

**GENERAL AGREEMENT  
ON TRADE IN SERVICES**

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**Negotiating Group on Basic Telecommunications**

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COMMUNICATION FROM NEW ZEALAND

Response to Questionnaire on  
Basic Telecommunications

The attached communication is circulated at the request of New Zealand to members of the Negotiating Group on Basic Telecommunications.

## PART I

### Definition and Market Structure

#### Definition

1. In New Zealand, no distinction is made between basic telecommunications and value-added services.
2. The New Zealand regulatory regime does distinguish between networks (facilities) and services in defining basic telecommunications. Under the Telecommunications Act 1987 particular rights and powers are conveyed to network operators who establish and maintain facilities to 10 or more persons (corporate or individual) by lines. These powers include rights of access to establish and maintain networks e.g. lay cables on the street and enter private property to maintain networks. Section 2A of the Telecommunications Act 1987 (as amended by the Telecommunications Amendment Act 1988, and further amended by Section 86 of the Broadcasting Act 1989) provides a statutory process whereby under an Order in Council, companies providing either telecommunications services between 10 or more persons, or broadcasting services by lines, to more than 500 persons, may be declared a network operator. The purpose of this procedure is to assist companies providing these services who require access to land, particularly the road reserve, to lay cables or to construct lines. It is not essential to be designated as a network operator to lay cables or to construct lines or to provide a telecommunications service. New Zealand does not license telecommunications services providers.
3. Not Applicable (NA), because there is no national definition of basic services.

#### Market structure

4. There are no basic telecommunications subsectors or categories which are reserved to supply by monopoly or exclusive supplier(s).
5. The New Zealand regulatory regime does not designate monopoly/exclusive suppliers to supply any basic telecommunications nationally, on a geographical basis, or for particular market segments.
6. Foreign equity participation is permitted, with only one minor limitation. When the Government sold its shareholding in the Telecom Corporation of New Zealand (TCNZ) to private sector interests, it set certain conditions for the sale of TCNZ. These conditions included a ceiling of 49.9 per cent on the shareholding of any single foreign shareholder in TCNZ. (The total combined foreign shareholding in TCNZ is actually greater than 49.9 per cent.)
7. (a) NA. The New Zealand regulatory regime permits competition.  
(b) NA. The New Zealand regulatory regime permits competition.
8. The New Zealand Government has not entered into any intergovernmental agreements relating to the supply of basic telecommunications except INTELSAT. The New Zealand Government is a Party to the INTELSAT Agreement (and is represented by the Ministry of Commerce). Under the provisions of the Agreement, each Party must designate an entity to act as Signatory to the Operating Agreement and to take responsibility for financial and operational matters. The Government has designated Telecom as Signatory to the INTELSAT Operating Agreement. Telecom has ownership shares in INTELSAT.

## PART II

### Competition

#### (i) Overview

For all subsectors and categories of telecommunications, the New Zealand Government has stated that its objective is to establish and maintain efficient markets in telecommunications goods and services. To this end, it has adopted policies and promoted statutory measures to facilitate competitive entry into those markets, and to maintain the appropriate conditions for effective competition. The Government's view is that competition is the best regulator of telecommunications markets in New Zealand. Foreign suppliers can participate in the supply of basic telecommunications in all subsectors and categories. The principal measures which comprise the regulatory environment for telecommunications include:

#### Competition legislation

The Commerce Act 1986  
The Commerce Amendment Act 1990

New Zealand maintains no industry-specific regulation for entry into the market for supplying of telecommunications goods or services. Instead reliance is placed on the Commerce Act which is the general law of competition in New Zealand. The Commerce Act is the primary statutory instrument through which conditions of effective competition in telecommunications are secured. The Commerce Act is enforced by an independent statutory body, the Commerce Commission.

