



Government of  
The Republic  
of Vanuatu



Telecommunication &  
Radiocommunication  
Regulator

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## DECISION 1 OF 2016

# RADIO SPECTRUM FEES FOR THE REPUBLIC OF VANUATU

### Background

The Telecommunications & Radiocommunications Regulator (TRR) has completed its consultation process and consideration of comments received from the industry in response to its Consultation Paper on *Radio Spectrum Fees in Vanuatu*; which was issued for comment on the 8<sup>th</sup> of February 2016. This Decision is also based on TRR's consideration of stakeholder views at its first consultation meeting on that paper on 9 March 2016 and a second one on the 25 May 2016.

In making its Decision, TRR has listened to industry's views and notes that they include:

1. Operators are still recovering from the effects of Cyclone PAM, and are also focussing on their implementation of their UAP Undertakings under the pay or play approach;
2. Their view is that the fee formula is arbitrary and not objective; particularly in that it does not take account of low economic areas where spectrum is needed and used;
3. There is no shortage of spectrum in Vanuatu;
4. There needs to be more assessment and analysis on how the fees are calculated.
5. There should be a grace period or consideration given to smaller players in the telecommunication sector in order for them to expand.

Considering these comments and concerns, as well as the operators' inputs and comments received on the Consultation Paper, TRR has decided to proceed with the introduction of spectrum fees for a limited number of bands, with effect from the 1<sup>st</sup> of January 2017. In

reaching this Decision, TRR notes and has taken account of some of the opposition to the introduction of such fees, and to the levels that were proposed in the Consultation Paper.

While TRR recognizes that some participants in the Consultation process continue to have concerns about the level and timing of introducing Spectrum Fees, the fees presented in schedule 2 now represent a reasonable compromise and balance between those concerns and the identified need for the introduction of such fees. This is to ensure that spectrum is used effectively and efficiently in Vanuatu, to assist in underpinning the on-going telecommunications and radiocommunications regulatory system in this country. And also as a long-term, on-going funding source for TRR to enable the effective and efficient management and administration of this vital national resource into the future. Furthermore, the chosen bands that require fees are of high value to the operators in securing future revenue from consumers.

The fees imposed vary according to the amount of spectrum used and also for the different bands. Fees are not a new concept to the sector as they have been implemented in the *Radio Apparatus License and Spectrum License (Fees) Regulation Order No. 153 of 2012* (the Regulation), and there was wide awareness that this concept was to be introduced and information was communicated a number of times to the players in the past, as well as being indicated in TRR's Annual Work Plans.

TRR recognizes that prior to and during the commencement of liberalization of the telecommunication Market in Vanuatu, the Government imposed obligations on the two main network provider's (TVL and Digicel) to roll out infrastructure in the Country as part of the Government's telecommunication initiatives and policies; whereby costs were to be met by relevant providers. Given that rationale, there was a time-limited exemption permitted by the Government in respect of the spectrum allocated to Digicel and TVL; in the full industry knowledge and awareness that any additional spectrum required by them after the said introductory period would be charged and fees would be levied by the TRR for it according to the appropriate and relevant Regulations, and, any TRR Decision and respective telecommunication licences.

## Legal Basis

The primary legislation and rationale for the establishment of spectrum fees is the *Telecommunications and Radiocommunications Regulations Act No. 30 of 2009* (the Act) and the Regulation.

The Act gives powers to TRR to regulate the telecommunications and radiocommunications including management of radio frequency spectrum in order to promote national social and economic development.

Paragraph 7(2)(e) of the Act applies and permits TRR to “*allocate, assign and manage the radio spectrum*”. Further powers are given under paragraph 7(4)(a) (b) (c) of the Act to TRR to:

- (b) *prescribing procedures, forms and fees in respect of any licence or exception or anything which might be done by any person under this Act, except the provision of reasons for any decision by the Regulator;*
- (c) *or providing for the methodology by which any calculation required to be made under this Act is to be made;”*

Based on these powers, TRR has formulated the spectrum fees applying to specific bands detailed in Schedule 1 and Schedule 2 of this Decision.

Other instruments and requirements TRR draws from in carrying out its spectrum management functions, as well as assisting TRR to make this Decision are, the principles set out in its document *Spectrum Planning, Allocation and Assignment Practices* (the Practices document) dated 20 December 2011.

Part III of the Regulation provides:

### *6. Spectrum Licence*

- (1) *A person is to apply to the Regulator for a spectrum licence for the assignment of spectrum.*

- (2) *The Regulator is to charge the assignment of a spectrum using the administrative incentive pricing or spectrum auction whichever is appropriate under the circumstances.*
- (3) *if applying for a spectrum licence under subclause (1), the person must submit with the application the prescribed application fee.*

## **REASONS FOR THE DECISION**

The reasons for setting of spectrum fees are as follows:

