



**Commercial
Communications
Council**

**CONSTITUTION OF THE
COMMERCIAL COMMUNICATIONS COUNCIL
INCORPORATED**

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CONSTITUTION OF COMMERCIAL COMMUNICATIONS COUNCIL INCORPORATED.

1. TITLE AND COMMENCEMENT

- 1.1 The name of the Society is the Commercial Communications Council Incorporated. The Council is also informally referred to as "The Comms Council".
- 1.2 This Constitution replaces the rules of the Association which were in force immediately prior to this Constitution coming into force ("Previous Rules") and the Previous Rules are hereby revoked.

2. INTERPRETATION

- 2.1 In this Constitution, unless the context indicates otherwise, words and expressions shall have the meaning ascribed to them in clause 1 of Schedule 1.
- 2.2 This Constitution shall be construed and interpreted in accordance with the provisions of clause 2 of Schedule 1.
- 2.3 In the event of any conflict between this Constitution and any By-Laws, then this Constitution shall take priority over any conflicting By-Law.

3. PURPOSES

- 3.1 The purposes of the Society ("Purposes") are:
 - (a) to provide a representative central body through which agency opinion and agency views may be expressed;
 - (b) to promote a better understanding of the essential place and value of advertising and communications in the structure of the modern economy;
 - (c) to promote and safeguard the interests of advertising and communications businesses in general and, in particular, the Members;
 - (d) to establish and maintain sound ethical standards in advertising and communications and so to serve the best interests of the public, advertisers, media and advertising agencies alike;
 - (e) to work harmoniously with other organisations which are associated with the advertising and communications industry for the betterment of mutual relations and for the promotion of operational efficiency; and
 - (f) to do all such lawful acts and things that are incidental or conducive to the above purposes.

4. POWERS OF THE SOCIETY

- 4.1 The Society shall have the rights, powers and privileges of a natural person which may only be used to engage in lawful conduct incidental or conducive to the Purposes. In the event of any ambiguity of any power of the Society, each power shall be construed in such a way as to widen and not restrict the powers of the Society.
- 4.2 Without limiting the generality of clause 4.1, the Society may:
 - (a) purchase, take on, lease or exchange, hire or otherwise acquire any real or personal property and any rights or privileges;

- (b) sell, mortgage, dispose of, or otherwise deal with any real or personal property of the Society and any rights or privileges, at such price and on such terms and conditions as the Society thinks fit;
- (c) raise money from Members by subscription, levies or otherwise and grant rights and privileges to Members;
- (d) use the funds of the Society as the Society may consider necessary or proper to pay the costs and expenses of the Society (including the employment of solicitors, agents and other advisors or service providers as considered appropriate) and to further the Purposes;
- (e) borrow or raise money by any means and upon such terms (including the giving of security by way of mortgage, pledge or other charges over all or any of its property, rights, interests and assets) as the Society thinks fit;
- (f) enter into any contracts, agreements or arrangements with any person;
- (g) invest, lend or deal, with the monies of the Society not immediately required for carrying out its Purposes upon such securities or otherwise in such manner as may from time to time be determined by the Society;
- (h) in the case of any breach or non-observance of the Constitution or non-payment of any subscription or levy, impose fines or suspend any Member for such time as it sees fit, or to expel any Member;
- (i) create other entities for commercial purposes that are consistent with the Purposes;
- (j) establish an Executive with the functions and powers set out in this Constitution; and
- (k) make, amend and revoke By-Laws in relation to any aspect of the Society and its affairs, provided that no such By-Law conflicts with this Constitution.

5. CRITERIA FOR MEMBERSHIP

5.1 Any body corporate is eligible, and will continue to be eligible, to be a Member if that body corporate:

- (a) is in the business of providing Communications Services;
- (b) whose business is not primarily that of a media owner, or is an advertiser of goods and services other than Communication Services;
- (c) has partners, directors or shareholders of good repute and standing in the commercial community and who have sound business experience;
- (d) operates a business which is or will be financially viable in terms of its capital structure and actual or potential billings;
- (e) pays all Society subscriptions and levies by the due dates;
- (f) has provided or will provide their written consent to be a Member and to the extent that such consent remains current and has not be revoked (either expressly or implicitly). The Executive may from time to time require its Members to confirm the currency of their consent to continue being Members;
- (g) complies with this Constitution; and
- (h) submits an application for membership which is accepted by the Executive on behalf of the Society.

5.2 In determining the membership of any body corporate from time to time, the Executive may consider any other factor the Executive considers relevant, incidental, or conducive to the Purposes of the Society. For the avoidance of doubt, in the event there is a dispute as to the eligibility of any body corporate or bodies corporate, and to the extent where such dispute

genuinely arises as a result of ambiguity in the application of the criteria set out in clause 5.1 above, the Executive shall have the sole and absolute discretion to determine that dispute of eligibility.

- 5.3 For the sake of clarity, a Member who was previously met the eligibility criteria set out above, may, if determined by the Executive, no longer be eligible to be a Member.
- 5.4 An advertising or communication agency may be a Member in its own right notwithstanding its being associated or connected with another agency.

