



COVERSHEET

Minister	Hon Dr David Clark	Portfolio	Digital Economy and Communications
Title of Cabinet paper	Ratification of 2019 revisions to the International Telecommunication Union Radio Regulations	Date to be published	19 July 2022

List of documents that have been proactively released

Date	Title	Author
May 2022	Ratification of 2019 revisions to the International Telecommunication Union Radio Regulations	Office of the Minister of Digital Economy and Communications
1 June 2022	International Telecommunication Union Radio Regulations: Ratification of the 2019 Revisions DEV-22-MIN-0126 Minute	Cabinet Office

Information redacted

NO

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[In Confidence]

Office of the Minister for the Digital Economy and Communications

Chair, Cabinet Economic Development Committee

Ratification of 2019 revisions to the International Telecommunication Union Radio Regulations

Proposal

- 1 This paper seeks Cabinet approval for New Zealand to ratify revisions to the International Telecommunication Union Radio Regulations (IRRs), as adopted by the Final Acts of the World Radiocommunication Conference 2019 (WRC-19).

Executive summary

- 2 The 2019 revisions to the IRRs (the Revisions) are a complex set of technical provisions which amend the IRRs to allow for the introduction of new services and uses for the radio spectrum. They also work to protect or mitigate the effects on established spectrum usage. These Revisions will not adversely change the use of radio spectrum by New Zealand. They do not restrict the ability to allocate spectrum to parties as New Zealand considers appropriately, including any allocations to meet Treaty of Waitangi obligations. Approval is sought for the ratification of the 2019 amendment to this Treaty.
- 3 The ratification requires the completion of the Parliamentary treaty examination process. The required National Interest Analysis (NIA) for the ratification is included as an Annex to this paper. Following approval by Cabinet, the treaty text and an NIA are presented to the House of Representatives as a part of the Parliamentary treaty examination process.

Background

The International Telecommunications Union

- 4 The International Telecommunications Union (ITU) is a subsidiary of the United Nations. As a specialised agency within the United Nations, it has responsibility for information and communications technologies. This involves promoting global cooperation for the improvement of telecommunications, coordinating radio spectrum use, standardising technology, and encouraging technical assistance for developing countries. New Zealand has been a Member of the ITU (and its predecessors) since 1878 and is one of 193 member states. MBIE, other government agencies, and industry, actively participate in the ITU's work programmes.

- 5 New Zealand benefits from ITU membership in several ways, including providing a framework for global radio frequency use and interference management. This covers:
- global harmonisation of frequency bands and equipment standards (making equipment cheaper to buy, expanding the market for New Zealand manufacturers);
 - providing satellites access to radio frequencies;
 - development of global telecommunications networks helping connect us to new partners and markets; and
 - advances in information communications technology enables productivity improvements across the New Zealand economy.

Consequently, it is important to New Zealand that the ITU remain a well-funded and well-managed organisation.

- 6 It is also important that New Zealand has a voice in ITU decisions. New Zealand has an ongoing and direct interest in ITU issues such as internet governance, spectrum allocations for satellites, spectrum allocations for 5G networks and the evolution towards 6G. It is in our interests to advocate for positions on these issues that maximise the benefits and minimise the costs to New Zealand.

ITU Radio Regulations Treaty

- 7 The IRRs is an international treaty on radio spectrum use that is revised on a four-year cycle. The IRRs was amended by the Final Acts of the WRC-19 (Final Acts).
- 8 The Hon Kris Faafoi, acting under delegated approval from Cabinet (DEV-19-MIN-0148 refers), authorised Officials to sign the Final Acts. That signing was conditional on approval by New Zealand's competent authority and, as such, requires ratification by Parliament before it enters into force for New Zealand.
- 9 The Final Acts promote new technologies and protect current spectrum use. This will improve wireless infrastructure and information communications technologies (ICT) and drive economic and social development. The Final Acts will not negatively affect New Zealand.
- 10 Compliance with the Revisions will not impose adverse impacts on New Zealand. Many of the Revisions are in-line with our positions, and those measures that could have a negative impact are optional. The Revisions do not require change to legislation. Where beneficial to New Zealand we can implement the changes through MBIE's licencing system. For example, MBIE is working on enabling 5G 'millimetre wave' broadband, and satellite broadband terminals on board aircraft / maritime vessels, through a current consultation. I do not expect any direct costs from the Revisions, and any indirect cost will be managed within MBIE baselines.

