

**NON-COMMERCIAL
UHF TELEVISION**

CHANNEL 40 – WELLINGTON

**EXPRESSION OF INTEREST
INFORMATION PACK**

November 2003

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1. Expression of Interest Information and Instructions

i) Introduction

In 2001, the Government approved its non-commercial broadcasting policy. The Ministry for Culture and Heritage is now seeking to identify those organisations that are interested in, and eligible to receive, the licence for UHF television **Channel 40** in **Wellington**, which is reserved for non-commercial television broadcasting.

We are calling for Expressions of Interest from organisations that wish to be considered for allocation of this licence. The following information sets out the process and instructions for respondents when lodging an Expression of Interest.

A copy of the Policy Framework for Non-Commercial Community and Access Broadcasting is included in the section on Additional Information. This policy outlines the policy framework for the granting of licenses for the purpose of community and access radio and television broadcasting services as agreed by Cabinet on 13 August 2001.

ii) Timing and Receipt of Expression of Interest

To be eligible for consideration all Expressions of Interest must be received in writing by **5pm on Monday, 15 December 2003**, at:

**Ministry for Culture and Heritage
Level 5
Radio New Zealand House
155 The Terrace
P O Box 5364
WELLINGTON
Attention Huia Lambie**

The Ministry reserves the right to extend the closing date for responses and to accept or decline late applications at our discretion.

iii) Contact for Further Information

For any further information or clarification of the details required in the Expression of Interest, please contact:

Huia Lambie (Advisor – Broadcasting)

Direct dial: 04 474 3304
Email: huia.lambie@mch.govt.nz
Fax: 04 499 4490

iv) Electronic Copies of Expression of Interest Information Pack

An electronic copy of the Expression of Interest Information Pack is available on the Ministry for Culture and Heritage website at <http://www.mch.govt.nz>.

v) Terms and Conditions for this Expression of Interest

By submitting an Expression of Interest, applicants are deemed to have accepted the terms and conditions in this document.

The Ministry for Culture and Heritage will not be liable for costs incurred in preparing and presenting an application.

The Ministry for Culture and Heritage will not be liable for any inaccuracy or omission in this document or for any additional information that the Ministry may provide. The Ministry for Culture and Heritage reserves the right to amend the requirements or to make any changes whatsoever, including cancelling the Expression of Interest, without any obligation of any kind to any other party. Applicants will be notified in writing of any changes to the requirements.

Successful and unsuccessful applicants will be notified in writing of the outcome of the evaluation process. If none of the proposals is acceptable to the Ministry of Culture and Heritage, the Ministry reserves the right to enter into negotiation with one or more applicant (or any other party) with a view to meeting the Ministry's expectations.

The Ministry for Culture and Heritage does not guarantee that any application will be accepted. Preference will be given to applications which meet the specified requirements.

Applications are submitted on the basis that no binding legal relations with the Crown are created unless and until a written licence agreement between the parties (including Ministry of Economic Development) is executed and a licence is issued and registered.

Responses must include all of the information set out as required in the Non-commercial Frequencies Allocation Criteria Checklist (attachment i); the Technical Questionnaire (attachment ii) and the Applicant Cover Sheet (attachment 3) which should be placed on the top of the application.

vi) Additional Information supplied with the Expression of Interest

Additional information may be attached to the application to clarify details supplied within the Expression of Interest. This should also be supplied in writing. Additional information submitted in any other form will not be eligible for consideration.

vii) Confidentiality

Respondents should note that all Expressions of Interest received by the Ministry for Culture and Heritage are subject to the provisions of the Official Information Act 1982.

viii) General Requirements and Information to Note

All information required for inclusion in an Expression of Interest (as outlined in this pack) must be received by the Ministry for Culture and Heritage as in clause 1(ii). The Ministry for Culture and Heritage may contact the respondent's contact person named on the cover sheet.

