

Submission on discussion document: Adjustments to the climate-related disclosures regime

Your name and organisation

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Responses to discussion document questions

Please enter your responses in the space provided below each question.

Chapter 2: Reporting Thresholds	
1	Do you have any information about the cost of reporting for listed issuers? The cost of compliance with the climate-related disclosures regime is a significant issue for NZME. During the last reporting period, NZME estimates it has spent in the range of \$350,000 - \$430,000 to ensure compliance with the climate-reporting regime. This includes internal resourcing, which diverted significant resources away from other aspects of NZME's business. These costs are significant, particularly in the context of the low listed issuer thresholds (discussed further below) and the increasingly challenging market. This cost represents around 5% of net profit after tax. Given the excessive costs involved in ensuring compliance with the regime (which far exceed estimated costs for compliance with the climate-reporting regime in Australia), NZME is of the view that companies of its size and value should not be captured by the climate-related disclosures regime in New Zealand. NZME also notes that it is one of only two New Zealand media entities which are currently listed, the other being SKY Network Television Ltd (SKY). NZME's key competitors, including MediaWorks, Stuff and TradeMe are not required to make climate-related disclosures. This arbitrarily skews the competitive landscape and, given the significant compliance costs, leaves NZME at a substantial competitive disadvantage. Further, NZME and SKY are under the same compliance obligations under the climate-related disclosures regime notwithstanding that NZME's market capitalisation is \$201 million compared to SKY's is \$386 million. The excessive compliance costs in New Zealand means that the single approach applied to all listed issuers captured by the climate-related disclosures regime inevitably disproportionately disadvantages smaller listed issuers, negatively impacting their ability to compete in their respective industries.
2	Do you consider that the listed issuer thresholds (and director liability settings) are a barrier to listing in New Zealand?
3	When considering the listed issuer reporting threshold, which of the three options do you prefer, and why?

	To reduce disproportionate costs for smaller listed issuers and to improve competitiveness (including with the Australian market), NZME strongly supports legislative reform to adjust the current threshold for listed issuers. The status quo should not be maintained. NZME prefers Option 2 which would see the listed issuer reporting threshold increased to \$550 million in market capitalisation. This option ensures reporting entities can absorb the significant costs associated with preparing compliant climate statements in New Zealand without this having a disproportionate negative impact. Option 2 would still see 54 of the largest New Zealand companies releasing climate statements. This option squarely addresses the objective of ensuring the right entities are reporting so the climate-related disclosures regime encourages the transition to a low emissions economy but does not become a barrier to doing business in New Zealand. Further, increasing the listed issuer threshold to \$550 million in market capitalisation ensures the New Zealand regime is more-closely aligned with the Australian regime, and removes the current barrier which makes listing in Australia an objectively more attractive option for any company considering whether to list in Australia or New Zealand.
4	If the XRB introduced differential reporting, would this impact on your choice of preferred option? Potentially, depending on how differential reporting impacted NZME as a smaller listed issuer and whether those impacts were material enough to substantially lessen the compliance burden on NZME. This would also depend on whether differential reporting was introduced alongside other legislative changes. This could include, for example, the removal of deferred liability for directors of reporting entities and disapplying s 23 of the Financial Markets Conduct Act for reporting entities and its directors. The introduction of differential reporting alone is unlikely to impact NZME's choice of preferred option, particularly if the differential reporting did not significantly reduce the cost of producing NZME's climate statements.
5	Do you think that a different reporting threshold for listed issuers should be considered (i.e., not one of the options above) and, if so, why?
6	If Option 2 or 3 was preferred do you think that some listed issuers would still choose to voluntarily report (even if not required to do so by law)? And, if so, why?
7	What are the advantages and disadvantages of a listed issuer being in a regulated climate reporting regime?
8	Do you have information about the cost of reporting for investment scheme managers?
9	Do you have information about consumers being charged increased fees due to the cost of climate reporting?

10	When considering the reporting threshold for investment scheme managers, which of the three options do you prefer, and why?
11	If the XRB introduced differential reporting, would this impact on your choice of preferred option?
12	Do you think that a different reporting threshold for investment scheme managers should be considered (i.e., not one of the options above) and, if so, why?
13	When considering the location of the thresholds, which Option do you prefer and why?
14	For Option 2 (move thresholds to secondary legislation) what statutory criteria do you think should be met before a change may be made, e.g., a statutory obligation to consult. What should the Minister consider or do before making a change?
Chapter 3: Climate reporting entity and director liability settings	
15	When considering the director liability settings, which of the four options do you prefer, and why?

	NZME supports option 3 – amending the Financial Markets Conduct Act so section 534 no longer applies to climate related disclosures and so directors can no longer be liable for aiding and abetting an unsubstantiated representation. Given climate reporting is inherently qualitative and uncertain, it is inappropriate to apply director liability provisions. This is particularly so as the current provisions are broadly equivalent to those applied in the context of financial statements, which fails to recognise the obvious contextual differences between financial and environmental reporting. In the context of relatively uncertain climate reporting, it is inappropriate for directors to be deemed automatically liable if a climate reporting entity fails to meet climate standards. Further, the current deemed director liability provision adds unnecessarily to the economic burden of complying with the climate-reporting regime by: 1. contributing to the significant legal and consultancy costs involved in producing compliant climate statements; and 2. requiring a high level of director involvement in the preparation of climate statements and the surrounding due diligence processes, diverting crucial resources away from critical elements of the reporting entity's business. NZME supports disapplying section 23 for both directors and climate reporting entities for the reasons discussed below. Option four is inadequate, as the present issues would persist upon removal of the safe-harbour provisions. NZME agrees this approach would not create a significant change for directors, nor would it encourage the objective of ensuring directors have the right incentives to encourage robust and useful reporting.
16	Do you have another proposal to amend the director liability settings? If so, please provide details.
17	If the director liability settings are amended do you think that will impact on investor trust in the climate statements?
18	If you support Option 3, should this be extended so that section 23 is disappplied for both climate reporting entities and directors? If so, why? Yes. Ensuring compliance with s 23 is equally difficult for entities and directors. Entities captured by the climate-reporting regime are required to make forward-looking statements and assurances, which can be based on uncertain inputs, estimates and assumptions. Further, there are many variables which affect climate change. In that context, the penalty for unsubstantiated representations is unduly harsh and unsuitable. NZME agrees this provision also limits opportunities for entities and directors to take an exploratory or innovative, or a more fulsome or robust, approach to climate reporting, which may ultimately disadvantage investors. Disapplying s 23 would not materially increase risks for investors given the broad and significant penalties that would continue to apply to climate reporting entities and its directors, including for misleading and deceptive conduct generally.

19	If you support Option 4 (introduce a modified liability framework, similar to Australia) what representations should be covered by the modified liability, i.e., should it cover statements about scope 3 emissions, scenario analysis or a transition plan, and/or other things?
20	If you support the introduction of a modified liability framework, how long should the modified liability last for? And who should be covered, ie., should it prevent actions by just private litigants, or should the framework cover the FMA as well? (Criminal actions would be excluded)
Chapter 4: Encouraging reporting by subsidiaries of multinational companies	
21	Do you think that there would be value in encouraging New Zealand subsidiaries of multinational companies to file their parent company climate statements in New Zealand?
22	Do you think that, alternatively, there would be value in MBIE creating a webpage where subsidiaries of multinational companies could provide links to their parent company climate statements?
Final comments	
23	Please use this question to provide any further information you would like that has not been covered in the other questions.