

a difference between the applications as far as the initial coverage area is concerned. There were different opinions as to the effectiveness of the coverage from Mount Kaukau.

#### *Directions—*

Following a public inquiry into the introduction of FM broadcasting in New Zealand by the Tribunal and a report to the Minister of Broadcasting dated 31 August 1981, a direction was given by the Minister of Broadcasting dated 27 October 1981. Subsequently directions were given to the Tribunal on 14 April 1982 and to the Broadcasting Corporation of New Zealand on 14 April 1982. For ease of reference these directions are attached to this decision.

#### *Applications—*

United Broadcasters (United) said it had a programme philosophy directed towards a broader section of adult listeners who enjoy stereo-album music while wanting to be kept informed. The aim was said to be to provide a much broader musical spectrum than in existing commercial or non-commercial stations in the Wellington area and thus be complementary to existing services rather than repetitively competitive. The music would appeal to a wide range of listeners, mainly over the age of 25. It would include instrumental, male vocal, female vocal and group harmony, country and sophisticated pop music from 5 a.m. to 9 p.m. daily.

From 9 p.m. to 1 a.m. there would be a format change to pop/rock with some emphasis on pre-recorded concerts in stereo. No more than two musical tracks would be played back to back. News would not include interviews or actuality recorded by telephone. A tape was provided.

Mr Gibbs for a subsidiary of Capital City Radio Limited (Windy FM) proposed that the station would simulcast the programme of Radio Windy AM for part of the day and for part of the day would broadcast a separate FM transmission. During the separate FM transmissions from 9 a.m. to 4 p.m. and from 7 p.m. to midnight, the programme would be directed to a 30-40-year-old age group. At the same times Windy AM would target at an audience aged 20-39. During the periods of simulcast the programme would be aimed at a 25-44-year-old age group. The FM station would orient itself towards beautiful music which would complement Radio Windy. It would be a mellow sound aimed at popular contemporary music and the emphasis would be on familiar artists.

Wellington FM Communications Limited (Wellington FM) saw a definable programme gap in Wellington for establishment of a music programme directed to 25-44-age group. Easy listening, soft rock music, music of the 60's and 70's and middle-of-the-road current music concentrating possibly on album versions rather than singles, with sets of 3 or 4 songs played as musical sweeps uninterrupted. From 8 p.m. to midnight specialist music programme; in the weekends and each weekday night a special feature music block would be presented, either jazz, contemporary jazz, rhythm and blues, contemporary album or rock music or live concerts or performances. A tape was provided.

The Broadcasting Corporation of New Zealand (the Corporation) proposed to transfer 2ZM to FM and to continue to serve a young adult audience as a contemporary music radio station committed to the widest possible variety of music for its present audience of 15-30 years. The presentation would give more to music, reducing interruptions and provide specialist music features.

#### *Number of Warrants—*

Unlike the Auckland hearings there was no direction from the Minister as to the number of warrants to be called for.

The Corporation proposed the grant of its warrant only. It argued that there was no room in the market for more. If another was to be granted, it preferred Windy FM as it would have the least financial impact on the Corporation.

Most of the other applicants saw no difficulty in living with the transfer of 2ZM from AM to FM.

Radio Windy contended that the market would be less affected by its proposal although it carried the disadvantage of simulcasting, i.e. the tying up of 2 frequencies to produce one full time programme and alternative programmes for 12 hours a day.

The other two contenders both argued that the market could absorb another station and that their particular application would be the best to accept.

The Tribunal had no preconceptions as to the number of warrants to be granted. It found the question was not one that could be decided separately from the other matters to which it was required to have regard. After looking carefully at the figures and the considerable evidence put forward by experts called by the applicants, it concluded that there would be a significant effect on existing stations and in particular on the Broadcasting Corporation of New Zealand if an additional station were to enter the market. The question the Tribunal then had to consider was whether the advantages of introducing another station to the market, particularly in the FM mode, outweighed the effect that would have on Windy AM, 2ZB and 2ZM and on the finances and so the services provided by the Corporation. These matters are referred to again in the course of this decision.

