

Māori Claim to the Radio Spectrum- A Treaty Right



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- New Zealand regulation of radio spectrum is managed under the Radiocommunications Act 1989.
- There are two licensing regimes regulated under the Act, *Radio Licensing* and *Spectrum Licensing*.

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- Wai 11, the Te Reo Māori Claim
- In June 1986, the claim Wai 26 was lodged with the Waitangi Tribunal by Huirangi Waikerepuru on behalf of Nga Kaiwhakapumau i te Reo
- In June 1990, claim Wai 150 was lodged by Sir Graham Latimer on behalf of the New Zealand Māori Council
- Wai 26 and 150 amalgamated into a single claim and in mid-July 1990 the claimants filed a request for urgency on the grounds that the Crown was planning to auction 20-year rights to AM and FM radio frequencies in August

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- Claim Wai 776 was received on 9 March 1999 and registered the next day and was it was lodged by Rangiaho Everton and related to radio spectrum used for telecommunications purposes.
- The Tribunal of Judge Patrick John Savage (presiding), Josephine Anderson, and Professor Keith Sorrenson
- Interim hearing finds claim is well founded. Recommends auction be suspended and that negotiations be commenced with Māori.
- Substantive hearing with majority decision concluding that there is a breach of the principles of the Treaty of Waitangi

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- Crown rejects findings but provides a fund for language initiatives

Election and new Government elected

- Crown offers 15Mhz (3G) block of third-generation spectrum to a pan-Māori Trust at a 5% discount to average purchase price

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Considerations

- Spectrum is a natural resource and is therefore protected under the Treaty of Waitangi as a Toanga (Treasure)
- Solution required the Crown and Māori to reconcile Kawangatanga (the right to Govern, Article 1) and Tino Rangatiratanga (Māori Sovereignty, Article 2)
- The findings of the Tribunal provided guidance on how this could be done.

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Goals

- Protect Māori culture and language
- Increase Māori participation in ICT
- Improve Māori investment in ICT

Future

- Rural Broadband Initiative (RBI)
- Ultra-fast Broadband Initiative (UFBI)
- Sale of 700Mhz spectrum (4G)