

Media (pillar 11)

Summary

The media has a critical role to play in the maintenance of the National Integrity System in New Zealand. In theory it acts as a watchdog on the powerful, it keeps the public informed on political issues, and it provides a forum for the exchange of views. In many senses this sector is healthy – it is regarded as both free and independent, and much attention is placed by the media on holding the government of the day to account as well as uncovering corruption where it might occur in any of the other pillars. However, there are areas in which the media is seen as less healthy and robust – mostly in the lack of diversity of media and views present in New Zealand, the decline of serious investigative journalism, and the reduced state of public and community broadcasting. More than anything, economics rather than any direct government actions are impeding a strong fourth estate.

Four main points summarise the findings about the media pillar. First, the media is mostly independent and free in New Zealand. The media is very active and successful in informing the public on the activities of the government. There is seen to be a fair degree of objectivity in reporting on politics. Such reporting is relatively comprehensive (but not always in depth). Adequate legal safeguards prevent unwarranted interference in the activities of the media. Journalists are generally very free to operate. Intimidation and harassment of journalists is very rare. In general, media outlets have to answer for their activities to stakeholders. There are sector-wide accountability mechanisms in respect of content (the Broadcasting Standards Authority and Press Council), which work somewhat effectively even if they would benefit from an overhaul. The print media is reviewing the Press Council's jurisdiction and complaints processes. Media organisations normally operate in a relatively transparent way.

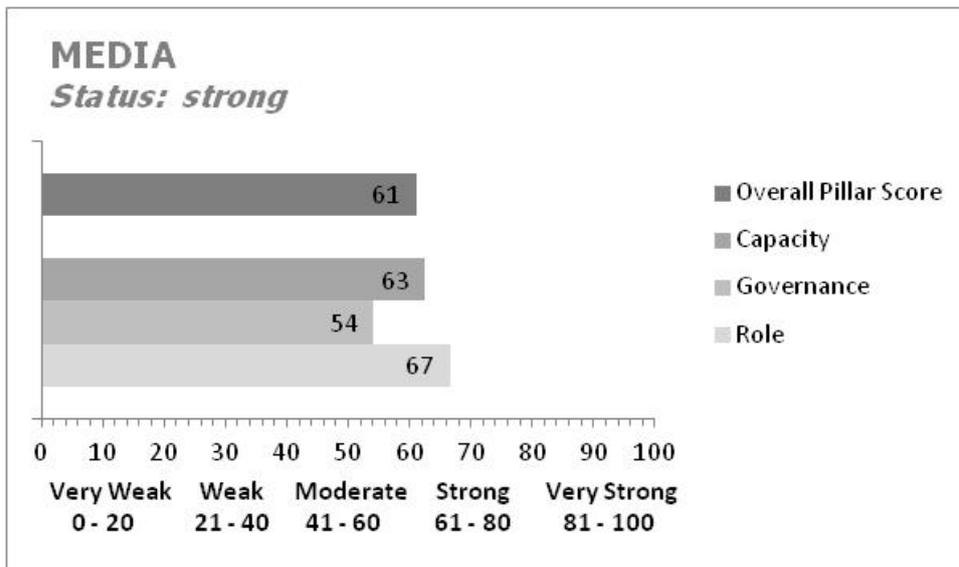
Second, New Zealand media outlets are active and successful in investigating and exposing cases of corruption. Journalists take a strong interest in highlighting and exposing corruption or lapses in integrity among those with power. However, often such reporting can be superficial and focused on the salacious and sensationalist elements of these stories. It should be noted that investigative journalism is not a key part of the media's work in this country. And while the media is active in investigating corruption cases, its work can be superficial and reactive.

Third, the New Zealand media is not diverse in terms of ownership or content. Where there is a plurality of media sources (in terms of type, ideology, or ownership), they do not cover the entire political and social spectrum. Therefore, only to a small extent is there a diverse media providing a variety of perspectives, and there are doubts that the mainstream media adequately represents the entire political spectrum. There are few legal impediments to the establishment and existence of an independent and diverse media – there are few general legal restrictions on setting up media. Instead, economic barriers inhibit the establishment and existence of media entities. And, arguably, media diversity is not promoted through the state. Some media scholars believe there is not adequate competition regulation and legislation. New Zealand is said to have the most deregulated media market in the Western world.

Fourth, public broadcasting and community broadcasting are fostered in New Zealand only to a limited extent. The commercial environment is not conducive to the development of public- and community-oriented media, and the state plays only a limited role in fostering public broadcasting. Although the state provides and owns broadcast media, the biggest entity, Television New Zealand, is no longer seen as a bona fide public service broadcaster. Conversely, both Radio New Zealand and Māori Television continue to credibly hold that status.⁹²⁶

The independence of the New Zealand media and its activities in informing the public about government activities and cases of corruption and maladministration are extremely valuable in the national Integrity System context. To sustain this level of benefit, more monitoring and oversight of the integrity of the media is needed, whether by self-regulation or public agencies. The less-formal frameworks that generally work effectively in New Zealand do need this ongoing monitoring and evaluation. Chapter 6, therefore, recommends strengthening the existing integrity frameworks applying to the media, and suggests the government should publish reports on its oversight of the effectiveness of those frameworks.

