NEW ZEALAND
CHAMBER OF COMMERCE
Business Vitality

SUBMISSION BY THE NEW ZEALAND CHAMBERS OF COMMERCE ON THE MIXED OWNERSHIP MODEL BILL

INTRODUCTION

1. The New Zealand Chambers of Commerce welcomes the opportunity to make a submission on the Mixed Ownership Model Bill.

2. The New Zealand Chambers of Commerce (Inc), NZCCI, is an umbrella organisation serving the interests of 29 Chambers of Commerce nationwide. These, in turn, represent more than 24,000 businesses around the country. While many of our members are in the SME category, our membership includes most of the largest corporations in New Zealand.

3. **NZCCI confirms it wishes to take up the opportunity to make a supporting presentation of our submission on the Mixed Ownership Model Bill.**

4. Address for service is:
    - Breda Linge, email: blinge@chamber.co.nz , or (09) 302 9916, Executive Assistant to Michael Barnett, Chairman, Management Committee, NZ Chambers of Commerce.

CHAMBER POLICY

5. NZCCI strongly supports policies that strengthen the development of New Zealand's international, national and regional trade through:

    - Freedom of enterprise to generate and contribute economic, social and cultural wealth to New Zealand;

    - The development of a market economy in which there is minimal interference from central and local government;

    - The strengthening of New Zealand's performance as a pre-eminent commercial, industrial and communications centre.

6. Accordingly, NZCCI identifies a number of benefits of introducing a shared or mixed ownership model for central and local government commercial assets, including:

- Releasing scarce capital to create new investment opportunities;
- Broadening the pool of investment for New Zealand savers and deepening our capital market;
- Bringing sharper commercial disciplines of the private sector, including more transparency and greater external oversight, into the operations of the companies involved;
- Providing the opportunity for the companies involved to obtain more capital to grow further, without depending entirely on a cash-strapped government to support them.

7. Before last year's General Election, NZCCI noted that the then government policy on mixed ownership was limited to a controlled three-to-five year programme from 2012 to sell off minority shares to New Zealanders in four energy companies (Mighty River Power, Meridian, Genesis and Solid Energy), and to scale back the existing shareholding in Air New Zealand.

8. NZCCI supported the initiative but urged the incoming government to show it is seriously committed to a policy of promoting all New Zealand's strategic commercial assets to playing a key role in securing our economic prospects, by extending the shared ownership asset policy to all central and local government commercially owned and controlled organisations.

9. We supported and continue to support a controlled asset sell down to New Zealanders of minority shares in a range of other selected commercial assets, and believe this would not only help secure the target of a return to a fiscal surplus by 2015, fund the rebuild of Christchurch and enable faster delivery of critical infrastructure, but create the opportunity for New Zealanders to have some shared ownership (and direct participation) in securing our economic prospects.

10. Allowing New Zealanders to invest in the nation's strategic commercial assets would provide a safe alternative to continuing to invest in property.

11. It is win-win. It would free up capital for government to invest in critical infrastructure, while giving ordinary New Zealanders the opportunity to invest in productive New Zealand-owned assets and bolster their retirement nest egg.

12. The core concept is 'shared ownership' of assets by New Zealand organisations and individuals under an arrangement in which government retains majority (at least 51% of) ownership.

13. Accordingly, to strengthen the concept and brand of 'shared ownership' of New Zealand assets by New Zealand citizens, commercial organisations and government we invite the Finance and Expenditure Committee to consider a change of name to the **"Shared Ownership Model Bill."**

14. We note that some of those opposed to extending the mixed or shared ownership model as provided by the Bill argue that the Bill's measures are diluting New Zealand's ownership of key strategic assets.

15. NZCCI strongly disagrees. On the contrary, by spreading the ownership of and resulting benefits from key assets across all levels of society – government, institutions and individuals – we are introducing more stakeholders with a direct interest in the performance of the companies involved. That is, the Bill is introducing a strengthened ownership culture to New Zealand assets, which we believe will result in greater scrutiny and oversight of the performance of the companies involved. A shared ownership of key New Zealand assets is positive for New Zealand and New Zealanders, and because New Zealanders will have some direct ownership, it will help keep those managing the assets on their toes.

16. We elaborate with examples and suggestions below for an extension of the scope of the shared ownership concept to other assets.

KEY FEATURES OF THE BILL

17. The Bill provides for Government to sell a minority of shares in Genesis Power Limited, Meridian Energy Limited, Mighty River Power Limited, and Solid Energy New Zealand Limited. As these are currently State enterprises, it is necessary to pass legislation that enables the Crown to remove these companies from the ambit of the State-Owned Enterprises Act 1986 (the **SOE Act**).