- 11 If New Zealand does not ratify the IRRs treaty update, then this could have implications for our ongoing membership of the ITU.
- 12 MBIE's future participation in the ITU's various meetings and Study Groups is an ongoing expense. However, this is already accounted for in current departmental budgets. Otherwise, ratifying the Revisions will not impose any significant costs on New Zealand.
- 13 MBIE expects the Select Committee will not have concerns over the Final Acts. This is because ratification is in line with existing NZ policy, and will afford New Zealand continued participation in the ITU; giving it the ability to advocate for positions that maximise the benefits and minimise the costs to New Zealand.

Comment

Revisions to the International Radio Regulations

- 14 The Radio Regulations allocate spectrum for both terrestrial and satellite usage and provide specialised co-ordination procedures for ensuring various intended uses, especially satellite services, are technically compatible.
- 15 The Revisions to the IRRs are technical in nature and are expected to intensify the development of radio technology for broadband services. They identify new frequencies for International Mobile Telecommunications (IMT), new satellite services, modernise systems used for safety communication, promote the international harmonisation of spectrum, and provide a more flexible regulatory framework for use of the radio frequency spectrum whilst ensuring the protection of existing radio services.
- 16 Examples of these Revisions include:
 - identifying new frequency ranges for 5G 'millimetre wave' broadband;
 - providing a framework for high-altitude platform stations (HAPS);
 - enabling satellite broadband terminals on board aircraft and maritime vessels;
 - expanding access to spectrum for Wi-Fi;
 - improving international regulations on global maritime distress and safety system to facilitate the modernisation and enable new satellite systems;
 - streamlining international procedures for short duration satellites (e.g. as launched by Rocket Lab); and
 - taking steps towards international harmonisation of Intelligent Transport Systems (ITS).

- 17 The revised Regulations do not pose any unacceptable new obligations. The New Zealand delegation made four specific reservations/ declarations when signing the Final Acts as follows:
- General reservation for safeguarding of New Zealand interests, reserving the right to make appropriate specific reservations and statements prior to ratification, and declaring that any approval by the Government of New Zealand shall not extend to Tokelau unless and until a Declaration to this effect is lodged by the Government of New Zealand with the Secretary-General on the basis of appropriate consultation with that territory.
 - Reserving the right to allow continued operation of stations in the mobile service, in the band 5150-5250 MHz (used by WiFi), subject to other conditions than those contained in that Resolution, including higher power levels. This means limiting the ability of the fixed satellite services operating within the band to claim protection from New Zealand WiFi usage.
 - Reservation on Crimea, declaring New Zealand's commitment to uphold the sovereignty and territorial integrity of Ukraine within its internationally recognized borders. This declaration notes that New Zealand does not recognize the illegal referendum in Crimea, which was in clear violation of the Ukrainian Constitution.
 - Reservation on Colombia, declaring that New Zealand does not recognise Colombia's claim to sovereign rights over segments of the geostationary-satellite orbit.
- 18 The above reservations/declarations will be reiterated on ratification. No additional reservations or statements are considered necessary in ratifying the Revisions to the Radio Regulations.

Consultation

- 19 The Ministry of Foreign Affairs and Trade were consulted during the preparation of this paper. No concerns were expressed about ratifications of both sets of Revisions. The Department of Prime Minister and Cabinet was informed.

Fiscal Implications

- 20 There are no direct costs to New Zealand arising from ratification of the Revisions.

Human Rights

- 21 The proposal is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Treaty of Waitangi

- 22 The Revisions proposed are compatible with New Zealand fulfilling its Treaty of Waitangi Obligations.

