

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]

House of Representatives, 14 December 1982.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Dr Shearer

BROADCASTING AMENDMENT (NO. 2)

ANALYSIS

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A BILL INTITULED

An Act to amend the Broadcasting Act 1976

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Broadcasting Amendment Act (No. 2) 1982, and shall be read together with and deemed part of the Broadcasting Act 1976* (hereinafter referred to as the principal Act).

*1976, No. 132

Amendments: 1977, No. 45; 1977, No. 184; 1979, No. 49; 1981, No. 109; 1982, No. 66

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2. Interpretation—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the term “broadcasting”, and substituting the following definition:

“ ‘Broadcasting’ means—

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“(a) The dissemination of any form of communication by the wireless transmission of writing, signs, signals, pictures, images, and sounds of all kinds by means of Hertzian waves intended to be received by the public either directly or through the medium of relay stations; and

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“(b) Includes the dissemination of any form of communication by the wireless transmission, by means of Hertzian waves, of an encoded signal that is intended to be received by members of the public or of a section of the public but which can be received in an intelligible form only by those members of the public or of that section of the public whose receiving sets are equipped with a decoding device; and

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‘broadcast’ has a corresponding meaning.”.

(2) Section 2 of the principal Act is hereby amended by inserting, in its appropriate alphabetical order, the following definition:

“ ‘Private broadcaster’ means a person (other than the Corporation) who is authorised by warrant or authorisation issued under this Act to broadcast programmes from a broadcasting station:”.

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(3) Section 2 of the principal Act is hereby further amended by repealing the definition of the term “private broadcasting station”, and substituting the following definition:

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“ ‘Private broadcasting station’ means a broadcasting station in respect of which a television warrant or a sound-radio warrant is held by a person other than the Corporation:”

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(4) Section 2 of the principal Act is hereby further amended by adding to the definition of the term “programme” the words “or by any members of the public or of any section of the public”.

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(5) Section 2 of the principal Act is hereby further amended by repealing the definition of the term “warrant”, and substituting the following definition:

5 “ ‘Warrant’ means any warrant which may be issued by
the Tribunal under this Act; and includes a warrant
in respect of the establishment or operation of a
broadcasting station issued under the Broadcasting
Authority Act 1968 and in force at the commence-
10 ment of this Act.”

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2. Interpretation—(1) The principal Act is hereby amended by repealing section 2 (as amended by section 3 of the Broadcasting Amendment Act 1979 and by sections 2 and
15 13 (1) of the Broadcasting Amendment Act 1982), and substituting the following section:

2. In this Act, unless the context otherwise requires,—

20 “ ‘Advertising programme’ means a programme or part
of a programme intended to promote the interests of
any person, or to promote any product or service for
the commercial advantage of any person, and for
which, in either case, payment is made, whether in
money or otherwise:

25 “ ‘Association’ means the Independent Broadcasters
Association Incorporated (formerly known as the
Federation of Independent Commercial Broadcas-
ters N.Z. Limited); and, in the event of any change
of name of that Association, includes the Associa-
tion under the name by which it is known for the
30 time being:

“ ‘Broadcasting’ means—

35 “(a) The dissemination of any form of communi-
cation by the wireless transmission of writing, signs,
signals, pictures, images, and sounds of all kinds by
means of Hertzian waves intended to be received by
the public either directly or through the medium of
relay stations; and

40 “(b) Includes the dissemination of any form of
communication by the wireless transmission, by
means of Hertzian waves, of an encoded signal that
is intended to be received by members of the public
or of a section of the public but which can be
received in an intelligible form only by those