Figure 12: Media scores



Source: Transparency International New Zealand, 25 October 2013.

Structure and organisation

Media options are plentiful in New Zealand with a vast array of newspapers, radio stations, televisions, magazines, and websites. Ownership in most sectors is, however, highly monopolised, as is the trend in other countries. Public broadcasting takes the form of three main television channels – TV One and TV2 (both Television New Zealand) and Māori Television – and in terms of radio two non-commercial networks – Radio New Zealand National and Radio New Zealand Concert.

⁹²⁶ Judith Collins and Craig Foss, “Government responds to news media report”, 12 September 2013. www.behive.govt.nz/release/government-responds-news-media-report

Outside publicly owned broadcasting, four media companies dominate the landscape – Fairfax Media, APN News and Media (APN), MediaWorks, and Sky TV. In terms of newspapers, two Australian companies dominate the market – Fairfax Media and APN. Commercial radio is dominated by APN, which owns the Radio Network, and by MediaWorks, which owns RadioWorks. In television, aside from the publicly owned channels, the main players are MediaWorks, which operates TV3 and Four, and Sky TV, which dominates the pay-television market and runs free-to-air Prime Television.

The news media plays a vital role in New Zealand’s democracy. New Zealanders expect the ‘fourth estate’ to act as an independent watchdog – a role in which journalists “speak truth to power”, act “on behalf of the people”, and highlight abuses of power. The role of the media is also to inform the public about complex policy and issues and provide a forum for debate and diverse views.

According to Victoria University of Wellington media scholar Kate McMillan, “The news media’s ability to fulfil its democratic role is affected by: the laws protecting freedom of expression, regulation and censorship, media access to official information, ownership of the media, levels of funding for public-service broadcasting, commercial pressures to increase advertising revenues, and levels of newsroom resourcing”.⁹²⁷ This pillar report looks at these components. There are also concerns about both the bias of the media – especially in political coverage – and the concentration of media ownership in relatively few hands.

It is also important to note that a proposal from the Law Commission for the regulation of the media has been recently debated and considered. The commission proposed an independent unitary regulator to combine the roles of the Broadcasting Standards Authority and the Press Council.⁹²⁸

Currently, the Press Council regulates the print industry and the Broadcasting Standards Authority governs the television and radio industry. Print media organisations established the Press Council, so it has a self-regulatory role, whereas the Broadcasting Standards Authority is a statutory body. In both cases, the main focus of this regulation is on the content in the media, with each body responding to complaints about material that complainants consider does not meet prescribed standards.⁹²⁹

The government decided not to accept the Law Commission’s recommendation,⁹³⁰ leaving the two regulatory bodies separate. The Ministry for Culture and Heritage will have policy oversight of the self-regulation in the industry. The Newspaper Publishers Association is reviewing the Press Council’s jurisdiction and complaints processes. In

⁹²⁷ Kate McMillan, “Media and politics”, *Te Ara: The Encyclopedia of New Zealand*, updated 29 May 2012. www.TeAra.govt.nz/en/media-and-politics

⁹²⁸ Law Commission, *The News Media Meets “New Media”: Rights, responsibilities and regulation in the digital age*, NZLC R128 (Wellington: Law Commission, 2013). www.lawcom.govt.nz/project/review-regulatory-gaps-and-new-media/report

⁹²⁹ Judith Collins and Craig Foss, “Government responds to news media report”, 12 September 2013. www.behive.govt.nz/release/government-responds-news-media-report

⁹³⁰ Ministers of Justice and Broadcasting, press statement, 12 September 2013.

addition, the broadcasting media recently established the Online Media Standards Authority to hear complaints about news and current affairs material published online by broadcasters who are members of the Online Media Standards Authority. (The Broadcasting Standards Authority's jurisdiction does not extend to online material.)

The media sector continues to grapple with incredibly pressing economic, cultural, and technological issues. Quite simply, the business models that characterised media production in the 20th century are breaking down, so a great deal of flux is occurring in this sector. This is producing uncertainty about the media's ongoing role in helping maintain the National Integrity System.

Capacity

11.1.1 Resources (law)

To what extent does the legal framework provide an environment conducive to a diverse independent media?

Score: 3

The regulatory framework pertaining to the existence and operations of independent media is conducive to the establishment of media, but not to the diversity of media; nor is it particularly conducive to strong public broadcasting.

New Zealand has an extremely deregulated media market with little in the way of state regulations and impediments to the establishment of new and competing media. According to media scholar Geoff Kemp, "Market liberalization in the late 1980s and 1990s produced one of the world's most deregulated media sectors".⁹³¹ Ownership of media entities is now regulated only by the general competition laws of the Commerce Act 1986. There are virtually no legal constraints on setting up broadcast media entities, there are absolutely no restrictions on setting up print media entities, and entry into the journalistic profession is unrestricted by law.

