



NZX Regulation Decision

Sky Network Television Limited (“SKT”)

Application for a waiver from NZX Listing Rules 4.1 and 4.4

21 May 2020



Background

1. The information on which this decision is based is set out in Appendix One to this decision. This waiver will not apply if that information is not or ceases to be full and accurate in all material respects.
2. The NZX Listing Rules (**Rules**) to which this decision relates are set out in Appendix Two to this decision.
3. Capitalised terms which have not been defined in the decision have the meanings given to them in the Rules.

Waiver from Listing Rule 4.1.1

Decision

4. On the basis that the information provided by SKT is complete and accurate in all material respects, NZX Regulation (**NZXR**) grants SKT a waiver from Rule 4.1.1 to the extent that Rule requires an Issuer to obtain approval by Ordinary Resolution to issue Equity Securities under an offer complying with the conditions set out in paragraph 5 below (an **ANREO**).
5. The waiver set out in paragraph 4 above is provided on the condition that the ANREO is conducted as an Accelerated Offer in compliance with Rules 4.4.1 and 4.4.2, with the following modifications:
 - a. The ratio of Equity Securities offered must not be greater than 2.83 Equity Securities for each one Equity Security held.
 - b. The Rights must be non-Renounceable and therefore:
 - i. Rule 4.4.1(e) will not apply to the ANREO to the extent that Rule requires the sale of any Ineligible Shareholders' Rights or the underlying Equity Securities to which any Ineligible Shareholders would be entitled if they were eligible to participate in the ANREO.
 - ii. Rule 4.4.2(b) will not apply to the ANREO.
 - c. In relation to Ineligible Shareholders, SKT may:
 - i. offer the underlying Equity Securities to which any Ineligible Shareholders would be entitled if they were eligible to participate under one or more bookbuild(s) undertaken in relation to the Accelerated Offer (in which case Rule 4.4.2(a) will apply), but any net premium achieved in excess of the price need not be returned to Ineligible Shareholders;
 - ii. issue the underlying Equity Securities to which any Ineligible Shareholders would be entitled if they were eligible to participate within three months of close of the Accelerated Offer, provided the price, terms and conditions are not materially more favourable to the person to whom they are issued than the original offer; or
 - iii. not offer Rights to those Ineligible Shareholders and not issue the underlying Equity Securities.
6. SKT will conduct the Offer at least in line with the timing requirements in Rule 4.17.2(b).

7. The waiver set out in paragraph 4 above will apply until 31 October 2020.

Reasons

8. In coming to the decision to provide the waiver set out in paragraph 4 above, NZXR has considered that:

- a. The objectives of the ANREO Class Waiver and the waiver sought by this application are aligned in their intention to provide relief to issuers being adversely affected by the 2019/2020 coronavirus pandemic (**COVID-19**). This waiver is granted on identical conditions to the ANREO Class Waiver, save for an increased entitlement ratio.
- b. SKT has submitted, and NZXR has no reason not to accept, that SKT considers an ANREO undertaken with an increased entitlement ratio is necessary because:
 - i. The 25% placement threshold (of which SKT has ~20% available following its placement in the last 12 months to New Zealand Rugby Union Incorporated) is insufficient on its own to raise size of the funding required, even if combined with a Share Purchase Plan (which is capped at 30% of the shares then on issue).
 - ii. As a result of the reduction in share price and market cap of SKT over the past 12 months, an increased entitlement ratio is required in order to raise the amount of funds required.
 - iii. SKT's need to quickly address the uncertain funding situation it faces, with an ANREO structure providing (in the case of SKT's register) 80% of the proceeds in the first week.
 - iv. The likely lack of sub-underwriting interest in an offer that is renounceable, having regard for the need to find long term investors that are supportive of SKT's business plan to return SKT to growth as well as the significant volatility in markets making longer dated underwriting and sub-underwriting commitments challenging.
 - v. The significant portion of SKT's retail register that does not have e-communications (only ~30% of retail shareholders are signed up for e-communications), who as a result will need a longer retail offer period to be able to fairly participate in the transaction.
 - vi. The fact that the vast majority of the offer (over 90% of the total offer size) being a placement and ANREO will be pro-rata and therefore all shareholders will have the opportunity to participate and should not be materially disadvantaged by the offer.
- c. While there is no direct precedent under the NZX Listing Rules, ASX has granted a class waiver to allow ASX listed issuers to undertake an ANREO without any restriction on the entitlement ratio. As an ASX listed issuer, SKT will be able to rely upon this waiver. NZXR has not extended the same relief on a class basis, however, the information provided by SKT has satisfied NZXR that an increased ratio would be appropriate in this case.

