



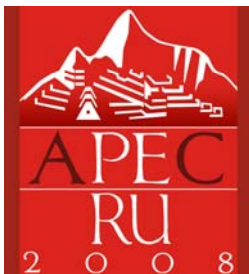
**Asia-Pacific
Economic Cooperation**

2008/TEL38/PLEN/008

Agenda Item: 7

New Zealand Policy and Regulatory Update

Purpose: Information
Submitted by: New Zealand



**38th APEC Telecommunications and Working
Group Meeting – Plenary Session
Lima, Peru
15-17 October 2008**

**APEC Telecommunications and Information Working Group, 38th Meeting,
October 2008**

NEW ZEALAND POLICY AND REGULATORY UPDATE

This report covers significant activities and issues from March 2008 to October 2008.

TELECOMMUNICATIONS

The Availability and Conditions of Regulated Services

Since March 2008, the New Zealand Commerce Commission has:

- issued its final Standard Terms Determinations (STD) on the price and non-price terms for Telecom's¹ backhaul services that support the unbundled copper local loop (UCLL) and unbundled bitstream (UBA) services;
- issued a draft STD on the price and non-price terms on which Telecom must make regulated sub-loop related services available to other telecommunications providers; and
- issued a draft STD on the non-price terms for co-location on cellular mobile transmission sites (the Mobile Co-location Service); and

The Commission's STDs are complete commercial arrangements which will allow access seekers to take regulated services from an access provider without the need for any separate agreements.

Local Loop and Bitstream Backhaul Services

These services will allow Telecom's access seekers to get access to transmission capacity between Telecom's local exchanges or data switches and their nearest point of interconnection.

The availability of a regulated backhaul service for both the UCLL and UBA services allows entrants to offer broadband services to customers without having to initially build their own backhaul networks.

These determinations issued on 27 June 2008 follow the Commission's final determinations for the UCLL and Co-location services released in November 2007 and for the UBA Service released in December 2007.

Please refer to:

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

¹ Telecom Corporation of New Zealand (the largest telecommunications service provider in New Zealand)

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

Sub-loop Related Services

The Commission has issued its draft STD for the following sub-loop related services:

- unbundled copper local loop from Telecom's distribution cabinets;
- backhaul from Telecom's distribution cabinet to the exchange; and
- co-location services at Telecom's distribution cabinets.

Access to Telecom's distribution cabinets will promote competition in broadband service markets and provide opportunities for access seekers to deliver innovative retail services that will take advantage of shortened copper loop lengths.

The draft price and non-price terms were issued on 5 September 2008 and stakeholders have been invited to make submissions on the draft. The Commission is expected to issue a final STD in early 2009.

Please refer to:

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

Mobile Market

Please note that commercial agreements are currently in place between the mobile providers in New Zealand. However, if the Commission recommends that particular mobile services be regulated and the Minister for Communications agrees, the terms of the regulated service will supersede any commercial arrangements.

Co-location

In July 2008, the Commerce Commission released a Draft Standard Terms Determination (STD) on co-location for stakeholder consultation, which defines the terms by which access seekers can utilise access providers' existing infrastructure in order to avoid unnecessary duplication of facilities and reduce costs by sharing infrastructure. Stakeholders have made submissions and cross submissions on the Draft. The Commission is expected to issue a final STD in November 2008.

Please refer to:

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

Interconnection

The Commission released an Issues Paper on mobile termination for consultation in August 2008, having considered that there appears to be

reasonable grounds to commence an investigation on this issue. Submissions closed in September 2008.

Please refer to:

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

Roaming

In September 2008, the Minister for Communications and Information Technology announced his acceptance of the Commission's view that the roaming service should not be subject to price regulation. However, in light of new information brought to his attention by New Zealand Communications (NZC), which he believes could be material and therefore should be tested, the Minister asked the Commission to consider undertaking a further investigation.

Please refer to:

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

Operational Separation of Telecom

Operational separation of Telecom's business is part of a package of new regulatory measures brought in with the passage of the Telecommunications Amendment Act in December 2006.

Operational separation is based on equivalence of treatment in the supply of services to internal and external purchasers to avoid discrimination and foster market competition. Section 69F (Part 2A) of the Telecommunications Act 2001 requires the Minister of Communications to issue a Determination of further requirements with which Telecom's Separation Plan (including the Undertakings that form part of that separation plan) must comply.

The Telecommunications Act 2001 sets out the main requirements for Telecom's operational separation:

- the establishment of at least three separate business units – a stand-alone, arms-length fixed network business network, one or more arms-length wholesale units, and one or more arms-length business units that provide one or more other functions (for example, retail services);
- the establishment of an independent oversight group; and
- transparency and equivalence of supply of relevant services and access to Telecom's network.

