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Te Awheawhe Tāke

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Submission on the Future of Tax

Prepared on behalf of the Better Public Media Trust for submission to the Tax Working Group (Te Awheawhe Take)

By Peter A. Thompson[1]
April 2018

1) Introductory comment

The Better Public Media Trust appreciates the opportunity to submit some observations on the Future of Tax consultation. The focus of our submission reflects our sphere of interest, namely taxation for the purposes of supporting public media provisions. However, we hope that some of the comments and arguments will help inform the Tax Working Group's deliberations on more general taxation issues.

This submission briefly sets out the policy pretext for expanding public funding support for public interest media, i.e. communications media which function primarily to engage and inform us as citizens, not just entertain us as consumers. It then presents a set of principles and criteria which could guide the formulation and implementation of government funding arrangements for public media. Several funding mechanisms are then outlined, with particular attention paid to the normative and practical arguments for a marginal levy system which would generate funding for public media through a hypothecated tax imposed at a low level across a wide range of commercial media turnovers.

2) The digital media context

The rapid proliferation of digital media forms over the past two decades has engendered two dubious assumptions; a) that the digital media market offers an unlimited range of choice, and b) that this obviates the any need for traditional 'public service' media provisions. Superficially, it is certainly true that there has been an expansion of online services and new platforms and devices for distributing/ accessing content on-demand. However, that the digital media market continues to under-provide several key genres of content (e.g. local programming for young people, educational content, programming catering for minority communities, etc.). Meanwhile, as competition for audience eyeballs and clicks has intensified across different platforms, the opportunity costs of maintaining a diverse range of content have increased. At the same time, an increasing proportion of advertising revenue is

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being co-opted by social media and content discovery platforms (notably Facebook and Google) which contribute minimally to production costs. This has weakened the business models of some traditional media, particularly newspapers[2].

A recent series of multi-stakeholder workshops on Civics and Media[3] identified a common concern about the decline of in-depth, investigative news/current affairs and other factual /educational content which is not commercially viable, but which citizens need participate meaningfully in public life. Deregulation, convergence and financialized shareholding have obliged many media operators to re-evaluate their business models. Traditional media platforms are finding that the audience 'eyeballs' and advertising revenues which they used to dominate have begun to fragment as new services have emerged. For the private media sector, pressure from offshore shareholders to maintain profits and capital value imposes unprecedented commercial pressures on content producers, increasing their reluctance to take commercial risks or tolerate opportunity costs. Amidst digital plenty, market failures remain evident.

Although the commercial news sector has normally been skeptical toward arguments for state subsidies of the media, some are now suggesting that they ought to be eligible for public funding[4]. Non-commercial public media like RNZ or Maori Television Service can more readily absorb the opportunity cost of investing in quality content and catering for a wider range of audience demographics, but their level of public subsidy is low by international standards. Although the new Labour-led coalition government has indicated it intends to increase public media funding, with $38m the figure suggested in pre-election commitments, New Zealand's *per capita* spend on public media services will still lag well behind comparable western countries[5]. Previous ministers of broadcasting have often insisted that they simply have insufficient budget allocations to provide additional services, even if they agree these are desirable. Even when governments do recognize the need to commit funding to public media provisions, intra-cabinet wrangling over vote portfolio allocations[6] often results in sub-optimum policy compromises as the archetypical hip operations typically win priority over less tangible cultural and democratic policy

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[22] Between 2004-2014, the newspaper sector's share of advertising has almost halved, dropping from $833m (37.2%) in 2005 to $484m (20.3%).

[3] Civics & Media Project proceedings (2016) http://www.mcguinnessinstitute.org/wp-content/uploads/2017/02/20170227-Civics-and-Media-Booklet-WEB.pdf
See also www.civicsandmediaprojectnz.org

[4] The Daily Blog (2015, April 12) Table Talk- Making Sense of the Campbell Live Affair. Retrieved 3 Feb 2016 from: http://thedailyblog.co.nz/2015/04/12/live-event-table-talk-making-sense-of-the-campbell-live-affair/

[5] Nordicity (2016) Analysis of Government Support for Public Broadcasting. Report prepared for CBC/Radio Canada. Retrieved
1 April 2018 from http://www.cbc.radio-canada.ca/_files/cbcrc/documents/latest-studies/nordicity-public-broadcaster-comparison-2016.pdf
[6] See Thompson, P.A. (2011). Neoliberalism and the Political Economies of Public Television Policy in New Zealand. Australian Journal of Communication 38(3):1-16.

objectives. There is therefore a particularly strong rationale for considering new models of taxation and finding which would enable public media provisions to be funded adequately and sustainably.

