

## Radio Spectrum Fees Review: Consultation Document

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Nature of Business: Mobile Radio Network Operator

TeamTalk thanks the Ministry for the opportunity to comment on this Consultation Document. We were involved in previous reviews held in 2003 and 2007 and this review is certainly quite different to them.

The Consultation Document is very short on factual data and very much in an “overview” form, making it near impossible to effectively evaluate some of the decisions being proposed. This licence structure has been in place since the 1980s and has influenced how the mobile radio market has evolved, TeamTalk is struggling to understand why some of the changes are being proposed when the current structure works well. Our company favours maintenance of the status quo until the many unforeseen consequences have been remedied.

We have three main areas of concern which we will detail here, and expand upon in the following submission:

- I. Along with TeamTalk, other major network operators like St John, Fire and Police will face significant and unjustified fee increases. We know, for instance, St John would face fee increases of up to [REDACTED] should these proposals proceed.
- II. The Memorandum Account has been built up by existing licensees. We believe the fair approach would be to return any surplus in approximate proportion to licensees which have actually contributed/overpaid.
- III. By abolishing licence categories for land mobile repeaters on a common channel RSM is turning its back on ‘spectrum conservation’, penalising larger responsible users like ourselves, and tilting the market in favour of smaller operators who will be effectively subsidised by those maintaining larger nationwide networks. By way of example: There is no ‘administration dividend’ for ‘bulk purchasing’ or recognition of those with a large/long-term infrastructural investment

TeamTalk has been operating in New Zealand for 20 years. We service hundreds of customers large and small who rely on our ability to deliver good quality communications services at least cost. The RSM proposals would result in significant fee increases for the company, and ironically, we believe it also contradicts the Government’s policy objective to roll-out improved, efficient, data and broadband services to remote rural areas.

TeamTalk believes significant change is required to the discussion document before policy changes are considered.

Our concerns are further outlined below:

Response to specific questions;

1. *'Set fees based on the level projected to reduce the Memorandum Account balance to zero in six years, with a subsequent increase in fees to balance revenue and expenditure.'*

We have been told many times that the Memorandum Account should reduce, but since 2009, it has just continued to increase, indicating that fees generally are set too high. While it was forecast that analogue television would close, this only related to a relatively few transmitters. At the same time other services have continued to expand and there is no suggestion that existing growth is going to level off or stop.

The Memorandum Account has been built up over a period of some years since 2009 by the existing licensees and it is only fair and equitable that this surplus be returned in approximate proportion to which licensees have contributed. There are a number of ways that this could be accomplished, the proposal to reduce licence fees below that required for cost recovery, is a fair way to do this, provided that Proposal 3 is not enacted. If Proposal 3 is enacted, then a number of larger Network Operators and Public Safety agencies will face significant fee increases that will add to the Memorandum Account, these entities will not receive any share of the Memorandum Account, an unacceptable situation. All current licensees should get the same percentage benefit from the reduction of the Memorandum Account. The present surplus has been generated by existing licensees, so they should be the primary beneficiaries of this discount, rather than new licensees taking up new licences.

Having accumulated a surplus in the Memorandum Account, TeamTalk's view is that this should be reduced over the longest possible period of time, this will minimise any price increase in the future and continue the stability in the cost for a key strategic resource in the mobile radio market.

2. *'Introduce a single licence fee for all licence classes.'*

The present fees were set after evaluating the Ministry's costs across the various licence categories during the 2007 review. While this may have produced some anomalies, it was based on Ministry costs, so was considered fair at the time.

The more expensive Licence Fee's have generally been in the broadcasting category and this was because they were the higher contributors to RSM costs. As it seems that interference investigations have reduced significantly since the closing of the analogue television service, and there are relatively few broadcast transmitters compared with other licence categories, then it is probably reasonable to introduce a single licence fee across all categories for single transmitters (for clarity this excludes the multi-use licence discussed under Proposal 3 below).

3. *'Discontinue the licence categories for land mobile multiple repeaters on a common channel throughout New Zealand (LR1 and LR2) and multiple radio transmitters on a common frequency for paging (LP1).'*

We strongly disagree with this proposal which seems to be designed to significantly penalise financially those in the Public Safety and wide area network businesses, who are the main users of this multi-site, same channel licence class.

The Consultation Document states *"In our view the repeater and paging multi-location licences are an anomaly"*. We strongly disagree with this statement, these classes have been in place for many years and are there to recognise the benefits of re-using the same frequency as often as possible, i.e. spectrum conservation. Over the years, the effective discount has increased as the number of transmitters required to qualify for the class has steadily reduced. This has occurred to reflect reduction in the actual cost to RSM which was the driver for previous Fee Reviews.

It is then stated *"We consider that these licences promote inefficient use of spectrum, with locations included on licences but not actually in use. This denies spectrum to others. In addition, the licence holders are entitled to claim interference protection and investigation of interference by RSM for every location, generating higher costs which are not reflected in the fee charged."* These are bold wide-ranging statements for which no evidence is offered in the Discussion Document.

On the contrary, these licence classes actually promote spectral efficiency, the attraction of a discount is the only incentive to re-use a particular channel or frequency as often as is technically possible. Without the discount, the operator could just choose the easiest frequency or channel to install on their existing antenna multiplexing system, and ignore any opportunity to conserve spectrum. Users of these licences must carefully engineer the re-use of common frequencies to minimise interference which has in turn reduced costs for RSM. Removal of this licence class would mean there is less incentive for users to take the same level of care which will increase RSM costs associated with resolution of interference issues.

