

Privacy Commissioner's submission to the Economic Development, Science and Innovation Committee on the Aotearoa New Zealand Public Media Bill (146-1)

1. I am pleased to provide a submission on the Aotearoa New Zealand Public Media Bill (the Bill).
2. The Privacy Act 2020 is New Zealand's main privacy statute. One of the Privacy Commissioner's functions under the Privacy Act is to examine proposed legislation that may affect the privacy of individuals.
3. My submission focuses on the application of the Privacy Act and of media privacy standards to Aotearoa New Zealand Public Media (ANZPM). This submission is provided for the Committee's information and makes no recommendations for changes to the Bill.

Aotearoa New Zealand Public Media and privacy standards

4. Like Radio New Zealand (RNZ) and Television New Zealand (TVNZ), ANZPM will be subject to the Privacy Act in most respects. For example, it will be subject to the Privacy Act in the handling of personal information about its employees.
5. However, news entities are exempted from the coverage of the Privacy Act in relation to their news activities.¹ The news media exemption in the Privacy Act recognises the important value of freedom of information and expression in a democratic society. At the same time, news entities are expected to comply with relevant media standards, including those that protect privacy.
6. A media organisation can benefit from the news media exemption in the Privacy Act only if the organisation is subject to the oversight of the Broadcasting Standards Authority (BSA), the New Zealand Media Council (NZMC) or another appropriate regulatory body. Both the BSA and the NZMC have content standards that balance protection of privacy with an ability to publish information in the public interest.
7. Therefore, ANZPM will not be subject to the Privacy Act in relation to newsgathering and the publication or broadcasting of news, if it is subject to the oversight of the relevant media content regulators.
8. In accordance with the Broadcasting Act 1989, ANZPM will (like RNZ and TVNZ) be subject to the jurisdiction of the BSA in respect of its broadcasting activities. As a multi-platform media entity, ANZPM will also need to be subject to the NZMC in respect of its online or other non-broadcasting media activities if it wishes to benefit fully from the Privacy Act's news media exemption.

¹ Privacy Act 2020, s 8(b)(x). 'News activity' and 'news entity' are defined in section 7(1) of the Privacy Act.

9. RNZ and TVNZ are members of the NZMC, which means that they have agreed to abide by the NZMC's principles and to be subject to complaints about breaches of those principles. I expect that ANZPM would also become a member of the NZMC.

Conclusion

10. I trust my comments are of use to the Committee. I do not seek to be heard on my submission but am happy to appear before the Committee if that would be of assistance.



Michael Webster
Privacy Commissioner

6 September 2022