Confidentiality

9. SKT has requested that this application and any decision be kept confidential until after the Offer is disclosed to the market by SKT.
10. In accordance with Rule 9.7.2, NZXR grants SKT's request.

Appendix One

1. Sky Network Television Limited (**SKT**) is a Listed Issuer with ordinary shares Quoted on the NZX Main Board.
2. SKT intends to conduct a capital raise of approximately NZ\$157 million, to strengthen its balance sheet and reposition for its refreshed long-term strategy. The capital will be raised through a pro rata accelerated non-renounceable entitlement offer (the **Offer**) and a placement, which will be fully underwritten by Goldman Sachs New Zealand Limited and Forsyth Barr Group Limited. If an eligible shareholder does not take up its entitlement under the institutional or retail component of the Offer, then its current shareholding will be diluted as a result of the issue of new shares under the Offer.
3. The COVID-19 pandemic has been detrimental to SKT's current and future business. The largest single impact on SKT of COVID-19 is the lack of live sport content. In the medium term, there may be an impact on the business through a reduction in the number of subscribers given the reduced availability of content and economic conditions arising as a result of COVID-19. The revenue from SKT's commercial business (the provision of content to hotels and bars) and advertising will likely also be affected by COVID-19. On this basis, SKT intends on raising capital to address its future funding requirements.
4. The Offer and placement will be conducted in the following phases:
 - (a) Placement Offer: An offer at a fixed price to institutional investors resident in New Zealand, Australia and certain overseas jurisdictions.
 - (b) Institutional Entitlement Offer: An accelerated pro-rata entitlement offer at a fixed price to institutional shareholders resident in New Zealand, Australia and certain overseas jurisdictions. Institutional shareholders of SKT who are not Eligible Institutional Shareholders are ineligible overseas institutional shareholders; and
 - (c) Retail Entitlement Offer: Following completion of the Institutional Entitlement Offer, a pro-rata offer of new shares will be made at the same price and ratio as the Institutional Entitlement Offer to retail shareholders in New Zealand and Australia, who did not receive an offer under the Institutional Entitlement Offer. Retail shareholders of SKT who are not Eligible Retail Shareholders are ineligible retail shareholders.
5. NZX Regulation granted a class waiver dated 26 March 2020 (the **ANREO Class Waiver**) to permit issuers to raise capital under an accelerated non-renounceable entitlement offer (**ANREO**) structure. Pursuant to paragraph 6(a) of the ANREO Class Waiver, the ratio of equity securities offered under an ANREO structure must not be greater than two equity securities for each one equity security held (i.e. a 2:1 cap).
6. SKT seeks a waiver from the NZX Listing Rules that is to the same effect as the ANREO Class Waiver, except to the extent that the ANREO waiver would otherwise require no more than two equity securities to be issued for each one equity security under the Offer.



Appendix Two

4.1 Issue of New Equity Securities

- 4.1.1 Except as provided in Rule 4.1.2, an Issuer must only issue Equity Securities with approval by Ordinary Resolution in accordance with Rule 4.2.1.
- 4.1.2 An Issuer may issue Equity Securities, without approval by Ordinary Resolution, by way of:
- (a) a pro-rata Rights offer, bonus issue or a Share Purchase Plan in accordance with Rule 4.3 and, if applicable, Rule 4.4,
 - (b) an issue under an Issuer's 15% placement capacity in accordance with Rule 4.5.1,
 - (c) an issue to Employees, in accordance with Rule 4.6, or
 - (d) other issues for dividend reinvestment plans, director remuneration, takeovers, amalgamation, conversions and Minimum Holdings in accordance with Rules 4.7 to 4.9.

