant financial pressures in the future
26. 2020 was the crossover point where online platforms overtook traditional media in terms of engaging with the largest daily audiences, across all age groups, in

Aotearoa. NZ On Air's most recent audience survey¹ shows that, for people aged 15 to 39 years, digital media now dominates with 82 percent using online video and 72 percent using SVOD daily, compared to radio at 36 percent and television at 35 percent.

Work is underway to support a diverse, sustainable, resilient media eco-system...

27. The Government is undertaking a range of work to provide short-term support to the sector to help it weather COVID-related pressures, and to help ensure New Zealand retains a diverse, sustainable, resilient media ecosystem in the face of these challenges. This work includes:
 - 27.1. a \$50 million media sector support package (delivered in 2020) focused on reducing cost and easing cashflow pressure for a range of media organisations
 - 27.2. the Public Interest Journalism Fund – a \$55 million package over three years, delivered through NZ On Air to support public interest journalism
 - 27.3. development of a sustainable media system strategic framework – a work programme led by the Ministry for Culture and Heritage – Manatū Taonga, aimed at developing options to support the media sector to transition to long-term sustainability
 - 27.4. modernising the Māori media and broadcasting sector – work led by Te Puni Kōkiri to explore the most effective and efficient way of funding and producing te reo and tikanga Māori content and repositioning the Māori media sector to achieve the best outcomes
 - 27.5. a comprehensive review of media content regulation - led by the Department of Internal Affairs – Te Tari Taiwhenua, aimed at creating a new modern, flexible, and coherent regulatory framework to mitigate the harmful impacts of media content
 - 27.6. a Pacific Languages Strategy and supporting All-of-Government Action Plan that will include provisions for Pacific language broadcasting – led by the Ministry for Pacific Peoples.

...and to ensure public media arrangements are fit for purpose...

28. In the context of this broader work, the Strong Public Media (SPM) work programme has focused on how public media – specifically TVNZ and RNZ – can be strengthened.
29. Having strong public media that provides a range of trusted news and content is vital to the health and vibrancy of New Zealand society, particularly if services provided by private media reduce over time.
30. A strong public media system will:

¹ *Where Are The Audiences?* 2021

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- 30.1. strengthen our national identity and culture through easy access to local content
- 30.2. enhance our democracy through people being able to find trusted news and information and being better informed
- 30.3. be sustainable and able to adapt to change, with services being delivered effectively and efficiently.

... and deliver benefits for audiences

31. For audiences, a stronger public media system means fairer provision, with a wider range of New Zealanders having equitable access to relevant and trusted content, along with the current audience base. With a stronger public media system:
 - 31.1. current audiences would still be able to enjoy the same services they do now via linear television and radio, and currently commercial-free services would remain commercial-free
 - 31.2. provision would extend beyond current audiences, with people who are not currently engaged with public media on traditional platforms able to access content in other ways - for example through video-on-demand, podcast, and streaming services, as well as through other third-party distributors
 - 31.3. those currently under-served by public media, including younger audiences, would have a better chance of seeing and hearing themselves and finding content that engages them

Current funding arrangements are unlikely to be sustainable

32. As the business case sets out, funding for publicly-owned media entities has been diminishing in real terms for some time. In TVNZ's case, its operating revenue has been trending down for the last decade – although in the year to June 2021 it has reported a record profit based on a combination of lower content spend and increased revenue (largely due to effects associated with the COVID 19 pandemic). In Budget 2020, the Government committed to a \$7.25 million per annum baseline increase to RNZ to address cost pressures and in Budget 2021, a one-off \$0.9 million payment.
33. Should these trends continue, the business case forecasts ongoing reductions in linear television advertising revenue driven primarily by a continued audience shift to online platforms from linear television, TVNZ's market share in linear advertising diminishing, and lower returns from advertising from digital platforms. At the same time, production costs are likely to continue to increase².
34. s9(2)(f)(iv)

² NZ On Air estimates that, in 2020/21, average cost per hour had risen by 194% compared with 2011/12, and 76% compared with 2017/18.

s9(2)(f)(iv)

However, increasing government funding is not the whole solution

35. As the business case outlines, current institutional arrangements will significantly hamper achievement of the Government's objectives for public media, even with significant increases in public funding:
 - 35.1. The current mandates, objectives and funding arrangements of NZ On Air, RNZ and TVNZ are not well-aligned which, together with TVNZ and RNZ's platform-specific legislation and business models, makes collaboration difficult and reduces these entities' ability to respond collectively to current and future challenges.
 - 35.2. Current duplication of resources across RNZ and TVNZ, along with the likely need to make future investment in both to support ongoing delivery of public media outcomes, means current arrangements are not best placed to support efficient use of Crown funds.
 - 35.3. Aspects of the regulatory framework for both TVNZ and RNZ are outdated and don't reflect modern technology and expectations - in particular, a focus on linear delivery for TVNZ and on delivery of radio services for RNZ, and a lack of recognition of the Māori-Crown relationship in the entities' current establishing legislation. This constrains both entities' ability to respond quickly and flexibly to change to meet the needs of all New Zealanders, and does not place sufficient emphasis on the Crown's obligations to Māori.
 - 35.4. While TVNZ does produce public media content, it is not governed by a charter like RNZ, and its predominantly commercial focus constrains its ability to make available content that meets the needs of underserved audiences and extend provision beyond current audiences.
36. If the inflexibility, inefficiency, and disjointed nature of current institutional arrangements are not addressed, and a sustainable funding model put in place, New Zealand's public media will struggle to maintain current levels of public media provision, audiences will continue to decline, and important demographic groups will increasingly lose access to the trusted information and content for and about them that public media provides.

Establishing a new public media entity

37. To address these issues, I propose the establishment of a single new Crown entity in line with the recommended approach in the business case that would:

- 37.1. subsume RNZ and TVNZ, (with the expectation that trusted brands and services are retained)
 - 37.2. be a public media entity with a statutory charter, supported by commercial revenue to help ensure its ongoing financial sustainability, rather than a commercial entity supported by government
 - 37.3. deliver content through a variety of platforms, including linear delivery, its own online platform, and third-party platforms
 - 37.4. subsume both entities' operations and enable shared functions and co-location of facilities.
38. I recommend that the entity receive core baseline funding directly through an appropriation administered by Manatū Taonga. This funding would be supplemented by commercial revenue. This model would provide a degree of funding certainty for the entity and reduce complexity, compared to a model where the entity had to seek contestable public funding as well as commercial revenue.
39. Establishing a single public media entity focused on delivering statutory public media outcomes will:
- 39.1. align the delivery of public media content across platforms, increase flexibility and reduce inefficiencies
 - 39.2. ensure a more transparent and sustainable long-term funding model
 - 39.3. enable a greater focus on currently under-served and under-represented audiences and expand delivery beyond current audiences
 - 39.4. help strengthen New Zealand's media ecosystem, for instance through strengthened provision of public interest journalism. The proposal is consistent with the broad approach set out in the January 2020 Cabinet paper and is informed by the business case's assessment of a range of options against the status quo, its identification of the preferred option of an efficient not-for-profit entity, and its conclusion that this option is operationally and financially feasible.

Protecting the entity's editorial independence

40. Editorial independence is a foundational principle for public media entities internationally and in New Zealand, protecting entities' ability to provide an independent voice, to hold power to account, and to be a trusted source of news and information. It is critical that the new public media entity is editorially independent – that is, free from direct or indirect Ministerial influence over editorial matters (those matters relating to the production, publication, and dissemination of particular content). I propose that this editorial independence is reflected in the entity's charter (see discussion below).
41. The entity's organisational form as an Autonomous Crown Entity (discussed further below) would provide the public media entity with significant operational

independence, including a degree of protection from inappropriate direction in relation to editorial matters. However, there is a need for the public media entity to have specific statutory protections over and above this, just as RNZ and TVNZ currently have.³

42. These protections should include protections relating to Ministerial direction and protections relating to the removal of Board members (to prevent Ministers exercising editorial influence by removing Board members in relation to editorial matters).
43. I therefore recommend that the Bill:
 - 43.1. require responsible Ministers to exercise their powers and functions in a way consistent with the entity's editorial independence
 - 43.2. prevent responsible Ministers giving certain directions to the entity relating to editorial matters
 - 43.3. prevent responsible Ministers removing members from the entity's board for any reason relating to editorial matters.
44. In addition to provisions protecting it from inappropriate Ministerial direction, section 8A(2) of the RNZ Act requires the entity to have independence from commercial interests in fulfilling its charter. I do not recommend replicating such a provision in the Bill given the expectation that the entity will seek commercial funding.