3) Characteristics of effective public media funding mechanisms[7]:
This section lists a range of principles which increase the legitimacy, sustainability and efficacy of public media funding mechanisms. No single mechanism would simultaneously satisfy all these criteria, but the list may be helpful in comparing and contrasting alternative funding mechanisms, including taxation/levy models.

1. Clear specification of desired functions and outcomes beyond commercial norm.
2. Sufficient levels proportionate to functions and desired outcomes
3. Transparent and accountable mechanisms, valid performance measures, potentially revocable.
4. Insulation of content production/commissioning decisions from commercial or political pressures.
5. Relevant to the local media ecology and available at the point in the value chain most vulnerable to market failure.
6. Sufficient level of funding to off-set opportunity costs inhibiting provision of desired content forms on a commercial basis.
7. Directed primarily (although not exclusively) towards outputs/outcomes under-provided by private commercial media.
8. Avoids distortion of fair market competition where public media also compete directly for substitutable audiences and commercial revenues with private sector rivals.
9. Legitimacy among stakeholders including public recognition of civic benefits even if they are not consumers of the services funded.
10. Independence from bureaucratic capture and over-proximity/ dependence on clients/beneficiaries for legitimacy/political justification.
11. Subject to periodic review of levels, functionality and proportionality by an independent body.
12. Hypothecation/ringfencing to insulate funding levels from the need for annual budget contestation
13. Fiscal neutrality, i.e. no impact on existing government consolidated funds.
14. Costs incurred by industry transferrable to consumers with minimal transaction costs.
15. Minimal and proportional costs incurred by consumers/end users of media services.
16. Costs incurred by industry are more likely to be accepted if there is scope for the industry to benefit either by direct reinvestment (e.g. contestable content funding or infrastructure development subsidies).
17. Costs incurred by consumers are more acceptable if the consumer perceives that the funding confers at least some personal benefit as well as wider social benefit.

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[7] See http://www.mch.govt.nz/sites/default/files/MCH-OECD-Funding-Report.pdf and http://www.victoria.ac.nz/seftms/about/staff/peter-thompson/Show_Me_the_Money_Thompson-SPADA_2011.pdf

4) Characteristics of alternative funding mechanisms to support enhanced public interest media in New Zealand:

This section outlines the basic characteristics of six different funding models for public media provisions. The emphasis here is on the generation/procurement of the funding rather than the functions/outcomes to which the funds might be put- that is a much broader public policy debate.

A) Government appropriation model (i.e. from regular taxation via the consolidated fund)

- Relatively simple to implement as part of the routine Vote allocations to ministerial portfolios.
- Can be provided as a *direct* mechanism to a specified service provider (e.g. Crown funding of the Maori television service) an *indirect* mechanism through an arm's-length agency (e.g. NZ On Air funding for RNZ) or as a *contestable* mechanism through an arm's-length agency (e.g. NZ On Air and TMP contestable funds).
- Passive mechanism that does not require active collection/transaction by public or industry (although the contestable funding option requires applications from those seeking funds).
- Levels and periodicity can be determined in annual budget rounds (e.g. appropriations could be committed for a 3-year term to support medium term planning).
- Non-hypothecated (ringfenced) and non-statutory appropriations are subject to revision as policy priorities change or new government are elected.