Fiscal Implications

23 There are no direct costs to New Zealand arising from ratification of the Revisions.

Legislative Implications

24 There are no legislative changes in New Zealand arising from the proposed ratification of the Revisions.

25 The final Acts of the conference will be presented to Parliament in accordance with Standing Orders and the Cabinet Office Manual prior to ratification.

Regulatory Impact Analysis

26 There are no legislative or regulatory changes in New Zealand arising from the proposed ratification of the Revisions.

Publicity

27 No publicity is considered necessary.

Recommendations

28 It is recommended that the Committee:

28.1 **note** that in June 2019 Cabinet authorised a delegation led by the Ministry of Business Innovation and Employment to represent New Zealand at the ITU 2019 World Radiocommunication Conference (refers DEV-19-MIN-0148);

28.2 **note** that the 2019 World Radiocommunication Conference agreed on number of Revisions to the Radio Regulations which facilitate new radiocommunication services but do not impose unacceptable requirements on existing New Zealand usage, and that it is now appropriate to consider ratification of the Revisions;

28.3 **approve** the content of the National Interest Analysis, in regard to the Revisions to the Radio Regulations, attached to this paper as Annex 1;

28.4 **agree** that New Zealand should take the following reservations/declarations:

- General reservation for safeguarding of New Zealand interests, reserving the right to make appropriate specific reservations and statements prior to ratification, and declaring that any approval by the Government of New Zealand shall not extend to Tokelau unless and until a Declaration to this effect is lodged by the Government of New Zealand with the Secretary-General on the basis of appropriate consultation with that territory.
- Reserving the right to allow continued operation of stations in the mobile service, in the band 5150-5250 MHz (used by WiFi), subject to other conditions than those contained in that Resolution, including higher power levels. This means limiting the ability for the

fixed satellite services operating within the band to claim protection from New Zealand WiFi usage.

- Reservation on Crimea, declaring New Zealand's commitment to uphold the sovereignty and territorial integrity of Ukraine within its internationally recognized borders. This declaration notes that New Zealand does not recognize the illegal referendum in Crimea, which was in clear violation of the Ukrainian Constitution.
- Reservation on Colombia, declaring that New Zealand does not recognise Colombia's claim to sovereign rights over segments of the geostationary-satellite orbit.

- 28.5 **agree** that the text of the Revisions, New Zealand's reservations/ declarations, and the National Interest Analysis be presented in the House of Representatives for Parliamentary treaty examination, in accordance with Standing Order 405;
- 28.6 **note** that no changes to legislation or regulations are required for New Zealand to implement the Revisions;
- 28.7 **approve** proactive release of this cabinet paper; and
- 28.8 **authorise** officials, following completion of the Parliamentary treaty examination process, to bring the 2019 Revisions to the Radio Regulations into force by depositing New Zealand's instrument of ratification and list of confirmed declarations and reservations with the depositary.

Authorised for lodgement

Hon Dr David Clark

Minister for the Digital Economy and Communications

ANNEX 1.

National Interest Analysis

Revisions to the Radio Regulations adopted by the Final Acts of the World Radiocommunication Conference 2019

Executive summary

- 1 New Zealand is a Member State of the International Telecommunication Union (ITU). The ITU is an inter-governmental organisation under the auspices of the United Nations. It seeks to enable economic growth and social development through ongoing advancement of telecommunications and information networks.
- 2 The Radio Regulations, commonly known as the International Radio Regulations (IRRs) in New Zealand, is a multilateral treaty of the ITU. It is incorporated into New Zealand's domestic legislation by reference in Schedule 1 of the Radiocommunications Act 1989.
- 3 The IRRs provide a technical and operational basis for world-wide use of the radio frequency spectrum. Regular review is required to accommodate technology changes and new radio-based services. The ITU held a World Radiocommunication Conference in 2019 (WRC-19), at which Revisions to the IRRs (the 'Revisions') were adopted by the Final Acts of WRC-19 on 1 January 2021.
- 4 The Revisions make provisions for new services and new technologies in a number of different frequency bands, and/or updates to ensure the protection of services.
- 5 In addition to the Revisions, the Final Acts of WRC-19 also include a non-treaty level Declaration on Promoting Gender Equality, Equity and Parity in the ITU Radiocommunication Sector.
- 6 The Government agrees that the Final Acts of WRC-19 are consistent with New Zealand's national interest to better accommodate radiocommunication technology convergence and is consistent with New Zealand's telecommunication and broadcasting policies and regulatory regimes. It proposes that New Zealand ratify the Revisions.