#### Telecommunications legislation

The Telecommunications Act 1987  
The Telecommunications Amendment Act 1988  
The Telecommunications Amendment Act 1990  
The Telecommunications Amendment Act 1994  
The Telecommunications (International Services) Regulations 1989  
The Telecommunications (Disclosure) Regulations 1990  
The Telecommunications (Disclosure) Regulations 1990, Amendment No. 1

Restrictions on the provision of telecommunications goods and services have been progressively abolished since 1987. This was completely implemented by the passage of the Telecommunications Act 1987 (providing, *inter alia*, for the phased relaxation of restrictions on customer premises equipment) and, the commencement of the Telecommunications Amendment Act 1988, (removing restrictions on the supply of telecommunications services of all kinds) by 1 April 1989. The remaining provisions of the Act relate to the promotion of conditions to contribute to competition in respect of access to land, and regulatory powers with respect to international telecommunications services. The Telecommunications Amendment Act 1990 established regulation making powers used to establish information disclosure requirements on Telecom, with the purpose of facilitating effective competition.

#### Radiocommunications legislation

The Radiocommunications Act 1989  
The Radiocommunications (Radio) Regulations 1993

Fair trading and consumer legislation

The Fair Trading Act 1986

The Fair Trading Amendment Act 1990

Other legislation which indirectly affects telecommunications includes the Broadcasting Act 1989, and the Privacy Act 1993.

The above legislation with the exception of the Privacy Act, is administered in the New Zealand Ministry of Commerce, Wellington. The regulatory environment is also affected by certain obligations associated with the privatization of the Telecom Corporation of New Zealand Limited (see question 7) and obligations arising from international agreements to which New Zealand is a party.

- (ii) There are no requirements, conditions, or limitations applied in any subsector or category which relate to the listed modes of supply.
- (iii) No limitations on market access are applied in any subsector or category.
- (iv) There are no limitations on national treatment specific to the telecommunications sector apart from requirements under the Articles of Association of Telecom that the shareholding of any single foreign entity is limited to 49.9 per cent of the Corporation, and that the Board of Directors of TCNZ comprises at least 50 per cent of New Zealand citizens.

Local/long distance/international

1. The distinction between local and domestic long distance is distinguished by network operators as part of their tariff and engineering policies. A long distance call is defined as a call between any two distinct local calling areas.

2. Registration under the Telecommunications (International Services) Regulations is required by persons who establish, operate or maintain facilities in New Zealand for the purpose of providing to other persons in New Zealand (pursuant to an agreement or arrangement with an overseas operator) either public switched telecommunications services or leased circuits to or from territories outside New Zealand. Revision of the regulations (to move to a less prescriptive regime) is expected in late 1994 or early 1995.

Wire-based/radio-based

Whether the provision of telecommunications services is wire or radio-based is not a relevant issue in terms of the New Zealand regulatory regime. From a topographic point of view, New Zealand utilises both longhaul microwave and fibre optics. While there is little use of satellite technology for domestic telecommunications purposes, the New Zealand regime would have no difficulty subject to the conditions outlined in the attached public information bulletin - PIB 17 and normal ITU earth station/terrestrial coordination.

Some frequency bands such as cellular, UHF television and MDS multipoint distribution systems have been placed under the management rights regime (detailed in PIB 17). Other spectrum is allocated on the basis of radio apparatus licence (detailed in PIB 17).

Resale basis

3. Existing regulations require any company using leased circuits to provide international telecommunications services to comply with the same contractual terms and conditions as any operator

providing switched services. In draft revised regulations (see question 2), public switched services and those provided over leased circuits will be distinguished. Under the draft regulations, providers of public switched services would be granted automatic registration providing certain formalities were observed. Providers of services supported by leased circuits interconnected at both ends would have their applications vetted on the basis of certain criteria on equivalence and impact on telecommunications users in New Zealand. However, applications in respect of routes on which international simple resale is generally entertained (Australia, Canada, UK, USA) would be deemed to meet such criteria. This represents a unilateral move by New Zealand to liberalize resale, as it is not based on reciprocity, except in the case of Australia.

4. The resale of private leased circuit excess capacity is permitted on a commercially negotiated basis.

#### Facilities based

5. Basic telecommunications suppliers (foreign and domestic) can construct and operate their own networks or invest in consortia to construct and operate such facilities. New Zealand does not require licences to construct/operate facilities.

