

Broadcasting Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill gives effect to the Government's decision to enable the broadcasting funding agencies, the Broadcasting Commission (known as NZ On Air) and Te Reo Whakapuaki Irirangi (known as Te Māngai Pāho), to be able to support the production, transmission, and archiving of digital content with the development of digital broadcasting in New Zealand and internationally.

This Bill amends the Broadcasting Act 1989 (the **Act**) to enable the broadcasting funding agencies to fund some types of content, archiving, and transmission likely to be integral to digital radio and television platforms. The Bill allows the broadcasting funding agencies to fund these types of activities to supplement and enhance delivery of their primary functions.

These amendments will permit the broadcasting funding agencies to fund such developments as video-on-demand, interactivity between broadcaster and audience, and the reversioning of content for non-broadcast platforms (such as the Internet or mobile phones).

The Bill also amends Te Reo Whakapuaki Irirangi's primary function by adding the archiving of Māori language and culture programmes to those matters that Te Reo Whakapuaki Irirangi may fund.

The Bill also repeals provisions of the Act that are spent. *Part 2* of the Bill also makes miscellaneous style amendments.

Clause by clause analysis

Clause 1 relates to the Title.

Clause 2 relates to commencement.

Clause 3 provides that the principal Act amended is the Broadcasting Act 1989.

Part 1 Amendments to Broadcasting Act 1989

Clause 4 relates to interpretation.

Clause 5 amends section 36, which concerns the functions of the Commission. The amendments provide that the Commission may make funds available for transmitting on demand, producing content for transmitting on demand, and archiving content.

Clause 6 amends section 37, which concerns the promotion of New Zealand content in programming. The amendments provide for the promotion of content reflecting New Zealand identity and culture by broadcasters and persons who transmit on demand.

Clause 7 amends section 39, which concerns matters to be taken into account in relation to funding proposals. The amendments accommodate proposals for content that would be transmitted on demand.

Clause 8 amends section 40, which concerns requirements in relation to standards. The amendments require content to be consistent with the specified standards.

Clause 9 amends section 44, which requires the Commission to have regard to Government policy. The amendments provide that no responsible Minister may give a direction in respect of content.

Clause 10 substitutes a new section 53B, which concerns the function of Te Reo Whakapuaki Irirangi. The new section provides that Te Reo Whakapuaki Irirangi may make funds available for transmitting on demand, producing content for transmitting on demand, and archiving content.

Clause 11 amends section 53C, which concerns consultation. The amendments account for persons who transmit on demand.

Clause 12 amends section 53E, which concerns the matters to be taken into account in relation to funding proposals (in relation to Te Reo Whakapuaki Irirangi). The amendments accommodate proposals for content that would be transmitted on demand.

Clause 13 amends section 53S, which requires Te Reo Whakapuaki Irirangi to have regard to Government policy. The amendments provide that the Minister may not give a direction in respect of content.

Part 2 Miscellaneous

Clause 14 provides that the Broadcasting Act 1989 is amended in the manner specified in the *Schedule*. The amendments are stylistic in character.

Clause 15 repeals a number of spent provisions in the Broadcasting Act 1989.

Clause 16 sets out a remedial technical amendment to the item in Schedule 1 of the Television New Zealand Act 2003 that amends the Broadcasting Act 1989. The amendment changes “preamble” to “Long Title”.

Hon Steve Maharey

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Schedule

Stylistic amendments to Broadcasting Act 1989

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Broadcasting Amendment Act **2007**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- 3 Principal Act amended**
This Act amends the Broadcasting Act 1989.

Part 1

Amendments to Broadcasting Act 1989

- 4 Interpretation** 10
Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order:
“**content**, in relation to transmitting on demand, means—
“**(a)** programmes:
“**(b)** visual images that consist predominantly of alphanumeric text and software intended to— 15
 “**(i)** inform, enlighten, or entertain; or
 “**(ii)** promote the interests of any person; or
 “**(iii)** promote any product or service
“**transmit on demand** means the transmission of content, by 20
any means, made on the demand of a particular person for reception by that person”.
- 5 Functions of Commission**
(1) Section 36 is amended by omitting “The functions” and substituting “The primary functions”. 25
(2) Section 36 is amended by adding the following subsection as subsection (2):
“(2) The Commission may also make funds available (on the terms and conditions that it thinks fit and, as far as practicable, in a manner consistent with its primary functions) for— 30
 “(a) transmitting on demand; and
 “(b) producing content for transmitting on demand; and
 “(c) archiving content.”

6 Promotion of New Zealand content in programming

- (1) Section 37 is amended by omitting “section 36(a)” and substituting “sections 36(1)(a) and **36(2)(a) and (b)**”.
- (2) Section 37 is amended by inserting the following subparagraph after paragraph (a)(i): 5
- “(ia) persons who have an interest in transmitting on demand in New Zealand and the production of content in New Zealand; and”.
- (3) Section 37(a)(ii) is amended by inserting “and transmitting on demand” after “broadcasting”. 10
- (4) Section 37 is amended by repealing paragraph (b) and substituting the following paragraph:
- “(b) promote, in its funding of the production of programmes and content, a sustained commitment by—
- “(i) television and radio broadcasters to programming 15
- reflecting New Zealand identity and culture; and
- “(ii) persons who transmit on demand content reflecting New Zealand identity and culture; and”.

