

s 9(2)(a)

**From:** s 9(2)(a)  
**Sent:** Thursday, 30 January 2020 7:01 PM  
**To:** Carolyn Tremain  
**Cc:** s 9(2)(a)  
**Subject:** Formal Complaint - MSP Notice 63 Process - Association Rules

Dear Ms Tremain,

This is a formal complaint regarding the Managed Spectrum Park Notice 63 Process.

The applicant for MSP licenses in Notice 63 is Wellington International Airport Limited (WIAL).

WIAL appear to have committed several breaches of the association rules defined in section 11.2 of the allocation rules and are consequentially ineligible to hold MSP licenses.

This is not an extensive analysis of the apparent rule breaches but there initially appear to be two major areas of concern.

#### ISSUE 1

The companies office websites shows that Infratil Limited, a public company listed on the NZSX, owns 66% of Wellington International Airport Limited.

The companies office website also shows that Infratil Limited owns 49.88% of Vodafone NZ Limited.

The register of radio frequencies shows that Vodafone NZ Limited owns nationwide management right 430 & nationwide management right 431 in the 2.5GHz band

Thus Vodafone NZ Limited and Wellington International Airport Limited appear to be associated entities under the definition of provided within section 11.2(f) & 11.2(k) of the allocation rules.

The allocation rules state that MSP license holders may not be associated with entities holding nationwide spectrum management rights in the 2.3GHz or 2.5GHz bands.

#### ISSUE 2

The companies office website shows that Mr Marko BOGOIEVSKI is a director of NZ Airports Limited (a company 100% owned by Infratil Limited). NZ Airports Limited owns 66% of Wellington International Airport Limited.

The companies office website also shows that Mr Marko BOGOIEVSKI is a director of ICN JV Limited. ICN JV Limited owns 100% of Vodafone NZ Limited.

The register of radio frequencies shows that Vodafone NZ Limited owns nationwide management right 430 & nationwide management right 431 in the 2.5GHz band

Thus Vodafone NZ Limited and Wellington International Airport Limited appear to be associated entities under the definition of provided within section 11.2(a) of the allocation rules.

The allocation rules state that MSP license holders may not be associated with entities holding nationwide spectrum management rights in the 2.3GHz or 2.5GHz bands.

REQUESTED MBIE ACTIONS

- 1) Immediately place the allocation round 63 process on hold and publish a notice to this effect on the MBIE website (MSP notification page).
- 2) Conduct an investigation into both the eligibility of Wellington International Airport Limited to hold MSP licenses and any potential breaches of the MSP association rules.
- 3) If it is determined that WIAL is ineligible to hold MSP licenses and that breaches of the association rules have occurred then refer the statutory declaration provided as part of the application process to an appropriate law enforcement agency. It is noted that this statutory declaration was provided under the oaths and declarations act 1957 and consequentially if a false statutory declaration has been supplied then a criminal offense may have occurred.

Best Regards

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RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982