

## Economic Development

### Radiocommunications Act 1989

#### Statement of Government Policy and Directions to Chief Executive of Ministry of Economic Development

To: The Chief Executive of Ministry of Economic Development.

Pursuant to section 112 of the Radiocommunications Act 1989 ("the Act"), I hereby give you notice that it is part of the general policy of the Government, in relation to your functions, duties and powers under the Radiocommunications Regulations 2001 ("the Regulations")—

A That for the purposes of this notice, any applicant for a non-commercial broadcasting licence must meet the following criteria:

- (i) The applicant must not be a rightholder of a spectrum licence which could be used for the purpose; and
- (ii) the constitution or articles of association of the applicant or funding organisation show it to be clearly non-profit in nature; and
- (iii) the applicant can demonstrate that it does not intend to operate its service at a profit, can identify a permanent fund-raising mechanism to cover its costs, and is demonstrably financially viable and sustainable within existing public funding arrangements; and
- (iv) the format the applicant proposes is not operated by other stations on a "for profit" basis, and must complement and provide alternative services to those offered by existing broadcasters; and
- (v) the applicant is not primarily intending to raise funds for charitable purposes; and
- (vi) the applicant is not paying higher than market rates for salaries or for other services. Such rates of payment would be taken to indicate a de-facto commercial service where proprietors received financial benefits for their services; and
- (vii) advertising (or decoder revenue) is not planned to be more than 50% of the revenue. Taken as a general guideline, this would demonstrate the good faith of the organisation in respect of its intentions to operate on a non-profit basis; and
- (viii) the service is driven by programming tailored to a particular audience rather than the need to deliver a desired audience for advertisers; and

B That the Government's broadcasting policy objectives are to:

- (i) ensure that all New Zealanders have reasonable and regular access to broadcasting representing the uniqueness and diversity of New Zealand life, recognising that the histories and stories of whānau, hapū and iwi are integral to any description of that life; and
- (ii) meet the information and entertainment needs of as many interests as reasonably possible, including those that cannot be met by commercial broadcasting; and
- (iii) contribute to public awareness of and participation in the political and social debates of the day; and
- (iv) provide for minority interests and increased choice; and

- (v) encourage innovation and creativity in broadcasting while aiming to continually increase audience satisfaction with the quality of the content; and
- C That there should be competition in the provision of telecommunication services; and
  - D That in the granting of radio licences, consideration should be given to permitting a range of uses and users in any given frequency band; and
  - E That until a decision is made concerning the creation of management rights in bands allocated for broadcasting services, radio licences granted pursuant to Regulation 8 of the Regulations should be limited to:
    - (i) maintaining the coverage of services provided by existing licensees; or
    - (ii) implementing new television broadcasting services where the primary objective is the promotion of Māori language and culture; or
    - (iii) implementing new television broadcasting services where such services are undertaken otherwise than for profit; and
  - F That until a decision is made concerning the creation of management rights in bands that are subject to international planning processes for the introduction of new technologies and services, radio licences granted pursuant to Regulation 8 of the Regulations should be limited to:
    - (i) facilitating the transition of existing licensed services to alternative frequencies; and
    - (ii) demonstrating, subject to protecting existing licensed services, the operation of new technologies; and
  - G That licensing of New Zealand originated short wave radio broadcasting, in frequency bands below 30 MHz allocated to broadcasting under Article 5 of the ITU International Radio Regulations, should be consistent with the foreign policy of the Government of New Zealand; and
  - H That adequate provision should be made, in common frequency bands where practicable, for the licensing of services operated by Government departments and Crown agencies, where the primary objective of such services is the protection of life and property; and
  - I That adequate provision should be made, pursuant to Regulation 9 of the Regulations and in common frequency bands where practicable, for the licensing of classes of low-powered radio transmitters.

Pursuant to the above policies, I hereby direct you as follows:

1. You shall not grant new radio licences for services in the ranges of frequencies:

- (a) 525 kHz to 1705 kHz;
- (b) 87.5 MHz to 108 MHz;
- (c) 502 MHz to 806 MHz;
- (d) 1461.5 MHz to 1490 MHz;
- (e) 11.7 GHz to 12.75 GHz;

except where the granting of radio licences is necessary for the purpose of:

- (i) maintaining the coverage of services provided by existing licensees; or
- (ii) facilitating, by means of short-term licences, the transition of existing licensed services to alternative frequencies; or
- (iii) demonstrating, by means of short-term licences and subject to the protection of existing licensed services, the operation of new technologies; or
- (iv) implementing new television broadcasting services in the range of frequencies 582 MHz to 614 MHz,

where the primary objective is the promotion of Māori language and culture; or

- (v) implementing new television broadcasting services in the range of frequencies 614 MHz to 646 MHz, where such services are undertaken otherwise than for profit; or
- (vi) facilitating the short-term operation of non-broadcasting services in the range of frequencies 494 MHz to 518 MHz for specific events.

In granting applications for radio licences for television services under subsection (v), you shall have regard to the following matters:

1. The extent to which the proposed service contributes to Government's broadcasting objectives.
2. The extent to which the proposed service is consistent with the definition of a non-commercial broadcaster.
3. The capability of the proposed service to commence within two years.
4. The extent to which the proposal increases the diversity of programme choice for viewers.
5. The extent to which a proposal can provide non-commercial services not being provided on a national level. These may include parliamentary broadcasts, educational services such as foreign language programming, religious programming, coverage of minority sports, and New Zealand documentaries and short films.
6. The extent to which the proposal provides access to local and regional programme makers.
7. The extent of geographic coverage possible for non-commercial services, given spectrum capacity.
8. The extent to which time is made available for non-commercial uses, including prime time.
9. The extent to which the proposal can demonstrate that its overall objective is "not for profit".
10. The prospect that the proposal will be implemented.
11. The extent to which the proposal contains sufficient accountability mechanisms to ensure that it delivers on its undertakings to provide services. Arrangements may include:
  - A. mechanisms for equitable allocation of air time amongst all interested users;
  - B. procedures for resolving disputes over allocation of time to users;
  - C. systems for ensuring efficient management of services;
  - D. provision of satisfactory services to the full variety of audiences to be catered for;
  - E. mechanisms for ensuring compliance by all users on the frequency with broadcasting standards.
12. Any potential future public benefit from providing for the transition of services to digital transmission.
13. Any other benefits the proposal may offer.

**2. Application of this notice**—You shall comply with the directions set out above in relation to all applications for radio licences, including applications made before the date of this notice but not dealt with before that date.

**3. Revocation of previous notices**—All previous statements of Government policy made pursuant to section 112 of the Act are hereby revoked.

Dated at Wellington this 17th day of April 2008.

DAVID RICHARD CUNLIFFE, Minister for Communications and Information Technology.