The operational separation of Telecom became legally binding on 31 March 2008. Along with improving competitive market settings going forward, which will in turn result in investment in broadband infrastructure and more advanced broadband services being offered, Telecom specifically have entered into an enforceable agreement to:

- install more than 2250 cabinets equipped with DSL capability by 31 December 2010 and 3500 cabinets by 31 December 2011;
- ensure that 99 per cent of lines in urban areas will have at least 10 Mbps broadband speed capability; and
- ensure that at least 15 per cent of fixed network non-rural lines will be provided by VoIP technology via Telecom's next generation network by 31 December 2012, 40 per cent by 31 December 2015, and 100 per cent by 31 December 2020.

Efforts to ensure that Telecom's undertakings are implemented will be ongoing. The Commission is responsible for ensuring full, timely and effective implementation of the approved undertakings.

Please refer to: http://www.med.govt.nz/templates/ContentTopicSummary_____26310.aspx

Telecommunications Service Obligations (TSO) Review

The TSO regulatory framework providing for the universal service of certain telecommunications services in New Zealand is currently under review. 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 document for public consultation on TSO issues was released in August 2007 and submissions closed on 15 October 2007.

The telecommunications industry, through the Telecommunications Carriers Forum (TCF), has developed a proposal for addressing Local Service TSO issues. Their proposal was issued for consultation on 25 July 2008 and will be considered by the government as it develops policy in this area. The TCF is continuing to work on an approach to introducing contestability for recommending to government.

Please refer to: http://www.med.govt.nz/templates/StandardSummary_____296.aspx

Dispute Resolution Scheme

The Telecommunications Dispute Resolution Scheme (TDRS), launched in November 2007, provides customers with an alternative avenue to pursue if they are not satisfied with the outcome of their provider's internal handling of their complaint.

The second quarterly review of the TDRS 2008 shows that 23 percent more people use the TDRS compared to the previous four months.

Please refer to: <http://www.tdr.org.nz>

NEW ZEALAND DIGITAL STRATEGY 2.0

Digital Strategy 2.0 was launched on 28 August 2008. It is a response to the changes and challenges of a rapidly evolving digital world. Its purpose is to:

- provide a national vision, supported by outcomes and goals for New Zealand's digital development;
- highlight opportunities and challenges in the digital world;
- provide a call to action for all stakeholders to rise to the challenges and opportunities presented by the digital world;
- clearly articulate the government's role in digital development; and
- outline the key actions through which government will fulfil its role in supporting digital development.

The vision of Digital Strategy 2.0 is that all New Zealanders should be leaders in the digital world and use digital technologies, skills and opportunities to contribute to a prosperous, sustainable and vibrant society.

Key differences between Digital Strategy 1.0 released in 2005 and this strategy are:

- the shift from just focusing on connection and the availability of high speed broadband, to the creativity and opportunities for collaboration unleashed by the interactive, participatory digital world;
- Digital Strategy 2.0 challenges New Zealanders to go further to secure outcomes from this technology: new digital productivity, reduced environmental footprints, and communities that are locally networked and globally connected;
- Digital Strategy 2.0 sets updated targets for connection speed and super fast broadband rollout; and
- Digital Strategy 2.0 introduces a number of new projects such as Connected New Zealand and the Digital Content Innovation Cluster, and proposes the expansion of existing initiatives, such as videoconferencing and teleworking, the Aotearoa People's Network and the Community Partnership Fund. A major initiative of the Strategy is the \$340 million Broadband Investment Fund over three years.

Please refer to: <http://www.digitalstrategy.govt.nz>

Broadband Investment Fund

The \$340 million contestable Broadband Investment Fund (BIF) was launched on 26 August 2008. The BIF contains \$325 million operating and \$15 million capital funding available over a maximum of five years. It is a key part of the government's Digital Strategy 2.0 package of over \$500 million.

The Fund will be used to accelerate broadband investment in three critical areas:

- facilitating high speed broadband to businesses and entities such as municipalities, universities, schools and hospitals in urban centres;
- extending the reach of broadband into underserved regions, particularly in the rural sector; and
- improving the resilience of New Zealand's international connections.

Applications to the first funding round opened on 30 September 2008. The first funding decisions are expected to be made by 1 December 2008.

Please refer to: <http://www.digitalstrategy.govt.nz/Funding/Broadband-Investment-Fund/>

Copyright and New Technologies

The Copyright (New Technologies) Amendment Bill was passed on 8 April 2008.

The Bill will update and clarify how copyright applies to new technologies in today's digital environment, promote a modern legal framework that guides the protection and use of copyright material, ensure the effective operation of the Act in the face of emerging technologies, and ensure that the Copyright Act remains fair and effective in the face of emerging needs of a dynamic and technology-supporting economy.

Please refer to: http://www.med.govt.nz/templates/MultipageDocumentTOC_35264.aspx

RADIO SPECTRUM

The radio spectrum policy environment in New Zealand is delineated primarily by the Radiocommunications Act 1989 that, in addition to providing the framework for radio spectrum management, recognises New Zealand's obligations to the worldwide radio-communications community as a signatory to the International Telecommunications 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).

The government has recently determined by amendment to the Radio Regulations that five years' notice be given when Radio Licences are to be revoked for such public policy purposes as band re-planning or national security.

