MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HIKINA WHAKATUTUKI

Regulatory Impact Statement

Radio spectrum licence fees review

newzealand.govt.nz

Agency disclosure statement

This regulatory impact statement has been prepared by the Ministry of Business, Innovation and Employment.

It provides an analysis of options to reduce the surplus in the Radio Spectrum Management memorandum account and align the fees framework with cost-recovery objectives.

There were no significant limitations on the analysis undertaken in the course of this review.

The Ministry holds accurate long term data about the costs of administering its radio spectrum management activities and the licence fee revenue it has collected. This data was used in the analysis.

When considering future revenue, we have assumed that the number of licences will remain at approximately the current level and the mix of licences will not change significantly. A modest increase in licence numbers, due to a further increase in use of wireless technologies, is the main risk to these forecasts.

Affected stakeholders have been consulted and their views considered.

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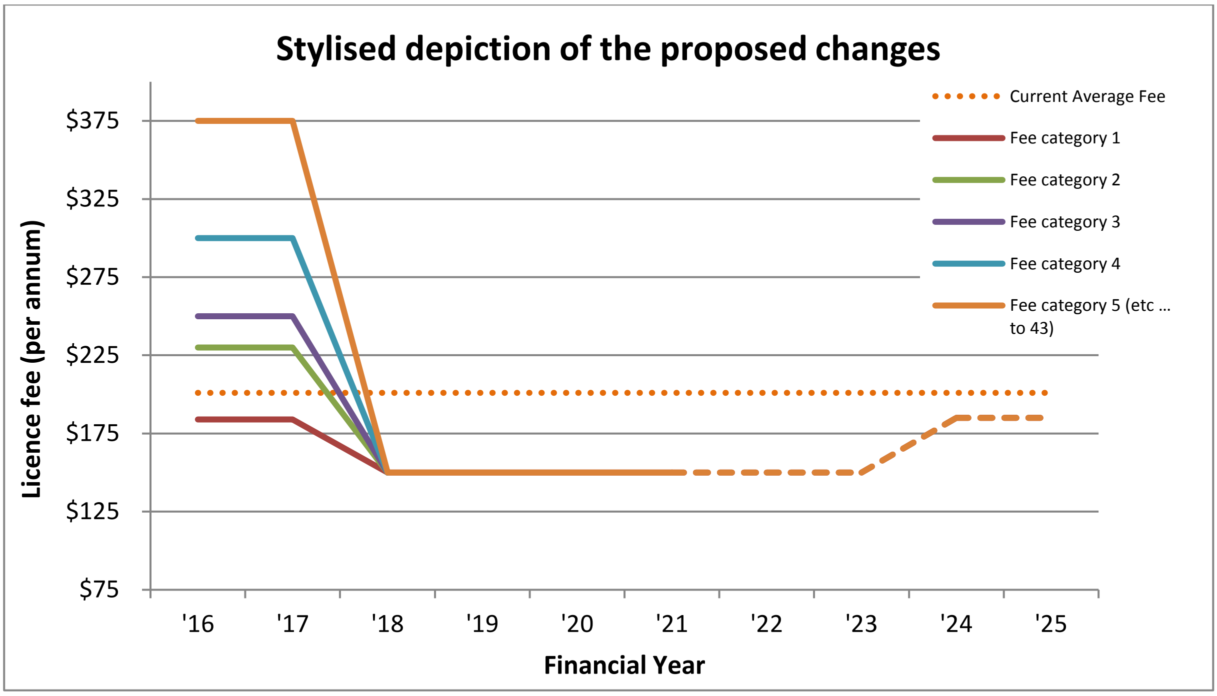
Executive summary

1. This review aims to address three interrelated issues in the radio spectrum fees framework. These are: the level of the memorandum account; the design of the fees framework; and a group of minor, administrative issues.
2. The primary objective of the fees review is to reduce the surplus in our memorandum account, which currently sits at $10.9 million. This is more than a year of radio spectrum management costs. Fees must also be adjusted to address over-recovery, which is currently $570,000 per year.
3. The fees framework currently has 47 licence classes, each with associated fee categories. Fees vary dramatically across licence classes and often do not reflect the current costs to administer that licence class. Due to changes in technology and radio spectrum management processes we can no longer justify the variation in fees between the different licence classes and therefore aim to move towards a simpler licence fee framework.
4. The review also provides the opportunity to tidy up minor administrative issues and reflect changes in general business practice since the last review to ensure our fees framework is fit for purpose.
5. In November 2015 we proposed a number of options in a public consultation paper. We received 36 submissions. These submissions have influenced the options and analysis included in this regulatory impact statement.
6. We recommend setting fees at under-recovery levels for a period in order to reduce the memorandum account balance to zero. In addition, a permanent reduction of fees is necessary to address ongoing over-recovery.
7. We recommend significantly reducing the number of fee categories and moving towards a single fee for most licences, with separate fee categories for amateur licences and multiple location licences.
8. At the time of the review there were 2900 licensees and 39,000 licences. The proposals will see fees reduced for the vast majority of fee payers. The following diagram is a stylised depiction of the two main proposals. The diagram shows how most current fee categories (43 of 47) will be combined into a single standard fee. As we are also running down the surplus in the memorandum account, that standard fee is below the current average fee and, significantly, below the current fees paid by any of this group.



9. After six years the memorandum account balance is expected to be close to zero and fees will need to be reset. However, in accordance with Treasury guidelines, there will be a review of fees after three years, providing an opportunity to adjust fees earlier than that if necessary.

10. The Cabinet paper proposes that fees remain at their current (low) level for amateurs.

11. The Cabinet paper recommends a change in the fee structure for multiple location licences. As a result fees may increase for licensees with a particularly high number of multiple location licences. However, we expect that less than 50 licensees will see a net increase in their total fees. We consider that the impact of the changes is relatively minor and the changes justified.

12. We recommend incorporating existing discounts (online payment and the licence interference investigation) into the standard fee to streamline the fees framework. Further, we recommend introducing a fee for manual payments to cover the additional costs of processing these payments.

13. We propose the majority of these changes commence from 1 October 2017. However, proposed changes to the multiple location licence classes will take longer to implement because they require changes to the business rules in the Register of Radio Frequencies. We intend to make the changes to the multiple location licence classes and fee categories in January 2018. We intend to discuss changes to the multiple location licences with those who hold these licences before implementation.