2. Documents Required to be Completed

i) Non-Commercial Frequencies Allocation Criteria Checklist

All Expressions of Interest must include a copy of the Non-Commercial Frequencies Allocation Criteria Checklist (attached) completed in full, including copies of all documents / information required by the checklist.

ii) Technical Questionnaire

iii) Applicant Cover Sheet

3. Cancellation or Amendment

The Ministry for Culture and Heritage reserves the right to cancel or modify this Expression of Interest process at any time at Ministry's absolute discretion. Following cancellation of the Expression of Interest process, we may issue a new tender process.

The Ministry for Culture and Heritage reserves the right to vary the requirements at any time, including after the deadline for receipt of Expressions of Interest.

The Ministry for Culture and Heritage may amend, correct or clarify any other part of the Expression of Interest prior to the stated deadline for receipt of applications, and will use reasonable endeavours to promptly notify all recipients. Any such notified amendments, corrections or clarifications will become part of the Expression of Information documentation.

The Ministry for Culture and Heritage reserves the right to provide supplementary material after the closing date and seek response on such material at any time.

4. **Timeline**

- i) Indicative timeline for the allocation of the non-commercial licence for UHF television Channel 40 in Wellington.
- ii) The Ministry for Culture and Heritage reserves the right to amend this indicative timetable and the tasks

Timeline:

15 November 2003	Call for Expressions of Interest in the licence for non-commercial UHF television Channel 40 in Wellington .
15 November 2003	Expression of Interest Information Pack available online
17 November 2003	Expression of Interest Information Pack available from Ministry for Culture and Heritage.
15 December 2003	Deadline for receipt of Expressions of Interest.
9 February 2003	Interested parties notified of successful applicant.

POLICY FRAMEWORK FOR NON-COMMERCIAL COMMUNITY AND ACCESS BROADCASTING

Purpose

1. This paper outlines the policy framework for the granting of licences for the purpose of community and access radio and television broadcasting services as agreed by Cabinet on 13 August 2001.

Background

2. Under the Radiocommunications Act 1989 successive Governments have allocated licences for the use of radio and television broadcast spectrum on a commercial basis, via an open competitive tendering process. Such licences are transferable, and there are no restrictions concerning the purposes for which they may be broadcast upon. The majority of licences initially acquired in this way are used for the purpose of commercially oriented radio and television enterprises.

3. Government has recognised that commercial licence allocation mechanisms and the nature of the commercial broadcasting market do not favour non-commercially oriented radio and television services. For this reason, Government has allocated licences on a non-commercial basis without charge (except for licence fees relating to transmission power) for a variety of radio and television broadcast purposes that it wishes to see promoted.

4. Purposes for which Governments have decided to allocate licences on a non-commercial basis include the promotion of Maori language and culture (Te Puni Kokiri is responsible to the Minister for Maori Affairs for advice on this area of broadcasting policy), community and access broadcasting, student and educational broadcasting, National Radio and Concert FM, community and RNZ extensions, Pacific Island broadcasting, and (in principle) youth radio. Separate policies and criteria govern the allocation of licences for each of these purposes.

5. The policy framework outlined in this paper relates only to the granting of licences for the use of spectrum reserved for non-commercial community and access broadcasting, and applies to all future licence allocations for this purpose. The Government has already reserved channels E39 to E42 of the UHF-TV band for non-commercial television. Non-commercial radio licences have generally been confined to the AM band. Possible additional future reservation of radio spectrum in the FM broadcast band is the subject of separate policy.

6. The framework builds upon the existing criteria for non-commercial radio and television broadcasting which were developed piecemeal over a number of years. The policy framework for community and access broadcasting modifies past criteria by explicitly incorporating this Government's broadcasting objectives, and by rationalising currently divergent elements of the criteria for radio and television. The framework provides a more consistent principled basis for the allocation of licences for non-commercial community and access radio and television broadcasting than in the past.

