

Submission on discussion document - AM/FM radio spectrum: 2031 expiry of licences and potential reassignment

Your name and organisation

Name	Rex Widerstrom
Organisation	Hutt Community Radio and Audio Archives Charitable Trust

General questions

Eligibility criteria for renewal

1

Should the Crown restrict eligibility to those with no outstanding fees? Should there be any exceptions to this?

Restricting renewal to those with no outstanding fees would go some way to ending the use of frequencies by commercial operators whose businesses are clearlyuviable.

Moratorium prior to the rights expiry

2

Please provide any feedback you have on the proposed moratorium date. In what circumstances should an exception to the moratorium on modifications be allowed?

No comment.

Proposed policy objectives for the allocation process

3 What amendments, if any, would you make to the proposed objectives and criteria?

We support the objectives listed, but would note that allowing over 300 frequencies to be used as repeaters by two commercial networks – many duplicating what the other is doing – in no way fosters competition. Only opening the market to new players will do so. That may require forcing the networks to relinquish frequencies which they are using primarily to prevent competitors from commencing operation.

4 Are there other objectives or criteria you would propose? If so, what are these?

The primary consideration should be “what is best for listeners?” That is not, in our submission, a range of primarily music formats with little to no connection to the communities in which they broadcast, often “voice-tracked”, so even further disconnected from their audience. Prior to the present regime, applicants for licences needed to demonstrate (inter alia) that they were offering something different to existing services. That should again become a consideration, with stations offering nothing unique to their service area forced to relinquish their frequencies and go through a bidding/application process which takes account not only of the financial offering but of the programming. This would better achieve RSM’s objective of fostering real competition.

Approach to pricing commercial licences

5 Which is your preferred approach and why?

We support option B as the best way to refresh the radio market in Aotearoa. We would point out that simply because one format is not viable on a particular frequency does not mean that another would not be – that the industry faces the uncertainty referred to is not solely the fault of changes in technology and listening patterns, but with the networks themselves. In other words, competition from the likes of Spotify is not best faced by offering “Spotify with commercials and occasional voice breaks”. What would succeed, we believe, are formats which leverage the advantages live radio has over streaming services. There are also operating structures which make the provision of radio far more viable.

By our estimation, the networks are using over 345 frequencies to broadcast just 18 different brands, the vast majority of which are primarily music for most of the day, all of which are also available on their respective apps.

6 Is there another approach you would suggest? If yes, please explain how this approach would be implemented and how it would provide greater benefit against the policy objectives than the above approaches.

We support option B, but with a layer of assessment of the public good aspect of each proposal. While we accept this is the costliest to implement, it is our submission that simply permitting most existing operators to continue to do what they've been doing in the face of declining revenues and audience will hasten the demise of radio in New Zealand, which is presumably something the government would wish to avoid.

Price formula

7 Do you agree with the assumptions outlined to calculate a price offer? Why? Why not?

The assumptions seem mostly reasonable, though we believe CAGR in advertising revenue is optimistic, as new sources of listening (eg new podcasts) will continue to make inroads into audience share unless the industry radically changes its approach.

Duration of licences

8 Which of the two options do you prefer and why?

We support ten-year licences, for the reasons outlined in the discussion paper.

9 Is there another option that should be considered? What would this be and why?

As per our answer to questions 5 & 6, all licences should first be put up for competitive tender, which takes account of both prices, the public good aspects of the proposed use, and whether the service merely duplicates what is available from other stations.

10 What licence duration would make most sense for your company/organisation? Why?

Ten years, given likely future changes in listening patterns.

11 What should be the difference in tenure for AM vs FM, if any?

AM is, or has been, phased out in other jurisdictions. While we don't suggest this be done in Aotearoa/NZ, we do think it fair to give AM broadcasters shorter periods, of perhaps 5 years, to opt out of continuing to operate without penalty.

12 What duration of time of non-use would be appropriate for triggering the Crown's right to take back the licence?

Since getting *some* sort of signal onto a frequency is not difficult, frequency "squatting" should not be permissible. We would suggest a period of 3 months.

