



# Cabinet

## Minute of Decision

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### Renewal of Radio Spectrum Management Rights in the 1800 and 2100 Megahertz Frequency Bands

**Portfolio**                      **Broadcasting, Communications and Digital Media**

On 25 February 2019, following reference from the Cabinet Economic Development Committee (DEV), Cabinet:

#### Background

1        **noted** that:

- 1.1      2degrees, Spark, Telstra, and Vodafone have rights over radio spectrum (management rights) that will expire in 2021;
- 1.2      2degrees owns some of its own management rights and accesses others through Hautaki Limited, which is the commercial arm of a charitable trust that aims to encourage Māori participation in the information and communications technology sector.

2        **noted** that these existing management rights are in the:

- 2.1      1800 megahertz (MHz) frequency band, which is used to provide 4th generation mobile phone services;
- 2.2      2100 MHz band, which is used to provide 3rd generation mobile phone services (Telstra's rights are currently unused);

3        **noted** that a Cabinet decision is required to renew any existing management rights when they expire;

#### Renewal of management rights

4        **noted** that there is no legal requirement to renew management rights when they expire, but that in the past there has been an expectation of renewal if rights are in use and there are no overriding public policy considerations;

5        **noted** that the renewal of all existing management rights would allow mobile network operators to continue providing services with least inconvenience and cost to them, and that mobile network operators have expressed a preference for this option;

- 6 **noted** that the complete renewal of all existing management rights would reduce options for potential alternative uses of radio spectrum, such as uses by new technologies or new competitors in the mobile phone market;
- 7 **noted** that the Police, Blue Reach (a wireless service provider), and the New Zealand Technology Group (which provides services to some wireless service providers) have argued against full renewal of existing rights;
- 8 **agreed**, balancing the considerations above, to make partial renewal offers to 2degrees, Spark, and Vodafone, and a full renewal offer to Hautaki, in accordance with the following table:

	1800 MHz band		2100 MHz band	
	Current rights	Renewal offer	Current rights	Renewal offer
<b>2degrees</b>	50 MHz	40 MHz	0 MHz	0 MHz
<b>Hautaki</b>	0 MHz	0 MHz	30 MHz	30 MHz
<b>Spark</b>	50 MHz	40 MHz	30 MHz	30 MHz
<b>Telstra</b>	0 MHz	0 MHz	10 MHz	0 MHz
<b>Vodafone</b>	50 MHz	40 MHz	50 MHz	50 MHz

- 9 **noted** that offers would be for generic blocks of spectrum in each band, with the precise arrangement of blocks within the band to be determined at a later time (operators would be required to retune their equipment once final positions are determined);
- 10 **noted** that:
- 10.1 the partial renewal offer will require network operators to bring forward some investment and that this will involve a cost;
- 10.2 this cost should be compared to what operators would need to pay for additional spectrum if it were offered;

### Renewal terms

- 11 **agreed** that renewal offers be made directly to the companies concerned, at a price of \$720,000 excluding GST per MHz;
- 12 **noted** that prices were determined with the assistance of an external consultant from the United Kingdom (Plum Consulting);

s 9(2)(b)(ii)

- 14 **noted** that, under the Public Finance Act 1989, the Minister of Finance may agree to allow lending (i.e. payment by instalments) if it is necessary or expedient in the public interest to do so;
- 15 **noted** that the Treasury opposes the use of instalment payments in this case, but that officials at the Ministry of Business, Innovation and Employment are in favour of allowing them;

- 16 **agreed** that companies accepting renewal offers will have the option to make payment immediately, or to pay by equal yearly instalments over five years, and:
- 16.1 **noted** that officials will prepare a letter for the Minister of Finance to authorise the offer of instalment terms;
- 16.2 **authorised** the Minister of Finance and the Minister of Broadcasting, Communications and Digital Media, acting jointly, to determine the final interest rate for instalment payments, based on Treasury's current method for determining a quasi-market rate of interest;
- 16.3 **noted** that because the interest rate for instalment payments would be based on market rates, no appropriation would be required;
- 16.4 **noted** that the above arrangements, by being offered at an appropriate commercial rate to all parties, would help address Treasury's concerns relating to the use of instalment payments;
- 17 **agreed** that renewals be for 20 years, to maximise incentives for operators to invest in use of their new rights;

#### Non-renewed spectrum

- 18 **noted** that:
- 18.1 30 MHz of spectrum in the 1800 MHz band and 10 MHz in the 2100 MHz band would not be renewed;
- 18.2 this could be put to some other use in future or, if no other use is found, offered back to the current holders;
- 19 **agreed** that Crown management rights be created over the non-renewed spectrum, to enable later allocation as management rights or spectrum licences;

**s 9(2)(i)**

- 21 **agreed** that conditions be added to new management rights, as necessary, to ensure that the holder of any management right is obliged to provide a spectrum licence, at no charge, to allow the Rural Connectivity Group to use existing holdings of 1800 MHz and 2100 MHz spectrum to meet existing contractual obligations in rural areas;

**s 9(2)(j)**

- 23 **invited** the Minister of Broadcasting, Communications and Digital Media to report back to DEV by the end of 2020 seeking a decision on whether to offer the remaining spectrum back to existing operators, if no better alternative has been advanced;

**Renewal offers****s 9(2)(j)**

Michael Webster  
Secretary of the Cabinet

*Secretary's Note: This minute replaces DEV 19-MIN-0031. Cabinet added paragraph 23.*

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**Hard-copy distribution:**

Prime Minister  
Deputy Prime Minister  
Minister for Broadcasting, Communications and Digital Media

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