



REPORT TO THE LEGISLATIVE ASSEMBLY

“Broadcasting Amendment Bill 2015”

Primary Production, Commerce, Industry and Labour Committee

(Presented to the Legislative Assembly)

1. RECOMMENDATION:-

The Primary Production, Commerce, Industry and Labour Committee recommends that the Assembly take note of its report.

2. BILL CONSIDERED:-

(Referred 30/06/2015)
Broadcasting Amendment Bill 2015.

The Primary Production, Commerce, Industry and Labour Committee¹ considered the Broadcasting Amendment Bill 2015 ('Bill') pursuant to the instructions by the Legislative Assembly on 30th June 2015.

3. PROCEEDINGS:-

The Committee called for oral and/or written public submissions on the Bill through a public notice broadcast on the Samoa Quality Broadcasting (TV1), 2AP radio and the Samoan Parliament Website. During the course of its investigation, the Committee heard oral evidence and considered written submissions presented thereto.²

The Committee sought assistance from the following officials during the course of its deliberations.

ASSISTANCE (s. o . 156)

Office of the Attorney General

Loretta Teueli	-	Assistant Attorney General
Leitu Moananu	-	Senior Drafter
Kylie Wilson	-	Legal Clerk

Office of the Regulator:

Unutoa Auelua Fonoti	-	Regulator
Cecily Faasau	-	Assistant Regulator

¹ Pursuant to the provisions of Standing Order 174, it shall be the duty of the Primary Production, Commerce, Industry and Labour Committee:

- (a). To consider any bill, petition or other matter referred by the Assembly or pursuant to these Standing Orders; and such Estimates or review of ministerial performance as maybe referred by the Finance & Expenditure Committee
- (b). To examine the policy, administration and expenditure of the ministries and associated government organizations related to primary production, commerce, industry, labour and tourism.

² Refer Part 7 - Witnesses

Ministry of Communications & Information Technology

Tuaimalo Asamu Ah Sam - CEO

Airport Authority

Tagaloasa Uili Matafeo - ACEO

Electric Power Corporation

Taua Latu Tumama - Inspector

4. FINDINGS:-

This Bill seeks to improve the framework for administration of the broadcasting sector. The Committee noted the main amendments to the Principal Act:

- Clarifying the extent of services that qualify as broadcasting (rather than telecommunication services in general);
- Removing ex ante references that are not relevant to the broadcasting sector; and
- Removing Part III of the Act which establishes a separate Broadcasting Tribunal and replacing with the Tribunal under the Telecommunications Act 2001 (“Telecommunications Act”);
- Extension of objectives under the Act; and
- Clearly merging the responsibilities of the Regulator under the Telecommunications Act and the Act.

Overall, the submissions that were presented indicated support for the amendments within the Bill. The main purpose of this support being the need to clarify and specify provisions that guide and regulate the broadcasting and telecommunications services. The main differences between the services as mentioned by some of the witnesses include the profits, revenue and competition markets of the two sectors. For the broadcasting services; radio and television, there are provisions within the Principal Act which are not applicable to these services but only the telecommunications services. In addition, the broadcasting services are offered on a non-payment basis as there is no fee for the availability of the service. The only source of revenue to assist the broadcasting service providers is through commercial advertisements.

One of the amendments within the Bill seeks to repeal Part III of the Principal Act which establishes the Broadcasting Tribunal to be replaced with the Tribunal

under the Telecommunications Act. The Regulator clarified that the intention is that there be one tribunal. If there are matters regarding telecommunications, the Tribunal will appoint experts in this field to handle the matter and the same will be done for broadcasting matters. Some of the witnesses recommended the reduction of the WST\$100,000 lodgement fee for Notices of Appeal under the Telecommunications Act as the Tribunal will also be used as an appeal mechanism for Broadcasting. The Committee noted that this concern is not provided for within the Principal Act as per section 10. The assistance from some officials explained that the lodgement fee is payment for the services of the Tribunal as it has been noted in previous years that the review of appeals is a costly exercise. Furthermore, it is an incentive to discourage the lodgement of appeals.