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- members of the public or of that section of the public whose receiving sets are equipped with a decoding device; and
- ‘broadcast’ has a corresponding meaning: 5
- “ ‘Broadcasting body’ means the holder of a warrant or authorisation in respect of a broadcasting station:
- “ ‘Broadcasting Complaints Committee’ means the Broadcasting Complaints Committee established by section 95F of this Act: 10
- “ ‘Broadcasting station’ does not include a diffusion service:
- “ ‘Commercial station’ means a broadcasting station from which advertising programmes are broadcast:
- “ ‘Corporation’ means the Broadcasting Corporation of New Zealand established by this Act: 15
- “ ‘Diffusion service’ means a service whereby sounds or visual images are transmitted by the person operating the service to subscribers of the service over wires or other material substance for reception 20 by apparatus designed to receive the transmissions:
- “ ‘Director-General’, in relation to any Service, means the Director-General of that Service appointed under this Act:
- “ ‘Division’ means an operational or administrative unit 25 established by the Corporation to implement its policies:
- “ ‘Member’, in relation to the Corporation, means a member appointed under section 4 (2) of this Act:
- “ ‘Minister’ means the Minister of Broadcasting: 30
- “ ‘Participant’ means—
- “(a) In the case of a sound radio programme, a person whose voice was heard in the programme:
- “(b) In the case of a television programme, a person who appeared, or whose voice was heard, in 35 the programme:
- “ ‘The person affected’—
- “(a) In relation to any such unjust or unfair treatment as is mentioned in section 95o (1) (b) (i) 40 of this Act, means a participant in the programme in question who was the subject of that treatment or a person who, whether such a participant or not, had a direct interest in the subject-matter of that treatment:
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- 5 “(b) In relation to any such unwarranted infringement of privacy as is mentioned in section 95o (1) (b) (ii) of this Act, means a person whose privacy was infringed:
- “ ‘Private broadcaster’ means a person (other than the Corporation) who is authorised by warrant or authorisation issued under this Act to broadcast programmes from a broadcasting station:
- 10 “ ‘Private broadcasting station’ means a broadcasting station in respect of which a television warrant or a sound-radio warrant is held by a person other than the Corporation:
- 15 “ ‘Programme’ includes any signal, announcement, item, communication, picture, or other matter broadcast or intended to be broadcast from a broadcasting station for reception by the public or by any members of the public or of any section of the public:
- 20 “ ‘Radio New Zealand’ means the Service called Radio New Zealand established by this Act:
- “ ‘Radio station’ means a broadcasting station from which sound radio programmes are broadcast:
- 25 “ ‘Relay station’ means a broadcasting station that (except for use in accordance with a short-term broadcasting authorisation under section 76 of this Act) is used solely to broadcast simultaneously the programme being broadcast by another broadcasting station:
- 30 “ ‘Secretary’ means the Secretary of the Broadcasting Corporation of New Zealand appointed under this Act:
- “ ‘Service’ means Radio New Zealand or Television New Zealand, or any other service established by the Corporation under this Act:
- 35 “ ‘Short-wave station’ means a broadcasting station operating on high frequency and providing programmes for reception within or beyond New Zealand:
- 40 “ ‘Television New Zealand’ means the Service called Television New Zealand established under this Act:
- “ ‘Television One’, or ‘TV1’, means the television stations called Television One operated by the Corporation:
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“‘Television Two’, or ‘TV2’, means the television stations called Television Two operated by the Corporation:

“‘Television station’ means a broadcasting station from which television programmes are broadcast: 5

“‘Tribunal’ means the Broadcasting Tribunal established by this Act:

“‘Unjust or unfair treatment’ includes treatment which is unjust or unfair because of the way in which material included in a programme has been selected or arranged: 10

“‘Warrant’ means any warrant which may be issued by the Tribunal under this Act; and includes a warrant in respect of the establishment or operation of a broadcasting station issued under the Broadcasting Authority Act 1968 and in force at the commencement of this Act: 15

“‘Working day’ means any day of the week other than—

“(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and 20

“(b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.” 25

(2) The following enactments are hereby consequentially amended, namely,—

(a) Section 2 of the Broadcasting Amendment Act 1979:

(b) Section 2 of the Broadcasting Amendment Act 1982 and so much of the Schedule to that Act as relates to section 2 of the principal Act. 30

3. General purposes of Act—Section 3 of the principal Act is hereby amended—

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(a) By omitting from subsection (1) the words “in respect of private broadcasting stations”: 35

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(a) By omitting from subsection (1) the words “the holders of warrants in respect of private broadcasting stations”, and substituting the words “private broadcasters”: 40

(b) By omitting from subsection (1) (e) the words “radio stations”, and substituting the word “broadcasters”:

5 (c) By omitting from subsection (2) the words “in respect of a private broadcasting station”.

4. General functions and powers of Corporation—

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(1) Section 17 (1) of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

10 “(ab) On behalf of all holders of television warrants and television programme warrants, and after consultation with such of those holders as are private
15 broadcasters, to negotiate for and purchase or otherwise acquire rights to, or privileges in respect of, programmes produced beyond New Zealand and rights or privileges in respect of the broadcasting of sports fixtures or events that take place beyond New Zealand:”.

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20 (1A) Section 17 (1) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph:

25 “(c) In consultation with the Association and, where any private broadcaster holds a television warrant or a television programme warrant, in consultation with any such private broadcaster, prepare and promulgate rules prescribing standards and practices for the technical equipment and operation of broadcasting stations:”.

