



The New Zealand Television Broadcasters' Council  
Submission in Response to  
**ELECTORAL FINANCE REFORM**  
Proposals

Submitted by  
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## A. Background to Submission

The New Zealand Television Broadcasters' Council (TBC) represents the common interests of its members, the majority of the national Free to Air (FTA) broadcasters. The members of the TBC are TVNZ, MediaWorks TV and Maori Television (MTS).

As Free to Air broadcasters, we have a direct interest in electoral finance reform. We applaud the concept of a review as there were clearly issues in the last election that affected all media and we would hope this review will lay the framework for a better managed electoral finance process in future elections. Many of the proposals we will leave to others to comment on, as they do not directly affect the television networks. We agree with and support the six guiding principles and the responses provided are consistent with those principles.

## B. State Funding

The paper is clear about the government's intention to not increase the amount of state funding for the next election. The last increase in state funding was in the 2005 general election and, with the increase in number of channels available in New Zealand plus the increase in costs of purchasing media time and space as well as production costs over the past six years, parties will struggle to get their messages out to the electorate with the cap that is currently in place.

The current system results in most parties making their television buying decisions very early on in the campaign and, because the state funded allotment will have then been committed, it does not allow parties the flexibility of changing their television advertising weight in response to issues that may arise during the campaign.

We would therefore support Option 2b "moderate reform" as that will allow the parties to choose the media they wish to use, but not restrict television and radio purchases to the state funded pool only.

We believe the amount of state funding does need to be reviewed, if not in the coming election, then in future elections, so that all parties can get their messages to the public in an equitable manner.

## C. Campaign Expenditure Limits

The campaign limits on candidates would appear to be sufficient for the foreseeable future. In the last election, no party came even close to spending the permitted amount under the candidates spending limit.

If the moderate reform proposed in "B" is applied, there would be no need for a separate party vote limit and broadcasting spending limit. The overall party spending limit applied from the last election was used fully by the two major parties. Since these are the only two parties likely to form a government in the next election, their communication needs are vital to a fair electoral process. We would recommend that the current overall limit of about \$3.4 million (party vote limit plus broadcasting allocation) should be increased to \$5 million for parties contesting all electorates in the 2011 election and then increased by CPI each election thereafter.

Minor parties, too, will require an increase in funding, and we would support the concept of a limit based on the number of electorates being contested.

Although the increase is significant for the next election, the advertising landscape has changed dramatically. The choices in both mass and specialised media have significantly increased in the past decade. Unlike most advertisers, political parties need to reach all adults rather than a specific target group so advertising strategies will need to be developed with that in mind. Clearly, television, radio and print will always play a major role in reaching the public during a campaign, but some of the harder to reach demographics may also respond to media such as social sites and other on line applications as well as mobile. To purchase a wider variety of media will require greater funds, but in addition the production costs involved will be greater, as different styles of creative advertising will need to be developed for each major demographic and each platform or media.

This will give political parties an opportunity to get better responses from hard to reach demographics and has the potential to increase voter turnout and parties should not be unduly hampered in their efforts to reach the public with their full spectrum of messages on the issues.

#### D. Regulated Campaign Period

With New Zealand having elections every third year, a long campaign is unnecessary and difficult. It would seem to make sense to have a shorter campaign so that more of the government's time is spent on governing rather than running for re-election. Our preference is for option 6b, a commencement date of 1 August in the election year. Should the election be called with less than three months notice, we would suggest that 6f is the best option. Retroactivity of an election period appears unfair, as most parties will not know when the regulated period starts until sometime after it has begun, so the option of a regulated period that starts from the date of the announcement of the election date would seem the most fair option.

#### E. Definition of Election Advertising

In the NZTBC submission of 26 June 2009, we proposed the following definition of election advertising:

*An 'Election Advertisement' is an advertisement that:*

- *Encourages or persuades, or appears to encourage or persuade, voters to vote, or not to vote, for a political party or the election of any person at an election; or*
- *Advocates support for, or opposes, a candidate or political party; or*
- *Notifies meetings held or to be held in connection with an election*

*The definition includes but is not limited to advertising in all traditional media and new media such as on line advertising, including websites, email and SMS messaging, neck labels, messages attached to a product, posters, pamphlets and billboards (whether stationary or mobile) and addressed or unaddressed mail.*

We maintain this is an appropriate definition. The proposal paper lists a group of exceptions that would make it clear that some specific activities are not election advertisements, and we agree with and support those exceptions.

## F. Parallel Campaigning

An election will usually have the result of bringing issues of public significance to the forefront. While the main purpose of an election is to elect a government, the many issues that are raised provide good opportunities for the public to test the stand our politicians take on these issues and to express individual and group opinions on those issues. The political process must allow for the maximum freedom of expression for these groups and individuals while ensuring the major task of electing a government is not lost between the issues.