1 Status quo and problem definition

Background and Status Quo

15. Radio spectrum is a limited common access non-exhaustible resource which has many public and private uses. Use of spectrum requires international coordination; therefore, governments typically determine the uses of spectrum. Most countries licence spectrum, making frequency bands a private good through which access is granted via the assignment of a radio licence.

16. The Radiocommunications Act 1989 (the Act) provides for the management of the radio spectrum in New Zealand and sets out the management framework. The Radiocommunications Regulations 2001 (the Regulations) make further provisions for the administration of the radio spectrum and technologies that use it. The Ministry of Business, Innovation and Employment (MBIE), through Radio Spectrum Management (RSM), is the regulator responsible for the management of radio spectrum.

17. The functions of radio spectrum management include interference investigations and compliance, record keeping, transaction systems and administration of licences. Annual licence fees fund the costs associated with radio spectrum management. Licence classes and fees are included in Schedule 6 *Fees payable to chief executive for radio and spectrum licences* in the Regulations. Current licence classes and fees are included as Annex one.

18. Revenue from licence fees is held in a memorandum account which records the accumulated balance of surpluses and deficits incurred in the provision of radio spectrum management. The expectation is that the balance of the memorandum account will trend towards zero[1].

19. Since 2003, reductions in RSM's operating costs have been achieved through increased use of online services, accrediting external radio engineers to provide engineering services (rather than providing these services ourselves) and implementation of a risk-based compliance system. Further, newer technologies have contributed to lower rates of compliance issues and a corresponding decrease in compliance costs.

20. In the 2002/2003 financial year, operating costs were $11.2M. Costs are now expected to average $7.2M per annum over our five year forecast period (2016/17-2020/21).

21. Prior to 2002, licence fees included elements of resource charging, with higher fees for higher power and wider bandwidth licences. This is not consistent with Treasury and the Office of the Auditor General guidelines[2]. Reviews since 2002 have attempted to move closer to a cost-recovery system and set fees based only on the costs generated by the licence type. However, issues with fees were never fully addressed due to a desire to minimise negative consequences

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[1] Although still in draft form, we have taken the latest edition of Treasury Guidelines for Setting Charges in the Public Sector into account where possible. These guidelines state that "the expectation is that the balance of each memorandum account will trend towards zero over a reasonable period of time, with interim deficits being met either by cash from the agency's balance sheet or by seeking approval for a capital injection from the Crown." *Guidelines for Setting Charges in the Public Sector* (NZ Treasury, October 2016).

[2] "A fee should be set at no more than the amount necessary to recover costs, unless the entity is expressly authorised to do otherwise." *Charging fees for public sector goods and services* (Controller and Auditor-General, 2008).

on affected fee payers. The previous reviews did succeed in some simplification, reducing the number of fee categories from over 200 to the current 47.

22. Fees were last adjusted in 2006/2007. A short review was undertaken in 2011, but it was found that fees did not need adjusting. This was due to an expectation that revenue would reduce as a result of the switchover from analogue to digital television, resulting in the loss of a large number of high cost licences. However, revenue has not reduced as expected, largely because of an increase in the number of licences for mobile telecommunications.

Problem definition

23. There are three key issues that need addressing. These are: the level of the memorandum account; the design of the fees framework; and a group of minor, administrative issues.

24. Although these problems can be resolved separately, we consider that a coherent package of options which addresses all issues is the most effective approach.

25. In particular, the relationship between the memorandum account and the design of the fees framework is important. How we choose to resolve issue one (the memorandum account balance) impacts on how we can implement solutions for issue two (the redesign of the fees framework). This has been described in more detail in the options analysis of these issues.

Level of memorandum account

26. We are currently over-recovering revenue at a rate of $570,000 per year, and the memorandum account has a balance of $10.9M.

27. It is not justifiable to hold an amount equating to more than one year's costs in the memorandum account, particularly as the account balance will continue to increase should nothing change.

Design of the fees framework

28. There are a large number of fee categories which do not reflect the current costs to administer the licence classes. We can no longer justify the variation in fees between many of the different licence classes. Most of the costs associated with licences are now common across all licences, for example, the cost of maintaining a registry system. While some costs do vary between licence classes annually, these variations tend not to be systematic or predictable.

Minor issues

29. There is also a set of minor issues which need to be addressed to reflect current business practice. These issues relate to discounts which were put in place to encourage certain behaviours from fee payers (the online payment discount and the interference investigation discount). These discounts have achieved their purpose and retaining them is no longer necessary.

2 Criteria

30. In assessing options we have considered the following criteria. We note that not all of these criteria are applicable to all of the issues we are addressing.

31. These criteria are listed below in order of significance.

Consistency with statute and best practice guidelines

32. We have assessed whether options meet Treasury guidelines for cost-recovery. This is based on draft guidelines provided to us in October 2016. We have also considered guidelines from the Controller and Auditor-General on charging fees for public sector goods and services.

33. Similarly, we have assessed whether options align with best practice. Best practice includes:

    a. ensuring that proposed fees match costs,

    b. where possible, avoiding large fee changes for licensees,

    c. ensuring that the changes are a coherent package to resolve the issues highlighted in the review.

34. We weighted this criterion heavily when assessing options. If this criterion could not be met, then the option was discounted.

Fairness between fee payers

35. We have assessed whether proposed options are equitable across all fee payers and licence classes.

36. There are two dimensions to the fairness criteria. The first is that licensees are supported through any changes to the fees framework and that any particular classes are not unfairly negatively impacted by changes. The second is that fees should reflect costs that users generate. This was particularly important in issue two which considers the number and level of fee categories.

37. As average fees need to reduce there is now an opportunity to address anomalies while minimising the impact on those paying less than an equitable share.

Ease of implementation

38. We have assessed the ease of implementation for each option. Implementation refers to updating the Regulations, informing stakeholders, and making changes to the Register of Radio Frequencies (the Register).

39. Options with complicated implementation can incur high initial costs. For example, changes to the business rules within the Register could have costs in the millions to implement. Where possible, we need to ensure benefits outweigh the costs for the Crown and stakeholders.

Efficiency of on-going administration

40. We have assessed whether the proposed options are likely to be efficient in the longer term. Any option that requires complicated administration will incur additional administration costs.

