

1. Introduction

The New Zealand Labour Party ("the Labour Party") is pleased to have the opportunity to present submissions to the Electoral Commission in regard to determining eligibility for, and the proportion of the allocation of time and money to, broadcasts for the 2011 General Election and related procedures.

The Labour Party believes that free political broadcasting is an integral and important part of the general election process in New Zealand.

Effective democracy is dependent on an informed, interested and involved public. The purpose of election campaigns is to ensure that the public receives information and becomes actively involved in the political process.

Electronic media is crucially important in ensuring the widest possible spread of information and is widely used for other public good processes. Electronic media is also the most effective means of ensuring such information is obtained by voters, and so elections in New Zealand regulate their spread of use by allocation of public monies rather than by parties' ability to spend.

The Labour Party notes that the amount of money appropriated by the Government for the broadcasting allocation is \$2,855,000 (plus GST), which represents the same amount of money in dollar terms to that allocated to both the 2005 and 2008 elections.

Whilst Labour acknowledges the difficult current economic environment the Government is operating in, it should be noted that this figure represents a decline in real terms when inflation is taken into account. While it is not an issue for the Commission in this instance, it is the Labour Party's view that this constrains the Commission's ability to ensure the best mix of political advocacy through electronic media.

2. Eligibility

The Labour Party is eligible for an allocation of funds in respect of the 2011 general election, as it will have been registered on the Register of Political Parties for well over three months prior to the dissolution of Parliament for the general election.

The Labour Party is not part of a group of related parties.

3. Criteria for allocating time and money to eligible political parties

3.1 Section 75(2)(a): The number of persons who voted at the immediately preceding general election for that Party and for candidates belonging to that political Party.

At the 2008 general election, the **Labour Party** received 796,880 party votes, 33.99% of the total party votes cast and 36.37% of the effective party vote. 810,238 electorate votes, 35.22% of the total, were cast for Labour Party candidates.

The **National Party** received 1,053,398 party votes, 44.93% of the total party votes cast and 48.08% of the effective party vote. 1,072,024 electorate votes, 46.60% of the total, were cast for National Party candidates.

Of the other parties that achieved representation through reaching the 5% party vote threshold:

The Green Party received 157,613 party votes, 6.72% of the total party votes cast and 7.19% of the effective party vote. 129,584 electorate votes, 5.63% of the total, were cast for Green Party candidates.

Of the other parties that achieved representation through gaining at least one electorate seat:

ACT New Zealand received 85,496 party votes, 3.65% of the total party votes cast and 3.90% of the effective party vote. It also received 68,852 electorate votes, 2.99% of the total electorate vote.

The Maori Party received 55,980 party votes, 2.39% of the total party votes cast and 2.55% of the effective party vote. It also received 76,836 electorate votes, 3.34% of the total electorate vote.

Jim Anderton's Progressive received 21,241 party votes, 0.91% of the total party votes cast and 0.97% of the effective party vote. It also received 25,981 electorate votes, 1.13% of the total electorate vote.

United Future received 20,497 party votes, 0.87% of the total party votes cast and 0.94% of the effective party vote. It also received 25,955 electorate votes, 1.13% of the total electorate vote.

Together these parties received 93.46% of the total party votes cast, and 96.04% of all electorate votes cast.

Of the other parties that did not achieve representation:

12 registered parties gained a total of 153,461 party votes and 84,420 electorate votes. This was considerably up on those recorded at the 2005 election, mainly due to the wasted vote incurred when the New Zealand First Party did not reach the 5% threshold nor win an electorate seat.

On that basis the combined number of votes for registered political parties is as follows:

Party	Combined Vote No	Combined Vote %
Labour Party	1,607,118	34.65%
National Party	2,125,422	45.82%
Green Party	287,197	6.19%
ACT New Zealand	154,348	3.33%
Maori Party	132,816	2.86%

Jim Anderton's Progressive	47,222	1.02%
United Future	46,452	1.00%
Others	237,881	5.13%
Total valid votes	4,638,456	

As in previous years, it is submitted that the plain language of this criterion means that both electorate and party votes should be taken into account by the Commission, and indeed this is how the criterion has been applied in the past.

3.2 Section 75(2)(b): The number of persons who voted at any by-election held since the immediately preceding election for any candidate belonging to that political party

There have been three by-elections since the last general election: Mt Albert, Mana and Botany. The results of these by-elections are discussed below.

