

**FORMAL COMPLAINT TO REGULATIONS REVIEW COMMITTEE AND REQUEST FOR REVIEW:
RESOURCE MANAGEMENT (NATIONAL ENVIRONMENTAL STANDARDS FOR
TELECOMMUNICATIONS FACILITIES) REGULATIONS 2016 (“NESTF”) RE 4.5 and 5G ROLLOUT**

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The **OUTDOORS PARTY**, a registered NZ political party, makes a formal complaint under Standing Order 320 about the Resource Management (National Environmental Standards for Telecommunications Regulations) 2016¹ (“NESTF”). We request an urgent inquiry by the Regulations Review Committee (“the Committee”) into the legality and public interest of these Regulations.

This request is made by the **OUTDOORS PARTY** on behalf of New Zealanders from Kaitaia to Invercargill, New Plymouth to Gisborne, Golden Bay to Aotea Great Barrier and almost everywhere in between, who are concerned and in many cases angry that the NESTF Regulations assume RFEMR is safe (contrary to considerable scientific evidence and expert reviews, including the WHO/IARC Classification of RFEMR as a Class 2B carcinogen) and that our elected representatives have “nationalised” decision making to exclude the public from decisions which affect our wellbeing and environment and the wellbeing of our future generations

The **OUTDOORS PARTY** supports mindful use of technology and quality and affordable connectivity for all New Zealanders, including rural communities, but not more wireless technology that puts our health and environment at risk. Our government has already invested considerable public funds on fibre optic cable (ultrafast broadband) to provide fast reliable connectivity to most New Zealand homes and businesses. Ultrafast broadband is faster, safer, more secure and more reliable than new untested 5G and other wireless services. New Zealanders should not be guinea pigs for R&D for technology that international insurers have refused to cover².

New Zealanders have not been asked if we agree to more RFEMR in our communities, where best to locate new infrastructure to minimise inconvenience to our lives, or how best it can be managed to avoid, remedy or mitigate harm to already stressed communities and ecosystems.

The NESTF Regulations exclude both our people and our elected local councils from important decisions that affect our wellbeing and rights, and from usual RMA consultation and processes.

Tens of thousands of New Zealanders have already signed petitions asking for more protection against the roll out of 5G microwave radiation (5th Generation radiation), for a moratorium on the allocation of microwave spectrum or for better protection for communities until we can all be

¹ <http://www.legislation.govt.nz/regulation/public/2016/0281/30.0/DLM6697001.html>
<https://www.mfe.govt.nz/rma/national-direction/national-environmental-standards/national-environmental-standards-0> .
www.legislation.govt.nz/regulation/public/2016/0281/latest/DLM6697001.html?search=qs_act%40bill%40regulation%40deemedreg_National+Environmental+Standards+for+Telecommunication+Facilities+_resel_25_h&p=1&sr=1

² <https://principia-scientific.org/lloyds-insurers-refuse-to-cover-5g-wi-fi-illnesses/http://www.rmmagazine.com/2019/08/01/insurers-brace-for-emerging-5g-risks/>

assured this radiation is safe for people and the environment³. They are supported by scientists and doctors from around the world who have signed the international space appeal.⁴

Tomorrow communities from all over New Zealand will meet and educate to raise awareness in Whangarei, Auckland, Waiheke, Thames, Hamilton, Gisborne, Wanganui, Kapiti Coast, Wellington, Nelson, Christchurch, Oamaru, Dunedin, Queenstown, and Invercargill joining with people in over 35 other countries in a National display of People Power, as part of the Global Day of Protest against 5G⁵.

Grounds for the Inquiry- Breach of Parliamentary Standing Orders

The NESTF Regulations breach Parliamentary Standing Order 319(2).

This complaint relates to the combined effect of Regulations 11, 13 and 55 of the NESTF which purport to give “permitted activity” status to:

- a) emissions of Radiofrequency Radiation (“RFEMR”) which comply with NZ Standard 2772:1 1999 (“NZS2772:1 1999”) and
- b) permit privately owned cell-towers and other infrastructure on public land.

The NESTF Regulations undermine the sustainable management purpose of the RMA, human rights, fundamental rights protected by the NZ Bill of Rights, and well accepted New Zealand principles of democracy, including the right of communities to be heard on decisions which affect individual, community and environmental wellbeing. As a result the NESTF undermines community and environmental wellbeing, sustainable management and public confidence in government.