30 (2) Section 17 (3) of the principal Act is hereby amended by adding the following paragraphs:

35 “(c) Carry on, for the benefit of subscribers or other persons, television broadcasting services that can be received in an intelligible form only by subscribers or other persons whose receiving sets are equipped with a decoding device:

“(d) Make provision for the use of its broadcasting studios, transmitters, relay stations, and micro-wave facilities by private broadcasters; including their use by private broadcasters for the transmission, to subscribers or other persons, of television programmes that can be received in an intelligible form only by subscribers or other persons whose receiving sets are equipped with a decoding device.” 5

5. Responsibility of Corporation for programme standards—Section 24 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections: 10

“(3) The Corporation shall ensure, so far as is practicable in relation to television programmes broadcast by the Corporation on TV1 and TV2, that programmes of a like nature on TV1 and TV2 do not wholly or partly coincide. 15

“(3A) Nothing in subsection (1) (a) or (b) of this section applies in respect of television programmes broadcast by the Corporation only for the benefit of subscribers or other persons whose receiving sets are equipped with a decoding device.” 20

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6. Rules in relation to programme standards—(1) Section 26 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection: 25

“(3) The Committee shall include one or more representatives of the Association.”

(2) Section 26 (5) of the principal Act is hereby amended by omitting the words “rules relating to radio broadcasting”, and substituting the words “any rules made under this section”. 30

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6. Rules in relation to programme standards—

(1) Section 26 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) The committee shall include—

“(a) One or more representatives of the Association; and

“(b) If any private broadcaster holds a television warrant or a television programme warrant, one or more representatives of private broadcasters who hold television warrants or television programme warrants.”

(2) Section 26 of the principal Act is hereby further amended by repealing subsection (5), and substituting the following subsection:

“(5) In any case in which agreement between the members of the committee who are representatives of the Corporation and the members of the Committee who are representatives of private broadcasters (being the representatives of the Association and the representatives (if any) of private broadcasters who hold television warrants or television programme warrants) cannot be reached in respect of any rules made under this section, a further committee shall be appointed by the Corporation comprising an equal number of representatives of the Corporation and representatives of private broadcasters (which representatives of private broadcasters shall consist of at least one representative of the Association and, if any private broadcaster holds a television warrant or a television programme warrant, at least one representative of private broadcasters who hold television warrants or television programme warrants), with the Chairman of the Tribunal as Chairman of the committee, and the matter shall be reconsidered and determined by the committee. On the reconsideration the Chairman shall not have a deliberative vote, but shall have a casting vote.”

(3) Rules made under section 26 of the principal Act and in force at the commencement of this Act shall continue in force and have effect as if they had been lawfully made under that section after the commencement of this Act.

6A. New sections inserted—The principal Act is hereby amended by inserting, after section 34, the following sections:

“34A. **Overseas television programmes—**(1) Where any television warrant or television programme warrant is held by a private broadcaster, the Corporation shall, at least once in each financial year enter into an agreement (in this section

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called 'an overseas programmes agreement') with that private broadcaster or with all private broadcasters who hold television warrants or television programme warrants, as the case may require, which agreement shall specify the maximum prices that may be paid by that private broadcaster or by all such private broadcasters for the purchase or other acquisition of rights to, or privileges in respect of, each category of programmes which are produced beyond New Zealand.

“(2) The purpose of overseas programmes agreements is to ensure that, except where special circumstances exist, the price paid by any private broadcaster for the purchase or acquisition of rights to, or privileges in respect of, any programme which is produced beyond New Zealand does not exceed the maximum price that would be paid by the Corporation if it were to purchase or acquire those rights or privileges.

“(3) Subject to the provisions of this section, every overseas programmes agreement shall by force of this Act extend to and bind not only the private broadcasters who are parties to it but also every private broadcaster who, at any time while it is in force, holds a television warrant or a television programme warrant.

“(4) Every overseas programmes agreement shall specify the date on which it shall expire.

“(5) Notwithstanding the expiry of an overseas programmes agreement, that agreement shall continue in force until it is superseded by another overseas programmes agreement.

“(6) Notwithstanding the provisions of any overseas programmes agreement, but subject to subsections (7) and (8) of this section, where a private broadcaster who holds a television warrant or a television programme warrant wishes to purchase or acquire rights to, or privileges in respect of, a programme which has been or is being produced beyond New Zealand, he shall,—

“(a) If that programme does not fall within one of the categories specified in the overseas programmes agreement which is then in force; or

“(b) If he is uncertain about the maximum price applicable in respect of that programme under the overseas programmes agreement which is then in force; or

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“(c) If he wishes to pay for the purchase or acquisition of rights to, or privileges in respect of, that programme a price that exceeds the maximum price applicable in respect of that programme under the overseas programmes agreement which is then in force,—

5 agree with the Corporation on the maximum price that may be paid by the private broadcaster for the purchase or
10 acquisition of those rights or privileges.

