



Ref. No. DOIA 2122-0099

9 August 2021

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Dear Jonathan

Thank you for your email of 12 July 2021 to the Ministry of Business, Innovation and Employment (MBIE), requesting the following under the Official Information Act 1982 (the Act):

*“all details of the WIAL MSP complaint and the decision made by the Ombudsman. Please explain how WIAL is allowed to hold licences when they are an associate of Vodafone, in violation of Section 4.3 of the Licence Agreement.”*

MBIE has identified five documents that fall within scope of your request, as detailed in the attached document schedule. Please note that documents involved in the Ombudsman’s investigation have not been released, as under the Interpretation section of the Act s(2)(1)(i), such communications do not fall within the scope of the Act.

Please note that some information from the documents being released has been withheld under section 9(2)(a) of the Act, to protect individuals’ privacy. I do not consider the withholding of this information to be outweighed by other considerations that render it desirable to make it available in the public interest.

In respect of your question regarding how Wellington International Airport Limited (WIAL) is allowed to hold licences, the explanation is as follows:

- In response to a complaint, Radio Spectrum Management (RSM) identified that it made a mistake when assessing WIAL’s eligibility to hold Managed Spectrum Park (MSP) licences. That mistake related to the definition of associates, as defined in 12.2 of the MSP licence agreement.
- RSM then had to decide whether to allow WIAL to keep the licences that had been issued. After assessing all of the circumstances, RSM decided to allow the licences to continue.
- A complaint about that decision was made to the Ombudsman. After investigation, the Ombudsman noted the initial mistake but agreed that RSM’s decision to allow WIAL to retain its MSP licences was justified.

Given our previous correspondence on a related matter, I’d like to add that although the Ombudsman accepted the decisions RSM made after the initial mistake was identified, nothing in that process gives MBIE justification to make the same mistake again.

**Building, Resources and Markets**

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You will be aware that the MSP was recently subject to public consultation and is currently under review. RSM will be taking into account feedback made by stakeholders, with a view to potentially making changes to the allocation process as part of this review.

You have the right to seek an investigation and review by the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found at: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Yours sincerely



Len Starling  
**Manager, Radio Spectrum Policy and Planning**  
 Digital, Communications, and Transformation

**Document schedule**

#	Date	Document	Redaction grounds
1	29 October 2019	Wellington International Airport Ltd Statutory declaration of eligibility October 2019 N63.pdf	
2	30 January 2020	First complaint to Carolyn Tremain, MBIE: Formal Complaint - MSP Notice 63 Process - Association Rules	9(2)(a)
3	27 February 2020	Letter from RSM on behalf of Carolyn Tremain to complainant: Response letter to complainant 27 February 2020 - MSP Notice 63 Process - Association Rules	9(2)(a)
4	3 March 2020	Second complaint to Carolyn Tremain: Wellington International Airport Limited - Managed Spectrum Park - Ineligibility to hold licenses	9(2)(a)
5	2 July 2020	Letter from Carolyn Tremain to complainant: Correspondence Out - sent 7 July 2020.pdf	9(2)(a)