18. The new legislation will restrict the Crown from holding less than 51% of the voting rights in each of the companies and will restrict non-Crown individuals and entities from holding more than 10% of the voting rights in each of the companies.

19. The Government has decided that the Bill should establish the 51% and 10% caps. However, further provisions will be needed to monitor and enforce those caps, and the Government considers that these should be contained in the constitutions of the mixed ownership model companies. The provisions in the Bill establishing the 51% and 10% caps are therefore intended to work alongside these more detailed provisions. Although some consequences of breaching the 10% cap are set out in the Bill, it will not limit or prevent the constitutions of the companies from providing for further consequences of breaching the 10% cap.

20. The main purpose of moving these companies to the mixed ownership model is to raise $5 billion to $7 billion, which the Crown will invest through the Future Investment Fund in new schools, hospitals, roads and rail, and other public assets and use to control debt.

21. The mixed ownership model will give New Zealanders an opportunity to invest in the market in large New Zealand companies. It will strengthen the stock market by increasing the breadth and depth of investment opportunities. It will improve the public scrutiny of the companies, creating sharper incentives to run them efficiently. And it will allow the companies to raise the capital they need without having to rely solely on the Government for equity.

22. In summary, the Government has indicated and NZCCI agrees that there are five tests that need to be met for the Mixed Ownership Model programme to proceed, namely:

- The Government will maintain a majority controlling shareholding by owning more than 51 per cent of the company.

- New Zealand investors will be at the front of the queue for shareholdings, and government is confident of widespread and substantial New Zealand share ownership; i.e. that 85-90 per cent of the companies will be owned by New Zealanders when floated.

- The companies involved present good opportunities for investors.

- The $5-7 billion of capital freed up will be used on behalf of taxpayers to fund new public assets and thereby reduce the pressure on the Government to borrow.

- The Government is satisfied that industry-specific regulations adequately protect New Zealand consumers.

23. That is, while NZCCI supports the Bill's provisions we note that the ultimate success of the Government programme to sell a minority of shares from the ambit of the SOE Act will depend on yet to be decided detail to be contained in the constitutions of the mixed ownership model companies.

24. The balance of our submission examines some of these matters and makes a number of suggestions and recommendations.

MATTERS OF DETAIL

Detailed scoping studies process

25. NZCCI notes that a detailed scoping studies process is proposed to operationalise the Bill's provisions and in particular ensure the five tests (above) are satisfied.

26. NZCCI **strongly recommends** to the Finance and Expenditure Committee that the Committee maintains a close oversight of the scoping studies process, and ensures that as much as possible an open, consultative and transparent process is adopted. We recommend the establishment of a broadly representative 'reference group' to support the scoping studies process, and request consideration be given to a New Zealand Chamber of Commerce representation in such a group.

27. Supporting reasons for involving a 'broadly representative' reference group includes to give recognition and an appropriate response to the considerable public interest and concern to ensure the shared ownership model process works for the overall betterment of New Zealand interests.

Ensuring majority government ownership of an optimised asset

28. NZCCI agrees that maintaining majority Government ownership is readily achievable by ensuring that no more than 49% of any of the five companies under consideration is offered to the public (i.e. the minimum Government ownership level is 51%). The Bill provides for this.

29. However, the Bill makes no explicit provision to ensure the individual assets owned by the five companies remain in majority New Zealand control. For example, mention has been made that once Meridian Energy is partially privatized, it could take a decision to sell off parts of its portfolio (e.g. Manapouri power station).

30. Equally, as a progressive private sector enterprise it may seek to acquire additional assets (including possibly offshore).

31. Similarly, we note that Mighty River Power has the potential to be a world-leading geothermal company, both in terms of its power development activities, and also as an international leader in the development of innovative and creative technology products and services associated with geothermal power. As such it has been likened to having the potential to be a significant global company and export earner of renewable energy products and expertise for New Zealand as Fonterra is in the world dairy industry.

32. In effect, the privatized SOE's will become a form of 'co-operatively owned' New Zealand enterprises, around which there is potential for attracting both foreign investment and expertise, as well as, potentially, buyer interest.

33. NZCCI notes comment that the government has, all be it unwittingly, created a situation where once a partial privatisation goes ahead, individual assets within the respective enterprises could be sold off into foreign ownership and 100 percent private ownership.

34. We agree with Test 3 as set out in the Bill, that the companies involved must present good opportunities for investors. We also agree that in order to sustain the attractiveness of the companies to present good opportunities for investors, a level of foreign investment and management and trading expertise may be needed.

35. At the same time, however, we would welcome the Committee's consideration to including in the constitution (SOI) of each of the privatized companies an Operating Framework setting out guidelines/ expectations in respect of operational matters such as retaining and/or enhancing the company's asset portfolio, maintaining a focus on core business, establishing ventures offshore, and overall seeking to grow into internationally competitive NZ-anchored companies of scale, as Fonterra has become.

