



## 2020 Broadcasting Allocation Decision

This table sets out the allocation of money to eligible political parties for the broadcasting of election programmes and election advertising for the 2020 General Election.

Political Party	Allocation (inclusive of GST)
The New Zealand National Party	\$1,285,182
New Zealand Labour Party	\$1,202,267
The Greens, The Green Party of Aotearoa/New Zealand	\$310,931
New Zealand First Party	\$310,931
ACT New Zealand	\$145,101
Māori Party	\$145,101
The Opportunities Party (TOP)	\$145,101
Advance New Zealand Party*	\$62,186
Aotearoa Legalise Cannabis Party	\$62,186
New Conservative	\$62,186
New Zealand Democratic Party for Social Credit	\$51,821
NZ Outdoors Party	\$51,821
Sustainable New Zealand Party	\$51,821
Vision New Zealand	\$51,821
Direct Democracy New Zealand*	\$41,457
Future Party*	\$41,457
Internet Party*	\$41,457
ONE Party*	\$41,457
Oytcho-Visha*	\$41,457
<b>TOTAL ALLOCATED</b>	<b>\$4,145,741</b>
<b>TOTAL AVAILABLE</b>	<b>\$4,145,750 incl GST</b>

\*These parties are currently unregistered

## Introduction

1. The Electoral Commission (“the Commission”) is an independent Crown entity. The statutory objective of the Commission is to administer the electoral system impartially, efficiently, effectively and in a way that facilitates participation in parliamentary democracy, promotes understanding of the electoral system and associated matters, and maintains confidence in the administration of the electoral system.<sup>1</sup> New Zealand’s system of parliamentary democracy is a mixed member system that emphasises the importance of proportional representation.
2. One of the Commission’s statutory functions is to carry out duties in relation to electoral broadcasting that are prescribed by Part 6 of the Broadcasting Act 1989 (“the Act”).<sup>2</sup> Under Part 6 of the Act, the Commission is required to allocate money appropriated by Parliament to enable all registered political parties to broadcast election programmes and election advertising during the election period for a general election (“the broadcasting allocation”).
3. On 28 January, the Prime Minister announced that the 2020 General Election will be held on Saturday 19 September.<sup>3</sup>
4. The Commission commenced the allocation process for the 2020 General Election in February 2020 with a view to issuing the allocation decision by 1 May in order to give eligible parties sufficient time to plan and use the allocation.
5. As a result of the COVID-19 pandemic and the Alert Level restrictions in place, at the request of some parties, the broadcasting allocation timetable was extended to 29 May. The consultation stage was extended to give parties more time to make their submissions and to arrange for oral submissions to be held remotely, ensuring that all eligible parties had a fair opportunity to be heard.
6. This written decision records the reasons for the Commission’s broadcasting allocation decision.

## Amount of public money appropriated

7. On 25 November 2019, in accordance with section 74, the Minister of Justice notified the Commission that the amount of money appropriated by Parliament to enable political parties to fund certain costs related to election programmes and election advertising for the 2020 General Election is \$3,605,000 plus GST (\$4,145,750 incl GST).
8. This is the same amount as appropriated for the 2017 broadcasting allocation. Funding was increased in 2017 to reflect the fact that the law was changed to remove the allocation of free time for opening and closing addresses.

## Eligibility

9. Section 78(1) specifies that a party is only eligible to receive an allocation if the party:
  - (a) has provided a notice by the date required by the Commission that the party considers it will be qualified for an allocation, and
  - (b) was registered on the Register of Political Parties at the time of the dissolution or expiry of Parliament.
10. In the year in which Parliament is due to expire, the Commission advertises in the Gazette the date by which parties must give notice that they consider themselves eligible for an allocation of broadcasting money. For the 2020 allocation, the Gazette notice was published on 3 February and the deadline for parties to give notice was 28 February. Twenty-one parties gave notice that met the requirements. Following the withdrawal of two unregistered parties, 19 parties continue to consider themselves eligible for an allocation.