Recognising and supporting the Māori-Crown relationship

45. The new entity will be expected to operate in a way that improves outcomes for Māori, and helps ensure the Crown meets its obligations under te Tiriti o Waitangi/the Treaty of Waitangi (the Treaty) including through:
 - 45.1. its governance and decision-making arrangements
 - 45.2. its delivery of te reo Māori me ngā tikanga Māori content and Māori stories to a broad range of audiences
 - 45.3. its provision of content and services to Māori audiences
 - 45.4. the way it works with the Māori media sector.
46. All Crown entities are subject to the Enduring Letter of Expectations that the Minister of Finance wrote to all Crown entity board chairs in 2019 setting out

³ Section 11 of the Radio New Zealand Act 1995 requires shareholding Ministers to exercise their powers and duties consistently with the charter, and section 13 prevents Ministers from giving a direction or removing directors in relation to certain functions (programming, complaints, gathering or presenting of news or current affairs). Section 28 of the Television New Zealand Act 2003 similarly requires that Ministers must not give direction or remove directors in relation to editorial matters.

specific requirements for entities to embody the Government's good-faith and collaborative approach to Māori-Crown relationships⁴.

47. While the public media entity would be subject to these general requirements, there are likely to be specific expectations of this entity arising from its public media role, in particular relating to:
 - 47.1. how the entity's role intersects and aligns with Māori media interests
 - 47.2. the entity's critical role in promoting Māori interests, mātauranga Māori and Māori culture, and protecting te reo Māori as a taonga
 - 47.3. the entity's obligations to meet the needs and expectations of Māori audiences.
48. A mix of legislative and non-legislative mechanisms is likely to be the best approach to ensure the new entity delivers on these specific expectations. Creating explicit requirements in legislation for the new entity will give more certainty to Māori that the Crown's obligations in this area will be met.
49. I therefore recommend that the Bill requires:
 - 49.1. that the Responsible Minister appoint at least two members to the Board in consultation with the Minister for Māori Development, to ensure that the Board has adequate knowledge and understanding of te ao Māori and tikanga Māori
 - 49.2. the Board to engage with iwi/Māori on relevant matters
 - 49.3. the entity to collaborate with Māori media organisations to help support the capacity, capability, and sustainability of the Māori media sector.
50. The entity's charter would also contain obligations relating to te reo Māori and tikanga Māori, promotion of Māori content and stories to a broad audience, and provision for the specific needs of Māori audiences.
51. I also recommend that further work is done as part of the establishment of the new entity to identify how the Māori-Crown relationship can best be supported through the structure and operating model of the new entity, and how the entity could best align with and support the Māori media sector – including in relation to the current work being led by Te Puni Kōkiri on repositioning the Māori media sector for strategic impact.

Delivering against public media outcomes set out in a charter

⁴ Including by engaging appropriately and often with Māori on relevant issues; pursuing further opportunities for partnership with Māori entities and businesses; building staff Māori cultural capability including knowledge of tikanga Māori, te ao Māori, New Zealand history and how to address institutional racism; improving the Treaty-consistency of policy and practices (for example, considering where whānau-centred policies can be used); and supporting the Maihi Karauna (the Crown's Strategy for Māori Language Revitalisation 2019 – 2023) by promoting and supporting the revitalisation of te reo Māori.

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52. In accordance with previous Cabinet guidance, I recommend that the new entity be required to deliver public media outcomes that would be set out in the legislation as part of a charter for the entity and form the statutory purpose for the entity. The charter would also set out the objectives, functions, and operating principles of a new public media entity.
53. In my view, the charter for the new entity should:
- 53.1. establish a basis for building the trust and confidence of New Zealanders in the entity
 - 53.2. help build a cohesive culture within the entity (this means that the charter should not simply be an adaption of the existing RNZ charter or the previous TVNZ charter)
 - 53.3. form the basis for monitoring performance and ensuring accountability for delivery (this means that the charter should enable clear expectations to be set for the entity).
54. The charter needs to allow for a high degree of flexibility in how the new entity delivers services and content in the context of ongoing technological and demographic change. Therefore, despite the need for clear expectation-setting, the charter should not be overly detailed or prescriptive, particularly in relation to the description of the entity's functions and operating principles.
55. I am aware that RNZ's charter currently specifies the provision of the RNZ Pacific service (s. 8(l)). It may also be the case at some point in the future that Ministers wish to require the entity to provide such services as accessibility technologies (captioning and audio description) to support broad and equal access to public media content.
56. In keeping with the approach above, I do not propose to specify the delivery of particular functions or services in the charter – but rather describe the types of functions the entity will deliver. Committing the entity to deliver a particular service or function (or use a particular platform) lessens the ability of the entity to respond to changing technology and audience needs.
57. Instead, I recommend that the Bill empower the Minister to add to the entity's functions.⁵ In accordance with its ACE form, the entity would be required to "have regard" to any direction from the Minister to perform additional functions. However, in line with the discussion on editorial independence above, this power could not be used to direct the entity in relation to any editorial matters.
58. I also recommend that the responsible Minister direct the entity once it is operational to continue to provide an international service to the South Pacific as RNZ currently does, to ensure that New Zealand continues to deliver on its international obligations in the Pacific.

⁵ This is in accordance with s.112 of the Crown Entities Act, which gives the responsible Minister the ability to direct the entity to perform any additional function as long as this power is given in the entity's establishing legislation, and the function is consistent with the entity's objectives.

59. In addition, the new entity would perform a similar role to the ones RNZ and TVNZ fulfil as lifeline utilities under current s.60 of the Civil Defence Emergency Management Act 2002. This would include providing information to the general public and communities before, during and after emergencies. As part of the establishment phase, I recommend that work be undertaken with the National Emergency Management Agency in relation to the new entity's role under the Civil Defence Emergency Management Act (or its successor⁶).
60. The targeted engagement undertaken by the BCG demonstrated significant commonality in the hui and workshop participants' views about what could be covered in a charter. Building on these views and BCG's advice, I recommend that the charter be structured around four public media outcomes that, taken together, would set out the purpose of the public media entity. The entity's objectives, functions and operating principles would flow from these outcomes, comprising the charter in the legislation. The proposed purpose, objectives, functions, and operating principles are set out in the table below.

Charter element	Proposed basis for charter structure
Purpose <i>These four public media outcomes would form the purpose of the entity</i>	A strong, distinctive Aotearoa/New Zealand identity A valued, visible, and flourishing te reo Māori me ngā tikanga Māori An inclusive, enriched and connected society A healthy, informed participative democracy
Objectives <i>These objectives set out how the entity will achieve its purpose</i>	Reflect, represent, and help shape the development of Aotearoa/New Zealand's unique national identity and culture. Provide shared experiences that contribute to a sense of citizenship and national identity. Reflect the particular contribution of te ao Māori to a unique Aotearoa/New Zealand identity. Promote the understanding and the use of te reo me ngā tikanga Māori to all New Zealanders and promote the telling of Māori stories. Reflect, include, and serve the full diversity of Aotearoa/New Zealand society, including multiple languages and cultures. Support children's and young people's emotional, physical, and mental wellbeing; creativity, learning, and development; social participation; and sense of belonging. Ensure content and services are available and accessible to all regions and communities, and to New Zealanders of all ages, genders, ethnicities, and abilities. Support all New Zealanders to be informed, engaged citizens who participate fully in society.

⁶ Noting that this Act is proposed to be reviewed.

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Charter element	Proposed basis for charter structure
	<p>Build awareness of the world and of Aotearoa/New Zealand's place in it.</p> <p>Foster critical thought, counter misinformation and promote informed and many-sided debate.</p> <p>Support freedom of thought and expression.</p>
<p>Functions</p> <p><i>These functions describe at a high level what the entity will do to achieve its objectives</i></p>	<p>Provide high-quality content across all genres that entertains, informs, and educates, and that is freely available and accessible to all New Zealanders over a range of platforms, including:</p> <ul style="list-style-type: none"> • content that is predominantly and distinctively of Aotearoa/New Zealand • coverage of events of national significance • content in or using te reo, that promotes tikanga Māori, and that reflects Māori history, experiences, and perspectives to a broad audience • content that appeals to and engages a wide audience • content that provides for tastes, interests, and perspectives not catered for elsewhere • content that reflects the needs and experiences of New Zealanders of all ages, genders, abilities, and ethnicities, from all regions and communities • reliable, accurate, comprehensive, impartial, and balanced regional, national, and international news and information. <p>Preserve content that reflects Aotearoa/New Zealand's history and enable access to that content.</p> <p>Preserve, and enable Māori to have access to, their taonga content.</p> <p>Deliver or support the delivery of content and services that recognise New Zealand's international obligations including the promotion and protection of Pacific languages.</p>
<p>Operating principles</p> <p><i>These operating principles set out how the entity will need to operate in delivering its functions</i></p>	<p>Demonstrate editorial independence, impartiality, and balance, particularly in the delivery of news and current affairs.</p> <p>Ensure the participation of Māori, and the presence of a significant Māori voice in the development and delivery of content and services.</p> <p>Represent and reflect the full diversity of New Zealand's communities in day-to-day operations.</p> <p>Strive to better understand, engage, and serve New Zealanders of all ages, genders, abilities, and ethnicities, from all regions and communities.</p> <p>Strive to identify and address areas where public media content is not easily accessible or meeting the full needs of New Zealand's diverse communities.</p>

Charter element	Proposed basis for charter structure
	<p>Enable participation and involvement by under-served audiences in decisions about content and services.</p> <p>Ensure the means of delivery aligns with audience preferences and needs.</p> <p>Strive to innovate and take creative risks.</p> <p>Strive to achieve the highest standards of quality and integrity.</p>

61. During the targeted engagement, participants identified tensions between some proposed areas of focus for the entity, in particular between balancing the need for the entity to achieve public media outcomes, the need to pursue commercial revenue (to ensure that its funding is sustainable) and the imperative to work collaboratively with commercial and other providers (to help ensure a diverse and resilient media eco-system).
62. It will be important that the legislation makes it clear how the entity should manage these tensions where they occur. This is discussed further below.