#### Public/non-public supply

6. The New Zealand regime makes no distinction between suppliers of public switched and non-public basic telecommunications.

7. The provisions of the Kiwi Share require TCNZ to maintain its network as extensively as it was on 11 September 1990 when the Government sold its entire 100 per cent shareholding in Telecom to private sector interests. TCNZ must comply with obligations in respect of residential services. These obligations were included by the Government in the Articles of Association of the corporation, and provide for the following commitments:

- local free calling will remain a tariff option available to all residential customers;
- the Standard Residential Rental (i.e. the access charge) for a phone line will not rise faster than movements in the Consumer Price Index, unless the profits of Telecom's Regional Operating Companies are unreasonably impaired; and
- phone line rentals for residential customers in rural areas will not be higher than the standard rental in the cities, and the residential service will remain as widely available as it was at the time of the sale.

8. The New Zealand regime makes no distinction between a public or non-public basis for the provision of basic telecommunications.

9. Except for the Kiwi Share requirements relating to the residential services of Telecom, no obligations or responsibilities are imposed on public basic telecommunications carriers.

10. There are no restrictions on organizing or providing and offering private networks by telecommunications suppliers.

11. The operation of public pay phones is not reserved to monopoly or exclusive suppliers.

### PART III

#### Regulatory Issues

##### Relationship between regulatory and operational functions

1. Basic telecommunications suppliers are not directly involved in making regulatory policy, but they are involved in formulating and enforcing standards for their own networks. They are also involved in the activities of the Telecommunication Standardization Sector of the ITU, to varying extents, e.g. through attendance at meetings, and consultation by the Ministry of Commerce on Recommendations.
2. New Zealand does not have a telecommunications specific regulatory authority. Network operators formulate and enforce their own telecommunications standards. However, electrical safety standards are determined by the Ministry of Commerce. Radio communication equipment used in telecommunications must also meet standards to safeguard against radio interference: the standards are set and enforced by the Ministry of Commerce. Industry members also participate in a national telecommunications standard committee coordinated by the Standards Association of New Zealand, and in the activities of the Telecommunication Standardization and Radiocommunication Sectors of the ITU.
3. Only one level of government (the national level) has responsibility for regulation affecting basic telecommunications. The responsible authority is the Ministry of Commerce. There are procedures enabling suppliers to resolve questions or disputes they may have or to appeal a decision with the regulatory body concerned. These are primarily under general competition legislation (especially the Commerce Act) and can involve either direct action in the courts or the lodging of a complaint with the Commerce Commission (the enforcement agency for the Commerce Act.) In addition, any action of all government agencies can be the subject of an action for judicial review.

##### Frequency allotment or assignment

4. The Radiocommunications Act 1989 introduced fundamental reforms to the management of the New Zealand radio spectrum in order to facilitate competitive entry in telecommunications and broadcasting, as well as to promote efficiency in spectrum management. Provision is made in the Act for the establishment of management rights of up to 20 years and subordinate licences in the name of the Secretary of Commerce and for transfers and subdivisions of such rights. It is the Government's general policy that where the demand for such rights or licences exists, supply of those rights will be tendered. The Ministry of Commerce has a programme of planning and creating management rights and, where necessary, arranging tendering of those rights (subject to any Government policy decisions). Acquisition, or disposition, of a management right is deemed to be an acquisition, or disposition, in terms of the Commerce Act and the requirements of the mergers and takeovers provision of Part III of the Act apply.

Rights to cellular telephone frequencies were tendered in 1990. The successful bidders were required to obtain Commerce Commission clearance before uplifting the rights. Telecom enjoyed incumbency rights to one of the bands, and three further bands were offered for tender. BellSouth New Zealand Ltd successfully secured the rights to one frequency band, and Telecom acquired the rights to another. A third right was retendered in 1993, and Telstra (New Zealand) Limited secured it. Telecom operate an analogue AMPS cellular service, and has introduced a digital AMPS cellular service, while BellSouth is offering a digital GSM service. Telstra is also planning to offer a GSM service.