On the other hand, however, the market model means there is little regulatory encouragement of diversity in the media or widespread ownership of media. A strong feeling among many experts is that media regulation is not adequate enough to promote media diversity.⁹³²

New Zealand's broadcasting legislation does not provide for an environment conducive to public, commercial, and community broadcasting. According to McMillan, "Deregulation and the development of private radio and television since the 1980s has meant that public broadcasting now competes with private broadcasters".⁹³³

In 2013, the main public service broadcasters are Radio New Zealand and Māori Television.⁹³⁴ TVNZ is also state owned, but does not appear to have any particular

⁹³¹ Geoff Kemp, "Democracy, the public and the media", in Raymond Miller, ed., *New Zealand Government and Politics*, 5th ed. (Sydney: Oxford University Press, 2000).

⁹³² Kemp, 2000.

⁹³³ McMillan, 2012.

⁹³⁴ McMillan, 2012.

qualities that define it as a public service broadcaster. Instead, it is required to operate as a private commercial company and provide dividends to the state.

11.1.2 Resources (practice)

To what extent is there a diverse independent media providing a variety of perspectives?

Score: 3

The New Zealand media does not adequately represent the entire political spectrum;; nor does it reflect a full broad spectrum of social interests and groups.

Media in New Zealand is highly monopolised. This does not mean there are few media outlets – there is certainly a plurality of media sources – but that diversity in terms of ideology and ownership is lacking. Many important social and political interests do not find a voice in the media landscape of the country. A large part of the lack of diversity relates to the intense concentration of media ownership in New Zealand. Media academic Gavin Ellis notes that “ownership of New Zealand’s media became so concentrated that a report published in 2003 by the United Nations Research Institute for Social Development stated that the country presented the starkest example of media company consolidation”.⁹³⁵

Outside publicly owned broadcasting, four media companies dominate the landscape – Fairfax Media, APN, MediaWorks, and Sky TV. In terms of newspapers, two Australian companies dominate the market – Fairfax Media and APN. They own most daily newspapers in a country in which all cities – even the larger ones – now have only one daily newspaper.

Commercial radio is dominated by APN, which owns the Radio Network, and by MediaWorks, which owns RadioWorks. In television, aside from the publicly owned TV One, TV2, and Māori TV, the main players are MediaWorks, which operates TV3 and Four, and Sky TV, which dominates the pay-television market and runs free-to-air Prime Television. Sky TV has about 850,000 subscribers, representing a residential household penetration of about 49.4 per cent.⁹³⁶

Public broadcasting takes the form of three main television channels – TV One and TV2 (Television New Zealand) and Māori Television – and in terms of radio two non-commercial networks – Radio New Zealand National and Radio New Zealand Concert.

Radio New Zealand and Māori Television rely, according to McMillan, “largely on government funding. In contrast, TVNZ [Television New Zealand] receives 90 per cent of its funding from advertising. This has raised questions over TVNZ’s ability to deliver public service broadcasting, in particular news and current affairs”.⁹³⁷ The current National government is frequently criticised over its attitude to public broadcasting. In

⁹³⁵ Gavin Ellis, “Who owns the media?”, in Raymond Miller, ed., *New Zealand Government and Politics*, 5th ed. (Sydney: Oxford University Press, 2009).

⁹³⁶ Merja Myllylahti, *JMAD New Zealand Media Ownership Report 2012*, 23 November 2012. www.aut.ac.nz/_data/assets/pdf_file/0005/323546/JMAD-New-Zealand-Media-Ownership-2012.pdf

⁹³⁷ McMillan, 2012.

2012, it closed down the smaller, non-commercial channel TVNZ7. Funding from the Broadcasting Commission (otherwise known as New Zealand On Air) for news and current affairs in community broadcasting helps to support 25 community radio stations.

According to Freedom House's review of New Zealand media, a "serious blow to media diversity" occurred with the closure in 2011 of the 132-year-old cooperative news agency the New Zealand Press Association.⁹³⁸

There are questions about the adequacy of resources and training for journalists. In New Zealand, journalism is generally seen as a vocational trade, and qualifications in the industry are normally expected to be skills-based rather than academic. Few media companies encourage their staff to acquire higher qualifications once in the job.

The development of social media is seeing lower entry barriers for the public. Opportunities for citizen journalism are changing the media environment in ways that are beginning to increase the diversity of media outlets at a micro level.

11.1.3 Independence (law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?

Score: 4

New Zealand's regulatory framework is conducive to a relatively independent media with few restrictions and little overt censorship.

In any country, the democratic functions of the media depend on laws that protect freedom of expression, the extent to which official information can be obtained, and the levels and nature of censorship and regulation. In all these areas the New Zealand media functions well because comprehensive legal safeguards prevent unwarranted external interference in the media. All media is subject to the Films, Videos, and Publications Classification Act 1993. The activities of broadcasters are also covered by the Broadcasting Act 1989, which makes them subject to the requirements of accuracy and balance in the content they broadcast. However, libel laws are still relatively restrictive for the media, and official information legislation does not function effectively.