3 Options and impact analysis

Issue One: Surplus in the memorandum account

41. There is a balance of $10.9M in the memorandum account. A surplus this size does not align with Treasury guidelines. Further, we are over-recovering $570,000 per year. This equates to about $15 per licence.

42. There are a number of options that could be considered to reduce the balance in the memorandum account. However, only a few of these are consistent with the Act, Regulations and Treasury guidelines.

Reducing the surplus in the memorandum account

Option 1: Status quo

43. Fees could be left unchanged and the surplus could remain in the memorandum account. However, this does not align with Treasury guidelines that memorandum accounts should trend towards zero. Because of this we consider that the status quo is not a viable option.

Option 2: A rebate to fee payers

44. A small number of submitters proposed a rebate to historical fee-payers. This option would be effective in reducing the memorandum account, dependent on the level and structure of the rebate. Fee payers would get an immediate monetary benefit, proportional to their annual fees. Some submitters argued that this option would be fair for historical fee payers.

45. We did not favour the option of a rebate for the following reasons:

    a. We believe this option does not satisfy our criterion of best practice, which includes addressing all issues in the fees review in a consistent way. Using the reduction of the memorandum account to balance the changes in the licence fees allows us to minimise the number of 'losers' in the restructure of the fee categories.

    b. It would be a complex task to identify how much each licensee has overpaid in any one year. In some instances, records may be lacking and in other cases an entity holding a licence may have changed or ceased to exist. We would need to determine when over-recovery began and how much this over-recovery was, in comparison to historical costs. This would be difficult to define and administer. The option would therefore be complicated to implement.

    c. There are no regulations enabling refunds to fee payers.

46. This option would not create any ongoing administration issues after the initial implementation. However, it would need to be combined with a modest reduction in fee level to avoid the memorandum account balance increasing again.

47. We note that this option may have been more highly ranked if the surplus in the memorandum account was a standalone issue. However, a rebate would limit our options for issue two (the design of the fees framework).

Option 3: Reduce fees for a period (recommended)

48. Fees could be set at under-recovery levels for a period to reduce the memorandum account balance to zero. This would be effective in reducing the surplus in the memorandum account, although the rate of under-recovery and corresponding speed of reduction is a matter of judgement. We could, for example, reduce the surplus very quickly by setting fee levels extremely low. However, this would result in a very steep increase when fees are reset.

49. Alternatively we could reduce fees by a small amount to avoid "bill shock" when fees are adjusted again. However, this would result in a very slow reduction of the surplus in the memorandum account.

50. We projected what the average fee would be if different periods were chosen to reduce the memorandum account. This was based on the current fee categories at time of writing. We included the following table in our consultation document:

Number of years to reduce the memorandum account	1	2	4	6	8
Approximate average fee (excl. GST)	$0	$85	$144	$165	$174

51. We considered the option of having a fee-free year but discounted it on the basis that very large changes to fees at the end of the year would be disruptive for fee payers.

52. We proposed a reduction period of six years in the consultation document. This is equivalent to reducing the average fee by approximately 25% or $46 per licence per annum.

53. We believe that this option is the most compatible with other solutions proposed in the fees review, in particular the redesign of the fees framework. The six year period allows us to minimise the number of 'losers' in the restructure of the fee categories while avoiding very sharp changes in fee levels for everyone.

54. While most submissions were supportive of this proposal, there was a theme throughout that licensees must be informed of any fee increase before fees return to a cost-recovery level, particularly if there is a large increase in fees at the end of the reduction period.

55. This option assumes that we will undertake a review of fee levels in three years to align with Treasury guidelines. We anticipate that particular care will be taken during this review to avoid any steep increases in fees and that any changes to licence fees will be signalled to stakeholders before implementation. We have included this in the monitoring and review section of the review to reflect the importance to submitters.

56. This option would ensure fairness between current licensees as fees would be reduced by the same percentage amount across all fee categories. Licensees are a relatively stable group. Once created, licences tend to continue for the life of the business with minor changes typically driven by technological change. However, historical fee payers with no current licences would not receive any benefit if this option was chosen.

57. This option would require a modest amount of work to implement as fee levels are adjusted and additional administration when the six year period ended. However, this work will need to be undertaken regardless of the option chosen.

Option 4: Retain fee levels and increase capital expenditure

58. This option was proposed by a number of submitters as a solution to the surplus in the memorandum account. It would reduce the surplus in the memorandum account through

spending on capital items, such as the replacement of the Register. Replacement of the Register is a large capital expense that will be necessary over the next few years.

59. If the memorandum account was used for capital expenditure, licensees could be expected to benefit through a reduction in depreciation and capital charges.

60. This option does not align with statute and best practice guidelines. Treasury guidelines state that fee revenue cannot be used for capital expenditure. Therefore, we discounted this option and did not assess it against the other criteria.

61. The regulatory impact analysis table below assesses each policy option against the criteria. We used the following key:

✘ not satisfied ✓ partially satisfied ✓✓ completely satisfied

Issue 1: Reducing the memorandum account balance				
	Option 1: Status Quo	*Option 2: Rebate to fee payers*	*Option 3: Reduce fees for a period (recommended)*	*Option 4: Increase capital expenditure*
Consistency with statute and best practice	✘	✘	✓✓	✘
Fairness	n/a	✓	✓	n/a
Ease of implementation	n/a	✘	✓✓	n/a
Efficiency of ongoing administration	n/a	✓✓	✓✓	n/a

Issue Two: Fees framework

62. We have identified two issues with the design of the fees framework. The first (issue 2a) is the number of fee categories, most of which are no longer necessary. The second (issue 2b) is the basis on which licences are charged.

Reducing the number of fee categories (Issue 2a)

63. In the past some licence types generated considerably more costs for RSM than others. For example, analogue television was very prone to interference and generated a significant amount of work for our radio inspectors. However, due to technology improvements (eg digital television) and changes in RSM business practices, there is now little, if any, difference in the administration costs of most licence classes. As a result, it is no longer necessary to retain such a large number of fee categories.

Option 1: Status Quo

64. The status quo would see the 47 fee categories remain unadjusted. This would not align fees with cost-recovery levels and would not fairly allocate costs across licence classes. We consider that licences classes that have very high fees attached are currently paying more than their 'fair share'. Therefore, we have discounted this option as it does not meet our criteria of consistency with statute and best practice and fairness between fee payers.

