

The Treasury

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- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [2] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [3] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
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- [6] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [7] 6(a) - to prevent prejudice to the security or defence of New Zealand or the international relations of the government
- [8] 9(2)(h) - to maintain legal professional privilege
- [9] 6(c) - to prevent prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
- [10] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand
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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

Vote Commerce

Four Year Budget Plan

Version 1

30 November 2010

Submitted by:

The Ministry of Economic Development

Section 1: New Baseline and Summary of Changes

Direction of Change

The aims of Vote Commerce are to:

- promote confidence in the financial market;
- advance international linkages to promote New Zealand's economic welfare;
- promote open and competitive markets;
- improve the quality of business regulation; and
- provide high quality good value business services.

On the first three of these areas a significant programme of activity is already in train. This includes the major reforms in the regulation of the financial markets, an ambitious five year programme of Single Economic Market business law reform, the creation of two new Crown entities and negotiation of five Free Trade Agreements. The scale and speed of change create some risks. The Ministry has sought to address these risks by restructuring the branch to focus resource in these areas.

There are a number of areas of work that are on a slower track, which are fitted in as time allows around the priority areas of work. The Ministry hopes that towards the end of the period it will be able to complete these lower priority reforms, many of which will result in significant productivity gains. The priority afforded to such work will of course depend on the emergence of new regulatory risks or international expectations and international trade opportunities.

Additional resource will be needed to fund the creation and operation of the Financial Markets Authority and the External Reporting Board and also to deal with cost pressures on the Companies Office, the Insolvency and Trustee Service and the Commerce Commission. The Ministry is looking at fiscally neutral options to deal with these pressures. At the Minister's request a paper will be put to Cabinet on this in February 2011 attaching a proposal to consult on fees.

Overall Impact

Operating	Impact (\$000s)				
	2010/11	2011/12	2012/13	2013/14	2014/15
Current Baseline	127,168	119,724	119,051	119,251	119,251
Cost of new/increased activities	0	0	0	0	0
Amount reprioritised	0	0	0	0	0
New baseline	127,168	119,724	119,051	119,251	119,251

Capital¹	Impact (\$000s)				
	2010/11	2011/12	2012/13	2013/14	2014/15
Capital proposals seeking decisions in Budget 2011	0	0	0	0	0
Capital proposals seeking new funding in Budget 2011	0	0	0	0	0

¹ There will be capital costs for the creation of the FMA and XRB. Ministry officials are in discussion with Treasury officials on the scale and approach given the mid-year creation of the FMA.

Section 2: Vote Priorities and Pressures

Pressures on Vote Commerce policy remain significant as the budget continues to decrease on an annual basis while the levels of work remain high. There are currently 11 pieces of legislation in Parliament and the Ministry is looking at the development of policy in relation to 7 new areas which may lead to further legislation over this period. Set out below are the major areas of work and the work that is on a slower track.

Promoting confidence in the Financial Market

To promote confidence in the financial market, the Ministry has looked at the overall system. Changes will only have full effect if changes are made across the whole system. The priorities in this area for action over the next four years are:

- the creation of the Financial Markets Authority (FMA) and the provision of new enforcement;
- changes to separate the roles of trustee and manager in retail KiwiSaver schemes and to improve information for investors in retail KiwiSaver schemes;
- the review of securities law, including the definitions of securities, disclosure by issuers and collective investment schemes;
- implementation of the Financial Advisers Act 2008 and the Financial Service Providers (Registration and Dispute Resolution) Act 2008;
- licensing of trustees; and
- the creation of the External Reporting Board (XRB) and introduction of independent oversight of auditors.

This is a significant programme of reform and complements the changes to the Reserve Bank Act, which will provide for stronger prudential regulation of non bank deposit takers and insurers.

Risks

In order to focus on these areas the Ministry has put work in a number of other areas on a slower track. [2]

New funding will be needed for the operation of the FMA and XRB once they are created. The Minister is considering fiscally neutral options to cover this.