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1 Section 4C, Electoral Act 1993

2 Unless otherwise stated, section references in this decision are to sections of the Broadcasting Act 1989

3 Unless otherwise stated, all dates in this decision are 2020 dates

11. Any party can give notice that it believes it will be eligible for an allocation, but parties must be registered to continue to qualify for an allocation. An unregistered party can give notice in anticipation that it believes it will be registered by the date of dissolution of Parliament (12 August). Six of the 19 parties seeking an allocation are not yet registered. To continue to qualify those parties must be registered by the 12 August and submit a party list by noon on 20 August. Parties which do not fulfil both those requirements are no longer eligible for an allocation, and the amount allocated to them in this decision will be available for reallocation. Experience suggests some reallocation is likely.
12. A condition of this allocation is that only registered parties can enter into contractual commitments to use any of the money that has been allocated to them in this decision. No party can use its allocation unless it is registered.

## How recipients can use the allocation

13. Section 74 of the Act sets out how eligible parties may use their allocation to buy advertising time on television and radio, buy advertising on the internet, and pay for the production costs of television, radio and internet advertising.
14. Eligible parties may use their allocation to buy advertising time on television and radio. Parties can only advertise on television and radio during the election period (16 August – 18 September) and are prohibited from television and radio advertising at any other time.<sup>4</sup> The Act prohibits parties from using their own money to buy time to broadcast television and radio advertising.
15. The allocation may only be used to buy advertising on the internet published during the election period. However, parties must use their own funds for election advertisements on the internet if they are published before the election period.<sup>5</sup>
16. Parties may use the allocation to pay for all or part of the production costs of television and radio programmes. The allocation may also be used for all or part of the production costs of internet advertising that is published during the election period, or both before and during the election period. A party can also use its own funds (within their election expenditure limit) on production costs for all advertising.

## Consultation

17. Prior to making the allocation decision, the Commission invited submissions from parties as to how the Commission should apply the criteria in section 78(2).
18. Seventeen parties made written submissions. Fourteen parties requested the opportunity to make oral submissions in accordance with section 77. Hearings were held by the Commission remotely using teleconference and videoconference on 7 and 8 May. Each party was provided the opportunity to speak to their written submission with time for questions, discussion and points of clarification.
19. The Commission has considered all parties' written and oral submissions in making this decision.

## Allocation criteria

20. Section 78(2) sets out the criteria to which the Commission must have regard when determining the allocation.
21. The criteria are:
  - (a) the number of persons who voted at the preceding general election for a party and its candidates, and
  - (b) the number of persons who voted at any by-election held since the preceding general election for any

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<sup>4</sup> Section 70, Broadcasting Act 1989

<sup>5</sup> The wording of this paragraph has been amended since the original Broadcasting Allocation Decision of 29 May 2020 to clarify that the allocation can only be used for internet placement costs during the election period.

candidate for the party, and

- (c) the number of members of Parliament who were members of that party immediately before the dissolution or expiration of Parliament, and
- (d) any relationships that exist between a party and any other party, and
- (e) any other indications of public support for a party, such as the results of public opinion polls and the number of persons who are members of the party, and
- (f) the need to provide a fair opportunity for each party to convey its policies to the public by the broadcasting of election programmes on television.

22. As stated in previous allocation decisions, the allocation of money is not a simple mathematical calculation and involves a difficult balancing exercise. It requires the Commission to take into account each and all of the criteria, some of which are quantifiable, some of which are qualitative, some of which are based on past performance, and some of which are based on more recent indicators. The statute requires the Commission to exercise its judgement in applying all the criteria and does not indicate any weighting.
23. In considering the requirement for fairness and in exercising its discretion, the Commission has taken into account the statutory context that there is a prohibition on parties using their own money to buy broadcast advertising time. The Commission has given particular emphasis to the New Zealand Bill of Rights Act 1990 and freedom of expression. The Commission has also considered the *Alliance Party v The Electoral Commission and Others [CA639/2008]* decision where the Court of Appeal declared that the Act required every party to be given an allocation of time. Although time is no longer being allocated, the criteria remain the same. Although the Court of Appeal's observation related only to time, in previous allocations the Commission has treated it as also applying to allocations of money. Section 78(2)(f) requires the Commission to have regard to the need to provide parties with a fair opportunity to convey their policies to the public.