6. APPLICATIONS FOR MEMBERSHIP

- 6.1 Any body corporate wishing to be a Member shall submit a fully completed application form to the Executive in the form prescribed by the Executive from time to time.
- 6.2 Notwithstanding the eligibility criteria set out in clause 5, the Executive may impose further rules to limit the number or type of bodies corporate eligible to be Members and/or reject any application for membership of the Society if the Executive believes in its sole discretion that a person is not suitable to be a Member.
- 6.3 All applications for membership of the Society shall be approved by the Executive at its sole discretion. All new Members require final board approval. In the event that there is a significant time period between application and final approval, the applicant will be considered an 'interim member' for that duration and may receive all or some member benefits for that period (as determined by the Executive from time to time), even if subsequently declined. The Executive may accept or decline an application for membership having regard to the provisions of clause 5.
- 6.4 All applicants shall, immediately upon being accepted, notify the Society's independent accountants in writing of its Total Annual Advertising Revenue for either the Member's most recent financial year or the previous calendar year (as determined by the Executive) in such a form prescribed by the Executive from time to time. Further, all applicants shall provide such other information to the Society as may be requested by the Executive.

7. GENERAL CONDITIONS OF MEMBERSHIP

- 7.1 Members shall have all the rights, privileges, duties, obligations, and liabilities granted to or imposed on Members by this Constitution. All rights, privileges, duties, obligations, and liabilities which a body corporate has by reason of being a Member are not capable of being transferred or transmitted to another person and terminate immediately upon cessation of the body corporate's membership of the Society (unless expressly stated otherwise).
- 7.2 At least once a year, at a date determined by the Executive, each Member shall provide the Society's accountants with a statement of either its, Total Annual Advertising Revenue in the case of a full-service agency, or total revenue in the case of other Members, verified and signed by a chartered accountant. Members may be required to provide such other financial and operating information as may be requested by the Executive from time to time.
- 7.3 In accordance with the Society's support of the self-regulation of the advertising and communications industry and the Rules of the Advertising Standards Authority, the Members agree to apply the Advertising Standards Authority's levy to their clients' invoices and pay the levies collected in this way to the Advertising Standards Authority on a monthly basis in arrears.
- 7.4 The liability of a Member to contribute towards payment of the debts and liabilities of the Society, or the costs, charges, and expense of the winding up of the Society, is limited to the amount (if any) which is unpaid by the Member in respect of its membership of the Society.
- 7.5 No private financial profit shall be made by any person from the Society except that:

- (a) any Member may receive full reimbursement for all expenses properly incurred by that Member in connection with the affairs of the Society, providing such expenses are pre-approved by the Executive;
 - (b) the Society may pay a reasonable remuneration to the Executive Members or employees of the Society (whether a Member or not) in return for services actually rendered to the Society; and
- 7.6 any Member may be paid all usual professional, business or trade charges for service rendered, time expended, and all acts done by the Member, or by any firm or entity of which that Member is a member, employee, or associate in connection with the affairs of the Society.

8. CESSATION OF MEMBERSHIP

8.1 A body corporate will cease to be a Member:

- (a) three months after the giving of notice by that Member;
- (b) if the Member is wound up or ceases to carry on business; or
- (c) upon the Member's membership being terminated by the Executive pursuant to clause 8.2.

8.2 A Member's membership of the Society may be terminated on one month's written notice from the Executive:

- (a) if, in the opinion of the Executive, the body corporate does not meet the criteria in clause 5.1; or
- (b) if permitted under this Constitution; or
- (c) for any other reason which, in the opinion of the Executive, is related, incidental or conducive to the Purposes.

9. DISCIPLINARY PROCEDURES

9.1 Where the Executive is reasonably of the opinion that a Member:

- (a) has refused or neglected to comply with a provision of this Constitution;
- (b) has persistently and wilfully acted in a manner prejudicial to the interests of the Society or another Member's participation in the Society;
- (c) has failed to pay any membership fee or other amount owing to the Society and such failure continues for a period of 60 days after it is due; or
- (d) does anything which, in the opinion of the Executive in its absolute discretion, is or may be detrimental to the reputation of the Society,

then the Executive may by resolution:

- (e) remove that Member's entitlement to vote at any AGM until such time as payment is made in full (if applicable);
- (f) suspend the Member from membership of the Society or attendance/participation at Society events for a specified period;
- (g) give notice to the Member under clause 8.2; or
- (h) take any such other action which the Executive considers reasonable in respect of that Member and its actions.

9.2 Where the Executive has passed a resolution under clause 9.1, the Executive shall as soon as practicable cause a notice in writing to be served on the Member (or its representative) setting out the Executive's decision and the grounds on which it is

based.

- 9.3 Without limiting the generality of clause 14.7, the Executive's powers, duties and obligations pursuant to this clause 9 may be delegated to such sub-committee of the Executive as may be established from time to time under clause 14.

10. ANNUAL SUBSCRIPTION

- 10.1 Every Member shall pay the Society their Annual Subscription for each Financial Year of the Society, which is to be calculated in accordance with this clause 10. Payment of an Annual Subscription by a Member shall be deemed agreement by that Member to it being a Member for the upcoming Financial Year.
- 10.2 Each Member's Annual Subscription will be determined in each Financial Year of the Society in accordance with the formula prescribed in Schedule 2, as amended from time to time by the Executive.
- 10.3 The Annual Subscription shall be paid in two equal sums as determined by the Executive during each Financial Year, with the first being due by the 20th of April and the second being due by the 20th of October.
- 10.4 Where a body corporate ceases to be a Member, then that Member's Annual Subscription for the current Financial Year shall be refunded pro-rata to the Member in respect of the period from the date of the Member's cessation of membership to the number of days to the end of the current Financial Year.
- 10.5 A body corporate becoming a Member part way through a Financial Year will pay such Annual Subscription for that year as the Executive determines (in its sole discretion).
- 10.6 In addition to the Annual Subscription, the Society may set levies in special circumstances, provided such levies are approved by a Special Resolution of Members.