³ <https://www.toko.org.nz/petitions/precautionary-principle-for-5g-in-aotearoa-1>

https://www.parliament.nz/en/pb/petitions/document/PET_91620/petition-of-jennie-brown-stop-5g-until-independent-testing

https://www.parliament.nz/en/pb/petitions/document/PET_91450/petition-of-kelly-nyhon-stop-5g-in-alexandraclyde-new

https://www.parliament.nz/en/pb/petitions/document/PET_89610/petition-of-jacques-windell-for-taumarunui-residents

https://www.parliament.nz/en/pb/petitions/document/PET_87686/petition-of-terri-takau-stop-5g

https://www.change.org/p/kaipara-district-council-stop-5g-in-mangawhai-new-zealand?recruiter=68420900&utm_source=share_petition&utm_medium=copylink&utm_campaign=share_petition&utm_term=share_petition&fbclid=IwAR1QPpS8ENrAGxFQeQT03jzRGw8m3ncARK1ggneFpCgZhy2FJawwckPpG3c

<https://www.change.org/p/rodney-local-board-stop-5g-in-warkworth-subdivision-warkworth-matakana-leigh-snells-beach-ahuroa-puhoi?fbclid=IwAR2Ty9SvNzYIQTpm1KgluzypSoNaic8BN8MdpZos23FVFYoKQaYRCzgLrqc>

⁴ <https://www.5gspaceappeal.org/the-appeal>

⁵ https://www.5g.org.nz/global-protests/?fbclid=IwAR357dpnn89D9QFL6x9RNVOxwOb2LVEN5J1ULD7aHX6obp1HLG_hHjA5Pac

Informed members of the public are extremely concerned about human and environmental health effects from new celltowers, and the uncertainties about the extent of this harm. These celltowers are being located outside homes, schools, preschools and workplaces without any consultation or consideration of alternatives.

The **OUTDOORS PARTY** formally requests an opportunity to appear and be heard in person by the Committee, to call witnesses, to provide other supplementary information and to respond to any contrary claims made by Telcos and government advisors.

Background

- 1) The NZS2772:1 is over 20 years old and has been controversial since its inception⁶.
- 2) NZS2772:1 1999 was based on advice from a private organisation known as “ICNIRP” which is sponsored by vested corporate interests. Membership of the ICNIRP advisory group is by invitation only, and advisors are selected through opaque processes to suit its objectives, and appear to be limited to scientists whose views are consistent with short term Telco interests. Independent scientists who advocate for a more precautionary approach to RFEMR are consistently excluded from ICNIRP.
- 3) The result is that the standard promoted by ICNIRP and adopted by the NZS2772:1 1999 is not precautionary and does not provide adequate protection for human or environmental health or wellbeing. This is because:
 - a) NSZ2772:1 1999 was designed to protect only against well established “heating” effects of EFEMR (ie instant death, burns and electric shocks);
 - b) It was developed based on risks from eight hour per day “occupational’ exposure⁷ of a healthy man by extrapolation and guessed safety factors;
 - c) It was developed without research on or consideration of the effects on pregnant women, children, the elderly, people with auto immune disorders, people with electronic body parts, or other more vulnerable members of the population;
 - d) It was developed without considering the effect of 24/7 exposure;
 - e) It is unsupported by evidence to prove it is “safe” for humans and our environment where exposure is 24/7.
 - f) It makes no provision for protecting against “biological effects” of RFEMR despite considerable research which establishes these type of effects including the Interphone Study which established a significant increase in brain tumours for long term “heavy users” with more than 30 mins exposure to cellphones per day after 10 years.
 - g) NZS2772:1 1999 pre-dates the biological effects recognised by IARC and the WHO when RFEMR was classified as a Class2B carcinogen in May 2011⁸;

⁶ It started as a joint ANZ standard but stalled due to the Australian concern over the lack of precaution. The end result was drafted by a solely NZ based committee that was comprised largely of vested financial interests. The only member representing the public interest opposed to the standard as it was not sufficiently precautionary..