Mt Albert by-election	Candidate vote	Candidate vote %
Labour Party	13,260	63.49%
National Party	3,542	16.96%
Green Party	2,567	12.29%
ACT New Zealand	968	4.63%
Maori Party	0	0%
Jim Anderton's Progressive	0	0%
United Future	89	0.43%
Others	459	2.20%
Total valid votes	20,885	

Mana by-election	Candidate vote	Candidate vote %
Labour Party	10,980	47.17%
National Party	9,574	41.13%
Green Party	1,543	6.63%
ACT New Zealand	136	0.58%
Maori Party	0	0%
Jim Anderton's Progressive	0	0%
United Future	0	0%
Others	1,044	4.49%
Total valid votes	23,277	

Botany by-election	Candidate vote	Candidate vote %
Labour Party	4,380	28.45%
National Party	8,352	54.25%
Green Party	0	0%
ACT New Zealand	687	4.46%
Maori Party	0	0%

Jim Anderton's Progressive	0	0%
United Future	0	0%
Others	1,977	12.84%
Total valid votes	15,396	

Combining the results of these by-elections provides us with the following results.

Combined by-election results	Candidate vote	Candidate vote %
Labour Party	28,620	48.05%
National Party	21,468	36.05%
Green Party	4,110	6.90%
ACT New Zealand	1,791	3.01%
Maori Party	0	0%
Jim Anderton's Progressive	0	0%
United Future	89	0.15%
Others	3,480	5.84%
Total valid votes	59,558	

Due to the large number of by-elections since the last election, it is submitted that this criterion should not be read in conjunction with the previous one, but that it should be read as a separate criterion with its own separate weighting. The suggested weighting is discussed further in section 4 below.

It should be noted that the Commission has consistently argued in previous determinations that it cannot take into consideration whether or not political parties contest all seats or not. Again the criterion is specific and quantifiable, and refers to the number of voters.

3.3 Section 75(2)(c): The number of members of Parliament who were members of that political party immediately before the dissolution or expiration of Parliament

The Labour Party currently has 42 Members of Parliament, of whom 20 are electorate representatives and 22 are list members. Again, the criterion is objective; it refers to a number that can be precisely quantified.

The following table demonstrates the number of and the percentage distribution of members to the parties represented in Parliament at the date of submission, and who are likely therefore to be represented immediately prior to the dissolution of Parliament.

Party	MP Number	MP %
Labour Party	42	34.4%
National Party	58	47.5%
Green Party	9	7.4%
ACT New Zealand	5	4.1%
Maori Party	4	3.3%
Jim Anderton's Progressive	1	0.8%
United Future	1	0.8%

Independent (Chris Carter & Hone Harawira)	2	1.6%
Total	122	

It is submitted that in regard to this criterion, the Commission should take into account the publicly declared intentions of the current members of Parliament.

In this regard, it is submitted that the Commission should note that at the time of submission, two further electorate members, Chris Carter (former Labour MP and now an Independent MP) and Jim Anderton have announced their intention to retire from parliament. The Labour Party expects to win both these electorate seats at the upcoming election.

The Labour Party will be submitting a list of 70 candidates at the 2011 general election.

3.4 **Section 75(2)(d): Any relationships that exist between a political party and any other political party**

This criterion is not an objective one, but as has been noted in past determinations presumably exists so that the Commission can take into account any relationships that may affect the combined influence of political parties.

In respect of this criterion, it should be noted that the Labour Party does not have any relationships with other political parties for the purposes of campaigning.

3.5 **Section 75(2)(e): Any other indications of public support for that political party such as the results of public opinion polls and the number of persons who are members of that political party**

3.5.1 **Opinion Polls**

It is submitted in relation to this criterion, that the Commission should only consider the results of independently commissioned, publicly known and methodologically sound opinion polls that give indications of definite support for political parties at the time of taking the poll. Write-in or phone-in polls should not be considered, nor should results based on partial or small samples be considered.

Published polls on the electorate vote no longer appear to be available, so a summary of all polls on the party vote conducted by the four main polling agencies since the last general election is attached as Appendix "B". Those included are One News Colmar Brunton, TV3/TNS (3 News / Reid Research), The New Zealand Herald Digipoll, and Roy Morgan Research.