We support proposal 8a, the proportionate regulatory scheme. A cap on spending amounting to 40% of the cap on a political party that is contesting all electorates would be appropriate. In the next election, that would amount to \$2 million per organisation, if our limits in "C" above are accepted. This ensures that the organisation will have ample opportunity to speak to the issue at hand, but their "share of voice" will be substantially less than any of the major parties. If the organisation is operating regionally rather than nationally, we would suggest a figure that is a percentage of the national figure, based on the percentage of the total population covered by the parallel campaigner. Spending on both positive and negative campaigning must be counted.

If the parallel campaigner is proposing support for a specific party or individual candidate that party or individual candidate must give written approval. Otherwise there is the possibility that parties or individuals could be inadvertently linked to groups they do not wish to have an open association with. Any spending on advertising linked to such an endorsement would become part of the political party's or the individual candidate's overall expenditure, but would not count towards the parallel campaigner's cap as that would be in effect double counting the expenditure.

Groups or individuals that are expressing opinions, but do not have the type of large scale funding necessary to have impact through major advertising campaigns should not be required to register. This really comes down to a test of materiality. A threshold of \$100,000 is suggested for this purpose. That is 5% of the allowable spending for an organisation or 2.5% of the spending allowable by a major political party.

There should be a limitation on parallel campaigning that ensures the campaigning remains at a domestic level and is free from international influence. Campaigning only by New Zealand citizens and organisations that are majority owned by New Zealand citizens should be eligible.

## G. Advertising by Parallel Campaigners on Television and Radio

Having supported 8a above, we also support 8c, allowing parallel campaigners to advertise on television and radio. We see no reason to discriminate against two media in favour of all the others, particularly since our earlier proposal is to remove the restriction on funding currently dedicated to television and radio and allow all media access to the state funded pool.

## H. Monitoring and Compliance

We are generally supportive of the concept of a new standalone electoral agency. It is noted that in the introduction to the Proposal Paper, "A decision has been made at this stage to put the finer details of the regime to one side".

There are two issues that were raised in the 26 June submission that may fall into this category, but we raise them to ensure they are not lost during this process.

The first of these is responsibility for staying within spending limits. If the isolation of television and radio advertising is removed, as in "B" above, the issue will likely be covered but if state funding exclusively for television and radio advertising remains, an issue from the past has the potential to surface again. One of the real issues with some past elections is that the broadcasters were reliant on the parties to stay within the spending limits allowed, but the broadcasters had no way of knowing if the parties were actually doing so. In the case of the 2005 election, there was overspending due to clerical error and it took several years of discussion and meetings to clear up the matter, with the broadcasters not receiving payment for some of the airtime provided as a result. Our recommendation would be that responsibility for staying within the set limits rests with the political parties, but if there is overspending, the broadcaster is not penalised; rather it is an issue between the party and the Electoral Commission. Penalties should fall to the political party, not the media.

The second issue is the complaints process. Although the complaints process is not specifically mentioned in the Issues Paper, we would advocate for all complaints regarding election advertising to be dealt with by the Advertising Standards Complaints Board. This independent group with five public members and four industry members deals with all other advertising complaints in all media and has a long history of fair and unbiased decisions delivered in a timely manner. They are the most experienced body when it comes to measuring advertising against the standards that are in place. The ASCB already deals with all non broadcast election advertising, so the exclusion of radio and television from this process seems to be an anomaly that should be corrected. An election billboard and a television advertisement for a party that both contain statements that are challenged as breaking the code currently need to have a complaint made to two different bodies. Surely, if the ASCB is deemed fit to judge election advertising in all other media, radio and television should also be judged by that body.

We have no doubt that the ASCB would be willing and able to gear up for the quick turnaround required for election advertising.

The complaints window, whether handled by the BSA or the ASCB, should be shortened. Currently a complainant has 60 days in which to complain against an election advertisement. That makes no sense, as the period of interest only extends to Election Day. If there is a complaint to be made and heard, its intended result should be to stop the advertisement or have it altered so as to not be in breach of the applicable code for the remainder of the campaign. Any complaint beyond Election Day is likely vexatious and a waste of everyone's time and money. We would recommend that the window has a cut-off of the day prior to Election Day.

## Conclusion

Our proposals on the seven areas of Electoral Finance Reform listed above will, if adopted, provide the basis for a fair and robust political process that will have the ability to reach the whole population with the wide variety of messages necessary in an election campaign. We would be pleased to comment further or provide clarification on any of the items in this submission should that be desired.

We thank you for the opportunity to provide this submission.

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