B) License fee model

- Would entail reintroduction of a fee payable either by households or device-users. Fee could be collected either directly by the PSM provider (BBC model), indirectly by a funding agency (NZ On Air model 1989-99) or 'piggy backed' on household rates or utilities billing (see Greek and Turkish models).
- Revenue could be disbursed on a *contestable* basis through a funding agency (NZ On Air model 1989-99) or *directly* to designated public media provider(s) (original NZBC/BCNZ model).
- There is potential for development of new models of license payment for bundles of content (e.g. combination of print/online/broadcast content).
- Clear link between the paying public and service provider receiving the funding.
- Hypothecation (ringfencing) avoids annual budget negotiations and, if statutory, prevent immediate revocation by incoming government thus allowing longer-term planning.
- Public obligation to pay for services in an environment of increasing choice of subscription services for premium content would engender resentment unless the services provided were valued by a majority of the public. Several countries which did have a license fee have discontinued it (including New Zealand).
- If a licence fee mechanism *also* provided access to additional media services valued by the public (e.g. subscriber video on-demand) then it is likely that the

proportion of the fee that was allocated to more niche public services would be far less contentious. Put simply, paying a licence fee which provided only niche/minority content would be resented, but a licence fee which, say, provided live sports or movies as well as the niche content would be more acceptable.
- A further, speculative option for the licence fee model would operate the mechanism as a form of *reverse crowd-funding*: Rather than the licence fee being paid *by* the public, it would be paid *to* the public in the form of a voucher or credit earmarked for expenditure on designated public interest media[8] (which could include newspapers, magazines, and other media deemed to contribute to cultural and democratic functions). Obviously, this option would require an allocation from the consolidated fund in order to disburse.

C) Investment subsidy/ tax rebate model

- Provides incentives for investment in certain types of media production by offering a proportional subsidy to production costs A current version of the investment subsidy model can be seen in the NZ Screen Production Grant, administered through the NZ Film Commission, and arguably in the UFB contracts administered. Crown Fibre Holdings
- This could be accompanied by a rebate on tax revenue liabilities in return for investment in content/services otherwise under-provided.
- The model does not raise tax revenues per se- it is actually a notional cost to the state. However, by off-setting the opportunity costs and risks of capital investment content, services or infrastructure otherwise deemed commercially unattractive in an increasingly competitive digital media market (e.g. high-end local content, investigative journalism), the model enables private investment which would not otherwise be forthcoming.
- The mechanism would be hypothecated (ringfenced) but level of subsidy would depend on the criteria of eligibility (which would need to be developed and clearly defined to avoid legal ambiguity).
- Likely to be supported by the private/commercial media sector. However, the mechanism could impose contingencies on the government's fiscal planning obligations.
- Would function better for one-off larger scale projects that were pre-approved with a designated ceiling of rebate level to avoid fiscal risk.
- Would not be workable for retroactive opportunity cost rebates for smaller scale content provision (not least because opportunity cots vary across genres and between media operators).

D) Spectrum/Facilities subsidy

- Subsidy or provision of free broadcast spectrum/satellite carriage for public interest media providers and/or regional/commercial media operators providing relevant public interest services. A recent example of this model was the low-cost spectrum allocation to the (not defunct) Kiwi FM which was dedicated to local

[8] Compare this with the Pres Patron system in New Zealand which provides a mechanism through which people who want to support journalistic endeavours can make small payments to the news media they find valuable. https://www.presspatron.com/

music. An example of where such provisions might have usefully been applied was the independent public broadcaster Stratos TV which closed down after Kordia imposed commercial rates for digital spectrum access.
- The production/distribution facilities of existing public sector could also be made available to non-profit/ public interest media providers to support complementary forms of media content (although this would depend on availability and may require costs to be off-set by other means).
- Potential to enhance diversity and viability of regional/non-profit broadcasters and/or help off-set opportunity costs for some other commercial media providers which provide public interest content.
- Primarily a complementary funding mechanism alongside others; unlikely to be sufficient on its own to meet mainstream public interest requirements.