Maximising access to public media content

63. The entity would be expected to maximise all New Zealanders’ access to the public media content it delivers. This includes retaining the ability of New Zealanders to access content without having to pay for it and ensuring that content is delivered through the platforms that New Zealanders can access and want to use – helping to broaden provision beyond current audiences to a wider range of people. However, this would not prevent the new public media entity from pursuing other opportunities such as a premium subscription service that provides content free from advertising.
64. The proposed charter elements outlined above include provisions relating to access, specifically:
- 64.1. the objective to ensure content and services are available and accessible to all regions and communities, and to New Zealanders of all ages, genders, ethnicities, and abilities
 - 64.2. the function to make content freely available and accessible to all New Zealanders over a range of platforms
 - 64.3. the operating principles that the entity will strive to identify and address areas where public media content is not easily accessible or meeting the full needs of New Zealand's diverse communities; and that the entity will ensure the means of delivery matches audience preferences and needs.
65. In addition, I recommend that the Bill establishing the entity requires the entity to provide content free of charge to New Zealanders when it is first published.

Seeking commercial revenue to re-invest in public media outcomes

66. The entity would be expected to seek commercial revenue to supplement its core baseline funding and to re-invest in public media outcomes. This will be important to ensure the entity can optimise delivery of public media content while reducing cost pressures on the Crown over the life of the entity.
67. However, the entity would not be expected to maximise its commercial revenue, but rather to generate optimum revenue to deliver on the requirements of its charter – this would help it to balance the expectation to pursue commercial revenue and its public media focus.
68. The entity's operating and financial model will reflect these expectations, and they would be supplemented by existing provisions in the Crown Entities Act requiring entities to operate in a financially responsible manner (section 51) and perform their functions efficiently and effectively (section 50a), as well as by the governance, monitoring and reporting arrangements set out in more detail below.
69. Cabinet has previously noted that core news services that are currently advertising-free would continue to be advertising-free [CAB-20-MIN-0004 refers]. This relates primarily to the advertising-free radio news service currently provided by RNZ. In my view, it will also be important to preserve the commercial-free status of all services currently provided by RNZ where the new entity continues to provide them.
70. I therefore recommend that the Bill require that, where the entity is providing the same, or substantially the same services as those previously provided by RNZ, it would be required to provide these services in a commercial-free manner.
71. I note that any new services established by the entity would not be constrained from attracting non-Crown revenue. The entity would also be able to establish new non-commercial services to strengthen its public media mandate.

Supporting the broader media ecosystem

72. The new public media entity will play an important role in the broader media ecosystem. Given its size, public media mandate and level of influence, it could have a positive influence on the capability, capacity and sustainability of the sector.
73. Some participants in the targeted engagement process expressed concern about the potential impacts of a large public media entity, funded partly by commercial revenue, on the viability and sustainability of other providers - particularly in relation to competition for viewers and advertising dollars.
74. In addition, public media content is also provided by community and private sector media organisations, and these organisations make a valuable contribution to public media outcomes by reaching specific audiences and providing a wider range of views and perspectives.

75. To address these concerns and the need to maintain a healthy sector, I recommend that the Bill includes a broad obligation for the entity to work collaboratively to support the diversity, capability, and sustainability of the broader media ecosystem, wherever this does not prevent it meeting expectations to earn commercial revenue. This could be achieved in a number of ways, including outsourcing services where appropriate, working with public or private entities to build capability (including in journalism) and allowing others to access its infrastructure.
76. This obligation would be intended to support the entity in its delivery of its charter. However, it would be subject to the entity's obligation to earn commercial revenues - which will sometimes require the entity to act in competition with other media organisations.
77. This obligation would be in addition to the separate requirement to collaborate with Māori media organisations to help support the capacity, capability, and sustainability of the Māori media sector.
78. Based on the advice in the business case, to address possible concerns about the entity's impact on the broader sector, I also recommend that the entity's operating model include:
 - 78.1. constraints on the entity's eligibility to act as a commissioning platform for content funded by NZ On Air - this would allow other public and private media greater certainty about the level of funding available to them
 - 78.2. expectations to prevent the entity from building up excessive cash reserves and that non-Crown revenue would primarily be invested in public media outcomes – this would help support the entity to be complementary to private media, and manage any market imbalance from combining TVNZ and RNZ.
79. I do not propose any changes to how the new entity would benefit from Te Māngai Pāho funding – noting that content screened on TVNZ received \$7.85 million of Te Māngai Pāho funding in 2019/20.

Implications for NZ On Air

80. As well as impacts on the broader media ecosystem, the proposal to directly fund the public media entity has implications for NZ On Air, and potentially for the broader production sector.
81. The current system for funding content is based on NZ On Air as a separate funding agency that does not itself produce content or provide a platform for it, but seeks to use available funding to maximise New Zealanders' access to content about and for them that might not otherwise be produced (as set out in s36 of the Broadcasting Act).

82. This proposal would effectively establish a second public media entity with the ability to directly fund a significant amount of content. Unlike NZ On Air, this entity would itself be a platform and, to a lesser extent, a content producer.
83. This could result in a loss of system efficiency, given that NZ On Air wouldn't be able to look across the full quantum of public funding to ensure it is allocated to the best possible use across the sector. In addition, there could be impacts on the broader production sector if the new entity decided to use its funding to produce content in-house, rather than outsourcing it to independent production companies.
84. My view is that any impacts on NZ On Air's role or on the broader production sector are likely to be relatively minor as long as:
 - 84.1. NZ On Air and the new public media entity work collaboratively to identify and/or minimise duplication and gaps in the provision of public media content across all providers
 - 84.2. there are clear expectations that the new entity will not bring significant amount of content production in-house, noting that the proposed statutory requirement for the entity to help support the diversity, capability, and sustainability of the broader media ecosystem will mitigate this risk.
85. To support a collaborative approach between NZ On Air and the new entity, and help reduce the risk of duplication or gaps in the funding of content, I recommend that the Bill require:
 - 85.1. the new public media entity to work collaboratively with NZ On Air in relation to funding decisions where duplications of, or gaps in, funding could occur
 - 85.2. NZ On Air to work with the new public media entity in the same manner.
86. I also recommend that further work is done as part of the establishment of the new entity to identify how best to support collaboration between the new entity, NZ On Air and other media organisations on the creation and distribution of local content, how best to constrain the eligibility of the entity to benefit from content funded by NZ On Air, and to maintain NZ On Air's sector oversight of all content being funded and any gaps and duplication.

Determining an organisational form

87. The new Crown entity's organisational form, along with its governance, reporting, and monitoring arrangements should reflect the outcomes and functions the entity is intended to deliver. It will be important that the entity can be held clearly to account without compromising its editorial independence or limiting its ability to respond to change.
88. In January 2020, Cabinet noted that the most appropriate organisational form for the new entity would be either an autonomous Crown entity (ACE) or a

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Crown entity company (CEC) [CAB-20-MIN-0004 refers]. The business case noted that an ACE form was the preferred option.

89. I recommend that the new entity be established as an ACE on the basis that, on balance, this form is most suited to the primarily non-commercial, public media focus of the new entity relative to a CEC (which is more suited to an entity with a primarily commercial focus).
90. The key feature of an ACE is that it is required to “have regard to” government policy that relates to its functions and objectives, if directed by the responsible Minister. Board appointments for an ACE are made by the responsible Minister.
91. An ACE has primarily non-commercial functions, but this does not prevent it having commercial functions as well. The Public Trust is an example of an ACE with both non-commercial and commercial functions.
92. In my view, the ACE form provides sufficient independence to the entity. In particular:
 - 92.1. section 104 of the Crown Entities Act provides that Ministers can only direct the entity to *have regard* to a government policy that relates to the entity’s functions and objectives, but cannot direct the entity to *give effect* to that policy, unless specifically provided in another Act
 - 92.2. section 113 of the Crown Entities Act does not allow Ministers to direct a Crown entity in relation to a statutorily independent function or to require action in relation to particular people.
93. In my view, these provisions, along with the recommended provisions relating to the entity’s editorial independence proposed above, will safeguard the entity’s editorial independence.
94. I recommend that the Minister for Broadcasting and Media is the responsible Minister for the new entity, reflecting the entity’s primary focus on achieving public media outcomes.
95. I also recommend that the Minister of Finance has a statutory role in relation to the entity, to provide oversight of the entity’s financial performance. This role for the Minister of Finance would include:
 - 95.1. the Responsible Minister making Board appointments with the agreement of the Minister of Finance, with the Responsible Minister consulting the Minister of Finance on removal of Board members
 - 95.2. the ability to request information from the entity in relation to the entity’s financial performance
 - 95.3. the ability to provide input in relation to the entity’s strategic direction and performance.