Advancing international economic linkages

New Zealand's economic growth depends upon an increase in the level of our exports and participation in other markets. The priorities in this area for the next four years will be:

- to take forward work on the business law SEM outcomes. The outcomes cover insolvency law, financial reporting, financial services policy, competition policy, business reporting, corporations law, personal property securities law, intellectual property law and consumer policy. Much of this work is likely to require legislative amendment. The speed of reform in many of these areas will depend on the speed of passage of legislation on both sides of the Tasman.
- to work with MFAT in the negotiation of free trade agreements with the Trans Pacific Partnership (TPP), India, Korea, the Customs Union of Russia, Belarus and Kazakhstan and PACER plus. Vote Commerce leads on a number of policy issues in FTAs notably, competition policy, intellectual property, trade remedies, technical trade barriers, regulatory coordination and rules of origin.
- to shape and influence international approaches to addressing behind the border issues, such as technical barriers to trade, so New Zealand firms can gain the full benefit of our trade relationships. Efforts will include deepening regulatory cooperation and promoting regulatory coherence to reduce transaction costs.

Risks

[6]

Many other developed nations include work on standards as an important component of their work on economic growth. We will not gain this benefit until we have resource to engage with business and take a strategic approach to the use of standards.

Open and Competitive markets

We need open and competitive markets. In competitive markets, firms can compete on their merits and consumers benefit from this competition. The focus for the next four years will be:

- supporting the implementation of Part 4 of the Commerce Act;
- working on the possible criminalisation of cartels;
- providing advice on the regulatory aspects of the changes to the Fonterra capital structure;
- completing the Review of Financial Reporting Frameworks and passing any ensuing legislative amendment;
- seeing through the Patents and Trade Marks amendment Bills; and
- making any changes consequent on the Government response to the WAI 262 claim.

Risks

[3]

The Commerce Commission's Litigation Fund will face some significant pressure in 2011, but the Ministry believes this can be managed through reprioritisation by the Commerce Commission, the rolling forward of savings in the Litigation Fund and the use of reserves. The Litigation Fund is under review and the findings of this review will be reported to Cabinet by the end of February 2011.

Regulatory reform

The Government has identified Regulatory Reform as one of its six economic policy priorities. The Ministry will be working closely with the Treasury over the next four years to implement the Government's regulatory reform programme, as set out by Hon Rodney Hide, Minister for Regulatory Reform in his letter to the Prime Minister about his priorities for 2011. The work on this programme will include leading work on:

- implementing a system for annual reporting on progress in reducing business compliance costs, drawing on the outcome of departmental regulatory scanning and plan development;
- Regulatory Reform Bills that remove inefficient and superfluous regulation; and
- projects that address specific areas of concern about regulatory impacts on business that have significant implications for the Government's Economic Growth Agenda.

The Ministry will work closely with the Treasury to contribute an economic development and business impact perspective to the following Treasury-led work programme items:

- the Regulatory Review Programme; and
- regulatory scanning and planning and prioritisation of regulatory efforts

Risks

Work is continuing to further embed the revised system for regulatory impact analysis ("RIA") within the Ministry of Economic Development and provide secondary advice on the business impacts of regulatory policy developed in other parts of Government. Less resource will be devoted to this function to accommodate the new projects outlined above, which potentially impacts on regulatory quality and outcomes more generally.

Achieving outcomes from the projects addressing specific areas of concern will depend on available resource within the Ministry and by other Government agencies, given their cross-portfolio nature. The Ministry will ensure resource requirements are clear and agreed at the outset of joint work on these projects.

Providing high quality good value business services

New Zealand provides business services that are focused on ease of doing business. These services require continual development to keep pace with business expectations. The priorities for the next four years in this area will be:

- to complete the deployment of the remaining business registers into a common platform enabling simplification of doing business with the Companies Office;
- to develop the whole of government business portal, business.govt.nz, as the place where business transact a range of online services with a number of government agencies;
- to develop a model for the creation, allocation and registry of Single Business Numbers; and
- to enhance the reputation of New Zealand through additional monitoring of the business registers to detect and prevent fraudulent activity.