Legal safeguards ensure the independence of the media. The New Zealand Bill of Rights Act 1990 protects the media's freedom of expression, and the Privacy Act 1993 provides exemptions for the media from requirements that might otherwise make it less free.

Journalists are generally able to protect their sources, and the Evidence Act 2006 allows media to keep the details of their sources confidential. However, in restricted circumstances both the police and the Serious Fraud Office can force journalists to reveal their sources. For the police, this requires a request for a warrant from a judge, and journalists can make appeals to the High Court to keep their sources protected.

⁹³⁸ Freedom House, "New Zealand", in *Freedom of the Press*, 2012. www.freedomhouse.org/report/freedom-press/2012/new-zealand

However, the Serious Fraud Office can act on its own initiative without any judicial process. One such recent example of this was when the Serious Fraud Office demanded that the *National Business Review* hand over all material, including sources, of its investigation into the collapse of South Canterbury Finance.⁹³⁹

The work of journalists is also greatly enhanced by the Official Information Act 1982, which makes available to the public, on request, most internal government documents. However, journalists are increasingly thwarted by the use of exemptions by government departments (see the public sector pillar report for more information).

State censorship is relatively moderate and infrequent in New Zealand. Few complaints about the suppression of expression occur nowadays; instead it is defamation law that results in more problems for the media.⁹⁴⁰

Traditionally, libel laws have also played a role in suppressing the freedom of the press, especially because defamation proceedings have – as in the traditional Westminster model – often produced considerable burdens on publishers. It is often argued that the defamation laws are “overly plaintiff-friendly”.⁹⁴¹

However, since the 1998–2000 landmark case *Lange v Atkinson*, the media has been able to rely on the defence of “qualified privilege”, which means journalists can avoid defamation actions if it is clear that any criticism of public figures arises out of “honest belief”. The *Lange v Atkinson* Court of Appeal decision, means the performance of politicians can more easily be commented on in the media.⁹⁴² Nonetheless, there are occasions when the media pays a high price for defamation. For example, in 2010 the 18-year-old *New Korea Herald* newspaper was forced to close after being ordered by the High Court to pay NZ\$250,000 in damages after defaming a prominent Korean businessman.⁹⁴³

New Zealand governments have generally been reluctant to impose regulatory controls over the press. Instead, for newspapers and magazines, the print media has established its own voluntary regulatory system – the Press Council; the broadcast media has a state entity, the Broadcasting Standards Authority, regulating it. The broadcast media has also recently established the Online Media Standards Authority as a self-regulatory body for online material published by broadcasters.

As noted earlier, the government decided not to accept the Law Commission proposal that these organisations be merged into a new agency that would cover virtually all forms of media.

⁹³⁹ “NBR in stand off with SFO over file seizure”, *National Business Review*, 20 October 2010.
www.nbr.co.nz/article/sfo-demands-nbr-documents-refusal-risks-40k-fine-jail-131836

⁹⁴⁰ Ursula Cheer, “Reality and myth: The New Zealand media and the chilling effect of defamation law”, PhD thesis at the University of Canterbury, 2008.

⁹⁴¹ Cheer, 2008.

⁹⁴² *Lange v Atkinson* [2000] 3 NZLR 385.

⁹⁴³ Lincoln Tan, “Defamation kills Korean paper”, *New Zealand Herald*, 9 December 2010.
www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10693024

11.1.4 Independence (practice)

To what extent is the media free from unwarranted external interference in its work in practice?

Score: 4

The New Zealand media is relatively free from unwarranted external interference. While the state or other external actors occasionally interfere with the activities of the media, these instances of interference are usually non-severe, without significant consequences for the behaviour of media.

The 2013 Global Press Freedom Index produced by Reporters Without Borders ranks New Zealand at 8 (out of 175 countries) and rates media freedoms as “good”.⁹⁴⁴ New Zealand is noted as being the only non-European country in the top 10. Similarly, a 2012 Freedom House report rates the media as “free” and gives New Zealand a total score of 17 on a 0–100 scale (whereby 0 means most free and 100 means least free).⁹⁴⁵ Therefore, New Zealanders can be confident that journalists can assert their right to freedom of expression without fear. The various media regulatory agencies are seen to operate independently of state interference.

There have, however, been concerns about the political harassment of journalists and media agencies in recent years. Two investigative journalists endured particularly strong attacks from the Prime Minister in 2011. Nicky Hager published *Other People’s Wars*, which was critically dismissed by Prime Minister John Key, who had not read the book, but said it was a work of fiction and Hager had no credibility.⁹⁴⁶ Similarly, award-winning investigative journalist Jon Stephenson was forced to defend himself against a bitter attack on his credibility by the Prime Minister and defence officials after *Metro* magazine published his exposé on the New Zealand military’s arrangement for handing over prisoners in Afghanistan to US forces.⁹⁴⁷

However, a potentially more chilling episode occurred during the general election of 2011 when the Prime Minister condemned the media and officially complained to the police against various media agencies. The controversy related to what became known as the “teapot tape” scandal in which the Prime Minister met at a café with Act Party candidate John Banks for a photo opportunity, and they were covertly recorded by freelance cameraman Bradley Ambrose.

