

MEMORANDUM CIRCULAR NO. 3-3-96

SUBJECT: REVIEW, ALLOCATION AND ASSIGNMENT OF THE RADIO SPECTRUM

Pursuant to Rule 600 of MC 8-9-95, Implementing Rules and Regulations on RA7925 the following guidelines are hereby promulgated.

601. REVIEW AND ALLOCATION OF RADIO SPECTRUM

a. The National Radio Frequency Allocation Table (NRFAT) shall be reviewed once every two (2) years during the second quarter and maybe revised or amended as necessary. Provided however, the foregoing activities may also be conducted anytime where:

a.1 National security so requires;

a.2 The Commission deems it necessary and essential to the interest of the country; or

a.3 The Philippines has a Regional and/or International commitment as Member signatory to bilateral or multilateral agreements duly entered into by governments.

b. The review, re-allocation and revision of the radio spectrum allocation shall be conducted in consultation with the industry and/or affected parties with the end in view of optimizing the use of the radio spectrum.

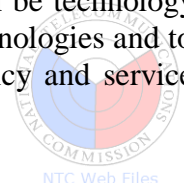
c. The national Radio Frequency Allocation Table is a public document which shall be made available to all upon request.

d. The National Radio Frequency Allocation Table shall be in accordance with the International Table of Radio Frequency Allocation issued by the International Telecommunications Union (ITU), consistent with national priorities and demand for frequency usage.

e. The Commission shall allocate to public telecommunications entities (PTEs) available radio frequencies required to satisfy demand for customer access for the next ten (10) years on justified target demand and the result of radio frequency planning study.

f. Reallocations made in the radio spectrum must take into consideration allocations of frequencies for customer access services, broadcast services, maritime, aeronautical and other safety services, military and government radio stations / networks operated to promote or served national interest.

g. Any frequency allocation in the Public Land Mobile and Fixed Services, shall be technology neutral. Users of the radio spectrum shall be encourage to use state of the art technologies and to use minimum channel bandwidth and power output without sacrificing efficiency and service reliability.



602. FREQUENCY ASSIGNMENT AUTHORIZATION

- a. New radio frequency assignment shall be made strictly in accordance with the approved and current National Radio Frequency Allocation Table issued by the National Telecommunications Commission.
- b. Previous assignments not in conformity with the approved and current National Frequency Allocation Table shall be recalled. Those affected shall be re-located based on availability of frequency/ies. Special efforts shall be extended by the Commission to assist those affected.
- c. A review of assigned radio frequencies to determined compliance with authorizations issued to authorized users shall be conducted periodically.
- d. Additional radio frequencies may be assigned to public telecommunication entities (PTEs) to satisfy demand for services authorized to be offered upon submission of information, number of subscribers per radio channel and number of operating radio stations to justify the additional grant.
- e. Assigned radio frequencies to private networks covered by valid permits and licenses issued by the Commission unused for a period of at least one (1) year from date of issuance of permits and licenses shall be called after service of notice in writing. Radio frequencies assigned to PTEs unused for at least one (1) year from the date of issuance of permits and licenses may be recalled after service of notice and hearing.
- f. No reservation of radio frequency channels or bands shall be allowed.
- g. Permits to purchase / import radio equipment shall be issued to users when the specific radio frequency channels/band has been assigned to the applicant.

603. TRANSFER OF AFFECTED AUTHORIZED RADIO FREQUENCY USER

- a. The commission shall allocate available radio frequencies for assignment to those affected by the reallocation as a result of the review of the radio spectrum pursuant to Rule 601.
- b. The cost of the transfer to new radio frequencies of affected authorized users shall be borne by the new assignees to the radio frequency channel/band where the radio frequencies of the previously authorized users fall within.
- c. When the transfer to a new set of radio frequencies would require additional radio links, the cost of these links shall also be taken into consideration.
- d. The manner and the cost of the transfer shall be negotiated in good faith between the affected authorized users and the assignees within 90 days from receipt of notice of relocation.



e. The Commission shall extend all the necessary assistance to all affected authorized users and shall mandate settlement if the parties fail to come to an agreement within 90 days from receipt of notice of relocation or when warranted under the circumstances.

f. Other means/mode of transmission comparable in quality to the existing facility shall be taken into consideration in the negotiation for the transfer.

g. Transfer of radio frequency assignment shall only take effect upon activation of service by relocated party using its newly assigned or relocated frequency as agreed or mandated.

604. OPEN TENDERS

a. Where demand for specific frequencies exceed availability, the Commission shall hold open tenders for the same and ensure a wider access to this limited resources.

b. Any assignable frequency/ies for the year shall be published in a newspaper of general circulation and conspicuously posted on the NTC bulletin board by the Commission within three months from the effectivity of the NRFAT and within the first quarter of each year thereafter.

c. Any applicant for the use of any of the available published assignable frequency/ies shall be filed with the Commission within 45 days together with the application for the proposed service. Said application shall undergo a quasi-judicial process to determine whether the applicant is legally, technically and financially qualified to provide the service. When there are more qualified applicants than the available frequencies, they shall participate in the open tender of frequencies.

d. Qualified applicants under the deregulated services need not undergo a quasi-judicial process of pre-qualification but may immediately qualify to participate in the one tender for frequencies in the deregulated service.

e. Any pre-qualification undergoing the quasi judicial process shall be completed within 120 days from publication of assignable frequencies. All applicants found qualified shall participate in the open tenders.

f. Open tenders shall follow the standard government bidding process.

605. SPECTRUM USER FEES

a. The appropriate schedule of spectrum users fees shall be applied uniformly and without discrimination to all users under the same classification / category. Services which cater to emergency situations as may be determined by government, national disasters, public safety and national security shall be exempt from the payment of spectrum user fees.

b. For mobile radio services, the SUF shall be charged based on the RF band occupied and the area covered.



c. For Fixed radio services and satellite earth stations, the SUF shall be based on the RF band occupied and the number of stations.

d. The USF shall be based on other factors to be determined by the NTC such as, but not limited to, population density of the coverage area/s.

e. A committee shall be constituted, the Members thereof to be appointed by the Commission not later than 5 days from the effectivity of this Circular to recommend the allocation of the radio spectrum and the schedule of Spectrum Users Fees to be approved by the Commission after a public hearing.

f. The schedule of Spectrum User's Fee is subject to periodic review.

This Circular shall form part and parcel of the implementing rules and regulations on RA 7925, Rule 600 of NTC Memorandum Circular dated 08-09-95 and may be revised, amended or repealed as the Commission deems fit in accordance with law and shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation and the filing with the University of the Philippines Law Center, of three (3) certified copies.

Quezon City, Philippines, March 4, 1996.

SIMEON
Commissioner

L.

KINTANAR

