



Review of Public Submissions on the Redraft of the TVNZ Charter

**Report of the Chair of the Working Party
September 2007**

1.0 Preamble and Terms of Reference

1.1 The Television New Zealand Act 2003 restructured TVNZ (then a State-Owned Enterprise) as a Crown-Owned-Company with a new remit that included both maintaining commercial performance and giving effect to a new public broadcasting Charter. The TVNZ Charter is the declaration of principles intended to guide TVNZ's delivery of public value to New Zealand audiences through its production, commissioning and transmission of television programmes. The Act requires that Charter be reviewed by the House of Representatives at least every five years¹.

In preparation for the statutory review, due in 2008, TVNZ wished to present the Minister of Broadcasting with a report on a suggested redraft of the Charter, including feedback from the public on this. If agreed by Cabinet, the final version of the redrafted Charter and the public's responses to it will then be submitted to a Parliamentary Select Committee for consideration.

TVNZ wanted to ensure that the Charter reflects New Zealanders' expectations of their principal public broadcasting institution. Previous research on public attitudes towards and comprehension of the Charter suggested that there was a degree of audience misunderstanding concerning its nature and scope². Earlier in 2007, a TVNZ management team therefore redrafted the Charter. The amendments they made were intended to condense the document, making it more readable and understandable without changing its substance.

1.2 In July 2007, the proposed Charter redraft was made available to the public through TVNZ's website, and public feedback on this new version was solicited³. This generated 286 submissions from a variety of interested persons and institutions. A working party was then convened to:

- a) Review the public feedback on the proposed redraft of the TVNZ Charter;
- b) Analyse the implications of this feedback for the proposed redraft;
- c) On the basis of this analysis, develop a revised version of the redrafted Charter, and;
- d) Prepare a short report summarising the key themes emerging from the public submissions and the working party's findings and recommendations. This is intended to inform any further revisions made prior to its submission to the Minister of Broadcasting and (pending Cabinet agreement) the Parliamentary Select Committee undertaking the statutory review.

The working party consisted of Peter Parussini, Head of Corporate Affairs at TVNZ, Martin Durrant from the broadcasting policy section at the Ministry for Culture and Heritage, and Peter Thompson, senior lecturer at Unitec School of Communication (who was appointed to act as independent chair).

The working party was provided with copies of the public submissions and its main deliberations took place in Wellington over 20-21 September 2007. This report stems directly from the working party's proceedings and addresses the terms of reference noted above.

A copy of the working party's revised draft Charter along with the tracked changes made to the document the public responded to is included in the appendix.

¹ See Part 2 Section 12 (para 4). The full 2003 Act can be found at the Public Access to Legislation Project website: http://www.legislation.govt.nz/browse_vw.asp?content-set=pal_statutes

² See UMR/TVNZ Reports: *TVNZ Charter: A qualitative and quantitative benchmark study*, June 2003 and *TVNZ Charter Report*, June 2004.

³ See TVNZ website: <http://tvnz.co.nz/view/page/826505/823782> and <http://tvnz.co.nz/view/page/826505/1206682>

2.0 Working Party's Procedures, Criteria and Delimitations

The range of submissions and the terms of reference raised two overarching challenges for the working party which needed to be resolved before its work could proceed.

2.1 The first issue concerned the range of comments provided in the public's responses. Although many were directly focused on the specific issues concerning the content and wording of the new draft being proposed, a substantial proportion went beyond this and included expressions of approval or concern pertaining to TVNZ's *performance* in regard to delivering Charter objectives, or comments on the relative merits of specific genres or programmes. As such, this subset of public feedback could not be directly addressed through the remit of the working party (or, in some cases, by TVNZ).

2.2 The second issue concerned the scope of the working party's remit in respect to; a) the criteria by which it would be decided whether or not to incorporate recommendations made in the submissions (including how to evaluate and prioritise contradictory or radical suggestions), and b) the parameters of any amendments to the new draft that could be legitimately contemplated (such as whether or not it was acceptable for changes to extend the substance of the original version or carry implications for government policy or institutions other than TVNZ).

2.3 The working party's approach to the first issue was to loosely code the key themes in all the responses⁴ (primarily in relation to the relevant section of the draft to which they applied) and then focus initially on those which provided specific suggestions on the redrafted Charter. Responses not specific to the new draft were considered subsequently to determine whether the substance of the feedback carried implications for any of the sections (for example, comments indicating a desire for more documentaries, educational content or in-depth analysis in news could be effectively taken as an endorsement of the section concerned with creating an informed society, even if framed as a concern about TVNZ's performance on these issues).

