



Coalition for Better Broadcasting

Submission – 28 May 2014

Information Request for Industry Discussion: Digital Terrestrial Television

Broadcast Licences

Radio Spectrum Policy and Planning

Ministry of Business Innovation and Employment

PO Box 1473

WELLINGTON 6140

Introduction

This submission is made by the Coalition for Better Broadcasting (CBB) in response to the Radio Spectrum Unit request for feedback of April 2014. The CBB is a charitable trust established to promote public service broadcasting and media in New Zealand. Since publicly launching last month the CBB has over 900 members.

The New Zealand broadcasting sector is notable for being heavily commercialised and weakly regulated while public service broadcasting provisions are minimal compared with most other OECD countries. In recent years there has been a significant erosion of public service media services, most notably the removal of the TVNZ Charter, and the discontinuation of TVNZ6 and TVNZ7.

The government's current policy trajectory assumes that new digital platforms, coupled with market forces and a modicum of funding for local content, will ensure a cornucopia of consumer choice. However, despite a proliferation of platforms, there are already significant gaps in content provision. Intensified competition in the free-to-air broadcasting sector, coupled with Sky's continuing dominant position in the pay-TV sector has led to substantial market failures.

One key policy challenge is the falling levels of first-run local content, especially in non-commercial genres. It is notable that even with the ostensible availability of the NZ on Air Platinum Fund, there is currently only ONE programme from the now-defunct TVNZ6 & 7 available on free-to-air television (*Back Benches*). Indeed, even with the offer of NZoA support, Mediaworks declined the option of another series of *Media 3*. Similarly, in other instances, proposals for Maori and children's content in which NZoA expressed an interest were never funded because none of the commercial channels would agree to schedule them. As German media researcher, Maya Goetz has pointed out, there is a higher proportion of US-originated children's content on New Zealand television than

there is in the US! Meanwhile prime time current affairs content has largely been shuffled into peripheral slots on weekend mornings. TVNZ's channel U has been discontinued because the opportunity costs were disproportionate to revenue, while Kidzone and Heartland are now only available to Sky subscribers.

To ensure diversity and quality across a range of genres which serve the interests of all demographics, there is therefore a pressing need for non-commercial television services to commission and schedule important genres unattractive to commercial operators. In the absence of carriage obligations on pay TV platforms, the development of such services would require access to spectrum. The fate of the independent public service channel, Stratos TV, is particularly instructive here. The channel was forced off air at the end of 2011 because it was unable to afford the costs of digital spectrum.

Successive government approaches to spectrum management policy have placed too much faith in the capacity of digital platforms to ensure the availability of content diversity and quality. In treating spectrum as a commercial asset and seeking to maximise the revenue from the auctioning of management rights, the needs of non-commercial broadcasting services have been repeatedly overlooked. Kordia's role as a state-owned enterprise has obliged it to seek to maximise returns in its disposal of spectrum assets, to the detriment of operators like Stratos. It is only by chance that Sky has decided to return its unused digital multiplexes or 'sets' to the government (ironically after gaining exclusive rights to Stratos' replacement, Face TV).

The government now has an opportunity to re-assess the policy assumptions underpinning the drive to sell off spectrum management rights to the highest bidder, and to recognise the need to reserve spectrum for non-commercial services. The return of unused spectrum is indicative that its optimum commercial value is unlikely to be realised in the short term. Meanwhile, it is clear that at least two political parties currently in opposition are considering options to reintroduce a commercial-free television channel. These policy options could be foreclosed if no spectrum was

available. It would therefore be commercially, politically and socially irresponsible to immediately seek to re-auction all the spectrum sets. There is no way such a proposal can be rationalised as being in the public interest. The Coalition for Better Broadcasting would therefore like to make four recommendations to MBIE:

Recommendations

1 Reservation of a Non-Commercial Set

The Coalition for Better Broadcasting recommends setting aside one complete set of the four sets available, for non-commercial television broadcasting. Enough spectrum should be reserved for three national channels and two regional channels in each region to be accessed free-of-charge (although conditions of service provision would obviously apply).

This non-commercial 'set' should be administered by MCH or NZoA (not MBIE or Kordia) who would set stringent public service conditions to spectrum users in return for free use of part of the 'set', much as is currently done for non-commercial radio frequencies and non-commercial regional analog television frequencies prior to DSO.

Although licence charges are not great when considered over the life of the licence, as a one-off establishment cost, the suggested licence fee is a major impediment for any non-commercial broadcaster attempting to start-up with the considerable lack of funding available. Therefore we recommend charges be waived in return for the considerable public amenity values such channels would provide.

This is in keeping with MBIE's pricing recommendations as detailed in section 4 of the Discussion Document where certain conditions warrant a variation in recommended charges for spectrum.

Establishing a 'Non-Commercial Set' would return the frequency spectrum to status quo that existed prior to DSO when a non-commercial analog frequency was available in each region. The DSO brought the expansion of available frequencies by a magnitude of 11 or 12, and it is only right that non-commercial broadcasting should also benefit from the transition to digital.

2 Keep Use-or-Lose Provisions

The CBB favours Use-or-Lose requirements to guard against 'hoarding'. It's likely the previous 'use-or-lose' provisions have played a part in the absence of spectrum hoarding previously. And indeed it is the 'use-or-lose' provision within SkyTV contracts that have returned these unused frequencies to the public. These licences were idle under SkyTV ownership and it is possible without the use-or-lose clause that they would have stayed that way for many years. We suggest that any recommendations from companies or organisations to remove 'use-or-lose' provisions are motivated by anti-competitive aspirations.

3 Demand for Non-Commercial Licences

Supporting our recommendation to establish a Non-Commercial Set of licences, we know of three organisations currently considering establishing non-commercial television services in New Zealand. Of course their big stumbling block is financial but we expect over time that this problem will be resolved. Especially Auckland with its potential audiences, there are many gaps in the 'market' which will be filled over coming

years and decades. Even with UFB, television is expected to remain the dominant viewing platform for many years to come.



4 Future Demand for Non-Commercial and Commercial Licences

It is impossible to anticipate demand for television licences over the next 18 years with any certainty. Looking back at the last 18 years – technology, broadcasting, audience demographics and government policies have changed many, many times since 1996. We therefore recommend that consideration be given to reserving several sets for future use. We trust that MBIE are aware of the need to balance future needs with current demand.

Thank you again for the opportunity to provide feedback regarding what government should do (or not do) with these DTT frequencies.

For further information please contact:

Myles Thomas

Coalition for Better Broadcasting

88 Sackville Street

Grey Lynn

Auckland 1021

021 666297

betterbroadcasting@gmail.com