

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

## Your name and organisation

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| Organisation | NZME Radio Limited ( <b>NZME</b> )    |

## 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?

NZME does not believe that the Crown should restrict eligibility to those with no outstanding fees. This is more of an operational issue than one of asset ownership.

Additionally, NZME contends that the proposed six-month window from the 2 April 2026 offer date to final acceptance is too short to enable broadcasting operators to engage in meaningful dialogue and negotiation with the Crown. As a result, NZME considers this period should be extended to a period of between 12-18 months.

### 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?

NZME agrees there should be a moratorium on any new licences that trigger an auction from the date the first offer of renewal is received until the date final agreement is reached between broadcasting operators and the Crown.

However, NZME does not agree that a moratorium should be set on existing licences where continuity of service is threatened. NZME can point to several instances where it has been forced to modify existing licenses as a result of site closures. A moratorium imposed on modifications to existing licences would effectively prevent NZME (and other operators) from maintaining product delivery to market.

## Proposed policy objectives for the allocation process

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

NZME does not agree with this process being framed as an 'allocation process'; it is more properly a spectrum renewal and valuation process. Subject to the above comment, NZME proposes the following amendments (changes underlined):

**Support the Continued Use of Radio Spectrum:** The allocation process will support the ongoing use of this spectrum by incumbent AM/FM radio broadcasters, providing certainty to both commercial and non-commercial users.

**Balance Financial Value with Economic Context:** The allocation process will recognise where demand for spectrum exceeds supply and acknowledge the increasing levels of uncertainty affecting the sector currently and post 2031.

**Foster Market Competition:** Both the allocation process and the resulting sound broadcasting sector will foster market competition to support the efficient use of the spectrum to maintain the current level of choice available.

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

NZME proposes the following addition:

**Ensure a Sustainable Radio Industry:** The allocation process will support a range of strategies, including realistic licence fees, that maintain a sustainable and resilient audio industry ensuring that terrestrial radio remains a viable and competitive platform in the face of imbalances posed by global digital media platforms.

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## Approach to pricing commercial licences

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Which is your preferred approach and why?

NZME does not agree with any of the proposed pricing approaches.

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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.

### **Alternative Approach**

NZME proposes an alternative approach based on historical precedent (pre-2011), where the Crown applied an annual levy in lieu of 20-year full-term upfront payments.

This levy was calculated at a percentage of gross income, based on the advertising revenue earned by broadcasting operators in the previous year from broadcasting on the spectrum licence frequencies held by each broadcasting operator. This method was not linked to population but rather to the actual revenue generated.

Importantly, it would take into account the actual usage and revenue generated by the spectrum, rather than using a theoretical calculation that assumes what will happen over the next 25 years based on historical and irrelevant data.

The levy should be calculated as a percentage of the total advertising revenue generated within each market and distributed based on the number of licences held by each operator in that market.

This approach ensures a fair distribution across licence holders, so that all operators are charged a levy calculated on the total market revenue and audience opportunity.

Additionally, NZME notes that during the most recent 2011 spectrum renewal, the ability of certain broadcasting operators to make lump sum payments was limited, resulting in a government loan to a large broadcasting operator to enable payments to be spread over a five-year period.

This alternative approach offers a more sustainable and flexible alternative to lump sum payments, better aligned with the financial capabilities of broadcasting operators, the commercial realities of the audio industry and will provide ongoing revenue for the Crown.

NZME's annual capital expenditure across all divisions typically ranges between \$8 and \$12 million, reflecting our ongoing investment in New Zealand's media infrastructure. The Crown's proposed renewal approach would lead to a substantial one-off capital outlay, potentially many times higher than the usual annual spend. This would place considerable financial strain on NZME and other market participants at a time of increased competition with global players who do not face such a burden on cash flow.

## Price formula

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

NZME does not agree with the assumptions outlined and considers the formula proposed, which includes population coverage as an element, to be fundamentally flawed. Analysis of the relationship between population and radio listening indicates that population growth does not, and will not in the future, translate into increased listener numbers, as other media continue to grow.

In 2011, an over-inflated per capita charge averaging \$2.50 was applied using a similarly overly complex and convoluted formula, and frequencies were aligned in geographic, almost provincial allotments. This led to grossly unfair comparative per capita fees.

A dramatically reduced \$1.15 per capita fee was adopted following the 2011 renewal and is still in use today. This figure is 1 cent below the \$1.16 fee proposed to calculate 2031 FM Spectrum renewal fees.