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Establishing governance arrangements

96. Section 25 of the Crown Entities Act 2004 requires a statutory entity such as an ACE to have a board with the authority to exercise the powers and perform the functions of the entity.
97. I recommend that the entity's Board comprise a minimum of six and a maximum of nine members, balancing efficiency of decision-making while allowing room for the Board make up to reflect a range of competencies, diversity, and sector representation – noting that there would be specific statutory provision as described above to ensure that the Board has adequate knowledge and understanding of te ao Māori and tikanga Māori.
98. I also recommend that the Board be appointed under the standard appointment provisions under section 29 of the Crown Entities Act.⁷
99. In my view, the existing provisions in the Crown Entities Act, along with the provisions proposed to be in this Bill, will ensure the entity's Board has the collective capabilities to deliver on the outcomes sought while being flexible enough to ensure the entity's governance can adapt as the entity's priorities and environment change.

Setting reporting requirements

100. It is important that the entity can be held transparently to account for fulfilling its general obligations as a Crown entity as well as its specific obligations in relation to:
 - 100.1. delivery of its charter
 - 100.2. supporting the Māori-Crown relationship
 - 100.3. seeking commercial revenue to the extent necessary to deliver on its public media outcomes and operate sustainably
 - 100.4. working collaboratively across the media sector wherever appropriate to support a diverse, capable, and resilient media ecosystem.
101. The entity's reporting requirements are a key part of this accountability.
102. As an ACE, the entity would be subject to standard planning and reporting arrangements for Crown entities, including a Statement of Intent, Statement of Performance Expectations, Annual Report, and Letter of Expectation. These

⁷ This provides that a Minister “may only appoint or recommend a person who, in the responsible Minister's opinion, has the appropriate knowledge, skills, and experience to assist the statutory entity to achieve its objectives and perform its functions.” In recommending appointments, a Minister must also “take into account the desirability of promoting diversity in the membership of Crown entities.” In addition, Ministers are bound by the Cabinet Office circular on diversity of board membership to encourage board diversity [CO (02) 16 refers].

arrangements provide a well-established basis for holding entities transparently to account.

103. However, I consider that the new entity should have reporting requirements over and above the standard requirements in line with some of the current requirements in the TVNZ and RNZ Acts⁸ - recognising the entity's particular statutory requirements and its obligations to deliver for a broad range of New Zealanders.
104. I therefore recommend that:
- 104.1. the new entity should report annually on its performance against its charter and its other statutory obligations in its annual report
 - 104.2. the entity should regularly obtain and take into account audience research as part of this assessment of its performance
 - 104.3. the House of Representatives should review the entity's charter and the entity's performance against the charter every five years.
105. In my view, these additional arrangements would help ensure the entity achieves its public media outcomes and meets its other obligations, as well help to provide the new entity with sufficient incentives to earn commercial revenue to support public media outcomes.

Establishing monitoring arrangements

106. The entity's reporting requirements should be underpinned by an effective monitoring framework comprising robust performance measures, and clear monitoring arrangements.
107. Currently, TVNZ is monitored by the Treasury and RNZ is monitored jointly by Manatū Taonga and the Treasury. In my view, it will be important that both these agencies' expertise informs the monitoring of the new entity, reflecting the proposed Ministerial oversight of the entity and:
- 107.1. that Manatū Taonga is the relevant portfolio agency, and the monitoring agency for a range of cultural, heritage, and arts organisations (including other ACEs), and has a well-established sector performance function
 - 107.2. Treasury's commercial monitoring expertise.
108. It will also be important that the expertise of other relevant departments such as Te Arawhiti and Te Puni Kōkiri is applied to the monitoring of the new entity.
109. I therefore recommend that, as part of the work on the establishment phase:

⁸ TVNZ must prepare half year financial statements in addition to its annual financial statements. RNZ is required to report against its charter performance in its annual report and must undertake audience research to inform this reporting. RNZ's charter is also reviewed by the House of Representatives every five years – although this is focused on reviewing the charter rather than reviewing RNZ's performance against the charter.

109.1. an effective monitoring framework for the new entity is developed to ensure its performance can be transparently monitored

109.2. monitoring arrangements for the new entity are developed, with clear roles and responsibilities for each agency, and reflecting the need for a range of expertise to be applied to monitoring of the new entity's performance.

110. s9(2)(f)(iv)

Transitioning to the new public media entity

111. I want to ensure a smooth and orderly transition period while the new entity is stood up, including:

111.1. setting clear expectations for, and sufficiently empowering, the new entity board

111.2. providing certainty to stakeholders, including staff

111.3. minimising any impacts through the transition, including providing continuity of public media services to New Zealanders and maintaining the existing contractual arrangements of RNZ and TVNZ as appropriate.

112. To support these objectives, I recommend that the Bill:

112.1. empower the new entity board to stand up the new entity and ensure it is delivering against its obligations (including the new charter)

112.2. immediately convert RNZ and TVNZ to Crown entity subsidiaries of the new entity and repeal the RNZ and TVNZ Acts, with RNZ and TVNZ retaining their own boards for a transition period and continuing to deliver public media services until the new entity is fully operational

112.3. s9(2)(b)(ii)

112.4. disestablish the subsidiaries once the new entity is fully operational and any contract matters are finalised.

Considering existing archiving provisions

113. Part 4A of the TVNZ Act comprises a significant part of the legislation governing TVNZ. It sets out arrangements intended to make it easier to screen some specific (pre-1997) works in the TVNZ archive and establishes a scheme providing for people with rights in such works to be notified and compensated.

114. I recommend that no provision be made for the current arrangements and scheme under Part 4A for the following reasons:
- 114.1. the scheme has never been used by TVNZ. TVNZ has advised that most of the content in the TVNZ archive is able to be easily used by TVNZ without recourse to the arrangements in Part 4A
 - 114.2. the provisions are detailed and prescriptive (for instance, setting parameters around when content can be screened) and out of step with modern outcomes-based legislation
 - 114.3. the provisions are designed in part to protect the commercial interests of TVNZ (for example, requiring specific arrangements to allow an archived work to be screened anywhere other than a TVNZ channel or platform). This aspect of part 4A is not well-aligned with the predominantly public media focus of a new entity
 - 114.4. there are existing mechanisms under the Copyright Act to clear rights to allow archived material to be screened, should this be required.
115. There is an opportunity to review the current archiving agreements in place between TVNZ/RNZ, Manatū Taonga and Ngā Taonga to ensure future arrangements are informed by and aligned to the Government's broader objectives for archiving (e.g. balancing preservation and access), and with other work underway across government (e.g. the current review of the Copyright Act 1994). I recommend this is considered as part of the work to establish a new entity.
116. The charter provisions will also establish a broad expectation for the entity in relation to archiving - including obligations for the entity to:
- 116.1. preserve content that reflects Aotearoa/New Zealand's history and enable access to that content
 - 116.2. preserve, and enable Māori to have access to their taonga content (which is in line with the whole-of-government work programme to protect key mātauranga Māori collections).

Setting up an Establishment Board

117. Consistent with the advice in the business case, I recommend that a Strong Public Media (SPM) Establishment Board is set up to oversee the establishment of the new entity, including providing advice and recommendations to me as Minister for Broadcasting and Media on the key design decisions for a new public media entity.
118. The Establishment Board's primary role would be to:
- 118.1. oversee the phase of work required to establish the new public media entity, ahead of legislation being passed to create and confer statutory powers on a new entity board

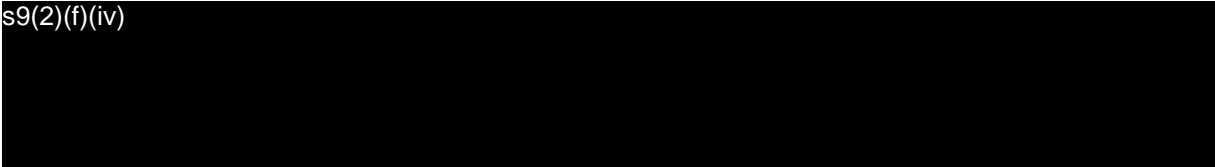
- 118.2. provide advice to me on how best to design and shape the entity from an operational perspective.
- 119. I recommend that the Committee approves the Terms of Reference attached as **Annex Three**, which outlines in more detail board roles and responsibilities, authority, and membership criteria.
- 120. Subject to the Committee’s approval of the terms of reference, I propose to submit recommendations for membership of the Board to the Cabinet Appointments and Honours Committee in February.