11. PRESIDENT AND VICE PRESIDENT

- 11.1 The Society shall have one President and one Vice President, both of whom will sit on the Executive.
- 11.2 In order to be eligible for appointment, candidates for election to the offices of President and Vice President must be a current Executive Member.
- 11.3 The positions of President and Vice President shall be elected at the first meeting of the Executive after the AGM (or any Special General Meeting where an Executive Member has been appointed or removed) by vote of the Executive Members. Each Executive Member shall be entitled to cast one vote as to each appointment.
- 11.4 The President and Vice President will hold office for a period of one year. Any previous Presidents and Vice Presidents are eligible for re-election. In any event, the President and Vice President(s) will normally hold office for no more than two successive years, and any extension of a term beyond that period must be approved by a resolution of 75% of the Executive.
- 11.5 The President and the Vice President shall hold office until the conclusion of the Executive Meeting at which their successors are elected.
- 11.6 Where the President becomes incapable of acting by reason of illness, absence or other sufficient cause, is vacant for any reason from the office of President, or if the President considers it is not proper or desirable to act in any specified manner, then the Vice President shall have and may exercise all of the powers, functions and duties of the President. Such decision shall be made by a majority of the Executive Members.

12. MEMBERSHIP OF THE EXECUTIVE

- 12.1 The Executive shall comprise no less than three and no more than eleven elected Members.
- 12.2 At least two seats on the Executive will be reserved for Independent Agency¹ representation. The Executive will aim, wherever practical, to achieve a balance of member interests across the Executive. Guidance will be provided alongside requests for nominations, outlining the existing makeup of the Executive and the ambitions of the organisation regarding representation.
- 12.3 In order to be eligible for appointment to the Executive, each candidate must be a senior employee or principal of a Member and not be disqualified from being an Executive Member under section 47(3) of the Incorporated Societies Act 2022. Each Member shall be entitled to support only one candidate for each position on the Executive.
- 12.4 Nominations for candidates for election to the Executive shall be:
- (a) called for by the Chief Executive Officer not less than four weeks before the date of the relevant AGM;
 - (b) proposed and seconded in writing by separate Members, not being connected or associated with the Member to whom the candidate is affiliated, and accompanied by the written consent of the candidate;
 - (c) delivered to the Chief Executive Officer not less than 15 days before the date fixed for the holding of the AGM at which the election is to take place; and
 - (d) the names of the candidates shall be specified in the notice of the AGM given to Members pursuant to clause 17.5.
- 12.5 Subject to clause 12.6 below, each Member shall be entitled to one vote on the appointment of each position of the Executive that is up for election at each AGM. For the purpose of this clause, a 'Member' is the body corporate (whether a natural person or otherwise) that is listed as the applicant on a membership application or renewal form.
- 12.6 If:
- (a) the number of nominations received is equal to the number and type of vacancies to be filled, the persons nominated shall be deemed to be elected;
 - (b) insufficient nominations are received to fill all vacancies on the Executive, the candidates nominated shall be deemed to be elected and any vacant positions remaining shall be deemed to be casual vacancies. Any such casual vacancies shall be filled in accordance with clause 12.9; or
 - (c) the number of nominations received exceeds the number of vacancies to be filled in the Executive, a secret ballot shall be held. Any such ballot shall be conducted prior to the AGM in such manner as the Executive may direct, including by way of proxy or by representative voting or by postal voting. In the case of an equal number of votes for two or more candidates, a further ballot will be conducted in respect of these candidates. If a decision cannot be made at that further ballot, and where the position to be decided is not that of the President, then the (current) President shall have the casting vote.
- 12.7 The Executive Members shall be elected at the AGM in each year and will hold office until they:
- (a) Retire in accordance with clause 12.8 below;
 - (b) Resign by signing a written notice of resignation and providing the same to the President;
 - (c) Die;

¹ 'Independent Agency' is defined as any agency that is majority owned by individuals in Aotearoa and not part of Global Networks or Holding Companies. For the absence of doubt, any agency where the Trading Name is effectively controlled offshore is not an Independent Agency.

- (d) Become disqualified (in accordance with the criteria set out in section 47(3) of the Incorporated Societies Act 2022); or
- (e) Otherwise removed in accordance with this Constitution.

12.8 A minimum of three positions on the Executive, shall retire from office at the AGM each year, but shall be eligible for re-election at that meeting. Those to retire shall be those who volunteer, or those that have been longest in office since they were last elected or deemed elected. In determining those Executive Members who are required to retire at the AGM each year, any casual vacancies who are required to retire at the AGM shall not be included.

12.9 The Executive shall have the power to fill casual vacancies in the Executive, but any such appointees shall hold office only until the next AGM at which an election for the Executive takes place. Invitations to fill vacant positions will first be offered to the member agency from which the person has vacated.

12.10 Executive Members shall hold office until the conclusion of the AGM at which their successors are re-elected.

13. MEETINGS OF THE EXECUTIVE

13.1 Meetings of the Executive shall be held at such times and places as the Executive determines.

13.2 The President, Vice President, or any two Executive Members may require the calling of a meeting of the Executive by providing five days notice to the remainder of the Executive Members (or such other period as may be unanimously agreed by the Executive) before the time appointed for the holding of the meeting. Such notice shall be in writing (including by way of email) and shall include a proposed agenda for that meeting.

13.3 A resolution in writing may be passed in lieu of a meeting of the Executive and shall be as effective and binding as if it had been passed at a duly convened meeting of the Executive if it is approved by all the Executive Members. A resolution in writing may consist of one or more documents in similar form (including letters, electronic mail, or other similar means of communication) each approved by or on behalf of one or more Executive Members. An Executive Member may give their approval to a resolution in writing by signing the resolution or providing approval by email or other electronic means approved by the Executive.

