

## 2023 BROADCASTING ALLOCATION

The following table sets out the allocation of money to eligible political parties for the broadcasting of election programmes and election advertising for the 2023 General Election.

Political Party	Allocation (inclusive of GST)
New Zealand Labour Party	\$1,243,724
The New Zealand National Party	\$1,036,438
ACT New Zealand	\$352,389
The Greens, The Green Party of Aotearoa/New Zealand	\$352,389
Māori Party	\$198,996
New Zealand First Party	\$165,830
New Conservative	\$132,664
The Opportunities Party (TOP)	\$132,664
Aotearoa Legalise Cannabis Party	\$66,332
DemocracyNZ	\$66,332
Freedoms New Zealand	\$66,332
Heartland New Zealand Party	\$66,332
NZ Outdoors & Freedom Party	\$66,332
ONE Party	\$66,332
Animal Justice Party Aotearoa NZ*	\$66,332
Protect and Prosper New Zealand*	\$66,332
Vision New Zealand**	
<b>Total allocated</b>	<b>\$4,145,750 incl GST</b>
<b>Total available</b>	<b>\$4,145,750 incl GST</b>

\* These parties are currently unregistered.

\*\* A component party of Freedoms New Zealand which in accordance with section 79(3) of the Broadcasting Act 1989 is not entitled to a separate allocation.

## **Introduction**

1. This document sets out the Electoral Commission ('the Commission') Te Kaitiaki Take Kōwhiri decision on the broadcasting allocation for the 2023 General Election.

## **The Commission's role**

2. As an independent Crown entity, the Commission works independently of the government in carrying out its functions. Our purpose is to support people to trust, value, understand and take part in Aotearoa New Zealand's democracy. Our statutory objectives are 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>
3. 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 publish election advertising during the election period for a general election ('the broadcasting allocation').
4. On 19 January 2023, the then Prime Minister announced that the 2023 General Election would be held on Saturday 14 October.
5. The Commission commenced the allocation process on 1 February 2023 by issuing a Gazette notice calling on parties to give notice of their eligibility. Timeframes for written submissions and oral hearings were set with a view to issuing the allocation decision by 12 May in order to give eligible parties as much time as practicable to plan and use the allocation.
6. This written decision records the reasons for the Commission's broadcasting allocation decision.

## **Amount of public money appropriated**

7. On 17 October 2022, in accordance with section 74 of the Act, the Minister of Justice notified the Commission that the amount of money appropriated by Parliament for political party broadcasting election programmes and election advertising for the 2023 General Election is \$3,605,000 plus GST (\$4,145,750 incl GST).
8. This is the same amount as was appropriated for the 2017 and 2020 elections.

## **Eligibility**

9. Section 78(1) of the Act 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.

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<sup>1</sup> Section 4C, Electoral Act 1993

<sup>2</sup> Unless otherwise stated, references in this decision to sections or Parts are to sections or Parts of the Broadcasting Act 1989.

10. On 1 February, the Commission advertised in the Gazette calling for parties to give notice by 1 March whether they considered themselves eligible for an allocation of broadcasting money. Seventeen parties gave notice that met the requirements: fifteen registered parties and two parties that are currently unregistered.
11. An unregistered party can give notice in anticipation that it believes it will be registered by the date of dissolution of Parliament (8 September). Parties that are not registered by the date of dissolution, are no longer eligible for an allocation, and the amount allocated to them in this decision will be available for reallocation.
12. Because only registered parties are eligible, a condition of this initial allocation is that only registered parties can enter contractual commitments to use any of the money that has been allocated to them in this decision.

### **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 (10 September – 13 October) and are prohibited from television and radio advertising at any other time.<sup>3</sup> The Act prohibits parties from using their own money to buy time to broadcast television and radio advertising.
15. The allocation may be used for all or part of the production costs in relation to advertising on the internet before the election period so long as it is published both before and during the election period, or for placement costs during the election period. Parties must use their own funds for election advertisements on the internet if they are only published before the election period.
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. Section 77 of the Act states that the Commission must give all eligible parties the opportunity to meet with the Commission and be heard by the Commission.
18. Prior to any decision-making, the Commission ensured that all of the eligible parties had opportunities to make submissions on how the Commission should apply the criteria in section 78(2), the amount of funding that they should receive, their reasoning as well as any other matters they wished to raise.

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<sup>3</sup> Section 70, Broadcasting Act 1989

19. All seventeen parties made written submissions. Fourteen parties also requested the opportunity to make oral submissions. Hearings were held by the Commission with parties having the choice whether to be heard in person or by videoconference on 13 and 14 April.
20. The Commission has considered all parties' written and oral submissions in making this decision.