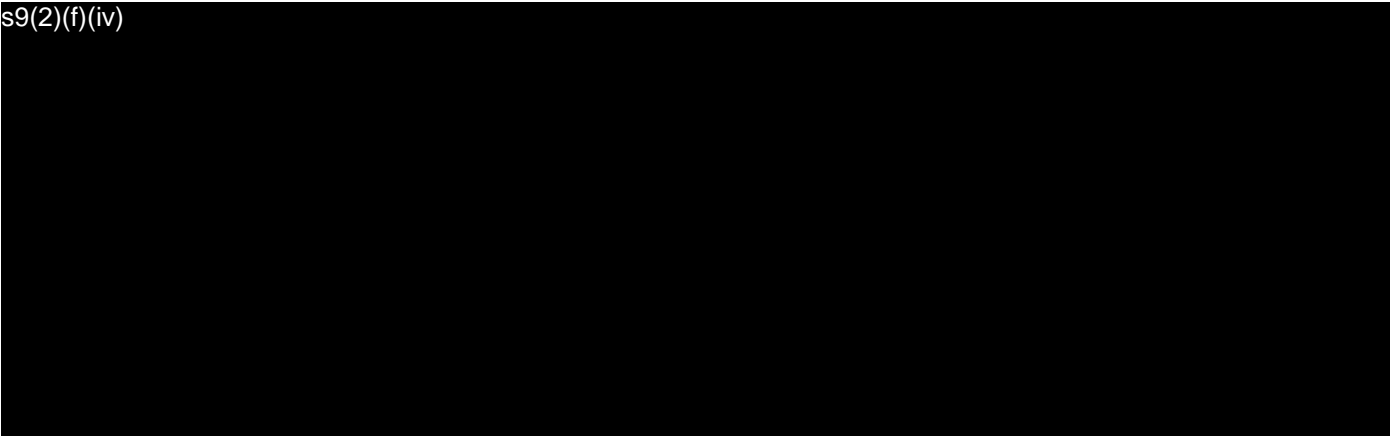
Implementation

- 121. The following table sets out key milestones and the estimated timeframe for implementing the new entity, subject to Cabinet decisions, and passage of legislation through the House.

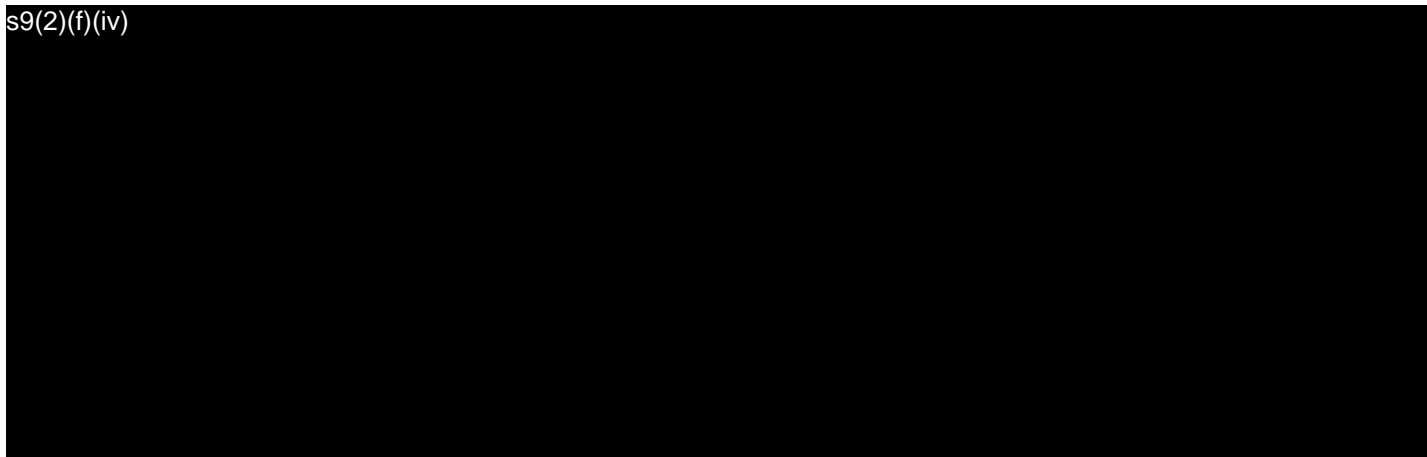
Milestone	Timeframe
Establishment Board operational	March 2022
Legislation passed and new entity established	December 2022
Operational entity board appointed	February 2023
Entity Executive appointments made	March 2023 onwards
Entity fully operational	July 2023

Financial implications

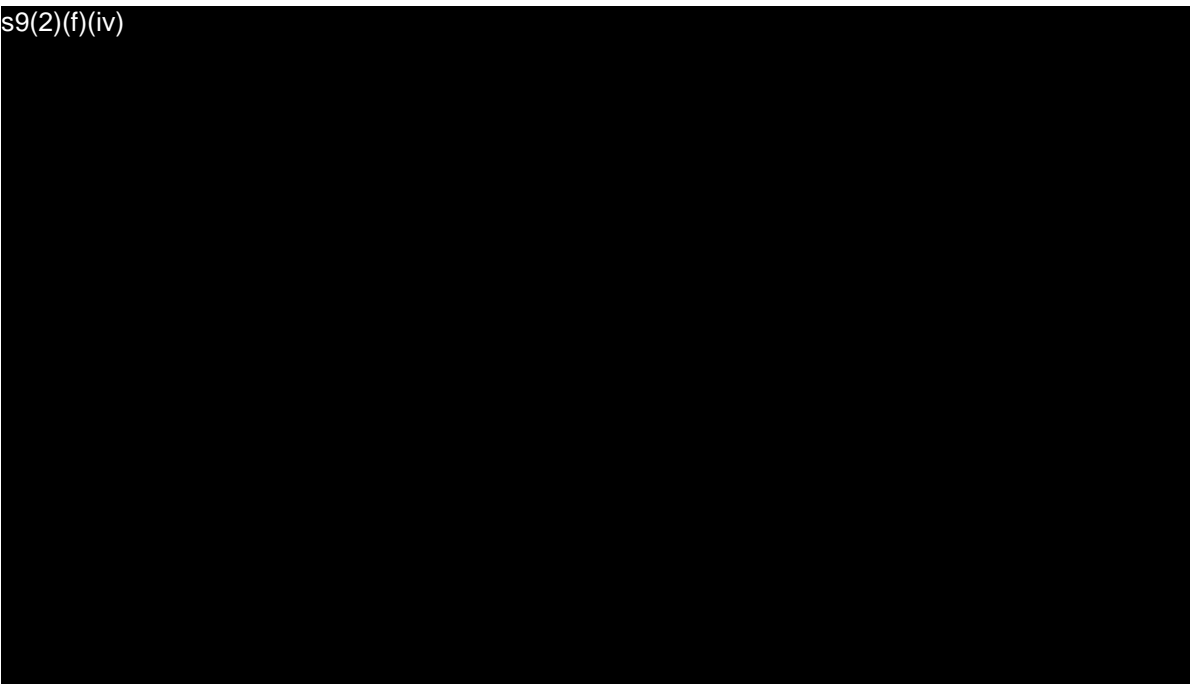
122. s9(2)(f)(iv) 

s9(2)(f)(iv) 

s9(2)(f)(iv)




123. s9(2)(f)(iv)



124.

Legislative implications

125. The policy decisions from this paper will result in legislation that creates a new public media entity and simultaneously repeals the TVNZ Act and RNZ Act and other associated legislation, as appropriate. s9(2)(f)(iv)



126. It is proposed that the establishment Act will bind the Crown.

Impact analysis

127. The Treasury's Regulatory Impact Analysis team has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it would substantively duplicate the Strong Public Media business case. It has reviewed the business case and confirmed that it contains the requirements that would otherwise be included in a Regulatory Impact Statement.

Population implications

128. A key objective of this proposal is to establish a public media entity that delivers content to and engages diverse population groups across New Zealand and supports the social connectedness and wellbeing of New Zealand audiences. Specific audience groups identified in this paper as currently under-served or under-represented by existing public media include Māori, Pacific peoples, young people, disabled people, and other ethnic communities.
129. This proposal aims to benefit these groups by better identifying and meeting their needs, and better ensuring public media content reflects their experiences.
130. The Office for Disability Issues notes the opportunities to support outcomes for disabled people and New Zealand's international commitments such as the United Nations Convention on the Rights of Persons with Disabilities, including better accessibility for New Zealanders with disabilities to public media content through technology solutions (such as set top boxes and well-designed on-demand platforms), through functions and services (such as audio description and closed captioning) and by bringing disabled people into the scope of public media activities as employees, broadcasters, or technicians.
131. The Ministry for Ethnic Communities also notes that the entity could support efforts to build a strong and distinctive Aotearoa New Zealand identity that reflects the diversity of people who live in New Zealand and have diverse cultural norms. The entity could also have a strong role in countering bias and stereotypes (consistent with the entity's charter) and providing a range of content that is local, inclusive and in a range of languages.

Human rights

132. This paper makes no proposals that are inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. A strong public media entity plays an important role in supporting and enhancing the rights set out in these Acts, in particular the democratic and civil rights set out in the Bill of Rights Act 1990.

Consultation

133. The following departments were consulted on this paper: The Treasury, Te Puni Kōkiri, Public Service Commission, Ministry for Pacific Peoples, Office for Disability Issues, Ministry of Business, Innovation and Employment, Ministry of Youth Development, Ministry for Ethnic Communities, Ministry of Foreign Affairs and Trade, Te Arawhiti, Department of Internal Affairs, the Office for Seniors, Ministry for Women, and the National Emergency Management Agency. The Department of Prime Minister and Cabinet was informed.
134. Both the BCG and Manatū Taonga engaged with RNZ, TVNZ and NZ On Air and other media sector stakeholders during the development of the business case.