⁷ Occupational exposure is based on eight hour per day exposure by fit and healthy army men. It contrasts with the more precautionary limits expected for “environmental exposure”, 24/7 by all members of a community.

⁸ <http://publications.iarc.fr/126>

- h) NZS2772:1 1999 does not recognise or protect against electro-sensitivity- an allergic type reaction suffered by a proportion of the population -despite this being within the legal protection of the Human Rights Act;
- i) Makes no provision for protecting against harm from perceived adverse effects on health (“perceived effects”) contrary to the WHO definition of wellbeing and the rights protected by the Human Rights Act,
- j) Explicitly excludes any protection for interference with electronic body parts;
- k) Is not precautionary because it assumes safety in the absence of proof of harm, meaning that the public and the environment bear the risk of all uncertainty. and
- l) It makes no provision for avoiding or mitigating unnecessary harm or for conditions to be imposed to help achieve this.

The quality of NZ expert advice

4. RFEMR is a complex area requiring multidisciplinary expertise. The quality of NZ expert advice is poor by international standards and it lacks independence. Only three of the many invited NZ government advisors, and none of the responsible Ministers (Minister of Health David Clark, Associate Health Julie Anne-Genter, Environment David Parker and Communications Kris Faafoi) chose to accept and invitation to meet with world RFEMR expert Professor Dariusz Leszczynski during his recent crowd funded visit to New Zealand.
5. The Minister of Health is advised by an Interagency Advisory Committee on Health Effects of Non-ionising Radiation (“The Interagency Committee”). Few of the members have any expertise in health. None of the regular members have expertise in biochemistry or protein function or biological effects of RFEMR. None have any expertise in applying the correct legal criteria. Many of the members represent Telcos and other interests have vested interests in the outcome. In New Zealand, it is widely recognised that “Science is for Sale”⁹. The Interagency committee considers only selected information. The Local Government and Environment expressed concern about the membership of this committee in a report on the petition of Sarah Allen in 2008¹⁰. The then Minister for the Environment Nick Smith chose to reject all the Committee’s recommendations.
6. The Interagency Committee, with its current membership and resourcing, and biannual meetings is incapable of undertaking its own reviews. It instead chooses which international reviews to follow- without transparent criteria. It typically finds reasons to ignore or reject reviews which indicate adverse health effects form RFEMR. It appears to have no regard to advice or reviews from ORSAA – the Oceania Radiation Science Advisory Authority.
7. The Interagency Advisory Committee’s approach is ad hoc, unprincipled. It is not precautionary. The criteria it uses do not align with the requirements of the RMA, Health and Safety legislation, Human Rights Act or NZ Bill of Rights Act and it does not protect the public interest.

⁹ <https://www.noted.co.nz/currently/currently-science/science-for-sale> by Donna Chisholm

¹⁰ https://www.parliament.nz/resource/en-NZ/49DBSCH_SCR4529_1/8d151ffd477abf976ec8d4683634356165143dfc

Further deficiencies in NZS2772:1 1999 as a regulatory standard

8. There are many other deficiencies in NZS2772:1 which make it unsuitable for incorporation by reference into NESTF legislation, or as a legislative standard for achieving sustainable management in accordance with the purposes of the RMA.
9. NZS2772:1 1999 was never intended to be incorporated into legislation. Its price is prohibitive for many, it is not readily or freely available. It is complex to interpret, undermining important principles of access to legislation and justice.
10. The NESTF exempts new RFEMR infrastructure on the implicit assumption that compliance with NZS2772:1 will avoid adverse effects despite it falling far short of best international practice. The result is that new RFEMR infrastructure including celltowers are exempted from consultation and usual RMA processes. This is inconsistent with longstanding WHO advice on the importance of community consultation for RFEMF Technology.
11. NZS2772:1 1999 applies very different and far less precautionary criteria for identifying “effects” than are required to achieve the “sustainable management” purpose of the RMA.
12. “Effect” is defined very broadly in the RMA¹¹ to include “possible effects” as well as probable or established effects. In contrast the definition of “effect” or “health effect” adopted by ICNIRP advisors (which was the basis of the advice adopted in the NZS2772:1) is limited to “established effects”¹².
13. The ICNIRP approach¹³ is also incompatible with the health and safety legislation, which requires possible risks to human health to be identified and avoided, and with the Human Rights Act s21(1) which prohibits discrimination based on a range of factors including

¹¹ **3 Meaning of effect**

In this Act, unless the context otherwise requires, the term **effect** includes—

- (a) any positive or adverse effect; and
- (b) any temporary or permanent effect; and
- (c) any past, present, or future effect; and
- (d) any cumulative effect which arises over time or in combination with other effects— regardless of the scale, intensity, duration, or frequency of the effect, and also includes—
- (e) any potential effect of high probability; and
- (f) any potential effect of low probability which has a high potential impact.