There is little difference in the result whether one considers the six-month period or one-year period prior to the date of submission. The Labour Party submits that, in keeping with previous Commission determinations, the figures for the one-year period should be used.

The results are shown in the following table:

Party	Party Vote Ave % (October 10 – April 11)	Party Vote Ave % (April 10 – April 11)
Labour Party	33.02%	32.94%
National Party	52.10%	51.41%
Green Party	7.37%	7.66%
ACT New Zealand	1.08%	1.37%
Maori Party	2.17%	2.45%
Jim Anderton's Progressive	0.11%	0.18%
United Future	0.27%	0.36%

Other polls that may be taken into consideration by the commission include polls commissioned from DigiPoll by the Marae programme on TV1. Because of the particular characteristics of these polls they have not been taken into account in the above table.

The Labour Party's publicly expressed view is that these should not be regarded as definitive, as they have not served as good indicators of outcomes in the past.

On the basis of these results, it is submitted that the Labour Party and the National Party form a clear category of major parties by themselves. They are well ahead of the other parties in terms of support. Between them, they average 84.35% of the poll levels; the minor parties in the second category average around 11.5%; and the smaller parties less than 1%.

It is submitted that the allocation for the 2011 election should much more closely represent the levels of support as indicated by the polls, as indicated above. For example, 84.35% of the current total available funds (\$3,283,250 inclusive GST) would result in a pool of \$2,769,421 (inclusive GST). An equal split of this amount between the two parties would result in an allocation of approximately \$1,384,500 (inclusive GST) each.

3.5.2 Party Membership

The membership of the Labour Party has steadily grown since we made our last submission to the Commission in 2008, with current membership as at 31 December 2010 of 56,741 members.

Since our last submission in 2008, members of the Maritime Union of New Zealand Inc (MUNZ) have voted to become an affiliate member of the Labour Party through their union. Affiliate members have equal membership rights to those who join the party individually through branch membership.

The current affiliated members are:

- NZ Dairy Workers Union - Te Runanga Wai U (DWU)
- Engineering, Printing & Manufacturing Union (EPMU)
- NZ Meat Workers & Related Trades Union (MWU)
- Maritime Union of NZ Inc (MUNZ)
- Rail & Maritime Transport Union (RMTU)
- Service & Food Workers Union - Nga Ringa Tota Inc (SFWU)

The Commission has tended in the past to find the issue of membership of affiliates somewhat difficult to evaluate. However it is submitted that affiliate membership, just as with branch membership, is the result of the deliberate choice of individual citizens, albeit expressed differently. It is also submitted that the total number is truly indicative of the level of membership support for the Party. Crossover membership is not significant.

It should also be noted that attendance at our 2008 Annual Congress and Annual Conferences for 2009 and 2010 have been back at levels last seen in the 1980's.

A statutory declaration regarding the membership of the Labour Party is attached as Appendix "A".

3.6 Section 75(2)(f): The need to provide a fair opportunity for each political party to which subsection (1) of this section applies to convey its policies to the public by the broadcasting of election programmes on television.

The Commission in past determinations has indicated that it fulfils the requirements of this paragraph by allocating an amount of money to each party eligible under section 75(1) to enable it to buy a minimum amount of television broadcasting time with the remaining funds allocated to parties according to the extent to which they satisfy sections 75(2)(a) to (e).

It is submitted that the Commission should continue to apply section 75(2)(f) in the same way as it has done in previous determinations, by allocating a fixed sum to those parties that comply with section 75(1).

Once that allocation is determined, the remainder of the sum to be allocated should be divided among all the parties according to the strict application of the other criteria in section 75(2). The increased funds available for allocation should be used to reflect the real, objective and substantial differences between the parties according to the statutory criteria.

4. Weighting

The Commission has indicated that it particularly seeks submissions on the weighting that should be given to the statutory criteria in Sections 75(2)(a) to (f).

In our submission to the 2008 determination, we referred to the following weighting given by the Commission in its 1996 decision:

Section 75(2)(a)	Vote at last election	1.5
Section 75(2)(b)	Results of by-election	0.25
Section 75(2)(c)	Number of MPs	1
Section 75(2)(e)	Party Vote Polls	2
	Electorate Vote polls	1
	Party membership	<u>0.5</u>
	TOTAL	6.25

Whilst the Labour Party again submits that this is a reasonable starting point, there are a number of factors that indicate that these weightings may no longer be as appropriate as in previous years.