If the \$1.15 per capita fee had been applied as a flat rate in the 2011 renewal process, fees across the board would have been reduced by approximately 50%.

In any event, NZME believes historical fees paid should not be used to calculate fees in today's market, as the overall structure and competition for both advertising revenue and listening consumption have exponentially grown.

The proposed pricing formula is backward-looking, relying on historical auction data and an assumed annual growth rate of 0.8%. It assumes population growth correlates with radio audience growth, which we no longer believe to be valid. The formula does not reflect the present value of future revenue streams or account for structural decline in traditional radio advertising. The selected rate of 0.8% is based on outdated and overly optimistic data. Excluding digital revenue, broadcast advertising has been flat or declining. NZME again urges the Crown to consider an annual levy based on actual advertising revenue generated.

## Duration of licences

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Which of the two options do you prefer and why?

NZME supports a 20-year renewal term for FM licences, should an acceptable renewal fee package be agreed.

NZME supports a 10-year renewal term for AM licences, should acceptable renewal fees be agreed.

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

NZME also proposes a 5-year option for AM licence renewals at an agreed value, noting the uncertainty in the market in Auckland with RNZ closing one of its two AM masts at Henderson.

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

NZME supports a 20-year licence term for FM and a 5-year licence term for AM. This would provide certainty for NZME (and other operators) into the future.

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

Discussed above. See answers to Questions 9 and 10.

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

Two years unless exceptional circumstances apply. If fees have been paid in advance the operators should be entitled to receive a refund.

### RNZ and Schedule 7 provisions in the Radiocommunications Act

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

NZME considers that RNZ's tenure should align with that of the commercial spectrum moving forward. Any change in use during our tenure could negatively impact the value of the overall spectrum and disadvantage commercial broadcasters.

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How might the Crown provide fairness to all licence holders?

By making the necessary legislative changes to ensure RNZ and Schedule 7 licence periods align with those of commercial licenses.

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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?

Options should be developed at a legislative level.

This would ensure the criteria and processes for licence allocation are transparent and publicly available. This would help build trust and ensures that all broadcasters understand the rules and can compete fairly.

### Non-commercial use of AM/FM radio broadcasting spectrum

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

NZME believes there should be no changes to the reserved blocks for iwi, community or RNZ.

## Currently reserved blocks

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| 17 | <p>Should the reservations in block 16 – 19 continue into the new right in their current form? What changes would you make, if any?</p>                                                                                                                                                                                                                                                                              |
|    | <p>NZME believes there should be no change to the reservations in blocks 16, 18 or 19</p> <p>NZME considers Block 17 (Youth Network) is no longer necessary as a reserved block because traditional terrestrial radio is no longer the primary platform for reaching youth.</p>                                                                                                                                      |
| 18 | <p>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?</p> <p>The unused Block 17 spectrum should not be released but held for use in special circumstances, such as major event broadcasting, eg. the FIFA Women's World Cup.</p> |

## Local Commercial FM licences

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| 19 | <p>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?</p>                                                                                                                                                                                                                                                                                                                                                      |
|    | <p>No NZME does not agree with such a comparison being used to determine the continuation of LCFM. The original intent of LCFM frequencies was to provide local communities with access to commercial radio services at a reduced cost, under strict content provisions, which can and have been abused during the current licence period. However, the current proposal envisages maintaining these frequencies with the same conditions, which may no longer be relevant or beneficial in today's rapidly evolving media landscape.</p> |
| 20 | <p>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.</p>                                                                                                                                                                                                                                                                                  |
|    | <p>NZME supports transitioning the remaining LCFM licences to full commercial licences by 2031.</p> <p>As already stated, maintaining the status quo with strict content provisions may not be relevant or beneficial anymore. By converting LCFM licences to commercial licenses, MBIE can ensure that the spectrum is being fully utilised, catering to the current demands and needs of the market.</p>                                                                                                                                |

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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?

As already stated, NZME does not support retention of the status quo here.

Further NZME considers that RSM does not appear to adequately monitor LCFM operators to ensure they are adhering to the conditions of their licences (including the strict content provisions).

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

## Closing comments

Are there any other comments you wish to make?

### **Prominence**

NZME considers it is critical that all commercial and non-commercial broadcast operators are protected by 'prominence' or 'must carry' legislative provisions to ensure their services are easily accessible to New Zealand audiences. This would include all new vehicles, smart speakers, smartphones, tablets and smart TVs.

### **Crown Entity**

NZME believes that a key component of the renewal discussions should be that all Crown Entity transmission providers must provide transmission services for the full term of the licences.