The Insolvency and Trustee Service implemented a comprehensive overhaul of its business practices, in particular its use of electronic technology, to meet the requirements of the substantial law reform brought about by the Insolvency Act 2006.

Since that time the Service has focused on:

- increasing electronic uptake by clients, both debtors and creditors, to improve the level of service they receive and reduce the costs of providing it;
- implementing a new process, the No Asset Procedure, to give debtors one chance to get back on their feet and creditors certainty as to their position; and
- revitalising the previously underused Summary Instalment Order, so that debtors can make realistic efforts to pay some or all of their debts and creditors can receive some or all of what they are owed.

Priorities over the next four years are to make further efficiency gains, ensure the balance between bankruptcies and No Asset Procedures is correctly set, and increase the update of Summary Instalment Orders as a substitute for No Asset Procedures or bankruptcies.

Risks

The Insolvency and Trustee Service (the Service) and the Companies Office need additional funding. The work of the Service has increased by 76 percent since 2006/07 over the last three years. The Service has delivered considerable efficiencies but will still need a slight increase in its budget in the order of \$1m to cover this significant increase in activity. It is proposed that the pressures faced by the Service and Companies Office be covered by levy funding. The Companies Office has been operating at a loss for some years. This was a deliberate decision to run down a memorandum account in excess of \$20m. The surplus ran out last year and the fees collected need to be increased to recoup the deficit and to balance fees with costs.

It is very difficult to forecast insolvency volumes. Any negative changes in the economy can result in increased volumes. The Canterbury earthquakes may increase insolvencies in the near term.

The level and number of information technology changes become difficult to balance against the business as usual activity. The competing priorities of other agencies can impact upon the level of collaboration required for the ongoing development of the business portal and single business number outcomes.

Section 3: Proposed Changes for Budget 2011 (Reprioritisation)

The Vote Commerce Policy area covers a broad programme of work and as such it currently provides sufficient flexibility to move the resource to focus on the policy priorities of the Minister of the day. The amount available for the work is tight relative to the demand for work. There is, as a consequence, no spare money to shift to use for other priorities.

The future pressures for the Vote are:

- the creation of the Financial Markets Authority (FMA) and the External Reporting Board (XRB);
- financial pressures on the Companies Office (CO) and the Insolvency and Trustees Service (ITS); and
- the Commerce Commission's implementation of Part 4 of the Commerce Act

In June this year Ministers agreed to reduce the amount spent on KiwiSaver evaluation. The Ministers of Finance and Commerce agreed, subject to Cabinet approval, to use this money for additional FMA costs.

This will only provide a small part of the resource needed for the creation of the FMA. The Minister is considering the possibility of using fees to cover the costs of the creation and operation of the FMA and XRB and to meet the short falls in the CO and ITS.

The Commerce Commission is facing pressure in the implementation of Part 4 of the Commerce Act. This activity is levy funded and any changes in the appropriation will need to be consulted on with levy payers and other interested parties. The Commerce Commission has sought additional funding to complete the development of the Part 4 regime and to meet the operational requirements of the Act.

Section 4: Summary of Financial Movements

There is need for additional revenue for:

- the creation and operation of the Financial Markets Authority (FMA);
- the creation and operation of the External Reporting Board (XRB);
- the Companies Office (CO); and
- the Insolvency and Trustee Service (ITS).

The Ministry is looking at fiscally neutral options to deal with these pressures. At the Ministers request a paper will be put to Cabinet on this in February 2011 attaching a proposal to consult on fees.

To cover the cost for the implementation of Part 4 of the Commerce Act the Commerce Commission is seeking additional funding. The Minister is considering the case for additional funds and if necessary, will seek Cabinet's agreement to issue a consultation document to increase the levy.