Option 2: Introduce a single fee category for all licence classes

65. This option would retain the licence classes for the purposes of record keeping (necessary for best practice), but align all licence fees by creating one fee category. This is a straight-forward approach to the design objectives to create a fair, simple, transparent and efficient fees framework.

66. In our consultation document we suggested that a single fee would fairly allocate cost across licence classes as variations in fees cannot be justified. The current average fee across all licence classes is $201 (after discounts). However, as we are proposing to under-recover fees for a six year reduction period (Issue one) this option would see the majority of licensees receiving a reduction in their fees. When fees are increased to cost-recovery levels at the end of this period, most of these licensees would still pay less than they did previously. Under this option, amateur licences (less than 1% of total licences) would be included in the standard fee and would see a significant increase in their fees.

67. Some submitters did not believe that this option would be fair for all fee payers. These submitters believed that there were some licence classes which had a significantly different basis which would make their inclusion in a single fee inappropriate. These were the amateur licences and the multiple location licences.

68. This option is consistent with statute and best practice as it would set fees on a cost-recovery basis. There is significant implementation work required to change the structure of fee categories, although once implemented, administration would be efficient.

69. Introducing a single fee category for all licences would require a change to the schedule of fees in the Regulations.

Option 3: Reduce fee categories to the number that can be justified

70. This option would see the majority of licences included in a single fee category, but retain separate fee categories where there was evidence of different costs or other justification. Additional fee categories would only be created for those licence classes where inclusion in the standard fee would not be appropriate.

71. We have considered two cases for separate fee categories based on submissions; for the amateur licence class and the multiple location licence classes.

   a. Retaining a $50 fee category for amateur repeater licences would have minimal impact on the proposed standard fee and would satisfy submitters who argued amateurs should not be included in a single licence fee.

   b. Retaining separate fee categories for multiple location licences would slightly increase the level of the standard fee, but would satisfy submitters who argued that multiple location licences are inappropriate to include in a single licence fee as they are created on a different basis.

   c. Further information on these fee categories is included in the following sections.

72. This option meets our criteria of consistency with statute and best practice as it moves the fees framework towards a cost-recovery basis.

73. The option would be more equitable to and between fee payers than the status quo as the majority of licensees would be paying the same fee.

74. Introducing four new fee categories would require significant implementation work and may require changes to the Register business rules. There would not be any additional administrative work once implemented.

75. The regulatory impact analysis table below assesses each policy option against the criteria. We used the following key:

✘ not satisfied ✓ partially satisfied ✓✓ completely satisfied

Issue 2a: Reducing the number of fee categories			
	Option 1: Status quo	*Option 2: Single fee category for all licence classes*	*Option 3: Reduce fee categories to the number that can be justified (recommended)*
Consistency with statute and best practice	✘	✓✓	✓✓
Fairness	✘	✓	✓✓
Ease of implementation	n/a	✘	✘
Efficiency of ongoing administration	n/a	✓✓	✓

Separate fee category for amateur repeaters

76. Individual amateurs do not pay a fee for licensing. Amateur radio repeaters operate across New Zealand and are typically owned by local amateur groups or clubs. These repeaters allow amateurs to send and receive communications over greater distances by relaying the communication from a transmitter located at a high site. Amateur repeater licences are charged on the basis of a single transmitter at one fixed location, as are the majority of radio licences.

Option 1: Status quo

77. Repeaters are currently charged an annual licence fee of about $50[3]. The status quo would see a separate fee category created for amateur licences. The fee would stay at around $50.

[3] The exact amount depending on the applicability of the discounts discussed in the "Issue three" section.

78. We received numerous submissions from amateur radio operators which argued that a separate fee category was required for amateur repeaters because amateur groups;

a. suffer from a free-rider problem as not all amateurs are members of clubs and the clubs cannot exclude non-members from use of their repeaters.

b. would not be able to afford an increase in licence fees, as they are volunteer-run and cannot charge for their services.

c. engage in the local community, upskilling people for the radio industry and provide services in civil defence and other emergencies.

79. Based on our assessment criteria we don't see the case for maintaining a separate amateur fee. We note that the Cabinet paper recommends that the amateur licence class is retained with a $50 fee (the status quo). The impacts of this recommendation are small, given amateur licences make up less than 1% of licences. Creating a separate fee category for amateur licences would result in a $1 increase in the standard fee category.

Option 2: Include amateur licences in a standard fee category

80. In the consultation document, we proposed a standard fee which would include amateur licences. Including amateur licences in the standard fee would see these licences face a steep increase in fees from around $50 to $150 (for the reduced period of six years).

81. In the course of the fees review, we came to the view that it is no longer sensible or even possible to differentiate between the costs of different types of licences, including the amateur licences. We suggested that amateur licences are not significantly different from other licences and therefore should be included in a standard fee.

Separate fee category for amateur repeaters		
	Option 1: Status quo	*Option 2: Include Amateur licences in the standard fee category*
Consistency with statute and best practice	✘	✓
Fairness	✘	✓✓
Ease of implementation	✓✓	✓✓
Efficiency of ongoing administration	✓✓	✓

Addressing the different basis of licences (Issue 2b)

Separate fee category for multiple location licences

82. The majority of licences relate to a single transmitter at a fixed location. However, there are 'multiple location licences' available for land mobile repeaters and pagers. These licences allow fixed transmitters operating on a common frequency at multiple locations to be included on a single licence. This is an anomaly compared to all other fixed transmitter licences.

83. When first introduced, multiple location licence classes were priced at approximately ten times the price of a typical single-location licence. The fee for these licences has been reduced in past reviews, and now sits at just over twice the price of the average single-location licence price.

84. In our consultation document we proposed that multiple location licences be discontinued and instead become single-location licences. This is included here as option three. If this change was made the standard fee would then apply for each single location licence.

85. The multiple location licences affected by these proposals make up around 13% of all licences.

Option 1: Status quo - Retain the multiple location licences with current fees

86. This option would see the multiple location licence classes and corresponding fee categories retained. This option is not expected to affect the fees for other licensees, including any standard fee.

87. We received an equal number of submissions for and against the status quo. The submissions in favour of the status quo were from licensees who have multiple location licences. These submissions argued for the status quo for the following reasons:

    a. If the MBIE proposal (to discontinue the multiple location licence classes) was implemented, there would be a large increase in fees for some licensees using these licences, including public-safety licensees.

    b. The licences are necessary to access a common frequency throughout the country[4].

    c. The licences do not result in higher costs for MBIE.

    d. The licensees would not receive any of the benefits of licence fees being set at under-recovery levels, because they would pay higher fees as each location is converted to a single licence.

