



**PSA Submission on
the Aotearoa
New Zealand Public
Media Bill**

**to the Economic Development, Science
and Innovation Select Committee**

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September 2022

About the PSA

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 83,000 members. We have members working at Radio New Zealand (RNZ) and Television New Zealand (TVNZ) and have historically been the union for people working in public media, alongside our sister union E Tu with its membership among journalists.

We are a democratic and bicultural organisation representing people working in the Public Service including for departments, Crown agents and other crown entities including Te Whatu Ora health entities, Crown owned companies and state-owned enterprises; local authorities; tertiary education institutions; and non-governmental organisations working in the health, social services and community sectors.

For over 109 years, people have joined the PSA to negotiate their terms of employment collectively, to have a voice within their workplace and to have an independent public voice on the quality of public and community services and how they're delivered.

We are committed to advancing the Tiriti o Waitangi of partnership, protection and participation through our work. Te Rūnanga o Ngā Toa Āwhina is the Māori arm of the PSA membership. The PSA is affiliated to Te Kauae Kaimahi the New Zealand Council of Trade Unions, Public Services International and UniGlobal.

This submission

This submission sets out the PSA's view of the Aotearoa New Zealand Public Media Bill and makes recommendations to improve it.

As part of developing this submission we surveyed all PSA members working at Radio New Zealand and Television New Zealand. The submission also draws on the PSA's deep experience as the representative of public sector workers of the implementation of machinery of government changes. We have a role in ensuring that these processes are fair and are consistently applied: Fair both to the public and to the workers directly affected. We hope the Committee will consider carefully and support the changes we recommend to the Bill.

This submission has two sections:

- The first section focusses on the intent and policy decisions implemented through the Bill – a single public media entity governed by a board and with editorial independence around content and a duty to commission, develop and deliver free and accessible content that supports the principles set out in its charter.
- The second section considers and makes recommendations relating to fair process and outcomes for the workers directly affected.

Summary of PSA recommendations

We recommend that:

- Clause 11 is amended to include explicit reference to the entity's purpose of serving the public interest.
- The Committee consider amending the Bill to replace the terms "broadcast" and "broadcasting" with other terms that better reflect current and future modes of distribution.
- The Committee be mindful of the extensive feedback from key Māori stakeholders throughout the consultation that led to the Bill, and ensure that the appropriate principles, policies and measures are embedded at every level of the new entity and its charter to enable it to fully deliver to its Te Tiriti obligations in a sustainable and respectful manner.
- That further measures are included in the Bill to support editorial independence. In particular:

- Including reference to independence in both the stem of clause 12 (1), and in clause 12(1)(i), which describes the entity’s function of broadcasting, commissioning, selecting and producing regional, national, and international news and information.
- We recommend that the Committee seek advice on measures that ensure protection from retaliation, not just by the Minister but by any Parliamentarian. This could include providing for an independent watchdog role to review the entity’s compliance with its charter and receive and investigate any complaints of political retaliation or attempts to influence editorial independence.
- Clause 10 is amended to include in the criteria for board appointment that the board reflects the diversity of the populations the entity is serving.
- Clause 16(1), which is the duty to broadcast free of charge, is amended to include a duty to broadcast commercial free by default.
- Clause 12 is amended to include a principle of supporting a wide range of New Zealand cultural expression through the arts, particularly and specifically music, literature, drama and comedy.
- Clause 11 is amended to provide clarity as to continuity of employment for the purposes of service-related terms and conditions negotiated in good faith in the collective agreements covering affected employees; and the application of existing collective agreements following the creation of the new entity.
- We seek further clarity on the operation of Clause 14 Schedule 1.

1. The Bill’s intent and the policy measures

Level of overall support for the Bill

Our survey shows PSA members working at RNZ and TVNZ hold a range of views about the desirability of establishing a new single public media entity. On balance they are somewhat supportive.

The purpose of the entity (clause 11)

PSA members working at TVNZ and RNZ strongly support the purposes of Aotearoa New Zealand Public Media (ANZPM) as specified in clause 11 (1) of the Bill. However, there are concerns that one of the key features of public media - that it serves the public interest - is not explicitly stated in the

Bill. We understand that as an autonomous Crown entity this should be an intrinsic purpose of the entity however, we strongly recommend that clause 11 is amended to include explicit reference to this. The current Radio New Zealand Charter provides an example of this kind of reference.

We share the concern of the campaign for Better Public Media with the use of the terms “broadcast” and “broadcasting” in the Bill and recommend that the Committee consider amending the Bill to replace these with other terms that better reflect current and future modes of distribution.

Tiriti o Waitangi (clause 5)

We know that the Committee will be aware of the substantial role the new entity will play in promoting and normalising the use of Te Reo Māori in mainstream media and re-establishing it into the oral and visual fabric of Aotearoa’s evolution of story and voice: past, present and future. We request that the Committee is mindful of the extensive feedback from key Māori stakeholders throughout the consultation that led to the Bill, and that it ensures the appropriate principles, policies and measures are embedded at every level of the new entity and its charter to enable it to fully deliver to its Te Tiriti obligations in a sustainable and respectful manner.

The new public media entity will have a key role in supporting the Crown to meet its obligations to give effect to the principles of Te Tiriti o Waitangi. We are supportive of the inclusion of the measures to give effect to this role, summarised in clause 5 of the Bill.

