

RADIOCOMMUNICATIONS FEES
15 May 2003

REGULATORY IMPACT STATEMENT

Statement of the nature and magnitude of the problem and the need for government action

Reduction of licence and other fees payable under the Radiocommunications Regulations 2001 ("the regulations")

The operating costs for managing and enforcing the Radiocommunications Act 1989 ("the Act") have reduced as a result of an organisational review of the Radio Spectrum Management Group ("RSM") within the Ministry of Economic Development. The magnitude of this reduction is \$1.848 million (GST exclusive) in 2003/04 and outyears.

In addition, the memorandum account maintained for departmental output class Management and Enforcement of the Radiocommunications Act 1989 ("the output class") in Vote Communications had a surplus of \$7.305 million as at 30 June 2002, and this is forecast to increase to \$7.448 million at 30 June 2003 (all GST exclusive).

The fees currently prescribed in the regulations also contain a large component of cross-subsidy between different licence types. In particular, the fees prescribed for spectrum licences and high-powered broadcasting licences are significantly higher than the cost of providing services for those licence types. In contrast, the fees for a number of smaller-powered licence classes are correspondingly lower than the costs associated with these licences.

There are also a number of fees currently prescribed (mostly those that have low volumes and small charges) where the cost of collection matches or exceeds the sum involved and which act as a disincentive to compliance with the Act.

Statement of the public policy objectives

The objectives are to:

- a) provide a transparent framework for the allocation of costs to industry for the administration of the Act;
- b) ensure full recovery of costs associated with the management and administration of the Act;
- c) ensure fair allocation of specific fees to the actual work undertaken by the Ministry in respect of the Act;
- d) minimise the existence of any cross-subsidies in respect of the different fees; and
- e) reduce the current surplus in the memorandum account.

Statement of feasible options that may constitute viable means for achieving the desired objectives

(a) Status quo

- There is a highly complex schedule of fees with over 200 licence fees based on a variety of factors including power, frequency and bandwidth;
- The fees are set at levels that continue to generate revenue in excess of the cost of managing and enforcing the Act; and
- Each licence fee has a large component of spectrum use included in the calculation of its renewal fee. This results in cross-subsidisation; i.e. some fees are set at a level well in excess of the cost of services provided, while others are at a level that does not fully recover the cost of services provided.

(b) Preferred option: Restructuring of the fee Schedule and pro rata reduction of the surplus - Key features

- Selective abolition of current fees where the cost of the service provided and volumes associated with the fees make it administratively uneconomic to charge a fee;
- Abolition of all registration fees, other than initial registration, to encourage licence holders to keep licence details up to date;
- Abolition of all registry access fees in recognition of the low costs associated with this activity and the impending introduction of electronic search access;
- Aggregation of licence fees of a similar type to simplify and reduce the costs of administration;
- Fees set at levels that will generate revenue less than the costs associated with the output class; and
- Reduction of the existing memorandum account surplus by applying it on a *pro rata* basis to the annual deficit arising from the lower than cost-recovery fees. (See (d)(4) below for further details.)

(c) Alternative option for fee-setting – pro rata reductions

The reduction in RSM's expenditure represents approximately a 19% reduction of costs. This percentage reduction could be applied across the board to all fees, and the existing schedule of fees would remain unchanged.

The only benefit that this option presents is continuation of the existing familiarity with the types of licences and services for which fees are charged. However, there are a significant number of drawbacks with this approach, including:

- continuation of the cumbersome and unnecessarily complex schedule of licence classes;
- an increase in the number of fees that are uneconomic to collect;
- continuation of the cross-subsidisation that exists between different classes of licences; and
- retention of the financial disincentive to update registry information.

For these reasons, this option has been rejected.

(d) Alternative options for reducing the memorandum account surplus

If the memorandum account surplus is to be progressively reduced, there is no option but to reduce fees below cost recovery levels. The options for these reductions are as follows.

- (1) One-off reduction of fees – It would be possible to discount fees to a level that would remove the surplus in a single year. However this is not

considered to be practicable. The level of discount (upwards of 90%) required to achieve this would be such that a large drop in fees would be followed in the following year with a large increase. The costs to business in familiarising themselves with the changes, as well as the administrative changes required outweigh the immediate benefit of such an approach.