135. In addition, Manatū Taonga undertook targeted engagement on BCG's behalf to inform the development of a charter for a new public media entity, including with:
- 135.1. media organisations including current public media, private media, community media, industry bodies, advertisers, and content producers
 - 135.2. Māori media and Māori representative entities
 - 135.3. key audiences for a new public entity including those who are currently under-served or under-engaged.

Communications

136. I intend to make an announcement once Cabinet has made final decisions on this proposal.
137. The affected entities, TVNZ and RNZ and NZ On Air, were involved in the business case process, and officials and I will continue to engage with them to ensure that Boards and staff are aware of the decisions and any impact. Communications will reinforce that a new public media entity would be built on the skills and expertise of current RNZ and TVNZ staff and management. Maintaining existing services and operations throughout any transition period will be a priority.

Proactive release

138. I intend to release this paper proactively, along with the business case and supporting documents, following any announcement. This proactive release would be subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

The Minister for Broadcasting and Media recommends that the Committee:

Establishing a new public media entity

- 1 **agree** to establish a single new Crown entity that:
 - 1.1 subsumes RNZ and TVNZ (with the expectation that trusted brands and services are retained)
 - 1.2 would be a public media entity supported by commercial revenue to help ensure its financial sustainability
 - 1.3 deliver content through a variety of platforms, including linear delivery, its own online platform, and third-party platforms
 - 1.4 subsume both entities' operations and enable shared functions and co-location of facilities.

I N C O N F I D E N C E

- 1.5 would receive core baseline funding directly through an appropriation administered by Manatū Taonga
- 2 **note** that the establishment of the entity will be through a Bill
- 3 **agree** the Bill include a provision stating that the Act will bind the Crown

Protecting the entity's editorial independence

- 4 **agree** that the Bill provide for the protection of the editorial independence of the entity by:
 - 4.1 requiring responsible Ministers to exercise their powers and functions in a way consistent with the entity's editorial independence
 - 4.2 preventing responsible Ministers giving certain directions to the entity relating to editorial matters
 - 4.3 preventing responsible Ministers removing members from the entity's board for any reason relating to editorial matters

Recognising and supporting the Māori-Crown relationship

- 5 **agree** that the Bill require:
 - 5.1 the Responsible Minister to appoint at least two members to the Board in consultation with the Minister for Māori Development, to ensure that the Board has adequate knowledge and understanding of te ao Māori and tikanga Māori
 - 5.2 the Board to engage with iwi/Māori on relevant matters
 - 5.3 the entity to collaborate with Māori media organisations to help support the capacity, capability, and sustainability of the Māori media sector
- 6 **agree** that further work is done as part of the establishment of the new entity to identify how the Māori-Crown relationship can best be supported through the structure and operating model of the new entity, and how the entity could best align with and support the Māori media sector

Delivering against a set of public media outcomes set out in a charter

- 7 **agree** that the Bill include a charter for the new entity setting out the purpose, objectives, functions, and operating principles of the entity
- 8 **agree** that the purpose of the entity that would be set out in the charter comprise four public media outcomes:
 - 8.1 A strong, distinctive Aotearoa/New Zealand identity
 - 8.2 A valued, visible, and flourishing te reo Māori me ngā tikanga Māori

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- 8.3 An inclusive, enriched and connected society
- 8.4 A healthy, informed participative democracy
- 9 **agree** that the objectives of the entity that would be set out in the charter are to:
 - 9.1 reflect, represent, and help shape the development of Aotearoa/New Zealand's unique national identity and culture
 - 9.2 provide shared experiences that contribute to a sense of citizenship and national identity
 - 9.3 reflect the particular contribution of te ao Māori to a unique Aotearoa/New Zealand identity
 - 9.4 promote the understanding and the use of te reo me ngā tikanga Māori to all New Zealanders and promote the telling of Māori stories
 - 9.5 reflect, include, and serve the full diversity of Aotearoa/New Zealand society, including multiple languages and cultures
 - 9.6 support children's and young people's emotional, physical, and mental wellbeing; creativity, learning, and development; social participation; and sense of belonging
 - 9.7 ensure content and services are available and accessible to all regions and communities, and to New Zealanders of all ages, ethnicities, genders, and abilities
 - 9.8 support all New Zealanders to be informed, engaged citizens who participate fully in society
 - 9.9 build awareness of the world and of Aotearoa/New Zealand's place in it
 - 9.10 foster critical thought, counter misinformation, and promote informed and many-sided debate
 - 9.11 support freedom of thought and expression
- 10 **agree** that the functions of the entity that would be set out in the charter are to:
 - 10.1 provide high-quality content across all genres that entertains, informs, and educates, and that is freely available and accessible to all New Zealanders over a range of platforms, including:
 - 10.1.1 content that is predominantly and distinctively of Aotearoa/New Zealand
 - 10.1.2 coverage of events of national significance

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- 10.1.3 content in or using te reo, that promotes tikanga Māori, and that reflects Māori history, experiences, and perspectives to a broad audience
 - 10.1.4 content that appeals to and engages a wide audience
 - 10.1.5 content that provides for tastes, interests, and perspectives not catered for elsewhere
 - 10.1.6 content that reflects the needs and experiences of New Zealanders of all ages, genders, abilities, and ethnicities, from all regions and communities
 - 10.1.7 reliable, accurate, comprehensive, impartial, and balanced regional, national, and international news and information
 - 10.2 preserve content that reflects Aotearoa/New Zealand's history and enable access to that content
 - 10.3 preserve, and enable Māori to have access to, their taonga content
 - 10.4 deliver or support the delivery of content and services that recognise New Zealand's international obligations including the promotion and protection of Pacific languages
- 11 **agree** that the operating principles of the entity that would be set out in the charter are to:
- 11.1 demonstrate editorial independence, impartiality, and balance, particularly in the delivery of news and current affairs
 - 11.2 ensure the participation of Māori, and the presence of a significant Māori voice in the development and delivery of content and services
 - 11.3 represent and reflect the full diversity of New Zealand's communities in its day-to-day operations
 - 11.4 strive to better understand, engage, and serve New Zealanders of all ages, abilities, genders, and ethnicities, from all regions and communities
 - 11.5 strive to identify and address areas where public media content is not easily accessible or meeting the full needs of New Zealand's diverse communities
 - 11.6 enable participation and involvement by under-served, under-represented and under-engaged audiences in decisions about content and services
 - 11.7 ensure the means of delivery aligns with audience preferences and needs

- 11.8 strive to innovate and take creative risks
- 11.9 strive to achieve the highest standards of quality and integrity
- 12 **agree** that the Bill empower the responsible Minister to add to the functions of the entity
- 13 **agree** that the responsible Minister direct the entity once it is operational to provide an international service to the South Pacific in both English and Pacific languages
- 14 **agree** that, as part of the establishment phase, work be undertaken with the National Emergency Management Agency in relation to the new entity's role under the Civil Defence Emergency Management Act (or any of its successors)
- 15 **agree** that, for the avoidance of doubt, the Bill require the entity to comply with its responsibilities as a lifeline utility under s. 60 of the Civil Defence Emergency Management Act 2002

Maximising access to public media content

- 16 **agree** that the Bill require the entity to provide content free of charge to New Zealanders when it is first published

Seeking commercial revenue to re-invest in public media outcomes

- 17 **note** that the entity would be expected to seek commercial revenue to supplement its core baseline funding and to re-invest in public media outcomes
- 18 **agree** that the Bill require that, where the entity is providing the same, or substantially the same services as those previously provided by RNZ, it would be required to provide these services in a commercial-free manner

Supporting the broader media ecosystem

- 19 **agree** that the Bill place an obligation on the entity to work collaboratively to help support the diversity, capability, and sustainability of the broader media ecosystem, wherever this does not prevent it meeting government expectations that it will earn commercial revenue
- 20 **agree** that, to address possible concerns about the entity's impact on the broader sector, the entity's operating model should include:
- 20.1 constraints on the entity's eligibility to act as a commissioning platform for content funded by NZ On Air
- 20.2 expectations to prevent the entity from building up excessive cash reserves, and that non-Crown revenue would primarily be invested in public media outcomes

- 21 **agree** that the Bill require the new public media entity to work collaboratively with NZ On Air, and NZ On Air to work collaboratively with the new public media entity, in relation to funding decisions where duplication of, or gaps in, funding could occur
- 22 **agree** that further work should be done as part of the establishment of the new entity to identify how best to support collaboration between the new entity, NZ On Air and other media organisations on the creation and distribution of local content, how best to constrain the eligibility of the entity to benefit from content funded by NZ On Air, and to maintain NZ On Air's sector oversight of all content being funded and any gaps and duplication

Determining an organisational form

- 23 **agree** that the Bill establish the new entity as an autonomous Crown entity on the basis that this form is most suited to the primarily non-commercial, public media focus of the new entity
- 24 **agree** that the Minister for Broadcasting and Media is the responsible Minister for the new entity, reflecting the entity's primary focus on achieving public media outcomes
- 25 **agree** that the Minister of Finance have a statutory role in relation to the entity, to provide oversight of the entity's financial performance, which would include:
- 25.1 the Responsible Minister making Board appointments with the agreement of the Minister of Finance, with the Responsible Minister consulting the Minister of Finance on removal of Board members
 - 25.2 the ability to request information from the entity in relation to the entity's financial performance
 - 25.3 the ability to provide input in relation to the entity's strategic direction and performance.

