

ORAL DECISION

After hearing the evidence of Mr Monaghan the Tribunal is satisfied that the grounds have been made out for the amendments of the warrants as applied for and leave is given to make the further amendment in relation to 31 December and 1 January for Television Two.

There was no opposition to the applications.

For the Tribunal:

B. H. SLANE, Chairman.

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Decision No. 21/82
BRO. 58/82

Before the Broadcasting Tribunal

IN the matter of the Broadcasting Act 1976; and in the matter of an application by RADIO OTAGO LIMITED to amend warrant 4XA to delete the requirement to establish a relay station at Cromwell.

B. H. Slane, Chairman; L. R. Sceats, Member; A. E. Wilson, Member.

Hearing: 1 December 1982

Council: J. E. Farry for the applicant

ORAL DECISION

The First day of December 1982

THE Tribunal has been able to arrive at a decision on this application:

The warrant for 4XA contains a condition which arises from an undertaking given by the warrant-holder with the intention that it should constitute condition of the warrant. In particular the undertaking includes the following:

"To establish the Alexandra station within 12 months of the grant of the warrant and, unless exempted by the Tribunal, establish the three relay stations within six months of the date upon which the Alexandra station commences broadcasting."

In this case the applicant wishes to have that condition amended to delete the requirement to establish the relay station at Cromwell.

It should be said that the relay stations at Queenstown and Wanaka were established within the period required and in the case of Wanaka only because the company at considerable expense was prepared to establish its own method of getting the programme from its studios to its Wanaka transmitter.

It was contemplated by the Tribunal that it may be necessary for there to be some variation in that timetable and in the Tribunal's decision granting the warrant it is stated:

"It will be a condition of the warrant that the relay stations be established. In the light of the international negotiations and its own planning, leave is given to Radio Otago Ltd. to apply for variation in its timetable for the establishment of the stations which is also dependent on the availability of Post Office circuits."

The applicant fairly soon after broadcasting from Alexandra realised that the initial calculation of the coverage of the transmission from Alexandra had been conservative and that better signal strengths were experienced in Cromwell than had been expected.

It would not have been possible to have established that station at Cromwell immediately since it was not until earlier in 1982 that the Post Office could have made available link circuits to take the programme to a transmitter in Cromwell.

The Tribunal is satisfied on the evidence that the application should be granted. It is satisfied that the signal strength in the area is satisfactory and that there would be no significant advantage in the establishment of a low-powered relay station in the area other than perhaps for a comparatively small number of people, and for civil defence emergency reasons. We do not think those factors should weigh sufficiently to prevent the granting of this application.

We place considerable reliance on the fact that there have been no objectors to the proposal which was advertised and was made known by the company in the area. In particular, the Cromwell Borough Council has informed the Tribunal by letter that in a news-letter accompanying rate instalments on 22 December 1981 there was an item relating to the quality of Radio Otago's reception. Residents who were encountering poor reception were requested to advise the Town Clerk's office by the end of January 1982. No comments were, in fact, made to the council by that date or subsequently. The council concluded that the existing reception was seemingly acceptable by the community.

The Tribunal is satisfied also that the warrant holder is not making an attempt to avoid a responsibility undertaken at the time of the warrant application and this should be made abundantly clear. However, the Tribunal members are concerned that a condition in

the warrant given by way of undertaking or otherwise should be complied with by the warrant holder or the appropriate exemption or application made to the Tribunal. In this particular instance we have concluded that the failure to formally apply for an exemption or variation of the timetable for establishment of a relay station in Cromwell was an oversight.

We are in fact concerned, however, that there were other conditions which could easily be overlooked by a warrant holder unless a warrant holder takes steps annually to review its warrant to ensure that it is currently in compliance with the terms of the warrant.

For instance, there has not yet taken place a meeting with organisations in the area to discuss communication needs this considerable time since establishment of the station at Alexandra.

The rule condition provides that, from time to time, surveys will be conducted and that obviously contemplates that everything cannot be done at once. But the provisions for convening meetings with community organisations did not contemplate calling a meeting two-fifths of the way through the terms of the warrant. It should have taken place at an earlier time. We mention this one specifically because it may well be that in relation to other conditions that we have canvassed today it was not contemplated at the time of the application that these proposed conditions would be fulfilled immediately upon the establishment of the Alexandra station.

We cannot emphasise too much, however, that it is really important that conditions in warrants be reviewed and if necessary applications made promptly for either amendment to the warrant or, as could have been done in this case, the exemption contemplated by the conditions applied for by letter.

As we say, in relation to the relay station, we did not consider this is more than an oversight but it is appropriate that we should mention our concern that warrant conditions are taken not only seriously as we believe this company does intend to take them but also to be kept under review.

We make this comment conscious of the steps outlined by Mr Farry that the company has taken, particularly in relation to the establishment of the Wanaka relay station, to provide the best possible service to the listeners in the coverage area as contemplated at the time of the application.

The warrant will therefore be amended to provide that the third relay station at Cromwell need not be established by the Company.

For the Tribunal:

B. H. SLANE, Chairman.

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Decision No. 20/82
BRO. 47/82

Before the Broadcasting Tribunal

IN the matter of the Broadcasting Act 1976, and in the matter of an application by the OTAGO RADIO ASSOCIATION INC. for amendment to warrant MF-1 to permit a change of transmitter site to Centre Road, Otago Peninsula:

B. H. Slane, Chairman; L. R. Sceats, Member; A. E. Wilson, Member.

Hearing: 1 December 1982

Counsel: C. K. Ashton for the applicant

ORAL DECISION

The First day of December 1982

APPLICATION to amend the warrant to permit a change of site for the station's transmitter from 180 Rattray Street, Dunedin, to Centre Road, Otago Peninsula, Dunedin (Map reference NZMS 144/212773). There is no opposition to the application.

The information set out has satisfied the Tribunal in relation to the requirements of the Act. The criteria under the Act for the granting of amendments to a warrant are satisfied and therefore the amendment you sought will be granted.

There will be a continued exemption from the Technical Rules but the applicant should keep the Tribunal informed of progress. That is not to put pressure on the applicant but to keep up to date