The news release issued by the Tribunal indicated no more than that it would be prepared to review the needs for frequencies in Auckland and that was done by asking the parties to indicate their intentions. In its news release the Tribunal said that the matters were interrelated and such applications as might be made to it would be dealt with in 1986 so that weight could be given to the best use of frequencies. There is no statement that the Tribunal would have a concurrent or continuous series of hearings.

In reviewing the list of intended applications it was doing no more than looking at what it might have to deal with, so it could deal with them in a reasonable order.

The Tribunal stated that it considered it best to consider applications for conversions first and the one available when time for hearings became available to the Tribunal was the applications of the BCNZ which had been at that stage lodged pursuant to a Ministerial direction for 3 or 4 months.

There have been suggestions of some pressure brought on the Tribunal because of the Ministerial notice and direction.

That is incorrect. The Tribunal only made a decision in December as to the hearing date at the end of January when it had been able to clarify hearing dates for television hearings. There was no other factor involved in the fixing of the dates and no other application of any kind was suitable for hearing by this date.

The parties did not refer to (but could not have been ignorant of) the fact that the Tribunal is likely to be engaged for some time in television hearings and the Tribunal is aware that the result of an adjournment could well be to delay for several months these applications by the BCNZ.

The Tribunal can hear some of the arguments that are now raised for not proceeding with a hearing as reasons for not granting the present applications or for deferring a decision until other proposals are heard.

The parties will have the opportunity of putting forward the arguments that they have applications which ought to be considered before this application is granted. If we wrongly declined to accept those arguments, there is a right of appeal. Otherwise we could only ever decide one application if we heard all the others—maybe 17 of them. That is plainly silly.

The Tribunal is well aware of the difference between written directions under section 68 with which the Tribunal must comply and statements of Government policy to which it must have regard. It is surprised that a submission should be made that the Tribunal was in error in interpreting the notifications published in the *Gazette* as the Tribunal has, in previous decisions, made quite clear its understanding of the status of statements of general policy of the Government and specific directions with which the Tribunal must comply. The weight to be given has been dealt with also in an appeal by the administrative division of the High Court.

The Chairman made clear to Mr Shale that the Tribunal had not set the BCNZ applications down for hearing because of the Minister's notices and directions, but of its own motion. (Indeed, if it were reacting to the Minister's notices, it had certainly not done so immediately as nearly 4 months elapsed before it set down the applications.)

The use of the term 'directions' in referring to the Ministerial statements, is perhaps a loose use of a shorthand expression which is fully understood in hearings before the Tribunal.

The Tribunal has however taken into account that the BCNZ was directed by the Minister to lodge the application and all parties have been made aware, or should have been aware, of the Government policy if they were interested in the applications themselves. It is Government policy to facilitate change from AM to FM in certain circumstances. We do not therefore accept Mr Shale's claim that he and others may have been unaware that the BCNZ was likely to be making the present applications. They were not only flagged clearly in the Ministerial notice but in general publicity given before and later.

Mr Shale was also unaware that the BCNZ had already obtained a decision of the Tribunal authorising the establishment of the FM Concert Programme in Auckland and a number of other locations in 1984.

No party has been prejudiced by not having filed an application. The only other party with an application for conversion lodged during this month, is Hauraki Enterprises Ltd. which has not applied for either of the BCNZ applications to be adjourned and opposes only the recommercialisation of 1ZM, not its switch to FM.

In terms of dealing with applications and applying the factors to them, the Tribunal is satisfied that it would be better for both the 1ZM and then later the Hauraki application to be dealt with ahead of applications for new warrants and to changes of frequency. Applications can then be called for and made in the knowledge of what stations are broadcasting on AM and FM respectively.

Depending on several factors the Tribunal may call for and deal with applications for FM stations first.

Southern Country Radio Ltd. indicated on 27 September 1985 that it will apply in the alternative for AM or FM. It is, in the opinion of the Tribunal, crucial to know whether or not any existing stations are changing to FM.

The Tribunal obviously has not decided that the BCNZ's 1ZM applications should be granted. The Tribunal will hear the case and the objectors and act judicially on the evidence and having regard to section 80 and to the extent that it may be required by law to Government policy. Those matters will all be subject to submissions from the parties.

The Tribunal is aware that some parties have interpreted statements and letters from the Registrar in a particular way. However, we cannot see that any prejudice has occurred because the Tribunal would not now be dealing with other types of applications ahead of this application, even if they had been lodged.

The Tribunal emphasises that the period of the notice to the parties was occasioned simply by the time becoming available for hearings when it was decided not to sit in January for the TV applications and had nothing to do with any Ministerial notice or Government policy. It is surprising that this argument should be put forward when 3 or 4 months had elapsed before setting the matters down.

The Tribunal will not be influenced by threats to take action in the High Court to prevent hearings, which Mr Sorrell revealed had been considered.

The Tribunal has given a patient and considerate further hearing to a request for adjournment and has taken considerable time to give its reasons in writing when it had set out its earlier view in writing.

We are disappointed that the argument before the Tribunal largely seemed to proceed as if the Tribunal had little knowledge of the industy, little understanding of the problems of applicants, no knowledge of the Auckland market and no ability to sort out in its own way the logical and sensible approach to dealing with the aims and ambitions of those who wished to make applications in respect of Auckland radio. The Tribunal is experienced in dealing with radio applications and knows what is involved and has always striven to accommodate as far as possible, all procedural requests from interested parties.

In relation to Mr Impey's submissions, no priority at all is being given to the application by the BCNZ because it is the BCNZ. It is not adopting an unplanned approach. As for the news release—possibly because of misreporting and by leaping to conclusions, some parties may have expected a collective hearing. That was never intended. A review of the needs for frequencies was conducted by asking what applications were intended.

The Tribunal repeats that arguments that are put forward for the adjournment can well be put to the Tribunal as reasons for not granting one or other or both of the applications. To suggest that the Tribunal should await the filing of a succession of applications and then hear this application and up to a dozen more applications in massive hearings in which all parties would want to participate, is to suggest a recipe for lengthy and complicated applications, hearings and appeals which would do little to achieve the ambitions of anyone.

It has always been Government policy that existing stations should be able to apply to move from AM to FM and special provisions in the Act and Regulations have been made to facilitate such applications.

In Auckland it is appropriate that those applicants be dealt with first with rights to other parties to have their objections heard. That we have done.

The requests for adjournment were declined.

Dated the 30th day of January 1986.

Signed for the Tribunal.

B. H. SLANE, Chairman.

Customs Exchange Rates Notice (No. 3) 1986

PURSUANT to section 143 of the Customs Act 1966, the Comptroller of Customs, in accordance with the power delegated to him by the Minister of Customs under section 9 of that Act, hereby gives the following notice.

NOTICE

1. Short title and commencement—(1) This notice may be cited as the Customs Exchange Rates Notice (No. 3) 1986.

(2) This notice shall come into force on the 17th day of February 1986.

2. Exchange rates—Where under any provisions of the Customs Act 1966 any amount which is required to be taken into account for the purpose of assessing duty or any other purpose is not an