Establishing governance arrangements

- 26 **agree** that the Bill provide that:
- 26.1 the entity's board comprise a minimum of six and a maximum of nine members, balancing efficiency of decision-making while allowing room for the board make up to reflect a range of competencies, diversity, and sector representation
 - 26.2 the entity's board be appointed under the standard appointment provisions under section 29 of the Crown Entities Act

Setting reporting requirements

- 27 **agree** that the Bill require the new entity to report annually on its performance against its other statutory obligations and its commercial performance, including in relation to:
- 27.1 delivery of its charter
 - 27.2 supporting the Māori-Crown relationship
 - 27.3 seeking commercial revenue to the extent necessary to deliver on its public media outcomes and operate sustainably
 - 27.4 working collaboratively across the media sector wherever possible to support a diverse, capable, and resilient media ecosystem
- 28 **agree** that the Bill require the entity to regularly obtain and take into account audience research as part of this assessment of its performance
- 29 **agree** that the Bill provide that the House of Representatives should review the entity's charter and the entity's performance against the charter every five years

Establishing monitoring arrangements

- 30 **agree** that the Bill provide that the entity be monitored on whether it is meeting its specific obligations in relation to performance against its charter, its other statutory obligations and its commercial performance
- 31 **agree** that as part of the work on the establishment phase:
- 31.1 an effective monitoring framework for the new entity is developed to ensure its performance can be transparently monitored
 - 31.2 monitoring arrangements for the new entity are developed, with clear roles and responsibilities for each agency, and reflecting the need for a range of expertise to be applied to monitoring of the new entity's performance

32 s9(2)(f)(iv)

Transitioning to the new entity

- 33 **agree** that, to ensure a smooth transition period the Bill will:
- 33.1 empower the new entity board to stand up the new entity and ensure it is delivering against its obligations
 - 33.2 convert RNZ and TVNZ to Crown entity subsidiaries of the new entity and repeal the RNZ and TVNZ Acts and other associated legislation, as appropriate

33.3 provide for the preservation of assets, rights, liabilities and contracts held by RNZ and TVNZ as subsidiaries

33.4 s9(2)(b)(ii)

33.5 disestablish the subsidiaries once the new entity is fully operational and any contract matters are finalised

Considering existing archiving provisions

34 **agree** to repeal Part 4A of the TVNZ Act and no similar provision to be drafted in the new Bill on the basis that the scheme it provides for is no longer fit for purpose

35 **agree** that current archiving agreements between TVNZ/RNZ, Manatū Taonga and Ngā Taonga are considered as part of the work on the establishment phase

Issuing drafting instructions

36 **invite** the Minister for Broadcasting and Media to issue drafting instructions to the Parliamentary Counsel Office to give effect to the recommendations in this paper as required

37 **authorise** the Minister for Broadcasting and Media to further develop and clarify policy matters and make decisions on minor or technical matters as required for the drafting of the Bill, providing these decisions are not inconsistent with decisions made by Cabinet

Setting up an Establishment Board

38 **agree** that a Strong Public Media Establishment Board is set up to provide advice to the Minister for Broadcasting and Media on the establishment of the new entity

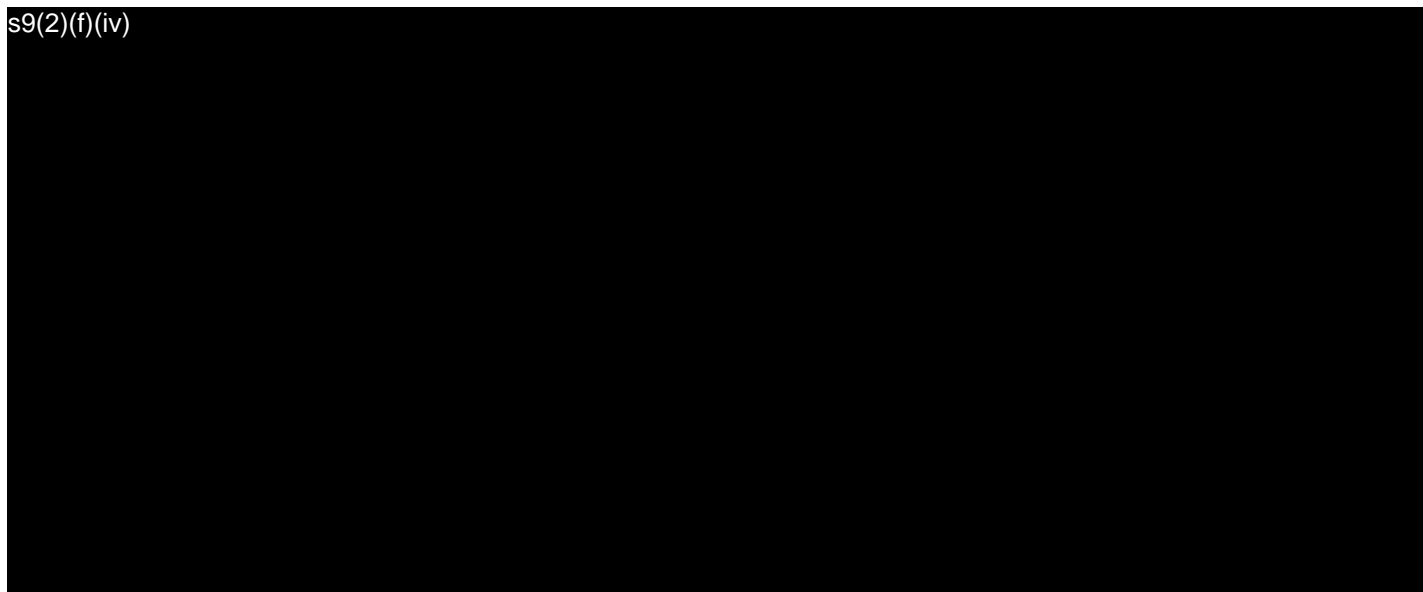
39 **agree** the terms of reference for the Board

Financial implications

40 s9(2)(f)(iv)

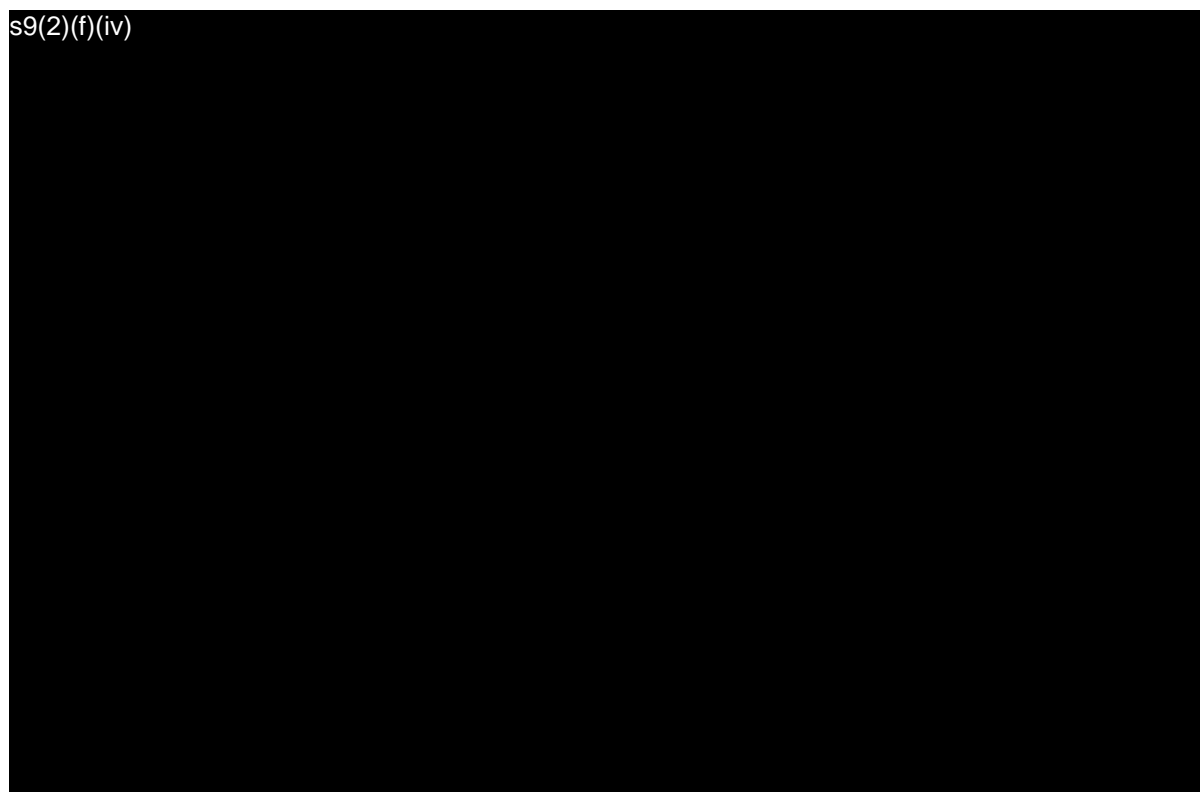
s9(2)(f)(iv)

s9(2)(f)(iv)