#### *Considerations—*

At the conclusion of the hearing when we came to consider this aspect, we were satisfied that a case had been made for the repositioning of 2ZM on FM to provide a service to the same target audience and that there was no combination of stations which did not include 2ZM which could properly be granted warrants. Nor was there one other applicant alone who had a better case if only one warrant were to be granted.

Having therefore considered first every application and its desirability and decided that 2ZM's case was superior to each of them, the Tribunal then had to carefully re-examine each of the cases if 2ZM broadcast on FM. Each case was then carefully re-examined.

The Tribunal had to make some assessment as to whether it should choose the other applicant in the light of some principle of "complementarity"—a word which we use solely because of the awkwardness of using a long phrase in substitution for it. When 2 programmes are complementary their appeal to specific audiences may overlap but they do not directly compete for the bulk of their audience. They thus provide the only choice to a wide target audience. But they may also provide a second choice to a much smaller number whose tastes and needs may be reasonably catered for by either station for at least some of the time. "Complementarity" is not considered solely in relation to age groups.

It was clear to us that there would be an advantage to the listener if, in the event of their being two successful applicants, they did not attempt to cater for an identical audience. There may be a situation where the two audiences would tend to be almost mutually exclusive.

As it happened, to varying degrees, all the applicants could provide a service which would be complementary to that of 2ZM.

We examine later some of the matters in further detail but at this stage our conclusions can be stated.

Although it was clearly complementary to 2ZM, we found the United application an unconvincing one in programming terms and therefore in terms of financial viability. We do not believe it would be successful. We believe it would provide too great a variety and would not attract sufficient loyal audience to make the station viable. The programming is of an old-fashioned style. From our knowledge and the evidence we accepted, we were not convinced it was likely to appeal to current tastes.

Radio Windy's application lacked a real commitment to the FM mode. The station's approach was cautious but to justify its case it had to move its AM station's format and audience appeal during the day to complement the FM station. When it was broadcasting joint programmes it was intending to appeal to a 25-45-age group—the present target audience of Radio Windy. When it was broadcasting separately, the AM station would move down to 20-39 appeal and the FM station with a beautiful music format would seek a 30-49-age group. In each station therefore there would be changes of appeal quite arbitrarily determined which we believe would provide too much inconsistency of approach and would satisfy neither the adherents of beautiful music formats nor those of a more modern contemporary music station.

The station's proposals were not so attractive as to overcome the disadvantage that they would involve simulcasting. We must have regard to the policy of not permitting simulcasting except in special circumstances. The Windy FM proposal would successfully prevent any other entrant into the market but without the resolution to move convincingly into FM broadcasting.

The Wellington FM application was more attractive than the other two. They obviously had some difficulty in establishing the credibility of their format, both from the survey material and their own basic intentions and experience. It appeared to the Tribunal that the station promoters would be more naturally at home with a younger format but in the event of ZM being granted a FM warrant it would have to adopt an older demographic appeal. In those circumstances we had to look carefully at the quality of the application and other factors. On balance we decided that the application did not have so many desirable features that it would outweigh the financial effect on the Corporation.

The Tribunal does not rule out the possibility at some later stage of another station being granted a FM warrant in Wellington but for a number of reasons other than those briefly recorded above, the Tribunal does not consider a case has been made for a second commercial FM warrant to be granted now.

We emphasise that the above matters we have mentioned are by way of introduction rather than an accurate and balanced summary of all the factors we have taken into account. We should also say that a basic aspect of this matter is the Tribunal's experience in dealing with a number of applications for AM and FM stations. The Tribunal did not find the applications (other than the 2ZM application) in this series as rating as well as some of the applications we have dealt with in other centres, even allowing for all the differences that can exist between one centre and another.

Section 80 Broadcasting Act 1976 requires the Tribunal in considering any applications to have regard to the matters set out