

Closure of Areas G & H to Orange Roughy Fishing by "Others"
(Notice No. 3426; Ag. 9/8/1)

NOTICE is hereby given that the quota allocation of orange roughy as prescribed in clause 3 of the Fisheries (Sea Fishing) Notice 1984* for commercial fishermen in the "Others" category in both New Zealand Fisheries Areas G and H has been taken.

Dated at Wellington this 22nd day of January 1985.

B. D. SHALLARD,
for Director-General of Agriculture and Fisheries.

*S.R. 1984/328

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Proposed Cancellation of Registration of Industrial Union

PURSUANT to section 193 of the Industrial Relations Act 1973, it is hereby notified that the registration of the Bay of Islands Cargo Workers' Industrial Union of Workers, Registered No. 2134, situated at Access Road, Kerikeri, (P.O. Box 218) will, unless cause to the contrary is shown, be cancelled on the expiration of 6 weeks from the date of the publication of this notice in the *Gazette*.

Dated at Wellington this 14th day of January 1985.

J. P. SCOTT,
Deputy Registrar of Industrial Unions,

Department of Labour.
(Lab. I.C. 138)

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Decision No. 27/84
BRO 107/84

Before the Broadcasting Tribunal

IN the matter of the Broadcasting Act 1976, and in the matter of an application by the BROADCASTING CORPORATION OF NEW ZEALAND to amend sound radio warrant AM35/2ZK:

Chairman: B. H. Slane.

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

Co-opted Member: Murray J. Henshall.

Hearing: At Hastings, 25 and 26 October 1984.

Counsel: B. Hudson for the Broadcasting Corporation of New Zealand. G. G. McKay for Radio Hawkes Bay Ltd.

DECISION

THE Broadcasting Corporation of New Zealand applied to amend the warrant to permit advertising between 5 p.m. and midnight. Station 2ZK used to relay the non-commercial Concert Programme during the evening and all day on Sundays. As a result of the establishment first on a temporary basis and then permanently of a stereo FM transmitter for the Concert Programme at Mount Erin, 2ZK had ceased this relay service. The Tribunal authorised by means of short term authorisations, the broadcasting of advertising programmes between 5 p.m. and midnight. This course was opposed by Radio Hawkes Bay Ltd.

The Corporation now sought to make the change permanent.

In a decision dated 24 August 1984 (Decision No. 18/84) the Tribunal gave its reasons:

"2ZK had rebroadcast the Concert Programme in the evenings and on Sundays and this service was not needed with the establishment of the FM stereo service from Mount Erin. The Corporation intimated that it had plans to apply for that station to extend its commercial hours which at present cease at 5 p.m. on weekdays. Radio New Zealand applied for an authorisation to permit advertising during the Monday to Saturday hours on which the Concert Programme had previously been broadcast. As far as the 2ZK application is concerned, the Tribunal was in effect permitting advertising. If the Tribunal had refused the application the station would not have rebroadcast the non-commercial programme with the BCNZ. In fact, for programme purposes, it is clear the station would have continued to broadcast a popular music programme without commercials. We do not see that that situation in the short term was of any advantage to other stations."

The correct course to be followed, the Tribunal said, was for the Corporation to await the YC decision and then to have applied for an amendment to the 2ZK warrant. That application is now being considered.

This application was heard in conjunction with an application by Radio Hawkes Bay (BRO. 90/84) and by consent the evidence adduced in respect of each application was available for consideration in the other case.

In support of the application E. B. Pike, manager of station 2ZK, claimed the Corporation now provided listeners with a range of programme choices comparable with those which it offers in the three main centres. The cost of providing these services has to be met largely from revenue. The costs referred to are about \$89,000 for the extra hours of local transmission and the cost of the Concert Programme transmission at Hawkes Bay at \$50,000 per annum.

Allowing advertising in the evenings has resulted in an estimated income of about \$93,000.

Opposition to the application came from the Independent Broadcasters Association in a written submission claiming that the station had developed into a ZM type of operation without having the desirability of its service tested before the Tribunal. The Independent Broadcasters Association considered the use of the authorisations to establish its case for advertising was a misuse of the short term authorisation procedure.

The Tribunal had rejected an application from Radio Hawkes Bay for a commercial AM warrant but had later granted an FM warrant to Radio Hawkes Bay which almost doubled the amount of commercial time available on radio in Hawkes Bay within 12 months.

G. W. Parsonage giving evidence for Radio Hawkes Bay Ltd, pointed out the potential advertising revenue which could be obtained from the maximum advertising time permitted, even though the station limits the commercial content below that level. Mr Parsonage claimed that certain undertakings were given as to the target audience and these have not been kept by 2ZK. These allegations were denied by the Corporation.

Radio Hawkes Bay considered that the programme material should be different, that it would be an opportunity to provide a service to a significant number of Maori people in Hawkes Bay and to provide material for other suitable programmes for the times vacated by the Concert Programme.

Mr Pike denied that the format was inconsistent and said that the format had been discussed at the Hawkes Bay FM application and that the same format had now been broadcast for two years. He gave details of average selling rates and said there had been no change of rates. He said that the station's target audience was 20-23 and it had previously been 25-54. He said the station had not been much affected by Radio Hawkes Bay and it was still a community station.

The station had simply been repackaged in February 1984 and the station had to establish that it broadcast something other than the Concert Programme in the evenings. He said that 2ZK led in the 10-25 age group and was second in the 33-46 age group. In some respects it was like ZM in that it had more music than talk but it was not true that it was a ZM station rather than a community station. Mr Parsonage agreed that although 2ZK had been broadcasting commercials in the evenings during the period, Radio Hawkes Bay may nevertheless exceed its estimates for the first year.

Mr Pike pointed out that Bay City Radio had been the station most affected by 93 FM, that 2ZC had dropped 14 points, 2ZK 3 points, the National Programme 2 points, which accounted for the 19 points increase of Radio Hawkes Bay.

The Tribunal has no jurisdiction to direct the Corporation as to the format to be adopted on 2ZK. It cannot require any other material to be broadcast. It has authority only to decide whether or not there will be advertising during the hours vacated by the Concert Programme.

As has been said already, we cannot see that forbidding advertising during this period would necessarily be of great assistance to Radio Hawkes Bay when it might have to compete even more for audience against 2ZK which it says is providing head-on competition. On the AM station there would be no advertising and on 93 FM there would be.

Clearly the only options available to the Tribunal are to refuse the application or to grant it, with or without conditions. There was no case put for the granting of the application with conditions.

The Tribunal considers the applicant has made a case to gain some revenue in return for additional services offered in the area. It is not satisfied that the additional revenue will adversely affect Radio Hawkes Bay Ltd. (It has been able to do very well in its initial trading). But if that did prove to be the case it would be better dealt with by increasing the revenue potential of Radio Hawkes Bay than by forcing the applicant into a period without commercials without the Tribunal being able to direct the nature of the programming, if it should wish to do so.

The application is granted.