13.4 A virtual meeting of the Executive, whether or not any one or more of them is out of New Zealand, shall be deemed to constitute a meeting of the Executive and all the provisions in this Constitution as to meetings of the Executive shall apply to such meetings provided that:

- (a) all the Executive Members entitled to receive notice of the meeting have received such notice and those present at the meeting are present for the duration of the meeting;
- (b) the quorum requirement under clause 13.5 is met; and
- (c) at the commencement of the meeting each of the Executive Members taking part in the meeting acknowledges that they are able to hear each of the other Executive Members taking part.

13.5 The quorum for meetings of the Executive shall consist of at least one - half of the Executive Members. No business shall be transacted by the Executive unless a quorum is present within half an hour of the time appointed for the meeting. If a quorum is not present, then the

meeting stands adjourned to the same place and time of the same day in the following week (unless otherwise agreed by the Executive). If at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, then the Executive Members present shall constitute a quorum.

- 13.6 The Executive shall cause minutes to be duly entered into the books kept for such purpose, of all appointments of Executive Members, employees and contractors, the names of the persons present in each meeting, and all the resolutions and proceedings at Executive meetings. In addition:
- (a) The President or the Vice President shall chair each meeting of the Executive.
 - (b) In the absence of the President or Vice President at any Executive meeting, then the Executive shall appoint one of their own to chair the meeting.
- 13.7 Minutes of meetings purporting to be signed by the President or by person who is presiding at the meeting, shall be receivable as conclusive evidence of the matters stated in such minutes.
- 13.8 Each Executive Member shall be entitled to one vote at meetings of the Executive. Matters arising at a meeting of the Executive or of any sub-committee appointed by the Executive shall be determined by a majority of the votes of the Executive Members or the members of that sub-committee (as applicable) present at the meeting and voting. In the case of an equality of votes, the chairperson of a meeting is entitled to have a casting vote in addition to his or her deliberative vote.
- 13.9 Executive Members may take leave from two meetings per year and may arrange for a senior executive of their agency to attend as their alternate. Advice of such leave and the name of the alternate shall be tabled and agreed at the preceding Executive meeting.

14. GENERAL POWERS OF THE EXECUTIVE

- 14.1 The functions and powers of the Executive shall be:
- (a) to control, administer and manage the property and affairs of the Society; and
 - (b) to carry out, effect and perform the Purposes of the Society according to law and in accordance with this Constitution.
- 14.2 The Executive will have all the powers given to the Society in accordance with this Constitution and the Act.
- 14.3 Without in any way limiting the generality of clauses 14.1 and 14.2, the Executive will also have the power to do the following:
- (a) amend the provisions of Schedule 2;
 - (b) amend the Regulations in Schedule 3;
 - (c) purchase goods and services or other personal property;
 - (d) acquire or dispose of any interest in real property, including assigning such interests for the purpose of providing security;
 - (e) borrow, lend or invest money;
 - (f) arrange and provide indemnity insurance for the President, Vice President and Executive Members in accordance with the indemnity granted by the Society to such persons in clause 19;
 - (g) donate funds in pursuit of the Purposes in accordance with the Act;
 - (h) enter into business relationships; and

- (i) acquire and hold shares or any other type of financial security.
- 14.4 The Executive may appoint such employees or contractors upon such terms, conditions and remuneration as the Executive thinks fit and may from time to time remove and replace any person(s) so appointed.
- 14.5 Without in any way limiting the generality of clause 14.4 the Executive shall appoint from time to time a Chief Executive Officer on such terms and conditions (including remuneration) as the Executive sees fit. The Executive shall ensure that the Society is not without a Chief Executive Officer for a period of 20 working days or more at any given time.
- 14.6 Subject to the direction and supervision of the Executive, the Chief Executive Officer will be generally responsible for the day-to-day management of the Society and shall be the Society's contact person for whom the Registrar of Incorporated Societies may contact from time to time on matters relating to the Society, unless an alternative contact person is appointed by the Executive.
- 14.7 The Executive may delegate to any of the following persons:
 - (a) the Chief Executive Officer;
 - (b) Committees consisting of such Executive Members as it thinks fit; or
 - (c) Members or employees of Members,the exercise of such of the functions of the Executive as the Executive may decide. A function which has been delegated to a sub-committee under this clause may be exercised by that committee in accordance with the terms of the delegation while the delegation remains unrevoked. Notwithstanding any delegation under this clause, the Executive may continue to exercise any function delegated.
- 14.8 A sub-committee must contain at least one Executive Member among its number. In the exercise of their delegated powers the above persons shall meet and adjourn as he/she/it thinks proper and shall conform to any directions that may be imposed by the Executive.
- 14.9 The Executive reserves the right to invite, appoint, or amend participants on sub-committees. It is expected that the Executive will, from time to time, review who sits on sub-committees and communicate any desired changes via the Executive Member who sits on the relevant committee.
- 14.10 Any act or thing done or incurred by a person or committee acting in the exercise of a delegation under this clause has the same force and effect as it would have if it had been done or incurred by the Executive.
- 14.11 The Executive may from time to time in writing revoke wholly or in any part any delegation under this clause to any person or committee as the Executive thinks fit.
- 14.12 The Executive may co-opt other persons to the Executive or any sub-committee or any ad hoc committee and such persons shall be entitled to attend all meetings of that committee and take part in all business and discussions, but shall not be entitled by virtue of such membership to vote at any such meetings, nor shall any such co-opted person be counted in determining whether or not a quorum is present at any meeting of the committee or the Executive of the Society.
- 15. FUNDS AND BANK ACCOUNTS
 - 15.1 The funds of the Society shall consist of:
 - (a) all money lawfully received by the Society from Members; and
 - (b) all accumulation of income derived from any such money.