Ambrose claimed the audio recording had been made unintentionally. Along with other members of the media, Ambrose had been invited to record the initial meeting of the two politicians in the café, but when all journalists were ushered out of the café, Ambrose claimed he was prevented from being able to remove his microphone from

⁹⁴⁴ “New Zealand rises in press freedom ranking”, *New Zealand Herald*, 2 February 2013. www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10863009

⁹⁴⁵ Freedom House, 2012.

⁹⁴⁶ Belinda McCammon, Danya Levy, and Vernon Small, “Key dismisses Hager book claims”, *Stuff*, 2 September 2011. www.stuff.co.nz/national/politics/5551661/Key-dismisses-Hager-book-claims

⁹⁴⁷ Derek Cheng, “PM attacks journalist over SAS torture claims”, *New Zealand Herald*, 3 May 2011. www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10723016

the café table, and it was only after the event that he discovered it had recorded the whole conversation. He took the recording to the *Herald on Sunday* newspaper, which chose not to publish the recording.

The Prime Minister publically condemned what he called “*News of the World* style tactics”, describing the issue as “the start of a slippery slope”. After the Prime Minister’s complaint to police and the intervention of the Solicitor-General, the police issued search warrants to various media outlets and carried out an investigation, which never led to a conviction. These events were characterised as “insidious attacks” on media freedom by the former chair of the New Zealand National Commission for the UN Educational Scientific and Cultural Organization, Bryan Gould.⁹⁴⁸

According to the New Zealand Media Freedom Committee chair, Tim Murphy (also editor-in-chief of the *New Zealand Herald*), this incident possibly played a part in New Zealand dropping five places in the 2011 media freedom rankings produced by Reporters Without Borders.⁹⁴⁹

Untoward statements to the media come from any government, of all colours, of course, and in 2006, for example, then Minister of Finance Michael Cullen spoke out against a *New Zealand Herald* campaign against proposed government legislation. According to Ellis, “Cullen issued a veiled threat against the owners ... suggesting that the government could withdraw retrospective legislation validating the company’s position on a potential [NZ]\$219 million [goods and services tax] liability if the newspaper persisted in its campaign”.⁹⁵⁰

There are, then, potential areas for concern over legal interference with the freedom of the press. That said, these interferences and issues are relatively minor when placed in the context of the problems that face the media in other parts of the world. And as Freedom House’s 2012 review of New Zealand noted, “Despite these incidents, journalists are generally able to cover the news freely, and physical attacks or threats against the media are rare”.⁹⁵¹

State funding for broadcasting is, in theory, an area whereby the government of the day can have an influence over the media. New Zealand On Air is the state agency responsible for the funding of public-good broadcasting content across television, radio, and new media platforms. The agency spends about NZ\$130 million a year to fund radio, television, music, and digital media production carried out by a variety of public and private broadcasters and platforms.

For example, New Zealand On Air fully funds Radio New Zealand. Although the agency is an autonomous Crown entity separate from central government and governed by a board, appointments to the board are made by the Minister of

⁹⁴⁸ Bryan Gould, “Insidious attacks on press freedom”, *New Zealand Herald*, 23 January 2012. www.nzherald.co.nz/opinion/news/article.cfm?c_id=466&objectid=10780431

⁹⁴⁹ Matthew Backhouse, “New Zealand’s media freedom ranking drops after teapot tapes saga”, *Otago Daily Times*, 26 January 2012. www.odt.co.nz/news/politics/195740/nzs-media-freedom-ranking-drops-after-teapot-tapes-saga

⁹⁵⁰ Ellis, 2009.

⁹⁵¹ Freedom House, 2012.

Broadcasting, raising issues of partisan bias. For example, in 2012, allegations of a conflict of interest were levelled at board member Stephen McElrea, because he was also Prime Minister John Key's National party electorate chairman and had allegedly attempted to stop the broadcast of a controversial documentary, *Inside Child Poverty*, from occurring four days before the 2011 general election. The agency subsequently made enquiries about its legal powers to prevent broadcasters from screening politically sensitive programmes that it funded during election campaigns.⁹⁵²

Governance

11.2.1 Transparency (law)

To what extent are there provisions to ensure transparency in the activities of the media?

Score: 2

New Zealand has no specific legislation to ensure transparency in the media, and instead relies on civil law to ensure a high degree of transparency.

Media entities in New Zealand are subject to the same rules as any other private company.⁹⁵³ It is also not always clear that the media generally has clear rules on disclosure of information relating to internal staff, reporting, and editorial policies. But few concerns appear to exist about this area.

11.2.2 Transparency (practice)

To what extent is there transparency in the media in practice?