Achieving widespread and substantial New Zealand share ownership

36. NZCCI notes that the Government envisages about 85-90 per cent of the companies will be owned by New Zealanders when floated, and that initial public offerings (IPOs) are the preferred method of extending participation across both retail and institutional investors in order to achieve the desired widespread and substantial New Zealand ownership across the five companies.

37. Also, it is proposed that a share allocation criteria and model, including the potential use of foreign ownership restrictions and participation incentives, be examined through the detailed study process.

38. NZCCI believes that there will be strong interest by New Zealanders to seek an ownership share across the five companies, and that significant incentives will not be required. Experience from previous government initial public offerings such as Contact Energy and Auckland International Airport suggests that a reserved allocation of 90% to New Zealand interests is an appropriate target.

39. We note Treasury's discussions with market participants suggest there is likely to be domestic demand for up to $2 billion in any 12 month period. NZCCI suggests a share allocation model be designed that provides for a phased allocation process covering both retail and institutional investors.

40. Accordingly, at this stage, we **recommend** a dedicated 90% of the shares be set aside to provide the opportunity for New Zealand interests to take up shares, within the proposed 10% cap to any one individual or group, as follows:.

    - New Zealand citizens, (passport holders);
    - New Zealand institutions – Crown financial institutions such as the New Zealand Superannuation Fund, Government Superannuation Fund, Accident Compensation Corporation, National Provident Fund and Public Trust – to maintain their desired New Zealand equity weightings;
    - KiwiSaver and other New Zealand institutional fund managers;
    - Iwi and local government;
    - Staff of the five companies – e.g. Some 90% of the workers at the Port of Tauranga, have shares in the Port company, and where it is widely commented on that "Working in the place that you're a part-owner of just makes you want to make sure that it works both for you and for everyone else around."

41. In summary, ownership matters, and people's behaviour change when they have a stake in their company. One of the many good results of the Bill is that as well as New Zealanders having the opportunity to invest in home-grown companies, the employees will have an incentivised opportunity to buy shares directly in the company that they work for.

42. We believe that the uptake of these opportunities by New Zealanders, especially if extended to a larger pool of assets, will go a long way to improving the productivity of New Zealand.

Prioritised use of the capital

43. NZCCI notes that for Government the main purpose of moving these companies to the mixed ownership model is to raise $5 billion to $7 billion, which the Crown will invest through the Future Investment Fund in new schools, hospitals, roads and rail, and other public assets and use to control debt.

44. NZCCI requests the Committee to consider an appropriate inclusion within the Fund to require that a proportion of the money raised from the mixed ownership model be earmarked specifically for investing in infrastructure and activities that are assessed and prioritised to make a significant contribution to increase economic productivity and growth in New Zealand. In particular, factors needing to be considered when approving funding for activities raised from asset sales include:

- Enabling innovative, start-up companies to get into exporting and/or generate significant sustainable employment.
- Attracting significant overseas ventures to invest and establish in New Zealand.
- Identifying infrastructure developments that will contribute to increasing national economic growth and productivity.
- Seeding R&D to build/ expand on the energy development base of the five companies to be privatised.

Extension of the model to other assets

45. NZCCI encourages the Committee to consider the Bill as a pioneer that in principle could be extended to other assets, such as Transpower New Zealand, and other utility companies – electricity, sea and airports.

46. As noted above, NZCCI supports a policy of promoting all New Zealand's strategic commercial assets to playing a key role in securing our economic prospects, by extending the shared ownership asset policy to all central and local government commercially owned and controlled organisations.

47. Having bitten the bullet with a sell down of five SOE's, NZCCI encourages government to look at extending the concept, or ensuring the Bill will allow for other assets to be covered by the provisions of the Bill. Allowing New Zealanders to invest in an extended portfolio of the nation's strategic commercial assets would provide a safe alternative to continuing to invest in property.

48. An extension of the model to other assets would free up capital for central and/or local government to invest in critical infrastructure, while giving ordinary New Zealanders the opportunity to invest in productive New Zealand-owned assets and bolster their retirement nest egg. It is win-win.

49. Other candidates include, in Auckland, Ports of Auckland, Auckland Airport and the Auckland Energy Consumer Trust from which a 49% sell down could generate a billion-dollar-plus fund for addressing Auckland's transport infrastructure deficit.

CONCLUDING COMMENT

50. Our suggestions and recommendations on the Mixed Ownership Model Bill are put forward in the positive spirit of achieving measurable improvement to improve the overall performance of the New Zealand's economy.

51. We look forward to discussing them further and working collaboratively with the Committee to ultimately achieve an enduring outcome from this singularly important reform process.

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12 April 2012