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Radio New Zealand Amendment Bill 2009

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Select Committee:	Commerce
Published: 31 July 2009 Prepared by John McSoriley BA LL.B, Barrister Legislative Analyst P: (04) 471-9626 (Ext. 9626) F: (04) 471-1250	Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The aim of this Bill is to amend the Radio New Zealand Act 1995 (the Act to implement a new Radio New Zealand Charter¹).

Background

Review of the Act

Section 7(4) of the Act requires Radio New Zealand's Charter to be reviewed by the House of Representatives at five-yearly intervals. This review has resulted in this Bill.

¹ Radio New Zealand Amendment Bill, 2009 No 30-1, Explanatory note, General policy statement, p. 1.

Status of Radio New Zealand

Section 2 of the Act defines the term "public radio company" as meaning the company that is known as "New Zealand Public Radio Limited" and provides in Section 16(1) that it is a Crown entity for the purposes of Section 7 of the Crown Entities Act 2004.

The present radio New Zealand charter

The present charter is set out in Section 7 of the Act and provides as follows:

- (1) "The functions of the public radio company shall be to provide innovative, comprehensive, and independent broadcasting services of a high standard and, without limiting the generality of the foregoing, to provide:
 - (a) Programmes which contribute towards intellectual, scientific, and cultural, spiritual, and ethical development, promote informed debate, and stimulate critical thought; and
 - (b) A range of New Zealand programmes, including information, special interest, and entertainment programmes, and programmes which reflect New Zealand's cultural diversity, including Maori language and culture; and
 - (c) Programmes which provide for varied interests and a full range of age groups within the community, including information, educational, special interest, and entertainment programmes; and
 - (d) Programmes which encourage and promote the musical, dramatic, and other performing arts, including programmes featuring New Zealand and international composers, performers, and artists; and
 - (e) A nationwide service providing programming of the highest quality to as many New Zealanders as possible, thereby engendering a sense of citizenship and national identity; and
 - (f) Comprehensive, independent, impartial, and balanced national news services and current affairs, including items with a regional perspective; and
 - (g) Comprehensive, independent, impartial, and balanced international news services and current affairs; and
 - (ga) an international radio service to the South Pacific (Radio New Zealand International), which may include a range of programmes in English and Pacific languages; and
 - (h) Archiving of programmes which are likely to be of historical interest in New Zealand.
- (2) In providing broadcasting services, the public radio company shall take account of:
 - (a) Recognised standards of excellence; and
 - (b) Its responsibility as the provider of an independent national broadcasting service to provide a balance between programmes of wide appeal and programmes of interest to minority audiences; and
 - (c) The broadcasting services provided by other broadcasters; and
 - (d) surveys, commissioned annually, of persons who are members of its current audiences to establish whether those members consider that the quality and quantity of its services are being maintained in accordance with subsection (1); and
 - (e) surveys, commissioned from time to time, of persons who are not members of its current audiences".

Main Provisions

Public radio company to give effect to Charter

The Bill provides that the public radio company must give effect to its Charter (*Clause 5 of the Bill, substituting Section 7 of the Act*).

Definition of commercial-free

The Bill provides a definition of the term "commercial-free" (see in particular the "purpose" section of the new charter set out below). Under this definition, the term means "without advertising or sponsorship; but ... to avoid doubt, does not include announcements by Radio New Zealand of its own services" (*Clause 4, amending Section 2 of the Act by inserting a new definition, that of "commercial-free"*).

The new Radio New Zealand charter

The Bill provides that the new charter of the public radio company is as follows:

“Purpose

“(1) As an independent and commercial-free public service broadcaster, the public radio company's purpose is to serve the public interest.

“(2) Freedom of thought and expression are foundations of democratic society and the public radio company as a public service broadcaster plays an essential role in exercising these freedoms.

“(3) The public radio company fosters a sense of national identity by contributing to tolerance and understanding, reflecting and promoting ethnic, cultural, and artistic diversity and expression.

“(4) The public radio company provides reliable, independent, and freely accessible news and information.

“Delivery

“(5) In achieving its purpose, the public radio company must endeavour to provide services of the highest quality which—

“(a) are predominantly and distinctively of New Zealand:

“(b) inform, entertain, and enlighten the people of New Zealand:

“(c) are challenging, innovative, and engaging:

“(d) foster critical thought, and informed and wide-ranging debate:

“(e) stimulate, support, and reflect the diversity of cultural expression, including drama, comedy, literature, and the performing arts:

“(f) stimulate, support, and reflect a wide range of music, including New Zealand composition and performance:

“(g) reflect New Zealand's cultural identity, including Māori language and culture:

“(h) provide awareness of the world and of New Zealand's place in it:

“(i) provide comprehensive, independent, accurate, impartial, and balanced regional, national, and international news and current affairs:

“(j) provide programmes which balance special interest with those of wide appeal, recognising the interests of all age groups:

“(k) contribute towards intellectual and spiritual development:

“(l) include an international service to the South Pacific in both English and Pacific languages:

“(m) take account of services provided by other broadcasters:

“(n) take advantage of the most effective means of delivery:

“(o) preserve and archive broadcasting material of historical interest (*Clause 5 of the Bill, substituting Section 8 of the Act*).

Principles of operation changed

Section 8 of the Act currently provides as follows:

"(1) The public radio company shall, in fulfilling its Charter, exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate or encourage those interests when able to do so.

(2) The public radio company shall, in fulfilling its Charter, operate in a financially responsible manner so that it maintains its financial viability.

(3) For the purposes of subsection (2) of this section, the public radio company is financially viable if—

(a) The activities of the company generate, on the basis of generally accepted accounting principles, an adequate rate of return on shareholders' funds; and

(b) The company is operating as a successful going concern".

The Bill replaces this provision. Subsection (1) remains as it is set out in the present Act (see above). However subsections (2) and (3) are changed and are expressed as follows:

“(2) The public radio company must, in fulfilling its Charter, ensure that it is not influenced by the commercial interests of other parties.

“(3) The public radio company must, in fulfilling its Charter, ensure that it operates in a financially responsible manner and, for this purpose, that it—

“(a) prudently manages its assets and liabilities; and

“(b) endeavours to ensure—

“(i) its long-term financial viability; and

“(ii) that it acts as a successful going concern (*Clause 5 of the Bill, inserting New Section 8A into the Act*).

Review of the charter

The Bill provides that the House of Representatives must periodically review the Charter, with the first review to be undertaken and completed as soon as practicable after five years after the commencement of this Bill. A subsequent review must be undertaken and completed as soon as practicable after the fifth anniversary of the later of the following dates:

- the date on which the select committee reviewing the Charter presents its report to the House of Representatives;

- the date on which any subsequent legislation amending the Charter comes into force (*Clause 5 of the Bill, inserting New Section 8B into the Act*).

Reporting

The Bill provides that the public radio company must include in its annual report required by Section 150 of the Crown Entities Act 2004 an assessment of the extent to which its performance fulfils its Charter and in making the assessment, the public radio company must take into account:

- annual research relating to its current audiences; and
- research conducted from time to time (including people not in its current audiences); and
- the measures, if any, it has taken as a result of the research (*Clause 5 of the Bill, inserting new Section 8C into the Act*).

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