The Ministry of Commerce is also planning to tender radio frequencies for land mobile services. Licensing of a variety of other telecommunications service applications is administered flexibly by

the Ministry. Certain equipment standards restrictions are maintained in order to minimise radio interference. (For additional information, please see Brochure PIB 17 attached).

5. Foreign telecommunications suppliers, provided they are a New Zealand based corporate entity, do receive national treatment under these procedures and criteria.

#### Numbering and identification costs

6. The New Zealand Telecommunications Numbering Advisory Group (NZTNAG) was established in 1993. This advisory Group provides a forum for representatives of network operators, users, and the Ministry of Commerce. It is chaired by the Ministry, which also provides the Secretariat. Membership is voluntary and agreement on measures is by consensus.

Members of this Group have reached agreement on procedures for the allocation of access codes, local service 9XY number blocks and 0800 AB number blocks. These procedures are now in place. The group has identified further numbering issues which need to be resolved and is working on them. The NZTNAG has been effective in resolving telecommunications numbering issues of concern to members in an efficient and effective manner and there is considered to be no justification for considering a more interventionist mechanism.

7. Foreign telecommunications suppliers, provided they are a New Zealand based corporate entity, do receive national treatment under these procedures and criteria.

#### Standards, type approval and equipment attachment

8. There are no mandatory standards in place with respect to telecommunications with the exception of electrical safety standards and radio communications standards to safeguard against interference. Standards for telecommunications terminal equipment are determined by the individual network operators.

9. If a standard is under review or a new standard is being developed, there is an opportunity for public review and comment prior to its adoption. Foreign entities may participate in this process. The private sector can participate in the development of standards through the Telecommunications Subcommittee of Standards New Zealand. Telecom operates an extensive public consultation process for its own network standards, issuing consultative documents in draft form and inviting public comment from both local and foreign entities.

10. All terminal equipment is subject to type approval with the network operator. Radio equipment is subject to Ministry of Commerce approval to ensure that it does not cause interference. Self certification followed by "Limited Permit" trial whereby a number of installations are allowed to proceed, is used only for more complex equipment (e.g. PABXs etc.) where test facilities are limited. All other equipment must be tested by a testing authority accredited by the network operator.

New Zealand does not have any mutual recognition agreements at present, although an agreement for mutual recognition of telecommunications terminal equipment and electromagnetic compatibility is under negotiation between the European Union and New Zealand.

11. The ability to attach terminal equipment to the network is regulated by the network operators themselves. Section 6 of the Telecommunications Act 1987 states that "No person shall, without the agreement of the network operator, connect any additional line, apparatus or equipment to any part of a network owned by that operator". For example, TCNZ operates a Permit to Connect programme under which anyone seeking to provide telecommunications equipment for connection to the TCNZ network must gain its prior approval. This programme is designed to check safety and compatibility features of equipment. This programme has gained widespread acceptance from the industry and from

the public. The operation of this programme and all other TCNZ activities are subject to the Commerce and Fair Trading Acts.

12. Basic telecommunications suppliers connected to the public network can use their own switches provided they meet the interface requirements of the network operator.

13. The provision of TTE is deregulated in NZ and such equipment may be provided by the network operator or the customer subject to type approval by the network operator.

#### Interconnection

14. Interconnection is the key issue in the development of competition in New Zealand. The Government does not promote industry-specific intervention but places reliance on fair interconnection agreements being negotiated between Telecom and firms seeking to supply telecommunications services. The Government monitors the development of these arrangements, and has stated that if the conditions for competitive entry are unnecessarily impeded it will consider the introduction of further measures. As such, interconnection is negotiated directly between network operators (principally between TCNZ and other parties), subject to the requirements of New Zealand's competition law. There are no specific regulations applied, however, under the Telecommunications (Disclosure) Regulations 1990, TCNZ is required to publish the actual interconnection agreements it has entered into.

15. TCNZ and its subsidiaries as operators of the principal PSTN are required to provide interconnection on fair and reasonable terms to other basic telecommunications network or service suppliers.