“(7) In agreeing under subsection (6) of this section the Corporation shall have regard to the maximum prices determined by the overseas programmes agreement then in force and shall agree to a departure from the general level of
15 maximum prices fixed by that agreement only if there are special circumstances.

“(8) If the Corporation and any private broadcaster are unable to settle the terms of an overseas programmes agreement or of an agreement required to be entered into
20 under subsection (6) of this section, the Corporation or the private broadcaster may require that the terms of the agreement or the terms of the agreement in respect of which agreement cannot be reached be referred to arbitration in accordance with the Arbitration Act 1908.

25 “(9) Nothing in this section applies in relation to the purchase or other acquisition only of rights to, or privileges in respect of, the format of a programme produced beyond New Zealand.

“34B. **Power of Corporation to act as agent in respect of acquisition of rights to programmes**—(1) Without limiting
30 any other power of the Corporation to act as an agent or to negotiate for, purchase, or acquire rights or privileges in its own right, it is hereby declared that the Corporation may negotiate for, or purchase or acquire rights to, or privileges in
35 respect of, any programme (including any programme produced beyond New Zealand) as the agent of a private broadcaster.

“(2) Where the Corporation acts as an agent under subsection (1) of this section, it shall be lawful for the
40 Corporation to charge, demand, and receive for its services as an agent such remuneration by way of commission or otherwise as may be agreed on with the private broadcaster.

“(3) Nothing in subsection (2) of this section limits any other power of the Corporation to charge for its services.”

7. Broadcasts in case of emergency—Section 36 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the word “Corporation”, the words “and any private broadcaster”:
- (b) By inserting in subsection (2), and also in subsection (3), after the word “Corporation”, the words “or private broadcaster”.

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8. Levy—(1) The principal Act is hereby amended by repealing section 66 (as substituted by section 13 (1) of the Broadcasting Amendment Act 1982), and substituting the following section:

“66. (1) For the purpose of providing funds to enable the Tribunal to exercise its functions and powers (including the cost of any services provided by the Department of Justice for the Tribunal under section 65 of this Act) and to enable the Broadcasting Complaints Committee to exercise its functions and powers (including the cost of any services provided by the Department of Justice for the Broadcasting Complaints Committee under section 95N of this Act), the Governor-General in Council may from time to time impose, by and in accordance with regulations under this Act, a levy, at a rate not exceeding that authorised in the regulations, on—

- “(a) Holders of warrants; or
- “(b) Holders of authorisations under section 76 of this Act.
- “(2) Any levy under this section may apply—

- “(a) To—
- “(i) All holders of warrants; and
- “(ii) All holders of authorisations under section 76 of this Act; or

- “(b) To—
- “(i) Any particular class of holders of warrants; or
- “(ii) Any particular class of holders of authorisations under section 76 of this Act.

“(3) The amount of any levy under this section may vary—

- “(a) In respect of different classes—
- “(i) Of holders of warrants; or
- “(ii) Of holders of authorisations granted under section 76 of this Act; or

“(b) In respect of different classes of broadcasting stations from which programmes are broadcast—

- “(i) By holders of warrants; or
- “(ii) By holders of authorisations granted under section 76 of this Act.

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11. New sections substituted—(1) The principal Act is hereby amended by repealing section 71 (as amended by section 5 of the Broadcasting Amendment Act 1979), and substituting the following sections:

“71. **Warrants**—(1) The following kinds of warrants may be issued under this Act, namely: 5

“(a) A television warrant, meaning thereby a warrant that authorises the holder to operate a television station and to broadcast programmes from that station:

“(b) A television programme warrant, meaning thereby a warrant which authorises the holder to broadcast programmes from a television station; but which does not authorise the holder to operate the television station: 10

“(c) A sound-radio warrant, meaning thereby a warrant that authorises the holder to operate a broadcasting station other than a television station and to broadcast programmes from that station: 15

“(d) A sound-radio programme warrant, meaning thereby a warrant which authorises the holder to broadcast programmes from a broadcasting station other than a television station; but which does not authorise the holder to operate the broadcasting station. 20

“(2) Subject to subsections (3) and (4) of this section, more than one warrant may be in force at the same time in respect of the same broadcasting station. 25

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“(3) Where an application is made for a warrant in respect of a broadcasting station in respect of which a warrant is in force, the Tribunal shall not grant that application unless the applicant has made arrangements with the holder of that other warrant for the joint use of the transmission equipment and such other equipment (if any) of that broadcasting station as is necessary to enable the applicant to broadcast the applicant's programmes. 30 35

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“(3) Where the Tribunal grants an application for a television programme warrant or a sound-radio programme warrant, the Tribunal shall not issue the warrant unless it is
5 satisfied that the applicant has made arrangements with the holder of the television warrant or the sound-radio warrant in respect of the television station or radio station for the joint use of the transmission equipment and such other equipment (if any) of that television station or radio station as is
10 necessary to enable the applicant to broadcast the applicant’s programmes.