88. We noted these concerns and consequently included the options to retain these licence classes in our analysis.

89. We considered introducing a higher flat fee for the multiple location licence classes. This fee would apply to all multiple location licences, regardless of the number of licences. However, this option does not reflect the varied number of locations on each multiple location licence.

Option 2: Retain the multiple location licence classes and include them in the proposed standard fee

90. This option would see the multiple location licence classes retained, but included in the proposed standard fee. This would see the multiple location licences charged a substantially lower fee than current multiple location fees[5]. This option would result in an increase in the standard fee by approximately $13 per licence (relative to option 3).

91. We do not believe that this option would be fair between fee payers. This option would see fee payers with multiple location licences pay the same fee for an unlimited number of locations as other fee payers would pay to licence one location.

92. This option is consistent with statute. This option would not be difficult to implement, only requiring an adjustment in fee level. Once implemented, it would not cause any additional administration issues.

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[4] This is not correct. Licensees are allocated exclusive access to a frequency when there is a case to do so. For example, rail communications and crane control have dedicated frequencies for safety reasons. This would continue.

[5] Land mobile licences for multiple repeaters on a common channel are either $500 or $600 depending on strength. Paging licences for multiple transmitters on a common frequency are $200.

Option 3: Discontinue the multiple location licence classes and move the licences to a single location basis (MBIE consultation proposal)

93. This option would see the multiple location licence classes discontinued and multiple location licences transitioned to single location licences. Licensees would be charged the standard fee for each location previously on the multiple location licence.

94. This option would result in a reduction in the standard fee by approximately $13 per licence. However, about 30 licensees (of 2900) would see a net increase in annual fees of more than $1000 per year. The affected businesses all have significant national or regional operations that are heavily reliant on use of radio spectrum. None of the affected companies pay any resource or access charge for use of the spectrum. (This contrasts with cellular mobile operators and broadcasters who, in addition to their annual licence fees, pay large sums for access.)

95. This option was proposed in our consultation document. Submissions were split, with nine submitters in support and ten against.

96. Submissions that supported this proposal were typically from licensees in industries not able to access a similar type of licence (e.g. cellular and broadcasting). These submissions stated that:

    a. Other networks that require multiple transmitters (such as cellular mobile networks), must licence each transmitter individually, and pay a fee for each which covers costs such as interference protection. Cellular networks are unable to apply for multiple location licences or receive the same benefits.

    b. These licences encourage 'hoarding' of spectrum, as licensees can register locations "just in case" without any financial disincentive. Other users must ensure they don't cause interference to the registered location even if the location isn't actually in use.

97. This option is consistent with statute and best practice. Particularly, it would ensure that fees are set on a cost recovery basis and that all licences are created on the same basis.

98. This option would, arguably, make the fees framework more equitable as fees would be set on the same basis across all licence classes.

99. This option would require significant changes to the business rules within the Register. Changing these rules would incur costs.

100. Licensees would be required to transition multiple location licences to single location licences. This option would generate one time administration work to turn each location into a separate licence. It is likely that this could be automated for the fee payers but the set up would still require some administrative effort from MBIE.

Option 4: Retain the multiple location licence classes and introduce a two-step fee structure

101. If the multiple location licence class is retained (i.e. option three is not chosen), we consider that a separate fee category which reflects the different basis of these licences is necessary to ensure that licence fees reflect costs generated by the licence class. Introducing a two-step fee structure, at a higher fee level than the standard fee, is fairer than the status quo. We have considered the additional service level associated with a multiple location licence when determining an appropriate price for this fee category.

102. This option is not expected to affect the fees for other licensees, including any standard fee. About 3% of licensees will see a net increase in their annual fees, of between $400 and $12,000. The affected businesses all have significant national or regional operations that are heavily reliant on use of radio spectrum. None pay any resource or access charge for use of the spectrum.

103. We believe that a step fee would be more nuanced approach to the fee levels for multiple location licences. There are a very high number of multiple location licences with less than five locations, and conversely, a low number of licences with more than 30 locations.

104. We modelled different configurations of prices, and the number of locations per licence, when considering appropriate fee levels. We considered impacts on efficiency and the impact on licensees with multiple location licences.

105. A step fee would be dependent on the number of locations on the licence. We suggest that the appropriate fees are $600 for up to, and including 6 locations, and $2000 for more than 6 locations on the licence.

    a. Setting the lower fee at $600 reflects the current situation; there are many multiple location licences with up to, and including, 6 locations, paying a fee of between $500 and $600.

    b. Setting the higher fee at $2000 would create some incentive to reduce “just in case” location registration and would go some way to demonstrating parity with other classes of fees.

106. This option will require two multiple location licence classes (one for up to 6 locations and one for unlimited locations) to be added to the Register and amended in the Regulations. We note that there may be more beneficial licence/location configurations for some licensees, therefore this option may cause some licence holders to make the decision to alter their licences to take advantage of this.

107. There would be no additional ongoing administration issues for this option once all licences have been finalised.

108. RSM’s preferred option is to discontinue the multiple location licence classes (option three). However, we acknowledge that some submitters have problems with this proposal. We therefore believe that a suitable compromise could be option four, a stepped fee. This would satisfy the majority of fee payers, while still addressing many of the issues in the current regime.

109. The regulatory impact analysis table below assesses each policy option against the criteria. We used the following key:

✘ not satisfied ✓partially satisfied ✓✓ completely satisfied

Issue 2b: Addressing the different basis of licences				
	Option 1: Status quo	*Option 2: Retain multiple location licence class and include in standard fee*	*Option 3: Discontinue multiple location licence class*	*Option 4: Retain multiple location licence classes with a stepped fee (recommended)*
Consistency with statute and best practice	✘	✓✓	✓✓	✓✓
Fairness	✘	✘	✓✓	✓
Ease of implementation	n/a	✓✓	✘	✘
Efficiency of ongoing administration	n/a	✓✓	✓	✓✓

Issue three: Minor issues

Options for the Online Payment Discount (Issue 3a)

110. The online payment discount (10% of the licence fee) was introduced in 2005 to encourage fees to be paid online. Over 98% of payments are now made online and there is no need for a discount to incentivise online payments.

