

2017 BROADCASTING ALLOCATION - VARIATION

1. Section 80 of the Broadcasting Act 1989 (the Act), gives the Commission power to vary its original allocation of money to political parties for the broadcasting of election programmes, but only in accordance with section 80. Section 80 reads:

80 Electoral Commission may vary allocation

- (1) The Electoral Commission may vary a decision made under section 79 if a party to which an amount of money is allocated—
 - (a) does not accept that allocation; or
 - (b) ceases to be registered; or
 - (c) fails to submit a list of candidates for election under section 127 of the Electoral Act 1993; or
 - (d) fails to comply with any conditions imposed by the Electoral Commission under section 79(1)(b).
 - (2) The Electoral Commission may also vary a decision made under section 79 if there has been a significant change in the relationship between a party that has received an allocation of money and any other party.
 - (3) The Electoral Commission may vary a decision made under section 79 without affording to any party the opportunity to—
 - (a) meet with the Electoral Commission; or
 - (b) comment on the proposed variation.
 - (4) In varying a decision made under section 79, the Electoral Commission must have regard to—
 - (a) the views of parties received in the course of consultations undertaken in accordance with section 77; and
 - (b) the matters specified in sections 78 and 79(3).
 - (5) If an allocation of money made to a party has been spent (in whole or in part), the Electoral Commission must not vary that allocation unless—
 - (a) the registration of the party is cancelled under section 70 of the Electoral Act 1993; or
 - (b) the party secretary has failed to submit a list of candidates for election under section 127 of the Electoral Act 1993.
2. The Universal Party, GOdsownNZ, 1Law4All, Coalition for the Common Good, Alliance Party, The Expatriate Party of New Zealand and the New Zealand Independent Parliament (together referred to as the “ineligible parties”) were given an allocation in the Electoral Commission’s Broadcasting Allocation Decision of 26 May 2017. The ineligible parties have not been registered as political parties by 22 August 2017 (dissolution of Parliament) in accordance with Part 4 of the Act so cannot now receive an allocation of money for the broadcasting of election programmes because section 78(1)(b) of the Act only permits making allocations to political parties that are registered parties at the time of dissolution or expiry of Parliament¹.
 3. The number of parties continuing to be eligible for an allocation has therefore dropped from 22 to 15 and the total of \$261,310, previously allocated to the ineligible parties, is therefore available for redistribution.

¹ The New Zealand People’s Party was registered on 30 June 2017. However, the New Zealand People’s Party is not eligible to receive an allocation because it did not give the required notice under section 78(1)(a).

4. At this stage of the electoral cycle, four weeks before election day, in fairness to all those receiving an allocation, the Commission considers its power to vary the allocation includes the ability to maintain or increase, but not reduce, any allocation. Some of the parties have notified the Commission that they have already spent some of their allocation.
5. The Commission has reconsidered all of the statutory criteria under section 78(2). Although there have been recent changes in the public opinion polls, these results do not affect the Commission's overall decision which considers all of the statutory criteria and takes average poll data for the period from 2014 to 2017 as indicators of support under section 78(2)(e).
6. The NZ Outdoors Party has been placed in category 8 to reflect the fact that it is now a registered party.
7. On 25 June 2017, the party secretary for the Conservative Party of New Zealand wrote to the Commission to make an appeal against the 26 May decision. The party secretary submitted various reasons why, based on the statutory criteria, the party should have been placed in Category 6 or in its own category between categories 6 and 7. On 10 July 2017, the Commission advised the party secretary that:
 - it had fully considered the issues raised by the Conservative Party of New Zealand in making its 26 May decision;
 - the issues raised were not grounds for a variation under s 80; and
 - there is no right of appeal under Part 6.
8. In light of all of the statutory criteria, the Commission has decided to allocate the funds previously allocated to the ineligible parties proportionately to all of the eligible parties based on the adjusted percentages set out in paragraph 49 of its Broadcasting Allocation Decision of 26 May 2017.
9. The Commission may consider a further variation of money to the then eligible political parties after noon on 28 August 2017 which is the deadline for the submission of party lists for the 2017 General Election.
10. The following table sets out the revised allocations to those parties that are eligible for the broadcasting allocation for the 2017 General Election. Parties are reminded that the amounts allocated by the Commission include GST.

Variation of Broadcasting Allocation Decision for the 2017 General Election

	Political Party	Original Decision		Variation	
		Amount	%	Amount	%
Parties eligible for share of broadcasting allocation	The New Zealand National Party	\$ 1,285,825	31.02%	\$ 1,370,860	33.07%
	New Zealand Labour Party	\$ 1,036,956	25.01%	\$ 1,105,533	26.67%
	The Greens, The Green Party of Aotearoa/New Zealand	\$ 497,739	12.01%	\$ 530,656	12.80%
	New Zealand First Party	\$ 394,043	9.50%	\$ 420,102	10.13%
	Māori Party	\$ 124,435	3.00%	\$ 132,664	3.20%
	ACT New Zealand	\$ 93,326	2.25%	\$ 99,498	2.40%
	United Future New Zealand	\$ 93,326	2.25%	\$ 99,498	2.40%
	Conservative Party of New Zealand	\$ 51,848	1.25%	\$ 55,277	1.33%
	Internet Party	\$ 51,848	1.25%	\$ 55,277	1.33%
	MANA Movement	\$ 51,848	1.25%	\$ 55,277	1.33%
	Ban1080	\$ 41,478	1.00%	\$ 44,221	1.07%
	Aotearoa Legalise Cannabis Party	\$ 41,478	1.00%	\$ 44,221	1.07%
	New Zealand Democratic Party for Social Credit	\$ 41,478	1.00%	\$ 44,221	1.07%
	The Opportunities Party (TOP)	\$ 41,478	1.00%	\$ 44,221	1.07%
	NZ Outdoors Party	\$ 37,330	0.90%	\$ 44,221	1.07%
Parties <u>not</u> eligible for allocation	Universal Party	\$ 37,330	0.90%		
	GOdsownNZ	\$ 37,330	0.90%		
	1Law4All	\$ 37,330	0.90%		
	Coalition for Common Good	\$ 37,330	0.90%		
	Alliance Party	\$ 37,330	0.90%		
	The Expatriate Party of New Zealand	\$ 37,330	0.90%		
	New Zealand Independent Parliament	\$ 37,330	0.90%		
TOTAL (inclusive of GST)		\$ 4,145,746	100.00%	\$ 4,145,746	100.00%

Dated: 23 August 2017

Signed for and on behalf of the Commission:



Hon Sir Hugh Williams QC
Chair



Kristy McDonald QC
Deputy Chair



Alicia Wright
Chief Electoral Officer