

**APEC Telecommunications and Information Working Group, 40<sup>th</sup> Meeting,  
September 2009**

**NEW ZEALAND POLICY AND REGULATORY UPDATE**

This report covers significant activities and issues from April 2009 to September 2009.

**TELECOMMUNICATIONS**

**The Availability of Regulated Services**

Since April 2009, the New Zealand Commerce Commission (“the Commission”) has:

- released the Unbundled Sub-loop Services Standard Terms Determination (**STD**);
- released a draft report, and held a Conference, on its investigation into mobile termination access services.

An STD prescribes standard terms and conditions for the supply of a regulated service by an Access Provider to Access Seekers.

Unbundled Sub-loop STD

The Commerce Commission released its final STD on the price and non-price terms on which Telecom must make the regulated sub-loop services available to other telecommunications providers in June 2009. The regulated sub-loop services are:

- the unbundled sub-loop copper pairs;
- the co-location service in Telecom’s cabinets; and
- the backhaul service from each cabinet to Telecom’s exchanges.

These services required to allow companies to provide services to their customers from Telecom’s roadside cabinets.

The sub-loop is the copper telephone wire that runs from a Telecom roadside distribution cabinet to an end-user’s premises. The sub-loop services will allow other telecommunications providers to locate equipment in Telecom’s distribution cabinets, use Telecom’s copper network to deliver services to their own customers, and to access fibre transmission capacity from Telecom’s distribution cabinets back to local exchange buildings.

Please refer to:

<http://www.comcom.govt.nz/IndustryRegulation/Telecommunications/StandardTermsDeterminations/SubloopUCLLservice/DecisionsList.aspx>

## Mobile Termination Investigation

In June 2009 the Commerce Commission released the draft report on its investigation into whether mobile termination access services (MTAS) should be regulated. The investigation is considering whether MTAS (incorporating mobile-to-mobile voice termination, fixed-to-mobile voice termination and short-message-service termination) should become regulated services.

Vodafone, Telecom and NZ Communications supplied undertakings to the Commission for mobile termination access services in January 2009. The undertakings were submitted to the Commission as an alternative to regulation. The Commission has found that none of the undertakings is a compliant undertakings under the Act.

The Commission has invited further undertakings from potential Access Seekers by 2 October 2009.

The Commission held a Conference on MTAS in September where it sought information from parties.

The Commission is expected to submit its final report to the Minister in December 2009.

Please refer to:

<http://www.comcom.govt.nz/IndustryRegulation/Telecommunications/Investigations/MobiletoMobileTermination/mobiletomobiletermination.aspx>

## **Telecommunications Service Obligations (TSO) Review**

A further review of the TSO regulatory framework is underway to ensure that arrangements align with government broadband priorities and rural telecommunications service objectives. The TSO framework enables certain telecommunications services to be ubiquitously available for particular consumers within New Zealand. The review is a strategic consideration of the TSO framework and is focused on the Local Service TSO for the supply of local residential telephone service.

The TSO review is addressing three fundamental areas:

- changes to TSO requirements for the supply of local residential telephone service;
- whether the TSO framework has a role in improving the supply of broadband service in rural areas; and
- changes to the rules and processes of the TSO framework to improve their effectiveness.

A Discussion Paper setting out the findings of the review and seeking feedback from interested parties was released in September. Interested parties have a month to submit on the proposals.

Please refer to:

[http://www.med.govt.nz/templates/StandardSummary\\_296.aspx](http://www.med.govt.nz/templates/StandardSummary_296.aspx)

## **Broadband Initiative**

### UFB Initiative

The current government has committed to contributing an investment of up to \$1.5 billion alongside additional private sector investment to accelerate the roll-out of ultrafast broadband to 75 percent of New Zealanders.

This investment is subject to five key principles:

- That this investment does not line the pockets of or give undue advantage to existing broadband network providers.
- That the network is open-access so that many service providers can compete to provide broadband services over it.
- That excessive duplication of the network is avoided.
- That everyday New Zealanders get affordable world-class broadband services.
- That this public-private partnership remains focused on New Zealand's economic future and not the legacy assets of our economic past.

On 16 September 2009, the finalised investment proposal published. The government will establish a Crown-owned investment company ("Crown Fibre Holdings or CFH") to drive the government's investment.

CFH will invest alongside private sector co-investors in regional fibre companies that will deploy and provide access to fibre optic network infrastructure in the 33 towns and cities covered by the initiative. The regional fibre companies will only operate at the wholesale level, providing access to dark fibre and certain wholesale services. They will be prohibited from selling retail services (and investment partners that own or operate retail operations will not be able to have majority voting control in the regional fibre companies).