7. The policy framework comprises:

- 7.1. the Government's broadcasting policy objectives;
- 7.2. the definition of a non-commercial broadcaster;
- 7.3. assessment criteria; and
- 7.4. licencing procedures.

Parts (7.2) and (7.3) of the policy framework amend the previous definition and assessment criteria as detailed in paragraph 9, below.

Policy Framework

Objectives

8. The policy framework is based on the Government's broadcasting policy objectives and is designed to enable the Government to make use of spectrum to ensure that broadcasting which meets these objectives is available to the New Zealand public. The Government's broadcasting policy objectives are:

- ensuring all New Zealanders have reasonable and regular access to broadcasting representing the uniqueness and diversity of New Zealand life, recognising that the histories and stories of whanau, hapu and iwi are integral to any description of that life;
- meeting the information and entertainment needs of as many interests as reasonably possible, including those that cannot be met by commercial broadcasting;
- contributing to public awareness of and participation in the political and social debates of the day;
- providing for minority interests and increased choice; and
- encouraging innovation and creativity in broadcasting while aiming to continually increase audience satisfaction with the quality of the content.

Definition of a Non-commercial Broadcaster

9. The existing definition of a non-commercial broadcaster was amended for the purposes of the allocation of reserved spectrum in order to tie it more closely to the Government's broadcasting objectives. Revised elements of the definition are highlighted in italics in 11, below. These revisions were intended to minimise future pressures for funding from NZ On Air, to ensure that new non-commercial community and access services did not duplicate services which are already provided

by existing commercial and non-commercial broadcasters, and to ensure that the programming of non-commercial community and access stations was focused on the needs and interests of the audiences they serve.

10. The revised definition is:

- 10.1. the applicant does not hold the licence rights to another frequency in the same location which could be used for the purpose;
- 10.2. the constitution or articles of the association of the applicant or funding organisation show it to be clearly non-profit in nature;
- 10.3. the applicant can demonstrate it does not intend to operate its service at a profit and can identify a permanent fund-raising mechanism to cover its costs, *and is demonstrably financially viable and sustainable within existing public funding arrangements;*
- 10.4. the format the applicant proposes is not operated by other stations on a “for profit” basis, *and must complement and provide alternative services to those offered by existing broadcasters;*
- 10.5. the applicant is not primarily intending to raise funds for charitable purposes;
- 10.6. the applicant is not paying higher than market rates for salaries or for other services. Such rates of payment would be taken to indicate a de facto commercial service, where proprietors received financial benefits for their services;
- 10.7. advertising (or decoder revenue) is not planned to be more than 50% of the revenue. Taken as a general guideline, this would demonstrate the good faith of the organisation in respect of its intentions to operate on a non-profit basis; and
- 10.8. the service is driven by programming tailored to a particular audience rather than the need to deliver a desired audience for advertisers.

A. Assessment Criteria

11. The assessment criteria are used in making decisions on the granting of licences for the purposes of non-commercial community and access broadcasting. These criteria amended the previous criteria. The addition of new criteria bind broadcasters more closely to the achievement of the Government’s broadcasting policy objectives than previously, and apply the previous criteria for non-commercial television to all non-commercial community and access radio and television broadcasting on AM, FM and UHF TV.

12. The revised criteria are as follows:

- 12.1. To be considered for a licence issued for the purposes of non-commercial community and access broadcasting the proposed service must:
 - 12.1.1. contribute to Government’s broadcasting objectives;
 - 12.1.2. be consistent with the definition of a non-commercial broadcaster; and

12.1.3. be capable of commencing service within 3 months of an offer of a radio licence; and within two years for television licences.