4.4 Rules applicable to pro-rata issues and Share Purchase Plans

- 4.4.1 Notwithstanding Rule 4.3.1, an Issuer is entitled to:
- (a) issue any Equity Securities which have been offered under Rule 4.3.1(a) and not taken up, or held back because of fractional entitlements, provided the price, terms and conditions are not materially more favourable to the person to whom they are issued than the original offer and the issue is completed within three months of the close of that offer,
 - (b) issue Equity Securities to existing holders of Financial Products where the right to participate in future issues is specifically attached to those existing Financial Products, regardless of the effect on existing proportionate rights to Voting and distribution rights,
 - (c) authorise a disproportionate offer to the extent necessary to round entitlements to a whole number, round up holdings to a Minimum Holding, or to avoid the creation of holdings which are less than Minimum Holdings,
 - (d) not offer Equity Securities to holders of existing Equity Securities where the terms of those existing Equity Securities expressly exclude the right to participate in the relevant issue, and
 - (e) not offer Equity Securities to holders outside New Zealand if, in the Issuer's reasonable opinion, it would be unduly onerous for the Issuer to make that offer in that jurisdiction, provided that in a Renounceable Rights offer the Issuer must arrange the sale of any excluded holders' Rights, or the underlying Equity Securities to which any excluded holders would be entitled if they were eligible to participate, and account to excluded holders for the net proceeds.



4.4.2 An Issuer making an Accelerated Offer under Rule 4.3.1(a) must comply with the following requirements (as applicable to the type of Accelerated Offer undertaken by the Issuer):

- (a) any bookbuild(s) must be undertaken pursuant to the terms set out in the Offer Document,
- (b) instead of arranging the sale of Renounceable Rights under Rule 4.4.1(e), new Equity Securities of Ineligible Shareholders must be offered under one or more bookbuild(s) undertaken in relation to the Accelerated Offer and any net premium achieved in excess of the price must be returned to Ineligible Shareholders,
- (c) notwithstanding Rule 4.17.1, Eligible Institutional Shareholders may be notified of their entitlements under the Accelerated Offer by electronic means and prior to the Record Date,
- (d) notwithstanding Rule 4.17.2, any Institutional Entitlement Offer component of an Accelerated Offer may be open for less than 12 Business Days (or 7 Business Days, as applicable) provided that any Offer Document relating to the Accelerated Offer clearly states or, if there is no Offer Document, applicants are advised before subscription that a shorter than usual offer period will apply to Eligible Institutional Shareholders under the Institutional Entitlement Offer (including the length of such shorter period),
- (e) if Rule 4.17.6 would otherwise apply to the Accelerated Offer, an Issuer may elect to:
 - i. rather than comply with Rule 4.17.6(a):
 - a. provide the information required by Rule 4.17.6(a) to NZX Regulation (not for public release) at least 5 Business Days before the Ex Date for the Accelerated Offer (to the extent such information is available), and
 - b. release through MAP the information required by Rule 4.17.6(a) no later than the Ex Date for the Accelerated Offer, or
 - ii. rather than comply with Rule 4.17.6(d), the quotation of Rights of Renounceable Rights may cease at the close of trading on the day 4 Business Days before the closing date of the Retail Entitlement Offer.
- (f) if Rule 4.17.7 would otherwise apply to the Accelerated Offer, an Issuer may elect to:
 - i. provide to NZX the information required by Rule 4.17.7 at least 5 Business Days before the Ex Date for the Accelerated Offer (to the extent such information is available), and
 - ii. release through MAP the information required by Rule 4.17.7 no later than the Ex Date for the Accelerated Offer,
- (g) Rule 4.19.1 must be separately applied to an Institutional Entitlement Offer and a Retail Entitlement Offer.



4.4.3 For the purposes of Rule 4.4.2, the following terms bear the following meanings:

Eligible Institutional Shareholders	means the institutional Equity Security holders of the Issuer, being wholesale investors (as defined in Schedule 1 of the FMC Act) or the equivalent type investor under securities legislation applying in a jurisdiction outside New Zealand, who are eligible to participate in the Institutional Entitlement Offer.
Ineligible Shareholders	means those Equity Security holders of the Issuer who do not receive an offer to participate in the Institutional Entitlement Offer or Retail Entitlement Offer by reason of Rule 4.1.1(e).
Institutional Entitlement Offer	means an accelerated pro-rata entitlement offer of Equity Securities made at a fixed price to the Issuer's Eligible Institutional Shareholders, usually conducted and completed before a Retail Entitlement Offer.
Retail Entitlement Offer	means a pro-rata offer of Equity Securities, made at the same price and ratio of the related Institutional Entitlement Offer, to existing retail shareholders in New Zealand and certain eligible overseas jurisdictions (if relevant), who did not receive an offer under such Institutional Entitlement Offer.

