

B. H. Slane, Chairman; Lionel R. Sceats and Ann E. Wilson, Members; Murray J. Henshall, Co-opted Member.

Hearing: Hamilton, 18 May 1983.

Counsel: R. L. Maclaren for applicant; B. Hudson for Broadcasting Corporation of New Zealand; P. J. Bartlett for New Zealand Public Service Association Inc.; F. A. Hamlin for New Zealand Post Office.

#### DECISION

THE applicant applied for a warrant to establish a commercial FM radio station. The Tribunal has advertised for applications for a commercial FM warrant to serve the Waikato and part of the Bay of Plenty.

The proposed coverage area set out by the Tribunal is based on a station co-sited with television transmitters at Mount Te Aroha.

The applicant is a company incorporated in March 1983 which it is proposed, will have a capital of 300 000 shares of \$1 each of which 225 000 will be held by Independent Broadcasting Co. Ltd. with the remaining 75 000 shares being made available to staff and to Tauranga interests.

The 5 directors proposed are Mr W. W. Baxter, I. G. Magan, B. J. Paterson, J. M. Robson, J. H. D. Wickham, who are existing directors of Independent Broadcasting Co. Ltd. ("IBC") the holder of the private commercial AM warrant for Hamilton known as Radio Waikato.

The transmitter was to be established on Mount Te Aroha, co-siting with the television transmission facility of the Broadcasting Corporation of New Zealand and using the existing tower. A calculated coverage area prepared by BCNZ transmission engineers formed the basis for calculations for expected audience.

Stereo coverage would extend to a population of 294 000 and mono coverage to 38 000, a total potential audience of 332 000.

The principal city covered would be Hamilton but the coverage would also extend to Cambridge and north towards Thames and eastwards towards Tauranga and part of the Bay of Plenty.

Initially it would not be possible to proceed with the establishment of a permanent antenna system at the Mount Te Aroha site as a result of changes in the design code for lattice towers and similar structures and a re-assessment by the New Zealand Meteorological Service of predicted maximum wind speeds at the transmitter site. Substantial strengthening of the Te Aroha tower would be required to meet the revised criteria applying to the site, according to evidence given by Mr T. R. Cudby, Superintending Engineer (Transmission) of the Broadcasting Corporation of New Zealand. It is likely that permanent FM antennas could not be added until the strengthening work had been carried out.

The effect in the interim is to reduce the population to be served to 209 000 in stereo, 78 000 in mono, a total potential audience of 287 000. This is 86 percent of the population that would be covered with a high quality FM service of the type outlined in the application. Operation of the interim service will enable a detailed engineering assessment to be made of the extent and complexity of the permanent transmitting antenna which would be required to achieve the proposed permanent coverage of the Waikato-Bay of Plenty areas.

The Corporation would enter into co-siting negotiations with the applicant.

Evidence in support of the application was given by T. C. Egerton, a consultant, Mr B. J. Paterson, a director, Mr W. W. Baxter, General Manager of IBC and a director of the applicant. Mr P. L. Johnston gave technical evidence.

The application was opposed by the Broadcasting Corporation of New Zealand ("BCNZ"), the New Zealand Public Service Association Inc. ("PSA") and Mr H. W. Gough. Written submissions were made by Radio Bay of Plenty Ltd.

The BCNZ case had been prepared on the basis that no indication had been given by the applicant that, although the application was being made in the name of another company (for other reasons), it was intended to treat the application as if it was made by the AM warrant holder IBC. The applicant indicated at the hearing for the first time that it proposed to surrender the warrant for Radio Waikato within 4 years.

Apart from the technical evidence given by Mr Cudby, the Corporation's evidence was given by Mr C. Turver, manager of Radio New Zealand's Tauranga station, Mr A. F. Dobbie, controller of finance for Radio New Zealand, Mr J. A. Douglas, commercial network manager, Mr J. G. A. Stubbs, station manager for Radio New Zealand in Hamilton and Mr M. J. P. Dunlop, head of marketing for Radio New Zealand.

The applicant proposed a continuous 24-hour service of contemporary music aimed primarily at the under 40 age group but with particular emphasis on the 18-39 year olds. The programme's

main ingredient would be music with minimal interruptions by way of news and commercial content. The station was seen as an alternative to the AM station which devoted more time to personality, news, talk, and sports elements. The emphasis would be on album oriented artists. It is intended to rebroadcast the 1MJK FM programme from Auckland from midnight to dawn if satisfactory transmission arrangements can be made. More detailed evidence of the programme content was given by Mr Baxter.

The Tribunal is required by section 80 in considering any application for a warrant, to have regard to the following matters so far as they are applicable before determining whether or not to grant the application. (Some of the comments made under one heading will be applicable to other headings.)

- (a) The extent to which the proposed service is desirable in the public interest

The principal benefit that the new station would bring to the region would be a stereo FM programme which is not at present available to most listeners in the area. Although there was a claim that the Auckland stations could be widely heard as far as Tauranga, we are satisfied that those stations do not in fact provide a satisfactory service to the region.

Some of the BCNZ major objections were most cogently put by Mr Douglas. He said that the station would spread a very strong signal over a huge part of the North Island and could have a profound influence on the New Zealand radio scene. Its presence could pose a serious threat to commercial activities of the Corporation not only in Hamilton but also in Rotorua, Tauranga, Tokoroa and Taupo. (The applicant indicated that it was not intended to sell the station in Rotorua or Tokoroa.)

Mr Douglas said that AM operators in Hamilton, Rotorua, Tauranga and Tokoroa would be faced by a frightening array of new competition "and all of it being established in great haste without full consideration of all the implications". He suggested that a too high strength of signal had been allocated to the Auckland stations which would be selling in the area. He asked whether this was the most orderly way of introducing FM in this country, or whether we were in danger of throwing the entire radio industry into a state of confusion. He also asked whether there was a community of interest between the diverse centres in the area.

He proposed that the station should be limited to serving the Waikato which would leave the Bay of Plenty to be taken care of in a different way.

He asked the Tribunal to reflect carefully before establishing a giant station which would, because of its very size and audience reach, be one of the most influential forces on the entire New Zealand radio scene without contributing any of the local programme services which should be a feature of such a dominant force.

While it is understood that the belief that Radio Waikato would be continuing AM broadcasting indefinitely may have led to the rhetoric, there does seem to be some element of panic in the reaction of Radio New Zealand to this application. It is not a sudden one nor is the coverage plan a surprise. No objection was earlier taken to the proposed coverage pattern. There is no question of the policy having been established in great haste without full consideration of all the implications. The development of FM has hardly been an example of hasty, ill-considered action.

The Tribunal realises that there is a new element being introduced into radio broadcasting and that this will make life uncomfortable for some existing broadcasters. But primarily the interests of the public must predominate. We are satisfied this sort of station coverage is the most satisfactory way of introducing FM broadcasting.

The advantages of this regional station are also its disadvantages. While it will be more heavily music oriented it will provide less in the way of local information for which listeners will inevitably turn to their local AM station. The fact that it covers a wider area will mean that it will be unable to serve the parochial interests traditionally satisfied by the personality chat, community information (and even local trivia) that feature so much in community broadcasting.

The operation also is desirable because of its efficiency. To limit its efficiency by deliberately reducing the possible coverage area is not only a waste of available spectrum, but is limiting the programme to a smaller audience. There is no need to do that. Nor is there any need to limit the stations economic viability in the long term. A series of local stations serving essentially AM programme areas would not assist existing stations and would, because of an insufficient economic basis, produce a lower quality of programme. They may not be established at all because each one could be opposed by each AM station.