- 15.2 The property and funds of the Society shall be applied solely towards the promotion of the Purposes. The Society has not been established for the financial gain of its Members and, except to the extent permissible under the Act, nothing in the Purposes will be deemed to authorise the carrying on of an activity for the purposes of financial gain. For the avoidance of doubt, the Executive may authorise payments or other benefits in accordance with this Constitution.
- 15.3 The Executive shall open at any bank or banks such accounts, including trust accounts as are necessary for the exercise of its powers and functions under this Constitution.
- 15.4 All money directed to the Society and received by the Executive, or by any Executive Member, employee or contractor of the Society shall, as soon as practicable after it has been received, be paid into such bank account of the Society as the Executive shall from time to time determine.
- 15.5 The withdrawal or payment of money from any such bank accounts shall be made by such mechanisms, and signed by such persons, as the Executive may determine.
- 15.6 The Executive shall also ensure that there are appropriate systems in place to regulate such withdrawal or payment of money from the Society's bank accounts.
16. ACCOUNTS AND AUDIT
- 16.1 The Executive shall keep full and correct accounts of all its financial transactions, assets, liabilities and funds. The Executive is responsible for the preparation of the Annual Financial Statements which shall comply with the Act in each Financial Year.
- 16.2 The Society's financial year shall run from 1 April in any given year until 31 March in the immediately following year ('Financial Year').
- 16.3 Unless the audit criteria in the Incorporated Societies Act 2022 or any associated regulations are met and therefore require the Annual Financial Statements to be audited each year, an independent auditor will audit the relevant Annual Financial Statements bi-annually.
- 16.4 If the Annual Financial Statements are required to be audited under clause 16.3 and subject to clause 16.5, the Society must at the relevant AGM appoint an auditor or auditors by Ordinary Resolution to hold office from the conclusion of that AGM until the conclusion of the next AGM.
- 16.5 The incumbent auditor will be re-appointed automatically at the relevant AGM, without the need for a vote on the auditor's appointment, unless:
- (a) the Members resolve by Ordinary Resolution to appoint a different auditor, provided that a request to vote on such resolution, signed by at least two Members, is received by the Society at least one month prior to the date of the meeting (in which case the Chief Executive Officer must ensure that notice of the intention to vote on such resolution is contained within the notice of meeting for that AGM); or
- (b) the incumbent auditor has given the Society notice in writing that it is not willing to be re-appointed.
- 16.6 At each AGM, the following shall be presented:
- (a) If the Annual Financial Statements are required to be audited under clause 16.3, a copy of the audited accounts of the Society, together with a report from the Society's auditor; or
- (b) If the Annual Financial Statements are not required to be audited under clause 16.3, a copy of the Annual Financial Statements

17. GENERAL MEETINGS

- 17.1 The Society shall convene at least one AGM of its Members in each calendar year, no later than six months after the end of its Financial Year. The AGM of the Society shall be convened on such date and at such place and time as the Executive thinks fit.
- 17.2 In addition to any other business which may be transacted at an AGM, the business of the AGM shall be to:
- (a) confirm the minutes of the last preceding AGM and of any Special General Meeting held since that meeting;
 - (b) elect incoming Executive Members;
 - (c) approve the Society's Annual Financial Statements;
 - (d) appoint an auditor;
 - (e) generally review the Society's operations in the preceding Financial Year and receive reports from the Executive as to the activities of the Society during the preceding Financial Year; and
 - (f) conduct other such general business as a majority of the Members think fit.
- 17.3 The Executive may, at any time, convene a Special General Meeting of the Society:
- (a) if so desired by the Executive; or
 - (b) on the requisition in writing of not less than six Members. A requisition for a Special General Meeting:
 - (i) must state the purpose(s) of the Special General Meeting;
 - (ii) shall be signed by the Members making the requisition;
 - (iii) be delivered to the Chief Executive Officer; and
 - (iv) may consist of six or more individual requisitions from Members.
- 17.4 The business to be conducted at a Special General Meeting shall be the only business for which the Special General Meeting in question was convened, provided that it is business which can properly be dealt with by Members in a General Meeting.
- 17.5 Except where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Society, the Executive shall at least ten days before the date fixed for the holding of the General Meeting cause written notice to be given to each Member in accordance with their address appearing in the Register of Members. Such notice must specify the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- 17.6 Where the nature of the business proposed to be dealt with at a General Meeting requires a Special Resolution of the Society, the Chief Executive Officer shall, at least 20 days before the date fixed for the holding of a General Meeting, cause notice to be sent to each Member as provided in clause 17.5, specifying in addition to matters requiring under that Rule the intention to pass such a resolution as a Special Resolution and the text of that Special Resolution.
- 17.7 No business other than that specified in the notice governing a General Meeting shall be transacted at a meeting, except, in the case of an AGM, present business which may be transacted pursuant to clause 17.2(f).
- 17.8 A Member desiring to bring any business before a General Meeting may give notice in writing of that business to the Chief Executive Officer, who shall include that business in the next

notice calling a General Meeting given after receipt of the notice from that Member.