2.4 The working party noted that there was no way to establish how far the 286 responses generated by the invitations to make submissions were representative of overall public opinion. Although this meant the responses came from parties with a genuine interest in TVNZ and the Charter, the working party could not assume any *direct* relationship between any pattern of responses and the interests of the wider public. It was therefore decided to treat each response on its own merits, giving more weight to suggestions which provided supporting rationales and evidence.

2.5 The primary criteria by which suggestions in the public feedback were evaluated concerned whether or not they indicated that the redrafted Charter had either;

- a) Failed to achieve the stated aim of improving public understanding of the document (i.e. improved clarity and reduced ambiguity), and/or;
- b) Altered the substance of the Charter in terms of changing its intentions, likely interpretations, or implementation (especially where this might suggest permitting a lower level of commitment to existing Charter principles).

Where the working party agreed that a submission did indeed meet either of those criteria, changes to the draft were made in such a way as to reflect as many of the legitimate suggestions as practicable and to respond, wherever possible, to the motives/intentions interpreted to underpin the submission. Thus for example, a suggestion ostensibly concerning one section of the draft which, on reflection, probably stemmed more from a concern with issues covered in another section might result in the working party making changes, but not necessarily in the precise manner specified by the respondent. Such interpretations were necessitated by the need to incorporate as much of the

⁴ This was facilitated by the use of a spread-sheet which Kate Biggs and Martin Durrant at the Ministry for Culture and Heritage had developed in advance of the Working Party's proceedings.

public's feedback as possible without either generating contradictions and ambiguities or increasing the length and detail of the redrafted Charter to unmanageable magnitudes. The working party therefore had to balance the need to be respectful of and responsive to the specific comments the public had provided with the practical need to thematise these and minimise redundancies.

2.6 In regard to the second issue, the working party was aware of the potential for any amendments made to the redrafted Charter to be operationally or statutorily consequential not only for TVNZ but also other bodies or institutions involved in the broadcasting sector. It was therefore necessary to evaluate judiciously the merits of any amendments entailing such implications. Clearly, the working party's mandate did not extend to making changes to the Charter which would alter the legal substance of the Television New Zealand Act, require substantial revisions to government policy, or impose unattainable obligations on TVNZ. (Hence it was not possible, for example, to incorporate suggestions from respondents who wished TVNZ to drop all its advertising and become a devoted public broadcaster funded solely through a licence fee). Neither did the mandate extend to amending the draft so as to require other institutions to modify their statutory functions. (Consequently, it was not possible, for example, to incorporate suggestions which required the respective Te Reo Maori responsibilities of MTS and TVNZ to be renegotiated, or the Broadcasting Standards legislation to be rewritten).

2.7 There were, however, two cases where the working party did consider its mandate to extend into making changes with implications for the substance of the Charter. The first was the need to consider the relevance of the Charter over the five year period following the statutory review. Given the developments in the digital and on-line television environment, the potential for obsolescence or ambiguity to emerge from the draft as a consequence of technological developments in the television sector suggested that amendments which helped 'future-proof' the Charter would be legitimate.

2.8 The second case concerned amendments which would make existing Charter obligations more explicit in the sense of logically extending its general principles to more particular instances. This required caution where amendments could be unduly prescriptive or prohibitive of TVNZ's operational decisions. However, it was considered legitimate to include such amendments where this would improve clarity, or (insofar as the Charter is a public document) provide acknowledgement of TVNZ's responsibilities as a public broadcaster to different civic constituencies, especially where public responses indicated concerns about these being overlooked. (Thus in places, a more specific range of social and cultural interests have been identified where previously these were only implied in the Charter wording, e.g. people of different abilities or spiritual beliefs).

3.0 Public Submissions- Main Themes

From the working party's coding and analysis of the 286 submissions, a range of thematic issues could be discerned both specific to the redrafted Charter and related more generally to TVNZ and broadcasting in New Zealand as a whole. These are noted in the table below. Note that some of the themes may be critical of TVNZ's perceived performance but effectively constitute strong endorsements of the Charter principles. These themes may not be representative of the population as a whole. Also note that some of the more specific comments on the Charter not encapsulated in these themes will be discussed in more detail in section 4.

