

The Tribunal has taken a generous view as to the activities of short-term stations over the holiday periods but it must have regard to the revenue of stations which are required to provide a year round service.

While it has been accepted that the activities of the stations over the holiday period will have some impact on the local station this was much less if they broadcast only from just before Christmas through to a date in January."

In the case of the present applicants, we did not consider that we would be entitled to refuse outright the opportunity of some broadcasting to provide that additional element of radio over the holiday period. We did not consider that the greater merits of the Energy Enterprises application were not such as to justify it being granted an authorisation and to deny such an authorisation to Peak FM Ltd.

It should be said that the Tribunal has formed an opinion quite clearly that a principal purpose of the applications is to do some FM broadcasting in an area where it might be expected to bring some audience support and indeed assist an application for a full time warrant.

We consider the objections of the BCNZ proved to be justified on a number of grounds and in particular on the grounds of the damage which could be done to their revenue by this brief and inexperienced incursion into the marketplace. If such applicants wish to have the experience they should regard the experience to some extent as a part of the cost of their warrant application, but such short term activity is not an essential part of any application and gives no priority or territorial rights to any applicant.

In pure terms of service to the people of the area the Energy Enterprises application was longer than could be justified for a short term authorisation. The Tribunal looks for a particular purpose for such authorisations and the holiday period has traditionally provided one, as have particular areas which are not adequately covered at all by commercial radio, special events, centenaries, gatherings of particular groups, weekend fund raising efforts and the like. In this case the reason for the lengthy broadcast primarily appeared to be to provide the revenue for the broadcast itself.

These broadcasts do little to promote FM radio because the standards achieved in both signal strength and programming seldom accord with the standards which might be expected from a permanent station for the programming that might finally be decided upon as appropriate for any other station which might be licensed for the area. FM is firmly established by permanent warrant holders and experimental broadcasts from temporary sites add nothing to available knowledge.

The Tribunal was faced with 2 applications, one of which presented a slightly better case than the other (in relation to programming) but which was for an excessive period.

The Tribunal decided that it would not prefer 1 applicant to the other and would give them both a period of 28 days and let them select the period, provided it was not early enough to interfere significantly with the pre-Christmas trading of 2ZP.

#### Footnote

When the application was granted in a limited form Energy Enterprises Ltd., which was represented by Palmerston North solicitors, approached the Member of Parliament for New Plymouth, A. P. D. Friedlander, with a long letter stating its case and the injustice it felt it had suffered from the Tribunals' decision. Mr Friedlander quite properly limited his representations to the Tribunal to asking what procedure could be followed to obtain a reconsideration of the decision.

Quite often Members of Parliament are asked to support such applications with a letter of support. (Mr Friedlander's letter of support for Peak FM applying for a permanent warrant was attached to this application with other letter of support.) We see no objection to that. But we take this opportunity to indicate to applicants that it is not appropriate to involve Members of Parliament in the merits of their particular applications before the Tribunal to secure reconsideration of a decision or to influence an original decision.

It could be thought by another party that some political pressure was brought to bear on the Tribunal because the approach was made by a Member of Parliament. In this case the applicant was aware through its solicitors of what avenues were open to it and the solicitors sought these reasons for the decision.

If the Tribunal is to deal with matters in a judicially independent way it is desirable that applicants do not resort to what could be regarded by other parties as political pressure although, as we emphasise, no such pressure was brought to bear by Mr Friedlander. For that matter on no occasion has any Member of Parliament brought any pressure to bear on the Tribunal.

#### Authorisations

The applicants were told that each may broadcast for a maximum period of 28 days for the hours each chose. Maximum advertising 6 minutes each clock hour. As a result authorisations were issued for—

*Peak FM*—17 December 1984 to 13 January 1985.

*Energy Enterprises*—29 December 1984 to 26 January 1985.

Dated the 8th day of November 1984.

Signed for the Tribunal.

B. H. SLANE, Chairman.

Decision No. 20/84

Reference No. BRO. 96/84

#### Before the Broadcasting Tribunal

IN THE MATTER of the Broadcasting Act 1976, and IN THE MATTER of an application for an amendment to AM warrant No. 37 by the Broadcasting Corporation of New Zealand:

*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

THE Broadcasting Corporation operates a community based station out of Nelson known as 2ZN. It made an application to the Tribunal for amendments to the warrant for that station. The amendments applied for were as follows:

"Whether relay stations may or shall be established: No."

By deleting that particular and substituting the following:

"Whether relay stations may or shall be established: Yes."

A second amendment was applied for in the section headed 'other matters or conditions'. The amendment requested was:

"(4) A relay station shall be established at Golden Bay (Motupipi River Mouth) NZMS1 S8-236834 (400 w, 1269 kHz)".

As stated in the application the effect of the amendments will be to improve reception of the Nelson based community station, 2ZN, in the area around Takaka in Golden Bay. The particulars in the application stated the facts to be that the area around Takaka and Golden Bay, while receiving Wellington radio stations more or less adequately, has always lacked adequate reception of the Nelson based station. There is a demand for a relay station from the local community for three main reasons:

- The residents feel a sense of isolation from news of provincial community with which it has most in common, i.e. Nelson.
- In times of civil defence emergencies and natural disasters it is cut off from the source of warning and emergency information, and
- In holiday periods the large number of visitors cannot be serviced with local news, information and advertising of goods and services.

Although Radio New Zealand is aware of the deficiency and has plans to improve the situation, it has not been able to accord the project priority over a number of other urgent extensions throughout the country. The Golden Bay Promotion Association has made extensive efforts to rally community support and has succeeded in organising sufficient funds to make a proposal to the Corporation for sharing the capital cost in the establishment of a relay station. Agreement has been reached between the Corporation and the Golden Bay Promotion Association and this has led to this application.

Evidence was given by John Smith of Nelson, the station manager of 2ZN. He expanded on the reasons outlined in the amendment application and specifically emphasised the civil emergency difficulties and the community support that has arisen following the short term warrants obtained by Radio Nelson and operated during the 1981/1982, 1982/1983 and 1983/1984 Christmas and summer holiday periods. These short term warrants were received very well and were in fact commercially viable.