

the station was in a competitive situation with a temporary FM Station the terms granted are reasonable.

Fifeshire Music Company Ltd. (Radio Fifeshire) applied to broadcast 28 November–30 January to Nelson City and surrounding areas from a transmitter at Richmond.

In the case of Radio Fifeshire the application was made to have effect from 28 November. The applicant had previously had an application for an authorisation for 1 month granted the previous year commencing from 1 January 1983.

Although there was no formal objection from Radio New Zealand the Tribunal was concerned to apply the same considerations. Indeed in this case the purpose of the application was to raise revenue for a warrant application and to provide a competitive situation in the pre-Christmas market selling period.

The Tribunal is concerned that stations can appear for short periods in these circumstances and then start to spread their broadcast time from the immediate holiday period which might be regarded as the week before Christmas and continuing through until the end of January and move into the more lucrative November/December pre-Christmas advertising.

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.

The Radio Fifeshire application is granted but with transmissions to commence on 15 December. The terms will be otherwise similar to the conditions approved for last year.

Dated at Wellington this 16th day of November 1983.

B. H. SLANE, Chairman.

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Decision No. 21/83

BRO 58/830

*Before the Broadcasting Tribunal*

IN the matter of the Broadcasting Act 1976, and in the matter of an application for an amendment to a short-term broadcasting authorisation by RADIO KAPITI LTD.:

*Chairman:* B. H. Slane.

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

DECISION

AFTER the Tribunal had made a decision on the authorisation, an application for an amendment of that authorisation was received from the applicant.

The applicant drew attention to the Levin Carnival and outlined a number of activities which it was proposed to promote during broadcasts if, as had originally been applied for, broadcasting had commenced from 10 November.

These activities, although noted by the Tribunal, had not been given particular prominence in the application. The emphasis was on the summertime activity.

The Tribunal is therefore prepared to vary the application to permit broadcasting to commence on 19 November in order to provide a coverage of activities during this period.

The difficulty still remains of interference with the Levin radio market in the pre-Christmas period.

The Tribunal has decided in the circumstances to impose a restriction on Levin retail advertising from 30 November to 14 December inclusive. This will enable broadcasting to continue from the Levin transmitter but not to permit Levin retail advertising which would normally be attracted during that period.

The applicant placed some emphasis on a number of other matters. It is appropriate that the Tribunal should refer to them.

The applicant felt disadvantaged by the late notification of the decision of the Tribunal. The Tribunal had not been prepared to make a decision until the accounts had been filed in respect of the previous authorisation. As soon as those accounts were received a decision was made.

The Tribunal would draw attention to the fact that the minimum period before broadcasting begins for filing the application is 2 months. This application was filed with only the minimum time allowed. In an application of this kind which is of a major nature, the applicant takes upon itself the risk of a decision not being available until very close to the time of the proposed broadcast. Applications can be filed much earlier. The 2-month period is required to enable circulation of the application to other parties and

adequate time for their response. It is also necessary to fit in with meetings of the Tribunal.

Some reference was also made to the opportunity to have a hearing. The Tribunal does not normally consider an oral hearing is necessary for short-term broadcasting authorisations, but if one had been necessary, the applicant's timing would have made it difficult to fit in such a hearing before the period of broadcast occurred.

The Tribunal is reluctant to require parties to incur the expense (about which they often complain on other occasions) of a formal hearing when the main purpose of it would not be to produce basic evidence which is usually uncontested but to bring forth argument and to debate any objections.

The Tribunal expects that a full case in support will be filed. Any letters in response are normally sent to the applicant. It is left to the applicant to respond to them if it thinks necessary. A formal response is normally requested to any formal objections.

It was also argued that the Tribunal had decided to take into account a letter received from the warrant holder for 2XS. As it happened the Tribunal did read the letter but decided that since it was not an objection it would not request any comment or response from the applicant as it did not intend to take any factual point made by the warrant holder into account in making its decision. It decided to follow the policy determined in the previous decision and permit the Levin broadcast to commence from 15 December.

The solicitors for the applicant have adopted the proper procedure in applying for an amendment to the authorisation and regard has been had to the inconvenience which might be caused to planned coverage. But we draw attention to the fact that this inconvenience is solely the responsibility of the applicant by its choosing of the date on which to lodge the application.

This application was referred to 2XS again and that station did not change its attitude. But no objection was filed. The Tribunal has therefore decided the matter on the basis of the application without taking into account any stated attitudes from 2XS.

The Tribunal reaffirms the principles of its previous decision in relation to the Radio Kapiti Ltd. application.

Dated the 21st day of November 1983.

Signed for the Tribunal:

B. H. SLANE, Chairman.

NIL

Decision No. 1085

(Reference No. IND. 23/83.)

*Before the Indecent Publications Tribunal*

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for decision in respect of the following publications:

*Sally Roberts in Bondage, Book One*, London Enterprises Ltd., U.S.A.

*Bondage Life Vol. 1*, No. S.8, 10, and 12, Harmony Communications, California, U.S.A.

*Chairman:* District Court Judge Willis.

*Members:* H. B. Dick, L. P. Nikera, J. V. B. McLinden, I. W. Malcolm.

*Hearing:* At Wellington on the 13th day of December 1983.

*Appearances:* No appearance of Importer, T. S. Watson, Auckland. C. Hillman for Comptroller of Customs.

DECISION

THESE publications were privately imported through Auckland Parcel Post in June 1983 and were seized. Forfeiture was disputed by the importer prior to the commencement of condemnation proceedings.

In Decision No. 1026 the Tribunal had to consider *Bondage Life*, Vol. 1, Nos. 5 and 7. A different importer disputes the forfeiture of *Bondage Life*, Vol. 1, Nos. 8, 10, and 12. We do not consider it necessary to say any more about these publications than was said in Decision 1026. Suffice to say that the contents are not significantly different and certainly not sufficiently different to justify any change of classification.

*Sally Roberts in Bondage, Book One*, is an illustrated publication showing Sally Roberts and her "co star" Susan Blair subjected to bondage of various degrees. There is no exposure of genitalia but the illustrations show the 2 'stars' bound in a variety of different ways. Just as bondage books can be extremely dangerous in the wrong hands so may this book be for the same reasons. *Bondage*