### **Allocation criteria**

21. Section 78(2) of the Act sets out the criteria to which the Commission must have regard when determining the allocation.
22. 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 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.
23. Some parties' submissions to the Commission questioned the existing broadcasting statutory scheme and the broadcasting allocation criteria. These matters are outside the scope of what we can consider as part the allocation process for the 2023 election. An independent electoral law review is currently underway which includes Part 6 of the Broadcasting Act and the broadcasting allocation within its terms of reference. No legislative changes have been made to the broadcasting allocation criteria since the previous allocation.
24. A number of the statutory criteria require an assessment of past performance, acknowledging parties' previous electoral success, but they also require the Commission to have regard to the need to "provide a fair opportunity for each political party ... to convey its policies to the public". Rather than being a simple mathematical exercise, the legislation provides no guide to weighting and requires the Commission to use its judgment when considering all of the criteria.
25. In considering the requirement for fairness and in exercising its discretion, the Commission acknowledges the importance of the statutory context that prohibits parties using their own money to buy broadcast advertising time. The Commission has continued to have particular regard to the New Zealand Bill of Rights Act 1990, freedom of expression, and judicial rulings confirming that providing parties with a fair opportunity to convey their policies to the public requires every party to be given an allocation.<sup>4</sup>

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<sup>4</sup> Section 78(2)(f), Broadcasting Act 1989. In *Alliance Party v The Electoral Commission and Others* [CA639/2008], the Court of Appeal declared that every party must be given an allocation of time. Although time is no longer being allocated, the criteria remain the same and in previous allocations the Commission has treated it as also applying to allocations of money.

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

26. The Commission has considered the following percentages of total votes cast for eligible parties and their electorate candidates from the Official Results for the 2020 General Election, noting that not all parties now eligible for the allocation contested the 2020 General Election.<sup>5</sup>

<b>2020 General Election results for eligible parties</b>		
<b>Parties</b>	<b>% total party votes</b>	<b>% total candidate votes</b>
New Zealand Labour Party	50.01	48.07
The New Zealand National Party	25.58	34.13
The Greens, The Green Party of Aotearoa/New Zealand	7.86	5.74
ACT New Zealand	7.59	3.46
New Zealand First Party	2.60	1.07
The Opportunities Party (TOP)	1.51	0.89
New Conservative	1.48	1.76
Māori Party	1.17	2.15
Aotearoa Legalise Cannabis Party	0.46	0.28
ONE Party	0.28	0.24
Vision New Zealand	0.15	0.08
NZ Outdoors & Freedom Party	0.11	0.28
Heartland New Zealand Party	0.03	0.30

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

27. Since the 2020 General Election, there have been two by-elections held in Tauranga and Hamilton West. The Commission has had regard to the following percentages of candidate votes by parties that contested these by-elections 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.<sup>6</sup>

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<sup>5</sup> The party and candidate vote tables only include the votes of eligible parties and their candidates, not all parties and candidates who contested the 2020 general election.

<sup>6</sup> The by-election candidate vote tables only include the votes of candidates for eligible parties not all candidates who contested the by-elections.

### Candidate votes – Tauranga by-election, 18 June 2022

2022 Tauranga by-election results for eligible parties		
Parties	Votes	% of Total
The New Zealand National Party	11613	55.93
New Zealand Labour Party	5259	25.33
ACT New Zealand	2133	10.27
NZ Outdoors & Freedom Party	1030	4.96
New Nation Party	260	1.25
ONE Party	182	0.88
Aotearoa Legalise Cannabis Party	117	0.56
New Conservative	103	0.50

### Candidate votes – Hamilton West by-election, 10 December 2022

2022 Hamilton West by-election results for eligible parties		
Parties	Votes	% of Total
The New Zealand National Party	6974	46.29
New Zealand Labour Party	4541	30.14
ACT New Zealand	1515	10.06
The Opportunities Party (TOP)	357	2.37
NZ Outdoors & Freedom Party	130	0.86
New Conservative + ONE Party	118	0.78
Aotearoa Legalise Cannabis Party	76	0.50
Vision New Zealand	61	0.40

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

28. 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<sup>7</sup>:

**Number and Percentage of Members of Parliament**

Eligible parties	MPs	MPs as %
<b>New Zealand Labour Party</b>	62	52.10
<b>The New Zealand National Party</b>	34	28.57
<b>ACT New Zealand</b>	10	8.40
<b>The Greens, The Green Party of Aotearoa/New Zealand</b>	9	7.60
<b>Māori Party</b>	2	1.68

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

29. Under section 76 of the Act, parties' notices of qualification must provide details of any relationships that may exist between the party and any other party in New Zealand that the Commission may need to take into account in allocating money to political parties. Under section 78(2)(d) of the Act, the Commission is required to have regard to any relationships that exist between political parties.
30. The Green Party and Labour Party noted that they have a cooperation agreement that is limited to while they are in Government but that they will be competing against each other (and other parties) in electorates and for the party vote.
31. Some parties noted the possibility that other parties may yet enter into an arrangement as either an umbrella or as a component party, but no formal arrangements have been made at this stage.
32. In the recent Hamilton West by-election, Rudi Du Plooy stood for an unregistered party – the New Conservative + One Party.
33. Freedoms New Zealand is a registered umbrella party with two registered party component parties - Vision New Zealand and the New Nation Party.

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<sup>7</sup> The numbers of MPs for each party reflects changes during the parliamentary term including, the change resulting from the Hamilton West By-election on 10 December 2022; the resignation of the MP for Mt Albert which came into effect on 15 April 2023; the Speaker informing the House that under Standing Order 35(5) from 3 May 2023 the MP for Ikaroa Rāwhiti is regarded as an independent member for parliamentary purposes [Daily progress for Wednesday, 3 May 2023 - New Zealand Parliament \(www.parliament.nz\)](https://www.parliament.nz/daily-progress-for-wednesday-3-may-2023-new-zealand-parliament); and the Speaker informing the House that under Standing Order 35(5) from 8 May 2023 Dr Kerekere is regarded as an independent member for parliamentary purposes [Daily progress for Tuesday, 9 May 2023 - New Zealand Parliament \(www.parliament.nz\)](https://www.parliament.nz/daily-progress-for-tuesday-9-may-2023-new-zealand-parliament).

34. Two parties (Freedoms New Zealand and Vision New Zealand) separately gave notice to the Commission by 1 March 2023 of their eligibility for an allocation. The New Nation Party did not give notice of their eligibility for an allocation. We understand that Freedoms New Zealand will contest the party vote with candidates from all three parties on the list, and that component parties will contest the electorates under their own party names.
35. Each of the Freedoms New Zealand Party and Vision New Zealand are eligible parties for an allocation. However, section 79(3) precludes the Commission allocating money to individual parties if the party has received an allocation as part of a group of related political parties. For that reason, Freedoms New Zealand has been given an allocation as part of this decision. Accordingly, Freedoms New Zealand's component party (Vision New Zealand) has not received an allocation. However, Vision New Zealand and New Nation Party results at the previous general election (if applicable), by-elections, polling and support have been taken into account when considering Freedoms New Zealand's overall allocation.
36. No other parties notified that they had any relationships with any other parties that the Commission might need to consider in allocating money.
37. If circumstances change, the Commission will consider varying its overall allocations in accordance with section 76A.

***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***

38. Under this provision, the Commission must consider 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.
39. Unlike some of the other criteria, for example, number of MPs and votes, this criterion does not specify the period at which support is to be measured. The Commission has taken account of the results of opinion polls conducted by One News Colmar Brunton/Kantar, MediaWorks/Newshub Reid Research, and Roy Morgan including current polling as well as poll results since the 2020 General Election.



### Averages of Opinion Poll Results for Each Party<sup>8</sup>

Opinion Poll (date range of polls)	Labour %	National Party%	Green Party%	ACT%	NZ First %	Māori Party%	New Conservative %	The Opportunities Party %	Aotearoa Legalise Cannabis Party%	NZ Outdoors and Freedoms Party%	Vison New Zealand%	Democracy NZ%	Heartland New Zealand&	ONE Party%
<b>Colmar Brunton/Kantar (Dec 2020 – Mar 2023)</b>	39.8	32.9	8.8	10.1	2.3	1.8	1.0	1.3	0.4	0.3	0.2	0.1	0.1	0.1
<b>Reid Research (Jul 2021 – Jan 2023)</b>	39.8	34.1	8.6	10.4	2.5	2.0	0.9	1.2	-	-	-	-	-	-
<b>Roy Morgan (Nov 2020 – May 2023)</b>	36.3	31.6	11.3	12.0	2.4	2.5	-	1.8	-	-	-	-	-	-

40. 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 so a direct comparison between parties could not be made. Nevertheless, where it was provided it was considered. Parties also talked about all the different channels that they use to engage with electors that also indicate measures of support, including social media, email lists, public meetings, and volunteers. These matters have been considered.

