

We accept that the substantial amount of revenue needed to fund a new entrant into the market will in fact largely come from the revenue at present earned by existing stations. The Corporation's position was that if there were to be two warrants, the least disruption would be caused to the marketplace by a grant of the Radio Windy application.

- (c) The effect which the establishment of the station to which the application relates may have on broadcasting services provided by the Corporation in the public interest

We have considered each application according to the effect it will have on the Corporation.

It is clear however that the impact will be lowest if the Radio Windy application were to be approved. We have also considered the position of both United and Wellington FM. If they each had a low rating, the effect would be made less. However, we do not consider this to be a correct approach.

Even though we doubt whether United would achieve a 10 percent market share we should judge the application on the basis on which it is put forward. On that basis there is a serious cost to the Corporation in the event of it achieving a 10 percent share and an even greater cost should it achieve in the second year its anticipated growth.

Wellington FM estimated first year revenue at \$820,000. Mr Dunlop estimated that if the station achieved a 7 percent share of the market, the effect on the Corporation would be \$271,000. If it achieved a 10 percent rating, the cost would be \$384,000.

The cost to Radio Windy of a successful Wellington FM service would be dramatic.

We do not consider the merits of this application, which seems likely to cost the Corporation between \$300,000 and \$400,000, warrant the loss of revenue to the Corporation.

While we have not hesitated in appropriate cases to grant an application where we consider the merits of the application outweigh the disadvantages of loss of revenue to the Corporation, we do not think that position exists in the case of any of the present applications. Wellington FM, for instance, would provide a music service that would affect both the Corporation and Radio Windy almost equally. That is not a reason to decline the proposal, but it puts the quality of the application in sharp focus.

- (d) The needs of New Zealand or the locality or localities proposed to be served, in respect of broadcasting services

Wellington listeners are entitled to have stereo FM radio services.

There is no need for us to mention again the principle of stations providing complementary services on the VHF-FM band. We do recognise that the greatest demand for stereo music comes from a young audience which readily embraces the stereo FM service. Clearly the transfer of ZM to FM will provide a service to the audience which will most readily adopt FM as its own.

The needs which are identified by United exist, but we do not consider the audience will readily adopt the station, nor that it will satisfy those needs. This is regrettable because there is an audience of older listeners who are not otherwise well served by the initial round of commercial FM broadcasting. We believe, however, that time may tend to solve this problem.

It has to be recognised that satisfaction of the needs of that audience can also be found in the talk and information programmes of 2ZB, 2YA and 2YC. Some of their music needs may also be met by 2YC FM when it is established.

The Windy FM proposal would supply, during part of the day, the AM programming broadcast on the FM channel. We do not believe that the proposal provides an adequate alternative FM service. But to accept it now would prevent anyone else offering a full service on FM.

We are not convinced by the survey evidence produced by any of the applicants that there is a significant need for an alternative format which is best served by granting one of the present FM applications on the grounds that it is filling a gap in existing services.

The gap which will be left by this decision is for an FM music station serving older audiences than those served by 2ZM. At some stage that problem will have to be addressed but we do not think it is best solved by granting an application which is not so good as to outweigh the disadvantages we have already discussed.

The Wellington FM proposal comes closest in our opinion to meeting the need but we are concerned that by inclination the station may tend to serve rather more of the top end of the ZM audience than may initially be desirable. The situation that has occurred in Auckland was alluded to in the evidence on more than one occasion and whatever the reasons for it, it is clear the degree of overlap which may develop may be greater than is desirable.

- (e) The financial and commercial ability of the applicant to carry on the proposed service

The Corporation's application relates to the carrying on of an existing service and the Corporation has the financial and commercial ability to handle the changeover to FM.

The Tribunal is sometimes placed in the invidious position of having to make comment which can be hurtful to individual directors and managers and yet if restraint is exercised in such comment, a wrong impression may be given to an appellate court.

We propose to give a composite view and to say that all the remaining applicants had among their promoters and boards, people of competence and ability. Some of the directors have no previous experience in broadcasting at all and others have no recent broadcasting experience. A mix of such backgrounds is no disadvantage.

The various funding arrangements and structures took considerable time in a cross-examination and we do not need to traverse the details.

We do need to say however that we do not believe that the format of United would make it possible for the board and management to carry out the service satisfactorily. To do so would require extraordinary commercial and financial ability which was not evident. No programmer to be employed full time on the station has put the format together and Mr Macpherson obviously will not be involved in a day-to-day role in that respect. Yet that is the vital element of their proposal.

Wellington FM relies heavily on the involvement of Mr Campbell who has had some experience and who impresses us as competent and capable. Mr Robertson, the General Manager, is experienced, but is not the driving force behind the application.

There does appear to be a lack of total cohesion and commitment of skilled and effective personnel which leads us to have some reservations on the commercial side.

The funding arrangements in respect of both applications appear to be adequate.

Radio Windy has an existing board of directors and the application seems to rely on further funding from shareholders. The station has not always been financially successful although we were impressed with Mr Gold and accepted much of his evidence relating to the Wellington market. We expect their funding arrangements would eventuate with the grant of a warrant and their proposal, because of its more modest aspirations, would appear capable of commercial success.

- (f) The likelihood of the applicant carrying on the proposed service satisfactorily

The Corporation has been carrying on the ZM operation in Wellington satisfactorily and should have no difficulty continuing to do so on FM.

The Windy FM application carries the disadvantage of an adverse decision of the Tribunal on the renewal of the AM warrant for Radio Windy. In that (decision No. 5/84) it was noted that the station had changed its character, that there had been format changes that moved the target audience away from that which it was originally intended to serve and that no application had been made to the Tribunal to amend the warrant at the time.

While those decisions may have been made at an earlier time and some of the present directors may not have been concerned with them, the fact remains that such a breach of the warrant as to result in a reduction in the renewal term from the normal 5 years to 3 years, is one that should be taken into account in considering this application. As it happens it has not been given decisive weight.

We are also concerned that both United and Wellington FM could change their target audiences if they found on initial broadcasting that they were not attaining the ratings needed to make their stations viable. Mr Rennie urged upon us that the question of business failure was for the applicant. Yet we know from experience that warrant holders who fail financially are more likely to seek an amendment to the warrant to save the investment and what is left of the service and apply a different approach to their broadcasting, than to quietly surrender the warrant and go into liquidation.

The risk is less with Wellington FM.

But neither of the two stations has been able to indicate a full time executive who would be responsible for programming.

- (g) The results of any survey available to the Tribunal

The survey material offered was extensive. We do not intend to traverse it or even to summarise it. We do however have some conclusions. As Mr Keane put it:

"The confusion which surveys can produce is well illustrated by the dog-fight between the two new entrants as to their relative performances on the Kapiti Coast during their short-term warrants. Each attacked the survey of the other on the basis that its methodology was unsound, its questions insufficient or leading, and its results unreliable.

"There was certainly a wide divergence in their results, despite Mr Reid's painstaking attempt to reconcile them."

We agree that there are a number of qualifications that have to be made of surveys relating to the Kapiti Coast broadcasts. Because the broadcasts took place on the Coast and because of the special factors surrounding short-term authorisations, we have not given the surveys in that respect any significant weight.