Score: 4

There is considerable transparency of New Zealand media in practice, both in print and broadcast media.

Media ownership in New Zealand is widely disclosed, as are editorial policies and information on internal staff. In general, New Zealand media outlets provide full and effective disclosure of relevant information on their activities. Sometimes, however, this is partial or outdated information.

Also, the media generally makes information on its internal staff, reporting, and editing policies publicly available. But this is hard to access – especially by the general public.

The regulatory bodies – the Broadcasting Standards Authority, Online Media Standards Authority, and Press Council – make their decisions public, mainly through press releases and by publishing the information on their websites.⁹⁵⁴

⁹⁵² Claire Trevett, "New Zealand on Air to stop docos in election lead-up", *New Zealand Herald*, 18 January 2012. www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10779390

⁹⁵³ For further information on the operations of private companies, see the business pillar report (pillar 13).

⁹⁵⁴ The decisions of the Broadcasting Standards Authority are published on its website (bsa.govt.nz/decisions/latest), and the Press Council publishes its rulings on its website (www.presscouncil.org.nz/rulings.php).

11.2.3 Accountability (law)

To what extent are there legal provisions to ensure that media outlets are answerable for their activities?

Score: 4

Comprehensive mechanisms in New Zealand ensure media outlets are answerable for their activities, but accountability regulations are complex and outdated.

The Law Commission proposed sweeping changes in the regulation of the media. In particular, it recommended a new independent regulatory body that would cover nearly all media. Nonetheless, existing laws and industry practices can be evaluated.⁹⁵⁵

The broadcasting sector is subject to the statutory regulation found in the Broadcasting Act 1989. This legislation puts broadcast media under the oversight of the Broadcasting Standards Authority, a body that considers public complaints about broadcasters. The Act also requires broadcasters to maintain standards consistent with the observance of good taste and decency, the maintenance of law and order, individual privacy, balance, fairness and accuracy, and approved codes of broadcasting practice. As noted earlier, the broadcasting media recently established the Online Media Standards Authority to hear complaints about news and current affairs material published online by this media.

The print media sector, by contrast, is not regulated by a statutory body, but by self-regulation through the Press Council, a voluntary and industry-funded organisation that considers complaints against members. The council involves representatives of the public, publishers, and journalists.⁹⁵⁶

There are also legal restraints on the media – especially laws protecting other public rights. According to McMillan, “The [New Zealand] Bill of Rights Act 1990 and the Human Rights Act 1993 have provisions designed to prevent discrimination on the grounds of race, ethnic or national origin, age, gender or disability. If a person considers that false statements have been made about them through the media, they can sue the broadcaster or publisher of the statement, under the Defamation Act 1992. This does not apply to statements made under parliamentary privilege. The media are also banned from publishing the name of anyone granted name suppression in court”.⁹⁵⁷

11.2.4 Accountability (practice)

To what extent can media outlets be held accountable in practice?

Score: 4

In general, New Zealand media outlets have to answer for their activities to stakeholders.

⁹⁵⁵ Law Commission, 2013.

⁹⁵⁶ McMillan, 2012.

⁹⁵⁷ McMillan, 2012.

New Zealand has sector-wide accountability mechanisms for media outlets. The various government and industry regulators and professional oversight boards – the Press Council and Broadcasting Standards Authority – operate relatively effectively. The agencies frequently rule against media organisations for breaching standards, and the Broadcasting Standards Authority also issues fines.⁹⁵⁸ The Online Media Standards Authority is too new for its effectiveness to be assessed.

Both media regulatory authorities are reactive in nature, generally only responding to complaints rather than monitoring the media. The Press Council responds to about 80 complaints a year and the Broadcasting Standards Authority to about 200. There are few legal requirements for media to be accountable to the public. For instance, there are no laws requiring the media to correct erroneous information in a timely manner; instead, the defamation laws together with the industry complaints processes are meant to encourage such behaviour.

Media is also made accountable and accessible by a plethora of blogs, Twitter accounts,⁹⁵⁹ and journalists' forums that enable journalists to interact with the public.

11.2.5 Integrity mechanisms (law)

To what extent are there provisions in place to ensure the integrity of media employees?

Score: 2

The media industry generally lacks formal rules and provisions to ensure employee integrity.

While some provisions exist, they do not cover all aspects related to the integrity of media employees and some contain loopholes. There is certainly no sector-wide code of ethics or code of conduct, nor any legal requirement for one. The Press Council has a “set of principles” that applies to all of its members. The Broadcasting Act 1989 also outlines principles and standards for radio and television broadcasters to adhere to.

No laws cover the conduct of journalists, so conflicts of interest or other relationships do not have to be legally disclosed. Similarly, there are no rules or regulations pertaining to any issues of the “revolving door” type in the relationship between the parliamentary press gallery and ministerial and parliamentary press secretaries.