“(4) Where more than one warrant is in force in respect of a broadcasting station, each warrant shall specify the times on specified days of the week during which the holder of the
15 warrant may or shall broadcast programmes.

“(5) Where the owner of the transmission equipment that is used to broadcast any programme is not also the holder of the warrant pursuant to which that programme is broadcast, he shall not be under any liability by reason only of his being
20 the owner of the equipment, in respect of anything published in the course of that broadcast.

“71A. **Conditions of warrants**—(1) Every warrant shall specify—

“(a) Whether or not advertising programmes may be
25 broadcast from the station by the holder of the warrant:

“(b) In the case of a (*warrant for a radio broadcasting station*) sound-radio warrant, whether or not relay
30 stations may or shall be established or operated in respect of the broadcasting station and the terms or conditions (if any) applicable in respect of any relay station authorised:

“(c) Any undertaking given by the applicant at the hearing which is to constitute a condition of the warrant:

35 “(d) Such other conditions as the Tribunal thinks fit relating to the locality, power, hours of transmission, frequency, and advertising hours accorded to the holder of the warrant:

40 “(e) Such other matters or conditions (not being matters or conditions that conflict with provisions of this Act imposing duties or conferring powers on the Corporation) as the Tribunal thinks fit:

45 “(f) Such other matters or conditions as may from time to time be prescribed by or pursuant to any regulations made under this Act.

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- “(2) It is a condition of every warrant (being a television warrant or television programme warrant) issued to a person other than the Corporation that the holder of that warrant shall not, without the prior consent of the Corporation,— 5
- “(a) Negotiate for or purchase or otherwise acquire rights to, or privileges in respect of, programmes produced beyond New Zealand; or
- “(b) Negotiate for or purchase or otherwise acquire rights to, or privileges in respect of, the broadcasting of 10 sports fixtures or events that take place beyond New Zealand; or
- “(c) Broadcast any television programme if rights to, or privileges in respect of, that programme have been negotiated for or purchased or acquired in 15 contravention of paragraph (a) or paragraph (b) of this subsection.

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- “(2) It is a condition of every warrant (being a television warrant or a television programme warrant) issued to a 20 person other than the Corporation that the holder of that warrant shall not—
- “(a) Purchase or otherwise acquire, at a price that exceeds the maximum applicable under section 34A of this Act, rights to, or privileges in respect of, any 25 programme produced beyond New Zealand; or
- “(b) Broadcast any programme produced beyond New Zealand if rights to, or privileges in respect of, that programme have been purchased or acquired by the holder of that warrant at a price that exceeds the 30 maximum applicable under section 34A of this Act.

- “(3) Every warrant issued in respect of a private broadcasting station shall specify (as a condition of the warrant), in accordance with regulations made under this Act, whether or not the holder may— 35

5 “(a) Form or join in forming, or enter or be or become a member of, any network of holders of warrants in respect of broadcasting stations, or any other association or organisation of holders of warrants in respect of broadcasting stations formed for the purpose of making arrangements for the (provision of programmes or the broadcasting of advertisements) broadcasting, by 2 or more broadcasting stations linked for the purpose, of programmes or advertisements; or

10 “(b) Subscribe for or acquire, by itself or any person or company or body corporate on its behalf, any shares or interest in any such network, association, or organisation.

15 “(4) Notwithstanding anything in subsection (3) of this section, the holders of 2 or more warrants may, with the prior approval in writing of the Chairman of the Tribunal, join in a network in respect of a programme or series of programmes covering any specified event of special significance and major public interest.

20 “(5) In this section, the term ‘network’ means the provision of a programme by broadcast on 2 or more broadcasting stations linked for that purpose.”

25 (2) Section 5 of the Broadcasting Amendment Act 1979 is hereby consequentially repealed.

12. Surrender of warrants—(1) The principal Act is hereby amended by inserting, after section 72, the following section:

30 “72A. (1) A holder of a warrant may at any time surrender the warrant by forwarding a written notice to that effect, together with the warrant, to the Registrar of the Tribunal.

“ (2) The Registrar shall endorse on the notice the date on which he receives it, and the warrant shall, as from that date, cease to have effect.

35 “ (3) The surrender of a warrant under this section shall not affect the holder’s liability—

40 “(a) To pay any fees or other money payable or to be payable in accordance with this Act on or before the date on which the warrant would, but for its surrender, expire:

“(b) To perform any obligation required to be performed by the holder by or under this Act on or before that date:

45 “(c) For any act done or default made before the date on which the warrant ceased to have effect.”

