



28 February 2022

Radio Spectrum Management
Policy & Planning Ministry of Business, Innovation and Employment
PO Box 2847

WELLINGTON

By email: Radio.Spectrum@mbie.govt.nz

RE: RSM Draft Five Year Spectrum Outlook

The Radio Broadcasters Association represents the interests of the commercial radio sector in New Zealand. This currently includes MediaWorks, NZME, Sports Entertainment Network, Rhema Media, Pacific Media Network, Radio Samoa, Free FM, Radio Southland, Monarch Media, 95bFM, Best News Entertainment, Central FM, Peak FM, Brian FM, Beach FM, Radio Bay of Plenty, Radio Tarana and Coromandel FM.

Broadly, we wish to note the challenging time for the radio sector with increased competition from largely unregulated global players, changes in technology and distribution, and the impacts of COVID both directly on our sector and those sectors who advertise with us. Conversely, the demand for our content is growing across a range of new platforms.

RSM has sought comment on the following three questions surrounding their Five-Year Spectrum Outlook:

Q1 - Have we identified the range of technological advancements and probable new demands relevant to New Zealand?

Yes, we believe that the scope of advancement has been captured as best can be foreseen, given the rapid development of evolving technologies in the last 3 years.

However, we also urge that RSM do not lose focus on traditional spectrum usage for both AM and FM transmission. Radio in New Zealand still reaches over 80% of the population on a weekly basis and commercial radio reaches over 75%. While there is a move to streaming,

traditional terrestrial radio is still one of the most accessible mediums for news and entertainment and is also used widely in Civil Defence emergencies and events like COVID.

Q2 - Have we prioritised the right issues that we will need to actively manage through our work programme (to the extent this is possible to predict now)?

We believe this indicates that RSM is considering rewriting the Act. See below from 3.4.1 of the draft:

"The Radiocommunications Act has not been substantially amended since its introduction in 1989. Many provisions are outdated and are affecting administration of the Act. In addition, specific provisions are unnecessarily constraining new technologies from being authorised within the regime. This is preventing deployment of key tools for law enforcement and border controls by government agencies. Operational workarounds have progressively been used for some law enforcement activities and in administering rights to spectrum."

The Act was drafted at a time when systems were paper based and online transactions were not envisaged. Modernising the provisions will ensure the Act reflects changes in trade, technology, equipment and industry best practice.

There are inconsistencies in how technical requirements and reference standards are authorised under the Act and regulations. This is apparent for both radio and spectrum licensing regimes and has led to constraints over adapting and responding to new technologies (including responding to the ITU Radio Regulations, changing business models and network evolution). This creates serious implications for compliance monitoring and enforcement.

The current approach to competition in the Act creates duplication, uncertainty and may not always result in outcomes that are in the public interest. Reliance on deeds and commercial contracts to impose conditions on spectrum use and holdings creates uncertainties for spectrum right holders and difficulties for enforcement.

The radiocommunications regime was originally designed with the intent that all spectrum would be transferred to the management rights regime, and spectrum use and allocation decided by the market – very little regulatory role for government was anticipated. However, current practice and the outcomes sought from spectrum management do not reflect the initial regime design.

RSM needs to be congratulated for the above and consider how changes will affect broadcast licences.

Q3 - Are there other matters that we should cover?

In 2012 the RBA responded to the request for submission on the 2012-2016 draft 5 year outlook with the following feedback to the question of *"what does a successful consultation look like"*.

The RBA considers a successful consultation on spectrum matters has the following outcomes and MBIE takes an active part in coordinating the consultation from start to finish. No decisions should be taken until:

- All stakeholder concerns are understood by all parties, including those of MBIE.
- A resolution to all concerns has been found.
- Where a suitable middle ground cannot be found to a particular concern then the parties are brought together to find a solution.
- Independent engineering analysis is sought on technical issues, especially where the stakeholders have differing views.
- Sufficient time is allowed for each phase of the consultation.
- The timeframe and ideal outcome of each phase are clearly communicated.

Some 10 years later, the RBA Technology Sub-Committee question if we have successful dialogue with stakeholders, with little or no consultation in the last 2 years on any spectrum matters that impacted our industry including the Spectrum Policy Rules (PIB59) released in December 2021.

We thank you for the opportunity to consult in this and as discussed recently with Daniel O'Grady, RSM Manager Radio Spectrum Policy & Planning, would encourage a return to regular and open dialogue and discussion with the RBA to encourage a greater understanding of the current problem areas concerning FM / AM spectrum stakeholders as this has been lacking in recent years.

There are a number of matters specific to our industry that we will be raising with RSM but as they do not impact the wider sector to any great degree, we have not flagged them in this forum.

We look forward to working with you over the next 5 years.

Yours sincerely

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