⁹⁵⁸ Broadcasting Standards Authority, *BSA Annual Report 2012*, 2012. bsa.govt.nz/images/assets/Annual-Reports/Annual-Report-2012-Web.pdf

⁹⁵⁹ A list of media organisations and journalists on Twitter is aggregated at billbenett.co.nz/new-zealand-media-twitter

11.2.6 Integrity mechanisms (practice)

To what extent is the integrity of media employees ensured in practice?

Score: 3

The integrity of media employees in New Zealand is difficult to determine, but public confidence in the profession is lacking.

Considerable evidence exists that the public does not feel confident of the media's integrity. For example, according to pollster UMR, in 2012 only a third of New Zealanders had either "a great deal" or "quite a lot" of confidence in the media generally, with two-thirds having only "some" or "very little" confidence in the institution.⁹⁶⁰

A 2013 *Reader's Digest* survey of trusted professions in New Zealand ranked journalists 43rd out of 50 professions – just below real estate agents and insurance salespeople, but above sex workers and car salespeople.⁹⁶¹ The 2013 Transparency International Global Corruption Barometer also signalled that New Zealanders have a low opinion of the integrity of the media. Those surveyed were asked to rate how affected the media is by corruption on a 1–5 scale (where 1 means not at all corrupt and 5 means extremely corrupt), producing an average score of 3.3.⁹⁶²

In general, there appears to be a piecemeal and reactive approach to ensuring the integrity of media employees, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour, and staff training on integrity issues.

It is questionable whether journalists widely and regularly refer to the regulatory bodies' sets of principles. One group of media academics commented on this issue: "when asked where these principles can be found in written form or what document clarifies them, there is a kind of confusion: is it in the Press Council's Statement of Principles, the union's code of ethics or the news organisation's style book?".⁹⁶³

This does not mean journalists are not ethical, but that there is little formal focus on codes of conduct. Generally, it is not common for journalists to receive independent instruction on ethics.

It is hard to gauge how widely journalists follow procedures when they are offered gifts or hospitality. But the recent release of information relating to the credit card expenditure of government ministers has given a glimpse of the fact journalists are often wined and dined by politicians. For example, in early 2010 the release of National

⁹⁶⁰ UMR Research, *Annual Review of the Nation*, 2013.

umr.co.nz/sites/umr/files/umr_mood_of_the_nation_2013_online_0.pdf

⁹⁶¹ "New Zealand's most trusted professions 2013", *Reader's Digest*, July 2013. www.readersdigest.co.nz/most-trusted-professions-2013

⁹⁶² Transparency International, *Global Corruption Barometer 2013*.
transparency.org/gcb2013/country/?country=new_zealand

⁹⁶³ Sean Phelan, Verica Rugar, and Martin Hirst, *Scooped: Politics and power of journalism in Aotearoa New Zealand* (Auckland: AUT Media, 2012).

party ministerial credit cards showed that Tim Groser had spent NZ\$247 on dinner at Wellington's Matterhorn with *Dominion Post* journalist Paul Easton, and that Nick Smith paid back NZ\$84.50 for a dinner with two journalists.⁹⁶⁴

Political journalists are also subsidised by the government to travel on prime ministerial trips abroad. Generally, press gallery journalists are charged a nominal fee, such as NZ\$100, to travel on the Prime Minister's Royal New Zealand Air Force aircraft.⁹⁶⁵ There are undoubtedly good reasons for such media subsidies being given and accepted, but it is notable that such subsidies are not normally disclosed in the journalists' reports.

During election campaigns, a very different situation can occur with journalists being charged high rates to travel with politicians. For example, in the last two days of the 2008 general election campaign the National party hired a plane to give leader John Key a presidential-style tour of the country, and the 12 travelling journalists were charged NZ\$1,200 each, thereby subsidising the party's campaigning costs.

Role

11.3.1 Investigate and expose cases of corruption practice

To what extent is the media active and successful in investigating and exposing cases of corruption?

Score: 4

In general, the New Zealand media is active and successful in reporting on individual cases of corruption, but tends to be reactive, reporting scandals rather than investigating and uncovering them.

The New Zealand media is extremely vigilant about the abuse of power or other improprieties by governments and other pillars of the integrity system. A case could be made that the media exaggerates the level of corruption in New Zealand. Of course, it is difficult to evaluate whether the media accurately reflects levels of corruption in New Zealand. It has become common for the media to give voice to those alleging corrupt practices. The high number of corruption-oriented stories in the media, therefore, appears at variance with the high ranking New Zealand enjoys in Transparency International's Corruption Perceptions Index.

However, such a heavy focus on corruption is often superficial and non-systematic. Instead of a rigorous pursuit of corruption and understanding the complexities of integrity in public life, the media's investigations appear driven by a sense of fleeting news sensationalism.