¹² <http://www.icnirp.org/cms/upload/publications/ICNIRPemfgdl.pdf>

¹³ “General statement on safety factors There is insufficient information on the biological and health effects of EMF exposure of human populations and experimental animals to provide a rigorous basis for establishing safety factors over the whole frequency range and for all frequency modulations.”

physiological or psychological conditions¹⁴ and with the NZ Bill of Rights Act and the right not to be subjected to medical or scientific experimentation without consent¹⁵.

14. In May 2011, approximately 12 years after NZS2772:1 1999 was drafted, the WHO/IARC classified RFEMR as a Class 2B (possible) carcinogen¹⁶. Cancer (from damage to DNA or impairment of DNA's ability to self-repair) is a biological type effect which is not protected against by NZS2772:1 1999.
15. The members of the WHO/IARC Panel included Professor Dariusz Leszczynski who recently undertook a public speaking tour of New Zealand. During his visit Professor Leszczynski offered to meet with various responsible Minister's but none made themselves available. Professor Leszczynski did however meet with Dr George Sim (an advisor to the Prime Minister's science advisor), Dave McLean (a member of the interagency Advisory Committee on the Health Effects of Non-Ionising Radiation) and a representative from Ministry for the Environment, and they did take many notes, but no follow up action appears to have been taken to implement his advice.
16. The result is that the WHO/IARC recognise a possible carcinogenic effect from RFEMR that is squarely within the RMA definition of "effect" and which is a Health and Safety risk that must be avoided. However NZS 2772:1 does not protect against this type of biological "health" effect.
17. NZS2772:1 expressly excludes protection for people with pacemakers.
18. NZS2772:1 does not protect people who are electrosensitive. Electrosensitivity is an allergic type reaction to environmental exposure to some or more frequencies of RFEMR. It remains difficult to measure electro-sensitivity and it is unclear if it may be physiological and/or psychological however any combination of such causes is an effect under the RMA and must be protected against under Health and Safety legislation and the Human Rights Act – which requires any discrimination to be avoided.
19. The result is that NESTF means that:
 - a) All emissions of RFEMR are deemed to be "safe" even when the law and evidence establishes that they cause or may cause human and/or environmental harm;
 - b) NZS2772:1 1999 is not fit for purpose

¹⁴Human Rights Act s21(1) (h) disability, which means—

(i) physical disability or impairment:

(ii) physical illness:

(iii) psychiatric illness:

(iv) intellectual or psychological disability or impairment:

(v) any other loss or abnormality of psychological, physiological, or anatomical structure or function:

(vi) reliance on a guide dog, wheelchair, or other remedial means:

(vii) the presence in the body of organisms capable of causing illness:

¹⁵ NZ Bill of Rights Act s10 **"Right not to be subjected to medical or scientific experimentation**

Every person has the right not to be subjected to medical or scientific experimentation without that person's consent."

¹⁶ http://rfemf.mcmc.gov.my/ituemfguide/skmmgovmy/media/skmmmedia/emfguide/pr208_E.pdf

- c) The RMA(NESTF) Regulations 2016 undermine the purposes of RMA and undermine the wellbeing and health and safety of communities and are not in the public interest.
- d) All emissions of RFEMR are exempt from usual requirement for public consultation and from the usual opportunity for public submissions and hearings. These processes could avoid significant adverse effects¹⁷.