Option 1: Status quo

111. The status quo would see the discount remain. However, it would be a nominal rather than a real discount. Fees would simply be set about 10% higher than necessary to achieve the desired revenue, to reflect the fact that 98% of licensees would be receiving the discount. This is not best practice.

Option 2: Incorporate the Online Payment Discount into the standard fee

112. Incorporating the discount into the standard fee will contribute to a simplified fees framework. All fee payers would receive the benefits of the discount, reflected in the lower standard fee. We believe this more accurately reflects best practice. This option would also make it easier for licensees to understand their payments. Removing this discount may marginally increase the number of licensees paying via other methods.

113. This option does not fully satisfy our criterion of fairness between fee payers, as those who choose to make a manual payment would not be responsible for covering the additional cost this generates.

114. This option would improve the efficiency of administration in the long term, as fees would only need to be calculated once.

115. This option would require a minor amount of implementation work to update the Regulations and the Register.

Option 3: Incorporate the Online Payment Discount into the standard fee and add a manual payment processing fee (recommended)

116. This option proposes the same approach to the discount as option 2, as well as the introduction of an additional fee to cover costs generated from manual payments. The impact of an additional fee on licensees is likely to be small. Manual payments currently account for 2% of all licence payments. We estimate that the cost of processing manual payments is $25 per payment.

117. This option is likely to incentivise more online payments and reduce the likelihood of licensees shifting to manual payments following the removal of online payment discount.

118. This option is consistent with statute and best practice as it ensures that fees are reflective of the costs generated by particular actions. Similarly, we believe this option is fairer than other options, as those who generate additional costs are responsible for covering those costs.

119. This option would require us to include the manual payment processing fee in the Regulations. It would create additional administrative work in the long term when the charge must be applied after annual fees have been calculated. These are both minor issues.

120. The regulatory impact analysis table below assesses each policy option against the criteria. We used the following key:

✘ not satisfied ✓ partially satisfied ✓✓ completely satisfied

Issue 3a: Online Payment Discount			
	Option 1: Status quo	*Option 2: Incorporate the online payment discount into the standard fee*	*Option 3: Incorporate the online payment discount into the standard fee and add a manual payment processing fee (Recommended)*
Consistency with statute and best practice	✘	✓	✓✓
Fairness	n/a	✘	✓✓
Ease of implementation	n/a	✓	✓
Efficiency of ongoing administration	n/a	✓✓	✓

Options for the Interference Investigation Discount (Issue 3b)

121. Investigation of interference to radiocommunications is part of the work of RSM radio inspectors and therefore contributes to RSM costs. Currently, licensees receive a 10% discount if they agree to undertake their own interference investigations. The discount was first introduced when interference to consumer equipment was more common and RSM undertook the vast majority of all interference investigations.

122. Interference with consumer equipment is now rare and most occurrences of interference relate to commercial installations. Reflecting this, licensees are now encouraged to undertake their own investigation in the first instance and to approach RSM only when further help is required. Therefore, licensees taking the interference investigation discount are receiving a discount for agreeing to a level of service that is now the standard level applied to all licensees.

123. Less than 2% of licensees utilise this discount. The total discount given to all licensees is approximately $40,000 annually. The majority of those using this discount registered for it soon after it was introduced in 2008.

Option 1: Status quo

124. The status quo would see the discount retained. However, we do not believe it is appropriate to give some licensees a discount for undertaking their own interference investigation as we expect all licensees to do so in the first instance. Given the change in approach, there are no cost savings to RSM from these licensees undertaking their own investigations. We believe the status quo does not align with best practice.

Option 2: Incorporate the Interference Investigation discount into the standard fee (recommended)

125. This option would see the discount incorporated into the standard fee category, rather than being applied after annual fees are calculated.

126. The option is consistent with statute and best practice. It ensures that fee levels are reflective of costs to provide that service.

127. We believe this option is a fairer allocation of costs across licence classes. All licensees contribute towards the cost of managing interference as a proportion of their licence fee.

128. This option would require a modest amount of work to change the Regulations. However, it would make calculating final fees more straightforward and make it easier for licensees to understand their final fee payment.

Option 3: Charge for Interference Investigation by RSM on a cost recovery basis

129. This option proposes the introduction of an additional fee to cover costs incurred by interference investigations. This would be effective in achieving total cost-recovery for all RSM actions, by charging only those licensees who use interference services for the cost it generates.

130. However, an interference investigation fee would often result in charging the victims of interference issues, rather than those who cause them. Interference can be costly to identify and resolve. Further, the party causing the interference won't necessarily be a licence-fee payer and may not be directly culpable for the problem. We do not believe this is consistent with best practice or that it is fair between fee payers.

131. The introduction of a fee for interference investigations would require a modest amount of work to implement because it would need to be included in the Regulations. It would also require additional work to administer the fee after the investigations are undertaken.

132. For these reasons, we believe that the current "insurance" model is more appropriate and we do not recommend a separate charge for interference investigations.

133. The regulatory impact analysis table below assesses each policy option against the criteria. We used the following key:

✘ not satisfied ✓ partially satisfied ✓✓ completely satisfied

Issue 3b: Interference Investigation Discount			
	Option 1: Status quo	*Option 2: Incorporate the interference investigation discount into the standard fee (Recommended)*	*Option 3: Charge for interference investigation by RSM on a cost recovery basis*
Consistency with statute and best practice	✘	✓	✘
Fairness	✘	✓✓	✘
Ease of implementation	n/a	✓	✓
Efficiency of ongoing administration	n/a	✓✓	✓

4 Consultation

134. At the time of the current review there were 2900 licensees, 39,000 licences, and 47 licence classes. Each licence class has an associated fee category. The annual fees range from $50 to $22,000[6], although the average fee is just over $200 (+GST).

135. In November 2015, we released a consultation paper titled 'Review of the Radio Spectrum Fees Framework'. We informed licensees of the consultation via email, a radio spectrum management monthly business update, and publication on the New Zealand Government Consultation webpage. We also phoned the licensees heavily impacted by the proposals, and met with one submitter to discuss their concerns.