12.2. The following will be taken into account when deciding on the allocation of licences for the purposes of non-commercial community and access broadcasting:

12.2.1. the extent to which the proposal increases the diversity of programme choice for viewers or listeners;

12.2.2. the extent to which a proposal can provide non-commercial services not being provided on a national level. These may include Parliamentary broadcasts, educational services such as foreign language programming, religious programming, coverage of minority sports, and New Zealand documentaries and short films;

12.2.3. the extent to which the proposal provides access to local and regional programme makers;

12.2.4. the extent of geographic coverage possible for non-commercial services, given spectrum capacity;

12.2.5. the extent to which time is made available for non-commercial uses, including prime time;

12.2.6. the extent to which the proposal can demonstrate that its overall objective is “not for profit”;

12.2.7. the prospect that the proposal will be implemented;

12.2.8. the extent to which the proposal contains sufficient accountability mechanisms to ensure that it delivers on its undertakings to provide services. Arrangements may include:

12.2.8.1. Mechanisms for equitable allocation of air time among all interested users;

12.2.8.2. Procedures for resolving disputes over allocation of time to users;

12.2.8.3. Systems for ensuring efficient management of services;

12.2.8.4. Provision of satisfactory services to the full variety of audience to be catered for;

12.2.8.5. Mechanisms for ensuring compliance by all users on the frequency with broadcasting standards;

12.2.9. any potential future public benefit from providing for the transition of services to digital transmission; and

12.2.10. any other benefits the proposal may offer.

Licensing Procedures

13. The revised criteria do not alter past policy and procedures regarding the duration of licences or the conditions on licences. Licences will continue to be granted on the basis of licence agreements to ensure that they are used for the intended purpose or else surrendered. Some variation in the terms of the current standard form

of agreement will be required in order to reflect elements in the framework, such as the Government's broadcasting objectives.

NON-COMMERCIAL FREQUENCIES ALLOCATION CRITERIA CHECKLIST

November 2003

Introduction

To be considered for a non-commercial licence for the purposes of non-commercial community and access broadcasting the proposed channel must:

- contribute to government’s broadcasting objectives;
- be consistent with the definition of a non-commercial broadcaster contained in the *Policy Framework for Non-Commercial Community and Access Broadcasting*.
- be capable of commencing service within three months of an offer of a radio licence; **and within two years for television licences**; and
- contribute to non-commercial community and access broadcasting.

Applicants are required to complete the checklists A-D below and supply such information as they consider will demonstrate that they meet the allocation criteria.

B. Government’s broadcasting policy objectives checklist

Please indicate in the table below which, if any, of the government’s objectives will be met by the proposed service.

Objectives	Please select the appropriate response: Yes, No, or Not Applicable	Please indicate where this is discussed further in the application, if appropriate.
	(NB: “Yes” means that the proposed service will meet this objective)	(e.g. refer page 1, paragraph 5)
Ensuring all New Zealanders have reasonable and regular access to broadcasting representing the uniqueness of and diversity of New Zealand life, recognising that the histories and stories of whānau, hapu, and iwi are integral to any description of that life		
Meeting the information and entertainment needs of as many interests as reasonably possible, including those that cannot be met by commercial broadcasting		

Contributing to public awareness of and participation in the political and social debates of the day		
Providing for minority interests and increased choice.		
Encouraging innovation and creativity in broadcasting while aiming to continually increase audience satisfaction with the quality of the content.		

C. Non-commercial broadcaster checklist

Please indicate in the table below which, if any, of the following criteria will be met by the applicant of the proposed service.

Criteria	Please select the appropriate response: Yes, No, or Not Applicable (e.g.: “Yes” means that the applicant does not hold the licence rights to another frequency...)	Please indicate where this is either demonstrated or discussed further in the application, if appropriate. (e.g. refer page 1, paragraph 5)
The applicant does not hold the licence rights to another frequency in the same location that could be used for the purpose.		
The constitution or articles of the association of the applicant show it is clearly non-profit in nature.		
The applicant does not intend to operate its service at a profit and can identify a permanent fund-raising mechanism to cover its costs, and is demonstrably financially viable within existing public funding arrangements.		