Particular concerns about 5G

- 20. 5G (5th generation cellphone and wireless technology) is currently the subject of considerable public concern including numerous protests, petitions, OIA questions, public meetings, crown funding to bring world expert Professor Dariusz Leszczynski to New Zealand for a series of public meetings and lobbying of councils.
- 21. 5G includes existing 3 and 4G infrastructure plus new microwave frequency technology. 5G includes microwave frequency/high energy directional emissions.
- 22. These microwaves are very high energy and were developed for military purposes and can be intentionally used for crowd control and to cause harm.
- 23. They do not travel through surfaces such as trees and leaves and require removal of trees and branches to operate effectively. They transfer energy to any surfaces they contact, causing heating and other biological harm. It is proposed to have 5G transmitters every 100 meters or so within cities.
- 24. 5G has not been tested to ensure it is safe, or can operate effectively, or to ensure it will provides for sustainable management in some or all locations, or that its emission will comply with health and safety and all other applicable laws. Instead 5G (like 3G and 4G) are assumed to be safe until proven to be harmful.
- 25. The public has not been asked if we want 5G or to have artificial intelligence, driverless cars, the internet of things in our homes, or what type of communities we want for our future. We have not been given enough information to give informed consent or to be satisfied that the risks and uncertainties outweigh any benefits.

Why has 5G and other RFEMR and related infrastructure been given permitted activity status under the NESTF?

- 26. NZ already had very good connectivity to much of NZ through fibre optic cable. Fibre optic is faster, safer, more secure and more reliable than wireless radiation.
- 27. 5G is not necessary for business or private connectivity.

¹⁷ **11 Activity complying with standard is permitted activity**

A regulated activity is a permitted activity if it is carried out in accordance with the standard.

28. There is no sound public policy reason to prioritise new Telco's infrastructure over public and environmental health, or to exempt unnecessary and untested technology which the WHO/IARC has identified as potentially carcinogenic from the usual RMA processes or other public protections.

Undermining public confidence in New Zealand government

29. The NES purports to treat all emission of RFEMR as permitted activity, irrespective of their location, the local community values, amenity effects and other effects. This is contrary to the sustainable management purpose of the RMA and to the precautionary principle.
30. There has recently be a significant increase in public concern about RFEMR arising from the proposed roll out of 5G, and the large number of new celltowers being constructed around New Zealand, adverse health effects reported near these and near other 4.5 and 5G transmitters around the world and the severe pruning of trees in public places to facilitate the transmission of 5G RFEMR.
31. The public has not been consulted about the need for 5G, whether any public benefits of RFEMR outweigh the risks for people, the environmental and landscape. This industry led rollout of new technology can be contrasted with the active public participation in decision over the introduction of GMOs into New Zealand which resulted in a public inquiry and public policy response to reflect community values as well as scientific and economic risk and benefit.

Breach of Standing Orders

32. The OUTDOORS PARTY is concerned that the NESTF Regulations breach Parliamentary Standing Order 319(2) and are not in the public interest because these Regulations:
- (a) are not in accordance with the general objects and intentions of the enactment under which it is made as they do not promote sustainable management
 - (b) breaches s44(3)(a) of the RMA because the effects of 5G and other RFEMR emission are or may be more than minor¹⁸;

¹⁸ **44 Restriction on power to make national environmental standards**

- (1) Before recommending the making of a national environmental standard to the Governor-General, the Minister must—
- (a) comply with [section 46A\(3\)](#); and
 - (b) prepare an evaluation report for the standard in accordance with [section 32](#); and
 - (c) have particular regard to that report when deciding whether to recommend the making of the standard; and
 - (d) publicly notify the report and recommendation made under [section 46A\(4\)\(c\)](#) or [51\(2\)](#), as the case requires.
- (2) *[Repealed]*
- (3) The Minister need not follow the steps in [section 46A](#) if the Minister is recommending the making of an amendment—
- (a) that has no more than a minor effect; or

(c) because the 24/7 emission of RFEMR into homes, schools and workplaces without consultation or informed consent and in circumstances which may cause health or environmental harm and/or health and safety risks trespasses unduly on personal rights and liberties.

The OUTDOORS PARTY accordingly requests an urgent review of the NESTF Regulations by the Regulations Review Committee to establish if the NESTF complies with all standing orders and if it is in the public interest. Relevant Standing Orders.

Please contact suegreylawyer@gmail.com to confirm receipt, to discuss how this will proceed and to arrange a convenient time for this complaint to be heard.

Thank you for your urgent attention to this important public interest matter.

(b) that corrects errors or makes similar technical alterations.