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s9(2)(f)(iv)



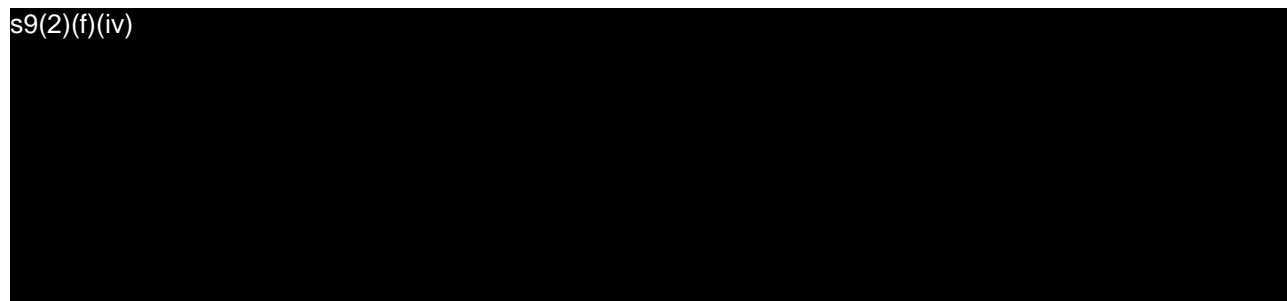
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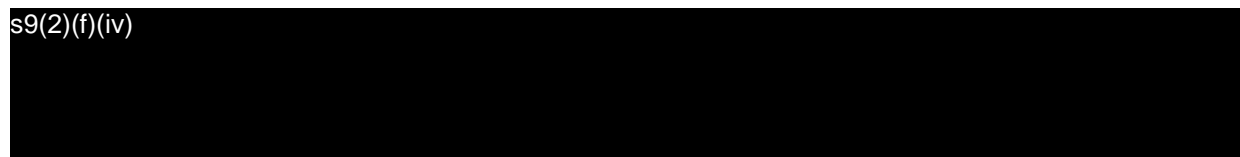
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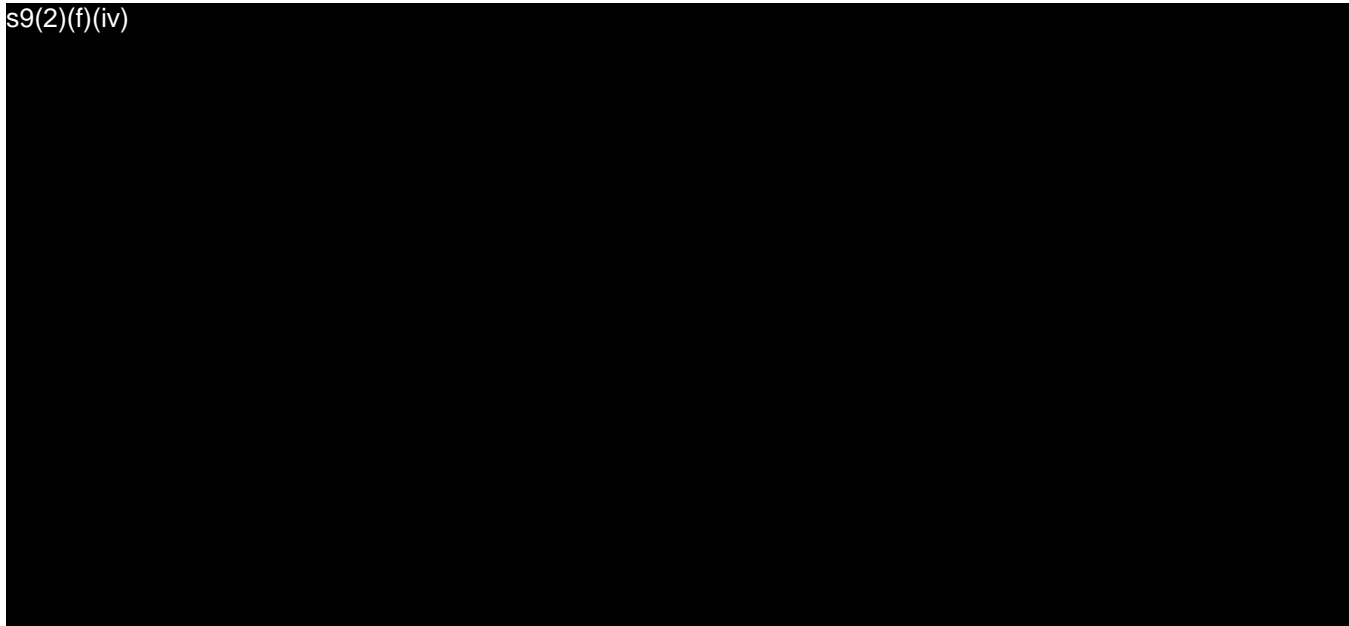


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s9(2)(f)(iv)



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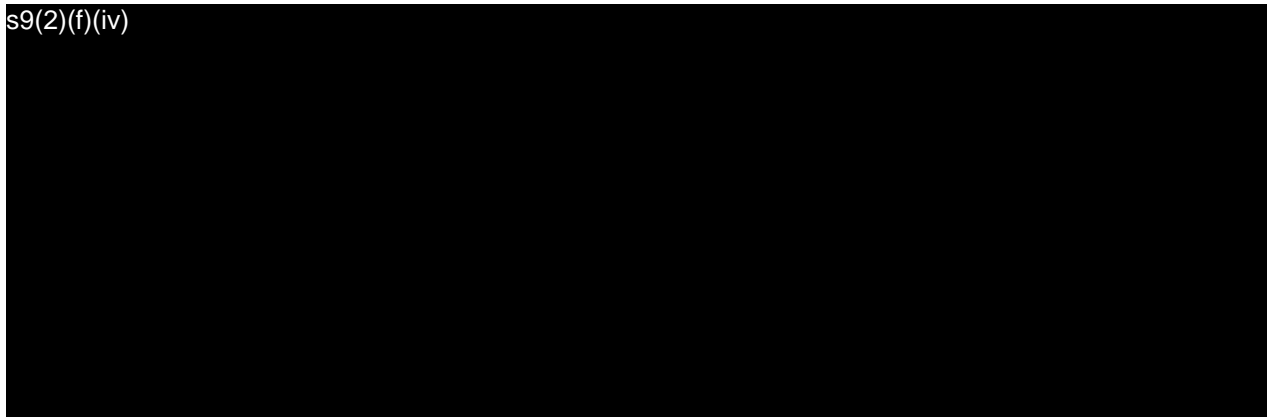


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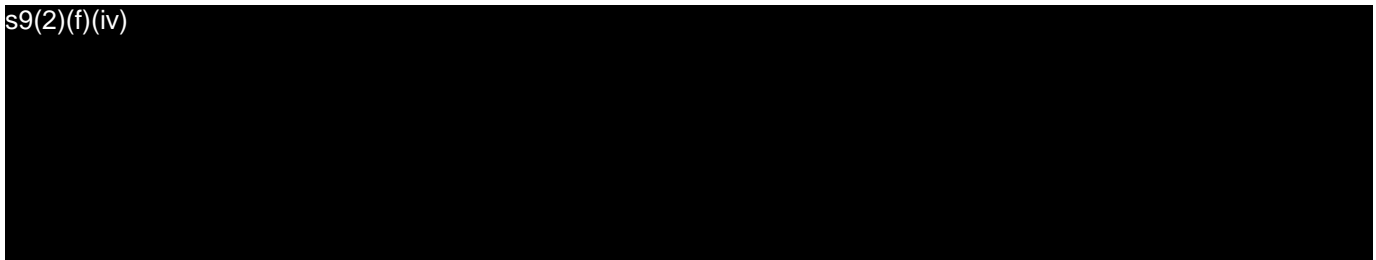
s9(2)(f)(iv)

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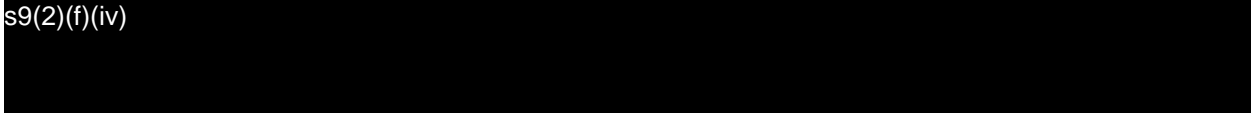


s9(2)(f)(iv)



51

s9(2)(f)(iv)



Proactive release

52 **note** that I intend to release this paper proactively, along with the business case and supporting documents, following any announcement, subject to redaction as appropriate under the Official Information Act 1982.

Authorised for lodgement

Hon Kris Faafoi

Minister for Broadcasting and Media