

as musical preferences. The station's three major components, easy listening, soft rock music, music of the sixties and seventies and popular artists album tracks were liked by the great majority of the potential audience.

We considered the survey a useful and practical one. Again however, we must comment that predictions or preferred options by respondents have to be taken with some caution.

The survey revealed, as we have learned elsewhere, there is a general audience preference for stations operated by private organisations although it is clear that ownership is not a critical issue. The survey also showed listener preference for some complementary programming of FM stations in Auckland.

(h) The requirement that frequencies be best utilised in the public interest.

The grant of warrants to Metropolitan and Stereo FM will provide a range of programmes for the benefit of the audience in Auckland. We are not satisfied that any other combination would provide a better coverage of the Auckland radio audience.

(i) The desirability of avoiding monopolies in the ownership or control of news media.

The question did not directly arise. However, it is convenient to discuss here the shareholding of Wilson and Horton Ltd. in Stereo FM. We do not find the ownership or part ownership of an FM station in the Auckland market by a newspaper group or groups a negative factor. It would be otherwise if they chose also to take shareholdings in other stations in the same market. The regulations limit those possibilities.

The diversity of news sources is well established. We see the FM station as having less significance in a news and current affairs sense than an AM station. We also refer to the adoption of the Tribunal's recommendations in the FM report by the Government as is endorsed in the direction of 27 October 1981.

(j) The hours during which the applicant proposes to broadcast programmes.

All applicants intend to broadcast 24 hours a day.

(k) The extent of advertising matter which the applicant proposes to broadcast.

Stereo FM and Metropolitan proposed a maximum of 8 minutes per hour, IZM 10 minutes and Enterprises 14. There are clear advantages in reducing commercial content in FM broadcasting. However the Tribunal will not impose a condition.

(l) The proposed rates and charges to be made in respect of advertising programmes.

The desirability of 60-second commercials was canvassed before us. In the end, we consider nothing depended on the point. They appear to be a desirable feature of FM broadcasting.

No particular applicant's rates and charges had any particular merit for the application.

(m) Such matters as may be necessary for the purpose of imposing conditions under section 71 of this Act.

The Tribunal does not find it necessary to impose a condition regarding town planning approval. If planning approval is not forthcoming at one site, another can be obtained or an alternative method of getting the programme to the transmitter can be used.

It appears to us on the evidence, and after inspecting the television transmitting station, there will be little difficulty in making physical and technical co-siting arrangements with the BCNZ at Waiatarua. There may be differences about financial matters. There will be a condition requiring co-siting and equal signal strength with leave to the warrant holders and the BCNZ to apply for any variation. Any financial differences ought to be resolved by negotiation or arbitrated.

(n) All relevant evidence or representations received by it at the hearing.

Some emphasis was placed on the location of the Enterprise studio as giving a line of sight access to the Waiatarua transmitter. The Tribunal has come to the conclusion that except in the case of this company, the studio arrangements are not particularly advantageous to one or other applicant. If there is difficulty in using one site for a studio we are quite sure other suitable studio sites can be obtained, but we acknowledge that the arrangements to associate with Stebbing studios do provide an advantage to this applicant.

Radio I made submissions but gave no evidence. Some of the points are dealt with elsewhere. Others had been disposed of in the course of the hearing. We have rejected the submission that there should be two similar style stations on the FM band.

(o) Such other matters as may be prescribed in regulations in that behalf.

The Tribunal agreed with the BCNZ that the policy of the Government in relation to FM broadcasting did not hinder the Corporation's application being treated on its own merits.

Regulation 15A, Broadcasting Regulations 1977 as enacted in Amendment No. 5 (S.R. 1981/295) requires the Tribunal when considering any application for an FM broadcasting station, to have regard to the policy of the Government under which a frequency modulation broadcasting service is to be developed as an integral part of sound-radio broadcasting in New Zealand.

The Tribunal, therefore, is required not only under section 68 but also when considering the factors in section 80, to have regard to Government policy. We must therefore have regard to the policy of the Government as enunciated in the directions given to the Tribunal and the Corporation.

The Tribunal therefore has to take into account that there is to be a development of FM broadcasting as Government policy. (Paragraph 2 (a) direction 27 October 1981).

The applications must each be dealt with on their merits. (Paragraph 3 (b) direction to the BCNZ 14 April 1982.)

The withdrawal of IZM from full commercial status is to enable the development of FM broadcasting in Auckland. (Paragraph (3) direction to BCNZ 14 April 1982.)

The directions given have, in nearly every case, followed the recommendations of the Tribunal in its August 1981 FM Report. We consider it appropriate that where a recommendation of the Tribunal has been put into effect as part of the policy of the Government, then the Tribunal is entitled to have regard to the reasons set out in the Tribunal's report on FM broadcasting as part of that policy. However, it is not necessary in the present case to go further than the direction.

It is clear to us that this, in effect, precluded the Tribunal from considering the deleterious effects on the BCNZ of the non-grant of a warrant for a IZM-FM. The Corporation's statements about its financial position which would arise if it were not successful with its application, arise in any event by reason of the direction given by the Minister of Broadcasting.

We believe the effect of those directions and the statements of Government policy they contain, is to require us not to regard as a merit for the application of the BCNZ, the fact that the Corporation may lose some revenue if it does not get an FM warrant. That arises because of the Minister's direction that the station apply for an amendment to its warrant to make it non-commercial (except for limited sponsorship).

The Tribunal therefore does not have to consider the effect on IZM of the commencement of FM broadcasting.

We do not think the Tribunal should give great weight to the Corporation's argument that it needs the warrant to get money so that when the station is profitable in several years time, it may be able to contribute to the cost of establishing other stations. In any case, we think it doubtful that the Corporation could depend on any significant contribution to its finances from this venture for many years.

*Decision*—The applications by the Broadcasting Corporation of New Zealand and FM Radio Enterprises Ltd. are declined.

The applications by Metropolitan FM Broadcasting Ltd. and Stereo Frequency Modulation Ltd. are granted.

The coverage objectives of both stations will be to provide a stereophonic service to most of the areas directly served by television transmissions from Waiatarua.

#### CONDITIONS

The usual conditions will be inserted in the warrants.

The warrants will lapse unless they are taken up within 12 months of the date of this decision or of the date of the final determination of any appeal unless extended by the Tribunal. There will be a prohibition on networking in terms of section 71 with an exception as given to private stations other than Radio Pacific. Advertising will be permitted in the same terms as for other private stations.

Any prospectus issued will have to be approved by the Tribunal as to any references made about the Tribunal or the grant of a warrant or the effect of this decision.

The warrant holders will be required to co-site with the BCNZ Television facility at Waiatarua and steps shall be taken to ensure that the signal strengths of the 2 stations are maintained at the same level. The warrant holders may apply for leave to vary this condition should there be failure to secure agreement as to co-siting.

The usual clause will be imposed requiring adherence to technical rules.

The Tribunal does not consider that it should impose the detailed condition as to the nature of the station's programmes. However in order to ensure that stations adhere to the promises made when applications are submitted and to ensure that there is no radical departure from what was intended, the Tribunal will impose the following conditions.