

Notice to Broadcasting Tribunal in Connection with the Development in New Zealand of a Frequency Modulation (FM) Broadcasting Service

To the Broadcasting Tribunal

PURSUANT to section 68 (1) of the Broadcasting Act 1976, I, Ian John Shearer, the Minister of Broadcasting,—

(1) Give you notice that the Government has considered the recommendations which, as recommendations (43) and (45), are set out on page 14 of your report to the Minister of Broadcasting on the Development of Frequency Modulation Broadcasting in New Zealand; and

(2) Give you notice that it is part of the general policy of the Government in relation to broadcasting—

- (a) That, subject to paragraph (b) of this clause, communication facilities for the reticulation of frequency modulation (FM) radio programmes be provided by the Post Office as an integral part of the telecommunications network;
- (b) That the Broadcasting Corporation of New Zealand be authorised to carry 2 of its own frequency modulations (FM) stereophonic sound transmissions in the baseband of the existing television bearers that link the television broadcasting stations if in your opinion it is economic for the Corporation to do so;
- (c) That operators of private broadcasting stations be permitted to establish studio-to-transmitter radio links only where it is established that the Post Office circuits cannot provide the necessary quality and reliability.

Dated this 14th day of April 1982.

I. SHEARER, Minister of Broadcasting.

Direction to Broadcasting Corporation of New Zealand in Connection with the Sound-radio Warrant in Respect of Station 1ZM

To the Broadcasting Corporation of New Zealand

WHEREAS—

- (a) The Minister of Broadcasting (by a notice which was dated the 27th day of October 1981* and which was given pursuant to section 68 (1) of the Broadcasting Act 1976) directed the Broadcasting Tribunal to call without delay for applications for sound-radio warrants in respect of 2 commercial frequency modulation (FM) broadcasting stations to be established in Auckland;
- (b) The Broadcasting Tribunal has complied with that direction;
- (c) One of the applicants for one of those sound-radio warrants is the Broadcasting Corporation of New Zealand;
- (d) The Broadcasting Corporation of New Zealand already has 2 commercial amplitude modulations (AM) broadcasting stations established in Auckland, namely station 1ZB and station 1ZM;
- (e) Regulation 14A (3) of the Broadcasting Regulations 1977 (as inserted by regulation 4 of the Broadcasting Regulations 1977, Amendment No. 5) provides that where—

(a) An applicant for a sound-radio warrant in respect of a commercial frequency modulation broadcasting station or in respect of both a commercial frequency modulation broadcasting station and a commercial amplitude modulation broadcasting station is the holder of a sound-radio warrant in respect of a commercial amplitude modulation broadcasting station; and

(b) The Tribunal is satisfied that the frequency modulation station serves or will serve a significant proportion of the same area as the amplitude modulation broadcasting station,—

it shall, unless the Tribunal determines that there are special circumstances, be a condition of any warrant that the applicant surrender the warrant previously held in respect of the commercial amplitude modulation broadcasting station (whether or not the warrant granted authorises the operation of the commercial amplitude modulation broadcasting station);

- (f) The Broadcasting Corporation of New Zealand, as the only holder of sound-radio warrants in respect of 2 commercial amplitude modulation (AM) broadcasting stations established in Auckland, is in an advantageous position in respect of its application for a sound-radio warrant in respect of a commercial frequency modulation (FM) broadcasting station to be established in Auckland in that the regulation quoted requires the Corporation to surrender its sound-radio warrant in respect of a commercial

amplitude modulation (AM) broadcasting station only if the Corporation is granted a sound-radio warrant in respect of one of the 2 new frequency modulation (FM) commercial broadcasting stations to be established in Auckland.

Now, THEREFORE, pursuant to section 20 (1) of the Broadcasting Act 1976, I, Ian John Shearer, the Minister of Broadcasting—

(1) Give you notice that the Government has considered the recommendation of the Broadcasting Tribunal to the effect that the Broadcasting Corporation of New Zealand should apply to amend the warrants, 1ZM, 2ZM, and 3ZM to be non-commercial (with rights to limited sponsorship) upon the introduction of commercial FM broadcasting in their respective cities (which recommendation is set out as recommendation (9) on page 11 of the Report of the Broadcasting Tribunal to the Minister of Broadcasting on the Development of Frequency Modulation Broadcasting in New Zealand); and

(2) Give you notice that the Government accepts, as part of its general policy in relation to broadcasting, the opinion expressed by the Tribunal (to the extent that that opinion relates to Auckland) that, without the withdrawal of the ZM stations from the metropolitan markets, it will not be possible adequately to develop popular FM broadcasting on an economic basis (which opinion is expressed in paragraph 6.39 of the Report of the Broadcasting Tribunal to the Minister of Broadcasting on the Development of Frequency Modulation Broadcasting in New Zealand); and

(3) Give you notice that it is part of the general policy of the Government in relation to broadcasting—

- (a) That popular FM broadcasting be developed in Auckland on an economic basis; and
- (b) That all applications for sound-radio warrants in respect of the 2 commercial frequency modulation (FM) broadcasting stations to be established in Auckland should be dealt with on their merits; and
- (c) That you, the Broadcasting Corporation of New Zealand, should not derive special advantage from the manner in which the Tribunal would be required to apply section 80 (b) of the Broadcasting Act 1976 (which requires the Tribunal to consider the economic effect that the establishment of the new frequency modulation (FM) commercial broadcasting stations are likely to have in respect of broadcasting stations already in operation) were it possible for 1ZM to continue in operation as a commercial broadcasting station after either of the 2 new frequency modulation (FM) commercial broadcasting stations begins broadcasting; and

(4) In pursuance of the general policy of the Government in relation to broadcasting (as set out in clauses (2) to (3) of this notice), direct that you, the Broadcasting Corporation of New Zealand, shall apply without delay to the Broadcasting Tribunal for the amendment of the terms and conditions of the sound-radio warrant that you hold in respect of station 1ZM so that that station shall cease to be a commercial station (except for rights to limited sponsorship) on the date on which the first commercial frequency modulation (FM) broadcasting station to be established in Auckland begins broadcasting (whether or not you are the holder of the sound-radio warrant issued in respect of that commercial frequency modulation (FM) broadcasting station).

Dated this 14th day of April 1982.

I. SHEARER, Minister of Broadcasting.

*Gazette 1981, p. 2983

Decision No. 29/84
Bro. 17/83

Before the Broadcasting Tribunal

IN THE MATTER of the Broadcasting Act 1976, and IN THE MATTER of an application by RADIO BAY OF PLENTY LIMITED for a commercial FM broadcasting sound radio warrant for Eastern Bay of Plenty:

Chairman: B. H. Slane.

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

Co-opted Member: Murray J. Henshall.

Counsel: P. L. Mortlock for applicant; J. B. Thomson for Broadcasting Corporation of New Zealand; B. J. Paterson for Waikato Bay of Plenty FM Radio Ltd. and J. F. Galvin for N.Z. Post Office.

Hearing: At Whakatane—12 March 1984.

DECISION

THE applicant is at present the holder of the warrant for station 1XX an AM station operating from Whakatane with a relay station at Murupara. The company sought an FM warrant for the purpose of broadcasting to its existing target audience from Mount Manawahe. The station intends to broadcast its existing programme