Other concerns presented to the Committee were in relation to the additional role of the Regulator in regulating both the telecommunications and broadcasting services. There is an opinion that there should be two Regulators; one per sector, for these services includes two separate sectors and they are too substantial for one person to manage. On the same matter, there was an opinion that the provision for the establishment of the position of Regulator be repealed within the Principal Act as the position is provided for within the Telecommunications Act. These matters were discussed by the Committee and it is adamant that the provision should remain in the Principal Act in the case of unforeseen matters that may arise in the future. In addition, it is noted that the current Regulator has the capacity to handle both sectors when considering the domestic market. As a result, the proposed amendments are appropriate.

During the course of its deliberation, there were also issues raised regarding the broadcasting services especially in regards to the communications at the airport and cash power. The Committee consulted with the relevant Ministries in this regard and reiterated the need for solutions to these issues to ensure the improvement of the services provided to the country. The Committee firmly believes that these issues can be resolved with collaboration.

Throughout the consideration of the Bill, the Committee noted the need for corrections to the Samoan Print only to ensure clarification and simplification of the language used within the Bill.

5. CONSIDERATION IN DETAIL OF THE BILL:-

The Committee considered the Bill in detail and was satisfied with all the provisions except for the following corrections to the **Samoan Print Only**.

CORRECTIONS: (Samoan Print Only)

1. Fuaiupu 2

la soloia le upu **“meafaigaluega”** o lo o aliaie mai ina ua tuanai upu **“o lo o i ai ni”** a o lumanai le upu **“talafeagai”** ma suia i le upu **“masini”**;

la soloia upu **“o lo o”** o lo o aliaie mai ina ua tuanai upu **“po o”** a o lumanai upu **“faaooina atu”**; ma

la soloia upu **“alavalava tioata o peau-ea”** o lo o aliaie mai ina ua tuanai upu **“uaea malosi,”** a o lumanai upu **“mo le malamalama,”** ma suia i le upu **“uaea”** ina ia faitauina ai e faapea:

““auaunaga tau faasalalauga” o lona uiga o se auaunaga lea o lo o faaooina atu ai polokalame tau televise po o polokalame tau leitio i se tagata o lo o i ai ni masini talafeagai e mauaina ai lea auaunaga, tusa lava po o faaooina atu e faaaogaina ai fusi o alaleo o peau-ea o le leitio, uaea malosi, uaea mo le malamalama, satelite po o so o se isi lava faiga o le tuufaatasiga o ia auala ua taua, ae peitai, e le aofia ai mea nei:”

2. Fuaiupu 3

Fuaiupu 3 (p)

la soloia upu **“eseesega faaleaganuu;”** o lo o aliaie mai ina ua tuanai upu **“ma faataua”** a o lumanai le upu **“ma”** ma suia i upu **“vaega eseese o le aganuu;”** ina ia faitauina ai e faapea:

“(p) ia uunaia ma faataua vaega eseese o le aganuu; ma”

6. RESOLUTION:-

At the conclusion of its consideration, the Committee resolved to recommend the Assembly:

That the Broadcasting Amendment Bill 2015 progress with corrections to print.

7. WITNESSES:-

During the course of its investigations, the Committee heard and read submissions from the following witnesses:

7.1 Oral Submissions

Digicel Samoa Ltd

Pepe Christian Fruen	-	Chairperson
Jaynen Mangel	-	Legal Advisor
Leaupepe Talai Lene	-	Corporate Services

BluSky

Alani Faiai	-	Director
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SQB TV1

Galumalemana Faiese LS Matafeo	-	CEO
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Kingdom TV

Pastor Afereti Lui	-	General Manager
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Radio Polynesia

Maposua Corey Keil	-	General Manager
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7.2 Written Submissions

Digicel Samoa Ltd

Pepe Christian Fruen	-	Chairperson
Jaynen Mangel	-	Legal Advisor
Leaupepe Talai Lene	-	Corporate Services

8. SIGNATURES OF COMMITTEE MEMBERS

Afioga Hon LEAUPEPE Toleafoa Apulu Faafisi.
CHAIRPERSON.

Afioga MAUALAIVAO Pat Ah Him
DEPUTY CHAIRPERSON

Afioga AFUALO Wood Uti Salele
MEMBER

Afioga TIALAVEA Fea Tionisio Seigafo
MEMBER

Afioga Hon AEAU Peniamina Leavaiseeta
MEMBER

Tofa FAIMALOTOA Kika Stowers
MEMBER.

Tofa AVEAU Tuala Lepale Niko Palamo
MEMBER