7 Matters to be taken into account in relation to funding proposals 20

- (1) Section 39 is amended by omitting “broadcasting or for the production of a programme or programmes to be broadcast, shall” and substituting “broadcasting or transmitting on demand, or for the production of any programme to be broadcast or content to be transmitted on demand, must”. 25
- (2) Section 39(d) is amended by omitting “a programme or programmes” and substituting “any programme or content”.
- (3) Section 39(d) is amended by omitting “proposed programme or programmes” and substituting “proposed programme or content”. 30
- (4) Section 39(d)(i) is amended by omitting “paragraphs (a) and (c) of section 36 of this Act” and substituting “section 36(1)(a) and (c) and **(2)(b)**”.
- (5) Section 39(d)(ii) is amended by inserting “and content” after “programmes”. 35
- (6) Section 39 is amended by repealing paragraph (e) and substituting the following paragraph:

“(e) in the case of a proposal for the production of any programme or content, the likelihood that the proposed programme or content, if produced, would be broadcast or transmitted on demand.”

- 8 Requirements in relation to standards** 5
- (1) Section 40 is amended by omitting “a programme or programmes” and substituting “any programme or content for broadcast”.
- (2) Section 40 is amended by omitting “the programme or programmes,” and substituting “the programme or content”. 10
- 9 Commission to have regard to Government policy**
- (1) Section 44(2) is amended by repealing paragraph (a) and substituting the following paragraph:
“(a) any programme or content; or”
- (2) Section 44(2)(b) is amended by omitting “current affairs programmes” and substituting “any current affairs programme or content”. 15
- 10 New section 53B substituted**
- Section 53B is repealed and the following section substituted:
- “53B Functions of Te Reo Whakapuaki Irirangi** 20
- “(1) The primary function of Te Reo Whakapuaki Irirangi is to promote Māori language and Māori culture by making funds available, on the terms and conditions that it thinks fit, for—
- “(a) broadcasting; and
- “(b) producing programmes for broadcasting; and 25
- “(c) archiving programmes.
- “(2) Te Reo Whakapuaki Irirangi may also make funds available (on the terms and conditions that it thinks fit and, as far as practicable, in a manner consistent with its primary function) for— 30
- “(a) transmitting on demand; and
- “(b) producing content for transmitting on demand; and
- “(c) archiving content.”
- 11 Consultation**
- (1) Section 53C is amended by omitting “function” and substituting “functions”. 35

- (2) Section 53C is amended by inserting “persons who transmit on demand,” after “broadcasters,”.
- 12 Matters to be taken into account in relation to funding proposals**
- (1) Section 53E is amended by omitting “broadcasting or for the production of a programme or programmes to be broadcast, shall” and substituting “broadcasting or transmitting on demand, or the production of any programme to be broadcast or content to be transmitted on demand, must”. 5
- (2) Section 53E is amended by repealing paragraph (d) and substituting the following paragraph: 10
- “(d) in the case of a proposal for the production of any programme or content, the extent to which the proposed programme or content would contribute to Te Reo Whakapuaki Irirangi fulfilling its functions under section 53B; and”. 15
- (3) Section 53E is amended by repealing paragraph (e) and substituting the following paragraph:
- “(e) in the case of a proposal for the production of any programme or content, the likelihood that the proposed programme or content, if produced, would be broadcast or transmitted on demand; and”. 20
- 13 Te Reo Whakapuaki Irirangi to have regard to Government policy**
- (1) Section 53S(2) is amended by repealing paragraph (a) and substituting the following paragraph: 25
- “(a) any programme or content; or”.
- (2) Section 53S(2)(b) is amended by omitting “current affairs programmes” and substituting “any current affairs programme or content”. 30

Part 2 Miscellaneous

- 14 Stylistic amendments to Broadcasting Act 1989**
The Broadcasting Act 1989 is amended in the manner specified in the **Schedule**. 35

15 Spent sections of Broadcasting Act 1989 repealed

The following spent sections of the Broadcasting Act 1989 are repealed:

- (a) section 92 (transitional provision in relation to broadcasting station levies); and 5
- (b) section 93 (transitional provision in relation to Broadcasting Tribunal); and
- (c) section 94 (transitional provision in relation to appeals under the Broadcasting Act 1976); and
- (d) section 95 (transitional provision in relation to radio apparatus licences); and 10
- (e) section 96 (final report of Broadcasting Tribunal).

16 Remedial technical amendment to Television New Zealand Act 2003

- (1) This section amends the Television New Zealand Act 2003. 15
 - (2) The item relating to the Broadcasting Act 1989 in Schedule 1 is amended by omitting “Preamble” and substituting “Long Title”.
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Schedule s 14
Stylistic amendments to Broadcasting Act 1989

Section 4(1)	
Omit “which” and substitute “that”.	5
Section 6(1)(ba)	
Omit “seconds” and substitute “seconds”.	
Section 13(1)(a)	
Omit “which” in each place where it appears and substitute “that” in each case.	10
Section 16(2)	
Omit “unless—” and substitute “unless,—”.	
Section 21(2)	
Omit “subject-matter” and substitute “subject matter”.	
Section 28(1)	15
Omit “which was” and substitute “that was”.	
Heading to section 70C	
Omit “Contents” and substitute “Particulars”.	
Section 70C(e)	
Omit “which” and substitute “that”.	20
Section 71(4)	
Omit “77A,” and substitute “77A”.	
Section 76B(1)	
Omit “section 74A of this Act” and substitute “section 74A”.	
Section 76B(1)	25
Omit “section 76A of this Act” and substitute “section 76A,”.	