136. We received 36 submissions in total. Submitters came from a range of sectors, including broadcasting, telecommunications and amateur radio. Feedback from submitters has informed our analysis.

    a. A significant number of submissions received were from amateur radio operators (around 30%). All of these submissions disagreed with the proposal to include amateur licences in a standard fee. Most of these submissions did not comment on any other proposals.

    b. We received three submissions from major associations and user groups; New Zealand Association of Radio Transmitters (NZART), the Radio Broadcasters Association (RBA) and the Radio Frequency Users Association of New Zealand (RFUANZ). The RBA and RFUANZ generally supported the proposals in the consultation document, with some minor suggestions. NZART represent a number of amateur licence holders and therefore disagreed with the proposal to include amateur licences in the standard fee.

    c. Approximately 20% of submissions were from telecommunications companies, including 2degrees, Vodafone, Kordia, Chorus and Team Talk Ltd. These submissions were generally supportive of the proposals, with some minor suggestions.

    d. Around 15% of submissions were from public services, including New Zealand Fire Service, New Zealand Police, St John, New Zealand Defence Force and KiwiRail. These submissions were generally supportive of the proposals. A small number had concerns that proposed changes to the fee structure would see their annual fees increase unfairly.

[6] This fee is for an analogue television licence, which is no longer in use.

5 Conclusions

137. After analysing the options to meet the objectives of the fees review, MBIE recommends a combination of amendments to the Regulations.

138. To reduce the surplus in the memorandum account, we recommend reducing fees for a period to decrease the memorandum account balance to zero (see page 9).

    a. Removing the over-recovery is the equivalent of $15 per licence, per annum.

    b. To run down the memorandum account balance over six years requires a further $46 per licence, per annum. This reduction will only occur until the memorandum account approaches zero.

139. Our recommendation is for a single licence fee for all licences; however we acknowledge there may be a case for creating additional fee categories for the amateur (page 12) and multiple location licence classes (page 13).

    a. We accept some arguments from the amateur licensees that they suffer from a free rider problem and that they contribute to the public good. We note that retaining the amateur licence class fee category at $50 (including GST) will make a minimal impact on the overall objectives of the fees review (page 12).

    b. We also note arguments from licensees with multiple location licences, including that discontinuing the licence class would see a steep increase in these fees. Retaining the licence classes would require additional fee categories to the standard fee (page 16).

140. We believe that if the multiple location licence is retained, a suitable compromise would be the introduction of a stepped fee. This would satisfy the majority of fee payers, while still addressing many of the issues in the current regime and satisfying our criteria.

141. The base fee for these classes would be set significantly higher than the standard fee for other licences. We consider that this two-step approach would be fairer than the status quo, and would provide some incentive for these licences to be used efficiently (page 16).

142. We also recommend incorporating two existing discounts into the proposed standard fee. These are the online payment discount and the licence interference investigation discount (page 17-18). Given the focus on cost-recovery, we further recommend adding a fee of $25 to cover the cost of manual payments.

143. The result of these recommendations (with or without additional fee categories) is a net reduction in licence fees for the vast majority of licensees.

6 Implementation plan

144. MBIE, through RSM, is the responsible agency for the implementation of these proposals. Proposed changes to the fees framework will require changes to the Regulations.

    a. Schedule 6 of the Regulations which outlines fee levels will need to be amended with new fee amounts;

    b. Sections 44A, 44B and 44C will need to be revoked to reflect the incorporation of discounts into a standard fee category; and

    c. A new section in the Regulations will need to be drafted for the introduction of a manual payment fee.

145. Stakeholders will be notified through a press release from the Minister for Communications and RSM's regular communications channels, including a notice of new changes in the monthly RSM Business Update and on the RSM website.

146. We propose the majority of these changes to commence from 1 October 2017. This includes the introduction of the standard fee category and changes to the online payment discount and interference investigation discount. However, changes to the multiple location licence classes will take longer to implement because they require more substantial changes to the business rules in the Register. We intend to make the changes to the multiple location licence classes and fee categories in January 2018.

147. We intend to discuss changes to the multiple location licences with those who hold these licences before implementation in January 2018.

Implementation Risks

148. We have identified two implementation risks.

149. Firstly, administrative changes will need to be incorporated into the Register. Although most of these changes are straightforward, there are some technical elements which may require testing to ensure these are implemented without issue. These tests will be undertaken by RSM staff.

150. Secondly, lower licence fees may result in increased demand for new licences and increased revenue. Conversely, when fees are readjusted at the end of the proposed six year reduction period, there may be a reduction in the number of licences. We intend to monitor any fluctuations in licence numbers, and the revenue going into the memorandum account in conjunction with MBIE's finance team.

7 Monitoring, evaluation and review

151. As set out in Treasury guidelines for cost recovery, fees should be reviewed every three years. We anticipate that we will review the changes to the fees framework after three years.

152. Ongoing monitoring of the levels of licences and balance of the memorandum account throughout the six year reduction period will contribute to the review. We currently have extensive monitoring of compliance and licensing activities (including costs and revenue) which will also contribute to the review.

153. The review at three years will provide an opportunity to evaluate the effectiveness of the changes to the fees framework in reducing the balance of the memorandum account, and making the fees framework simple, transparent and fair.

154. The three year review will likely indicate when, and to what level, fees need to be increased to in order to move towards a cost-recovery level and ensure the memorandum account balance continues to trend towards zero. We intend to signal any likely increase, and associated timeline, to licensees at this time.

155. If other adjustments are required to the fees framework to more effectively achieve the objectives of the review, these will happen during the next review.