16. Interconnection between leased circuits and public data networks is permitted.

17. There are no government rules and regulations regarding the pricing of interconnection. Prices for interconnection are negotiated between network operators, subject to the provisions of general competition legislation. There is, however, a major set of court proceedings examining the various recommendations on which principles should be adopted for local access interconnection. A judgement is expected later this year. The principles upheld may be extended to other forms of interconnection where appropriate. There is no requirement to refer interconnection charges to a regulatory body for approval.

These charges are required to be in the public domain under the requirements of the Telecommunications (Disclosure) Regulations 1990. Following a review conducted by the Ministry of Commerce, the Regulations were amended in December 1993. TCNZ is now obliged to disclose all inter connection agreements with other parties, including its own subsidiaries. In addition, Telecom is required to publish separate financial statements for its principal operating subsidiary, Telecom New Zealand Limited. Previously, TCNZ was required to supply details of interconnection agreements to the Ministry of Commerce on request. Interconnection charges are negotiated on a case-by-case basis, however, the same charges may be charged for the same service.

#### Competitive safeguards

18. The safeguards the New Zealand regime has against the anti-competitive practices of monopolies etc. is covered under general competition law. Part II of the Commerce Act includes prohibitions on contracts, arrangements and understandings that substantially lessen competition, exclusionary provisions, price fixing, resale price maintenance and the use of a dominant position in a market for the purpose of restricting, preventing or deterring entry or eliminating a person from a market. Part III relates to mergers and takeovers. The objective is to prevent any business acquisition which results in a person acquiring or strengthening a dominant position in a market, unless that business acquisition can be



justified in terms of public benefit. Part IV of the Commerce Act makes provision for the imposition of price control generally, or on particular firms or even specific products and services, in circumstances where the Minister of Commerce is satisfied that conditions of effective competition do not exist and control is necessary to protect users, or consumers, or, as the case may be, suppliers. It is the Government's general policy not to introduce price control, nor has the Minister of Commerce announced the detailed circumstances in which control would be considered in relation to telecommunications prices.

TCNZ is also required under the Telecommunications (Disclosure) Regulations to disclose the prices, terms and conditions of certain prescribed services and the financial statements of its principal operating subsidiary.

19. The New Zealand regulations do distinguish between dominant and non-dominant suppliers. Section 36 of the Commerce Act 1986 refers to the use of dominant position in a market: "No person who has a dominant position in a market shall use that position for the purpose of restricting the entry of any person into that or any other market; or preventing or deterring any person from engaging in competitive conduct in that or in any other market; or eliminating or deterring any person from engaging in competitive conduct in that or in any other market."

There are safeguards concerning suppliers who have dominant control of access to certain market or network segments in the respect that the Telecommunications (Disclosure) Regulations only apply to TCNZ for the prescribed services until there is effective competition in any particular market segment.

20. New Zealand does have an antitrust policy but it is not specific to telecommunications. Part III of the Commerce Act relates to mergers or takeovers. The objective is to prevent any business acquisition which results in a person acquiring or strengthening a dominant position in a market, unless that business acquisition can be justified in terms of public benefit. Acquiring or strengthening a dominant position in a market reduces competition and disadvantages consumers. Clear public benefits are required to outweigh these disadvantages. The regime includes offence and remedy provisions aimed at encouraging the prior clearance or authorization of all mergers that raise competition issues.

21. There are no restrictions on basic telecommunications suppliers who also are engaged in manufacturing.

#### Pricing related measures

22. In general, the Government is not involved in the specific regulation of prices, they are set according to normal commercial practices. There are however two exceptions to this. Firstly, under the Telecommunications (International Services) Regulations 1989 the Government does require parallel accounting rates between operators, although the Secretary of the Commerce does have a discretion to waive this requirement under certain circumstances. Secondly, under the provisions of the Kiwi Share, TCNZ may not increase its residential rentals in real terms from November 1989 unless its overall profitability is unreasonably impaired.

The Commerce Act contains prohibitions on practices that substantially lessen competition.

23. The Government does not require tariff approval or notification. No requirements regarding cost-accounting are in place.

