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Personal to: CE, MED

Cabinet Policy Committee

POL Min (06) 26/22²
(BROADCASTING)

Copy No: 26

Minute of Decision

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Broadband Wireless Spectrum Allocation

On 22 November 2006, the Cabinet Policy Committee (POL), having been authorised by Cabinet with Power to Act [CAB Min (06) 43/3B]:

Background

1 **noted** that on 3 July 2006 Cabinet:

- 1.1 agreed to the public release of a discussion paper *Spectrum Allocation for Broadband Wireless Access*;
- 1.2 authorised discussions with stakeholders to gain early access to spectrum bands suitable for broadband wireless access services (BWA) with a view to facilitating early access to that spectrum; and
- 1.3 invited the Minister of Communications to report to the Cabinet Economic Development Committee by September 2006 on the outcome of the consultation;

[EDC Min (06) 10/9]

2 **noted** that on 25 October 2006 the Cabinet Economic Development Committee (EDC) invited the Minister of Communications to submit an updated paper to EDC, revised to include:

- 2.1 analysis of the implications of offering Woosh early renewal of its existing spectrum management rights to 16 MHz of the 2.3GHz band, at the average auction price of the remaining reallocated 2.3GHz band;
- 2.2 further information on the possibility of introducing penalty rules for companies that purchase spectrum management rights but do not utilise those rights within a certain period of time ('use it or lose it' provisions);

[EDC Min (06) 19/6]

3 **noted** that 800/900 MHz and 1.8, 2.2, 2.4, 5.8, 3.5 and 25 GHz spectrum is currently available to be used for BWA, through the allocation of nationwide and regional management rights, and shared use;

4 **noted** that there is strong interest in access to additional spectrum for BWA, and that the 2.3, 2.5, 5.4 GHz and bands above 60 GHz are candidates;

Allocation of the 2.3 GHz band

- 5 **noted** that on 13 December 2004, Cabinet:
- 5.1 noted that a case by case assessment including consultation with rightholders has been completed for rights between 2.300 and 2.396 GHz, and that these rights have not had significant utilisation since creation in 1990;
 - 5.2 agreed that replacement management rights over frequencies between 2.300 GHz and 2.396 GHz not be offered to current rightholders, and that this spectrum should be reallocated in due course following technical re-planning;
- [CAB Min (04) 41/24]
- 6 **noted** that:
- 6.1 the discussion paper revealed strong support for reconfiguration and reallocation of frequencies between 2.300 GHz and 2.396 GHz (2.3 GHz band) suitable for deployment of WiMax-based BWA networks;
 - 6.2 discussions with current rightholders indicate that between 56 and 64 MHz could be released immediately, whereas Woosh Wireless Limited (Woosh) seeks renewal offers for its existing rights;
- 7 **agreed**, subject to technical desirability, to allocate a 16 MHz block of the 2.3 GHz band, available from 2010 or earlier, as a managed spectrum park and the remainder as 8x10 MHz management rights;
- 8 **agreed** that the Ministry of Economic Development (MED) conduct an auction of the 2.3 GHz band in the first quarter of 2007 (or as soon as practicable) with the following conditions:
- 8.1 a spectrum cap with the intended result of at least three unassociated right-holders in the band for two years from allocations;
 - 8.2 rights are sold with conditions of use that managers must meet or face revocation without compensation, noting that further work is required to finalise the details of the conditions and a suitable penalty schedule;
- 9 **confirmed** the decisions on allocation of the 2.3 GHz band noted in paragraph 5 above, in accordance with recommendations by MED officials;
- 10 **noted** that, subject to discussions with right-holders for early relinquishment of current management rights in the 2.3 GHz band, some of the auctioned management rights will be available immediately after the auction, while others will be allocated now but may not be available until current rights expire in 2010;
- 11 **authorised** the Minister of Communications to:
- 11.1 conclude agreements with current rightholders to relinquish their rights to the 2.3 GHz band prior to 2010, [would be with-held under section 9(2)(f)(iv) of the Official Information Act 1982]

- 11.2 determine the number and final configuration of the 2.3 GHz band lots if the configuration in paragraph 7 above is not technically viable, and the period of allocation;
- 11.3 approve the auction and managed spectrum park rules, conditions, agreements and other documentation that may be desirable to implement these decisions, including the details of the spectrum cap and conditions of use;

Transition plan for the 2.5 GHz band

- 12 **noted** that frequencies between 2.500 and 2.690 GHz are suitable for BWA use in an equivalent manner to the 2.3 GHz band, but are currently used for television outside broadcasting (e.g. linking back to studio);
- 13 **agreed** that MED develop and implement a transition plan to clear the 2.500 and 2.690 GHz band for future allocation for BWA, once technical details have been determined after the World Radio Conference in 2007;

New general user licences at 5.4 GHz and 60 GHz

- 14 **noted** that frequencies between 5.470 and 5.725 GHz are used for radiolocation and radionavigation services, but can be shared with WLAN services (a form of BWA);
- 15 **noted** that frequencies between 57 and 66 GHz are little used, but could be used by high capacity short range point-to-point links (a form of BWA);
- 16 **agreed** that facilitation of BWA in frequencies between 5.470 and 5.725 GHz will be best achieved through a general user licence subject to conditions to protect radiolocation and radionavigation services operating in the spectrum band;
- 17 **agreed** that facilitation of BWA in frequencies between 57 and 66 GHz will be best achieved through a general user licence subject to conditions balancing technology neutrality with spectrum efficiency and utility;
- 18 **noted** that the Chief Executive of MED intends to grant general user licences over the frequencies between 5.470 and 5.725 GHz and between 57 and 66 GHz consistent with the conditions in paragraphs 16 and 17 by June 2007;

Policy development for 70, 80, 90 GHz and other bands

- 19 **noted** that there are no current licensing policies for the 70, 80 and 90 GHz bands, but interest in these bands for BWA is becoming evident and MED is developing policies in anticipation of future demand;
- 20 **noted** that there is industry interest in other bands, including changes to the existing 921 to 929 MHz general user licence and 10.5 GHz bands and that policy and technical work for these bands is on-going;

Next Steps

- 21 **noted** that the Minister of Communications will announce the decisions and release the relevant documents in due course;

22 **noted** that the Minister of Communications indicates that consultation is not required with the government caucuses or other parties represented in Parliament.

G. Carter

Gerrard Carter
Secretary

Reference: POL (06) 384

Present:

Rt Hon Helen Clark (Chair)
Hon Dr Michael Cullen
Hon Phil Goff
Hon Annette King
Hon Pete Hodgson
Hon Parekura Horomia
Hon Mark Burton
Hon Chris Carter
Hon Rick Barker
Hon David Benson-Pope
Hon David Cunliffe

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet

Copies to:

Cabinet Policy Committee
Chief Executive, DPMC
Director, PAG, DPMC
Secretary to the Treasury
Chief Executive, Ministry for Culture and Heritage (Broadcasting)
Chief Executive, Ministry of Economic Development (Broadcasting)
Chief Executive, Te Puni Kokiri
Minister of Communications
Chief Executive, Ministry of Economic Development (Communications Division)
Associate Minister for Economic Development (Hon Luamanuvao Winnie Laban)
Associate Minister for Arts, Culture and Heritage (Hon Judith Tizard)
Associate Minister for Arts, Culture and Heritage (Hon Mahara Okeroa)