### The number of persons who voted at the preceding general election for a party and its candidates

24. The Commission has considered the following percentages of total votes cast for eligible parties and candidates of that party at the 2017 General Election as recorded in the official election results published by the Commission. The Commission notes that not all eligible parties contested the 2017 General Election.

2017 General Election Results for Eligible Parties		
Parties	% of total party votes	% of total candidate votes
National Party	44.45	44.05
Labour Party	36.89	37.88
New Zealand First Party	7.20	5.45
Green Party	6.27	6.91
The Opportunities Party (TOP)	2.44	1.03
Māori Party	1.18	2.11
ACT New Zealand	0.50	1.01
Aotearoa Legalise Cannabis Party	0.31	0.16
New Conservative <sup>6</sup>	0.24	0.24
NZ Outdoors Party	0.06	0.05
Social Credit	0.03	0.07
Internet Party	0.02	N/A <sup>7</sup>

6 New Conservative contested the 2017 General Election under its former name "The Conservative Party of New Zealand"

7 Internet Party did not stand any electorate candidates and contested the party vote only

**The number of persons who voted at any by-election held since the preceding general election for any candidate for the party**

25. Since the 2017 General Election, there has been one by-election held in the Northcote electorate. The Commission has taken into account the following percentages of candidate votes by parties that contested that by-election while bearing in mind that by-elections may not necessarily indicate a party’s nationwide support. They are a candidate contest within a single electorate, there is no party vote, not all parties contest them, and turnout can be lower.

2018 Northcote By-Election Results for Eligible Parties		
Parties	Votes	% of Total
National Party	10,566	50.74
Labour Party	9,256	44.45
Green Party	615	2.95
ACT Party	166	0.80
Aotearoa Legalise Cannabis Party	89	0.43
Social Credit	31	0.15

**The number of members of Parliament who were members of a party immediately before the dissolution or expiration of Parliament**

26. The Commission has taken into account the number of current members of Parliament (‘MPs’) for each eligible party which has MPs at the date of this decision and the percentage those numbers represent of the total MPs in Parliament.

Number and Percentage of Members of Parliament		
Eligible Party	# of MPs	# of MPs as %
National Party	55	45.83
Labour Party	46	38.33
New Zealand First	9	7.50
Green Party	8	6.67
ACT Party	1	0.83
Independent - Not Party Affiliated <sup>8</sup>	1	0.83

**Any relationships that exist between a party and any other party**

27. Under section 78(2)(d) of the Act, the Commission is required to have regard to any relationships that exist between political parties.

28. The Green Party noted that it has a Confidence and Supply agreement with the Labour Party but that they will be competing against each other (and other parties) in electorates and for the party vote.

29. The Labour Party also noted its Coalition and Confidence and Supply agreements with NZ First and the Green Party but noted that these both end with the election, that it does not have any relationships with other political parties for campaigning purposes, and that it will be competing with all other parties, including its current partners in Government, to secure the highest possible number of party and candidate votes.

30. Direct Democracy New Zealand notified informal relationships with several of the other parties including open communications and attendance at other parties’ events.

<sup>8</sup> Jami-Lee Ross is a current member of Parliament. Mr Ross was elected as a National Party candidate for Botany and is now an independent/not party affiliated. Mr Ross has applied for the broadcasting allocation on behalf of the Advance New Zealand Party, an unregistered party.

31. No other parties notified that they had any relationships with any other parties that the Commission might need to take into account in allocating money.