RNZ and Schedule 7 provisions in the Radiocommunications Act

13 How do the sections of the Act advantage or disadvantage your business?

As we are an LPFM, it does not. However, we do think it unfair to have two classes of licensee.

14 How might the Crown provide fairness to all licence holders?

The Radiocommunications Act should be amended to make all full power licence holders equal, and able to be granted 10 year licences. This is the simplest "fix" and avoids any arguments as to favouritism.

15

What options do you see for how the Crown might address its preference for 10-year licences, given this legislative barrier? Would you prefer the options developed are operational or legislative? Why?

See answer to question 14.

Non-commercial use of AM/FM radio broadcasting spectrum

16

What changes, if any, should be made to the reservation of spectrum for iwi radio, community radio and RNZ?

There are insufficient licences for community radio in New Zealand. Because only 12 “access” stations are recognised and funded, and most of the non-network stations are forced onto LPFM GUIs, New Zealand is the most under-served country among comparative jurisdictions (see table on next page).

New Zealand is alone in confining most community stations to <1 watt. In Australia, there is no limit – the ERP is set at a level that allows the station to serve the area designated by ACMA. A similar regime exists in the U.K., where Ofcom grants licences ranging from tens to hundreds of watts (and community radio flourishes on DAB+).

In the U.S., LPFMs are generally limited to 100 watts, though some are granted licences up to tens of kilowatts.

In Canada, stations on less than 10 watts are classed as “very low power”, and low power stations broadcast on up to 50 watts. However, in urban areas community stations are on much higher powers.

Ireland has no set limits, while in Denmark community radio transmitters typically range from tens to a few hundred watts.

Sources: Country broadcasting legislation, regulator websites and policy documents (Australia: acma.gov.au; cbaa.org.au; minister.infrastructure.gov.au; USA: FCC guidance fcc.gov and CPB cpb.org. UK: Ofcom and BAI reports ofcom.org.uk. Canada: CRTC/CRFC documents ised-isde.canada.ca; crfc-fcrc.ca. Ireland: BAI Policy cnam.ie and BAI news bai.ie. Denmark: Danish Radio Act lovguiden.dklovguiden.dk).

Furthermore, in some areas, a community station is permitted to operate alongside an access station, whereas in others, it is not, which appears to be a matter of subjective judgement from the Ministry of Culture and Heritage.

We propose:

- a) Increasing the number of full power community radio licences, if necessary by shutting down “repeater” stations whose sole purpose is to retransmit network programming from Auckland with no local input. People can still listen to these services via apps. It may also be possible to engineer frequencies to permit a community station to operate in an area in which no frequencies are presently available. We went through this process in Wellington, only to be told that MCH felt “one community station is enough” for the entire region. An alternative is to release the reserved frequencies in blocks 16 – 19, as referred to below.
- b) Granting the licences through a return to the old Broadcasting Tribunal system, in which the competing merits of any proposed use of a community radio frequency are fairly assessed by an independent panel against a range of criteria, the main one being public good.

Country	Stations	Population	Ratio (people per station)
Australia	~500	26 M	~52,000
USA	~3,800	335 M	~88,000
UK	~296	67 M	~226,000
Canada	~320	39 M	~122,000
Ireland	~20	5.2 M	~260,000
Denmark	~50–100	5.9 M	~59,000–118,000
New Zealand	12	5.2 M	~430,000

Currently reserved blocks

17

Should the reservations in block 16 – 19 continue into the new right in their current form? What changes would you make, if any?

18

No. There should be a national discussion on the potential use for the unused frequencies, which clearly are of no interest to potential national broadcasters. This may result in groups combining to propose a national network, or in a range of local initiatives in the community radio space.

If unused spectrum was to be released, what would bring greater benefits: reassigning these licences to commercial or other non-commercial use? If non-commercial, to whom? If commercial, how should it be made available to market?

The frequencies should be offered with no preconceptions as to how they would best be used. Proposals should be sought, and then public input invited on those proposals. In this way, the outcomes would hopefully reflect the greatest public good – or at least the greatest public demand, which would mean the operators of such services would at least have a chance of sustaining and serving a viable audience.