E) Ringfencing of profits from state sector media

- Profits from commercial public sector media operators such as TVNZ and Kordia could be recycled to fund public interest requirements. This could either function through a hypothecation (ringfencing) of dividend payments to the Crown or through being channelled to an agency such as NZ On Air.
- Potential to enhance diversity and viability of regional/non-profit broadcasters by using profits from commercial spectrum to subsidise access for non-commercial media.
- Alternatively, a variant of this model could differentiate between the operation of TVNZ's channels making TV One more public service in orientation by recycling the dividend to off-set the opportunity costs (note this would *not* be sufficient on its own to make TV One non-commercial).
- Primarily a complementary funding mechanism alongside others; unlikely to be sufficient on its own to meet mainstream public interest requirements, especially if dividends from TVNZ and Kordia decline.
- No effect on private commercial operators; however, the model could reduce the incentive for media operators like TVNZ to maintain profitability if they are not a direct beneficiary of the mechanism.

F) Marginal levy model

- Small tax (say 1% or 0.5%) on a range of media services potentially including subscription services, telecommunications (phone/mobile/broadband), audio-visual hardware/software, and advertising (including online operations like Google and Facebook which currently benefit from online traffic but do not contribute content production costs).
- Potential for a low level of levy to generate relatively substantial revenue if multiple sectors contribute.
- Collection and disbursing agent could operate wither though direct allocation to designated public media provider(s) or through a contestable mechanism.
- Hypothecated, index-linked and, insofar as the revenue comes from outside the existing consolidated fund, fiscally neutral. With the exception of advertising levy,

costs are passed onto the consumer of commercial media at point of purchase transaction.

- Commercial media and consumer contribute proportionally across the value chain to compensate for the under-provision of civic and cultural content. The levy is therefore proportional to the commercial sectors' contribution to market failure.
- Passive payment system and low level makes the levy largely invisible from the consumer's point of view; however, industry could oppose the model unless they were also beneficiaries or exemptions were available (e.g. for smaller/ non-profitable media companies).
- There may be some initial technical complexities in implementing the levy in some sectors (e.g. audio-visual retail).

5) A closer look at the marginal levy model

As noted above, there are several different mechanisms through which public funds could in theory be generated and distributed, but space precludes a full discussion of the options here However, BPM considers the marginal levy model to be a particularly promising mechanism for raising adequate funding outside the government's current budget without imposing an unacceptable burden on either industry or the taxpaying public. The marginal levy mechanism would function primarily through the introduction of a small charge added to the price consumers pay for media services (0.5% to 1.0%) across a wide range of media-related goods and service transactions (including phone/internet, advertising, subscription TV/OnDemand services and audio-visual retail goods).

A levy is, of course, a form of taxation and inevitably connotes negatively to many people. Some libertarians and Ideological opponents of public service principles dismiss any proposal for taxes or levies to support public media as unacceptable. But such a proposal should not be regarded as 'nanny state' interference in what would otherwise be an efficient market. Nor does it presume that the public as consumers don't know what's good for them. On the contrary, as citizens, most people will accept that there are gaps in what the market provides and that there is a need for public interest media, especially in-depth news and educational content. The problem is that as consumers, we collectively under-invest in such content (hence we are happy to read the news online for free at the same time as we grumble about the click-bait content and advertising). Given that commercial pressures are the primary reason for the under-supply of this sort of content (i.e. market failure), it is eminently reasonable to suggest that the media market itself be harnessed to help redress matters.

A marginal levy of 0.5% to 1% on media-related revenues would gather revenue proportional to media company revenues and consumer expenditure. By including the entire media value-chain in the system (i.e. not just content providers but the means of distribution and reception- including hardware as well as content subscription services), those who benefit most from the commercial media market contribute proportionally to redressing its market failures; this might be characterized

as the ‘polluter pays principle’.

The levy model would require legislation to implement, but insofar as it would require no additional allocations from the government consolidated fund, it would, in effect, be fiscally neutral. Importantly, this means that it would be *hypothecated* (ringfenced from other government budgets) and therefore insulated from inter-ministerial budget wrangling. Moreover, it would be *index-linked* to inflation because the levy would increase (or contract) in line with the overall revenues of the media sector. Applying it to the entire media value chain recognises the increasingly close links between content producers, distribution services and reception technologies in the converged media market (e.g. telecommunication services providers offering subscriber video services and dedicated reception hardware). This also means that if one sector grew at the expense of another (e.g. if mobile phone services or subscriber video-on-demand services increase their subscribers but newspapers decline further) then the levy these sectors respectively pay would adjust accordingly.