### Any other indications of public support for a party such as the results of public opinion polls and the number of persons who are members of the party

32. Under this criterion, the Commission must take into account indications of public support for a party. The Act provides examples such as public opinion poll results and party membership numbers but also allows the Commission discretion to look at other indications of public support such as social media following.
33. The Commission has taken account of the results of opinion polls conducted by One News Colmar Brunton and Newshub Reid Research since the 2017 General Election.

Averages of Opinion Poll Results for Each Party <sup>9</sup>									
Opinion Poll (date range of polls)	National Party %	Labour Party %	Green Party %	NZ First %	ACT Party %	Māori Party %	New Conservative %	The Opportunities Party %	Aotearoa Legalise Cannabis Party %
Colmar Brunton (Dec 2017 - May 2020)	43.4	44.0	5.9	4.1	0.9	0.9	0.4	0.5	0.1
Reid Research (Jan 2018 - May 2020)	40.9	46.3	5.8	3.2	0.9	0.7	0.9	0.7	N/A

34. The Commission also considered a further public opinion poll conducted by Stuff and YouGov. The Commission notes that this is the only poll conducted by Stuff and YouGov and that there is no history of poll data to compare and analyse. Some parties provided their own analysis of these public opinion polls or provided their own opinion poll data in their submissions which the Commission has considered.

Opinion Poll (date of poll)	National Party %	Labour Party %	Green Party %	NZ First %	ACT Party %	Māori Party %	New Conservative %	The Opportunities Party %	Aotearoa Legalise Cannabis Party %
YouGov (Nov 2019)	38	41	8	8	2	1	N/A	1	N/A

35. The Commission sought information from eligible parties on their membership numbers. Where this has been provided, it has been on a confidential basis. However, not all parties provided their membership numbers making a direct comparison between parties difficult. Nevertheless, where it was provided it was considered. Many parties also pointed to the changing nature of party memberships and the difficulty of relying on party membership numbers as indications of public support. Parties pointed to the tendency of membership numbers to fluctuate in an election year. Some parties consider membership is an outdated concept as fewer people are willing to become a party member and instead opt to support a party or participate in other ways such as volunteering.

<sup>9</sup> Only the parties that had results in the opinion polls are listed

36. The Commission acknowledges the increased usage of social media by parties on a variety of platforms to build their profile, communicate their messages and engage with the public. The Commission received and considered the number of likes, followers and subscribers that each party has on differing social media platforms such as Facebook, Twitter, Instagram, YouTube and LinkedIn, and as provided by some parties. However, the Commission acknowledges that such an examination can only capture a moment in time and that numbers often fluctuate. People can 'like' or 'follow' a party for one or more reasons and are not required to make a comparative choice when doing so. The numbers may also reflect the types of social media that a party chooses to utilise, the emphasis they place on this form of engagement and the demographic of a party. As social media becomes more of a feature in political engagement, this data may become more important in future allocations.
37. Parties submitted on a range of other indicators of public support including other poll data or survey results showing support of policy, local election results, the longevity of parties, media coverage, attendance at public meetings and numbers of volunteers. These matters have been considered.

### **The need to provide a fair opportunity for each party to convey its policies to the public by the broadcasting of election programmes on television**

38. The Commission must provide a 'fair opportunity' to each party to convey its policies to the public, acknowledging that the allocation effectively acts as a cap on the broadcasting time that a party can access because the Act prevents a party from using its own funds to purchase broadcasting time on television and radio.
39. The Commission notes that this criterion only relates to a party's opportunity to convey its policies on television, though this is not the only medium for which the allocation may be used. In reaching its decision, the Commission has considered the cost of advertising on television but acknowledges that a party is free to use the allocation in any of the mediums it sees best.
40. The overall size of the fund available for allocation is also an important factor. In 2017, Parliament increased the size of the monetary allocation from \$3,283,250 to \$4,145,750 (including GST) and removed free time for opening and closing addresses. The Commission has taken into account that parties no longer have the opportunity of reaching the public through the nationwide broadcasting of their opening and closing address on television and radio.
41. The Commission acknowledges the amounts allocated to the smaller parties in this and previous decisions may, arguably, be larger than a strict reflection of what their election results and other indications of public support under the criteria section 78(2)(a)-(e) might have suggested. Nonetheless, the Commission must ensure that all parties, including the smaller parties, are afforded a meaningful opportunity to publicise their policies to the public in accordance with the fairness criteria and freedom of expression.
42. On the question of fairness, smaller parties highlighted the objective of the MMP electoral system to deliver a more representative Parliament and the relative difficulty they face getting opportunities to communicate their policies compared to parties in Parliament who have access to administrative support and more media coverage by virtue of having one or more MPs.
43. Parties have also continued to highlight the importance of reaching electors in te reo Māori and other languages, as well as the ability to communicate across geographically large electorates. The Commission regards those matters as relevant to the allocation in considering how to ensure that all parties have that fair opportunity to communicate to all voters.