Nature and Timing of Proposed Treaty Action

- 7 New Zealand is a party to the IRRs through previous treaty ratifications. These Regulations were revised at the four-yearly World Radiocommunication Conference held in Egypt, 2019. The Final Acts of the Conference ("WRC-19") were signed on 22 November 2019 by 165 Member States, including New Zealand, and contain:
 - The Revisions to the IRRs;
 - Declarations and Reservations made by delegations at the time of signing;
 - Resolutions and Recommendations of the Conference (not treaty level); and
 - A Declaration on Promoting Gender Equality, Equity and Parity in the ITU

Radiocommunication Sector.

- 8 The New Zealand delegation made four specific reservations/ declarations when signing the Final Acts. These were:
- General reservation for safeguarding of New Zealand interests, reserving the right to make appropriate specific reservations and statements prior to ratification, and declaring that any approval by the Government of New Zealand shall not extend to Tokelau unless and until a Declaration to this effect is lodged by the Government of New Zealand with the Secretary-General on the basis of appropriate consultation with that territory.
 - Reserving the right to allow continued operation of stations in the mobile service, in the band 5150-5250 MHz (used by WiFi), subject to other conditions than those contained in that Resolution, including higher power levels. This means limiting the ability for the fixed satellite services operating within the band to claim protection from New Zealand WiFi usage.
 - Reservation on Crimea, declaring New Zealand's commitment to uphold the sovereignty and territorial integrity of Ukraine within its internationally recognized borders. This declaration notes that New Zealand does not recognize the illegal referendum in Crimea, which was in clear violation of the Ukrainian Constitution.
 - Reservation on Colombia, declaring that New Zealand does not recognise Colombia's claim to sovereign rights over segments of the geostationary-satellite orbit.
- 9 Under Article 4 of the ITU Constitution and Article 59 of the IRRs, the majority of the revisions of the IRRs entered into force on 1 January 2021 for countries that had ratified with the ITU Secretary-General. New Zealand is yet to deposit its instrument of ratification.
- 10 Being a signatory to the Final Acts of WRC-19 does not bind the Government to the Revisions but does create an obligation to refrain from acts which would be inconsistent with the object and purpose of the Revisions.
- 11 The Government proposes to ratify the Revisions, which are contained in the Final Acts of WRC-19, as soon as possible. This ratification should be completed no later than August 2022 (this ratification is required to ensure New Zealand does not lose the right to vote at the Plenipotentiary Conference in last quarter of 2022).
- 12 Consultation with the Cook Islands and Niue is not required regarding the ratification, as both had separate treaty making capacity when New Zealand ratified the ITU Constitution and the ITU Convention concluded at Geneva in 1992. The Revisions have no effect on Tokelau as it does not contribute to the ITU in any way.

Reasons for New Zealand becoming a Party to the Treaty

- 13 The ITU was founded in 1865; New Zealand became a member in 1878. The rights and obligations of ITU Member States, and provisions for the functioning of the ITU, are established by two treaties that were concluded at Geneva in 1992: the ITU Constitution and the ITU Convention. The provisions of both the ITU Constitution and the ITU Convention are further complemented by the binding of administrative regulations, including the IRRs, on all ITU Member States.
- 14 Radio frequency propagation is a physical phenomenon which does not respect national boundaries and is therefore necessarily managed multilaterally to avoid harmful interference between countries. In New Zealand interference is unlikely in many frequency bands, but satellite services and some lower frequency bands are still likely to receive interference if not appropriately coordinated under procedures in the IRRs.
- 15 Avoidance of harmful interference has been the primary focus of the IRRs. However the IRRs also provide a technical basis for equipment development and manufacture and, if national usage is consistent with the IRRs, there are benefits through economies of scale and interoperability (e.g. cellular roaming in other countries).