Charter Section	Themes emerging from public submissions
An Informed Society	<ul style="list-style-type: none"> • Poor news coverage • Poor current affairs coverage • Poor factual documentary/ science content • Not enough documentaries • Not enough educational content • Not enough focus on environmental issues • Questions of impartiality • General concern about trivia/ dumbing down
National identity/ Citizenship	<ul style="list-style-type: none"> • Insufficient representation of NZ Regions • Poor ethnic/cultural representation (other than Maori/ Pakeha) • Negative reflection on NZ society; need to promote positive values • More local content (except reality-TV) • Insufficient national sports coverage (anti-siphoning issue) • Disabled people under-served and under-represented (esp. Deaf)
Maori	<ul style="list-style-type: none"> • Insufficient/ inaccurate representation • MTS role now supersedes TVNZ Maori/ Te Reo obligations
Diversity	<ul style="list-style-type: none"> • Insufficient international perspectives • Too much US content/ Not enough UK content • Too many reality TV shows • Need for more/ better children's programmes • Need to reflect religions/ spiritual beliefs (esp. Christian) • Insufficient factual/educational content • Insufficient diversity of sports content
High Standards	<ul style="list-style-type: none"> • Too many advertisements (and excessive volume levels) • Too much sex/ violence/ profanity • Concern over AO watershed (and AO promos pre-watershed) • Insensitivity to religious beliefs (esp. Christian) • TVNZ merely complying with codes not sufficient • Insufficient family-oriented content • Return to Public Service values
Innovation	<ul style="list-style-type: none"> • Insufficient creative risk taking
NZ Talent	<ul style="list-style-type: none"> • Better quality local content needed • Need for improved articulation/pronunciation (English & Te Reo)
Miscellaneous	<ul style="list-style-type: none"> • Demand for stronger Public Service focus (TVNZ performance) • Replace advertising funding with licence fee • MTS providing better Public Service than TVNZ

4.0 Rationales for Amendments to Redrafted Charter

The working party's deliberations generated a number of amendments to the redrafted Charter which are detailed in the appendix section. All the sections except number 7 (New Zealand Talent) were modified in some way, and an additional section 8 (Presenting New Zealand Overseas) was added. The primary reasons for these amendments will be noted in order below.

4.1 However, one over-arching consideration which needs to be mentioned in advance is the need to reduce ambiguity through the consistent use of terminology. A number of public submissions expressed a degree of uncertainty over reference to notions such as 'programming', 'feature' versus 'show' and 'local' which could be interpreted different ways in different contexts. For example, 'programming' might refer to actual television content in the sense of specific programmes, or to the overall scheduling patterns of that content. In a similar vein, the notion of 'featuring' or 'showing' appeared to invite rather different connotations, both in regard to the profiling and promotion of a programme within the schedule and in regard to whether a programme was broadcast free-to-air (pushed) or made available through an asynchronous platform (pulled). Likewise, the notion of 'local' was contested, since in relation to content it might mean either 'made in NZ' as opposed to imported content, or refer to the substance of the content in the sense that a national focus contrasts with a regional or local community focus. It was therefore decided to try and ensure consistency in the terminology by using the following terms to indicate the intended meanings:

- **'Provide'** is used as the generic term to mean 'broadcast', 'make available', 'show' or 'include in schedule' because it is platform-neutral (which is appropriate for the multimedia environment) and does not connote any special obligation to afford a certain genre or programme a higher profile. In contrast, **'Feature'** is used to suggest the need to emphasise the profile of a programme in the schedule over and above 'providing' – it is therefore closer in meaning to 'showcase' rather than 'show'.
- **'Programme'** is used to refer to any discrete form of content which gets broadcast, whereas **'Schedule'** is used to refer to the placement/time-slot of programmes and the overall range and diversity of content provided overall.
- **'Local'** is used to refer to programmes produced in New Zealand by New Zealand producers, whereas **'Regional'** is used to refer to programmes made by/ for/ about communities other than the nation as a whole.

4.2 **Introduction:** There are two changes in the introduction/overview. One concerns a more generic statement of TVNZ's obligation as a public broadcaster to play a leading role in the sector by setting an example for quality and standards (which was previously included in the original Charter). Part of the rationale for this was to assert the crucial function of a public broadcaster in anchoring standards for the wider broadcasting ecology and exerting a structural influence through setting industry benchmarks against which audience expectations crystallise and which help 'raise the bar' and engender competition for quality among all broadcasters.