41. The Commission acknowledges the increased use 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 followers that each party has on differing social media platforms such as Facebook, Twitter, TikTok, Instagram and YouTube, and email lists as provided by some parties. People can ‘follow’ a party or sign up to receive emails for one or more reasons. For this reason, although these numbers are a measure of engagement, they are not always a straightforward measure of support. 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 demographics of a party.

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<sup>8</sup> Only the parties that had results in the opinion polls are listed.

***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***

42. The Commission must provide a 'fair opportunity' to each party to convey its policies to the public. The allocation caps 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.
43. 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 on radio and online as it sees best.
44. 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. This is the third election at which the same amount of money has been available and there have been significant increases in costs during that time. In particular, the Commission notes that the cost of television advertising (as well as radio and internet advertising) has increased significantly over the last three years. Consequently, in category 7, the Commission has allocated amounts to the smaller parties that are, proportionally, slightly larger than in previous allocation decisions. The Commission must ensure that all parties, including the smaller parties, are afforded a meaningful opportunity to convey their policies to the public in accordance with the fairness criterion and freedom of expression.
45. 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. Smaller parties noted that parties in Parliament have access to administrative support and more media coverage by virtue of having one or more MPs.
46. Parties have also continued to highlight the importance of reaching electors in te reo Māori, an official language of New Zealand, 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 a fair opportunity to communicate to all voters.

**Categories**

47. 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 regards it appropriate to consider what percentage of the total each party should be allocated. Parties' submissions generally supported the Commission's practice of placing eligible parties into categories.
48. In deciding what category to place a party, the Commission has given due consideration to each and all of the criteria as well as the written and oral submissions of the parties.
49. The Commission has assigned parties to seven categories.

## Allocation of money

50. 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 (\$)
<b>Category 1</b>	New Zealand Labour Party	30	\$1,243,724
<b>Category 2</b>	The New Zealand National Party	25	\$1,036,438
<b>Category 3</b>	ACT New Zealand The Greens, The Green Party of Aotearoa/New Zealand	8.5	\$352,389
<b>Category 4</b>	Māori Party	4.8	\$198,996
<b>Category 5</b>	New Zealand First Party	4	\$165,830
<b>Category 6</b>	New Conservative The Opportunities Party (TOP)	3.2	\$132,664
<b>Category 7</b>	Aotearoa Legalise Cannabis Party DemocracyNZ Freedoms New Zealand Heartland New Zealand Party NZ Outdoors & Freedom Party ONE Party Protect and Prosper New Zealand Animal Justice Party Aotearoa NZ	1.6	\$66,332

## Conditions

51. 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.

52. The Commission makes the following conditions:

- Only registered parties may enter contractual commitments to use money that has been allocated to them in this decision. This ensures that parties that have applied for the allocation before they are registered cannot use any of the allocation until they are fully eligible for an allocation.
- Only registered parties that have completed their latest annual statutory declaration under section 71A of the Electoral Act 1993 may enter contractual commitments to use money that has been allocated to them in this decision.

## Other matters

### *Variation to the allocation*

53. Under section 80 of the Act, in specified circumstances the Commission may 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, a party must be registered on 8 September 2023,
- a party failing to submit a list of candidates by 14 September,
- 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*

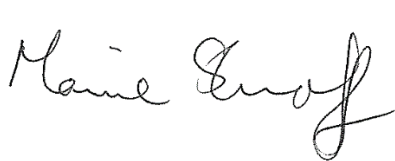
54. Section 80(5) prohibits the Commission from varying an allocation if a party has wholly or partly spent its allocation, unless the registration of the party is cancelled or the party secretary has failed to submit a list of candidates.

### Further information

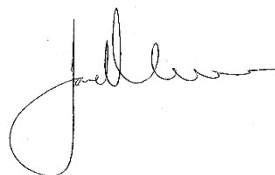
55. Further information regarding the use of the allocation is available at [www.elections.nz](http://www.elections.nz) and further details about the rules and the processes for payment of invoices will be provided to eligible parties.

Dated 12 May 2023

Signed for and on behalf of the Commission:



Dame Marie Shroff DNZM CVO  
Chair  
Heamana



Jane Meares  
Deputy Chair  
Heamana Tuarua



Karl Le Quesne  
Chief Electoral Officer  
Āpiha Pōti Matua