The CFH will operate an open, transparent and contestable process to select local partners, with selection based on:

- The amount of additional fibre coverage being proposed.
- The proposed capital structure.
- Commercial viability of the proposal.
- Consistency with government objectives.
- Track-record of the partner.

## Rural Broadband Initiative

The government has committed to provide \$48 million to facilitate improvements in New Zealand's rural broadband infrastructure. The government has further developed its rural broadband initiative which will prioritise deploying fibre to schools in rural areas, with the broader aim of maximising the spill-over benefits to the wider community from improving backhaul links from rural areas.

A Discussion Paper setting out the government's proposals and seeking feedback from interested parties was released in September. Interested parties have a month to submit on the proposals.

Please refer to:

[www.med.govt.nz/rural-broadband](http://www.med.govt.nz/rural-broadband)

## **Facilitating the deployment of broadband infrastructure**

A Discussion Document will soon be released on possible measures to facilitate the deployment of broadband infrastructure. These are regulatory and non-regulatory measures that the government and others, such as Local Councils and industry groups, could adopt to facilitate the roll-out of broadband infrastructure by reducing deployment costs, speeding up consenting processes, and encouraging the use of existing support structures.

The measures fall into three specific categories:

- access to support structures and services;
- access to land; and
- Resource Management Act controls.

## **Reform of the Resource Management Act and related legislation**

The Resource Management Act 1991 (the "RMA") sets forth the framework within which local councils develop district plans. District plans determine which activities require resource consent and which do not. As such, they directly impact the roll-out and maintenance of telecommunications networks.

The New Zealand government has launched a two-phase reform of the RMA. The first, rather fast-paced phase, involved amending the RMA to streamline and simplify the current resource consent processes. This Bill comes into effect on 1 October 2009. The second, more long-term phase, will examine more complex issues inhibiting effective resource management, and may lead to further amendments to the RMA and other legislation, or non-legislative measures.

Apart from resource consent, those deploying or maintaining networks also require agreements (leases) with the relevant landowners. Where the land involved is a public transport corridor, such as a road, a motorway or a rail line, a network operator's ability to obtain such agreement is guaranteed under certain legislative instruments. The government is seeking to reform these instruments to further reduce the costs and inefficiencies imposed on network operators when exercising their right of access to transport corridors.

Please refer to:

<http://www.mfe.govt.nz/rma/central/amendments/resource-management-simplify-and-streamline-amendment-bill-2009/index.html>

## **RADIO SPECTRUM**

The radio spectrum policy environment in New Zealand is delineated primarily by the Radiocommunications Act 1989 which, in addition to providing the framework for radio spectrum management, recognises New Zealand's obligations to the worldwide radiocommunications community as a signatory to the International Telecommunication Union (ITU) constitution and convention. The Radiocommunications Regulations 2001 are subordinate to the Act.

New Zealand was the first economy to redefine radio spectrum in terms of property rights, and to assign it in a tradable form. Property rights to spectrum in commercial demand are, in general, assigned competitively under the Management Rights Regime (MRR), as either a band (management right) or as individual spectrum licences issue by the band manager.

Spectrum allocated for other commercial purposes and for use in the 'public interest' by, for example, a recent allocation of VHF and UHF spectrum for public protection and disaster relief services, is normally assigned administratively under the Radio Licence Regime (RLR).

Low power, ubiquitous devices – for example, garage door-openers and wireless LANs – and community services – for example, amateur radio and CB radio – are generally assigned as shared 'public park' spectrum using General User Licences (GULs), in a similar manner to the allocation of licence-exempt spectrum in other countries.

### **Digital Television Services**

Free-to-air DTH (digital satellite television) services were launched in 2007 under the 'Freeview' brand using leased capacity on the Singtel Optus D1 satellite. Free-to-air DTT (digital terrestrial television) transmissions, covering 75% of New Zealand's population, commenced in April 2008. The satellite and terrestrial services are complementary, to ensure complete coverage of the NZ population. Plans for the new service were developed by government agencies and Freeview,

a consortium of New Zealand's free-to-air broadcasters, including Television New Zealand, Mediaworks (formerly Canwest), Maori TV, Trackside and Radio New Zealand.

The government provided some funding to assist with establishment of Freeview, but the bulk of costs are met by broadcasters. Broadcasters also have free access to radio spectrum for digital transmissions until digital switch-over. Freeview will operate on a non-profit basis during this period, with open access for new services.

The government has commenced a process for determining the date of digital switch-over, and for re-allocating spectrum in the television bands to enable use of the 'digital dividend'. A firm date for digital switch-over will be set in 2012 or whenever 75% of households are able to receive digital transmissions, whichever comes first.

Good viewer uptake is reported with nearly 60% of households taking up digital services (including pay-TV) in March 2009.