As industry players, we certainly do not licence any channels that we do not intend to install and use. We have heard, anecdotally, that there may be a couple of operators who have a requirement for portable repeaters, which is not provided for in the Regulations or fees. As a result they have then licensed a channel in a host of areas that they might visit with their operation and portable repeater. If RSM made a provision for portable repeaters, this issue would disappear.

If RSM has evidence that anyone is licensing channels with no intent to ever install, thus denying spectrum to others then they have the authority to audit and take appropriate legal action.

The statement that multi-site licences are generating higher costs which are not reflected in the fee charged, is not supported by any evidence and in our view is completely incorrect. For ourselves, we rarely seek RSM support for the diagnosis and clearance of interference and the fees we pay to RSM cover any RSM costs many times over. We would expect most other major operators would be in a similar position, they use their own resources to maintain their services and only call in RSM when it is clear that there are issues with an external party that they have no legal right to confront. Your own Discussion Document at the top of page 10 says *"we have come to the view that it is no*

*longer sensible or even possible to differentiate between the costs of different types of licences*". This would indicate that there are no additional costs for RSM to support this class of licence or they would have shown up in your modelling. Even your own Fees Review in 2007 showed that the costs for this class of licence was only just over twice that of a single channel, whereas the number of channels on these licences were many more than that.

For larger Licensee's RSM are able to issue just one invoice to cover, in some cases, thousands of channels and frequencies. As there is a cost to issuing invoices and collecting payments, there is a considerable saving to RSM having large customers. Some of this saving should be passed to the customers. If this proposal is implemented there will be hundreds of additional licences and invoices issued increasing RSM costs.

There are some Public Safety licensees (St John, Police and NZ Fire Service) who, because of limited spectrum available, have had to re-use channels many times. Without the multi-site licence class they will be faced with very significant increases in their costs, this would seem to be a very unfair burden that will be placed on them. St Johns are looking at over [REDACTED] \* [\*COMMERCIAL IN CONFIDENCE – NOT TO BE RELEASED] increase to their costs for radio licences and nationwide Paging operators will also be significantly impacted.

It is these same large Licensees that provide valuable support and feedback to RSM when reviewing band-plans, reviewing policy, building and developing SMART etc.

In the market place, the more you purchase or consume of a product, the lower the price per unit becomes normally, it would seem that RSM does not subscribe to this philosophy and yet they reap the benefits of having some large customers.

A further benefit of the multi-site licence is that it assists wide area network operators to provide services into rural and remote, low population areas at a lower cost than if they had to provide a separate licence for each transmitter.

This licence class is part of a long standing licencing structure that is working well and cannot be easily changed. Should this Proposal 3 be enacted it will significantly tilt the market place, not something the market regulator should be involved with. A smaller operator will see a significant reduction in licence fees which will enable them to consider lowering their charges to customers. Meanwhile the larger operators will be faced with a significant increase in licence fees, such that they will be forced to consider raising their charges to customers. Both will attribute the changes to a change in regulations thus sending mixed messages to the market place.

Multi-location licences are essential to promote spectrum conservation, promote wide-area expansion of services and to contain RSM costs.

4. *Remove the discount for online payment and reflect the discount in the calculation of the base licence fee.*

As most payments these days are on-line or by a direct credit arrangement, we agree that this discount is no longer appropriate.

5. *Introduce a manual processing fee of \$25 to recover the administration costs of paper-based payments.*

This seems like a sensible move.

6. *Remove the Licence Interference Investigation (LII) rebate.*

We understand that RSM earlier thought that this rebate would encourage more people to carry out their own investigation and thus reduce the need for RSM resources. As it transpires, most operators were already carrying out investigations to the same level that the authority of RSM staff gave. The result was that few people took up the rebate, so it is reasonable to remove it.

## **Conclusion**

We were amazed to receive a Consultation Document that in our view is counter to parts of the Radio Spectrum Management Vision as below:

### ***Impact***

*"...We will position ourselves to enable the wireless industry to gain the highest possible prosperity and be a source of economic growth in New Zealand."*

### ***Stakeholders***

*"...and know we deliver innovative and practical solutions geared towards economic growth."*

The effect of your Proposal 3 is to seek to reduce the Memorandum Account by reducing the fees for smaller operators, but increasing the fees for larger Network Operators,(in some cases by well over ██████\* [\*COMMERCIAL IN CONFIDENCE – NOT TO BE RELEASED]) and Public Safety operators substantially (in the case of St Johns by over ██████\* [\*COMMERCIAL IN CONFIDENCE – NOT TO BE RELEASED]). To propose such a significant price increase seems way out of line with RSM's vision. These licensees are the people, who, over the years have endeavoured to use the spectrum efficiently to the benefit of the New Zealand industry and their customers.

We would suggest that RSM senior management identify all those licensee's that are significantly impacted by this proposal (this should be obvious in your financial modelling) and then visit them to clarify the economic benefits of the proposed changes. To date there seems to be no economic benefit, but significant ill-considered downsides.

Thank you for the opportunity to comment. TeamTalk would be more than happy to expand on its submission and answer any questions the authority might have.