

NOTES FROM

The Broadcasting Landscape Forum

The impact of the new TVNZ amendment bill

Held on Monday 26 April 2010
 St Columba Centre | 40 Vermont St | Ponsonby | Auckland
 Forum 2pm – 5pm

The Television Amendment Bill can be viewed at:
<http://www.legislation.govt.nz/bill/government/2009/0089/latest/DLM2411813.html>

REMOVAL OF CHARTER

Section 12 (Replaces the Charter):

From the Television New Zealand Amendment Bill 2009:

- “New section 12 substituted
 Section 12 is repealed and the following section substituted:
- 12 Functions of TVNZ
- (1) The functions of TVNZ are to be a successful national television and digital media company providing a range of content and services on a choice of delivery platforms and maintaining its commercial performance.
- (2) In carrying out its functions, TVNZ must provide high quality content that—
- (a) is relevant to, and enjoyed and valued by, New Zealand audiences; and
 - (b) encompasses both New Zealand and international content and reflects Maori perspectives.
- (3) TVNZ's services must include the provision of channels that are free of charge and available to audiences throughout New Zealand.”

Key points:

- Is generally very vague.
- Lacks commitment and mandate around local content in wording and this is concerning.
- What defines 'quality programming'?
- Lacks acknowledgement of other audiences. Previously the Charter had a mandate on diversity.
- Is problematic in its wording and outcomes. How is 'enjoyment' and 'value' measured? Perhaps there could be a new approach to ratings that provides qualitative data.
- Does not commit to support the independent industry as the Charter did.



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PUBLIC BROADCASTING ISSUES AND SOLUTIONS

We need a much more coherent vision for broadcasting.

While TVNZ is New Zealand's state owned broadcaster, this bill seeks to make TVNZ a more 'nakedly commercial' enterprise. An approach to public broadcasting is not articulated in the amendment bill. There needs to be a plan that also addresses public service broadcasting or this will leave NZ as the only OECD country with no Public Broadcasting Channel.

The government's stated aim is to catch up to the living standard of Australia. It is worth nothing the comprehensive Public Broadcasting policy that country has with two independent Public Broadcasting Channels in ABC and SBS.

The future of public broadcasting could be on TVNZ7.

There are some indications from the Minister that the future of public broadcasting is to be on TVNZ 7 and that it will be a combination of funding for TVNZ 7 and access to the Platinum Fund.

TVNZ has signalled that its ability to commission local content is dependent on its commercial revenues. Fully funded commercial programs on TVNZ have been cut during the recession regardless of their popularity with viewers.

The future of local content is even more dependent on NZ on Air's ability to fund it. Therefore it could mean that NZ on Air's public broadcasting aims will be incompatible with TVNZ's new commercial aims.

Pay TV's lack of contribution to new local content is an issue to be addressed.

The Pay TV model is the most viable profit making business model in the world of television broadcasting at this time. While the business success is to be applauded it is worth noting that most Western countries (the USA being the exception) ask that Pay TV companies contribute to the making of new local content as part of their license conditions. This contribution is directed to documentary, drama and film (rather than studio shows etc.). New Zealand could easily have a similar model if there was the political will.

The sustainability of the local productions industry is dependent on a healthy independent television industry which underpins all other production including feature films.

One of the key reasons foreign companies come to New Zealand is because there is a well trained professional industry who received their training through Public Broadcasting production. There is a medium to long term prospect of decreasing foreign exchange earnings. If there is not a trained workforce and the infrastructure weakens then these projects will move elsewhere.



ARCHIVING

The proposed legislation requires TVNZ to:

- a) establish a Fund commensurate to \$300 per half hour for any archived work TVNZ may screen in a financial year;
- b) commit to retaining 10% of the Fund by way of contingency;
- c) pay any reviewers of decisions under this proposed legislation;
- d) elect to use any residual funds as part of the contingency fund or for the upkeep of the archived works;
- e) be responsible for or contract someone else to provide the above.

29A (Interpretation)

- There is a concern that the bill covers archived work commissioned by BCNZ as well as produced and owned by it.
- The bill covers both types of programs and extends the “interested parties” definition to cover producers/directors/writers/actors etc.

29C (Screening of archived works)

- It is a good thing that the archival programs will be made available.
- There is concern over the long term ownership of the archive given that TVNZ is becoming an increasingly commercial entity.
- At the Broadcasting Forum there was a strong support for the TVNZ archive to be retained in a separate trust for New Zealanders. At the very least, there was support for the provision of some mechanism in the legislation to the effect that in the event of the sale of TVNZ, the archival works currently held by TVNZ are assigned to another entity in public ownership for the benefit of the New Zealand public
- There are potential issues with privacy as public facts can become private after a certain number of years. Re-screening of some archive programs could be detrimental to some individuals. This issue needs to be addressed in the bill.
- The context that the archived programs are used in could be problematic. For example a program could be used to raise money in a Telethon.

29F (Notices of screening archive works):

- The list of archived programs should be made available sooner than four months prior to screening.

29G (TVNZ Archived Works Fund)

- \$300 per half hour for the first screening only is a very small sum to be shared between a number of parties. There should be a greater sum with a restricted number of screenings or ongoing payments for further screenings.



29R (Residual funds):

- “If there is residual money in the Fund or in the contingency account that money may be applied - (b) for the maintenance of the TVNZ Archive”. This is the only mention of maintaining the archive in the entire bill. There should be more on being dedicated to maintaining the archive, not just in the event that there is residual money to do so.
- The bill should mention that digitization of the archival work is not a copyright infringement. This is currently not included in the bill.