- (2) One-off payment to licence holders – Some organisations have sought direct payments for the perceived “over-payment” of fees contributing to the surplus. However, this approach is not considered feasible due to the constant changes in participants within the radiocommunications industry over the years during which the surplus has been accumulated.
- (3) Disproportionate reduction of some fees – This would involve selected fee payers receiving a disproportionate share of the surplus based on the classes of licences for which disproportionately high fees had been charged in the past. The basis for this approach is that the fees that would be disproportionately reduced must, by inference, be the ones that have contributed a disproportionately large amount to the memorandum account surplus. However, this option has been rejected since it does not provide appropriate recognition to the different approaches to charging on which the proposed and current fees regime are based.
- (4) Preferred option - *Pro rata* reduction of licence fees over a 3-4 year period – this approach represents the most equitable approach to reduce the memorandum account surplus. It will allow the surplus to be reduced in an orderly manner, with little, if any, fee increases after the surplus has been depleted. It also treats all licence holders equally.

Statement of net benefit of the proposal

The anticipated costs and benefits from the changes are:

(a) Government

- The reduction in fee levels and classes will encourage greater use of the radio spectrum as a means of business communication which, in turn, maximises use of the Crown’s resources and provides the public access to communications that would not be readily available by other means.
- Removal of the register search fees, and reduction of the registration fees, will help ensure there is greater use of, and more accurate information on, the register of radio frequencies, enabling better informed business decisions with respect to spectrum use. This, in turn, reduces the risk of spectrum interference occurrences and the consequential enforcement costs that would otherwise fall on the Ministry.
- A reduced and simplified fee schedule, with the removal of fees that are uneconomic to collect, enables radio spectrum to be managed more efficiently and cost effectively.

(b) Radio spectrum users

- The cost of access will be reduced for 72% of all users of the radio spectrum. These reductions range from \$2 p.a. to over \$500,000 p.a. for large, commercial users of the spectrum.

- Large companies have to maintain records of their licences and annually match these to the equipment they hold and the frequencies they operate on. By aggregating the classes of licences, and also abolishing some licence and other fees, this administrative task becomes easier and simpler for businesses, thereby reducing compliance costs.

Statement of consultation undertaken

Consultation has been carried out with the following parties:

- the Spectrum Users Advisory Group, which represents all organisations that are major users of spectrum in New Zealand. Amongst its member organisations are Telecom, Vodafone, Telstra-Clear, TVNZ and Canwest;
- the Television Broadcasters Council, which represents all major television broadcasting companies;
- the Public Safety Frequency Management Group representing public service users of frequency for safety services, such as the Police and Ministry of Defence;
- the Radio Frequency Users Association of New Zealand which represents small to medium business users of the spectrum for land mobile and fixed link services;
- the Telecommunication Users Association of New Zealand, representing a cross-section of businesses who use telecommunications;
- NZART representing all amateur radio operators in New Zealand; and
- Airways New Zealand.

All supported the main proposal to reduce fees, and acknowledged that there would be a need for ongoing review of the overall fees regime, and were willing to accommodate any specific objections within that process. A number of parties (TVNZ, Teamtalk, Vodafone, Telecom and the Radio Broadcasters Association) did not support the *pro rata* allocation of the memorandum account surplus to the fees reduction.

These fee payers have argued that they should receive a disproportionate share of the surplus based on what they perceive to be disproportionately high fees for certain classes of licences in the past. However, this argument fails to recognise the fundamental difference between the current and proposed fees models. The former incorporates both a spectrum use component and a service cost component, and does not reflect cost recovery for the services provided. The latter focuses principally on the unit cost in providing services for different licence types. Accordingly, the extent of the difference between the proposed and current fees is in no way indicative of the extent of a licence holder's contribution to the surplus.

The following Government departments have also been consulted on the fees: Te Puni Kokiri, Ministry for Culture and Heritage, Ministry of Defence and Treasury. All departments consulted support the proposals contained in the Cabinet paper.

BUSINESS COMPLIANCE COST STATEMENT

The only compliance cost will be the cost of licence holders familiarising themselves with the fee changes. The specifics of these changes will be readily apparent from the invoices that they will receive from RSM.

The parties that will be affected are the existing radio and spectrum licence holders. There are currently in excess of 11,000 companies and individuals holding one or more licences.

It is not considered that there will be any material change in compliance costs for parties affected by the fee changes, because there is no change to the application or administration requirements. The reduction of the number of tiers for various licences will provide a slightly simplified application procedure for all licence applicants. Similarly, the removal of the register search fees and removal of almost all registration fees will also simplify administrative procedures.

The Ministry will ensure that licence holders are adequately informed of the fee changes by way of publicity.