

*Counsel:*

J. N. Burton for Radio Foveaux Ltd. and Radio Avon Ltd.  
J. M. Thomson for Broadcasting Corporation of New Zealand.

*Appearance:* W. J. Rutherford, Director, Radio Otago Ltd.

## INTERIM DECISION

The applicants sought the consent of the Tribunal to become a network of broadcasting stations comprising any or all of Radio Foveaux, Otago Radio Dunedin, Otago Radio Central and Radio Avon for the broadcasting between all or any of the hours of 7 p.m. on any day and 6 a.m. on the following day of a programme including network advertising and whether originating from any one of the stations. The programme was to be predominantly a musical programme but to include material of all types, including news, current affairs and sports news.

In support of the applications the Tribunal was told that production of programmes of the highest quality require not only presenters of high calibre but other people of the same calibre involved in the preparation of the programme material. Such people required salaries and conditions of work commensurate with their abilities and Foveaux Radio Ltd. because of losses incurred, could not justify the expenditure of funds involved in the employment of such people between the hours of 7 p.m. and 6 a.m. particularly having regard to the limit of the amount of advertising obtainable during those hours.

This had weakened its competitive position.

The ability to network programmes with other stations could enable the 4 stations to arrange to employ people with the necessary talents.

In evidence P. L. Mortlock, chairman of Radio Avon Ltd., indicated the company did not have any fixed intention and it would require co-operation with the other stations.

The right to network was sought to give flexibility and to cover the situation where one station might have an announcer available for part of the hours or so that sickness in another station could be covered.

It was not envisaged that the programmes would originate from only one studio.

Mr Mortlock said that Radio Avon was subsidising the network news service to Foveaux Radio by providing the service at less than the cost of half a journalist. He was not seeking a continuous networking but thought that if, of the total hours, one-third were permitted to be networked, that would meet the situation. There was also difficulty in obtaining an upgraded line, 2 months notice being required, if it was needed permanently. The practicalities were that if it didn't have the line then it could not send the music.

The purpose was improved programming and no direct benefit in cost but just simply to attract a bigger audience share and to improve the inheritance factor for the following day's programmes. There was no intention to reduce staff.

T. H. Jenkins, chairman of Foveaux Radio Ltd., said that the upgrading of the line would cost \$17,000 per annum which would negate any cost savings in employment costs. He said also it was to improve programme quality. The accrued losses of the station up to 31 March 1983 were \$270,541. Although he thought the company was making a small profit, there was no room for complacency and Foveaux faced competition from the Gore station as well as the competition from 4ZA.

Mr Jenkins acknowledged that when applying for a warrant the station had said that it would provide a 24 hours a day, 7 days a week locally originated service.

The company had mainly given thought to networking possibilities in the summer holiday period with the station in Central Otago and by originating some of that programme in Invercargill to meet the needs of Southland people who were holidaying in Central Otago.

This would depend on the attitude of Radio Otago whose position was pivotal. The company was seeking the freedom to network between 7 p.m. and 6 a.m.

W. J. Rutherford, a director of Radio Otago Ltd., the holder of a warrant for Dunedin and for Central Otago with networking permitted between the 2 stations, made it clear that it was unlikely that 4XO (Dunedin) or 4XA (Central) would take programmes from other stations except when there were no suitable announcers or in some peculiar circumstances. Both stations intended to remain all Otago stations and the company was committed to that policy. They would be pleased to broadcast to others, particularly seeing the advantage to Foveaux because of the community of interest particularly during holiday periods. He also detailed the hours in which the newsroom is manned.

P. J. Don, Station Manager for Radio 2ZM, was formerly assistant commercial network manager for Radio New Zealand. He gave evidence for the Corporation. He outlined the history of the introduction of night network programming and the development of the "Tonight Show" and the "Allnighter".

These programmes are seen as an alternative to Radio New Zealand's other services and to other radio programming currently available. The "Allnighter" often contains sporting commentaries from Britain and Europe and both programmes provide popular music for the adult audience. A consistent feature for the "Tonight Show" was the high quality of the programme and the extensive features offered. Some stations joined the network at 7 p.m. and others at 8 p.m. and 9 p.m. Mr Don also detailed the research that was undertaken.

The Broadcasting Corporation's position was that it was not in the public interest that the applications be granted because the needs of the locality would not be met. Financial considerations were the basis of the application. Blaming Radio New Zealand competition was to make a scapegoat of the Corporation. Financial considerations were often the basis of reduction in services. There had been no surveys of public reaction and no indication that the proposed action would be successful in producing better programmes. The 3 stations had different circumstances and Radio Foveaux Ltd. was resiling from its statement of intention at the time of its application. The Tribunal had already rejected a regional approach when dismissing the Aotea application some years ago.

In reply Mr Burton pointed out that the purpose of the application was to provide flexibility and that there were no fixed intentions at present. The present condition was unsatisfactory as a basis from which to work for obtaining consent to networking. The station would be improving quality, not embarking on a cost-cutting exercise and the combined resources should be able to produce a good programme. It would be in the best interest of the public, it would improve the service to the public who would ultimately be offered the best of both worlds.

A submission was received from A. T. Cushen of Invercargill who pointed out that Radio Foveaux Ltd. offered a 24 hours a day locally based programme. He said the variety of programming would be greatly reduced.

He also said that the civil defence capability would be reduced but Mr Jenkins pointed out that an announcer or journalist would be on duty at the station during any networking. Mr Cushen spoke well of the community involvement of Radio Foveaux and said that involvement would be reduced if there were substantial networking.

The Tribunal has considered the applications. It has awaited any indication that a situation has arisen which would define the intentions of the companies for a specific proposal.

The Tribunal does not consider that the present applications make a case for consent to be granted in an open form or even one limited to a certain number of hours.

The Tribunal would however, entertain a proposal that was more specific and related to an actual intention.

The Tribunal could then decide whether any consent would be conditional or unconditional and whether or not the proposals are clearly for the benefit of the listener and in the public interest. The Tribunal has considered whether it should dismiss the applications for consent or whether it should adjourn the matters. It considers that the appropriate course is in the meantime, to adjourn the applications sine die. If, during the next year the stations wish to make an application that is based on an actual programme intention, they could seek a hearing or file affidavits and written submissions. In either case the matter can be dealt with at short notice and promptly. This would remove the necessity for commencing another application.

If no action has been taken within 12 months from the date of this decision the applications presently made will be dismissed.

The Tribunal does not think it appropriate at this stage to make any general observations on the applications or their desirability other than to say that it appeared that the applications were premature and that Radio Otago Ltd. at least appeared to have reservations about the proposals put forward at the instigation of Radio Avon Ltd. It would appear the parties need to agree on their own intentions and then to make a further approach to the Tribunal if they wish to pursue the matter.

Dated the 16th day of July 1984.

Signed for the Tribunal:

B. H. SLANE, Chairman.