(2) Section 72 of the principal Act is hereby amended by omitting the words “unless, sooner revoked,”, and substituting the words “, unless sooner revoked or surrendered,”.

13. Provisions as to advertising—The principal Act is hereby amended by repealing section 73, and substituting the following section: 5

“73. Advertising programmes may, in accordance with this Act and any regulations made thereunder, and in compliance with rules made under section 26 of this Act, be broadcast 10 from any radio station or television station from which, in accordance with the warrant in force in respect of the station, advertising programmes may be broadcast.”

14. Warrants for existing stations—The principal Act is hereby amended by repealing section 74, and substituting the following section: 15

“74. (1) Subject to this Act and any regulations thereunder,—

“(a) Every television warrant legally issued and in force at the commencement of the Broadcasting Amendment Act (No. 2) 1982 shall be deemed to be a television warrant issued under section 71 (1) (a) of this Act; and 20

“(b) Every sound-radio warrant legally issued and in force at the commencement of the Broadcasting Amendment Act (No. 2) 1982 shall be deemed to be a sound-radio warrant issued under section 71 (1) (c) of this Act. 25

“(2) Every warrant to which subsection (1) of this section applies and every (authorisation legally issued) short-term 30 broadcasting authorisation legally issued under section 76 of this Act and in force at the commencement of the

Broadcasting Amendment Act (No. 2) 1982 shall continue in force subject to this Act and, except as modified by the Broadcasting Amendment Act (No. 2) 1982, to the terms and 35 conditions applicable to the warrant or authorisation at that date.

“(3) Where the Tribunal has decided, before the commencement of the Broadcasting Amendment Act (No. 2) 1982, to issue a sound-radio warrant (other than a shared- 40 frequency warrant) under section 71 (1) (b) of the principal Act as originally enacted, but that warrant has not been issued at the commencement of the Broadcasting Amendment

Act (No. 2) 1982, the Tribunal may issue a sound-radio warrant under section 71 (1) (c) of this Act (as substituted by section 11 (1) of the Broadcasting Amendment Act (No. 2) 1982).”

5 **15. Shared-frequency warrants**—The principal Act is hereby amended by repealing section 75.

16. Other Acts not affected—Section 77 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

10 “(2) Where a television warrant or a sound-radio warrant is revoked or suspended or surrendered, the Postmaster-General may forthwith revoke, suspend, or modify any licence issued under the Post Office Act 1959, in respect of the broadcasting station to which the television warrant or the
15 sound-radio warrant relates; but, in exercising the power conferred on him by this subsection, the Postmaster-General shall have regard to the rights conferred by any other warrant issued in respect of the broadcasting station.”

17. Infringements of requirements—(1) Section 83 of
20 the principal Act is hereby amended by repealing subsection (1) (as amended by section 13 (1) of the Broadcasting Amendment Act 1982), and substituting the following subsection:

 “(1) Where it appears to the Tribunal that the holder of a
25 warrant has been failing to comply with any rules made under section 26 of this Act and notified to that holder, the Tribunal, notwithstanding any action taken by the Broadcasting Complaints Committee, may give to the holder such directions in writing as the Tribunal thinks necessary to
30 ensure that the rules are complied with.”

 (2) Section 83 of the principal Act is hereby further amended by repealing subsections (3) and (4), and substituting the following subsections:

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35 “(3) The Tribunal may at any time notify the holder of a warrant that it proposes to impose a monetary penalty on him or to revoke or suspend the warrant or to reduce the term of the warrant on the ground that the holder of the warrant has committed a breach of the terms and conditions of the
40 warrant.

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“(3) The Tribunal may at any time notify the holder of a warrant that it intends to hold a hearing for the purpose of determining whether the holder has committed a breach of the terms and conditions of the warrant.

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“(4) If the Tribunal (*is of the opinion*) finds that the holder of the warrant has committed a breach of the terms and conditions of the warrant, it may, after consideration in accordance with Part X and this Part of this Act, revoke or suspend the warrant for such period as it thinks fit or reduce the term of the warrant, or may impose on the holder a monetary penalty not exceeding \$500.”

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(3) Section 83 (5) of the principal Act is hereby amended by omitting the words “in respect of any broadcasting station”.

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(4) The Broadcasting Amendment Act 1982 is hereby consequentially amended by repealing so much of the Schedule as relates to section 83 of the principal Act.