- 17.9 The quorum for any General Meeting shall be at least ten of the Members present either by proxy or by representative of the Society as at the date notice of the General Meeting was provided. No item of business shall be transacted at any meeting of the Society unless a quorum of Members entitled under this Constitution to vote is present.
- 17.10 If, within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present, then the meeting shall stand adjourned to the same day in the following week at the time and (unless another place is specified at the time of the adjournment by the person presiding at the meeting or communicated by written notice to Members given before the day to which the meeting is adjourned) at the same place.
- 17.11 If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the Members present shall constitute a quorum. At any General Meeting, the President, or, in that person's absence, the Vice President shall be the chairperson. In the absence of both the President and the Vice President, the Executive shall elect one of their number as chairperson.
- 17.12 A copy of the agenda for each general meeting shall be included with the notice of meeting and also be available at the office of the Society ten days prior to the General Meeting.
- 17.13 Subject to this Constitution all meetings shall be conducted in accordance with the procedures for meetings of the Society prescribed from time to time by the Executive.
- 17.14 The Executive must ensure minutes of each General Meeting are kept.
- 17.15 A resolution in writing may be passed in lieu of a General Meeting and shall be as effective and binding as if it had been passed at a duly convened General Meeting if it is approved by no less than 75% of the Members entitled to vote. A resolution in writing may consist of one or more documents in similar form (including letters, electronic mail, or other similar means of communication) each approved by or on behalf of one or more Members. A Member may give their approval to a resolution in writing by signing the resolution or providing approval by email or other electronic means approved by the Executive.

18. VOTING AT GENERAL MEETINGS

- 18.1 Each Member (as defined in clause 12.5) is entitled to one vote per Member at a General Meeting.
- 18.2 Unless a Special Resolution is required, all decisions at General Meetings shall be decided by Ordinary Resolution.
- 18.3 All votes of Members must be given by representative, by proxy, by postal vote, or by electronic means in accordance with clause 18.4. A declaration by the chairperson of the General Meeting shall constitute evidence of the outcome of the resolution without proof of the number or proportion of votes recorded in favour of or against that resolution.
- 18.4 A Member may cast a postal vote or an electronic vote on all or any of the matters to be voted on at any General Meeting by sending a notice of the manner in which the Member's vote is to be cast to the Chief Executive Officer no later than 48 hours before the start of the meeting.
- 18.5 Any Member may demand a ballot either immediately before any proposed show of hands or immediately after such a vote on a show of hands.
- 18.6 Such a ballot shall be held at such time as the chairperson may determine and voting papers shall be supplied to Members.
- 18.7 Each Member is entitled to appoint another Member as proxy by notice in writing to the Chief Executive Officer in the form prescribed by the Executive from time to time, no less than 48 hours before the time of the meeting at which the proxy is to take effect.

- 18.8 The instrument appointing a proxy or a representative of a Member shall be in writing signed by the appointer and shall be provided prior to the meeting to the President or the President's nominee before the person named in the instrument as the proxy or representative purports to vote.
- 18.9 The proxy, postal vote, electronic vote and representative forms and notification of this clause are to be included in any notice of a General Meeting.
- 18.10 In the case of an equality of votes on a decision at a General Meeting, the chairperson of the meeting is entitled to exercise a second or casting vote in addition to his or her deliberative vote.
- 18.11 In the event the Society registers, initiates, or take part in a collective bargaining process on behalf of the Members under the Screen Industry Workers Act 2022, all decisions made by the Society during the bargaining process for the approval of a proposed collective agreement shall be put to a secret ballot rather than a ballot at the general meeting to ensure that Members may vote freely and anonymously.

19. INDEMNITY

- 19.1 The President, Vice President, Executive Members and the Chief Executive Officer shall be indemnified by the Society against all claims, losses and expenses incurred by or bought against them as a result of the discharge of their respective duties, except where arising from their own negligence or willful default.

20. CONFLICTS OF INTEREST

- 20.1 The Executive shall ensure the Interests Register is maintained and updated as necessary to record the interests disclosed by Interested Officers.
- 20.2 An Officer who is an Interested Officer in respect of any matter being considered by the Society, must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified) to the Executive to allow it to be considered and recorded in the Interests Register.
- 20.3 Disclosure must be made as soon as practicable after the Officer becomes aware that they are interested in the matter.
- 20.4 An Officer who is an Interested Officer regarding a matter:
- (a) must not vote or take part in the decision of the Executive relating to the matter; and
 - (b) must not sign any document relating to the matter; and
 - (c) may take part in any discussion of the Executive relating to the matter and be present at the time of the decision of the Executive (unless the Executive decides otherwise).
- 20.5 However, an Officer who is prevented from voting on a matter may still be counted for the purpose of determining whether there is a quorum for any meeting of the Executive at which the matter is considered.
- 20.6 Where 50 per cent or more of Officers are prevented from voting on a matter because they are an Interested Officer, a Special General Meeting must be called to consider and determine the matter, unless all Officers who are not Interested Officers agree otherwise.

21. METHOD OF CONTRACTING

- 21.1 A deed which is to be entered into by the Society may be signed on behalf of the Society:
- (a) by two or more Executive Members, one of whom shall be the President or the Vice President;

- (b) by one Officer whose signature must be witnessed; or
- (c) by one or more attorneys appointed by the Society.

21.2 An obligation which, if entered into by a natural person, is by law required to be in writing, may be entered into on behalf of the Society in writing by an Executive Member or any other person acting under the Executive's express or implied authority.

22. AMENDMENT OF THIS CONSTITUTION

22.1 Subject to clause 22.2, this Constitution may from time to time be amended in whole or in part by adding to them, revoking them or substituting any clause only by a Special Resolution of Members.

22.2 No alteration, addition, revision or other amendment shall be made to this Constitution if it alters the Purposes (clause 3), financial benefits (clause 7.5) or dissolution or winding up clauses (clause 24) if such alteration, addition, revision or other amendment shall prejudice the not-for-profit nature of the Society.

