

service. (There was even an element of elitism in the tone that was taken.) Those who were not receiving an adequate signal placed a far greater emphasis on the importance of developing the service beyond the reach of the existing metropolitan transmitters.

In fact the Corporation (correctly, in the view of the Tribunal) stressed the need to extend the YC service to major non-metropolitan areas rather than give priority to a conversion to a FM service in the metropolitan areas. In order to carry out this development it sought revenue from advertising. That we will deal with shortly.

At this stage however it is necessary to comment on the form of the application. The Corporation said its application was based on a direction from the Minister of Broadcasting. That direction was sought by the Corporation. The origins of the policy are clear.

It is also clear however that the purpose of Government policy was to see a conversion of the YC programme from AM to FM. For reasons which we suspect are based largely on the wish to retain the YC-AM transmitters, the Corporation has favoured both the relay station approach and simulcasting for extensive periods together with a retention of some elements of YC programming on YC-AM only rather than on YC-FM.

Furthermore, the Corporation has left its actual timetable vague both as to the development of new stations and the extension of hours.

To the extent that the applications are granted, it will necessarily be a condition of the grant that the Tribunal approve the precise proposed programme development for longer hours and the proposed dates for the establishment of relay stations.

It will also be a condition that the Tribunal specifically approve applications for simulcasting in each case in which the Corporation says it is required.

The Tribunal does not, on the basis of the information available at present, consider that simulcasting is necessary, for instance, in Auckland.

For the proper development of broadcasting, it is necessary that not only the broadcasters but also the listeners adapt to the necessary change.

We do not accept the argument that the YC audience is incapable, reluctant or unable to afford the change to the FM mode and given the long notice of impending changes we consider the Corporation should eschew simulcasting for those reasons.

The Corporation is at present opposing the use of the one spare AM frequency in Auckland because of future developments it wishes to make and also appears to want to retain the YC frequency for a considerable period partly for simulcasting there.

However, the Tribunal makes no final ruling on the matter, leaving it for a specific application to be made at the time when the applicant can state a date for the establishment of an FM transmitter in Auckland.

As far as Hawkes Bay and the Waikato are concerned, the application to establish the stations is granted, effective immediately.

The issue of simulcasting does not arise there, except in the sense that the YC programme from 2YC is inadequately received within the catchment area of the FM transmitter, which is at present operating on a short-term broadcasting authorisation.

The application amounts to permission to establish a network and as the priorities have varied and may vary in other ways from time to time according to factors which the Corporation might like to take into account, we think it is best that the procedure we propose should be followed.

Advertising

The Tribunal gave thorough consideration to an application for advertising in the Sports Roundup programme which is broadcast on the YC stations. (Decision 6/81) The Tribunal traversed at length the considerations which led it to decline that application. We do not intend to traverse in detail all the arguments that were carefully considered there. They have been taken into account in arriving at this decision.

It is however reasonable to refer to one part of the decision where we said on page 10:

"The Tribunal considers that the Corporation ought to consult the Government and determine whether or not there is an established policy as to the support of non-commercial broadcasting by means of licence fees in the future. It should be possible for the Government to indicate its general policy, either publicly or to the Corporation. The Corporation is entitled to have some indication of the Government policy on the extent of licence revenue it can anticipate in the next 5 years. The Corporation can then decide whether to make an application again within a short period in the knowledge of that policy or even in the knowledge that the Government is not prepared to establish a policy.

"If that is the case the Tribunal will be prepared to consider this application and any other application the Corporation puts forward to develop revenue to support non-commercial

radio broadcasting services. The Tribunal would consider this application in the light of the Corporation's statement of all the options open to it and the arguments it puts forward in following whatever course it chooses to adopt. Such an application could properly be made after March 1982."

It cannot be said that the Corporation or the Tribunal have rushed the matter. What can be said is that there is no policy appropriate for the development of commercial revenue and that we find that it is reasonable for the Corporation in all the circumstances to seek such revenue.

We do not intend to detail all the individual submissions which ranged from the protection of mental health to broad statements of philosophy. We record simply that many cogent arguments were put by those very many people, articulate and educated, who so value this programme in its present form. They were carefully weighed.

This aspect of the proposals caused considerable concern to the Tribunal, both from the programme point of view and the financial justifications. The Tribunal took some time over arriving at a decision, which it has not found easy. It has also had to take into account other applications that had been lodged and which would themselves have an economic effect on the Corporation. As the decisions have effectively been made in respect of those applications and will issue shortly after this application, the Tribunal considers itself in a better position now to make the decision than it would have been immediately upon the receipt of final submissions at the end of 1983.

The Tribunal has, with some reservations and conditions, decided to grant the application in relation to advertising.

The Tribunal considers that it is not in a position to establish the order of financial priorities which the Corporation should have within its own financial and programme planning.

What the Tribunal is entitled to do is to consider whether on the face of it the Corporation has assessed the situation and actually established some priorities, the effect of those decisions and their necessity or desirability. We do not think it is appropriate for the Tribunal to substitute its own view of the priorities, for instance, as between the development of the Concert Programme and the development of TV2 network.

Furthermore, the Tribunal does not have the evidence on which such matters could be based since no evidence is generally given by any Board member and the witnesses brought before us either have limitations relating to the service for which they work, either radio or television, or the office they hold if they are employed in the Corporation's central services.

It would be helpful to all concerned if there were some national guidelines or priorities established as a result of a broadcasting policy widely debated and accepted.

The Tribunal has detailed earlier some of the considerations in relation to section 80 of the Act.

Three points are clear.

First of all, it is agreed on all sides that the Concert Programme broadcast from the YC stations is of excellent quality judged by any world standards.

Secondly, it is accepted that in the normal course of events the Corporation would wish to retain this as a non-commercial service.

Thirdly, the Corporation has been denied increases in television licence fee (a proportion of which is available for radio) despite inflationary increases in costs. The Corporation has been subsidising its non-commercial activities from commercial surpluses earned by television or radio. Those surpluses are also used for capital development and for capital expenditure not covered by depreciation.

The Tribunal understands and sympathises with the objections that are made by listeners to the commercial intrusion into the type of programme in which they are so involved. But it does accept that there is a difference between the proposed commercial intrusion into this type of programme and a wholly commercial format which is the most popular type of broadcasting drawing the vast majority of listeners.

The Tribunal considers that the impact of advertising in the Sports Roundup programme would be far less. Having regard to its previous decision in that respect, a case can be made out more readily for utilising the Sports Roundup broadcasts for the gaining of commercial revenue than for the music programmes and other spoken content of the YC broadcasts.

The Tribunal accepts that the Corporation's proposed restrictions on advertising are reasonable. Advertising is to be limited to a maximum of 6 minutes per hour, not an average of 6 minutes. Because of the programme format, the nature of the advertising and the audience levels, a lower average amount of advertising per hour than is the case on "commercial" stations with a similar time restriction would be broadcast.

The Tribunal listened to a demonstration tape of the type of advertisements, which we must point out would also include