There is a serious lack of investigative journalism in New Zealand. However, as Hager says, a properly wide definition of investigative journalism shows there is still plenty of

⁹⁶⁴ Tracy Watkins and Vernon Small, "Minister caught short on credit card", *Stuff*, 23 February 2010. www.stuff.co.nz/national/politics/3361482/Minister-caught-short-on-credit-card

⁹⁶⁵ Deborah Coddington, "Surprise: The pen is pricier than the horse", *New Zealand Herald*, 5 July 2009. www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10582590

it in practice: “it is a mistake to see daily journalism and investigative journalism as separate occupations. It is actually a continuum ... Each of those journalists who have kept digging, driven by wanting to find out the truth, are doing investigative journalism.”⁹⁶⁶

While it is hard to define “investigative journalism” precisely, and therefore separate it from other journalistic roles, a decline of such journalism is certainly noticeable. There are also common complaints from within the media industry of a lack of funding for investigative journalism, although some broadcasting funding is available for assistance in making documentaries, and a lack of industry support and recognition of investigative journalists and their work.

11.3.2 Inform public on corruption and its impact

To what extent is the media active and successful in informing the public on corruption and its impact on the country?

Score: 3

While media outlets pay some attention to informing the public on corruption and its impact, reports are often limited or of poor quality.

There are no apparent programmes run by the media to educate the public on corruption or how to curb it; rather the media operates more as an investigator of corruption, playing the part of holding government, politicians, public officials generally, and business to account.

The media always gives significant coverage to New Zealand’s annual Corruption Perceptions Index ranking. However, the coverage does not generally report what the ranking means or how it is derived. One study of media coverage showed that “27 per cent of reviewed media articles [incorrectly] draw comparisons of rankings and scores over time” and “70 per cent of reviewed media articles refer to the rankings without taking confidence intervals into account”.⁹⁶⁷

11.3.3 Inform public on governance issues

To what extent is the media active and successful in informing the public on the activities of the government and other governance actors?

Score: 4

In general, the New Zealand media is active and relatively successful in keeping the public informed on the regular activities of the government and other governance institutions. However, a lack of resourcing inhibits its performance.

⁹⁶⁶ Nicky Hager, “Investigative journalism in the age of media meltdown: From National party headquarters to Afghanistan”, Bruce Jesson Memorial Lecture, 31 October 2012. www.brucejesson.com/?p=394

⁹⁶⁷ C. Dalzell, J. Fenwicke, A. Komarovskiy, S. Leduc, and F. Morrisson, “New Zealand and the Corruption Perceptions Index: How is New Zealand’s rating compiled and what can be inferred from it”, Ignite Consultants paper to Transparency International New Zealand. www.transparencynz.org.nz/index.php/component/content/article/8-news/116-2011-

The New Zealand media reports daily on politics and various political actors. Impartial and unbiased radio and television programmes are dedicated to current affairs. Newspapers also include coverage and analysis of government and governance actors. For example, Radio New Zealand National has several widely followed programmes such as *Morning Report*, *Nine-to-Noon*, and *Checkpoint* covering political events and current affairs and interrogating politicians and members of the government. Various television programmes are dedicated to the analysis of current affairs, including daily news programmes and programmes such as *The Nation* and Q+A where politicians are quizzed. There are also programmes seek to uncover, probe, and analyse government policy, corruption, and political developments in New Zealand – for example, *3rd Degree* and *Campbell Live*. New Zealand newspapers have regular columnists who critique government policy, political parties, and current affairs.

However, financial imperatives are certainly driving down the resourcing of newsrooms. For example, Ellis reported that “the number of journalists working full-time in the Parliamentary Press Gallery was estimated to have fallen by between 10 and 20 per cent after the 2008 general election as staff were redeployed or vacated positions left unfilled”.⁹⁶⁸

11.4.1 Treaty of Waitangi

The Treaty of Waitangi can be understood to create obligations of partnership, respect and participation. What does the media do to partner with Māori, to respect and affirm Māori rights to make decisions, and to enhance Māori participation in its field of activity? In particular, where the media has legal rights and obligations in this respect given to it by the Crown, how well does it honour them, including any Treaty obligations passed on by the Crown?

The mainstream media still lacks some proficiencies in its coverage of Māori issues, but a significant attempt is normally made to work with partnership, respect, and participation with Māori.

The media’s orientation and relationship to Māori and all issues related to Māori have changed considerably in the last two decades. Whereas once the media was overwhelmingly monocultural, unreflective of Māori society, and poor at reporting on Māori and Treaty issues, that is not always the case now. Furthermore, the media landscape has fundamentally altered, and it now includes significant Māori-oriented media and journalists.

Within the last two decades, iwi-based radio stations and newspapers have proliferated. But, most importantly, the Māori Television Service started broadcasting in 2004. The service is funded almost entirely from the government, with a budget of about NZ\$45 million, and is widely seen as successful. The main channel is Māori Television, which broadcasts in both Māori and English. A second channel was launched in 2008, Te Reo, which is New Zealand’s first 100 per cent Māori language television channel.

⁹⁶⁸ Ellis, 2009: 409.

Māori broadcasting is funded by Te Māngai Pāho (the Māori Broadcast Funding Agency), which is a New Zealand Crown entity responsible for promoting Māori language and culture. The state established the agency as part of its obligations under the Treaty of Waitangi.

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