

Transport Licensing Authority Sittings

PURSUANT to the Transport Act 1962, the No. 3 Transport District Licensing Authority (J. M. Foster), gives notice of the receipt of the following applications and will hold a public sitting in the Boardroom, Second Floor, Central Waikato Electric Power Board, 157 Anglesea Street, Hamilton at the time and date stated to hear evidence for or against granting them.

Tuesday, 12 August 1986 at 9.30 a.m.

T3/179 Rakaipaka Harris and Maraea Gaylene Harris—Transfer Taxicab Service Licence 12865 to Maurice Pakau Chase and Jackie Linda Chase.

T3/156 Frank Albert Christian—Transfer Taxicab Service Licence 12864 to Runolph Waretini.

G3/79 Brian Davies-Hunter—A new Goods Transport Service Licence.

G3/167 Roger Philip Goss—A new Goods Transport Service Licence.

G3/169 Glen Maurice Saunders and Sheena McClure Saunders—A new Goods Transport Service Licence.

Dated at Auckland this 16th day of July 1986.

J. H. McCARTHY, Secretary.

No. 3 Transport District Licensing Authority.

Transport Licensing Authority Sittings

PURSUANT to the Transport Act 1962, the No. 4 Transport District Licensing Authority (J. M. Foster), gives notice of the receipt of the following applications and will hold a public sitting in Tauranga County Council, Barkes Corner, Tauranga at the time and date stated to hear evidence for or against granting them.

Tuesday, 12 August 1986 at 2 p.m.

T4/164 Ronald Ian Clark—Transfer Taxicab Service Licence 14803 to Russell Martin Webley.

T4/180 David Lesley Bloxham—Transfer Taxicab Service Licence 3099 to Martin Iain Brady.

G4/57 Anthony Graham Lett and Lucille Mariee Lett—A new Goods Transport Service Licence (application part heard at Rotorua 26 June and adjourned).

Wednesday, 13 August 1986—9.30 a.m.

P4/188 Bayline Group Ltd.—Pursuant to section 133 of the Transport Act 1962 the No. 4 Transport District Licensing Authority has been advised by the licensee that all scheduled passenger services authorised by Passenger Transport Service Licence 00016 are to be abandoned at the expiry of 3 months from 3 July 1986 (the date advice received by the Authority). An application has been made to the Authority for earlier abandonment.

Dated at Auckland this 16th day of July 1986.

J. H. McCARTHY, Secretary.

No. 4 Transport District Licensing Authority.

Decision No. 9/86

Before the Broadcasting Tribunal

IN the matter of the Broadcasting Act 1976, and in the matter of applications for television warrants:

Chairman: B. H. Slane.

Members: Ann E. Wilson and Robert Boyd-Bell.

Co-opted Members: W. Kerekere, M. S. Aked and G. J. Schmitt.

REASONS FOR RULING

Dated the 11th day of July 1986

THE Broadcasting Corporation of New Zealand sought leave to file amended and extended evidence of H. B. Rennie, Chairman of the Corporation. It also filed draft evidence and sought leave to call Nigel Dick, the newly appointed Chief Executive of the Corporation, to give that evidence.

Admission of the evidence of Mr Rennie was opposed by some applicants and the Tribunal heard argument on 26 June and gave the following ruling on 27 June: (The text is slightly edited towards the end of the ruling in order to make sense of the page and paragraph references.)

"The Chairman: Mr O'Brien has sought leave to have some more evidence of Mr Rennie accepted. He also seeks to have evidence adduced by Nigel Dick.

The objection taken by some of the counsel arises from the fact that the BCNZ has not previously taken a position in opposition to the grant of any warrant per se.

The Corporation, since the applications were filed, has not formally stated that no warrant ought to be granted. It in fact proposed to support ABS as a warrant holder financially. The Corporation has not revealed in its proposed evidence, or in earlier evidence, its current or recent financial details for examination of the effect of a third service and the room in the market, as might have been expected and as usually occurs when it has opposed the grant of any warrant at all in a radio hearing.

The Corporation has not filed evidence that is stated to be for the purpose of demonstrating the need to avoid any grant. The Corporation has not cross-examined applicant witnesses to the same end or challenged evidence by filing evidence in opposition that there is no room in the market for another channel.

Mr Rennie's draft evidence states that in 1985 he had stated publicly the issue of a warrant was not in the public interest. No attempt was made to notify any change of position by the Corporation then. Indeed, it seems that the change occurred somewhat later.

The Tribunal accepts that the question of whether the warrant application should be granted is open for argument in each individual case and that the BCNZ may submit in respect of each applicant that a warrant is or is not to be granted. The Tribunal will not, however, permit the filing of new evidence to support a contention that no warrant should be issued because of the effect of any third service on the Corporation. To do so would prejudice the parties.

The applicants' evidence was filed in writing and has subsequently been confirmed orally. For the applicants to bring evidence in rebuttal would not overcome the prejudice that they would suffer.

The Tribunal will however permit Mr Rennie to give evidence that the Corporation has now formed a view on whether the applicant fulfils the statutory criteria, a view which he previously said had not been formed. It is too late however to give evidence to support that view at this stage. The Corporation is simply too late.

Some of Mr Rennie's evidence which updates the situation or describes or briefly describes the Corporation's present view will be permitted. Additional or supplementary arguments or opinions which are now being produced and in effect being sprung on the parties will not be permitted. I have merely outlined some of the reasons. If required, fuller reasons for our ruling will be given in writing.

We have not examined Mr Dick's evidence in detail or heard detailed submissions on it. Submissions can be made by the Corporation for any part of it, but at this stage the Tribunal will not permit the introduction of new evidence from a new witness without some special reason.

In relation to the evidence draft filed by Mr Rennie, we have been through it somewhat quickly trying to give some lead as to whether we think it can be accepted.

Perhaps it is best if I suggest that counsel for the Corporation might first like to examine the evidence with a view to deciding what parts he would still like included by Mr Rennie and then, subject to any submissions by other parties on that, we could deal with Mr Rennie's evidence a little later in the day.

We have some doubt about paragraph 4 on page 2. The paragraph 9 on page 4. Under the heading of "Third Channel Directives" (page 4), the material after paragraph 1 appears to be dubious on the grounds of relevance for this hearing at this stage. It is additional material to what was filed before. The Public Interest (page 8) the continuation of paragraph 2. . .

Mr Macrae: Sir, I lost you a little bit under page 5 under directives. Did you say all of the paragraph except paragraph 1, on the grounds of?

The Chairman: Yes, on the grounds of relevance. They seem to relate to matters relating to what is the best television system for New Zealand etc, which is new material that was not introduced before and is questionable on the grounds of relevance. The public interest paragraph 2 starts or Section 2 starts on page 7, continues on to page 8, the first sentence in the paragraph 2 reads "Such evidence was put at a time. . ." The second sentence beginning "A clearer statement is not required. . ." We have ruled out that sentence and all that follows.