The second change regarding other media technologies reflects the fact that TVNZ now operates across multiple platforms, which currently include free-to-air analogue, free-to-air-digital and on-line. The Charter therefore needs to reflect the likelihood that new (additional) platforms emerging over the next five years may differ in form from traditional free-to-air broadcasts.

4.3 **An Informed Society:** There are two main amendments in this section. Clause 1d makes a more explicit link between information and democratic participation and the need to keep viewers informed about both public and private institutions. Arguably, this might fit in the citizenship section, but the focus on the need for information led the working party to place this here. The rationale for reintroducing the point about public *and* private institutions reflected concern that the 'watchdog' function of a public broadcaster extended to monitoring the activities of all influential social institutions, which clearly includes the government and political parties but also extends to

businesses (e.g. the collapse of financial investment companies) and other civic or religious groups in whose activities citizens have a legitimate interest (e.g. trades unions involved in industrial action or the treatment of children by some religious institutions).

Clause 1f, meanwhile, is a relocation of Clause 6a. The working party considered the reference to extending the range of experiences and ideas available to the public to be more aligned to creating an informed society than to fostering innovation in terms of new forms of programmes. Specifically, the clause was regarded as important in the sense that a public broadcaster should help extend the social imagination and the ability of citizens to contemplate new political, economic or cultural possibilities.

4.4 National identity and citizenship: The working party made four main changes to this section. 2b was amended to include reference to sporting and spiritual development. Although these aspects of national social development may have been implicitly covered by 'cultural development', these were included in direct response to the arguments in public submissions that a) national sporting events provide an important point of shared experience and collective identity for New Zealanders and b) religious movements likewise provide a strong basis for social-cultural identification for many New Zealanders (as supported by Census figures on religious affiliations).

Clause 2d has the phrase 'and its regions' added in response to public submissions which indicated that different regional identities existed in New Zealand and were not reducible to or coterminous with the more generic notion of cultural diversity.

Clauses 2d and 2f were modified in order to take account of the public feedback noting that merely requiring programmes addressing minority interests to be made 'accessible' changed the substance of the original Charter which explicitly noted that minority perspectives should be included not only in programmes aimed at those minorities but also in programmes intended for general audiences. The working party agreed that this might be construed as a weakening of the public broadcaster's obligation to help engender empathy and understanding among different groups in society.

Clause 2g, meanwhile, was developed in response to a variety of submissions from individuals and groups concerned about access to programmes for people with impaired hearing and/or vision. This included submissions from the Deaf community arguing for the recognition of NZ sign language as one of New Zealand's official languages in the Charter. The working party agreed that TVNZ's role as public broadcaster must include provision of access to its content for all citizens, and that disability/ different ability ought not to be an impediment to this. The normative arguments for subtitles/ captioning, inclusion of NZSL interpreters and/ or audio-descriptions are not disputed. However, different specific needs may be served by different technical solutions (e.g. not all hearing- impaired people use NZSL). Considering that the broadcasting environment is being reshaped by new digital media technologies, the working party considered a more generic commitment to extending access to people of different abilities to be concise, inclusive, platform-neutral and future-proof.

4.5 Maori: The working party made three amendments here. Firstly, Clause 3c in the redrafted version was incorporated into the general statement of TVNZ's responsibility toward Maori, primarily to eliminate semantic redundancy. A reference to educational as well as informative programmes was included.

Clause 3a concerning 'a significant Maori participation and voice' was interpreted in different ways in different public submissions. The working party decided to include the phrase 'by, for, and about' here to ensure that the wording covered Maori production, Maori audiences and a Maori focus in the content. 'Voice' was likewise considered to be potentially ambiguous, and was replaced by

'perspectives' (the plural indicating that there may be different points of view within the Maori community).

Clause 3b was also rephrased to make the same distinction as noted in the comment on 2d and 2f above and indicate that Maori perspectives should be included in programmes intended for general audiences.