### **Categories**

44. In the exercise of its discretion, the Commission considers it appropriate to continue the approach taken in previous allocation decisions of classifying parties into categories for the determination of the allocation of

broadcasting money. As the broadcasting allocation requires the distribution of a finite amount of money, the Commission has to consider what percentage of the total each party should be allocated.

45. The Commission has assigned parties to seven categories. In deciding what category to place a party, the Commission has given due consideration to each and all of the criteria as is required under the Act.

## Allocation of money

46. The Commission has decided that the requirements of section 78(2) will be met by making the following allocations of money to each of the parties in each category (amounts are inclusive of GST).

Category	Political Party	Allocation (%)	Allocation (\$)¹⁰
Category 1	National Party	31	\$1,285,182
Category 2	Labour Party	29	\$1,202,267
Category 3	Green Party NZ First	7.5	\$310,931
Category 4	ACT Māori Party The Opportunities Party (TOP)	3.5	\$145,101
Category 5	Advance New Zealand Party Aotearoa Legalise Cannabis Party New Conservative	1.5	\$62,186
Category 6	Democratic Party for Social Credit NZ Outdoors Party Sustainable New Zealand Party Vision New Zealand	1.25	\$51,821
Category 7	Direct Democracy New Zealand Future Party Internet Party ONE Party Oytcho-Visha	1	\$41,457

## Conditions

47. The Commission is empowered by section 79(1)(b) to include in its decision conditions concerning the manner in which any political party is to spend its allocation.
48. The Commission makes the following condition - only registered parties may enter into contractual commitments to use money that has been allocated to them in this decision.

## Other matters

### Variation to the allocation

49. Under section 80 in specified circumstances the Commission can vary the allocations made without further consultation. These circumstances include:
- a party not accepting an allocation
  - a party ceasing to be registered. Parties currently registered must retain their registration to continue to be eligible. To be eligible for an allocation, all parties must be registered by 12 August
  - a party failing to submit a list of candidates by 20 August

10 Amounts have been rounded down to the nearest whole number



- a party failing to comply with the conditions imposed in this decision, or
- a significant change in the relationship between a party that has received an allocation and any other party.

### Bars to variation of allocation

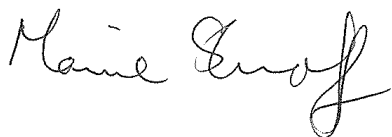
50. Section 80(5) prohibits the Commission from varying an allocation if a party has wholly or partly spent its allocation, unless the registration of the party is cancelled or the party secretary has failed to submit a list of candidates.

### Further information

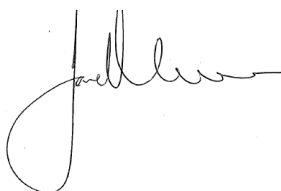
51. Further information regarding the use of the allocation is available in the *Party Secretary Handbook – General Election and Referendums 2020* which is available at [www.elections.nz](http://www.elections.nz) and further details about the process for payment of invoices will be provided to eligible parties.

Dated 29 May 2020

Signed for and on behalf of the Commission:



Marie Shroff CVO CNZM  
Chair



Jane Meares  
Deputy Chair



Alicia Wright  
Chief Electoral Officer