The digital switch-over policy is detailed on the Ministry of Economic Development's website at: <http://www.rsm.govt.nz/cms/policy-and-planning/current-projects/digital-futures-planning-for-digital-television-and-new-uses>

### **New Zealand Satellite Opportunities**

In November 2004 a process was announced for allowing commercial satellite operators to access New Zealand satellite reservations and filings with the ITU. A specific application was received for operation at 158 deg East and a contract signed with the applicant.

The applicant is currently undertaking commercial and coordination arrangements.

The satellite policy is detailed on the Ministry of Economic Development's website at: <http://www.rsm.govt.nz/cms/policy-and-planning/current-projects/radiocommunications/new-zealand-satellite-opportunities>

### **Managed Spectrum Parks**

The Ministry of Economic Development has finalised the rules and application documentation on the operation of the Managed Spectrum Park (MSP) in the 2.5 GHz radio spectrum band, and five applications to access the MSP have been received. The Ministry intends to allocate the initial licences before end of 2009.

Please refer to: <http://www.rsm.govt.nz/cms/policy-and-planning/current-projects/radiocommunications/managed-spectrum-parks>

### **High Capacity Short Haul Point-to-Point Links in the 70-90 GHz band**

The band was identified as a candidate band for broadband wireless services by MED in July 2006, as part of the wider broadband work programme. In September 2008, a follow-up discussion paper was released which focused on the 70 to 90 GHz band. Submissions were received from three stakeholders, including one equipment supplier and two major network operators. Submissions have helped to resolve a number of administrative and technical issues around the management of access to the band.

In mid 2009, MED changed licensing policies to permit licensing of fixed point-to-point links in the 70 to 90 GHz band under the administrative licensing regime.

Please refer to:

<http://www.rsm.govt.nz/cms/policy-and-planning/current-projects/radiocommunications/70-90-ghz-fixed-links/>

### **Replanning of non-cellular services in 806-960 MHz Band**

In May 2009, MED published a discussion paper examining options for replanning some non-cellular services in the 806-960 MHz band. The proposals aimed to improve utilisation of the band and facilitate adoption of new technologies.

The two main changes proposed for the band are:

- to allocate an unused 8 MHz block of spectrum (841-849 MHz) for radio broadcasting studio-to-transmitter links, and
- to reallocate a 6 MHz block currently used for those links (915-921 MHz) to permit use by short-range devices, such as radio frequency identification devices used for supply-chain management and mesh networks used for electricity smart meters.

The Ministry received 23 submissions on the paper. The Ministry is now summarising the public's views and preparing advice for final decisions regarding re-planning.

For more information on the 806-960 MHz re-planning, please refer to:

<http://www.rsm.govt.nz/cms/policy-and-planning/current-projects/radiocommunications/806-960-mhz-band-replanning>

### **Review of the Radio Licensing Regime**

In July 2009, MED concluded its review of the administrative spectrum assignment system. No major changes to the regime were proposed as a result of the review. The regime had not been subject to comprehensive review since the Radiocommunications Act 1989 came into effect (however, various aspects of the regime had been examined as part of the reviews in 2000 and 2005).

Evidence from a discussion document and technical report, MED experience, and submissions from stakeholders suggested that the regime as a whole is working well. Stakeholders largely endorsed the way the Ministry approaches issues, such as congestion, when they arise. There are a few instances where supply may not be currently meeting demand, but these can continue to be addressed on a case by case basis (such as studio-to-transmitter link spectrum in major centres, currently being reviewed in the review of the 806-960 MHz band, discussed above).

MED also intends to explore options for minor improvements to the regime, including: ongoing reviews of demand, in order to address bottlenecks before they occur and enable new technologies as they emerge; consideration of regional management rights and geographical overlay and underlay services; developing a process for requests by prospective radio users to free up unused spectrum; and estimating the value of particular spectrum bands with a view to benchmarking economic efficiency.

Please refer to:

<http://www.rsm.govt.nz/cms/policy-and-planning/current-projects/radiocommunications/spectrum-management-in-the-radio-licensing-regime>

### **Digital land mobile radio in VHF and UHF bands**

MED is facilitating introduction of digital LMR technologies into the commercial land mobile bands located in the VHF and UHF parts of the radio spectrum. A discussion paper was released to seek feedback and twelve submissions were received. These are currently being analysed in preparation for final decisions. Land mobile bands assigned for government purposes (public protection and disaster relief) have already introduced digital LMR. MED is proposing to align New Zealand's licensing framework for commercial digital LMR with international practice.

Please refer to:

<http://www.rsm.govt.nz/cms/policy-and-planning/current-projects/radiocommunications/digital-land-mobile-radio-in-vhf-and-uhf-bands>