The chief executive of ANZPM will need to ensure the organisation meets, and we hope exceeds, the capabilities required by the [Māori Crown Relations Capability Frameworks](#). As the chief executive of a Crown entity, they will also have a responsibility to be a good employer (s118 Crown Entities Act) and this includes operating an employment policy that recognises the aims and aspirations, employment requirements and need for involvement of Māori workers in the entity. It is also important that there are review mechanisms that ensure the entity’s obligations are met and are functionally sustainable as the entity is established. The entity will not be supporting the Crown in its Te Tiriti obligations unless this is the case. We look forward to engaging with the chief executive of the new entity to negotiate provisions that give practical effect to these requirements.

Editorial independence

Editorial independence is crucial for any public media entity. PSA members value this highly and strongly support the measures to support editorial independence included in the Bill, however only just over half are confident that these measures will be enough.

We strongly recommend that further measures are included in the Bill to support editorial independence. In particular:

- Including reference to independence in both the stem of clause 12 (1), and in clause 12(1)(i), which describes the entity's function of broadcasting, commissioning, selecting and producing regional, national, and international news and information.
- We recommend that the Committee seek advice on measures that ensure protection from retaliation, not just by the Minister but by any Parliamentarian. This could include providing for an independent watchdog role to review the entity's compliance with its charter and receive and investigate any complaints of political retaliation or attempts to influence editorial independence.

In addition, members commented that it will be important that the board of the new entity reflects the diversity of the populations the entity is serving and, while we understand that diversity within the board is referred to in the Crown Entities Act, we recommend that this be explicitly included in the criteria for appointment in clause 10.

Duties: Clause 16

There is strong support from PSA members working at RNZ and TVNZ for the duties of the entity set out in clause 16. However, members have raised strong concerns that the only provision in the Bill for services free of advertising or sponsorship is, at clause 8 of Schedule 1, for services that are the same or substantially the same as existing commercial free RNZ services. Does this imply that all other services provided by the new entity will necessarily include advertising or sponsorship? We recommend the inclusion in clause 16(1), which is the duty to broadcast free of charge, a duty to broadcast commercial free by default.

The Charter and its principles: Clause 12

There is strong support from PSA members working at RNZ and TVNZ for the inclusion of each of the principles of the Charter included in clause 12. There is support also for including a principle of supporting a wide range of New Zealand cultural expression through the arts, particularly and specifically music, literature, drama and comedy.

2. Fair process and outcomes for the workers directly affected

While machinery of government changes are a necessary part of the continuous improvement of public services to meet the needs of New Zealanders, they are not to be undertaken lightly. Most are costly and disrupt services and productivity. They also cause stress and anxiety through creating uncertainty about jobs, and where people are made redundant the economic and social costs impact both individuals and their families for the rest of their lives. And so, it is important for decision makers in machinery of government changes to take into account the interests, rights and needs of the people who will be relied on to deliver the desired improvements. We know that select committee members understand and take this seriously, and will consider these perspectives.

The positive gains intended through the creation of the new entity will take time to develop and will require active collaboration with staff to embed. We will continue to engage with RNZ and TVNZ and with the leadership of the new entity to ensure this happens and we hope this principle of worker participation is embedded in the culture of the new entity. We expect that the chief executive of the new entity will engage early with staff unions and seek to co-design the structure of the entity with us, ensuring that the people working at ANZ Public Media can participate actively in the redesign process.

Continuation of collective agreements

Clauses 11 to 13 of Schedule 1 of the Bill provide for the transfer of employees to the new entity on the same terms and conditions and provide for their employment to be continuous for the purposes of various employment related acts. We support this.

However, the Bill does not provide for employment to be continuous for the purposes of non-statutory service-related terms and conditions negotiated in good faith in the employment agreements covering those employees. This could result in disadvantage to the workers transferred from RNZ and TVNZ to the new entity.

In addition, while we understand that the effect of clause 15 of Schedule 1 would be that the new entity would become a party to the RNZ and TVNZ collective agreements, the Bill does not expressly state this as is usual practice, and does not clearly provide to whom they will apply within the new entity. This risks unnecessary uncertainty for transferring employees about their terms and conditions of employment. We recommend that clauses are inserted that provide for clarity in both these matters.

Restrictions on access to redundancy compensation

Clause 14 concerns the first restructuring that the new entity undertakes after its establishment. We note that clause 14(2)(a) appears to replace the collective agreement provisions on redundancy in the case of redeployment within Aotearoa New Zealand Public Media, some of which are more favourable.

For example, the current PSA/RNZ collective agreement allows an employee who accepts an alternative position a six-week period in which the “suitability” of the role can be reviewed. If the role is found, with good reason, to be unsuitable by the employee, the employee may end the arrangement and be entitled to redundancy compensation. Clause 14(2)(b) of the Bill appears to cut across this entitlement. Another example can be found in the TVNZ collective agreement when a previously full-time employee accepts a part time position. In this situation the collective agreement provides that the parties may agree the payment of compensation to reflect loss of earnings. Clause 14(2)(b) of the Bill appears to cut across this entitlement also.

This clause appears to mirror s88 of the Public Service Act that restrict access to redundancy when public servants are made redundant from one agency and get another job in another agency. In contrast this provision applies internally and so usually the collective agreement would apply. We would appreciate further clarity on this.

For further information about this submission, please contact:

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