Annex One: Current schedule of fees

Licence code	Class of radio or spectrum licence	Annual administration fee ($ incl. GST)
LAND MOBILE SERVICES (Radio Licences only)		
REPEATERS (Two-frequency)		
LR1	Multiple repeaters on a common channel throughout New Zealand with bandwidth 12.5 kHz or less	511.11
LR2	Multiple repeaters on a common channel throughout New Zealand with bandwidth more than 12.5 kHz	613.33
LR3	Single repeater 7 dBW (5 watts) e.i.r.p. or less	306.67
LR4	Single repeater more than 7 dBW (5 watts) e.i.r.p.	255.55
SIMPLEX (Single frequency)		
LS1	Multiple transmitters on a common frequency throughout New Zealand with bandwidth 12.5 kHz or less	255.55
LS2	Multiple transmitters on a common frequency throughout New Zealand with bandwidth more than 12.5 kHz but less than or equal to 25 kHz	306.67
LS3	Multiple transmitters on a common frequency throughout New Zealand with bandwidth more than 25 kHz	306.67
LS4	Other transmitters (per licence)	255.55
PAGING		
LP1	Multiple transmitters on a common frequency throughout New Zealand	204.45

Licence code	Class of radio or spectrum licence	Annual administration fee ($ incl. GST)
LP2	Transmitters 7 dBW (5 watts) e.i.r.p. or less	255.55
LP3	Transmitters more than 7 dBW (5 watts) e.i.r.p. but less than or equal to 14 dBW (25 watts) e.i.r.p.	460.00
LP4	Transmitters more than 14 dBW (25 watts) e.i.r.p.	204.45
FIXED SERVICES (Radio Licences only – per transmitter)		
FP1	Point-to-point - Frequency less than 1 GHz	204.45
FP2	Point-to-point - Frequency more than 1 GHz	204.45
FM1	Point-to-multipoint and Multipoint-to-point	204.45
BROADCASTING SERVICES (Radio and Spectrum Licences)		
SOUND BROADCASTING BELOW 30 MHz (MF/HF)		
BA1	Transmitters less than 30 dBW e.i.r.p.	460.00
BA2	Transmitters 30 dBW e.i.r.p. or more but less than 36 dBW e.i.r.p.	1,226.67
BA3	Transmitters 36 dBW e.i.r.p. or more but less than 40 dBW e.i.r.p.	1,533.33
BA4	Transmitters 40 dBW e.i.r.p. or more	1,022.22
SOUND BROADCASTING ABOVE 30 MHz (VHF/UHF)		
BF1	Transmitters less than 10 dBW e.i.r.p.	460.00
BF2	Transmitters 10 dBW e.i.r.p. or more but less than 20 dBW e.i.r.p.	562.22
BF3	Transmitters 20 dBW e.i.r.p. or more but less than 30 dBW e.i.r.p.	408.89
BF4	Transmitters 30 dBW e.i.r.p. or more but less than 40 dBW e.i.r.p.	408.89
BF5	Transmitters 40 dBW e.i.r.p. or more	408.89
TELEVISION BROADCASTING BELOW 300 MHz (VHF)		

Licence code	Class of radio or spectrum licence	Annual administration fee ($ incl. GST)
BV1	Transmitters less than 10 dBW e.i.r.p.	306.67
BV2	Transmitters 10 dBW e.i.r.p. or more but less than 30 dBW e.i.r.p.	511.11
BV3	Transmitters 30 dBW e.i.r.p. or more but less than 50 dBW e.i.r.p.	5,111.11
BV4	Transmitters 50 dBW e.i.r.p. or more	22,488.89
TELEVISION BROADCASTING ABOVE 300 MHz (UHF)		
BU1	Transmitters less than 10 dBW e.i.r.p.	511.11
BU2	Transmitters 10 dBW e.i.r.p. or more but less than 30 dBW e.i.r.p.	408.89
BU3	Transmitters 30 dBW e.i.r.p. or more but less than 40 dBW e.i.r.p.	357.78
BU4	Transmitters 40 dBW e.i.r.p. or more but less than 50 dBW e.i.r.p.	460.00
BU5	Transmitters 50 dBW e.i.r.p. or more	511.11
OTHER SERVICES (Radio and Spectrum Licences)		
MARITIME AND AERONAUTICAL (Radio Licences only)		
OM1	Ship, aircraft or mobile	357.78
OM2	Land (including maritime coast stations)	306.67
OM3	Repeater (two-frequency)	306.67
AMATEUR (Radio and Spectrum Licences)		
OA1	Beacon, repeater or fixed Link	51.11
RADIODETERMINATION (Radio Licences only)		
OR1	Radio determination (including radiolocation and radionavigation)	255.55
SATELLITE (Radio Licences only)		
OS1	Fixed-satellite service (per transponder accessed)	306.67
OS2	Other satellite services (non-shared with fixed	306.67

Licence code	Class of radio or spectrum licence	Annual administration fee ($ incl. GST)
	services)	
OS3	Other satellite services (shared with fixed services)	306.67
TELEMETRY AND TELECOMMAND (Radio Licences only)		
OT1	Telemetry and telecommand (including space telecommand)	255.55
RECEPTION PROTECTION (Radio Licences only)		
OP1	Co-channel reception protection from terrestrial transmissions	204.45
MISCELLANEOUS SERVICES (Radio and Spectrum Licences)		
OZ1	Transmitters less than 20 dBW (100 watts) e.i.r.p.	306.67
OZ2	Transmitters 20 dBW (100 watts) e.i.r.p. or more but less than 30 dBW (1000 watts) e.i.r.p.	306.67
OZ3	Transmitters 30 dBW (1000 watts) e.i.r.p. or more	306.67
ZFC	General User Licences	-

Annex Two: Proposed fees for licence classes

Previous class	Previous fee range ($ incl. GST)[7]	Previous fee range (after online payment discount, incl. GST)[8]	New class	New fee – result of all proposed changes ($ incl. GST)	Number of licences (as of July 2016)
Fixed Services (Radio Licences only – per transmitter)	205	184	Standard	150	15827
Broadcasting Services (Radio and Spectrum Licences)	307 - 5112	276 - 4600	Standard	150	1324
Maritime and Aeronautical (Radio Licences only)	307 - 360	276-322	Standard	150	774
Satellite (Radio Licences only)	307	276	Standard	150	275
Telemetry and Telecommand (Radio Licences only)	256	230	Standard	150	358
Reception Protection (Radio Licences only)	205	184	Standard	150	59
Miscellaneous Services (Radio and Spectrum Licences)	307	276	Standard	150	10788
Radiodetermination (Radio Licences only)	256	230	Standard	150	192
Amateur (Radio and Spectrum Licences)	52	46	Amateur	50	306
Multiple location licences (LR 1, LR 2 and LP1)	204 - 614	184-552	Multiple location licence	600/2000 Or 600/1500[9]	4956
Other Land Mobile Services (Radio Licences only)	204 - 460	184-414	Standard	150	3247

[7] Before online payment and interference investigation discount, if any.
[8] 98% of licensees receive this discount
[9] Dependent on decisions from the Minister

General User Licences	0	0	General User Licence	150[10]	-

[10] MBIE will cover the costs of the General User Licences so that this service can remain free to the public.