1. In order that TRR's fulfil its functions in managing the spectrum in accordance with the Act and the Regulation.
2. For appropriate, effective and efficient management of spectrum.
3. To recover the cost of managing the radio spectrum from those who directly benefit (rather than costs being borne by the whole community).
4. To ensure fair distribution across all players according to their roll out plans;
5. To ensure no unfair practices of obtaining and holding on to unused spectrum; a potentially unfair and anticompetitive practice which would hinder new entrants into the market.
6. To encourage the efficient use of the radio spectrum by setting prices to reflect the real value of spectrum where spectrum is congested or scarce.
7. Technology and market evolution is vastly contributing to spectrum scarcity therefore; it is important that TRR must appropriately manage the resource to ensure that the resource is used to promote the national interest.
8. Radio spectrum is a vital national resource and is more likely to become more scarce with the potential for an ever widening range of new services to be introduced. Further, it is a crucial enabler for the provision of communications services in Vanuatu, and an important enabler for the national economy. Hence, it is important that it is used efficiently and the setting fees for high bands are an important mechanism to influence and drive efficiency of spectrum use.
9. Spectrum fees are being introduced for spectrum used directly in revenue producing services. While there is already a system of apparatus licence fees in place,

apparatus fees are aimed at cost recovery where there is little commercial value and not the high value bands that are the subject of this Decision.

## DECISION

Considering the above reasons and after assessing feedback from the industry and consulting with relevant stakeholders; in the exercise of the powers and duties conferred to me under the Act and the Regulation I, the Regulator, hereby make the following decisions:

1. Selected bands which are of high value will be charged spectrum fees as listed below and in Schedule 1 of this decision:
  - 900MHz and 1800MHz Bands used for mobile telecommunications (880-915MHz and 925-960 MHz, 1710-1785MHz and 1805-1888MHz);
  - Other wireless broadband spectrum: 2.3 GHz, 2.5 GHz, 3.5 GHz (2300-2400MHz, 2500-2670MHz, 3500-3600MHz);
  - Broadcasting spectrum used for pay TV (510-550 MHz, 560-608MHz, 610-660 MHz);
  - 700 MHz band following allocation (703-748 MHz, 758-803 MHz).
2. Spectrum fees are necessary and are collectable:
  - for the administrative cost of managing the bands;
  - to cover the cost for other spectrum monitoring activities including interference analysis;
  - for maintaining proper records including records of issued licensees;
  - for appropriate and efficient use of these valuable bands by the licenses;
  - to secure long term on-going funding to assist TRR in managing and administering this valuable national resource.
3. New spectrum fees on the ranges specified above will become effective and apply from 1 January 2017;
4. Spectrum assignments shall be made on a use it or lose it basis. Within 12 months period after a license was issued, and if an assigned frequency is still not used, it shall be deemed to have returned by the licensee to TRR, and it shall be free for re-

assignment to another user if required for the benefit of Vanuatu; unless TRR is convinced otherwise by the licensee that it has a clear plan to promptly develop the and utilize spectrum;

5. Fees for UHF TV would only apply to spectrum used for pay TV broadcasts in Port Vila;
6. TRR may amend or revoke a spectrum license in accordance with section 15 of the Act;
7. Fees to be applied to the spectrum bands holdings of TVL and Digicel, would only apply to that part of their spectrum holdings in this band that was assigned to them after the issue of their telecommunications licences;
8. Fees are charged per MHz of total spectrum covered by the licence. For example, a holding of 2x10 MHz of paired spectrum would be charged at as a total of 20 MHz;
9. Spectrum fees for valuable bands as per the table in Schedule 2 will be charged annually (annual fees);
10. TRR will review the fees schedule in 2018.

This Decision 1 of 2016 is effective on the day it is signed.

Made at Port Vila this day of August 2016



Dalsie Baniala

**Telecommunications and Radiocommunications Regulator**

# SCHEDULE 1.

## High Value Bands

Spectrum fees are only applied to the following high valued bands:

- 900MHz and 1800MHz Bands used for mobile telecommunications (880-915MHz and 925-960 MHz, 1710-1785MHz and 1805-1888MHz);
- Other wireless broadband spectrum: 2.3 GHz, 2.5 GHz, 3.5 GHz (2300-2400MHz, 2500-2670MHz, 3500-3600MHz);
- Broadcasting spectrum used for pay TV (510-550 MHz, 560-608MHz, 610-660 MHz);
- 700 MHz band following allocation (703-748 MHz, 758-803 MHz).

## Schedule 2.

### NEW PROPOSED FEES SCHEDULE

Table: Annual Spectrum Fees to be introduced in Vanuatu from 1 January 2017

Band	Annual Fee (Vatu per MHz)
UHF TV (Port Vila only)	6750
700 MHz	90,000
900 MHz	90,000
1800 MHz	50,000
2.3 GHz	17,000
2.5 GHz	22,500
3.5 GHz	15,000

#### Notes:

1. Fees for UHF TV would only apply to spectrum used for pay TV broadcasts in Port Vila.
2. Fees for other licences would cover a nationwide licence.
3. Fees to be applied to the 900 MHz and or other band spectrum holdings of TVL and Digicel would apply only to that part of their spectrum holdings in this band that was assigned to them after the issue of their telecommunications licences as stated in sub-section 7(1), 8(1), 8(2) and 8(3) of the Radio Apparatus License and Spectrum License (Fees) Regulation Order No. 153 of 2012.
4. Fees are charged per MHz of total spectrum covered by the licence. For example, a holding of 2x10 MHz of paired spectrum would be charged at as a total of 20 MHz.
5. Spectrum fees for the bands as per the table above will be charged annually (annual fees).