Please refer to:

<http://www.rsm.govt.nz/cms/policy-and-planning/current-projects/radiocommunications/radio-licences-security-of-tenure>

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.

New Zealand is currently planning the introduction of Managed Spectrum Parks in 2.5 GHz broadband wireless spectrum, providing a new type of shared access regime for spectrum management. It is anticipated that access to such parks will be restricted and eligible operators will be required to coordinate with each other to manage interference issues and ensure that quality of service requirements are met.

Broadcasting Services

Final decisions on pricing principles for offers of 20 year renewal licences for existing VHF-FM and MF-AM radio broadcasting licences were made in early 2008 and offers made in May of that year. 95% of offers were accepted.

Please refer to:

<http://www.rsm.govt.nz/cms/policy-and-planning/current-projects/broadcasting/vhf-fm-broadcasting-frequency-availability-and-allocation>

Arrangements for additional VHF-FM licences, including commercial licences specifically for local and regional broadcasting, were developed in early 2008 and licences were assigned in May-June of that year.

Please refer to:

<http://www.rsm.govt.nz/cms/policy-and-planning/current-projects/broadcasting/vhf-fm-broadcasting-frequency-availability-and-allocation/discussion-paper/allocation-of-licences#LocalAre>

Practical tests of the DRM digital system in the MF-AM band have been conducted followed by Radio New Zealand service transmissions to the Pacific Islands (using DRM), and tests of the HD (IBOC) systems in the VHF-FM band

and DAB (Eureka-147) are continuing.

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 analogue switch-off. 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 analogue switch-off, and for re-allocating spectrum in the television bands to enable use of the 'digital dividend'. Decisions will be made in 2012 or whenever 75% of households are able to receive digital transmissions, whichever comes first.

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 has been received for operation at 158 deg East and a contract has been signed with the applicant.

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>

Fixed Wireless Access: Allocation of Crown-Retained Spectrum at 3.5GHz

In December 2001 Cabinet agreed that the Crown should create and retain rights for two 3.5GHz blocks suitable for fixed wireless access use. Licences in these retained blocks were to be made available for specific geographic areas. The allocation plan for this Crown-retained spectrum is described in the linked report. The plan provides for the commercial allocation of area spectrum licences defined by the boundaries of territorial local authorities, subject to rules designed to assist achievement of government's allocation objectives for this spectrum. In two successive allocation rounds, licences have been sold covering most of New Zealand's metropolitan and provincial centres.

Please refer to:

<http://www.rsm.govt.nz/cms/policy-and-planning/spectrum-auctions/fixed-wireless-access>

Review of Spectrum Allocations for Broadband Wireless Access

The Ministry has completed a review of the spectrum allocations for Broadband Wireless Access. Considering recent technology developments, the focus of this review is on identifying suitable bands and spectrum management techniques to:

- encourage investment in alternative broadband infrastructure;
- provide opportunities for the competitive delivery of broadband services; and
- maximise opportunities for broadband services in New Zealand.

As a result of this review, government has:

- repackaged the 2.3 GHz band for broadband wireless use, including a shared user assignment as a 'managed spectrum park' that gives easy access and a higher quality of service than a General User Licence;
- repackaged the 2.5 – 2.69 GHz band for broadband wireless use;
- reallocated the 2.3 and 2.5 GHz bands by auction in late 2007;
- repackaged part of the 3.5 GHz band as 'area spectrum licences' for local broadband initiatives;
- issued a General User Licence for radio LAN applications in the 5.4 – 5.7 GHz band (issued in April 2007);
- issued a General User Licence for high speed broad band links in the 60 GHz band (issued in April 2007); and
- agreed to consider suitable arrangements for the future allocations in the 70 GHz and 80 GHz bands.

Please refer to:

<http://www.rsm.govt.nz/cms/policy-and-planning/spectrum-auctions/2-3-2-5-ghz-auction>

Renewal of Rights to 800/900 MHz Cellular Spectrum

In 2003 the government agreed to a policy for the reallocation of commercial spectrum rights on expiry. It was agreed that commercial spectrum rights be reallocated to existing right holders five years before expiry, subject to a case by case review, based on an estimated market price. A case by case review of these rights was undertaken in 2006.

In April 2007 the government agreed that as a default, 7.5 MHz of the spectrum expiring in 2011 and 2012 in each band respectively should be offered by auction, and that renewal offers would be made to existing right holders (Telecom and Vodafone) for the remaining spectrum. If, however, the existing right holders were, within six months of the renewal offer being made, to sell at least 5 MHz of 800 or 900 MHz spectrum to a party not currently holding rights in these bands then the seller would be offered the remaining spectrum. The intention of this policy is to encourage new entrants to the cellular market.

Renewal offers were made to existing right holders in May 2008 and more than 95% were accepted. The offer price was calculated using an incremental ODV methodology and a comparison against international benchmarks.

Please refer to: http://www.med.govt.nz/templates/ContentTopicSummary_____19223.aspx