4.1 Electorate Vote polls

As indicated above, the main polling agencies no longer publish electorate vote polls, with the exception of the Maori seats by Digipoll.

There are also a number of issues that have been taken up in relation to opinion polls, as changes in technology and habit have made telephone-based polls increasingly subject to variability. Rapidly diminishing response rates coupled with the shift of many people away from landlines at both ends of the normal socio-economic curve mean that the reliability of some particular telephone-based polls is increasingly under question.

One way to correct for this is the polls of polls, and this does provide for greater convergence if not addressing necessarily the fundamental problem.

Another factor that should be noted is that the polls tend to converge around the time of an election. This was true for both the 2005 and 2008 general elections. A copy of a graph showing average opinion polls going back to September 2005 is attached as Appendix "C".

4.2 By-elections since the last general election

Three by-elections in one parliamentary session is a very rare occurrence. Labour Party research indicates that the last time that three by-elections occurred during one parliamentary session was during the 43rd Parliament (1990-1993) (see: www.wikipedia.org/wiki/New_Zealand_by-elections).

It should be noted that the weighting of 0.25 given by the Commission in 1996 to the by-election criteria was largely based upon the fact that there had only been one by-election in the three years prior to that decision (that being the Selwyn by-election in 1994).

It is submitted that it was entirely appropriate to apply the same weighting of 0.25 in the 1999 Commission decision, as there had only been one by-election in the three years prior to that decision (Taranaki-King Country in 1998), as well as appropriate in relation to the 2005 Commission decision (Te Tai Hauauru by-election in 2004).

The Commission did not have to address this criterion in either of the 2002 or 2008 decision as no by-elections were held in the 1999-2002 or 2005-2008 parliamentary terms.

However, it is submitted that it would be entirely *inappropriate* to apply the same weighting of 0.25 to this criteria in relation to the 2011 decision in light of the increased indication of parties' public support that is provided by three by-elections occurring since the last election.

Three by-elections provide the Commission with a clear indication from an extremely large and diverse pool of voters, as to the nature of their support towards a wide range of political parties.

4.3 2011 Weighting

For these reasons and the reasons given in Commission decisions from 1996 to 2008, we would recommend that the Commission apply the following weight to the statutory criteria:

Section 75(2)(a)	Combined vote at last election	1
Section 75(2)(b)	Results of by-elections	1
Section 75(2)(c)	Number of MPs	1
Section 75(2)(e)	Party Vote Polls	1
	Electorate Vote polls	0
	Party membership	0.5
	TOTAL	4.5

The above weighting seems a reasonable approach, as the first and third criteria are necessarily retrospective, the second partial, and the fourth offers the best available objective evidence of present status and future prospects for the political parties which will contest the next election.

The Commission's written determinations since 1996 have given no indication that this approach to weighting has been altered, as the matter has not been specifically addressed in the 1999, 2002 or 2005 determinations. The 2008 determination does refer to three key criteria that measure current support for a party (number of votes at the last election, number of MPs at the dissolution of Parliament, and other indications of support), but does not specifically alter the weighting provided in the 1996 determination.

Based upon the above criteria and weightings, the following weighted average can be calculated by applying the individual weightings determined earlier in this submission (please note that party membership has not been included below as only the Commission is privy to this information and as such no attempt can be made by the Labour Party to assess whether parties comply with this criterion):

	Vote 08	By-elections	nMPs	PV Polls	Sum	Weighted avge %
Labour	34.65%	48.05%	34.4%	32.94%	150.04	37.51
National	45.82%	36.05%	47.5%	51.41%	180.78	45.20
Green	6.19%	6.90%	7.4%	7.66%	28.15	7.04
ACT	3.33%	3.01%	4.1%	1.37%	11.81	2.95
Maori	2.86%	0%	3.3%	2.45%	8.61	2.15
Progressive	1.02%	0%	0.8%	0.18%	2.00	0.50
United Future	1.00%	0.15%	0.8%	0.36%	2.31	0.58

5. Methodology for allocation

The Commission has advised that once it has received and considered submissions on the application of the criteria, it will develop a methodology for allocation. In previous determinations the Commission has invariably stated that it cannot take into account any criteria other than those provided for in the statute. The Labour Party supports this approach.