The format is not operated by other stations on a “for profit” basis, and must complement and provide alternative services to those offered by existing broadcasters.		
The applicant is not primarily intending to raise funds for charitable purposes.		
The applicant is not paying higher than market rates for salaries or other services.		
Advertising (or decoder revenue) is not planned to be more than 50% of total revenue.		
The service is driven by programming tailored to a particular audience rather than the need to deliver a desired audience for advertisers.		

C. Contributions to non-commercial community and access broadcasting

Please ensure that you attach all relevant information to support the contribution that the proposed service will have to non-commercial community and access broadcasting.

Contribution	Please indicate where this is either demonstrated or discussed further in the application, if appropriate. (e.g. refer page 1, paragraph 5)
The extent to which the proposed service increases the diversity of programme choice for viewers or listeners.	
The extent to which a proposed service can provide non-commercial services not being provided on a national level. These may include Parliamentary broadcasts, educational services such as foreign language programming, religious programming, coverage of minority sports, and New Zealand documentaries and short films.	
The extent to which the proposed service provides access to local and regional programme makers.	

The extent of geographic coverage possible for non-commercial services, given spectrum capacity.	
The extent to which the proposed service can demonstrate that its overall objective is “not for profit”.	
Evidence of an implementation plan.	
The extent to which the proposed service contains sufficient accountability mechanisms to ensure that it delivers on its undertakings to provide services. Arrangements may include: <ul style="list-style-type: none"> i. Mechanisms for equitable allocation of air time among all interested users; ii. Procedures for resolving disputes over allocation of time to users; iii. Systems for ensuring efficient management of services; iv. Provision of satisfactory services to the full variety of audience to be catered for; v. Mechanisms for ensuring compliance by all users on the frequency with broadcasting standards. 	
Any potential future public benefit from providing for the transition of services to digital transmission.	
Any other benefits that the proposed service may offer.	

D. Other Relevant Information Checklist

If applicable, please include further information (as identified). If you have already provided this information in answering Checklists A-C above – just note this in the table below.

Information	Please indicate where this is either demonstrated or discussed further in the application, if appropriate. (e.g. refer page 1, paragraph 5 of your application)
The broadcasting or other relevant experience of the applicant.	
The source and content of the programme material that the applicant proposes to broadcast.	
Details of the nature and scope of the establishment capital available to the applicant.	
Details of sources or proposed sources of ongoing funding.	
Details of the objectives of the applicant.	
Details of the geographic areas in which the applicant proposes to broadcast.	
Details of the applicant's anticipated audience.	
A programme schedule or programming policy plan.	
A proposed time allocation schedule for broadcasts.	
A copy of the applicant's Constitution, Trust Deed, or other founding document equivalent.	
A copy of the applicant's financial forecasts for the next 12 month period (and out years if possible).	
A copy of the applicants latest audited financial statements (plus a copy of the audit report), if applicable.	
Details of capital works needed as a result of receiving or renewing a non-commercial frequency. (For example – an outline of the equipment required, the costs involved, and details of how these costs will be met.)	

<p>Name of Applicant:</p>
<p>Map of proposed coverage area attached (preferably using NZMS 260 map series):</p>
<p>Proposed transmitter location site:</p>
<p>Proposed site grid reference (NZMS 260):</p>

Attachment iii)



**NON-COMMERCIAL
UHF TELEVISION
CHANNEL 40 - WELLINGTON**

APPLICANT COVER SHEET

NAME OF LEGAL ENTITY	
TRADING NAME	
TYPE OF ENTITY	Co. Charitable Trust Incorp. Society Other: specify Please circle one
NAME OF KEY CONTACT	
KEY CONTACT PHONE NO.	
KEY CONTACT EMAIL	
ADDRESS FOR COMMUNICATION	
NAMES OF DIRECTORS, TRUSTEES, OR BOARD MEMBERS	1.
	2.
	3.
	4.
	5.

	6.
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