Local Commercial FM licences

19

Do you agree with comparing the original intent of LCFM with the proposals in this document to determine their continuation? If not, how would you prefer they were assessed?

We dispute that “Low Power FM General User Radio Licence caters for niche localised content”. An ERP of <1 watt gives a coverage area of an estimated 800 metres to 2 kilometres. This is not a viable audience, particularly given that community radio attracts a small share of the total and it receives no government or other financial support. Trying to sell advertising and sponsorship to business owners who can’t hear the station at their place of business and/or at home is a nearly impossible task.

For example, the population density of our market, Lower Hutt, is 301 people per square kilometre. Dividing our radiated signal, very roughly, into a square kilometre from the mast in each cardinal direction gives a potential listenership of 1,200 people. In reality, LPFM community radio is fortunate to attract a 1 to 2 percent audience – 12 to 24 people. There is “niche” and then there is “microscopic”.

Further, the LPFM GUI creates a ‘wild west’ situation where a station which is off air for a short time due to, for instance, a technical issue or the school holidays, finds its frequency taken by another operator. That is distinctly unfair to an operator which has invested considerable time and, often, money into their operation.

As such, local commercial FM licences are a useful means by which community radio operators currently confined to LPFM, and potential new entrants, can offer a service which is genuinely different to the commercial licensees’ and which contains a “public good” element for which we advocate.

We therefore recommend they be continued, though existing holders should be offered the choice outlined in the discussion document.

20

Which option do you prefer: the proposal outlined or maintaining the status quo (Local Commercial licences remain, with strict conditions and are charged at a lesser price than commercial licences)? Please explain why you prefer this option.

We prefer this option remain because it mirrors the successful community radio regulation structure in operation in countries in which the sector is flourishing, notably Australia. And because the situation remains that many would-be operators of a full power community station are unable to raise the funds needed to successfully bid for a full power commercial licence.

Imposing an obligation to broadcast locally-produced “community” content, but offering a reduction in cost for so doing, seems to us a fair trade-off. Those who do not wish to take it up are at liberty to pursue a commercial licence.

21

If maintaining the status quo, how should the price be calculated to account for the retention of strict content provisions in the licence agreement while acknowledging that these are commercial licences with revenue potential?

First, we recommend that funding for community radio be made contestable as it is in other countries as opposed to being given to a handful of stations operating a format first devised in the 1970s. That would provide community / commercial community stations with one potential source of revenue and provide a degree of stability.

Then, rather than cap advertising – which distorts the market’s freedom to spend where it chooses – the focus should be on quotas, either for overall local content or specific quotas for particular aspects of local content (news, music, community information etc).

This would then allow community radio to pit itself against the commercial sector on a level playing field. If the broadcast of community content on high power with no advertising cap affected the revenue of commercial operators, they are then at liberty to adapt their programming accordingly.

22

If the proposal outlined is to progress, will there be enough time to transition by April 2031? If not, why not?

That is, in our view, more than enough time, and we would like to see aspects of the proposal not related directly to existing licence rights addressed earlier in the process. Assuming any of the suggestions above were taken up, that would also give commercial licence holders a clear indication of the market in which they were to operate, and allow them to better assess the value of their respective frequencies.

Closing comments

Are there any other comments you wish to make?

We would strongly suggest that, rather than focusing on one part of the radio industry in isolation, the approach take account of the entire use of spectrum, and be one of returning to “first principles”: start with no preconceived ideas, consult widely – especially with the listening public – and set about creating radio which delivers what the public want. The issue with “satisfaction” surveys is that they build in the belief that whatever is on offer is all that can be possible. Relatively high levels of satisfaction with the status quo does not preclude the possibility that, if asked to start from a blank slate, the audience would not tell you they want something quite different to what is currently offered.

To not take this approach, but rather to focus solely on how to best support the industry in its present form, is to guarantee the continued decline of radio as a medium; the continued waste of its potential as a means to – to quote Reith – inform, educate and entertain and, even more vitally today, to foster a sense of community and reach people who live in relative isolation, and not just geographically.