18. Responsibility of private broadcasters for programme standards—The principal Act is hereby amended by repealing section 95, and substituting the following section:

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“95. (1) Each private broadcaster shall be responsible for maintaining in its programmes and their presentation, standards which will be generally acceptable in the community, and in particular it shall have regard to—

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“(a) In the case of programmes broadcast by it from a television station, the provision of a range of programmes which will cater in a balanced way for the varied interests of different sections of the community:

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“(b) The need to ensure that a New Zealand identity is developed and maintained in programmes:

“(c) The observance of standards of good taste and decency:

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“(d) The accurate and impartial gathering and presentation of news, according to recognised standards of objective journalism:

“(e) The principle that when controversial issues of public importance are discussed, reasonable efforts are made to present significant points of view, either in the same programme or in other programmes within the period of current interest:

40

“(f) The maintenance of law and order:

“(g) The privacy of the individual.

“(2) Where—

5 “(a) Any cinematograph film has been submitted under the Cinematograph Films Act (1961) 1976 or any former Cinematograph Films Act for censorship and approval for exhibition; and

“(b) Approval of the film for exhibition has been refused or has been given subject to excisions therefrom—
10 no private broadcaster—

“(c) In the case of any film in respect of which such approval has been refused, shall broadcast the film or any part thereof; or

15 “(d) In the case of any film that has been approved for exhibition subject to excisions therefrom, shall broadcast that film or any part thereof if the film or, as the case may be, that part thereof includes any part of the film required to be excised,—
except with the consent of the Censor of Cinematograph
20 Films and subject to any conditions subject to which the Censor has given his consent.

“(3) Each private broadcaster shall ensure, so far as is practicable in relation to television programmes broadcast by that private broadcaster on TV1 or TV2, that programmes of
25 a like nature on TV1 and TV2 do not wholly or partly coincide.

“(4) Nothing in subsection (1) (a) or (b) of this section applies in respect of television programmes broadcast by a private broadcaster only for the benefit of subscribers or other
30 persons whose receiving sets are equipped with a decoding device.

“(5) No private broadcaster shall be under any civil liability in respect of any failure to comply with any of the provisions of this section.”

35 **19. Formal complaints about programmes broadcast by private broadcasters**—The principal Act is hereby amended by repealing section 95c (as enacted by section 11 of the Broadcasting Amendment Act 1982), and substituting the following section:

40 “95c. (1) It shall be the duty of each private broadcaster—
“(a) To receive and consider formal complaints about any programme broadcast by it where the complaint constitutes, in respect of that programme, an allegation that the private broadcaster has failed to
45 comply—

“(i) With the obligation (imposed by section 95 (1) of this Act) to maintain in its programmes and their presentation, standards which will be generally acceptable in the community:

“(ii) With the obligation (imposed by section 95 (1) (c) of this Act) to have regard to the observance of standards of good taste and decency:

“(iii) With the obligation (imposed by section 95 (1) (d) of this Act) to have regard to the accurate and impartial gathering and presentation of news, according to recognised standards of objective journalism:

“(iv) With the obligation (imposed by section 95 (1) (e) of this Act) to have regard to the principle that when controversial issues of public importance are discussed, reasonable efforts are made to present significant points of view either in the same programme or in other programmes within the period of current interest:

“(v) With the obligation (imposed by section 95 (1) (f) of this Act) to have regard to the maintenance of law and order:

“(vi) With the obligation (imposed by section 95 (2) of this Act) in respect of the broadcasting of cinematograph films:

“(vii) With rules made under section 26 of this Act; and

“(b) To establish procedures for investigating any complaint under paragraph (a) of this subsection and any complaint under section 95o (1) of this Act.

“(2) Every complaint under subsection (1) (a) of this section shall be lodged in writing with the private broadcaster.

“(3) Nothing in subsection (1) (a) of this section applies in respect of—

“(a) An alleged failure to comply with the obligation imposed by paragraph (b) or paragraph (g) of section 95 (1) of this Act; or

“(b) A complaint to which section 95o (1) (b) of this Act applies.”

New

19A. Regulations—Section 98 of the principal Act is hereby amended by repealing paragraph (i), and substituting the following paragraphs:

5 “(i) Limiting or regulating—

“(i) The ownership or control, or changes in the ownership or control, whether direct or indirect, of private broadcasting stations and warrants held by private broadcasters; and

10 “(ii) The operation or management of private broadcasting stations; and

“(iii) The ownership or control, or changes in the ownership or control, whether direct or indirect, of companies that hold warrants or own, operate, control, or manage private broadcasting stations; and

15 “(iv) The holding, acquisition, or disposal of shares and stock, debentures, rights, or interests of any kind in companies that hold warrants or own, operate, control, or manage private broadcasting stations:

20 “(ia) Prescribing or authorising the Tribunal to prescribe such conditions and requirements as may be necessary for any of the purposes set out in paragraph (i) of this section:

25 “(ib) Prescribing procedures to be observed in relation to the entering into of an overseas programmes agreement under section 34A (1) of this Act or an agreement under section 34A (6) of this Act.”

