

ACQUISITION OF LICENCES

4 Section 138 of the Radiocommunications Act 1989 provides for the application of the merger or takeover provisions of the Commerce Act 1986 to the acquisition of management rights or licences under the Radiocommunications Act 1989.

5 In terms of section 51 of the Commerce Act 1986, the contract created by the acceptance of bid(s) will be subject to the condition that none of its provisions relating to the acquisition of the relevant management right(s) or licence(s) will come into force unless and until the merger or takeover proposal constituted by that acquisition has been given a clearance or an authorisation has been granted in accordance with Part V of the Commerce Act 1986. This condition does not, of course, apply if the acquisition of the relevant management right(s) or licence(s) does not constitute a merger or takeover proposal for which clearance or authorisation is required under the Commerce Act 1986. It is the responsibility of each tenderer to determine the application of the Commerce Act 1986. Legal advice as to whether clearance or authorisation is required should therefore be sought at an early stage.

6 For the purposes of determining whether clearance or authorisation is required you should note the following:

- (a) for the purposes of Class A of the First Schedule of the Commerce Act 1986, the Crown is regarded as having assets valued in excess of \$100,000,000; and
- (b) for the purposes of Class B of the First Schedule to the Commerce Act 1986, the Crown, through Television New Zealand Limited and Radio New Zealand Limited, carries on the activity broadcasting.

7 In the event that any required Commerce Commission clearance or authorisation is not obtained, the Secretary of Commerce reserves the right to re-tender the lot concerned, or to offer it to the next highest tenderer in accordance with paragraphs 38 to 40 of this schedule.

8 This call is also made subject to any other legal requirement that pertains to the acquisition of management rights or licences as specified.