

The Tribunal considers that the Corporation's empowering provisions in the Broadcasting Act are simply that. They state the activities which are *intra vires* the Corporation but they do not displace the need to obtain the usual consents, licenses, and warrants as required by legislation. Thus the Corporation is not exempt from the duty to comply with the terms of its warrants and the obligation not to assign, sub-let, transfer or otherwise dispose of to any other person, or permit any other person to participate in the benefit of its warrants, except in compliance with section 82.

Confidentiality

For Northern, Mr Miles supported Mr Nicholson's submissions on behalf of the Corporation. Mr Miles also drew the Tribunal's attention to the statements on discovered documents in *Riddick v. Thames Board Mills* [1977] 3 All ER 677 in which the English Court of Appeal unanimously re-stated the principle that the courts will imply an undertaking that documents compulsorily disclosed will be used only for the purpose of the action for which they were disclosed and not for any ulterior or improper purpose. Mr Miles said he would have preferred only the relevant parts of the contract between the Corporation and Northern to be ordered to be produced and he asked for the restriction on the contents of it to remain in force.

The Tribunal considers it would in this case have been difficult for a party to make submissions about the contract without seeing the whole of the document. It was made available only to counsel and to Mr Simpson of the PSA and the percentage of revenue to be retained by Northern was deleted. The Tribunal agrees that the power to order the production of documents containing confidential commercial information should be used with great restraint. It accepts Mr Bartlett's undertaking that only one copy of the document was made, that he made Mr Simpson aware of the restriction on the use of the information and that he would obtain the return of any copy from Mr Simpson.

Two further matters are relevant.

First, Northern did not make any submissions about confidentiality before the Tribunal made the order. Secondly, while rules may have been developed by the courts to apply to proceedings before them, the Tribunal has only the powers specifically given it under the Commissions of Inquiry Act and the Broadcasting Act.

Public Comment

One further matter was raised at the hearing. The Tribunal drew Mr Bartlett's attention to the fact that his client association's senior advisory officer, Mr Simpson, in whose name the complaint was brought, was quoted in reference to the case in the *Auckland Star*. Mr Bartlett was not in a position to say whether Mr Simpson had been quoted accurately. He had not previously seen the article. It reported Mr Simpson as saying that if there had been a breach, the Government and the Tribunal would be "in a very embarrassing position". The Tribunal's function is to hear and determine in a judicial manner the issues referred to it under the Act. It can therefore hardly be a matter of embarrassment for the Tribunal if it finds one way or another. The procedure under which we have dealt with this matter was that suggested by the Tribunal in its decision 7/82. There can therefore have been no embarrassment when that suggestion was taken up by the PSA. If Mr Simpson was quoted accurately, we assume it arose from a misunderstanding of the nature of the Tribunal's function. Mr Bartlett undertook to draw the newspaper report and the Tribunal's comment to Mr Simpson's attention.

Decision

The decision of the Tribunal is that the Corporation has not committed the alleged breach of the terms and conditions of television warrants 1, 2, 3, and 4.

Co-opted members

Mr Gordon Ell and Mr Brian Stephenson were co-opted as persons whose qualifications or experience would be of assistance to the Tribunal in dealing with the complaint. They took part in deliberations of the Tribunal but the decision is that of the permanent members.

Dated the 5th day of September 1983.

Signed for the Tribunal:

B. H. SLANE, Chairman.

BRO 22/82

TO: THE BROADCASTING CORPORATION OF NEW ZEALAND

NOTICE is hereby given, pursuant to section 83 (3) Broadcasting Act 1976, that the Broadcasting Tribunal intends to hold a hearing at a place and time to be notified for the purpose of determining whether you have committed a breach of the terms and conditions of your television warrants 1, 2, 3, and 4.

The allegations made by the Public Service Association of New Zealand are summarised:

1. Section 82 Broadcasting Act 1976 provides that the holder of a warrant shall not assign, sublet, transfer or otherwise

dispose of to any person, or permit any other person to participate in the benefit of, its warrant unless the Tribunal has first consented in writing to the transaction.

2. You were in breach of this provision because of the arrangements made with Northern Television Ltd. for the broadcast of the *Good Morning* programme on Television One stations on the dates authorised by the Tribunal in 1982 without the consent of the Broadcasting Tribunal.
3. The arrangements entered into with Northern Television Ltd. were such that they required the consent in writing of the Tribunal under section 82 (1).
4. In particular, Northern Television Ltd. participated in the benefit of the warrants by drawing direct advertising revenue from the *Good Morning* programmes supplied to you.
5. By virtue of section 82 (4) any assignment, subletting, transfer or other disposition of to any other person, or permitting any other person to participate in the benefit of the warrants without the consent of the Tribunal you are deemed to have committed a breach of the conditions subject to which your warrants were issued.

You are further notified that if the Tribunal finds that you have committed a breach of the terms and conditions of the warrants, it may, after consideration in accordance with Part X and Part XI of the Broadcasting Act 1976, revoke or suspend the warrants for such period as it thinks fit or reduce the term of the warrant or may impose on you a monetary penalty not exceeding \$500. (But by virtue of section 83 (5) the warrants may not be suspended or revoked except with the approval of the Minister of Broadcasting).

You will be later notified of the time and place for hearing.

Dated the 12th day of May 1983.

Signed for the Tribunal:

R. M. McEWEN, Registrar.

To: Northern Television Ltd.

And to: Kevin Moore & Associates.

The Standards Act 1965—Draft New Zealand Standard Specification Available for Comment

PURSUANT to subsection (3) of section 23 of the Standards Act 1965, notice is hereby given that the following draft New Zealand standard specification is being circulated.

Number and Title of Specification

DZ 8707 Draft specification for method of measurement of the colour of wool. Gratis.

This draft sets out a method for determining the colour of wool by the use of a tristimulus colorimeter, the wool being in the form of corings taken from bales. The procedure for the preparation of the wool before measurement is also described.

The draft is a revision of NZS 8707:1977. The earlier standard applied only to commercially scoured wool, but in this edition the method is being extended to cover greasy wool also. The method has been developed by the Wool Research Organisation of New Zealand.

All persons who may be affected by this publication and who desire to comment thereon, may obtain copies at the price shown, from the Standards Association of New Zealand, Wellington Trade Centre, 15-23 Sturdee Street (or Private Bag), Wellington.

The closing date for receipt of comment is 30 December 1983.

Dated at Wellington this 13th day of September 1983.

DENYS R. M. PINFOLD,

Director, Standards Association of New Zealand.

(S.A. 114/2/8)

Customs Notice—Exchange Rates

NOTICE is hereby given, pursuant to the Customs Act 1966, that the following exchange rates to the New Zealand dollar relate to imported goods for which a New Zealand Customs entry has been lodged on or after 1 October 1983:

Australia74 Dollar
Austria	11.91 Schilling
Bangladesh	15.67 Taka
Belgium	34.68 B. Franc
Brazil	435.09 Cruzeiro
Burma	5.24 Kyat
Canada80 Dollar