Advantages and disadvantages to New Zealand of the treaty entering into force and not entering into force

- 16 The Revisions to the IRRs are technical in nature and provide the following benefits to New Zealand: intensification of the development of radio technology for broadband services, identification of new frequencies for International Mobile Telecommunications (IMT), facilitation of new satellite services, modernisation of systems used for safety communication, promotion of the international harmonisation of spectrum, and provision of a more flexible regulatory framework for use of the radio frequency spectrum whilst ensuring the protection of existing radio services.
- 17 If the Revisions are not ratified, New Zealand may be disadvantaged in the long-run due to other countries not recognising New Zealand when co-ordinating satellite usage. This could lead to interference to New Zealand's existing satellite based services.
- 18 There are no disadvantages to ratifying the Revisions.

Legal obligations which would be imposed on New Zealand by the treaty

- 19 New Zealand's ratification of the Revisions does not impose any legal obligations on it.
- 20 The specific provisions of the Revisions facilitate implementation of new radio based services when they might be required, but do not impose any obligations to implement such services.
- 21 As noted above, the New Zealand delegation made four specific reservations/ declarations when signing the Final Acts which included the ability to make appropriate specific reservations and statements prior to ratifying the Revisions. These will be reiterated on ratification.
- 22 It is not proposed to make any further reservations upon ratification.

Measures which the Government could or should adopt to implement the treaty

- 23 No legislation, or any other measure, is necessary in order for New Zealand to implement the Revisions to the IRRs. However, some Revisions to the IRRs need to be reflected in domestic publications relevant to radio spectrum planning such as an update made to the General User License for Short Range Devices relaxing conditions for R-LAN (Radio Local Area Network).
- 24 MBIE will utilise the new provisions progressively as it brings new frequency bands into use through provision of radio and spectrum licences.

Economic, social, cultural and environmental costs and effects of the treaty action

- 25 Ratifying the Revisions will have no social, cultural, or environmental effects. However, it will directly have an effect on some changes in radio spectrum usage in New Zealand, such as band planning for new generation mobile communication networks and provides a mandate for globally harmonised frequency use for international distress and safety systems. The former may lead to a small positive effect on New Zealand's economy expected to derive from New Zealand's international trade being facilitated by ongoing improvement in radiocommunication technology capabilities and connectivity.

The costs to New Zealand of compliance with the treaty

- 26 There is no foreseeable cost to New Zealand arising from ratification of the Revisions. Future participation in the work of the ITU at the various meetings and Study Groups is a direct cost to those participants.

Completed or proposed consultation with the community and parties interested in the treaty action

- 27 The New Zealand Defence Force, Civil Aviation Authority, Maritime New Zealand, MetService, public safety agencies, and other private radio sector industry representatives have been heavily involved in the New Zealand's preparation for the resolution of WRC-19 agenda items. As the Final Acts of WRC-19 are consistent with the New Zealand's interests, no concerns were expressed about the Revisions.

Subsequent protocols and Revisions to the treaty and their likely effects

- 28 Any Member State may propose Revisions to the IRRs. These are considered at the World Radiocommunication Conferences. The next Conference is planned for late 2023. New Zealand would consider any future Revisions presented to that Conference on a case by case basis and any decision to accept an amendment would be subject to the usual domestic approvals and procedures.

Withdrawal or denunciation provision in the treaty

- 29 Under Article 57 of the ITU Constitution, New Zealand may denounce the ITU Constitution and the ITU Convention by notification to the Secretary-General of the ITU. Such a denunciation must simultaneously denounce both treaties and the IRRs. Denunciation would take effect one year after the Secretary-General had received the notification. There is no provision for a separate denunciation of the IRRs.