

The McComish survey in section 1 paragraph 7 says:

"Tastes in music and other components of radio broadcasts (such as style of announcing) are, by definition, highly subjective. The task of measuring such tastes is rendered more difficult by the absence of any precise and universally accepted set of descriptors. Much of the research carried out on the subject has been characterised by a high degree of acquiescence with any proposition put to the respondent, and by a tendency to provide measurements which, when subjected to objective scrutiny, are merely truisms . . ."

We accept Mr Keane's criticism of the acid test question in the United survey, that the question itself did not really produce information about the likely listenership of people but merely as to whether they would like to hear the station again. As we have said before, in such circumstances people offered additional services generally will opt for their being available. The Wellington survey, like the McComish survey, produces information relating to broadcasting generally.

In order to get adequate responses, questions often have to be posed in a way that suggests the answer.

While the surveys provided interesting research and may for those reasons have been valuable to the applicants, we do not consider overall that the surveys produced by United and Wellington FM have been able to assist us in arriving at a conclusion on these applications by defining for us particular elements in particular applications which make it more desirable that those applications be granted.

In total all the surveys have certainly not convinced us that they show a significant demand for the services offered by a particular applicant (other than 2ZM) over the services of any other applicant.

(h) The requirement that frequencies be best utilised in the public interest

The grant of the warrant to 2ZM will free up an AM frequency in Wellington.

The grant of the United or Wellington FM applications would, as it was contemplated, use one of the FM frequencies available for Wellington.

The grant of the Windy FM application would not release an AM frequency and it would not provide a full time alternative programme for FM. To the extent that the Radio Windy programme would either remain more talk and information oriented than the separate FM broadcasts, it would maintain an existing element in the Wellington area but would also clutter the FM broadcasts during simulcasts with non-music elements.

The Tribunal has on other occasions discussed the question of simulcasting and the policy elements involved. It does not intend to do so again in this decision.

However, simulcasting does arise in 2 applications. In the case of ZM the Corporation wishes to continue simulcasting for 2 years.

The corporation has not applied to continue a separate service on 2ZM but claims that simulcasting is necessary because of the topography of the Wellington area. A proportion of the audience may not be adequately covered by broadcasts from Mount Kaukau. The best estimates were that there would be about a 90 percent coverage. It was suggested that a period of one year would be needed for the Corporation to make the assessment and obtain the necessary consents for the installation of translator equipment which might be required to be installed to give an adequate coverage to the Wellington audience.

We do not consider that any such period of simulcasting is necessary and do not believe it will result in a better switch of audience to FM. We are prepared to grant a supplementary AM warrant for a period of 6 months or such longer period as the Tribunal may determine. This should enable adequate tests to be carried out, for any actual needs to be determined and for a decision to be made as to whether or not they would be met.

We would expect that in the normal course simulcasting should cease, even if a number of translators were found to be needed, within a period of 12 months. We expect that, with the exception of mobile listeners, the reception of the station may well be better than expected and that finally no extensive array of translators will be needed.

If there had not been the topographical problem we would have permitted simulcasting for a period of 3 months only for promotional purposes.

Radio Windy claimed their simulcasting proposal was the best one in the circumstances. It also enables Radio Windy to straddle AM and FM. We do not consider this to be a good use of frequencies. If we had been considering under this heading an application for separate broadcasts on AM and FM by the same warrant holder, we would have been much more sympathetic to some simulcasting from midnight to dawn when listenership is very low as a cost saving measure.

Apart from that we do not believe a case has been made out for one warrant holder to hold two frequencies indefinitely and to simulcast to peak audiences.

(i) The desirability of avoiding monopolies in the ownership or control of news media

As we have said before, we do not consider the news and current affairs aspect important elements of most FM broadcasting. United did make a feature of its news service and while we accepted that the target audience sought may require lengthier and differently presented news service than would be required for a 15-30 audience, we did not consider the news proposals particularly added to the United application. However the news service to be provided would be an independent one.

The warrant holder for Radio Windy AM has a significant shareholding held by Independent News Ltd. the publisher of both Wellington newspapers, by New Zealand News Ltd. and by Hauraki Enterprises. These 3 companies control 60 percent of the shares and voting power in Radio Windy. The simulcasting proposal put forward does not extend that media ownership to any undesirable extent.

Wellington FM would also provide an additional news service.

(j) The hours during which the applicant proposes to broadcast programmes

All applicants proposed a FM service for 24 hours a day.

(k) The extent of advertising matter which the applicant proposes to broadcast

The Corporation proposed a limit of 10 minutes per hour. It argued that this would produce an average of 7.5 minutes an hour and that it may be necessary to achieve its budget to be able to broadcast up to 10 minutes during peak advertising demand periods in the year.

We do not consider, however, that sufficient weight has been given to the potential in financial terms for the spread of FM broadcasting advertising out from the traditional peak times.

In Auckland, where there were two warrants granted, we imposed no limits. Where there has been a sole FM operation we have imposed a limit which, in the cases of Waikato and Northland, was 8 minutes and in the case of Radio Hawkes Bay, 6 minutes. The latter was imposed as a protection for BCNZ revenue in the area.

Although the ZM station has broadcast a lower commercial content than the ZB station, we believe that the Corporation will be able to obtain adequate revenue with a maximum of 8 minutes per hour. The Tribunal will therefore impose this limit.

(l) The proposed rates and charges to be made in respect of advertising programmes

Each of the applicants had carefully thought out rate cards. No issue arose which influenced us in this respect in favour of one applicant.

Regulation 15A, Broadcasting Regulations 1977 as enacted in Amendment No. 5 (S.R. 1981/295) requires the Tribunal when considering any application for an FM broadcasting station, to have regard to the policy of the Government under which a frequency modulation broadcasting service is to be developed as an integral part of sound radio broadcasting in New Zealand.

The Tribunal, therefore, is required not only under section 68 but also when considering the factors in section 80, to have regard to Government policy. We must therefore have regard to the policy of the Government as enunciated in the directions given to the Tribunal and the Corporation. We have had regard to the policy laid down in the direction dated 27 October 1981 and in particular to the provision regarding simulcasting and to holders of existing station warrants holding warrants in respect of FM broadcasting stations.

The direction to the Corporation in respect of 1ZM is also attached. It is to be noted that no such direction was given in respect of 2ZM.

#### Decision—

The applications by United Broadcasters Ltd., FM Wellington Communications Ltd., and Mr C. O. Gibbs are declined. The application by the BCNZ is granted subject to the conditions set out below.

The coverage objective of the station will be to provide a stereophonic service to most of the areas directly served by television transmissions from Mount Kaukau.

#### Conditions—

The usual conditions will be inserted in the warrant. Existing conditions applicable to 2ZM programming will be carried over to the FM warrant.

The warrant will lapse unless it is taken up within 12 months of the date of this decision or at the date of the final determination of any appeal unless extended by the Tribunal.