

While there is no present proposal for networking during off-peak listening hours, we would not have considered this any significant disadvantage in the FM mode.

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

A self-imposed limit of 8 minutes advertising per hour is proposed by the company which it says would enable it to reach its income projections. There is no reason to suspect that the station would depart from this, but programme rules at present permit advertising of up to 18 minutes per hour. Commonly AM stations broadcast up to 12 minutes per hour.

The Tribunal considers that an adequate revenue can be obtained by limiting advertisements to 6 minutes in any 1 hour and a condition to this effect would limit the impact on the other stations. This will only affect peak time revenue but will assist Radio New Zealand stations. The applicant could reconsider its proposed rates for advertisements.

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

In the initial stages the station may tend to keep its rates low but they will, no doubt, be adjusted to meet the rates of competitors having regard to audience shares.

- (m) Such matters as may be necessary for the purpose of imposing conditions under section 7A of this Act

The usual conditions will apply. In addition there will be conditions limiting news media ownership and advertising content per hour.

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

We do not place great weight on the disadvantage to advertisers of the extension of the multi-station market.

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

The Tribunal is required to have regard to regulation 15A, Broadcasting Regulations 1977 which reads:

"15A. 1. In considering any application for a sound radio warrant in respect of an AM broadcasting station or a FM broadcasting station, the Tribunal, before determining whether or not to grant the application, shall have regard to the policy of the Government under which a frequency modulation (FM) broadcasting service is to be developed as an integral part of sound-radio broadcasting in New Zealand."

By direction dated 27 October 1981 the Minister of Broadcasting notified the Broadcasting Tribunal that after considering its report on the development of frequency modulation broadcasting in New Zealand, it was a part of the general policy of the Government in relation to broadcasting that a FM broadcasting service be developed as an integral part of sound-radio broadcasting in New Zealand and that it be introduced in New Zealand without delay.

In pursuance of that policy the Tribunal was directed to call progressively for applications for sound-radio warrants in respect of commercial FM broadcasting stations to be established in areas outside Auckland.

As well as considering each of the criteria under section 80, including section 80 (o) we are required by section 68 to have regard to the general policy of the Government in relation to broadcasting and to comply with any directions given by the Minister of Broadcasting in writing. The calling for this application was in compliance with the direction to do so. The general policy which is relevant is summarised above. It is set out in full in the ministerial directions.

The application is granted subject to conditions.

Conditions

The usual conditions will be inserted in the warrant. The warrant will lapse unless it is 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 71A (3) but with an exception as provided in most private warrants. This permits networking news.

Advertising will be permitted in the same terms as for other private stations but there will also be a special condition. There will be a limit of 6 minutes maximum advertising in any 1 hour.

The warrant holders will be required to co-site with the BCNZ television facility at Mount Erin.

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

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

The warrant holder shall not substantially depart from the basic format and content of its proposed programmes or the type or the extent of the services intended to be provided at the time of the grant of the warrant without the prior consent of the Broadcasting Tribunal and subject to any conditions that the Tribunal might impose in the public interest.

The mixed polarisation to be used will be slant.

Allocation of a frequency will be made after the parties have had the opportunity to make representations to the Tribunal.

The same clause as has recently been approved for other private stations will limit news media ownership to 30 percent without the prior consent of the Tribunal.

Pursuant to regulation 14A Broadcasting Regulations 1977 the initial warrant period will be 5 years.

Co-opted Member

Mr Murray J. Henshall was co-opted as a person whose qualifications and experience were likely to be of assistance to the Tribunal in determining the application. He took part in the hearing and the deliberations of the Tribunal but the decision is that of the permanent members.

Dated the 31st day of August 1983.

Signed for the Tribunal:

B. H. SLANE, Chairman.

Decision No. 17/83

BRO 22/82

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of allegations made by the NEW ZEALAND PUBLIC SERVICE ASSOCIATION (GOOD MORNING PROGRAMME):

Warrant Holder—Broadcasting Corporation of New Zealand (Television 1).

B. H. Slane, Chairman; Lionel R. Sceats and Anne E. Wilson, Members; Gordon C. Ell and Brian W. Stephenson, Co-opted Members.

Hearing: 23 August 1983.

Counsel: P. J. Bartlett for New Zealand Public Service Association Inc.; C. M. Nicholson, Q.C., for the Broadcasting Corporation of New Zealand; J. G. Miles for Northern Television Ltd.

DECISION

The Programme

Early in 1982 the Broadcasting Corporation of New Zealand ("the Corporation") and Northern Television Ltd. ("Northern") negotiated arrangements for Northern to supply a television programme for broadcast by Television One, a service of the Corporation. It was to be a magazine type programme in format. It would be transmitted by the Corporation between 1100 and 1200 hours Monday to Friday inclusive. Northern was to have the right to sell advertising in the programme. Northern would retain a percentage of the revenue and the Corporation would have the balance.

The Corporation's television warrants 1, 2, 3, and 4 do not allow for advertising on Fridays. Accordingly, the Corporation applied to the Tribunal for a short-term authorisation for the transmission of advertising programmes between 1100 and 1200 hours on Fridays. That was granted. (see Decision 7/82, 14 June 1982). The Corporation did not ask the Tribunal to approve any other aspect of the arrangement between it and Northern.

In its decision the Tribunal also commented that there was a desire to enlarge the enquiry in respect of the application to one in which the merits of the arrangements for the production and supply of programmes to the Corporation by Northern would be examined and considered in the public interest. The Tribunal did not consider the application was an appropriate vehicle for that consideration.

The Tribunal said:

"The question that the Tribunal has to decide is not whether the internal arrangements between the programme supplier and the Corporation are adequate or suitable or desirable but whether the broadcast of commercials on Fridays is to be approved or not.

The Tribunal made it clear that it would not conduct an investigation into existing or future arrangements between these 2 organisations. If, as was suggested by ATN (Alternative