Although media industries would instinctively oppose any kind of regulation or taxation, it is important to note that the net impact on media operator revenues beyond the costs of collection and administration would in most cases be minimal. The levy is specific to the media sector, but it is not discriminatory because it applies to *all* media providers across the value chain. The levy would also be predictable as a cost and so would not represent a major source of financial uncertainty. Domestic precedents already exist in the form of the Telecommunications Development Levy and the broadcaster levy for the Broadcasting Standards Authority. Other market sectors are also subject to taxes on particular goods such as tobacco and petrol (with the latter being hypothecated for expenditure on road infrastructure).

Sectors which directly bill consumers for goods and services, including telecommunications, subscription services, and audio-visual retail sales could pass on the cost directly onto their customers. Because the levy would apply across the media value chain, no sector is disadvantaged any more than their direct rivals. Although the levy would increase prices, a marginal rate of 1% would add just $1 to a $100 phone/internet/subscriber TV bill, 20 cents to a $20 mobile phone pre-pay card, and $10 to a $1000 television or computer. The price increases for the consumer would less than the rate of inflation and would therefore be unlikely to engender significant opposition (unless opposing commercial media orchestrated it). The levy model also means that (unlike a regressive flat-fee TV license) consumers would contribute proportionally to their overall media consumption.

A levy on advertising revenues would have to be implemented on a slightly different set of principles because overall turnover fluctuates in response to economic conditions and a levy on advertising could not be directly passed onto the consumer in the same way as a subscription TV bill. In an important sense, however, the consumer *already* pays for advertising every time they purchase advertised goods at the supermarket, regardless of whether they make use of the media services it funds. It is therefore not unreasonable to require advertisers to help support the public interest media forms which their own imperative for maximising eyeballs makes scarce. Some media dependent on advertising are struggling, so exceptions may

have to be made in cases where the levy would have a disproportionate impact on smaller operators. In contrast, some new online media platforms such as Google and Facebook have co-opted a significant proportion of advertising revenue from the domestic media market while contributing minimally to the provision of infrastructure or content. Offshore media companies like Google have also contributed to the erosion of the tax base in the media sector, although there are now increasing efforts to try and ensure they pay tax at a fair rate. Nevertheless, there is surely a strong case for requiring them contribute to public interest media services and indeed, compensate the media providers upon whose content their business model parasitically depends.

5) Concluding points

A break-down of revenues the levy mechanism could potentially raise across 4 main sectors is provided in the table below. The calculations of these figures were based on data used in an earlier BPM report in 2015. Note that subscription TV does not incorporate data for subscriber-video-on-demand services (e.g. Netflix) whose revenues are growing but were not available at the time. The miscellaneous category includes other media like box office receipts and video rentals. These are obviously ball-park figures and may change over time, but they are based on reliable government and industry sources[9] and for the sake of demonstrating the potential viability of the marginal levy model they are valid.

Even assuming the lower rate of 0.5%, the levy would potentially generate roughly $80m per year. The discussion of how to prioritise and disburse the funds is an issue that lies outside the remit of the Future of Tax working group and will therefore not be discussed in this document. However, the point that this calculation underlines is that the marginal levy model would make possible a range of significant interventions to secure the provision of public media services in the evolving digital media context.

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[9] Statistics NZ (2014) Information and Communication Technology Supply Survey: 2014. Retrieved February 3, 2016 from http://www.stats.govt.nz/~/media/Statistics/Browse%20for%20stats/ICTSupplySurvey/HOTP14/ICTSupplySurvey14HOTP.pdf

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Totals Levy Revenues for all Sectors

Sector	Turnover $ millions	1% levy $ millions	0.5% levy $ millions (to 2dp)
Advertising	2386	23.86	11.93
Subscription TV (Sky)	909	9.09	4.55
Telecommunications	5170	51.70	25.85
Audio-Visual Retail	7091	70.91	35.46
Miscellaneous	283.7	2.84	1.42
Totals	**15839.7**	**158.4**	**79.21**