

criticism and Mr France conceded, rightly, we think, that to set the record straight the reference to the charge against Dr Sutch should have been accompanied by a mention that he was acquitted. In those respects the complaint is upheld.

Mr Simpson also complained that the item contradicted itself—that the statement that Mr Sokinsky had been caught handing money over was contradicted by Mr Muldoon's statement that there was no hard evidence. The Tribunal agrees with Mr Hudson's commission that Mr Simpson had simply misunderstood the item on this point. The lack of hard evidence was in relation to *continued* financing, and not to the Sofinsky incident.

We consider that the other criticisms of the programme are of an artistic or journalistic nature and are not matters on which the Tribunal ought to adjudicate.

Part of the script which said:

"It is difficult to disentangle the SUP's pro-Moscow philosophies—and those of traditional left wing trade union politics."

The Tribunal admits that it is unable to be sure what that statement in the script means and, equally, what Mr Simpson meant in his complaint against it. In those circumstances the Tribunal will exercise its discretion not to deal with that part of the complaint.

To summarise, the complaint is upheld in part, i.e., in respect of the sentence referring to Mr O'Brien. It is also upheld in respect of the failure to note Dr Sutch's acquittal and the reference to "large" number of influential trade union posts. The Tribunal in its discretion declines to decide one other aspect and in all other respects the complaint is not upheld.

#### *Presentation of complaints*

The Tribunal has grappled in this case with a confusing complaint about a confusing item. We have appended the text of the complaint to this decision. The Tribunal's procedures are relatively informal and a letter is the usual means of putting a complaint in front of us. We do not wish to make the procedure onerous but we do feel constrained to say that it is on the complainant to make out a case with reasonable clarity and conciseness. If complainants fail to do this, the Tribunal will not start from a presumption that the broadcasters were wrong, nor will it re-write the complainant's case. Where the complaint is not sufficiently clear, one option is for the Tribunal to decline to determine the complaint, under the discretion conferred by the proviso in s. 67 (1) (b) of the Act.

#### *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 the deliberations of the Tribunal but the decision is that of the permanent members.

Dated the 7th day of November 1984.

Signed for the Tribunal.

B. H. SLANE, Chairman.

Decision No. 21/84

Reference No.: Bro. 63/84, 64/84 and 65/84

*Before the Broadcasting Tribunal*

IN THE MATTER of the Broadcasting Act 1962, and IN THE MATTER of applications by the Broadcasting Corporation of New Zealand to amend warrants AM-56, 61 and 62 (Stations 3ZE, 4ZW and 4ZG);

*Members:* Lionel R. Sceats and Ann E. Wilson.

*Hearing:* 19 September 1984 at Wellington.

*Counsel:* B. Hudson for the Broadcasting Corporation of New Zealand.

#### DECISION

ON 30 March 1984, the Broadcasting Corporation filed applications with the Tribunal for amendments to the warrants they hold for stations 3ZE Ashburton, 4ZW Oamaru and 4ZG Gore. The purpose of the applications was to have some of the warrant conditions relating to local programme origination deferred until 15 March 1985.

#### *Ashburton—3ZE*

The precise amendment applied for in respect of this warrant was:

"(Condition 3). The station will produce daily Monday to Saturday in each week, 5 hours of local origination by the end of the first 12 months of operation, 6 hours of local origination by the end of the second full year of operation and 8 hours of local origination by the end of 4 years of operation."

By the addition of the following proviso:

"Provided that the 8 hours of local origination are not required to be implemented until 15 March 1985."

The warrant for this station was issued on 30 November 1979. The requirement for 5 hours local origination was therefore operative by the end of November 1980. The requirement of 6 hours by the end of November 1981 and the requirement of 8 hours by the end of November 1983.

As was stated in the application, at the end of November 1983, the station was not operating in the terms of its warrant as it was not producing local origination for 8 hours a day, Monday to Saturday each week. They were, and still are, operating a programme that Monday to Friday includes local origination from 6 a.m. until 1 p.m. daily. That is, 7 hours per day. On Saturdays the local origination is 6 a.m. until 6 p.m.—12 hours per day. There is no local origination on Sunday, and this is not required by the warrant.

The warrant conditions require total weekly origination of 48 hours. The station is presently broadcasting 47 hours. However, the warrant condition requires a different spread of local origination from that currently produced by station 3ZE.

The amendment requested is based on the financial situation which the station presently finds itself in and the station manager's belief that the viability of the station would be jeopardized if the warrant condition was complied with now. Although only one additional hour of local origination is required it would have to be on a week day and 4 hours of local origination presently broadcast on Saturday would have to be transferred to week day times. The rearrangement would put severe financial pressure on the station, and Mr Peter Hope, 3ZE's station manager, who gave evidence for the Corporation, estimated that the cost of the station of such an extra hour would be in excess of \$20,000.

Mr Hope stated his belief that the station had achieved the objectives planned for it in terms of both programme and community involvement but he said the financial growth had not been achieved and for this reason further local origination would be very difficult. The average inventory fill on the station's commercial schedules currently exceeds 30 percent of the time available but for previous years the figure would struggle to be above 20 percent. The severe drought conditions experienced on the East Coast of the South Island in 1981 and 1982 have led to depressed economic conditions which account for this. Mr Hope said he expected to have sufficient community support next year to be able to consider the extension for 1 hour.

It is clear from the evidence given that the viability of this station would be jeopardized if rearrangement of their locally originated programmes was required at this stage. It would not be in the public interest to jeopardize the existence of this mini station. The application to have the extension of locally originated hours deferred until 15 March 1985 is therefore granted.

However, the Tribunal expressed its concern that the station was operating in breach of its warrant from the end of November 1983. It was 4 months before an application for relief from the condition was even filed with the Tribunal. The Tribunal notes that the deferment now granted, as applied for, is only until 15 March 1985.

#### *Oamaru—4ZW*

At the commencement of this application Mr Hudson applied to the Tribunal to amend the amendment applied for. The new amendment requested was to amend Condition 3 by the deletion of the last 8 words and the substitution therefore of "Monday to Friday in each week and 7 hours of local origination on Saturday by the end of the fourth year of operation".

And by the addition of the following proviso:

"Provided that the 8 hours of local origination are not required to be implemented until 15 March 1985."

The new Condition 3 would then read:

The station will produce daily Monday to Saturday in each week, 5 hours of local origination by the end of the first 12 months of operation, 6 hours by the end of the second full year of operation and 8 hours of local origination Monday to Friday in each week and 7 hours of local origination on Saturday by the end of the fourth year of operation."

"Provided that the 8 hours of local origination are not required to be implemented until 15 March 1985."

Therefore the Corporation is applying to have the requirement for 8 hours local origination on week days deferred until 15 March 1985 but asking that local origination on Saturdays be permanently limited to 7 hours.

This warrant was also issued on 30 November 1979. Therefore, its 5 hours of local origination was required to be effective from the end of 1980 and the 6 hours from the end of 1981. Station 4ZW should have been producing 8 hours of local origination daily Monday to Saturday by 30 November 1983. In fact its programme then, and now, included 7 hours per day of local origination, being 6 a.m. until 1 p.m. Monday to Saturday.