30 **20. Consequential amendments**—The principal Act is hereby consequentially amended in the manner indicated in the Schedule to this Act.

Section 20

SCHEDULE

AMENDMENTS TO PRINCIPAL ACT

Section of Principal Act Amended	Amendment
Section 80 (m)	By omitting the expression "section 71", and substituting the expression " <u>section 71A</u> ".
Section 81 (4)	By omitting the expression "section 71 (2)", and substituting the expression " <u>section 71A</u> ".
Section 95D (1) (as enacted by section 11 of the Broadcasting Amendment Act 1982)	By omitting the words "in respect of the broadcasting station".
Section 95E (as enacted by section 11 of the Broadcasting Amendment Act 1982)	By omitting the words "in respect of the broadcasting station".
Section 95O (as enacted by section 11 of the Broadcasting Amendment Act 1982)	<p>By repealing this section, and substituting the following section:</p> <p>"95O. Functions and duties of Committee—(1) The functions and duties of the Committee shall be—</p> <p> "(a) To investigate, and to report to the Tribunal in relation to, allegations made to the Committee by any person of breaches by broadcasting bodies of the conditions of warrants or authorisations, being conditions imposed under <u>section 71A</u> or section 75 or section 76 or by section 95U of this Act:</p> <p> "(b) To receive and consider formal complaints of—</p> <p> "(i) Unjust and unfair treatment in programmes broadcast by any broadcasting body; or</p> <p> "(ii) Unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes broadcast by any broadcasting body:</p> <p> "(c) To comply with any directions given by the Tribunal.</p> <p> "(2) The Committee shall not entertain complaints not falling within <u>subsection (1) (b)</u> of this section.</p> <p> "(3) The Committee shall not exercise any function, duty, or power under this Act in respect of any short-wave station."</p>

SCHEDULE—*continued*

AMENDMENTS TO PRINCIPAL ACT—*continued*

Section of Principal Act Amended	Amendment
Section 95T (as enacted by section 11 of the Broadcasting Amendment Act 1982)	By repealing this section, and substituting the following section: “95r. Duty in respect of contracts— It shall be the duty of each broadcasting body to endeavour to ensure that every contract that is entered into after the commencement of this section between that broadcasting body and a programme contractor contains such provisions as the holder thinks necessary or expedient to ensure compliance by the programme contractor with any request to which section 95s (3) of this Act applies which may be made to the programme contractor by the Committee.”
Section 95U (as enacted by section 11 of the Broadcasting Amendment Act 1982)	By repealing this section, and substituting the following section: “95U. Non-compliance deemed breach of warrant or authorisation— If any broadcasting body wilfully fails to comply with any duty imposed on it by section 95R (3) or section 95s or <u>section 95T</u> of this Act, it shall be deemed to have committed a breach of the conditions subject to which its warrant or authorisation was issued.”
Section 95V (1) (a) (as enacted by section 11 of the Broadcasting Amendment Act 1982)	By omitting the words “holder of the warrant or authorisation”, and substituting the words “broadcasting body”.
Section, 95Y (1) (b) (as enacted by section 11 of the Broadcasting Amendment Act 1982)	By omitting the words “holder of the warrant or authorisation”, and substituting the words “broadcasting body”.
Section 95ZA (as enacted by section 11 of the Broadcasting Amendment Act 1982)	By repealing subparagraph (i) of subsection (1) (a), and substituting the following subparagraph: “(i) Any programme broadcast by a broadcasting station has infringed any of the provisions of section 24 (1) (other than paragraph (a) or paragraph (b) or paragraph (g)) or of section 24 (2) or of section 95 (1) (other than <u>paragraph (a)</u> or <u>paragraph (b)</u> or <u>paragraph (g)</u>) or of <u>section 95 (2)</u> or of any

SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT—*continued*

Section of Principal Act Amended	Amendment
Section 95ZA (as enacted by section 11 of the Broadcasting Amendment Act 1982)— <i>continued</i>	<p>rules made under section 26 of this Act, or that any intended broadcast that has been recorded or filmed will be in breach of any of those provisions; or”.</p> <p>By omitting from subsection (1) (a) (ii) the expression “section 95 (1) (f)”, and substituting the expression “<u>section 95 (1) (g)</u>”.</p> <p>By repealing subsection (3), and substituting the following subsection: “(3) Where under subsection (1) of this section the Minister refers a programme to the Tribunal, he shall notify the relevant broadcasting body, and that broadcasting body shall not re-broadcast, or, in the case of an intended programme, broadcast, the programme except in accordance with the decision of the Tribunal.”</p>