24. The parties can structure tariff practices as they wish subject to the requirements of the Commerce Act and normal commercial practices. New Zealand's two largest carriers both offer discounts on such factors as call volumes and call duration. Under the Telecommunications (Disclosure) Regulations 1990, TCNZ is required to disclose the principles used in its setting of discounts, and the actual level of discounts on certain prescribed services, where they represent more than 10 per

cent of the standard price. Accounting rates are set by commercial negotiation and are not applied in a discriminatory fashion between countries.

25. Basic telecommunications suppliers are not involved in setting industry wide tariffs.
26. Prices are determined by supply and demand by way of normal commercial negotiation and are subject to all the requirements of the Commerce Act.
27. There are no rules specific to the pricing of a new service.

#### Rights of way for the construction of infrastructure

28. Basic telecommunications services suppliers are permitted to build their own infrastructure or facilities. They are required to obtain the land use planning consents of the territorial and local government authorities. In addition, under the Telecommunications Act 1987, a network supplier may be designated as a network operator and this conveys certain powers to establish and maintain telecommunications networks. These powers include rights of access to establish and maintain networks e.g. lay cables on the street and enter private property to maintain networks. Section 2A of the Act provides a statutory process whereby under an Order in Council, companies may be declared a network operator. This assists companies providing telecommunications services who require access to land particularly the road reserve, to lay cables or construct lines.

29. National treatment is extended to foreign basic telecommunications suppliers under these procedures and criteria provided they are a New Zealand based corporate entity.

#### New telecommunications services

30. There are no restrictions on the introduction of new telecommunications services.
31. As the New Zealand regulatory regime makes no distinction between basic or value-added services, determining whether a new service is a basic or value-added service is not necessary.

PUBLIC INFORMATION BROCHURE

The Radiocommunications Act 1989

IMPORTANT NOTICE

The nature of radio spectrum management is such that the information contained in this document is subject to change without notice. The Crown does not accept any liability for damage or loss arising from reliance on any information contained in this document. Interested persons should consult the nearest Field Office of Radio Operations, Ministry of Commerce, for further information.

The Radiocommunications Act 1989 provides for:

1. A regime for regulating the transmission and reception of radio waves based on tradeable spectrum rights; and
2. Continuation of the established administrative "radio apparatus" licensing system for regulating those frequencies where spectrum rights have not been created; and
3. Qualifying apparatus licenceholders to be granted an "incumbent" licence when spectrum is transferred from the administrative system to the spectrum rights regime.

Spectrum rights

A "management right" to a range of frequencies (i.e. frequency "band") entitles the owner of that right, known as the manager, to issue "licences" either authorizing persons to transmit radio waves or to ensure specified levels of interference are not exceeded.

A management right to any band can only be created by the Secretary of Commerce who may then either dispose of the right, or issue licences in accordance with it. It is the present policy of Government to dispose of management rights, or licences where the Crown retains the management right, by way of public tender.

COMMUNICATIONS DIVISION - RADIO OPERATIONS

We strive to provide the best Radio Spectrum environment for New Zealand

Head Office: Ministry of Commerce Building, 33 Bowen Street, P.O. Box 2847, Wellington,  
New Zealand. Telephone 0-4-472 0030. Fax 0-4-473 2489

The tender process is intended to allow the relevant spectrum to be allocated to the party that places the most value on it, and to avoid the need to make comparative and subjective judgements on persons or their intended use of spectrum. A key characteristic of management rights is that they carry with them no requirement that limits use to any specific telecommunication or broadcasting application.

While licences may be created by a manager for any purpose, in practice a number of factors constrain the extent to which this may be realisable, including established international markets and the manner in which spectrum is initially sub-divided into management rights. However, while the Act also makes provision for spectrum rights to be traded and re-configured to suit the needs of managers, the Ministry would prefer to initially create rights in a form favoured by the majority of interested parties.

To this end the Ministry, from time to time, invites public submissions on the management of certain frequency bands, especially any proposals to bring such bands under the spectrum rights regime. These invitations to make submissions do not constitute a commitment by the Secretary of Commerce to grant any radio apparatus licences or create, tender or otherwise dispose of any management rights or licences, or otherwise act upon any submission made. Further, any decision to create spectrum rights rests with Government and not the Ministry. The Ministry's objective is to report the results of its inquiries and consultations to Government.