23. NOTICES

23.1 Any notice given pursuant to this Constitution will be deemed to be validly given if personally delivered, posted, or sent by e-mail (as applicable) to:

- (d) in the case of a Member, a physical, postal, or email address held by the Chief Executive Officer in the Register of Members; and
- (e) in the case of the Executive, the Chief Executive Officer or the Society generally, the registered office of the Society.

23.2 Any notice given pursuant to this Constitution will be deemed to be sufficiently given:

- (a) in the case of personal delivery, when received;
- (b) in the case of posting, on the third working day following the date of posting (provided posting originates in New Zealand); or
- (c) in the case of email, upon delivery of the email to the designated email server of the party receiving the notice,

provided that any notice personally delivered or sent by email after 5 pm on a working day or on any day that is not a working day will be deemed to have been received on the next working day.

24. WINDING UP

24.1 Should the dissolution or winding up of the Society be deemed necessary, the Society must be wound up or dissolved in accordance with the Act.

24.2 In the event of a winding up or dissolution of the Society, and there being any surplus of assets remaining after payment of all debts and liabilities of the Society, such assets shall be disposed of in such manner as the Society in any general meeting resolves, subject to the requirement that such surplus assets of the Society must be disposed of to one or more not-for-profit or charitable entities with objects similar to those of the Society.

25. REGISTER OF MEMBERS

25.1 Members shall ensure that the current details of its name, business and contact information are provided to the Executive at all times. Any body corporate who ceases to be entitled to be a Member shall immediately provide notice of that fact and the date its entitlement

ceased to the Chief Executive Officer. Members' contact information shall not be used for any purpose other than the communications from or concerning the Society, unless that Member agrees otherwise.

25.2 The Chief Executive Officer shall establish and maintain a Register of Members pursuant section 79 the Act specifying:

- (a) the name and the last known contact details of each Member;
- (b) the name and contact details of the Member's representative;
- (c) the date on which each body corporate became a Member; and
- (d) the date on which each body corporate ceased to be a Member (if applicable).

25.3 Each Member shall immediately advise the Chief Executive Officer if there is any change to any of the information in the Register of Members relating to that Member.

26. OFFICE

26.1 The registered office of the Society shall be situated at such place as the Executive may determine. The present registered office is at Level 4, 48 Greys Ave, Auckland CBD, PO Box 105 - 052, Auckland Central. Telephone (09) 303 0435, email: office@commscouncil.nz.

27. COMPLAINTS AND DISPUTE RESOLUTION

27.1 If any dispute arises between:

- (a) two or more Members;
- (b) one or more Members and the Society;
- (c) one or more Members and one or more Officers;
- (d) two or more Officers;
- (e) one or more Officers and the Society; or
- (f) one or more Members or Officers and the Society; and
the dispute relates to an allegation that:
 - (g) a Member or an Officer has engaged in misconduct; or
 - (h) a Member or an Officer has breached, or is likely to breach, a duty under this Constitution or the Act; or
 - (i) the Society has breached, or is likely to breach, a duty under this Constitution or the Act; or
 - (j) a Member's rights or interests as a Member have been damaged or Members' rights or interests generally have been damaged,
- (k) then any party involved with the dispute may make a complaint to the Executive and the procedures contained in clauses 2 to 8 (inclusive) of Schedule 2 of the Act shall be deemed to be included in this Constitution and shall apply to the resolution of the dispute.

27.2 The Executive shall be the decision maker responsible for resolving the dispute provided that:

- (a) if the complaint relates to one or more Officers, that Officer or those Officers must be excluded from the Executive's management of the dispute resolution process and decision making;
- (b) if the complaint is made by one or more Officers, that Officer or those Officers must be excluded

from the Executive's management of the dispute resolution process and decision making; and

- (c) if the Executive is unable to proceed because it will not have a quorum to enable it to conduct the dispute resolution process as a consequence of clause 27.2(a) or clause 27.2(b), the Executive must appoint an individual who is not a Member to manage the dispute resolution process and make a decision about the complaint.
- 27.3 After completing the dispute resolution processes provided for in clause 27.1, the Executive or the independent person appointed pursuant to clause 27.2(c) (**Decision Maker**) may:
- (a) make a finding considered by the Decision Maker to be fair and consistent with the evidence provided by the dispute resolution process;
 - (b) in the case of a complaint against a Member, suspend the Member's membership for a defined period or end the Member's membership; or
 - (c) in the case of a complaint against an Officer, remove the Officer from their role as an Officer (and, if the Officer is also a Member, the penalties in clause 27.3(b) could also be applied).
 - (d) Clause 27 does not limit a power to apply for a court order, or take any other enforcement action, under the Act.

SCHEDULE 1 – DEFINITIONS AND INTERPRETATIONS

1. DEFINITIONS

‘Act’ means the Incorporated Societies Act 2022.

‘AGM’ means an annual general meeting of the Society in accordance with clause 17.1.

‘Annual Financial Statements’ means the financial statements of the Society prepared by (or under the supervision of) the Executive which shall include but may not be limited to, financial statement(s) showing the performance and financial position of the Society.

‘Annual Subscription’ the amount payable annually for membership to the Society in accordance with clause 10.

‘Society’ means Commercial Communications Council Incorporated.

‘By-Law’ means those by-laws adopted by the Executive as amended from time to time.

‘Chief Executive Officer’ means the person appointed by the Executive from time to time pursuant to clause 14.5.

‘Communication Services’ means any services in relation to advertising, media, marketing, direct marketing, interactive media, or public relations irrespective of channel of delivery of the services.

