

*Direction to Broadcasting Tribunal in Connection With Private Television Broadcasting*

To the Broadcasting Tribunal

PURSUANT to section 68 (1) of the Broadcasting Act 1976, I, Ian John Shearer, the Minister of Broadcasting,—

(1) Give you notice that the Government has considered your report on Regional Private Television, which you made to me in March 1984; and

(2) Give you notice that it is part of the general policy of the New Zealand Government in relation to broadcasting—

- (a) That regional private television be developed in New Zealand without delay; and
- (b) That there be four regions based on the major centres of population, namely—
  - (i) Region 1, comprising the Auckland and Northland areas;
  - (ii) Region 2, comprising the Waikato and Bay of Plenty areas;
  - (iii) Region 3, comprising the Wellington, Manawatu, Hawke's Bay, and Wairarapa areas;
  - (iv) Region 4, comprising the Canterbury, Otago, and Southland areas; and
- (c) That, notwithstanding anything in paragraph (b) of this clause,—
  - (i) The boundaries and names of the 4 regions shall be determined from time to time by you; and
  - (ii) The initial determination of the boundaries and names of the regions shall be determined by you after you have considered applications for television warrants to service the 4 regions; and
- (d) That in each of the 4 regions there should be effective coverage by private television stations; and
- (e) That any application for a television warrant may be made on the basis of the use of the VHF band (where practicable) or of the UHF band or of both; and
- (f) That, where the total number of shares held by a person in a company that holds a television warrant or a television programme warrant carry the right to exercise or control the exercise of more than 5 percent of the total voting power that can be exercised at any general meeting of that company, the total number of shares that that person may hold in any other company that holds a television warrant or a television programme warrant shall not carry the right to exercise or control the exercise of more than 30 percent of the total voting power that can be exercised at any general meeting of that other company; and
- (g) That, contrary to recommendations 8.22 and 8.23 in your report, there should be no limitation on the shares that a company that publishes a newspaper or a company that holds a sound-radio warrant or a sound-radio programme warrant may hold in a company that holds a television warrant or a television programme warrant; and
- (h) That every applicant for a television warrant in respect of a region shall indicate in the application the manner in which and the period or periods within which the applicant is to service the region; and
- (i) That where the holder of a television warrant in respect of a region does not intend to service any part of the region within the period of 3 years beginning with the date of the issue of the warrant—
  - (i) That holder shall not be deemed to have any rights in respect of that part of the region; and
  - (ii) That holder shall, if any other person obtains a television warrant in respect of that part of the region and if that person so requests, be obliged to make available to that person, on reasonable terms, for broadcasting to that part of the region, programmes that the holder is broadcasting to the part of the region serviced by the holder; and
- (j) That a company, independent of—
  - (i) The Corporation; and
  - (ii) The holders of television warrants in respect of the private television stations in the 4 regions; and
  - (iii) Companies that publish newspapers; and
  - (iv) Companies that hold sound-radio warrants or sound-radio programme warrants,—
 (hereinafter called the independent news company), be authorised, by a television programme warrant, to broadcast, in each of the 4 regions, a news programme, covering national news, international news, and current affairs; and
- (k) That, where the total number of shares held in a company by one or more of the following companies, namely—
  - (i) Any company that publishes a newspaper;
  - (ii) Any company that holds a sound-radio warrant or a sound-radio programme warrant,—
 carries the right to exercise or control the exercise of more

than 30 percent of the voting power at any general meeting of the company, that company shall not be independent for the purposes of paragraph (j) of this clause; and

- (l) That, where a majority of the directors of a company also hold one or more of the following offices, namely—
    - (i) Office as a director of a company that publishes a newspaper;
    - (ii) Office as a director of a company that is a holding company of a company that publishes a newspaper;
    - (iii) Office as a director of a company that is a subsidiary of a company that publishes a newspaper,—
 that company shall not be independent for the purposes of paragraph (j) of this clause unless that majority exists with the consent of you, the Tribunal; and
  - (m) That, where any person who holds office as a director of a company also holds one or more of the following offices, namely—
    - (i) Office as a director of a company that publishes a newspaper or a company that holds a sound-radio warrant or a sound-radio programme warrant;
    - (ii) Office as a director of a company that is the holding company of a company that publishes a newspaper or of a company that holds a sound-radio warrant or a sound radio programme warrant;
    - (iii) Office as a director of a company that is a subsidiary of a company that publishes a newspaper or of a company that holds a sound-radio warrant or a sound-radio programme warrant,—
 that company shall not be independent for the purposes of paragraph (j) of this clause unless that person holds office with the consent of you, the Tribunal; and
  - (n) That, subject to paragraphs (k), (p), and (r) of this clause, not only persons who hold warrants but also other persons may hold shares in the independent news company; and
  - (o) That, where broadcasts from private television stations are made by means of the teletext system, the national and international news content of those broadcasts shall be supplied by the independent news company; and
  - (p) That the independent news company be independent of any joint body established, by the holders of warrants in respect of private television stations, for the purpose of purchasing programmes or arranging common scheduling of broadcasts; and
  - (q) That conditions of warrants in respect of private television stations shall ensure,—
    - (i) By requiring each warrant holder to have the same shareholding in the independent news company; or
    - (ii) By requiring each warrant holder to have a shareholding determined by the application of an appropriate formula based on the size of the station's audience or on the amount of the station's advertising revenue; or
    - (iii) By such other requirement as you, the Tribunal, consider appropriate,—
 that the independent news company is not dominated by the warrant holders in respect of television stations in any one of the 4 regions; and
  - (r) That, notwithstanding anything in paragraph (q) of this clause, where the total number of shares held in any company by warrant holders in respect of private television stations in any one of the 4 regions carry the right to exercise or control the exercise of more than 30 percent of the total voting power that can be exercised at any general meeting of the company by all persons who hold shares in the company and who are holders of warrants in respect of private television stations, that company shall not be independent for the purposes of paragraph (j) of this clause; and
  - (s) That, notwithstanding recommendation 5.20 (4) in your report, but subject to paragraph (u) of this clause, programme distribution systems of private television stations be provided, both within regions and between regions, only by the Post Office; and
  - (t) That, notwithstanding recommendation 5.21 (5) of your report, warrant holders in respect of private television stations be not permitted to establish their own programme distribution systems within regions or between regions; and
  - (u) That, where off-air pickup is used for programme distribution by the holder of a warrant in respect of a private television station, that off-air pickup be provided by the holder of the warrant; and
- (3) In pursuance of the general policy of the Government as outlined in clause (2), direct that you shall—
- (a) Call simultaneously without delay (from persons other than the Corporation) for applications for television warrants for—
    - (i) A television station or stations, with or without relay stations, to service Region 1, comprising the Auckland and Northland areas;
    - (ii) A television station or stations, with or without relay stations, to service Region 2, comprising the Waikato and Bay of Plenty areas;