In the past the Commission has also tended to group parties into various categories, and allocate funds on the basis of the categories.

In the 1996 allocation, five categories were identified. Category 1 included the National Party which received \$534,360; the Labour Party \$431,540; New Zealand First \$249,500; and the Alliance \$252,040 (all inclusive GST).

In the 1999 allocation, five categories were identified. Category 1 included the Labour Party and the National Party, both of which were allocated \$524,412 (inclusive GST). The combined amount for Category 1 came to approximately 50% of the total available funds (\$2,081,000 inclusive GST).

In the 2002 allocation, six categories were identified. Category 1 included the Labour Party and the National Party, both of which were allocated \$615,000 (inclusive GST). The combined amount for Category 1 came to approximately 59% of the total available funds (\$2,081,000 inclusive GST).

In the 2005 allocation, six categories were identified. Category 1 included the Labour Party, which was allocated \$1,100,000 (inclusive GST), and the National Party, which was allocated \$900,000 (inclusive GST). The combined amount for Category 1 came to approximately 62% of the total available funds (\$3,212,000 inclusive GST).

In the 2008 allocation, four categories were identified. Category 1 included the Labour Party and the National Party, both of which were allocated \$1,000,000 (inclusive GST). The combined amount for Category 1 came to approximately 62.25% of the total available funds (\$3,211,875 inclusive GST).

5.1 2011 allocation

For the 2011 allocation, the Labour Party submits that the parties in the first category should consist of the Labour Party and the National Party, and should as in 1999, 2002 and 2008 receive an equal amount.

It should be noted that in relation to the 2005 determination, the Labour Party was far ahead on all of the statutory criteria. As can be seen from the weighted average contained in section 4 above, it is submitted this is clearly not the case for the two largest parties in 2011.

As previously discussed in section 3.5.1 above, the Labour Party further submits that the total pool of money allocated to first category parties should be increased to reflect the wide gap in support between the Labour Party and National Party and the remaining parties.

For example, if the combined Labour and National average party vote poll figures are used as a basis for calculation (84.35%), based on the current total available funds pool of \$3,283,250 (inclusive GST), both the Labour Party and National Party would be awarded an allocation of approximately \$1,384,500 (inclusive GST) each.

In relation to the remaining parties, it is submitted that in light of the weighted average identified in section 4 above the remaining categories should be:

- Category 2: Green Party;
- Category 3: ACT New Zealand, The Maori Party;
- Category 4: United Future, Jim Anderton's Progressive;
- Category 5: All other registered political parties.

6. Nomination of candidates

The Labour Party intends to submit a list of 70 candidates for the 2011 election, and to nominate 70 candidates for General and Maori electorate seats.

7. Opening and closing addresses

7.1 Minimum allocation

In the 2005 general election a total of 72 minutes were available for the opening addresses and 30 minutes for the closing addresses. These were allocated on the following basis:

- Labour Party and National Party were allocated 12 minutes opening address and 6 minutes closing address each;
- ACT New Zealand, Green Party, NZ First, and United Future were allocated 7 minutes opening address and 3 minutes closing address each;
- Maori Party and Jim Anderton's Progressive were allocated 4 minutes opening address and 3 minutes closing address each; and
- Remaining parties were allocated 1-minute opening address and no closing address time.

In the 2008 general election a total of 72 minutes were available for the opening addresses and 30 minutes for the closing addresses. These were allocated on the following basis:

- Labour Party and National Party were allocated 12 minutes opening address and 6 minutes closing address each;
- Green Party, Maori Party and NZ First were allocated 8 minutes opening address and 3 minutes closing address each;
- ACT New Zealand, Jim Anderton's Progressive and United Future were allocated 4 minutes opening address and 3 minutes closing address each; and
- Remaining parties were allocated 1-minute opening address and no closing address time.

For the 2011 general election, 72 minutes have again been made available for opening addresses and 30 minutes for closing addresses. 15 parties have given notice that they consider that they will be eligible for opening and closing address time.

It is submitted that in light of the weighted averages discussed above, and the clear distinction between the two largest parties and the other political parties, greater weight should be given to both the Labour Party and National Party in relation to the time allocations.