‘Constitution’ means this document as amended or added to, including all schedules to this Constitution. ‘Executive’ means the Executive Board of the Society.

‘Executive Members’ means those persons appointed to the Executive, and ‘Executive Member’ shall have a corresponding meaning.

‘Financial Year’ has the meaning given to that term in clause 16.2.

‘General Meeting’ means an AGM or a Special General Meeting.

‘Interests Register’ means the register of interests of Officers maintained by the Executive under clause 20.1.

‘Members’ means the members of the Society from time to time and ‘Member’ has a corresponding meaning.

‘Officer’ means an Executive Member and any natural person occupying a position in the Society that allows the person to exercise significant influence over the management or administration of the Society.

‘Ordinary Resolution’ means a resolution passed by a simple majority of the votes of those Members entitled to vote and voting on the question.

‘President’ means the President for the time being of the Society elected pursuant to clause 11.4.

‘Purposes’ means the purposes of the Society as set out in clause 3.1.

‘Register of Members’ means the register of Members referred to in clause 25.

‘Regulations’ means the Regulations specified in Schedule 3 amended from time to time by the Executive in accordance with clause 14.3(b).

‘Special General Meeting’ has the meaning given to that term in clause 17.3.

‘Special Resolution’ means a resolution passed by a majority of 75 percent of the votes of those Members entitled to vote and voting on the question.

'Total Annual Advertising Revenue' means total revenues from production fees, commission, media commission, and internal agency charges, from local and international sources:

- (a) accruing in each previous financial year or calendar year of a Member (as determined by the Executive); plus
- (b) accruing in the same period to any advertising or communications agency which is connected or associated with the Member.

'Total Revenue' means total revenue:

- (c) accruing in each previous financial year or calendar year of a Member (as determined by the Executive); plus
- (d) accruing in the same period to any advertising or communications agency which is connected or associated with the Member.

'Vice President' means the Vice President of the Society elected pursuant to clause 11.4.

2. INTERPRETATIONS

- (a) The introduction, headings and marginal notes do not affect the interpretation of this Constitution.
- (b) Words importing one gender include other genders and singular includes the plural and vice versa.
- (c) A reference to a clause or schedule is a reference to a clause or schedule this Constitution.
- (d) A reference to a 'person' includes a reference to a natural person, corporation, a company or other body corporate, an unincorporated body of persons, a committee, a statutory body or an instrument of the Crown, and a reference to 'company' includes a reference to a person.
- (e) 'day' means a day other than a Saturday, Sunday or public holiday and a reference to a 'month' means calendar month.
- (f) A reference to a statute includes that statute as amended from time to time and any regulations, other orders in council, and other instruments issued or made under that statute from time to time, as well as legislation passed in substitution for that statute.
- (g) A reference to 'notice' means notice in writing and references to 'written' and 'in writing' include any means of permanent visual representation including in electronic form.
- (h) A reference to one party notifying another or giving a notice to another, or agreeing, consenting, approving or objecting to any matter or nominating or making any nomination or giving any direction means that party doing so in writing.

SCHEDULE 2 – ANNUAL SUBSCRIPTION

1. The Annual Subscription to be paid by Members shall be 0.2950% of Total Annual Advertising Revenue, or such other amount as may be determined by the Executive in accordance with clause 2 of this Schedule. The detailed schedule of classification groups and rates for full service advertising agencies are listed as follows.

2. Levy Classification Groups for All Agencies

Agency Type	%Total Advertising Revenue
All Agencies	0.2950%

3. The Total Annual Advertising Revenue and Total Revenue for that same period shall be notified by each agency to the Society's accountants annually prior to the AGM in the following Financial Year. In any event the minimum subscription shall be \$1,000 per annum.

SCHEDULE 3 - REGULATIONS

1. PROFESSIONAL PRACTICE

- 1.1 Members shall not prepare or handle any communications known or found to be of an untruthful, immoral, obscene or indecent character and in particular, and without affecting the generality of the foregoing, shall not prepare or handle communications containing or including:
- (a) statements, suggestions or representations offensive to public morality or decency;
 - (b) statements attributing to a trade or industry as a whole (or to its products or services) faults, weaknesses, defects or short-comings true only of part of such trade or industries; and
 - (c) Members shall observe the industry's Code of Advertising Practice as promulgated from time to time by the Advertising Standards Authority.

2. STANDARDS

- 2.1 Members shall compete ethically in accordance with the accepted standards of trained and professional people in the advertising and communications industries and shall not, through their actions, bring the industry into disrepute.
- 2.2 Members shall observe ethical and professional standards of conduct.

3. DOUBTFUL CREDIT

- 3.1 Any Member relinquishing an account on the grounds of slow payment, doubtful credit or incurring a bad debt must immediately notify the Chief Executive Officer of the Society and such information shall be circulated in confidence for the information of and as a protection for all other Members.

4. UNFAIR TREATMENT FROM CLIENTS

- 4.1 In any instance where a Member experiences what is considered to be unfair treatment from a client such Member may, if so desired, advise the Chief Executive Officer of the Society of the circumstances. This information shall be circulated in confidence for the information of and as a protection for all other Members.

5. OBTAINING AND RELEASING INFORMATION

- 5.1 Any major financial or statistical information concerning the Society and its Members shall be available only to such Members as supply all required information to the Society.
- 5.2 No Member shall reveal any official Society information of any kind whatsoever to its own clients, to the clients of other Members, to media or to any person outside its own organisation, without the prior approval of the Executive.
- 5.3 Any Member acting improperly in this way may be expelled from the Society.