4.6 Diversity: Although the diversity of audience groups is specifically mentioned in the general statement, the working party noted that the notion of diversity in this context referred primarily to the range of content genres and subject matters included in the programmes, rather than to issues of social representation (which are covered both in the clauses concerning provisions for minority interests and in the broadcasting codes concerning standards of fairness of representation). A number of minor amendments were made to this section to improve overall clarity (e.g. Clauses 4g, 4h and 4i all included the word 'feature' twice). Otherwise, three other main changes were agreed.

In response to the feedback, the general statement had the notions of educational and informative programmes reinforced, and the specific mention of different audience groups was extended to include different *beliefs* and *abilities*. The reference to beliefs was included in response to a number of submissions asking for more explicit recognition of spiritual/ religious values (although the use of the word 'beliefs' was used instead of 'religions' to avoid the suggestion of formal, organised religion and to include those of an agnostic or atheist persuasion). The reference to abilities stemmed from a range of submissions from persons and groups representing the interests of people with different disabilities (including, but not limited to deaf and blind people). The reference to 'abilities' rather than 'disabilities' is intended to be more inclusive and to acknowledge the point that some people who may be classified as 'disabled' prefer to be regarded as 'differently-abled'.

Clause 4g on environmental awareness was extended to include reference to 'sustainable development' in response to public submissions supporting an extension of the public broadcaster's role in promoting environmental responsibility. The working party agreed that the notion of 'sustainable development' could be regarded as an uncontroversial value in contemporary society. However, the wording 'support and encourage awareness' was retained because the actual 'promotion' of ecological responsibility or 'sustainable development' is potentially ambiguous and open to criticism on the grounds that it extends beyond the facilitation of informed and critical debate into political activism.

Clause 4k, concerning learning and personal development, was deleted because the working party considered the notion of 'development' to be ambiguous and because learning is already covered in the educational clauses in sections 1 and 2 as well as in other Clauses of section 4.

4.7 High Standards: The working party made two main changes to this section. Firstly, it was noted that the general statement and section 5c in the redrafted version overlapped and involved semantic redundancies. The new 5a was therefore introduced, with the deletion of the word 'strive' which some public submissions noted could be construed to mean that non-attainment of these standards was acceptable. The new wording is also consistent with the general statement concerning playing a leading role in the introductory statement.

The other changes came in Clause 5b, mainly in response to several public submissions objecting to adult-only content entailing depictions of sex, violence or profanity as well as adult-only watershed timing. The working party included a specific reference to the Free-to-air TV Code (that stipulates broadcaster responsibilities pertaining to sexual, violent and profane content) which had not been clearly identified in previous Charter drafts. The working party debated whether the Charter ought to unilaterally extend TVNZ's commitment to high standards beyond the Free-to-air TV Code. However, it was noted that quite apart from the intrinsic complexity of identifying a non-subjective basis for such a normative directive, this would entail operational, funding and policy

implications beyond the working party's mandate. Nevertheless, the Code's clause on good taste and decency was given specific mention in 5b alongside the existing reference to the clause on violence. Meanwhile, the special emphasis on violence implied by the use of the word 'particularly' in Clause 5a of the redrafted Charter was dropped in favour of 'included' to indicate that the entirety of the Code is important to a public broadcaster.

4.8 Innovation: As noted earlier, Clause 6a was relocated to Clause 1f. The remaining Clause 6b overlapped with the general statement. These were therefore condensed and amended to emphasise the point that the innovation and creative risk-taking pertained to both the form and content of programmes.

4.9 New Zealand Talent: No amendments were made to this section.

4.10 Presenting New Zealand Overseas: The working party included a new section 8 for two reasons. Firstly, it anticipates probable future developments in regard to the extension of access to TVNZ programmes by New Zealanders living overseas. Secondly, it takes account of TVNZ's function in providing its Pacific Service to other countries in the Pacific region, the public value of which (both to the Pacific Island audiences and in terms of New Zealand's public image) was acknowledged in the submissions.

5.0 Recommendations

Having undertaken its Review of Public Submissions on the Redraft of the TVNZ Charter, the working party recommends that:

5.1 The TVNZ Board approve the revised draft of the TVNZ Charter (as proposed in the appendix) for forwarding to the Minister of Broadcasting.

5.2 The TVNZ Board and the Minister of Broadcasting respectively note the operational and policy implications of the themes emerging from the public submissions (see section 3) which fell outside the working party's mandate for consideration and therefore could not be incorporated into the revised draft of the TVNZ Charter.

Peter A. Thompson
Chair of Working Party
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