It should also be noted that where any management rights are created, the licensee in respect of existing frequency usage which qualifies under Part XVI of the Radiocommunications Act 1989, will be entitled to be granted an "incumbent" licence in accordance with the conditions specified in the Act. The Ministry recommends that affected parties seek legal advice on these provisions.

#### Radio apparatus licences

In respect of radio frequencies where no management rights have been created, the Secretary of Commerce is responsible, under the Radiocommunication (Radio) Regulations 1993, for the granting of licences, or exemptions from licensing, of all radio apparatus. In exercising this authority the Secretary is required, under Regulation 15, to have regard to:

- international treaty obligations; and
- public interest in receiving maximum benefit from the radio spectrum; and
- technical compatibility with existing licences.

In addition, under Section 112 of the Radiocommunications Act 1989, the Secretary of Commerce is also required to have regard to the general policies of the Government when granting apparatus licences. Such policies are communicated to the Secretary of Commerce by the Minister of Communications, and published in the Gazette.

To varying degrees a number of radio services require international coordination in both operational and spectrum matters, for example maritime, aeronautical, astronomy, navigation, satellite, meteorological and amateur. This is achieved through a variety of organizations especially the International Telecommunications Union (ITU) of which New Zealand is a treaty member. This United Nations agency is primarily responsible for the allocation of radio services to specific bands, and member States are required to recognize these provisions when licensing frequencies within their national boundaries.

The extent to which different radio uses can share the same spectrum, or occupy adjacent spectrum, depends on a wide range of technical considerations. Therefore to achieve maximum utilization of spectrum and minimize potential interference between uses, it is recognized international practice to licence radio services in accordance with pre-arranged channelling plans. Such plans usually evolve over time in response to changing technology and trends in telecommunications. In considering licence applications for new uses of a band the Ministry must balance the investment made by existing licensees, and their reasonable expectations for additional licences within the band, against the overall benefits to society from the introduction of new telecommunication technologies. The two most significant considerations in this regard are the degree of technical compatibility between the existing uses and proposed new use, and current international practice. In some circumstances the Ministry may seek public comment on various options which may include tendering of management rights or licences.

Although radio apparatus licences are usually granted for a maximum period of 12 months, and may be revoked or modified by the Secretary at any time, it is normal practice for licensees to be offered renewal on the payment of an annual licence fee. While such fees are only intended to recover the costs of managing the spectrum in accordance with the objectives outlined above, incentives to maximize spectrum utilization are incorporated in some fee categories.

#### Radio spectrum management policies of Government

It is the general policy of Government to promote an effective and efficient competitive environment for the delivery of commercial telecommunication and broadcasting services that have radio spectrum as a key input.

On behalf of Government it is the responsibility of the Ministry of Commerce to:

1. Create spectrum rights in frequency bands identified with commercial telecommunication services (notably fixed, mobile and broadcasting) where demand exceeds supply, then allocate such rights primarily by way of public tender to avoid comparative and subjective judgments on persons and intended use.
2. Manage frequency bands internationally allocated and coordinated (notably distress, maritime, aeronautical, navigation, astronomy, space, scientific research, meteorological and amateur) in a manner consistent with New Zealand treaty obligations.
3. Make adequate spectrum provisions to meet Government policy objectives in community (non-commercial) and Maori broadcasting, and public safety and security services.
4. Make reasonable spectrum provisions, consistent with international practice, for general public access without a requirement for individual licences (for example Citizen Radio Service, radio model control, automatic garage door openers, microwave ovens, diathermy, etc.).
5. Foster public discussion and input on the development of management policies for the various radio spectrum bands.
6. To develop and maintain a legislative framework that is efficient and effective in:
  - Accommodating new technologies.
  - International coordination requirements.

- Administrative processes.
- Management of interference issues.
- Compliance with all explicit and implicit international treaty obligations.

Communications Division  
WELLINGTON

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